



CITY ZONING COMMISSION
AGENDA-Tuesday, January 5, 2021, 4:30 p.m.
Virtual Meeting, Zoom

NOTICE TO THE PUBLIC

Public Comment:

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

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 October 6, 2020.

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

Disclosure of an Outside (Ex Parte Communication)-Members of the Commission and Staff

a.The Exparté Communication Binder is available at the Sign-In and Agenda Station.

Regular Business:

- A. Opening of public hearings.
- B. Reading of rules for the procedure by which the public hearings will be conducted.

- C. Reading of notices of the public hearings on the following items:

Public Hearings:

- a. **Special Review 988- 2499 Gabel Road** - A special review request to allow relocation of an all Beverage License with Gaming – A request to allow an existing all beverage liquor license to relocate to 2499 Gabel Road, a 3,128 square foot building, on Block 4, Lot 3, Cenex Park Sub., an 68,520 square foot parcel of land. Tax ID: A26159. Presented by Karen Husman, Planner I
- b. **Special Review 989 – 3189 King Ave. W.** A special review request to allow an all beverage liquor license with gaming for a 2,500 square foot tenant space within a 7,913 multi-tenant building, and to allow an outdoor seating area, in a Community Commercial (CC) zone, on Block 17A, Lot 2, Lampman Sub., a 39,907 square foot parcel of land. Tax ID: C07979. Presented by Karen Husman, Planner I

Other Business/Announcements

Adjournment

The City Council has designated Monday, January 25, 2021, at 5:30 p.m. as the date and time to receive the Zoning Commission recommendation on each **zone change** and **special review** 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.

Testimony regarding the above mentioned item may also be submitted in writing to the Planning Division, 2825 3rd Avenue North, 4th 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

City Zoning Commission
Meeting Date: 01/05/2021

Information

Subject

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

Attachments

BZC_2020_1006

City of Billings Zoning Commission Meeting Minutes October 6, 2020

The City of Billings Zoning Commission met on Tuesday, October 6, 2020, at 4:30 p.m in the Virtual Zoom meeting,

Chairman Larson called the meeting to order at 4:30 p.m. The City Council has designated **Monday, October 26, 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	
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		2	2	2	2	2	2	2	2	2	2	2	2	
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Mike Larson	Chairman	1	1	-	-	-	1	1	1	1	1			
Daniel J. Brooks	Commissioner	E	1	-	-	-	1	1	1	1	1			
Jack King	Commissioner	1	1	-	-	-	1	1	1	1	1			
Greg McCall	Vice Chairman	1	E	-	-	-	1	1	1	1	1			
Trina White	Commissioner		-	-	-	-	1	1	1	1	1			
Wyeth Friday	Director, Planning & Community Services	-	-	-	-	-	-	-	-	-	-	-	-	
Monica Plecker	Division Planning Manager	-	-	-	-	-	-	-	-	1	-	-	-	
Nicole Cromwell	Planner Zoning Coordinator	1	1	-	-	-	1	1	1	1	1			
Tammy Deines	Planning Clerk	-	-	-	-	-	-	-	-	-	-	-	-	
Dave Green	Planner II	-	-	-	-	-	-	-	-	-	-	-	-	
Karen Husman	Planner I	1	1	-	-	-	1	-	1	1	1			
Robbin Bartley	Administrative Support	1	1	-	-	-	1	1	1	1	1			

Total Number of 2019 Applications	0	0	0	0	0	0	0	0	0	1	1	1	T O T A L
	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	
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	2	2	2	2	2	2	2	2	2	2	2	2	
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	2	2	2	2	2	2	2	2	2	2	2	2	
	0	0	0	0	0	0	0	0	0	0	0	0	
Zone Change	2	0	-	-	-	1	2	1	2	3			11
Special Review	0	1	-	-	-	0	2	2	0	2			7

Chairman Larson introduced the Planning Division Staff and Commission: Attending Staff were Nicole Cromwell, Zoning Coordinator, Karen Husman, Planner I, 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 September 1, 2020 meeting minutes.

Motion

Commissioner McCall made a motion and Commissioner White seconded the motion to approve the September 1, 2020 meeting minutes.

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

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

Disclosure of Conflict of Interest

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

Disclosure of Outside Communication

COMMISSIONER	Yes	No	ABSTAINED	ABSENT
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 October 26, 2020.

Item #1

Nicole Cromwell read aloud the legal notice for this application:

City Zone Change 984 – 1219 12th Street West- from R-70 to RMF-R - A zone change request from Residential 7,000 (R-70) to Residential Multi Family-Restricted (RMF-R), on Block 2, Lot 6, Sunset Subdivision, a 10,056 square foot parcel of land. A pre-application neighborhood meeting was held on August 21, 2020, at Spring Creek Park. Tax ID: A16612

Recommendation

Planning staff is recommending approval and adoption of the findings for the 10 criteria for Zone Change 984.

Questions for staff:

Chairman Larson opened the Public hearing at 4:40PM

Applicant: Christian Helland, 432 Everett

The applicant wishes to improve and revitalize the area, the building will only change on the interior.

Favor: None

Opposed: None

Rebuttal: None

Public Hearing CLOSED at 4:44PM

Discussion

Chairman Larson called for questions and discussion from the Board.

Motion

Commissioner Brooks made a motion and Commissioner White seconded the motion to approve City Zone Change 984 with staff recommendations and 10 criteria.

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 of City Zone Change 984 carried with a 5-0 vote.

Item #2

Nicole Cromwell read aloud the legal notice for this application:

City Zone Change 985 – 3121 & 3125 Boulder Ave- from R-60 to RMF-R - A zone change request from Residential 6,000 (R-60) to Residential Multi Family-Restricted (RMF-R)), on the East ½ of Lot 13 & the West ½ of lot 14, Wolf Subdivision, a 40,500 foot parcel of land. A pre-application neighborhood meeting was held on September 1, 2020, at 3125 Boulder Ave. Tax ID: A18660 & A18659

Recommendation

Planning staff is recommending approval and adoption of the findings of the ten criteria for Zone Change 985.

Questions for staff:

Commissioner Brooks asked if a background and history of this property. Why have sidewalks not been required since this was annexed in 1963. Staff replied the City is waiting for enough property owners to get an SID.

Public Hearing Chairman Larson opened the public hearing at 4:58PM and asked for anyone wishing to speak in favor or against **City Zone Change 985**.

Applicant: Rob Pasquarello, 2923 Brookway, Laurel, MT

The 2 houses are in poor condition, Inspection reports confirm this. These have been rentals since the 1960's. He has received many comments regarding the quality of tenants. He believes this reflects the condition of the property. He has every intention to do the sidewalks. It is a nice infill project and will improve the neighborhood.

Commissioner White inquired about the neighboring property. Were they contacted about being included in this project? Mr. Pasquarello replied the owners do not want to sell at this time. He plans to ask again in the near future.

Favor:

Travis, McDowell, 2829 Forest Park Drive

Nice property, great infill project, the neighborhood will improve

Brem Fellman, 4847 Cedar Ridge

The houses are in tough shape, this is a nice project and will increase safety for families.

Opposed:

Bethany Schatzke, 3133 Boulder Ave

She believes the project can be completed without a Zone Change. 10 multifamily units is enough. This would be a challenging change for the neighborhood.

Jack Kuntz, 3139 Boulder Ave

The current zoning allows 10 units. We are concerned with the density and traffic. It took 25 years to get the roadway overlaid. Until there is a sidewalk no additional units should be allowed.

Rebuttal: Rob Pasquarello

He agrees that sidewalks are needed and necessary and will put them in. At the recent neighborhood meeting, all persons in attendance want sidewalks, but noone wants to pay for them. He wants to improve the area for the kids, the proposed easement will help with the traffic flow on Boulder Ave.

Public Hearing CLOSED at 5:16PM

Discussion

Chairman Larson called for questions and discussion from the Board.

Commissioner Brooks appreciates the applicant improving the area and sidewalks.

Commissioner White appreciates the proposed building and citizen comments.

Chairman Larson used to live 4 blocks away and agrees any improvement is welcome.

Motion

Commissioner Brooks made a motion and Commissioner McCall seconded the motion to approve City Zone Change 985 with Staff recommendations and 10 criteria.

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

The Motion carried to approve City Zone Change 985 with a 5-0 vote.

Item #3

Nicole Cromwell read aloud the legal notice for this application:

City Zone Change 986 – 3340 Sagegrass Dr. & 1310 30th St. W – Cardwell Ranch PD

Amendment - A Planned Development zone change request to amend the Master Plan Map to move Lot 15A, Block 2, from Planning Area 1 (Commercial) to Planning Area 2 (Commercial or Multi-family), and amend the text of the Planned Development Agreement to eliminate the

additional special review requirements (Article IV.B & D). Lot 4A and 15A, Block 2, new Planning Area 2, will comprise a 10.051 acre parcel of land. A pre-application neighborhood meeting was held on September 1, 2020, at 3100 Meadow View Dr. Tax ID: A34327 & A34337

Staff included questions and answers to the City of Billings engineering department regarding the traffic lights, and flows.

A petition was submitted in regards this Zone Change. There are not enough signatures to validate this petition.

Recommendation

Planning staff recommends approval and adoption of the findings of the 10 criteria for Zone Change 986.

Questions for staff:

Commissioner Brooks asked for clarification regarding the PD with underlying CC Zoning. They are wanting to take away self imposed restrictions from 12 years ago.

Public Hearing Chairman Larson opened the public hearing at 5:35PM and asked for anyone wishing to speak in favor or against **City Zone Change 986**.

Applicant: Charlie Yegen, 184 Lonesome Pine, Park City, MT

This will expand the marketing possibilities. Mr. Yegen's great grandfather purchased this property in 1889. The restrictions self-imposed then were in the best interest at that time.

Commissioner White asked about the elimination of a street in the Cardwell Ranch. Mr. Yegen is not eliminating any streets. There was a boundary line adjustment.

Favor: None

Opposed:

Cynthia Belfeori, 2942 Belvedere Drive

A group of callers in opposition to this zone change. The first concern is the traffic that will be traveling thru the multifamily area. Also, only 2 of the signatures were within 150 feet?

Staff explains there are 10 properties within 150 feet. The school and the church and others all owned by Yegen.

Rebuttal

Public Hearing CLOSED at 5:45PM

Discussion

Chairman Larson called for questions and discussion from the Board.

Commissioner McCall chooses to abstain from this vote. He is very much in favor.

Motion

Commissioner King made a motion and Commissioner Brooks seconded the motion to approve City Zone Change 986 with Staff recommendations and 10 criteria.

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

The Motion carried to approve City Zone Change 986 with a 4-1-0 vote.

Item #4

Nicole Cromwell read aloud the legal notice for this application:

City Special Review – 986 – 3189 King Ave. W. – For Beer & Wine with Gaming – A special review request to allow a beer and wine license with gaming for a 2,500 square foot tenant space within a 7,913 multi-tenant building, in a Community Commercial (CC) zone, on Block 17A, Lot 2, Lampman Sub., a 39,907 square foot parcel of land. Tax ID: C07979.

Recommendation

The Planning Division recommends conditional approval and adoption of the findings of the 3 criteria for Special Review 986. With the following conditions:

1. Approval is for the proposed Beer & Wine license & gambling into a 2,500 square foot unit at 3189 King Ave. W. No other use is intended or implied.
2. No outdoor seating, music or announcement systems.
3. New exterior & parking lot lighting shall have full cut-off shields.
4. The applicant will comply with all other codes that may apply.
5. All other limitations on expansion shall apply.
6. These conditions shall run with the land described.

Questions for staff:

Commissioner White asked if there is gaming across the street. Yes, there is a small casino in the gas station.

Public Hearing Chairman Larson opened the public hearing at 5:54PM and asked for anyone wishing to speak in favor or against **City Special Review – 986**.

Applicant: Josh Benson, 3112 Falcon Ridge

There is gaming at the gas station across the street. My partners and I own 6 other casinos in Billings. They are extremely clean, we are very involved. We can bring something to the corner that is tastefully done. The signage is different than other casino signs.

Doug Jenkins owns the property. He is looking for a new use for the property. The signage is in good taste with minimal impact and provides signage for other tenants in the building.

Commissioner Brooks asked if this Special Review were done after Re:Code, it would be out of compliance if more than 10 gaming machines are used. How many machines do you plan? If we were to propose a limit on machines, would you be agreeable? Mr Benson said no, the partnership with Pie Guys, the revenue projected is based on 20 machines.

Favor:

John Atkinson, 5514 Audubon Way

He is the architect. He is supportive and thinks it seems fitting to the area. The exterior will have no change. It is mutually beneficial for Pie Guys.

Evan Joda of Pie Guys stated the building has been vacant over a year. The size is not big enough for just a stand alone restaurant. It will be additional dining area.

Opposed: None

Rebuttal

Public Hearing CLOSED at 6:21PM

Discussion

Chairman Larson called for questions and discussion from the Board.

Commissioner Brooks stated he appreciates new ideas, due to the location, close to residences, he will be voting in opposition.

Motion

Commissioner White made a motion and Commissioner King seconded the motion to approve City Special Review – 986 with Staff recommendations and 3 criteria.

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

The Motion carried to approve City Special Review– 986 with a 4-1 vote.

Item #5

Nicole Cromwell read aloud the legal notice for this application:

City Special Review – 987 – 2499 Gabel Road - Relocation of an all Beverage License with Gaming – A special review request to allow an existing all beverage liquor license to relocate from 1911 King Avenue West, Unit 10, to 2499 Gabel Road, a 3,128 square foot building, on Block 4, Lot 3, Cenex Park Sub., an 68,520 square foot parcel of land. Tax ID: A26159

Recommendation

The Planning Division recommends conditional approval and adoption of the findings of the 3 criteria for Special Review 987. With the following conditions:

1. Approval is for an existing all beverage liquor license to relocate to 2499 Gabel Road, no other use is intended or implied.
2. No outdoor seating, music or announcement systems.
3. New exterior & parking lot lighting shall have full cut-off shields.
4. The applicant will comply with all other codes that may apply.
5. These conditions shall run with the land described.

Questions for staff: Commissioner King asked if the church is active and is it a conflict. Staff replied the separation requirement depends how much of the building the church occupies. The church occupies less than one third of the building. A 600-foot separation is not required. The building labeled church is actually the area being remodeled into the casino.

Public Hearing Chairman Larson opened the public hearing at 6:15PM and asked for anyone wishing to speak in favor or against **City Special Review – 987.**

Applicant: Jason Palogi, 2931 Stillwater Drive

It is a former church, it has been vacant for over one year. He is relocating because his current location has been purchased and he needs to move.

Favor: None

Opposed: None

Rebuttal

Public Hearing CLOSED at 6:18PM

Discussion

Chairman Larson called for questions and discussion from the Board.

Commissioner King asked how this will be effected by Re:Code and will the applicant be willing to accept requirements. Staff replied if the Code is adopted as it is written, it is conforming.

Commissioner White believes there are no other casinos in the area.

Motion

Commissioner McCall made a motion and Commissioner White seconded the motion to approve City Special Review – 987 with Staff recommendations and 3 criteria.

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

The Motion carried to approve City Special Review– 987 with a 5-0 vote.

Other Business: November meeting cancelled, no applications. A special meeting on October 14, 2020 via ZOOM. It is a final public hearing for the Code redraft. Commissioner McCall will be late. Commissioner King has requested an overview of Accessory Dwellings.

Adjournment: The meeting adjourned at 6:25PM.

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



City Zoning Commission

Meeting Date: 01/05/2021

SUBJECT: Special Review 988- 2499 Gabel Road - Relocation of an all Beverage License with Gaming

THROUGH: Monica Plecker

PRESENTED BY: Karen Husman

Information

REQUEST

Special Review 988- 2499 Gabel Road - A special review request to allow relocation of an all Beverage License with Gaming – A request to allow an existing all beverage liquor license to relocate to 2499 Gabel Road, a 3,128 square foot building, on Block 4, Lot 3, Cenex Park Sub., an 68,520 square foot parcel of land. Tax ID: A26159. Presented by Karen Husman, Planner I

RECOMMENDATION

The Planning Division recommends conditional approval and adoption of the findings of the 3 criteria for Special Review 988.

APPLICATION DATA

OWNERS: King McCall, LLC

AGENT: Corey Welter

PURPOSE: To allow relocation of an all beverage license with gaming to 2499 Gabel Road

LEGAL DESCRIPTION: Cenex Park Sub. Block 4, Lot 3

ADDRESS: 2499 Gabel Road

EXISTING LAND USE: Commercial

PROPOSED LAND USE: Bar and Casino

EXISTING ZONING: CI

CONCURRENT APPLICATIONS

None

APPLICABLE ZONING HISTORY

SUBJECT PROPERTY	SPECIAL REVIEW #	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
2499 Gabel	987	10/2020	All Bev	y	
SURROUNDING PROPERTY	Special Review #	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
2425 Gabel Rd.	722	6/24/02	All Bev.	Y	And outdoor patio
2701 Gabel Rd	769	9/24/04	All Bev.	Y	And outdoor patio
740 S 24 th St. W	493	6/21/93	All Bev.	Y	
2011 Overland Ave	216	1/7/85	Beer & Wine	Y	
2021 Overland Ave	373	1/9/89	All Beverage	Y	No onsite consumption
2011 Overland Ave	394	11/7/89	All beverage	Y	
2250 King Ave	475	11/9/92	All Beverage	Y	Olive Garden/Red Lobster

2300 King Ave	496	8/2/93	Beer & Wine	Y	Bailey's
2001 Overland	549	3/22/99	All Bev.	Y	And outdoor patio
933 S 24 th St. W	677	8/28/00	Beer & Wine	Y	No Gaming

SURROUNDING LAND USE & ZONING

NORTH: Zoning: CI
Land Use: Commercial & Industrial
SOUTH: Zoning: CI
Land Use: Commercial & Industrial
EAST: Zoning: CI
Land Use: Commercial & Industrial
WEST: Zoning: CI
Land Use: Commercial & Industrial

BACKGROUND

A special review request to allow an existing all beverage liquor license to relocate to 2499 Gabel Road. Relocation of an existing license is not adding another casino license to the area, but relocating an existing one. The applicant states the move for this business will potentially add 12 to 15 new positions of employment supporting a need in the Billings area. The applicant hopes that this Special Review application will be approved as was the prior application, relating to the same subject property and the similar use, which was approved by unanimous vote of the City Council on October 26, 2020. There are no churches, schools, residential zoned areas near the location of the subject property.

The Council has expressed concern with the number of alcohol and gaming locations within the city and how to better regulate these uses to protect neighborhoods, and improve the community character along its commercial corridors. Project ReCode has proposed changes to how these uses will be regulated including adoption of casino, bar and restaurant definitions, making separation distances non-waivable, changing how those separations are measured, and allowing some alcohol service businesses without special review approval. If this special review is approved and the Project ReCode amendments are adopted by the City Council on 2nd Reading on January 11, this location will be conforming to the new standards.

SUMMARY

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

This application conforms to the first criteria in so far that the zoning regulations adopted by the City Council has designated all CI zones can have a liquor license with gaming as long as they go through the special review process. The proposed location and site development comply with the zoning requirements.

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

Strong Neighborhoods:

- Neighborhoods sharing a boundary with intense commercial uses can experience conditions detrimental to the quiet enjoyment of the area.

This location is not near any residential neighborhoods and is surrounded by similar commercial uses and other commercial uses.

Prosperity:

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

The proposed relocation would support a local and successful business and help retain this business in Billings. The COVID-19, guidelines for bars, restaurants and casinos requires more indoor space. Allowing this relocation of license will promote the business at this location.

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

The proposed site is not near or adjacent to any residential development. Improvements to the site will include some buffering from neighboring properties, however the impact to these properties from the new business should be minimal given the similar commercial uses in the area.

PROPOSED CONDITIONS

1. The special review approval is for an existing all beverage liquor license to relocate to 2499 Gabel Road, a 3,128 square foot building, on Block 4, Lot 3, Cenex Park Sub., an 68,520 square foot parcel of land. No other use is intended or implied.
2. No outdoor seating, outdoor music or outdoor public announcement systems will be allowed with this application.
3. Any lighting on the building or within the parking lot shall have full cut-off shields so light is directed to the ground and not onto adjacent property. Lighting of signs shall be as allowed within the City Sign Code (Section 27-701 BMCC).
4. 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.
5. 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 Growth Policy;
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.

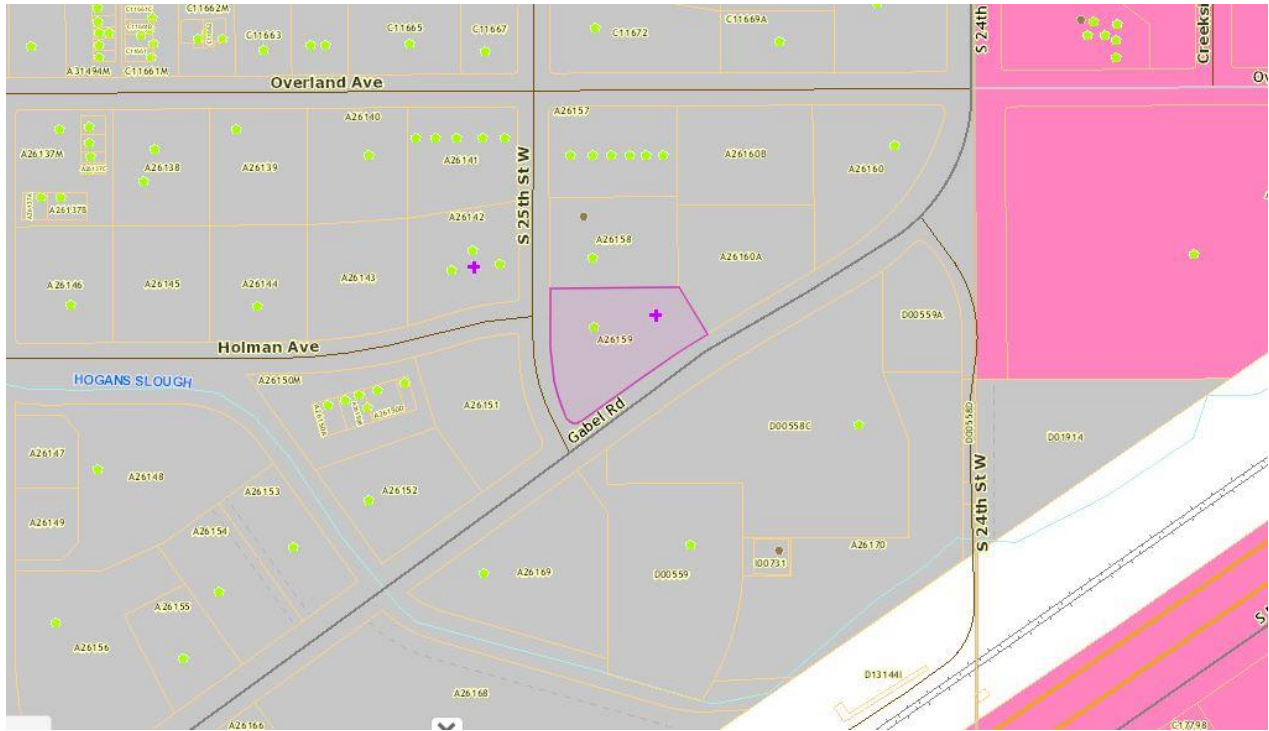
RECOMMENDATION

The Planning Division recommends conditional approval and adoption of the findings of the 3 criteria for Special Review 988.

Attachments

Zoning Map & Site Photos
Application & Applicant Letter
Site Plan

Zoning Map & Site Photos





Subject Property



Looking Northwest- existing entrance



North



South west



South



East

Application & Applicant Letter



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

Check one: City of Billings Special Review Yellowstone County Special Review

Address 2499 Gabel Rd Billings, MT 59102

Legal Description Cenex Park Subdivision, Block 4, Lot 3

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. Why is there a need for the intended use of the property at this location?
3. How will the public interest be served if this application is approved?
4. Statement. 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.

Required Project Uploads

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

Online Applications: https://services.billingsmt.gov/citizenaccess/

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

Recorded Owner(s) KING MCCALL LLC

Owner's Address P.O. Box 80965 Billings, MT 59108-0965

Owner's Phone Number (406) 690-4452 (E-mail)

Applicant/Agent COREY WELTER ENTERPRISES, INC. by Corey Welter, President

Applicant/Agent's Address 4010 Montana Sapphire Drive Billings, MT 59101

Applicant/Agent's Phone Number (406) 670-3836 (E-mail) mtoilman@welterconsulting.com

Signature of Recorded Owner(s) James D. Renton, member Date 12/2/20

AUTHORITIES: SEC. 27-1503. SPECIAL REVIEW BY CITY ZONING COMMISSION. (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.

AUTHORITIES: SEC. 27-1509. SPECIAL REVIEW BY COUNTY ZONING COMMISSION. (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.

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

Special Review Application - Questions - Corey Welter Enterprises, Inc.

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

This proposal is for the re-location of operations of an existing all-beverage liquor license with gaming from a location that would have to be grandfathered in under the new Billings Re-Code to a location that would have no existing or future conflicts with the new codes.

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

The Gable Road corridor is rapidly expanding and is in need of new consumer services. This location is only a few blocks away from a new high rise motel being built on Overland Avenue and is only blocks away from 24th Street West and King Avenue.

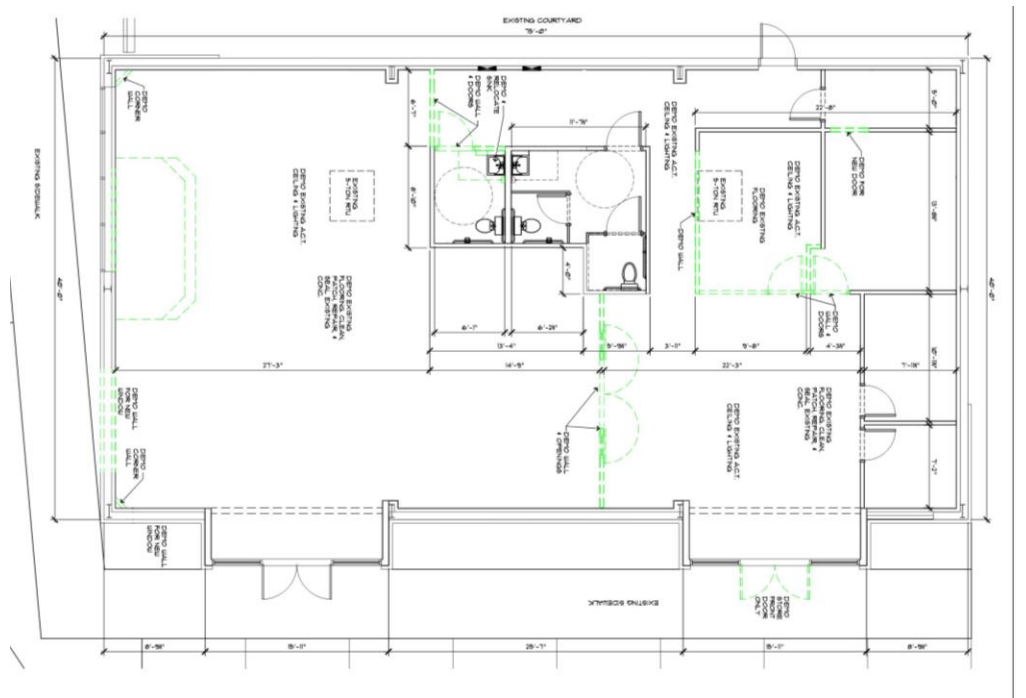
C. How will the public interest be served if this application is approved?

Re-locating from our present location on Grand Avenue will give us considerably more room which will require the addition of 10 -12 new employee positions. We will offer more of an upscale bar with a casino to serve the needs of not only the gaming public, but also an alternative to the existing liquor establishments in the area.

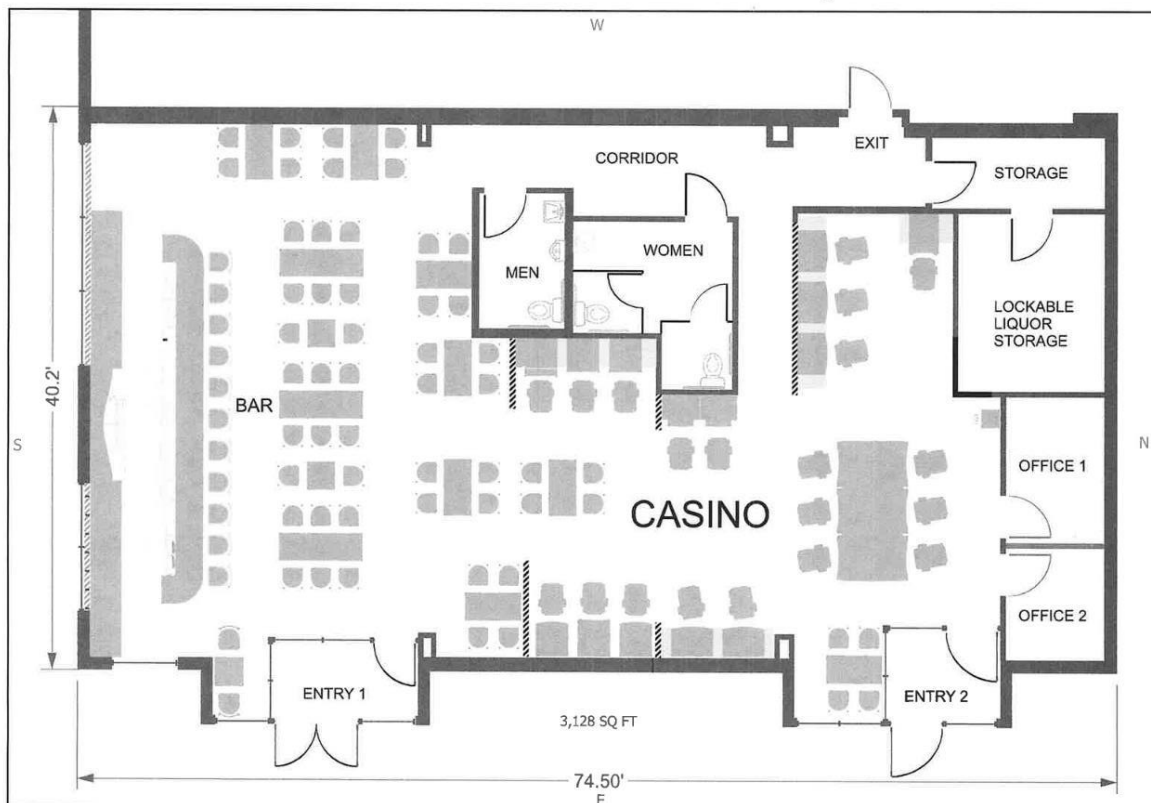
D. Prepare a written statement addressing what is intended to be done with the property, include new construction or change in the use of the property, and why the special review is being sought.

A complete remodel will be done including the addition of a fire suppression system with 24-hour monitoring as required by the existing fire code. A tap on the water main will be required to supply the fire suppression system. All bathrooms, doorways, etc. will be ADA compliant. Minor plumbing and electrical work will need to be done for the bar and casino. All furniture, fixtures, and equipment will be of the highest quality available.

In conclusion, Applicant hopes that this Special Review application will be approved as was the prior application, relating to the same subject property and the same use, which was approved by unanimous vote of the City Council on October 26, 2020. There are no churches, schools, residential zoned areas near the location of the subject property.



Existing



Proposed layout



City Zoning Commission

Meeting Date: 01/05/2021

SUBJECT: Special Review 989 - 3189 King Avenue West - All Beverage with Gaming

THROUGH: Monica Plecker

PRESENTED BY: Karen Husman

Information

REQUEST

Special Review 989 – 3189 King Ave. W. A special review request to allow an all beverage liquor license with gaming for a 2,500 square foot tenant space within a 7,913 multi-tenant building, and to allow an outdoor seating area, in a Community Commercial (CC) zone, on Block 17A, Lot 2, Lampman Sub., a 39,907 square foot parcel of land. Tax ID: C07979. Presented by Karen Husman, Planner I

RECOMMENDATION

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

APPLICATION DATA

OWNERS: DAJ Enterprises, LLC

AGENT: Josh Benson

PURPOSE: To allow all beverage with gaming

LEGAL DESCRIPTION: Block 17A, Lot 2, Lampman Sub

ADDRESS: 3189 King Ave W

EXISTING LAND USE: Commercial restaurant

PROPOSED LAND USE: Restaurant with all beverage liquor sales and gaming

EXISTING ZONING: CC

CONCURRENT APPLICATIONS

None.

APPLICABLE ZONING HISTORY

SUBJECT PROPERTY	SPECIAL REVIEW #	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
3189 King Ave W	986	10/2020	Beer/wine	Y	With gaming
SURROUNDING PROPERTY	Special Review #	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
3141 King Av. W	435	6/10/92	All Bev.	Y	
3121 King Av. W	527	6/6/94	Beer/Wine	Y	
3032 King Av. W	757	5/24/04	Beer/Wine	Y	Johnny Carino's
3042 King Av. W	954	4/24/17	All Bev.	Y	Restricted Gaming
1251 King Av. W	868	10/27/08	All Bev.	Y	
1251 S 32 nd st	788	6/27/05	Beer/Wine	Y	
3150 King Av. W	784	6/27/05	All Bev.	Y	

SURROUNDING LAND USE & ZONING

NORTH: Zoning: R-60
Land Use: Residential Single family & Residential Two-family

SOUTH: Zoning: CI
Land Use: Gas Station, Casino, Pawn Shop, Tire Store

EAST: Zoning: CC
Land Use: Western Empire Emporium

WEST: Zoning: PD
Land Use: Multi-tenant retail and office space

BACKGROUND

A special review request to allow an all beverage license with gaming for a 2,500 square foot tenant space within a 7,913 multi-tenant building, in a Community Commercial (CC) zone. The applicant is planning to partner with the Pie Guys Pizza, allowing the expansion of their business to allow sit down dining. They anticipate the placement of the license will be consistent with the neighborhood characteristics. The applicant was granted approval of a beer and wine license with gaming by the City Council on October 26, 2020, and have since acquired an all beverage license. Additionally, they would like approval for an outdoor patio, to allow a few additional seating options with the restrictions of Covid 19 social distancing requirements.

Warden's Casinos, the prospective tenant and business partner of Pie Guys Pizza, are proactive in neighborhood involvement and local organizations. They are currently involved and communicating with the Billings Heights Business Association. They are members of the Billings Heights Business Association, and are actively seeking to improve the safety and aesthetics of the their businesses. Expanding the established pizzeria would add approximately 10 to 20 full time positions, adding jobs to the local economy.

The Council has expressed concern with the number of alcohol and gaming locations within the city and how to better regulate these uses to protect neighborhoods, and improve the community character along its commercial corridors. Project ReCode has proposed major changes to how these uses will be regulated including adoption of casino, bar and restaurant definitions, making separation distances non-waivable, changing how those separations are measured, and allowing some alcohol service businesses without special review approval. If this special review is approved and the Project ReCode changes are adopted by the City Council, this location would become legally nonconforming to the required separation from a residential zone for a casino use (350 foot minimum separation with 10 or more gaming machines). If the number of gaming machines is 9 or fewer, then a separation distance of 350 feet is not required from a residential zone.

SUMMARY

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

This application conforms to the first criteria in so far that the zoning regulations adopted by the City Council has designated all CC zones can have a liquor license with gaming as long as they go through the special review process. The proposed location and site development complies with the zoning requirements.

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

Strong Neighborhoods:

- Neighborhoods that are safe and attractive and provide essential services are much desired. Neighborhoods sharing a boundary with intense commercial uses can experience conditions detrimental to the quiet enjoyment of the area. The existing buffer between this property and the residential multifamily development to the north ensures the potential negative impacts are mitigated.

Prosperity:

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

The proposed expansion would support a local and successful business and help retain this business in Billings. The COVID-19, guidelines for bars, restaurants and casinos requires more indoor space. Allowing this expansion will improve the sustainability of this business at this location. Adding outdoor seating will allow more options and spacious accommodations.

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

- The site has sufficient landscaping and buffering for the adjacent residential area. The proposed site is the southern most unit in a multi unit commercial strip, allowing structural as well as landscape buffering to the northern multi unit residential development.

PROPOSED CONDITIONS

1. The special review approval is for an all beverage license and gambling into 2,500 square foot commercial unit in the existing building, and addition of an outdoor patio, located at 3189 King Avenue West, Block 17, Lot 2, Lampman Subdivision, a 39,907 square foot parcel of land. No other use is intended or implied.
2. No outdoor music or outdoor public announcement systems will be allowed with this application.
3. Any new lighting on the building or within the parking lot shall have full cut-off shields so light is directed to the ground and not onto adjacent property.
4. Lighting of signs shall be as allowed within the City Sign Code in place at the time of sign permit application.
5. The applicant will comply with all other city codes including building, engineering and fire codes that may apply to the proposed expansion and use of the building and outdoor seating.
6. All other limitations on expansion shall apply in accordance with the Zoning Code restrictions of the Billings Montana City Code.

****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

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

Attachments

Zoning Map & Site Photos
Application & Applicant Letter
Site Plan



Subject Property



West



North



North West



East

APPLICATION FORM

CITY SPECIAL REVIEW

Billings Special Review# 989 - Project # P2-20-00261

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

Present Zoning: Community Commercial

Special Review Requested: All beverage w/ gaming license and approval of an outdoor patio.

TAX ID# C07979 CITY ELECTION WARD # 5

Legal Description of Property: Lampman Subd S12, T01S, R25 E, Block 17A, Lot 2, Lt 2 Blk 17A LAMPMAN SUB AMD (1-615 HERE)

Address or General Location (If unknown, contact City Engineering): 3189 King Ave W Billings, MT 59102

Size of Parcel (Area & Dimensions): _____

Present Land-Use: Abandoned gas station

Covenants or Deed Restrictions on Property: Yes _____ No X

If yes, please attach to application

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

Owner(s): Daj Enterprises, LLC
(Recorded Owner)

(Address) _____
406-670-4722 dougiejnkings250@gmail.com
(Phone Number) (email)

Agent(s): Josh Benson
(Name)

3117 Falcon Ridge Way
(Address) 703-667-3400 joshbenson@outwestgaming.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: Douglas Jenkins, owner, DAJ ENTER LLC Date: 12/2/2020
(Recorded Owner)



Special Review application

Question 1A:

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

LAND USE ELEMENT

Issue: Neighborhoods are experiencing pressures from the new development and land use changes.

Goal: Predictable land use decisions that are consistent with neighborhood character and preferred land use patterns identified in neighborhood plans.

Objectives:

1. Preserve neighborhood integrity
2. Empower neighborhood groups.

Answer: We plan to assist Pie Guys Pizza in expanding their long-standing delivery operation into a sit-down restaurant dine-in eating. The placement of a full liquor with gaming license offers consistency with current neighborhood characteristics. We believe that building a small outdoor patio at this location would also enhance the area's appeal to desirable consumers.

ECONOMIC DEVELOPMENT ELEMENT

Issue: We need to continue a cohesive focus in economic development.

Goal: Coordinated economic development efforts that target business recruitment, retention, and expansion.

Objectives:

1. Strengthen area economy
2. Create living-wage jobs
3. Improve quality of life for residents

Answer: The expansion of an outdoor patio and full liquor license would allow a more dynamic entertainment element for the area. The outdoor patio would allow expanded and desirable seating for restaurant customers. An outdoor patio open during warmer months would bring value to the neighborhood and we feel would be well received. There would be no speakers, or music system. Noise would certainly be less invasive than traffic. We would be happy to shut the patio down at a reasonable hour. We feel that something like this would be a refreshing change for the neighborhood especially as it would be tied to a gaming property. One of our goals is to improve public perception that gaming properties.

Issue: Lack of living-wage jobs.

Goal: Increase the median income of households and individuals

Objectives:

1. Improve the quality of life for residents
2. Attract and retain businesses that offer competitive wages and benefits
3. Reduce dependency on social programs

Answer:

Creating an expanded outdoor patio for Pie Guys Pizza and Wardens would allow more space to be used for dining and intensify the positive ambiance of our businesses. More outdoor space during warmer months would allow for more restaurant businesses and increase the the number of employees needed to keep up with demand. The wages for these positions offer more than living wage minimums for Yellowstone County which is \$11.05/hour.

AESTHETICS ELEMENT

Issue: There are areas of the city and county that are unattractive and present a poor image of the community

Goal: Visually appealing communities

Objectives: Improve the image of the community

Answer: We would like to build a visually appealing outdoor patio. This could include a gas or electric fireplace as a focal point for the outdoor space. A fence as illustrated below could encompass the patio offering the area something new, appealing, and welcoming for the neighborhood.



Issue: New development and signs, cell towers, power lines, and other structures could reduce the visual quality of the rims.

Goal: Unobstructed views of the rimrocks surrounding the city of Billings

Objectives:

1. Improve signage standards

Answer: Re-finish existing sign to enhance look/feel. We would also be willing to landscape around the bottom of the sign enhancing the signs look.

CULTURAL & HISTORIC RESOURCES ELEMENT

Issue: Historic landmarks and structures are being lost to neglect and development.

Goal: Identification and protection of the historical, archaeological, and cultural resources of Yellowstone County

Objectives: Improve awareness of historic and cultural resources

Answer: Warden's gaming establishments are all branded and built to tell the story of my Father's career as a prison Warden. We use local history especially as it ties into prisons or stories of "Old western outlaws." We intend to showcase stories significant to the cultural history of Yellowstone County and Billings, especially as it correlates to the story my father's career in corrections. We believe people have a natural interest in the history of their community. When we can tie local history into my father's career being a prison Warden, we find it to be a winning recipe, peaking people's interest in the "Wardens" brand.

To capture and preserve the history of Billings and Yellowstone county, we use historical photos, memorabilia, and old newspaper articles. Our intent is to create an establishment offering an ambiance that people feel they are taking a step back into time when walking through our doors, but also being the cleanest and nicest place in town. Using rustic finishes and reclaimed barnwood, we can build a modern and clean establishment, while capturing the old western look and feel our state and community is proudly known for.

Question 1B:

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

Answer:

This location has been sitting vacant and abandoned for nearly a year. As an alternative to an abandoned gas station we would like to offer something that is fresh, new, and will be well received. Allowing a visually appealing outdoor patio will help bring people to the area for lunch, dinner, and will be a welcomed business addition to this area.

Question 1C:

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

Answer:

This would offer two reputable businesses a chance to create and enhance the positive perception for this area of the city. We feel that allowing our business to utilize a full liquor license as well as permit the use of an aesthetically desirable outdoor patio will attract the type of consumers that will be well received by residential and commercial residents.

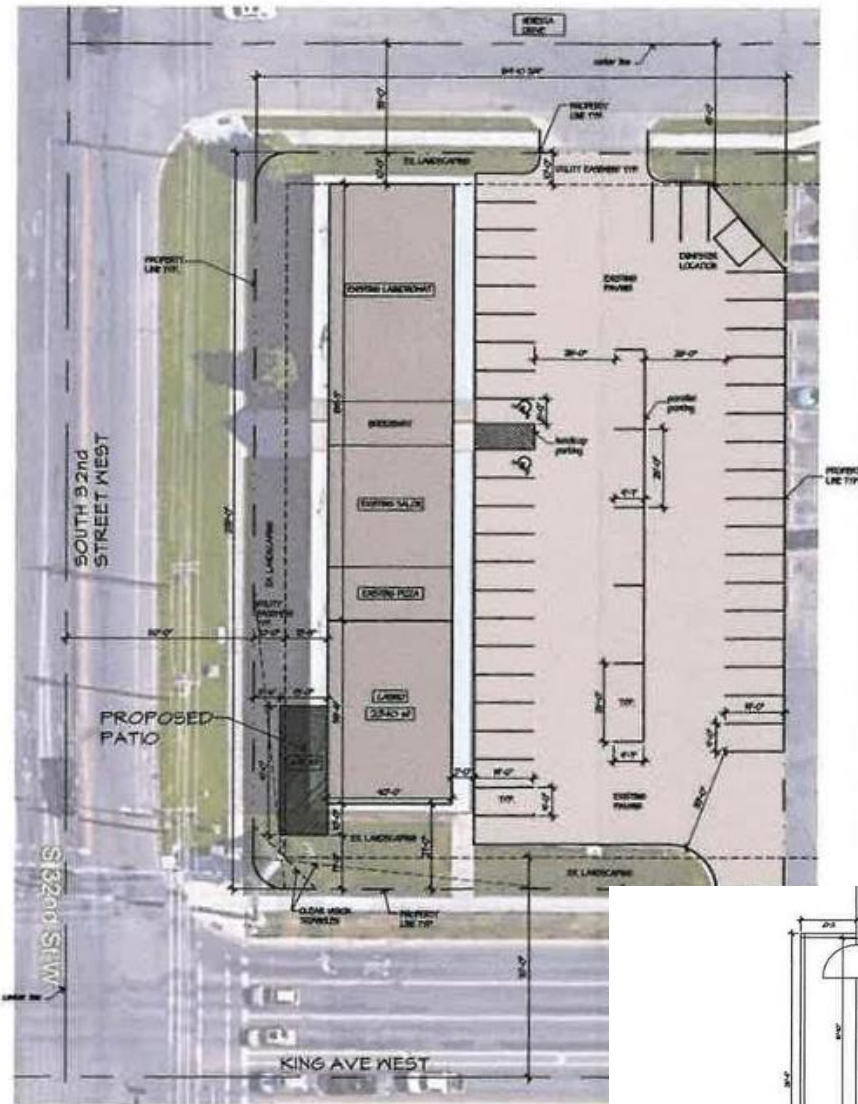
Question 1D:

Prepare a written statement addressing what is intended to be done with the property, and why special review is being sought.

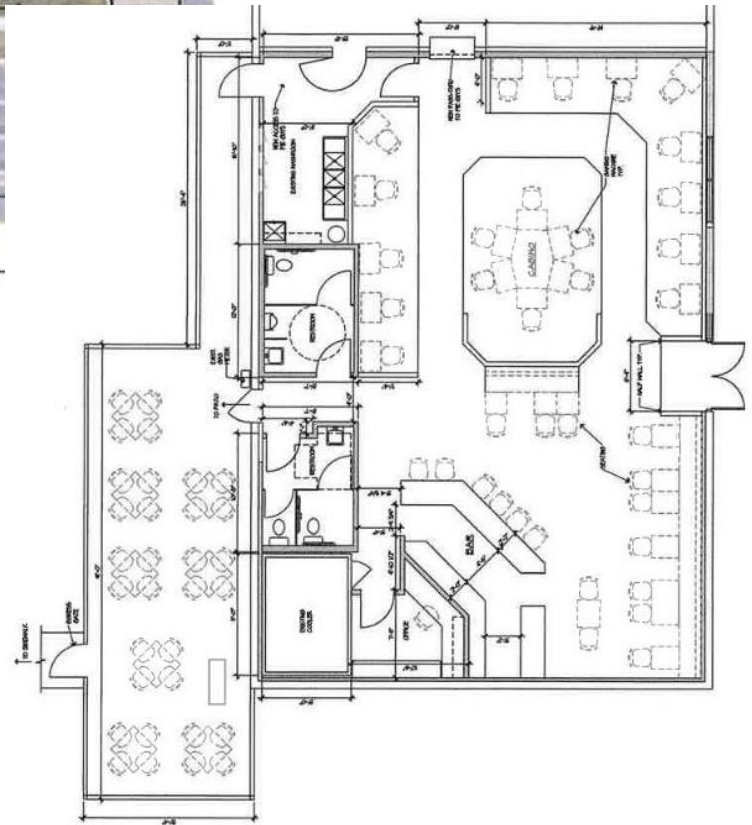
Answer: We are seeking permission to build an small outdoor patio approximately 600 square feet on the west side of 3189 King Ave suite A. This patio would be located along the 32nd Ave at the cross street of 32nd and King Avenue. We are also seeking permission to change to upgrade to a full liquor location instead of just beer/wine.

Question 2A & B:

See attached



SITE PLAN
Scale: 1" = 30'-0"



NORTH

FLOOR PLAN
Scale: 1/8" = 1'-0"