



CITY ZONING COMMISSION

AGENDA-Tuesday, March 2, 2021, 4:30 p.m.
Virtual meeting via Zoom

VIDEO CONFERENCE FORMAT

NOTICE TO THE PUBLIC

****ATTENTION****

Due to the COVID-19 health concerns, this meeting will be held in a virtual videoconferencing environment. Zoning Commission members will attend the meeting via a remote location, using a virtual meeting method. The regular meeting rooms will be closed during the meeting. In order to honor the Right of Participation and the Right to Know in Article II, sections 8 and 9, of the Montana Constitution, the City/County Planning Division is making every effort to meet the requirements of the open meeting laws.

Citizens are invited to:

- Review the Agenda Packet on the City's website at: <https://ci.billings.mt.us/117/Agendas-Minutes>
- View the meeting live online at Facebook:
<https://www.facebook.com/Billings-Planning-Community-Services-Department-1738982159659260>

Public comment will be taken only during the Public Comment periods as indicated on the agenda and during the Public Hearings, if any are scheduled, under the Regular agenda. Comments may be sent to Board via email before 10:00 AM on the meeting date. All emails received prior to this time will be read into the record for the public hearing. Comments may be submitted by:

- Mail: City/County Planning Division, 2825 3rd Ave N 4th Floor, Billings, MT 59101
 - Email: bartleyr@billingsmt.gov
- Call in during the Public Comment periods as indicated on the agenda:
 - Citizens may call in during specific Public Comment periods at **406.237.6165**.
All callers will be placed 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 limited to 3 minutes of testimony as is customary.
Future delivery methods may be explored as best practice is learned.

Please direct questions to Administrative Secretary Robbin Bartley at bartleyr@billingsmt.gov or 406-247-8676

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 January 5, 2021, The approval will be delayed until the next regularly scheduled meeting.

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 Zone Change 989 – 5 North 16th St. – from EBURD-CW to EBURD IS** - A zone change request from East Billings Urban Renewal District (EBURD) Central Works (CW) to EBURD Industrial Sanctuary (IS), on Block 121, Lots 1-12, Billings Original Township, an 39,000 square foot parcel of land. A pre-application neighborhood meeting was held on January 5, 2021 at 12:30 P.M., at 7 North 1th St. Tax ID: A00874

Other Business/Announcements

Adjournment

The City Council has designated Monday, March 22, 2021, at 5:30 p.m. as the date and time to receive the Zoning Commission recommendation on each **zone change** request.

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 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@billingsmt.gov

Zoning Commission

Date: 03/02/2021
Title: Zone Change 989 - 5 N 16th St
Presented by: Nicole Cromwell
Department: Planning & Community Services
Presentation: Yes

Information

RECOMMENDATION

Zone Change 989 - 5 N 16th St - Planning Staff recommends approval of Zone Change 989 and adoption of the findings of the 10 review criteria.

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

Zone Change 989 - 5 N 16th St - This is a zone change request for property within the East Billings Urban Renewal District. The property is located at 5 N 16th Street on the north side of Montana Avenue, a mostly unconstructed right of way. The legal description of the property is Lots 1-12 of Block 121, Billings Original Town and is 39,000 square feet in area. The applicant conducted a pre-application neighborhood meeting on January 5, 2021. The existing zoning is EBURD-Central Works and the proposed zoning is EBURD-Industrial Sanctuary. The property is located on the boundary between these two zoning districts.

The property owners, J & S Properties, intend to develop the site for a new ice and water production plant for Yellowstone Ice and Water, currently located at 1718 4th Avenue North. The business has outgrown the space. The use is an allowed use in both zone districts, however the EBURD zone districts have building and site development standards that fit the form requirements of each district. This is a proposed industrial type facility and the building and frontage allowed in the Central Works districts does not fit with the proposed use. The owners have retained an agent to assist with the new plant design and this application. The agent is Simonsen-Architect.

APPLICATION DATA

OWNER: J & S Properties, LLC
AGENT: Simonsen-Architect
LEGAL DESCRIPTION: Lots 1-12, Block 121, Billings Original Town
ADDRESS: 5 North 16th Street
CURRENT ZONING: EBURD-Central Works
EXISTING LAND USE: Vacant
PROPOSED USE: Yellowstone Ice and Water new plant
SIZE OF PARCEL: 39,000 square feet

SURROUNDING LAND USE & ZONING

NORTH: Zoning: EBURD-CW Land Use: O'Reilly Auto Parts
SOUTH: Zoning: EBURD-CW & EBURD-IS Land Use: Western Builder Supply - E-Z Set Corp.
EAST: Zoning: EBURD-CW Land Use: Kairos Center - Mixed Use
WEST: Zoning: EBURD-CW Land Use: Auto Plaza - auto sales

SUBJECT PROPERTY	Zone Change Special Review	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
5 N 16th Street	ZC 901	Sept 10, 2012	from CI to EBURD-CW	Yes	EBURD districts adopted
SURROUNDING PROPERTY	Zone Change Special Review	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
1140 1st Ave N	Annexation	June 27, 1983	Zoned HC at annexation	Yes	
1002 1st Ave N	SR 170	Nov 28, 1983	All Beverage with gaming	Yes	“Stock Exchange”
1004 1st Ave N	Annexation	August 28, 1989	Zoned CI at annexation	Yes	
1002 thru 1200 1st Ave N	ZC 901	Sept. 10, 2012	From HI & CI to EBURD-IS	Yes	EBURD districts adopted
123 N 16th Street	SR 657	April 26, 1999	Allow powder coating business in CI	Yes	
123 N 18th Street	SR 196	Nov 5, 1984	Allow gas/convenience store & car wash	Yes	
1709 1st Ave N	SR 448	Nov 25, 1991	All Beverage with gaming	Yes	Lewis & Clark Inn
2224 Minnesota Ave	SR 872	Jan 27, 2009	Sandblasting	Yes	
920 2nd Ave N	SR 886	Oct 25, 2010	60’ Wireless Tower	Yes	Verizon
1123 1st Ave N	SR 575	March 18, 1996	All Beverage with gaming	Yes	The Loft & Wild Willy’s Casino
21 N 15th St	ZC 966	July 9, 2018	To allow mixed uses including residential	Yes	Kairos Center

The city adopted the East Billings Urban Renewal Master Plan in 2009 with the idea of updating and revising the existing zoning to support revitalization of this 400+ acre area east of downtown. The prior zoning for all property within EBURD was either Controlled Industrial or Heavy Industrial. The zone district boundaries were set based on how the master plan envisioned the redevelopment patterns. These included areas for residential, mixed uses, artisan and maker spaces, as well as the more industrial oriented uses on the far eastern end of the district. The Central Works district covers much of the center of the EBURD area while the mixed use and residential areas closer to downtown. The industrial focus has been along the eastern edges and part of the railroad interface along Montana Avenue.

This section of Montana Avenue is currently un-built with just a gravel surface and no sidewalk, gutter, drainage or landscaping. Some new street lighting has been installed as part of the city's infrastructure improvement program in the EBURD. This site is currently used for some storage but is primarily vacant. The proposed new ice and water plant will be a major investment in this property.

The Planning staff has reviewed the request and is recommending approval based on our proposed findings of the 10 review criteria. The proposed zoning fits in with the existing master plan and zoning plan for the EBURD. More industrial type uses are contemplated in both the Central Works and the Industrial Sanctuary zone districts. The Industrial Sanctuary zone accommodates a building a frontage type that better fits this area of Montana Avenue. Each frontage type selects a building form and site development standards that fit with the expected pedestrian and vehicle traffic for the area. This area south of 1st Avenue N is not well suited for pedestrian traffic so the building form standards are out of place at this location. The adjacent uses and zones are compatible with the proposed zoning. No objections were received from the adjacent owners.

Before making a recommendation to the City Council, the City Zoning Commission will consider the findings of the following:

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

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

Essential Investments:

- Infill development and development near existing City infrastructure may be the most cost effective

Community Fabric:

- Cost-effective landscaping of public rights-of-way and entryways makes Billings more visually appealing to residents and visitors

Prosperity:

- A diversity of available jobs can ensure a strong Billings' economy
- Successful businesses that provide local jobs benefit the community
- Community investments that attract and retain a strong, skilled and diverse workforce also attracts businesses
- Retaining and supporting existing businesses helps sustain a healthy economy

The property is an underutilized site with access to full city services. Completion of additional street infrastructure will help this area retain value. The jobs within this business represent a good cross section of job skills and abilities. This is a local business seeking to expand within the community with a new plant and expansion of services to the community.

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

The new zoning is a form-based code that requires site development standards and regulates uses to a lesser degree. The implementation of the form-based code along with Building and Fire codes during re-development will 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 the potential to allow a new manufacturing facility that uses modern building and safety codes. A full re-development of the property will benefit the general welfare by adding to the tax increment value of the EBURD. Vacant lots tend to attract vandals and transients. Development of this lot will help make this area of Montana Avenue safer.

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. The surrounding street system consists of arterials and local streets. Development of the property will require new infrastructure on Montana Avenue.

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

Schools and Parks: Schools and parks 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 building separations to allow for adequate light and air.

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

The new zoning will have no effect on transportation systems. Montana Avenue will be improved along the width of the property.

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 develop for Yellowstone Ice and Water.

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 is identical to the zoning south and east of the subject property and is an appropriate zone with the adjacent businesses and arterial streets.

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

There are no buildings on the property.

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

The proposed zoning will encourage an appropriate industrial use and building form on this property.

ALTERNATIVES

The City Zoning Commission may:

- Recommend approval of the zone change and adopt the findings of the 10 review criteria
- Recommend denial of the zone change and adopt different findings of the 10 review criteria
- Delay action on the zone change request for up to 30 days

FISCAL EFFECTS

Approval or denial of the zone change should have no effect on the Planning Division budget.

Attachments

Zoning Map and Site Photos

Application and Letter





Subject Property from Montana Avenue



Subject property view north and east – Kairos Center



Subject property view north and west from Montana Avenue



View west on Montana Avenue



View south across Montana Avenue



View south and west across Montana Avenue

Zone Change 989
Applicant's Letter and Information

APPLICATION FORM

CITY ZONE CHANGE Billings Zone Change # 989 - Project # PZ-21-00033

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

Present Zoning: EBURD - Central Works

Proposed Zoning: EBURD - Industrial Sanctuary

TAX ID# A00874 CITY ELECTION WARD # 1

Legal Description of Property: Billings Original Townsite, S33, T01N, R26E, Block 121, Lots 1-12

Address or General Location (If unknown, contact City Engineering): 5 North 16th Street

Size of Parcel (Area & Dimensions): 300' -0" x 130' - 0" = 39000 sf or .895 AC

Present Land-Use: S-2 / Parking

Proposed Land-Use: F-2: Ice Manufacturing, Refrigeration / S-2: Warehousing, Storage

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): J&S Properties, Inc.

(Recorded Owner) _____

(Address) PO Box 31292, Billings, MT 59107-1297

(Phone Number) 406.855.4248 (email) scott@jandstranpsort.com

(Phone Number) _____ (email) jason@jandsrecovery.com

Agent(s): Simonsen-Architect

(Name) _____

(Address) PO Box 2132, Billings, MT 59103-2132

(Phone Number) 406.256.9060 (email) eric@simonsenarchitect.com

(Phone Number) _____ (email) thom@simonsenarchitect.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 Zone Change. Also, I attest that all the information presented herein is factual and correct.

Signature: [Handwritten Signature]
(Recorded Owner)

Date: 1/21/21



J & S PROPERTIES, INC.

P O BOX 31292, BILLINGS, MT 59107

OFFICE (406) 248-8103 FAX (406) 252-7259

January 5th, 2021

Re: ZONING CHANGE at 5 N. 16th Street

1. A. Our proposal for a Zoning Change at 5 N. 16th Street is directly in line with the codified EBURD regulations. We are requesting a zoning change within the EBURD from the existing Central Works to Industrial Sanctuary to be more in-line with the context of the surrounding businesses and use, thus allowing us to develop, within EBURD regulations, a new facility. Our purpose is to create and grow a processing and production plant that will support business and careers in the local population.

B. Under the current zoning of Central Works, the amount of Storefront, Front Lot Yardage and Build-To Zone do not currently allow for adequate size and setbacks for the scale of the necessary structure and production line equipment required to build a new processing and production plant. A zoning change would allow J&S Properties to build, within EBURD code, a state-of-the-art water bottling and ice manufacturing plant suitable to the surrounding area while improving the site, landscaping and neighborhood. Additionally, a change to Industrial Sanctuary would allow Our tenant to provide clean, dependable and affordable distilled and potable water to the adjoining neighborhood and the Greater Billings area. Adjacent properties within the EBURD and along the undeveloped portion of Montana Avenue are zoned Industrial Sanctuary as well. It is within the City of Billings and J & S Properties scope of work to vastly improve the site conditions along Montana Avenue.

2. RE: Addenda One - Site Photos of Existing Conditions.

3. RE: Addenda Two – Pre-Application
Affirmations and Attendance of Neighborhood Meeting
J&S Properties, Inc.
7 North 17th Street
Billings, MT 59101
January 15th, 2021
12:20 PM

Pre-Application Statement of Owner(s) or Agent(s)

The owner(s), contract purchasers (if any) and agents (if any) are required to submit this completed form and any attachments along with a completed zone change application packet, including any required fees, for a zone change to be processed by the Planning Division.

1. **Present Zoning:** EBURD - Central Works

2. **Written description of the Zone Change Plan** including square footage or acres of proposed new zoning: EBURD - Industrial Sanctuary - 300' -0" x 130' - 0" = 39000 sf or .895 AC

3. **Subject Property Map:** please attach to this form

4. **Legal Description of Property:** Billings Original Townsite, S33, T01N, R26E, Block 121, Lots 1-12

5. **Neighborhood Task Force Area:** Yes No . If Yes, Name of Task Force and mailing address of Chairperson: North Park - Brian Epley - briane@gmail.com

6. **Roster of persons who attended the pre-application neighborhood meeting:** please attach to this form

7. **A copy of the meeting notice.** please attach to this form

8. **A brief synopsis of the meeting results.** please attach to this form

9. **The undersigned affirm the following:**
 - 1) The pre-application neighborhood meeting was held on the 15 , day of January , 2021.
 - 2) The zone change application is based on materials presented at the meeting.

Owner (s): J&S Properties, Inc. Telephone: 406.855.4248
Address: PO Box 31292 Email: jason@jandsrecovery.com
Billings, MT 59107-1292 scott@jandstransport.com

Agent (s): Simonsen-Architect Telephone: 406.256.9060
Address: PO Box 2132 Email: eric@simonsenarchitect.com
Billings, MT 59103-2132 thom@simonsenarchitect.com

J & S PROPERTIES, INC.

P O BOX 31292, BILLINGS, MT 59107

OFFICE (406) 248-8103 FAX (406) 252-7259

COMMUNITY MEETING

January 15th, 2021
12:30 PM
7 North 17th Street
Billings, MT 59101

RE:

J&S Properties Inc. requests a Zoning Change for the property located at 5 N. 16th Street, Billings, MT 59101 in the BILLINGS ORIGINAL TOWNSITE, S33, T01 N, R26 E, BLOCK 121, Lot 1 - 12. The zone change is from EBURD Central Works to EBURD Industrial Sanctuary with the intent to improve the property by constructing a new Water bottling and Ice Manufacturing Plant. The current use of the Legal Property is a storage area for vehicles and equipment. A zoning change to EBURD Industrial Sanctuary would allow for the construction of a modern, new facility as well as site and overall neighborhood improvement and appearance that would be compatible with adjacent EBURD Industrial Sanctuary zoned property.

ATTENDANCE:

J&S Properties, Inc.
PO Box 31292
Billings, MT 59105

Print:

Lison Kummertfeldt
Scott Chesarek

Signed:

[Signature]
[Signature]



MEETING MINUTES

PROJECT: J&S RE-ZONING **PROJECT NUMBER:** 2702
MEETING LOCATION: 7 North 17 Street **MEETING DATE:** 15.01.2021
MEETING SUBJECT: Community Meeting RE: Zoning **PREPARED BY:** Thom Greenwood

ATTENDING:

Jason Kummerfeldt – J&S Inc. Scott Chesarek – J&S Inc.
Bryce Terpstra – Jones Construction Thom Greenwood – Simonsen Architect

A community meeting was held at J&S Inc.'s corporate office at 7 North 17th Street at 12:30 to engage the surrounding property Owner's and tenants. The meeting was called to order with above representatives in attendance. Of the invited guests, no Owner, Owner' representatives or community leaders attended. The meeting was left open to attendance until 1:30 at which the meeting was adjourned.

See attached Meeting Attendance Sign-in.

Thom Greenwood

A handwritten signature in black ink, appearing to read 'Thom G', enclosed in a simple rectangular box.

Simonsen Architect
406.256.9060
thom@simonsenarchitect.com

END



PUBLIC WORKS DEPARTMENT
ENGINEERING DIVISION
2224 Montana Avenue
Billings, MT 59101
Office (406) 657-8231
Fax (406) 237-6291

City of Billings

January 19, 2021



SUBJECT: Yellowstone Ice and Water Montana Ave

Dear Mr. Simonsen:

This letter is in response to Thom Greenwood's phone call concerning the potential development of the lot on the north side of Montana Ave between N 15th St and N 16th St.

Our office has received preliminary site plans from Simonsen Architect (project 2007.2 dated 10/7/2020) for Yellowstone Ice and Water to develop the site. The above plans appear to be in keeping with the EBURD requirements as well as City Standards. Further review will be done at the time of building permit application to ensure that both standards are fully met. At this early stage of site development, Yellowstone Ice and Water as well as Simonsen Architect are putting forward a development that will benefit the EBURD and Yellowstone Ice and Water.

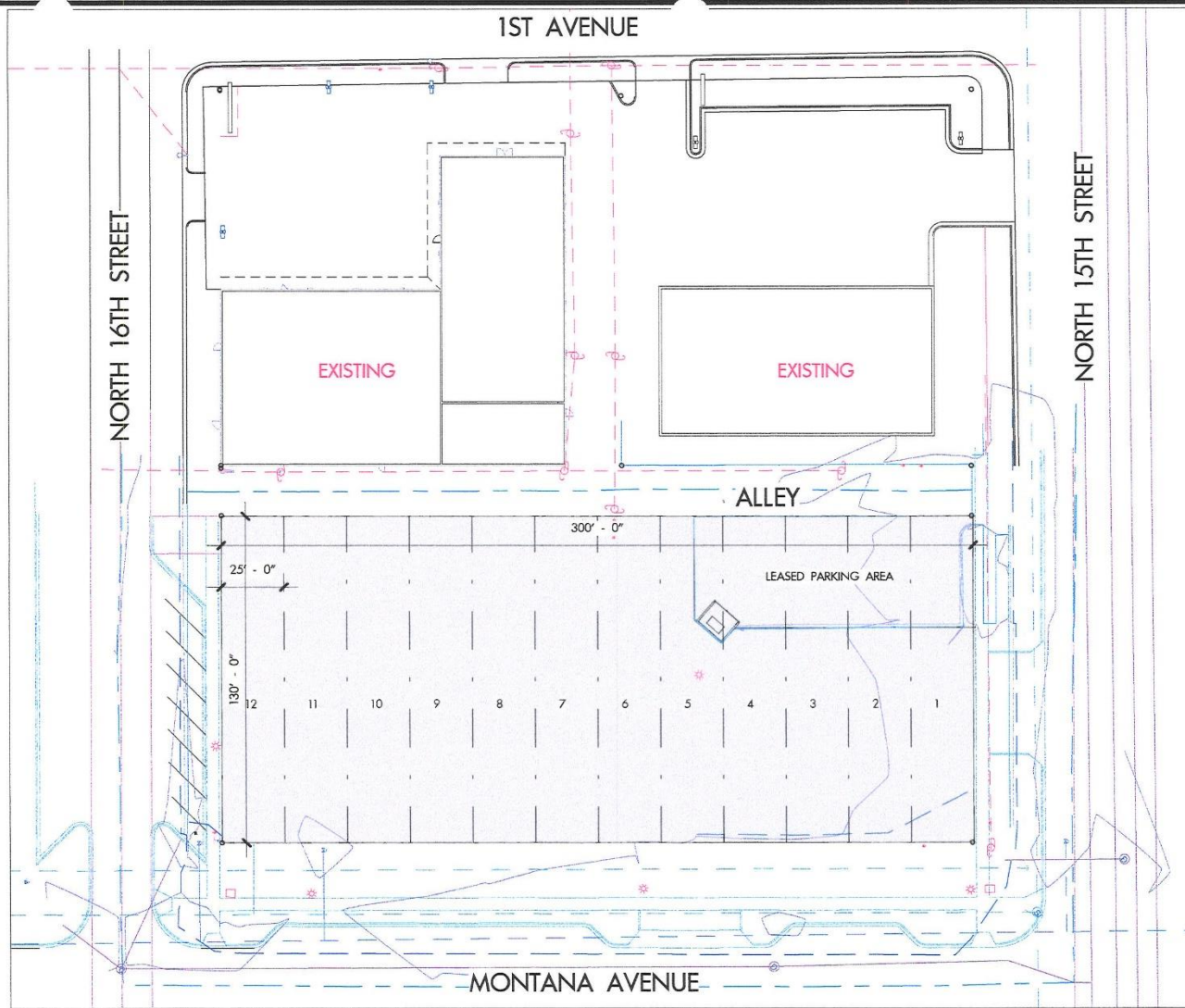
If you have further questions, please feel free to contact me at (406) 657-8234 or zischj@billingsmt.gov.

Sincerely,

John Zisch
Staff Engineer I

Enclosures:

1. Preliminary Site Plans



ERIC M. SIMONSEN AIA
 PO BOX 2132
 BILLINGS, MT 59103-2132
 WWW.SIMONSENARCHITECT.COM
 406.256.9060 C
 406.698.5182 O

YELLOWSTONE ICE & WATER 1718 4th Ave N
 Billings, MT 59101
 DRAWING: ZONING PERMIT
 PROJECT NUMBER: 2027.2
 DATE: 1-4-21

ASK1.0