



CITY BOARD OF ADJUSTMENT
AGENDA-Wednesday, March 2, 2022, 6:00 p.m.
Miller Building, 1st Floor Conference Room
2825 3rd Avenue North, Billings, Montana

NOTICE TO THE PUBLIC

****ATTENTION****

In the event a quorum of the Council is present, no City-related decisions will be made during this meeting or event.

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 Board of Adjustment Members and Planning Department Staff.
Welcome new Board Member George Warmer.**

Public Comment

Approval of Minutes:

The minutes of the Board meeting of January 5, 2022.

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. **Return Item- City Variance 1339 -- Mountain Mudd Kiosk-- allow temporary use structure larger than 120 sf at 16 Shiloh Rd-** A variance from Section 27-1009(A)(3) requiring a group 3 temporary use structure to have a maximum size of 120 square feet to allow a 160 square foot structure in a Corridor Mixed Use 1 (CMU1) zone on Parcel 1A, Certificate of Survey 2727M, a 1.587-acre parcel of land located at 16 Shiloh Rd. Tax ID: D11891
- b. **City Variance 1341 -- Coca-Cola Building-- Allow increase in maximum sign square footage in a Light Industrial (I1) zone -** A variance from 27-1407(E)(a) requiring a maximum of 250 square feet total sign area per frontage, on parcel 11A of COS 1391 AMND, generally located at Harnish Boulevard and S Frontage Road in a Light Industrial (I1) zone. The purpose of the

variance is to allow a 456 sq ft sign on a building with 400 lineal feet of frontage. Tax ID: D008740

- c. **City Variance 1342 -2622 Rimrock Rd -- Reduce lot width for a 2nd dwelling unit --** A variance to reduce the required lot width from 65 feet for each dwelling unit to allow 84.5 feet in lot width for two dwelling units on Lot 11, Block 4 of Bridger Square Subdivision 7th Filing, in a Suburban Neighborhood (N3) zone district on a 12,607 square foot parcel of land. The variance would allow the demolition of an existing garage and construction of a second dwelling unit. Tax ID: A03197D

Other Business/Announcements

Adjournment

Information on the preceding item(s) may be obtained at the Planning & Community Services Department, 4th Floor of the Miller Building, 2825 3rd Ave North, Billings, MT 59101 or phone 247-8676. Anyone wishing to be heard on this matter may appear at this hearing or provide written testimony. Information on the preceding item(s) may be obtained at the Planning & Community Services Department, 4th Floor of the Miller Building, 2825 3rd Ave North, Billings, MT 59101 or phone 247-8676. Anyone wishing to be heard on this matter may appear at this hearing or provide written testimony to Planning Division at the address above.

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 Tammy Deines, Planning Clerk, at 247-8610 or e-mail at deinest@ci.billings.mt.us.

City Board of Adjustment
Meeting Date: 03/02/2022

Information

Subject

The minutes of the Board meeting of January 5, 2022.

Attachments

BBOA_2022_0105

CITY BOARD OF ADJUSTMENT

MINUTES January 5, 2022

Name	Title	01/05/2022	02/02/2022	03/02/2022	04/06/2022	05/04/2022	06/01/2022	07/06/2022	08/03/2022	09/07/2022	10/05/2022	11/02/2022	12/07/2022	
David Mitchell	Member	1												
Dave Hagstrom	Member	1												
VACANT	Member	-												
Jeff Bollman	Vice Chair	P												
Oscar Heinrich	Member	1												
VACANT	Member	-												
VACANT	Member	-												
TOTAL NUMBER OF APPLICATIONS 2022		01/05/2022	02/02/2022	03/02/2022	04/06/2022	05/04/2022	06/01/2022	07/06/2022	08/03/2022	09/07/2022	10/05/2022	11/02/2022	12/07/2022	TOTAL
Variance		2												

Vice Chair Bollman, attending by phone, appointed Board member Heinrich, Chairman pro tem. Board member Heinrich 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 Monica Plecker, Planning Division Manager, Nicole Cromwell, Zoning Coordinator, Erin Keith, Planner I and Robbin Bartley, Administrative Assistant, (virtually).

Attending: Tanya Weinreis

Public Comment

Board member Heinrich opened the public comment period and asked if there was anyone wishing to speak during the public comment portion of the meeting. There were none.

Approval of Meeting Minutes

Meeting minutes for December 1, 2022.

The December 1, 2021 meeting minutes were approved, without motion, by unanimous voice vote.

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

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

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

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

Board member Hagstrom had no ex parte communications, no conflicts of interest and visited 2 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 1338 – 2716 7th Ave N – Allow DU on 1st floor - A variance from 27-1002.A.2 requiring a residential use in the Downtown Support (DX) zone to be either on the 2nd floor of a structure or at least 30 feet behind the front façade on the first floor of a structure to allow a residential dwelling to occupy the entire first floor of a structure in a Downtown Support (DX) zone, on Lots 13-14, Block 41, Fosters Addition, an 7,000 sf parcel of land. The purpose of the variance is to allow an existing structure to be renovated to its original use as a residential duplex with a dwelling in the basement and a dwelling on the first floor. Tax ID: A07267

RECOMMENDATION

Planning staff has reviewed this application & is recommending conditional approval of Variance 1338 based on the proposed findings of the review criteria.

Questions for staff:

Board member Heinrich opened the public hearing at 6:12 PM and asked if there was anyone wishing to speak in favor or against **City Variance 1338**.

Applicant: Not in attendance

Favor

NONE

Opposed

NONE

Discussion-NONE

At 6:12PM, Board member Heinrich closed the Public Hearing and called for a motion.

Motion

Board Member Mitchell made a motion and Board Member Hagstrom seconded the motion to approve **City Variance 1338**, with staff recommendations & conditions.

MEMBER	YES	NO	ABSTAINED	NOT PRESENT
David Mitchell	X			
Dave Hagstrom	X			
VACANT				
Jeff Bollman	X			
Oscar Heinrich	X			
VACANT				
VACANT				

The motion to approve City Variance 1338 passed with a 4-0 vote.

City Variance 1339 – Mountain Mudd Kiosks– allow temporary use structures larger than 120 sf at 16 Shiloh Rd, 2975 Grand Ave & 4001 Montana Avenue -

A variance from Section 27-1009(A)(3)(b)(4)(i) requiring a group 3 temporary use structure to be a maximum floor area of 120 square feet to allow: 1) a 160 square foot structure in a Neighborhood Mixed Use (MNU) zone on Parcel 1A, Certificate of Survey 2727M, a 1.587 acre parcel of land located at 16 Shiloh Rd; 2) a 250 square foot structure in a Commercial Mixed Use 1 (CMU1) zone, on Lot 18A, Block 7, Westwood Estate 3rd Filing, a 39,207 sf parcel of land located at 2975 Grand Avenue; and 3) a 360 square foot structure in a Corridor Mixed Use 1 (CMU1) zone, on Lots 1 thru 8, Block 24, Yellowstone Addition, a 21,000 sf parcel of land located at 4001 Montana Ave. The purpose of the variance is to allow group 3 temporary use structures at the described locations larger than the maximum allowed floor area 120 square feet. Tax ID: D11891, A18486B; A19303. Erin Keith presenting.


The Variance is requested has changed and is only for 16 Shiloh Road.



Background

Temporary Uses – 27-1009

- o Group 1: Less than 72 hours
 - o No permit required
 - o Examples: Foodtrucks
- o Group 2: 73 hours to 90 days
 - o Permit required
 - o Examples: Foodtrucks, Christmas tree lots, greenhouses
- o Group 3: 91 days to 1 year
 - Permit required
 - Structures cannot have axels/wheels
 - Maximum structure size 120 square feet
 - Examples: Coffee kiosks, greenhouses, portable classrooms/offices




Background

Findings from a Recent Intensive Review of Group 3 Temporary Use Permits:

- o 6 existing temporary use structures (kiosks) that exceed the maximum square footage of 120 square feet
- o From 130-200 square feet
- o Proposed direction from Planning staff:
 - Continued use of oversized kiosks would require applying for a variance
 - All newly proposed kiosks would need to meet the maximum size requirement
- o This application is only for 1 of the 6 noncompliant temporary use structures
 - The existing structure is currently 160 square feet


RECOMMENDATION

Planning staff has reviewed this application & is recommending conditional approval of Variance 1339 based on the proposed findings of the review criteria.



Recommended Conditions

1. The approval is for a variance from Zoning Code 27.1009(A)(3)(b)(4)(i), as amended increasing the maximum allowed size of the structure from 120 square feet to 160 square feet (34% increase). No other variance is intended or implied with this approval.
2. The variance is limited the existing 8'x20' kiosk only, currently located on Parcel 1A, Certificate of Survey 2727M, and becomes void if the structure is moved (either within the same parcel or to another parcel within the City Limits) or the footprint is altered in any way.
3. The variance shall be null and void if at any time in the future, the temporary use permit for this kiosk remains expired for more than 30 days or if the structure is not in operation for more than 180 days.



Recommended Conditions,
continued

4. 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, leaseholders, heirs and assigns, so long as the structure is not moved from its current location.
5. The applicant shall meet all other city code requirements, including annual renewal of the temporary use permit, except for this variance.

Questions for staff:

Board member Heinrich asked if ownership changed if there would need to be a new Variance. Staff explained Temporary Use permits are issued to persons while Variances run with the land.

Staff explained the desire to keep kiosks in service rather than deal with an abandoned building.

Monica Plecker stated the owner could find a permanent location and apply for a commercial building permit. It is the owners choosing to go the temporary route. It is beneficial to the owner financially because of the expenses incurred with a brick and mortar structure.

Board member Mitchell asked if all 6 of the oversized buildings are coffee kiosks. Staff affirmed. He then asked if other buildings oversized would be allowed. Staff replied a new structure at a new location would not be approved for permit. The IBC will not allow anything larger than 120 square feet. It is not possible to issue a building permit to an existing, in use, structure. These 6 kiosks were issued a Temporary Use Permit in error, a Variance is the best option for these existing kiosks.

Board member Heinrich asked about the large kiosk across the street (Soda Station). Staff stated it is 120 sf.

Previously there was an 8x8 coffee kiosk on this site, why is it larger now. Staff erred in issuing the Temporary Permits to the larger size.

Board member Heinrich opened the public hearing at 6:28 PM and asked if there was anyone wishing to speak in favor or against **City Variance 1339**.

Applicant: Tanya Weinreis, Mountain Mudd, PO Box 50626, Billings, MT 59105

The building department told her as long as it is on skids, she was not given a size limitation.. She is asking to use this kiosk because she was given the wrong information. She has 2 other buildings built, not yet in service she will be getting a commercial permit for.

Board member Hagstom asked what the size of the other 2 buildings are. Staff replied one is 360sf and the other 250sf. They will not be temporary uses.

Favor
NONE

Opposed
NONE

Discussion-NONE

At 6:32PM, Board member Heinrich closed the Public Hearing and called for a motion.

Motion

Board Member Hagstrom made a motion and Board Member Mithcell seconded the motion to approve **City Variance 1339**, with staff recommendations & conditions.

Board member Bollman then interjected and asked the motion to be rescinded. He has concerns about the presidence being set for future oversized kiosks. He understands the administrative error. If this approved, 6 more will be approved?

Monica Plecker explained the other 5 will be considered individually as they come forward to renew their Temporary Use Permts applied for annually. It is not the intent to bring to the Board for Variance anything that is not currently in use. All future kiosks will have to comply with the 120sf limitation.

Board member Bollman asked if this 160sf kiosk was recently moved to this location. Monica Plecker stated it was moved into place earlier in 2021. It was originally an 8 x 8 structure.

He then asked if the Temporary Use renewal application stated the size of the new building. Staff affirmed the size was stated and missed by the application reviewer.

Board member Bollman stated he is not convinced this is the best option. While he does simpathize with the owner, the Temporary Use application online does not specify the maximum building size. His thought is to delay this for 30 days to give it further consideration. He wants to understand the ramification of the decision going forward. If the board approves this one, he feels the other 5 are basically being approved and he has no information on the other 5 in question.

Board member Heinrich understands his concern and believes these are anomalies and will probably need to be approved after first considering them individually.

Staff has informed each of the other 5 of their options to apply for a Variance or apply for commercial building permit. The largest of the other 5 in question is 200sf. There is absolutely no intention of allowing permission of larger than 120sf going forward.

The application process has been updated and approved, there are no mysteries going forward.

Board member Bollman stated there was no malicious intent on the approval of these 6 structures. What is to say it can't happen again after we have cleaned these up? We could have this situation again.

Board member Heinrich asked Board member Bollman what he would like to see from Staff if this decision was delayed for 30 days.

Board member Bollman stated he would like to see the information on the other 5 kiosks that could potentially come before the board.

Staff (Nicole Cromwell) stated this may not be the last time Planning staff will have to ask for mercy from the board on behalf of a permitting mistake.

Board member Mitchell asked if the 120sf limitation came into effect with Re:Code. Staff replied it has always been 120sf and Re:Code had no affect.

Monica Plecker stated the audit information can be shared with the board. It is very important that each application be considered for the one location in question.

Board member Heinrich asked the applicant if this would hurt her in anyway. Ms. Weinreis replied she likely has \$150,000.00 invested. He then asked Staff what she would have to do if this Variance is denied. Monica Plecker stated the applicants current Temporary Permit is good thru November 2022. Decisions would have to made at that time how to proceed. She believes bringing this to the board for Variance consideration is the best first step to correct the error.

Board member Hagstrom asked about the clarity of the application and whether or not the maximum size is clearly stated.

Staff (Erin Keith) explained the process has changed from paper application to online. The paper application asked for the total square footage but does not state the maximum. All six did disclose the size of their building.

Board member Heinrich explained the options available. He also explained the need for all board members to approve. The options include asking Board member Bollman to motion to delay 30 days, or go ahead with the vote.

Board member Heinrich asked Board members Hagstrom and Mitchell if they would rescind their previous motion. They agreed to rescind.

Board member Bollman then made a motion to continue the public hearing for Variance 1339 to the February 2, 2022 meeting. Board member Hagstrom seconded.

Board member Bollman pointed out there is no urgency since the applicant can remain open without restrictions until November, 2022.

MEMBER	YES	NO	ABSTAINED	NOT PRESENT
David Mitchell	X			
Dave Hagstrom	X			
VACANT				
Jeff Bollman	X			
Oscar Heinrich	X			
VACANT				
VACANT				

The motion to continue the Public Hearing for City Variance 1339 passed with a 4-0 vote.

Other Business: 2022 Chair and Vice Chair elections

Board member Hagstrom nominated Oscar Heinrich for Chairman, Board member Mitchell seconded. All were in favor.

Board member Mitchell nominated Jeff Bollman for Vice Chairman, Board member Hagstrom seconded. All were in favor.

ADJOURNMENT: The meeting adjourned at 6:56PM.

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

Board of Adjustment

Date: 03/02/2022
Title: City Variance 1339 - 16 Shiloh Temporary Use Kiosk
Presented by: Erin Keith, Planner 1
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. A public hearing was held by the Board of Adjustment on January 5, 2022. There was concern expressed by the Board about approval of this kiosk and whether it would be setting a precedent for other known oversized kiosks. The Board of Adjustment voted to delay a decision to February 2022 and more information is being provided by staff on these kiosk requests. The February 2022 BOA meeting was canceled due to no quorum, therefore this agenda item is a carryover item from a past agenda.

REQUEST

A variance from Section 27-1009(A)(3), requiring a Group 3 Temporary Use structure to have a maximum size of 120 square feet in a Corridor Mixed Use 1 (CMU1) zone on Parcel 1A, Certificate of Survey 2727M, a 1.587-acre parcel of land located at 16 Shiloh Rd. The purpose of the variance is to allow an existing 160 sq. ft. Group 3 Temporary Use structure at the described location to be larger than the maximum size allowed of 120 square feet.

APPLICATION DATA

OWNER: Lorraine W & Leland J Wells (Parcel Owner), CHS, Inc (Gas Station leases the land, and holds the sub-lease with the coffee kiosk)
AGENT: Tanya Weinreis, Mountain Mudd Kiosk Owner
PURPOSE: Increase the maximum allowed Group 3 Temporary Use structure size
LEGAL DESCRIPTION: Parcel 1A, Certificate of Survey 2727M
ADDRESS: 16 Shiloh Rd
SIZE OF PARCEL: 1.587 Acres
ZONING: CMU1-Corridor Mixed Use 1
EXISTING LAND USE: Gas Station
PROPOSED LAND USE: No change

CONCURRENT APPLICATIONS

None

APPLICABLE ZONING HISTORY

There have been no variances for Group 3 Temporary Use Permits issued by the City of Billings.

SURROUNDING ZONING & LAND USE

NORTH: Zoning: CMU1
Land Use: Vacant
SOUTH: Zoning: NMU and C3 (Outside City Limits)
Land Use: Vacant
EAST: Zoning: CMU1
Land Use: Shiloh Commons, Commercial and Residential
WEST: Zoning: RR1
Land Use: Residential (Outside City Limits)

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

Planning staff recently completed an intensive review of Group 3 Temporary Use Permits. During this work, it was

discovered that there are 6 existing temporary use structures (kiosks) that exceed the maximum allowed floor area requirement of 120 square feet. These non-compliant structures vary in size from 130 square feet to 200 square feet. Each of the nonconforming temporary use structures did disclose their sizes either during the initial application process or during the annual renewal process, and were approved by the Planning Division. The overall proposed direction from the Planning Staff to business owners for all over-sized, existing kiosks would be to allow their continued use through the variance process, with annual renewal of their temporary use permits. Otherwise, all newly proposed or replacement kiosks would be required to meet the maximum size of 120 square feet, in addition to all other Zoning Code requirements. This application is for only for 1 of the 6 noncompliant temporary uses throughout the City. It is anticipated the Board of Adjustment will see future applications for the other identified non-conformities within the next 8 months.

Per the Zoning Code, this oversized structure is considered to be in non-compliance and for it to come into compliance without a variance it would mean either (1) replacing the kiosks with smaller structures or (2) obtaining a commercial building permit (voiding the temporary use). The ICC Commercial Building Code adopted by the City of Billings and the State of Montana states that any commercial building that exceeds 120 square feet in floor area requires a building permit from the state or local jurisdiction. This exempts buildings less than 120 square feet from the commercial building review process and allows commercial structures under 120 square feet to be considered a temporary use under BMCC 27.1009(A)(3). For this business owner to replace the kiosks with smaller building after they were already approved for use and currently in operation, would be cost prohibitive. In addition, following discussions with Planning Staff, Building Division and Public Works Engineering, it was determined that it would be very difficult or even impossible to issue building permits after a kiosk has been constructed and in-use.

This applicant currently operates temporary use kiosks in six different Mountain Mudd locations across Billings and one in Yellowstone County. The applicant's other kiosks currently in-use are all under the 120 square foot maximum size. The purpose of the variance is to allow an existing 160 sq. ft. Group 3 Temporary Use structure at the described location to be larger than the maximum allowed floor area of 120 square feet. The current temporary use structure located at 16 Shiloh Rd is 8'x20' or 160 square feet and replaced an 8'x8' or 64 square foot kiosk in 2021.

STAKEHOLDERS

A public hearing was held on January 5, 2022. Board member Jeff Bollman raised concerns about approval of this kiosk and whether it would be setting a precedent for other known oversized kiosks. The Board of Adjustment voted to delay a decision to February 2022. The delay would allow staff to collect additional information on the temporary use structures that are currently in-use and exceed the maximum allowed square footage. Please see attached spreadsheet summarizing each of the six over-sized kiosks, currently in use within City limits.

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 no special conditions that are peculiar to the land or the lot which causes hardship, however, the temporary use structure is one of six other temporary use structures within the City limits that have been erroneously approved by the Planning Division in the past. The kiosk at 16 Shiloh Rd was placed on the property and put into use prior to the annual renewal of the temporary use permit and been in operation since August 2021.
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 six kiosks that exceed the 120 square foot maximum structure size requirement currently in operation within the City limits, across various zoning districts. These kiosks are not in compliance with the Zoning Code. Granting this variance allows the applicant the continued, and legal nonconforming status of the kiosk in its current location.
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;
Prior to the current application, there have been no variance applications to allow an increase in size of a temporary use structure. The variance, if granted, would be a one-time allowance for the continued use of an existing temporary structure which was erroneously approved by the Planning Division. The intent is not to allow any new temporary use structures to exceed this maximum size requirement.
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 continue to use the kiosk as a drive-thru coffee business from this location only. This use operates on a commercial property in a commercial zone at the intersection of two principle arterial streets. this use, with 40 additional square feet, is in harmony with the area and other allowable uses within this zone district.

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.

This building and use is in existing operation. Each year the temporary use permit is reviewed for annual renewal. The site plan, traffic plan, and parking has been approved and meets all other zoning and site design requirements ensuring safety standards.

Staff is recommending the following conditions for the allowance of an increase in square footage for this Group 3 Temporary Use structure variance request:

1. The approval is for a variance from Zoning Code 27.1009(A)(3)(b)(4)(i), as amended increasing the maximum allowed size of the structure from 120 square feet to 160 square feet (34% increase). No other variance is intended or implied with this approval.
2. The variance is limited to the existing 8'x20' kiosk only, currently located on Parcel 1A, Certificate of Survey 2727M, and becomes void if the structure is moved (either within the same parcel or to another parcel within the City Limits) or the footprint is altered in any way.
3. The variance shall be null and void if at any time in the future, the temporary use permit for this kiosk remains expired for more than 30 days or if the structure is not in operation for more than 180 days.
4. 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, leaseholders, heirs and assigns, so long as the structure is not moved from its current location.
5. The applicant shall meet all other city code requirements, including annual renewal of the temporary use permit, except for this variance.

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. The structure is fully constructed, in-use and has been approved for temporary use by the Planning Division through 11/12/2022, therefore the time limit would be for ensuring the temporary use permit remain active, annually. If at any time in the future, the temporary use permit for this kiosk remains expired for more than 30 days or if the structure is not in operation for more than 180 days, this variance shall be void.

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 permitted in the zoning district -- drive-thru restaurants are a permitted accessory use in the CMU1 district.

Attachments

Application Signed_Wells
Variance Letter
Zoning Maps & Site Photos
Site Plan
Oversized Kiosk Summary Table
Oversized Kiosk Photos

APPLICATION FORM

CITY VARIANCE

ID: Billings Variance # 1339 - Project # PZX-21-00288

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

PROPERTY TAX ID # D11891 CITY ELECTION WARD # 5

Legal Description of Property: S03, T01 S, R25 E, C.O.S. 2727M, PARCEL 1-A, AMD LESS 838' FOR HWY (09) ANNEX (15) IMP TAXED ON I00080A

Address or General Location (If unknown, contact City Engineering): 16 Shiloh Rd

Zoning Classification: CMU1-Cooridor Mixed Use 1

Size of Parcel (Area & Dimensions): 1.587 acres

Covenants or Deed Restrictions on Property: Yes _____ No _____

If yes, please attach to application

Variance(s) Requested: Increase maximum allowed kiosk size from 120 sq ft to 160 sq ft

Facts of Hardship: See attached

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

Owner(s): Lorraine W. Wells

(Recorded Owner) WELLS, LELAND J & LORRAINE W

(Address) 4216 ROSEWOOD DR, Billings, MT 59106

(Phone Number)

(email)

Agent(s): _____

(Name) Tanya Weinreis (Kiosk Owner/Applicant)

(Address) PO Box 50626, Billings, MT 59105

(Phone Number) (406) 321-2090

(email) Tanya@mtnmudd.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: Lorraine W. Wells Date: Jan 4 2022

(Recorded Owner)



Date Stamp



MOUNTAIN MUDD ESPRESSO VARIANCE REQUEST

MISSION FOR MOUNTAIN MUDD ESPRESSO

We create unique experiences that change lives and bring people back. We do this by loving and serving people, by preparing top notch, handcrafted food and beverages, and by creating an environment where real relationships are fostered. We provide heroic hospitality!

WHY WE ARE REQUESTING A VARIANCE REQUEST

Mountain Mudd Espresso, founded in 1994 built 8x8 kiosks that met a temporary use permit to be used at multiple locations throughout town. The building department has a code requirement that allowed these kiosks with this type of use under 120 square feet. We have since put in a kiosk that exceeds that size requirement by 40 square feet at 16 Shiloh Road.

Earlier this year (2021), we had called the building department to see if we needed to do anything different to meet code if we built our own larger kiosks to replace old smaller kiosks and we were told that as long as we did not build on a foundation, and they were movable kiosks that we didn't need to do any work with the building department for any approval of these larger kiosks.

We have a need to use the kiosks at these locations because one is already in use, and the other two are already built. We have invested so much into improving our locations to better serve our staff and our customers. We believed that we did our due diligence prior to the building and purchasing of these larger kiosks.

There is no demolition, construction, or reconstruction needed as long as we can use the kiosks we have in use and built.

THANK YOU FOR YOUR CONSIDERATION

Warmest Regards,

Tanya Weinreis
Mountain Mudd Espresso

CONTACT

@ Tanya@MtnMudd.com

(406) 321-2090

www.MtnMudd.com

Billings, MT

Kiosk Looking NORTH



Kiosk Looking NORTHEAST



EAST

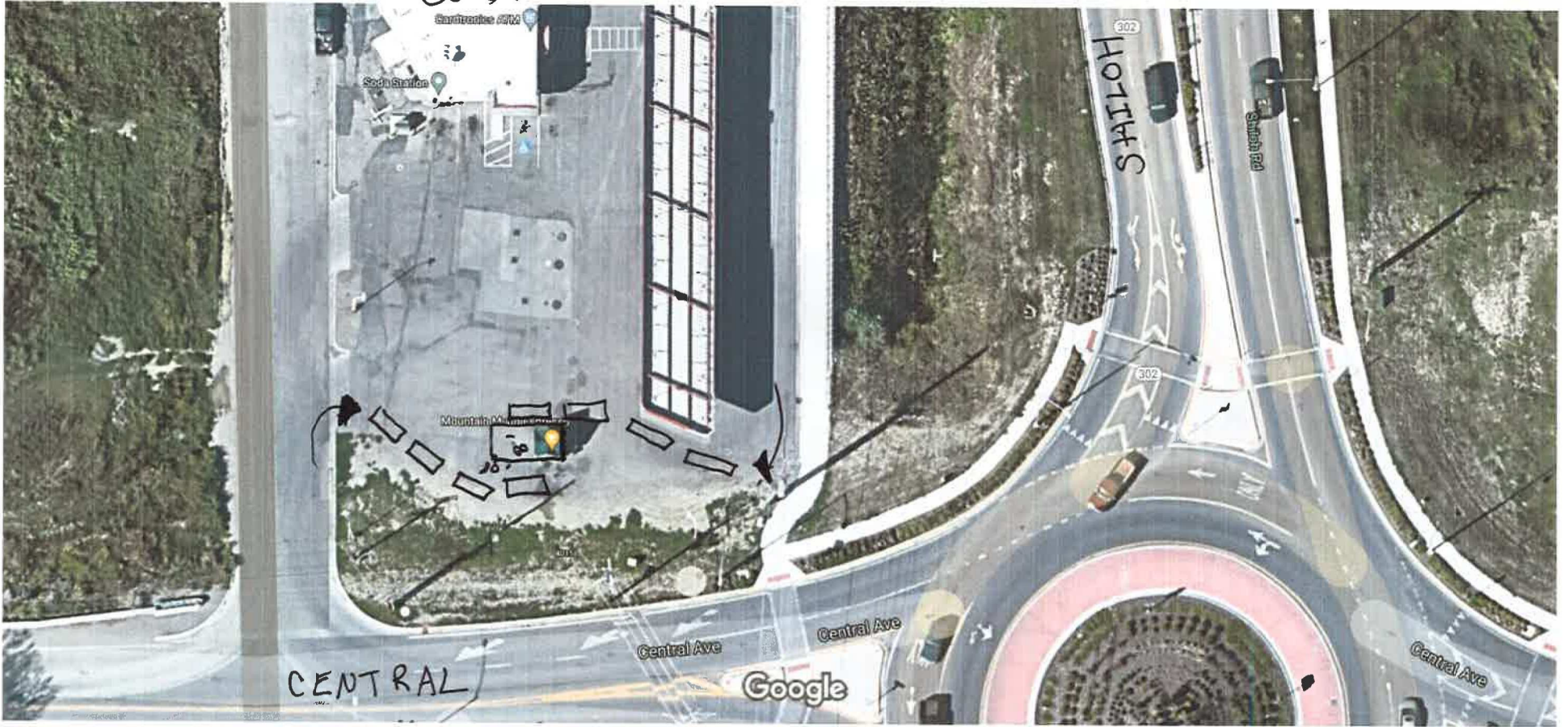


WEST



Google Maps

16 Shiloh Road



Map data ©2021, Map data ©2021 20 ft



Owner Name	Business	Kiosk Location	Size	Sq Ft	In Use Since	Temp Use Expiration	Notes/Status
Cassandra Dennison	Classy N' Sassy Coffee	1508 Main St	10x14	140 sq ft	2014	11/22/2022	
Tanya Weinreis	Mountain Mudd Espresso	16 Shiloh Rd	8x20	160 sq ft	2021	11/12/2022	Variance #1339, Applied December 2021.
KC Johnson	Steady Grinding Coffee	2376 Main St	8x20	160 sq ft	2020	2/1/2023	New owner 2021
Cassandra Dennison	Classy N' Sassy Coffee	1221 6th Ave N	10x20	200 sq ft	2020	11/22/2022	
Cassandra Dennison	Classy N' Sassy Coffee	1313 Broadwater Ave	10x20	200 sq ft	2020	6/1/2022	
Cassandra Dennison	Classy N' Sassy Coffee	2021 Henesta Dr	10x20-PROPOSED	200 sq ft	N/A	N/A	Denied/Withdrawn, Building Permit Required
Tanya Weinreis	Mountain Mudd Espresso	2975 Grand Ave	10x25-PROPOSED	250 sq ft	N/A	N/A	Approved as temporary use 8/2021, however, recently denied/withdrawn, building permit required
Tanya Weinreis	Mountain Mudd Espresso	4001 Montana Ave	12x30-PROPOSED	360 sq ft	N/A	N/A	Replacing an 8x8. Denied/Withdrawn, Building Permit Required



200 sq ft
1508 Main St



160 sq ft
2376 Main St



160 sq ft
16 Shiloh Rd



130 sq ft
1221 6th Ave N



200 sq ft
1313 Broadwater Ave

Board of Adjustment

Date: 03/02/2022
Title: Variance 1341 - High Country Coca Cola - Maximum Sign Area
Presented by: Nicole Cromwell
Department: Planning & Community Services
Presentation: Yes

Information**RECOMMENDATION**

Planning staff is recommending conditional approval and adoption of the findings of the criteria for Variance 1341.

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

This is a variance request from Section 27-1407.E requiring a maximum sign area of 250 square feet for any wall sign in the Light Industrial (I1) zone district. The property is intended for the development of a new Coca-Cola Bottling facility of up to 240,000 square feet (5.5 acres) with primary frontage on South Frontage Road and Harnish Boulevard near the Zoo Drive interchange of Interstate 90. The proposed sign is 456 square feet and consists of the iconic brand name Coca-Cola. The property was recently annexed to the city limits. The property is zoned I1 and the proposed use is in conformance with the zoning district. The parcel is legally described as C/S 1391, Parcel 11A and is about 9.5 acres in area. Messinger Company is the owner of the property and the agent is Kolten Knatterud of IMEG Corporation. The Board of Adjustment failed to achieve a quorum of members on February 2, 2022 at the first scheduled hearing on this application. The application was delayed to March 2, 2022.

The building facade where the sign is proposed faces north and east towards the westbound lanes of South Frontage Road and I-90. The facade is 400 feet in length - not including the front office variation - and will be approximately 30 feet in height. This creates over 12,000 square feet in facade. The sign code applies a maximum wall sign area of 250 square feet regardless of the size of the building or the length of the street frontage. The Board of Adjustment has granted a similar variance for the Scheels building in Shiloh Crossing in December 2011. The previous Shiloh Corridor Overlay District also had a maximum wall sign area of 250 square feet. The Scheels building was much taller but had a similar facade area and the desire to address traffic on a road that was more than 800 feet from the structure. There are similar properties in the area that have much larger signs based on the previous sign code in the City and County. The previous sign codes allowed building wall signs to equal up to 3 square feet for each linear foot of structure that faced a street. If the previous sign code were still in place, a maximum wall sign - or group of wall signs - would have been allowed up to 1,200 square feet - or about 10% of the proposed facade area. The Scheels sign of 544 square feet, by contrast, takes up about 5% of the facade area for that building.

In 2012, the BOA approved an increase in sign size and height for the Vegas Hotel near the S 27th St and I-90 interchange. This sign variance allowed the sign to be much taller (12 ft required) and larger (40 square feet max) than the S 27th St Corridor sign code allowed. The topography was challenging based on the elevation of the highway overpass just east of the property.

APPLICATION DATA

OWNER: Messinger Company LLC
AGENT: Kolten Knatterud, IMEG Corporation
PURPOSE: To allow the construction of a wall sign of 456 square feet for a new 5.5 acre bottling plant
LEGAL DESCRIPTION: Parcel 11A, C/S 1391
ADDRESS: None Assigned
SIZE OF PARCEL: 9.5 acres
ZONING: Light Industrial (I1)
EXISTING LAND USE: vacant
PROPOSED LAND USE: High Country Coca-Cola bottling plant

SURROUNDING ZONING & LAND USE

NORTH: Zoning: I1
Land Use: Interstate, Railroad, Steel manufacturer
SOUTH: Zoning: I1
Land Use: Vacant land, FedEx Freight Terminal, warehouses
EAST: Zoning: Heavy Commercial (CX) and I1
Land Use: Tractor and Equipment, Beartooth Harley Davidson

WEST: Zoning: I1
Land Use: Slumberland Furniture

Planning staff is recommending conditional approval based on the very limited BOA history of granting similar variance for similarly situated buildings and property, and because property within the immediate vicinity enjoys the same type and size of signage without a variance. Several conditions are recommended to ensure the new signage has less of an impact on the surrounding property and the traveling public.

STAKEHOLDERS

Planning staff notified owners by mail, posted the property and published the legal ad as required. As of the date of this staff report, no comments or concerns have been registered with the Planning Division.

ALTERNATIVES

The Board of Adjustment may:

- Approve the requested variance with conditions as recommended by the Planning staff;
- Approve the requested variance with amended conditions;
- Approve the requested variance with no conditions;
- Deny the requested variance with amended findings of fact of the criteria;
- Allow the applicant to withdraw the variance request; or
- Delay action on the variance to a future BOA meeting.

FISCAL EFFECTS

Approval or denial of the requested variance will have no financial effect on the Planning Division budget.

SUMMARY

Prior to approval, the Board of Adjustment shall ensure that the determinations for variances (Sec. 27-1627.D and E.), as outlined below, have been satisfied:

Section 27-1627.D

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 special circumstances that exist which are peculiar to the lot that are not applicable to other lots in the same district. The property has an unusual shape and is not oriented in a way to firmly address the interstate traffic that travels at significantly higher speeds than local streets. This also applies to the S Frontage Road traffic that is also traveling much faster than other local commercial street traffic. Drivers traveling at highway speeds rely on signs that are large enough and well-designed to convey a legible message in a split second. Difficulty in reading a sign distracts a driver longer than necessary from critical attention to traffic sharing the highway.

2) That a literal interpretation of the provisions of this Chapter would deprive the applicant of rights commonly enjoyed by other tracts in the same district.

The Board of Adjustment has granted at least two sign area variances in the past decade. They have been rare and very specific to conditions and buildings. Similar property in the area has also developed much larger wall signage to accommodate the mass and scale of buildings on those lots and to better communicate with drivers at highway speeds. Cabela's and Slumberland Furniture each have wall signs close to 500 square feet. If the variance is denied, this would deprive this applicant of rights commonly enjoyed by others in the area.

3) That granting the variance requested will not confer on the applicant any special privilege that is denied by this zoning code to other land in the same district.

Granting this variance will not confer on the applicant a special privilege because the Board of Adjustment has granted a limited number of variances from the maximum sign area to other land in the same or similar district. Similarly situated development in the area also has larger wall signs to scale larger buildings, as proposed by Coca-Cola.

4) That the granting of the variance will be in harmony with the general purpose and intent of this zoning code and with the Growth Policy.

Granting this variance will meet the general purposes and intent of the zoning regulations and the 2016 Growth Policy.

Section 27-1627.E

2) In granting any variance, the Board may prescribe appropriate conditions and safeguards in conformity with this 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 this Zoning Code;

Staff is recommending 6 conditions for the variance request:

1. The variance is for a maximum sign area of 456 square feet placed on the northwest corner of the South Frontage Road

building facade. No other variance is intended or implied by this approval.

2. The variance applies to Parcel 11A of C/S 1391.

3. The proposed building will be located and oriented in substantial conformance with the submitted site plan. Minor adjustments to the site plan are allowed.

4. The applicant will apply for a building permit within 2 years of the Board of Adjustment approval of the variance.

5. Prior to installation and within 5 years of Board of Adjustment approval of the variance, the applicant will apply for the sign permit.

6. Failure to begin or complete actions required by this approval within the time limits set forth shall void this variance.

7. 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.

3) 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.

Staff is recommending the applicant/agent have 2 years to submit a building permit application and 5 years to submit a sign permit. Sign permits once approved are only valid for a few months.

4) Under no circumstances shall the Board grant a variance to allow a use not permissible under the terms of this zoning code in the district involved. A variance shall not be a grant of special privilege inconsistent with limitations placed upon other properties in the district.

The granting of this variance would not allow a use that is not allowed in the zoning district. Beverage bottling plants and signs are allowed uses in the Light Industrial zone district.

Attachments

Zoning Map and Site photos

Applicant Letter

Applicants Fact of Hardship

Site and Architectural Plans

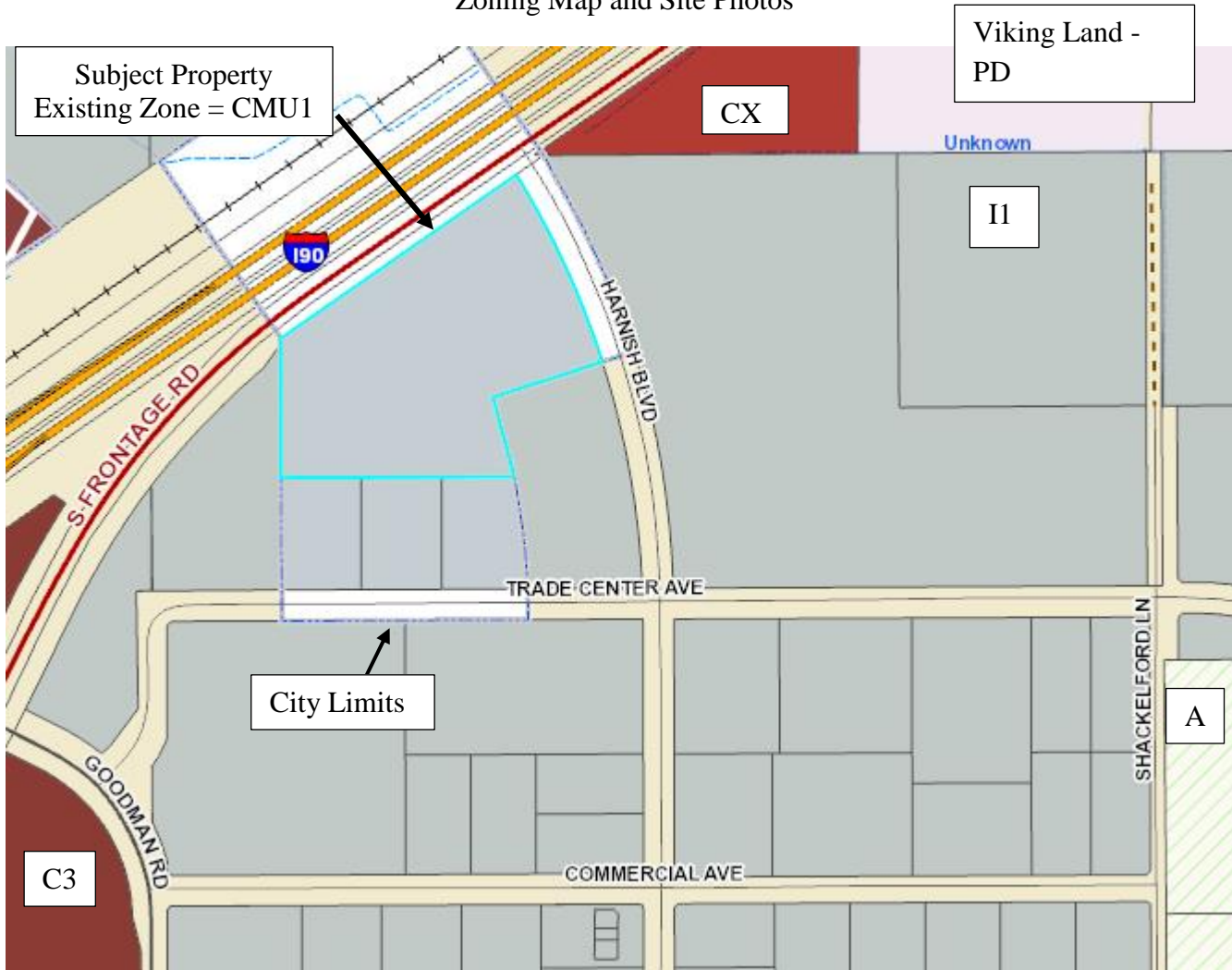
Sign Comparison Slides

Applicant Slides

Zoning History

City Variance 1341 – Coca-Cola Bottling Plant

Zoning Map and Site Photos



Subject Property





Subject property from South Frontage Road at Harnish Blvd



View north on Harnish Blvd to South Frontage Road



Harnish Blvd view east to Tractor and Equipment



View south and east from Harnish Blvd



View south and east across subject property from South Frontage Road



View south and west across subject property from South Frontage Road



January 3, 2022

City of Billings
Board of Adjustments
2825 3rd Avenue North
Miller Building, First Floor Conference Building
Billings, MT 59101

Re: Variance Application – Proposed Coca-Cola Building
Parcel 11A of COS 1391 AMND, located in S24, T01 S, R25E

Dear Members:

On behalf of the property owner, Messinger Company LLC, a South Dakota limited liability company, we are requesting a variance from the City of Billings, Chapter 27, Article 1407 sign regulations by zone district, specifically 27-1407E.(a) (zoning code). The parcel indicated as 11A of COS 1391 AMND, located in S24, T01 S, R25 E, (site/parcel), is located within the zoning code I1 – Light Industrial. According to the zoning code signs attached to buildings are allowed two square feet per lineal foot of building frontage to a maximum of two hundred fifty square feet.

The proposed Coca-Cola building site was purchased before the City of Billings updated the zoning code to re-code. Under the previous zoning code the site was allowed to have a wall sign that was 20% in size of the wall with the sign. The proposed wall sign would've been in compliance with this zoning code. This variance request would allow for the building to have the wall sign as indicated in the included schematics. We have included a variance application as well as a required listing of hardships for your review. Although we are requesting that the sign exceed the 250sqft maximum the sign side does not exceed the 2sqft per linear foot of building frontage. Should that be the only portion of the regulation our building would be allowed to have an 800sqft sign. This variance request is similar to many others the board has approved in prior for buildings such as Scheels, Cabelas and Slumberland Furniture. The Coca-Cola building will be directly adjacent to Slumberland Furniture which is a much smaller building but has been approved for this same variance regarding wall sign size. By allowing this variance the board will be allowing the Coca-Cola building to be consistent with company architectural requirements and not creating a hardship by forcing a redesign.

Thank you for your consideration regarding this variance request. Attached within our application are exhibits detailing the Coca-Cola design a variance application. Please feel free to contact us with any questions, anna.m.vickers@imegcorp.com or kolten.l.knatterud@imegcorp.com.

Sincerely,

A handwritten signature in blue ink, appearing to read "Anna Vickers".

Anna Vickers
Land Use Planner

A handwritten signature in blue ink, appearing to read "Kolten Knatterud".

Kolten Knatterud, P.E.
Client Executive



VARIANCE QUESTIONS

- A. What reasons prevent you from using this property in conformance with the Zoning Regulations requirements?

The parcel was bought by Coca-Cola prior to project ReCode. Project ReCode changed the wall building sign allowance. At the time of purchase the prior zoning would've allowed for a wall sign that was 20% in size of the wall with the sign. However, with project ReCode the applicable zoning of 27-1407E.(a). allows for two square feet of sign per lineal foot of building frontage to a maximum of two hundred fifty square feet. Due to this updated code a variance is being requested in order to allow for the architectural design in coordination with Coca-Cola buildings across the country. Not granting this variance would create a hardship for the applicant and not be in harmony with other businesses that have received variance approval for wall signs in prior. These other buildings include Scheels, Cabela's, and Slumberland Furniture with Slumberland Furniture being adjacent to the property.

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

The Coca-Cola building is designed with the logo exceeding 250sqft on buildings across the county. This design is considered part of the Coca-Cola brand architecture and would force a hardship due to an architectural redesign. The variance is requested in order to avoid this redesign and allows the applicant to enjoy rights that are commonly shared by others in the same district.



FACTS OF HARDSHIP

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;

The property is being developed by Coca-Cola. The company is asking for a variance for a sign to be 456sqft which is greater than the 250sqft allowed by the zoning. While this sign does exceed the maximum square footage allowance the building would be allowed to have 800sqft sign if based on linear footage frontage alone. This property is similar to other businesses within Billings that have received variances for sign sizes on the building. At the time of purchase Coca-Cola ReCode was not the current City of Billings zoning. Coca-Cola had purchased this property with the prior to project ReCode. The prior zoning would allow to have a wall sign that was 20% in size of the wall with the sign. The current sign would've been in compliance with the old code. This Coca-Cola sign will be on the building and is considered part of the brand architecture. By following the existing zoning the company and building would be limited by signs standards that would force a hardship due to an architectural redesign. This variance is necessary due to the design architecture that is consistent for Coca-Cola buildings throughout the country.

2. That a literal interpretation of the provisions of this zoning code would deprive the applicant of rights commonly enjoyed by other tracts in the same district;

The Scheels, Cabela's, and Slumberland Furniture buildings have all received a variance for wall signs to exceed 250sqft. Following the literal interpretation of the zoning code would be depriving the applicant of rights that have been commonly enjoyed by other tracts. The Coca-Cola site is directly adjacent to Slumberland Furniture who also received this variance. Slumberland Furniture was permitted to have two 480sqft wall signs. This was over the allowed 250sqft and they have a road frontage of approximately 380 linear feet, which is significantly smaller than Coca-Cola.

3. That granting the variance requested will not confer on the applicant any special privilege that is denied by this zoning code to other land in the same district;

This variance will not confer on the applicant any special privilege. Other businesses in Billings have been granted variances for wall signs exceeding the 250sqft maximum size.

4. That the granting of the variance will be in harmony the general purpose and intent of this zoning code with the growth policies;

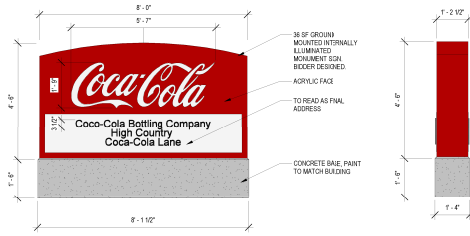
Granting this variance will be in harmony with the intended purpose of the zoning code and growth policy for the area. Billings strives to develop a community where businesses and people prosper according to their community goals within the growth policy. By granting this variance the board of adjustments would be allowing for prosperity of businesses.



Coca-Cola Bottling Company
HIGH COUNTRY
BILLINGS FACILITY



BIRD'S EYE PERSPECTIVE LOOKING SOUTH



Coca-Cola Bottling Company
HIGH COUNTRY
BILLINGS FACILITY

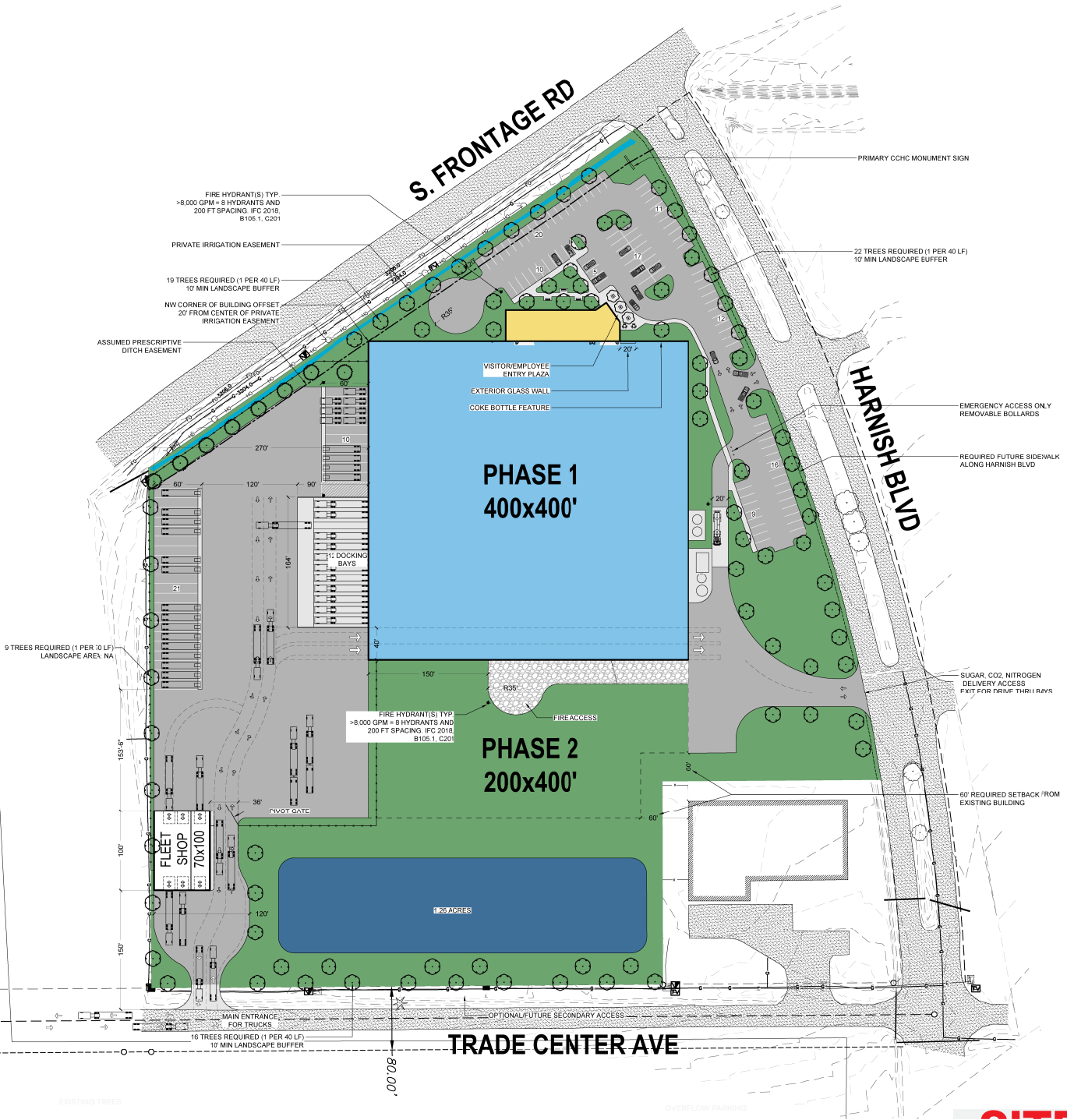
MONUMENT SIGN



FRONTAGE ROAD ENTRY PERSPECTIVE



Coca-Cola Bottling Company
HIGH COUNTRY
BILLINGS FACILITY



SD SITE LAYOUT CONCEPT 1.1 PHASE 1

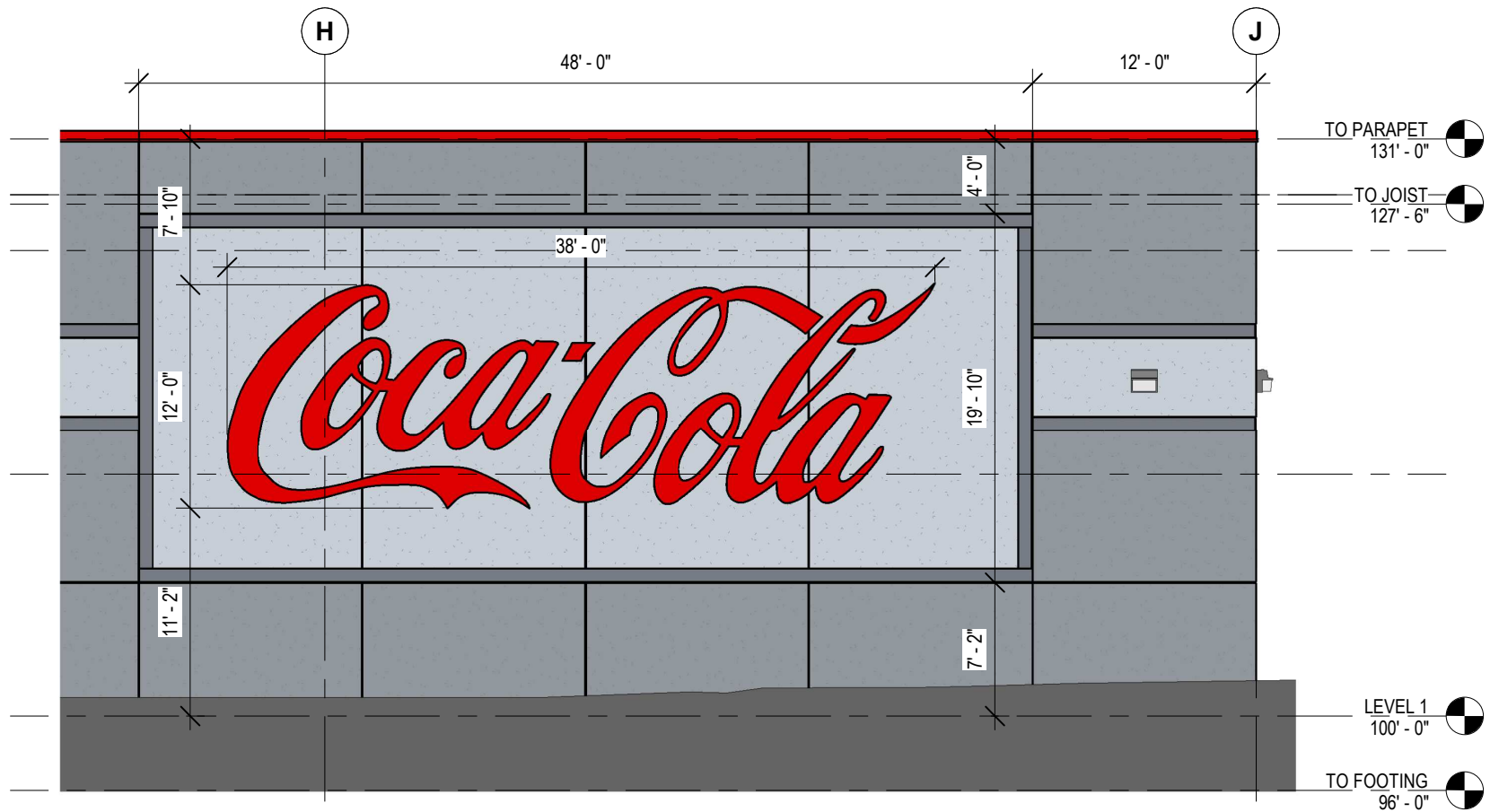
REFERENCE NOTES SCHEDULE

SYMBOL	DESCRIPTION	QTY	
1	12 X60' TRAILER STORAGE BAY	31	
2	10' X20' PARKING STALL	100	
3	RETENTION AREAS	55,292 SF	(1.26 ACRES)
4	ASPHALT	204,485 SF	(4.69 ACRES)
5	GREENSPACE	217,751 SF	(4.99 ACRES)
6	CONCRETE	28,294 SF	(.65 ACRES)
7	GRAVEL FIRE ACCESS ROAD	9,891 SF	(.22 ACRES)
8	FENCE	1,897 LF	

SITE PROGRAMMING

- 100 employee parking on west side of building for Phase 1, and required ADA parking. Code minimum added for Phase 2.
- Area for a 40-trailer storage, designed to handle 300-1200,000 lbs rigs per day. (Typical trailer space size is 12' wide x 60' long)
- Concrete dolly pads at all truck loading and trailer storage areas.
- Minimum 120' apron in front of the truck docks.

SIGN VIEWS



450 SQUARE FEET



Perspective - Interstate 90 Westbound.

250 SQUARE FEET



Perspective - Interstate 90 Westbound.



Coca-Cola High Country

SIGN VARIANCE DESIGN INFORMATION | JANUARY 19TH, 2022

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proposed sign 06
sign size comparison 07
local precedents 09

executive summary.

Coca-Cola Bottling Company High-Country is a 4th-generation family company, based in Rapid City, but has had an operation and presence in Montana since 2014. High Country has sales centers in Billings, Miles City, Glendive, Havre, Great Falls, Kalispell and Missoula. Coca-Cola has been in Billings since 1910. Our existing facility on South 1st Street has been operating there since 1964. This new 160,000 square foot facility will replace the current sales center, and expand to include beverage manufacturing.

The sign proposed for the new Coca-Cola High Country Sales Center is consistent with existing signs within other L1- Light Industrial zoning districts, consistent with other signs within the freeway corridor, including the current signs immediately adjacent to this location.

The proposed sign would have complied with the previous sign code that applied to this location. When the property was identified and purchased in May of 2019, the previous sign code allowed a wall sign of 2,560 square feet on this same size wall. Our request is for approval of a 456 square foot sign.

The proposed size is consistent with the schematic design for other facilities within the High Country system. To re-design the size of the sign causes a financial hardship. The limit of 250 square feet for a wall sign is inconsistent with other recently approved sign packages in the L-1 zone, along the freeway corridor, and throughout Billings and represents a diminishment of rights enjoyed by other buildings built in the L-1 zone before 2020.

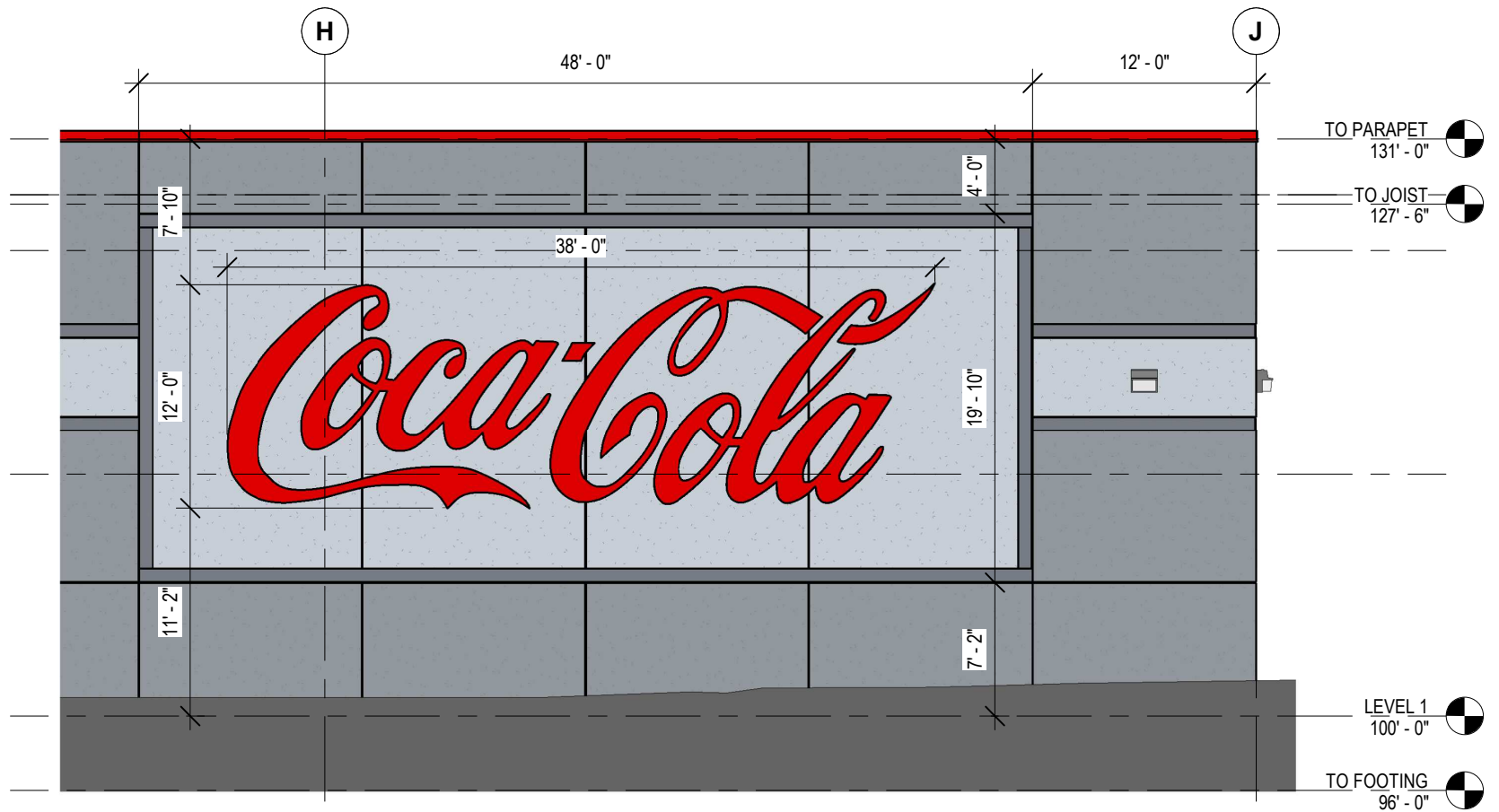
Thank you for your consideration.





Perspective - Looking SW.

SIGN VIEWS



450 SQUARE FEET



Perspective - Interstate 90 Westbound.

250 SQUARE FEET



Perspective - Interstate 90 Westbound.



Budweiser Sign / Intermountain - Westbound.



Cabela's Sign - Eastbound.



Kenworth Sign - Westbound.



Slumberland Sign - Westbound.

thank you.

SUBJECT PROPERTY	VARIANCE #	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
None					
SURROUNDING PROPERTY	VARIANCE #	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
503 Wicks	731	3/5/1996	Sign Height/Size	Y	Double the height and area
2139 Broadwater	753	10/7/1992	Sign Height, setback, area, clearance	Y	More than double sign height and area
2201 St John's	762	4/7/1998	Sign height and area	Y	3 times sign height and area
2244 Central	777	9/1/1998	Number of signs and spacing	Y	3 signs granted
415 Broadwater	779	9/1/1998	Sign height	Y	Broadwater Elementary
2376 Main St	799	6/1/1999	Sign Height and area	Y	40 ft and 227 sf
1737 King Ave W	807	9/7/1999	Sign Height	Y	50 ft
1111 24 th St W	810	10/5/1999	Sign Height, number and area	Y	22.5 ft, 2 signs, 149 sf
310 N 27 th St	819	7/5/2000	Sign Height and separation	Y	10 ft and 65 ft separation
4432 S Frontage Rd	897	6/12/2003	Reduce sign setback	Y	2 ft setback
1145 N 19 th St	901	7/1/2003	Sign area	N	St Vs Hospital 173 sf
1824 King Ave W	907	8/5/2003	Sign height	N	Texas Roadhouse 45 ft height
106 N 28 th St	967	10/4/2005	Sign projection over public sidewalk	Y	The Soup Place now Stacked
517 Shiloh Rd	1097	6/1/2011	Sign height, illumination and area	N	Faith Chapel
1101 Shiloh Crossing Blvd	1112	12/7/2011	Sign Area	Y	Scheels 544 sf
2612 Belknap Ave	1124	7/11/2012	Sign Area and Height	Y	Vegas Hotel 170 sf and 50 ft height

Board of Adjustment

Date: 03/02/2022
Title: Variance 1342 - 2622 Rimrock Rd - Lot width reduction for second dwelling
Presented by: Nicole Cromwell
Department: Planning & Community Services
Presentation: Yes

Information**RECOMMENDATION**

Planning staff recommends conditional approval based on the proposed findings of the review criteria for Variance 1342.

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

This is a variance request from Section 27-306 (Table 27-300.5) requiring a minimum of 65 feet in lot width for each principle structure in a Suburban Neighborhood (N3) zone district. The lot is legally described as Lot 11, Block 4 of Bridger Square Subdivision, 7th filing and is generally located at 2622 Rimrock Road. The parcel is 12,607 square feet in area and is developed with one residential dwelling and a detached 2-car garage to the rear of the property. The request for the variance will allow the demolition of the existing detached garage and construction of a new principal structure with a four-car garage, and living space on the first and second floor. The structure is proposed to have four bedrooms on the second floor, with the kitchen, living room, dining room and entry mud-room on the first floor. The existing detached garage is set 5 feet from the rear property line. The proposed new structure is set 12 feet from the rear property line. The existing detached garage is 600 square feet. The proposed new structure has a foot-print of 2,218 square feet. The existing lot coverage is about 18% and the proposed lot coverage will be 28%. The parcel shares a driveway with the property directly to the east (see attached photos). This development should not affect the utility of this shared driveway. Krysta Buska is the owner of the subject property.

The previous zoning of this area was R-96, a similar zone to the new zone district of N3. Both districts only allow single family dwellings and have minimum required setbacks. The new district does not require a minimum lot area but does require at least 65 feet of lot width on the street frontage for each single family dwelling on the lot. This lot is 84.5 feet wide at Rimrock Road. The previous zoning required a minimum lot area of 9,600 square feet for each dwelling. The city has only reviewed one request in the immediate area to reduce the lot-area requirement from 9,600 square feet. This request in 1986, was for property located at 2625 Poly Drive. The City Council, acting as the Board of Adjustment at that time, denied the request. There have been previous variances granted to similar properties in similar neighborhoods. These properties were requesting to construct a second dwelling unit or divide a parcel for another dwelling unit at 2405 Rosewyn Lane, 2222 Virginia Lane, and 2230 Poly Drive. Four additional lot area variances were granted for existing single family residences at 2401 and 2405 Sunnyview Lane, 3112, 3116 and 3120 Solar Boulevard, 2607 Copper Blvd and 429 Nelson Drive.

The proposed second dwelling appears to meet all the N3 zone district requirements except for the lot width regulation. Structures up to 34 feet in height or three stories are allowed, and the proposed 2-story structure will be less than 30 feet in height (grade to roof peak). The building will be approximately 60 feet in length east to west and about 42 feet in width north to south. The proposed site plan also shows a 26.5 foot separation between the attached deck on the front house and the new structure. Most of this area appears to be paved for vehicles to enter and exit the new garage spaces. There are also subdivision lots in the immediate neighborhood created during the previous zoning that were less than the minimum lot area of 9,600 square feet. These include multiple lots in the Roy Jones Subdivision (Oxford Drive), Country Club Heights, Williams Subdivision (Hoover Ave), Cadwell and Carol Subdivisions (Stinson and Beech) and Bridger Square Subdivision.

Most dwellings in the immediate neighborhood are single story or 1.5 stories in height. The dwelling directly to the south (2729 E. Bridger Drive) has a modified 2nd story with a combined Cape Cod and Halifax saltbox roof-line. From the front the home appears to have a half story with the two Cape Cod dormer windows but the rear of the home has a Halifax style dormer and a full second story roof- line (see attached photos). The proposed full 2-story structure on the subject property will be different from most other structures in the area. Planning staff is proposing conditions of approval to help mitigate the impact of this 2-story structure height. There is no covenant or restriction in this subdivision that would disallow this height, but the request for the variance allows the Board of Adjustment to mitigate any potential impact from the proposed new construction allowed by the variance.

APPLICATION DATA

OWNER: Krysta Buska

AGENT: None

PURPOSE: To allow the construction of a new principal structure

LEGAL DESCRIPTION: Lot 11, Block 4, Bridger Square Subdivision, 7th filing
ADDRESS: 2622 Rimrock Road
SIZE OF PARCEL: 12,607 square feet
ZONING: N3
EXISTING LAND USE: One dwelling and one detached 2-car garage
PROPOSED LAND USE: Two dwellings with a four-car attached garage on the second dwelling

SURROUNDING ZONING & LAND USE

NORTH: Zoning: N3 Land Use: One unit dwellings
SOUTH: Zoning: N3 Land Use: One unit dwellings
EAST: Zoning: N3 Land Use: One unit dwellings
WEST: Zoning: N3 Land Use: One unit dwellings

Planning staff is recommending conditional approval based on the proposed findings for the criteria for variances. Staff is recommending a re-orientation of the new structure. The long axis of the building will be north to south and located 5 to 10 feet from the west property line. The garage doors will face east. There are no underground utility lines that run through the backyard and this can be accomplished without a re-design of the proposed structure. This will also preserve the view shed from the south to the north.

STAKEHOLDERS

Planning staff received a phone call from the property owner and neighbor at 2729 East Bridger Drive, the property directly south of the subject property. The owner was concerned with the proposed orientation and height of the proposed new building. No other contact from surrounding owners was received. No city staff expressed concern with the proposed variance.

ALTERNATIVES

The Board of Adjustment may:

- Approve the requested variance with conditions as recommended by the Planning staff;
- Approve the requested variance with amended conditions;
- Approve the requested variance with no conditions;
- Deny the requested variance with amended findings of fact of the criteria;
- Allow the applicant to withdraw the variance request; or
- Delay action on the variance to a future BOA meeting.

FISCAL EFFECTS

Approval or denial of the requested variance will have no financial effect on the Planning Division budget.

SUMMARY

Prior to approval, the Board of Adjustment shall ensure that the determinations for variances (Sec. 27-1627.D and E.), as outlined below, have been satisfied:

Section 27-1627.D

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 no special circumstances that exist which are peculiar to the lot that are not applicable to other lots in the same N3 zone district and in the same neighborhood. The shape of the lot is regular and there is no topography that prevents the owner from using the property in compliance with the zoning regulations. The lot was created prior to the 1972 zoning regulations that required at least 9,600 square feet of lot area for each dwelling unit. The updated regulations adopted in early 2021, allow one principal structure (one dwelling unit) for each 65 feet of lot width. The lot is 12,607 square feet and has 84.5 feet of lot width at the street frontage. The new zoning regulations also allow property owners to apply for variances from the numeric limitations of the code.

2) That a literal interpretation of the provisions of this Chapter would deprive the applicant of rights commonly enjoyed by other tracts in the same district.

The Board of Adjustment has granted three similar variances in similar areas to add dwelling units to lots that were less than 19,200 square feet. The BOA also granted four variances for similar properties where two dwelling units already existed. These variances were to allow financing and insurance for those properties. There are many lots within the immediate area that are less than the required lot area (previous code) or lot width (new code). Denial of this variance would deprive this applicant of rights commonly enjoyed by other property within the area and in the same district.

3) That granting the variance requested will not confer on the applicant any special privilege that is denied by this zoning code to other land in the same district.

Granting this variance will not confer on the applicant a special privilege because the Board of Adjustment has granted a number of variances from the previous lot area requirement and other land in the same area also has less than the required lot area or lot width without benefit of a variance.

4) That the granting of the variance will be in harmony with the general purpose and intent of this zoning code and with the Growth Policy.

Granting this variance will meet the general purposes and intent of the zoning regulations and the 2016 Growth Policy.

Section 27-1627.E

2) In granting any variance, the Board may prescribe appropriate conditions and safeguards in conformity with this 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 this Zoning Code;

Staff is recommending several conditions for the variance request:

1. The variance is to reduce the required lot width from 130 feet for two principal structures to 84.5 feet to allow the construction of a second principal structure on the legally described property at 2622 Rimrock Road and no other variance is intended or implied.
2. The applicant will re-orient the new building with the long axis running north to south and setback at least 5 feet but no more than 10 feet from the western property line. (See attached amended site plan)
3. The north side of the new building will be a minimum of at least 5 feet from the existing deck on the front house.
4. The south side of the new building will be a minimum of 12 feet from the south property line.
5. The applicant will apply for a building permit within 18 months of Board conditional approval and complete the construction within 18 months of issuance of the building permit.
6. Failure to begin or complete actions required by this approval within the time limits set forth shall void this variance.
7. 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.

3) 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. Staff is recommending the applicant have 18 months to submit a building permit application and 18 months to complete the project after issuance of the building permit.

4) Under no circumstances shall the Board grant a variance to allow a use not permissible under the terms of this zoning code in the district involved. A variance shall not be a grant of special privilege inconsistent with limitations placed upon other properties in the district.

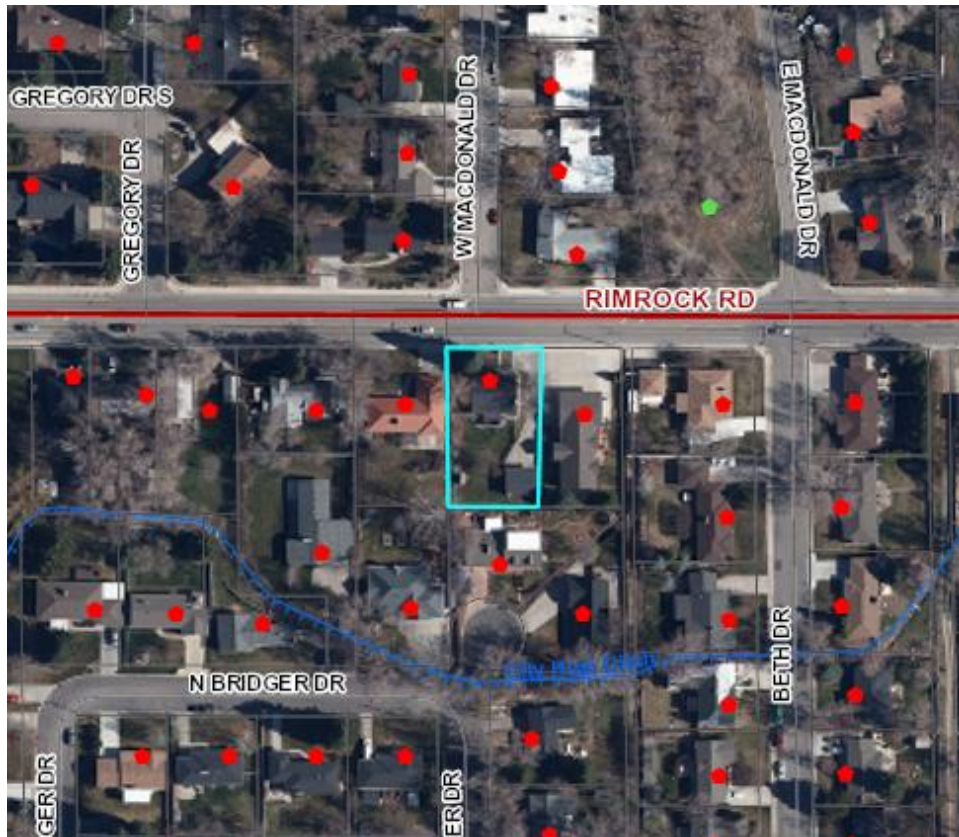
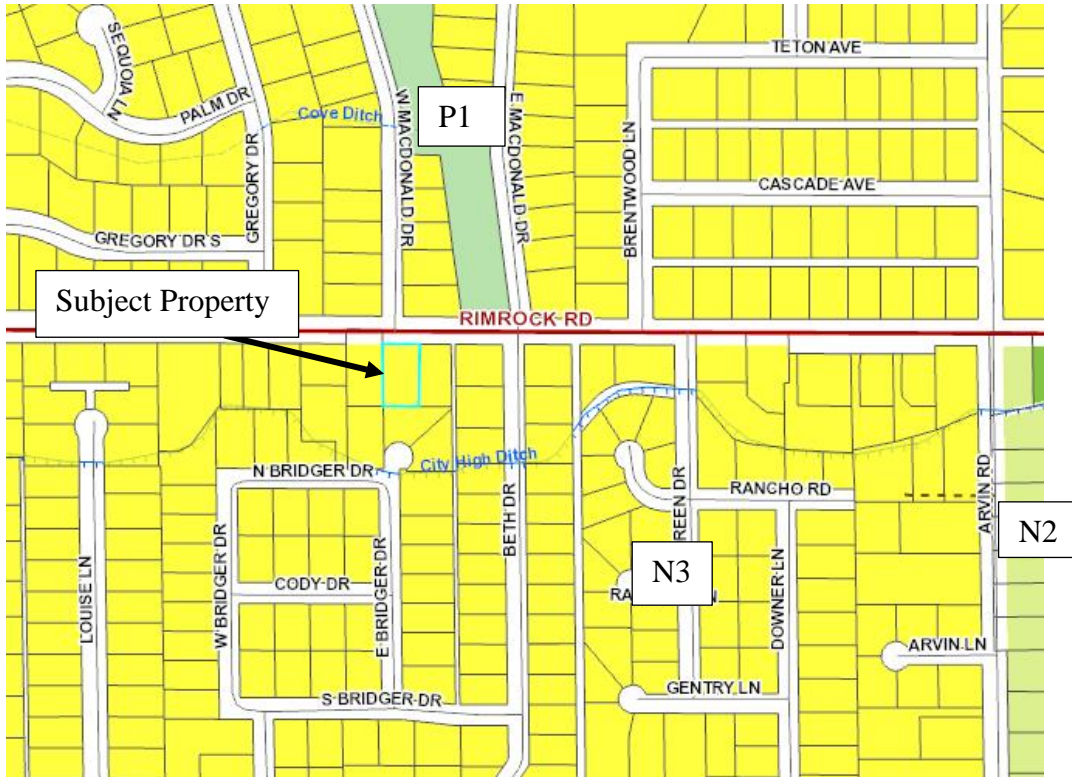
The granting of this variance would not allow a use that is not allowed in the zoning district. Dwellings are allowed uses in this zone district.

Attachments

Zoning Map and Site photos
Chart of Zoning History
Application and Letter
Site and Architectural Plans
Proposed modified site plan
Koenig
Response
Bergeron
Schmidt
V Koenig
C Koenig

Zoning Map and Site Photos

Variance 1342





View west on Rimrock Rd



View northwest across Rimrock Rd



View northeast across Rimrock Rd



View east on Rimrock Rd



Roof of home at 2729 E Bridger Dr

View south to existing single story garage

Roof of home at 2729 E Bridger Dr









SUBJECT PROPERTY	VARIANCE #	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
None					
SURROUNDING PROPERTY	VARIANCE #	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
2625 Poly Drive	511A	11/24/1986	Lot area for two existing dwellings	N	City Council
2230/2232 Poly Dr	959	4/5/2005	Second dwelling	Y	9,500 and 8200 sf
2401/2405 Rosewyn Ln	1067 & 1183	3/3/2010 4/2/2014	Second dwelling	Y	1 st Variance expired 7,000 sf each
2220/2222 Virginia	1118	4/11/2012	Second dwelling	Y	15,000 sf lot
2401/2405 Sunnyview	1253	3/1/2017	Second dwelling	Y	8,100 sf lot
3112 – 3120 Solar Blvd	1308	5/6/2020	Lots less than 8K	Y	To dissolve Condo
2607 Copper Blvd	1325	1/6/2021	Second dwelling	Y	6,250 sf lot

APPLICATION FORM

CITY VARIANCE

ID: Billings Variance # _____ - Project # _____

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

PROPERTY TAX ID # 000A03197D CITY ELECTION WARD # IV

Legal Description of Property: Bridger Square 7th Filing, S35, T01N, R25E, Block 4, Lot 11

Address or General Location (If unknown, contact City Engineering): _____

2622 Rimrock Rd, Billings MT 59102

Zoning Classification: N3

Size of Parcel (Area & Dimensions): 12,607 sq ft 148ft x 90ft

Covenants or Deed Restrictions on Property: Yes _____ No K

If yes, please attach to application

Variance(s) Requested: lot width variance for second primary structure

Facts of Hardship: (attach letter)

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

Owner(s): Krysta Buska

(Recorded Owner) 2622 Rimrock Rd Billings MT 59102

(Address) 406-459-7901 kbuska406@gmail.com

(Phone Number) (email)

Agent(s): _____

(Name)

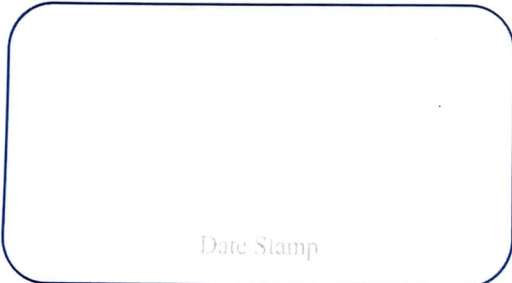
(Address)

(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 Variance. Also, I attest that all the information presented herein is factual and correct.

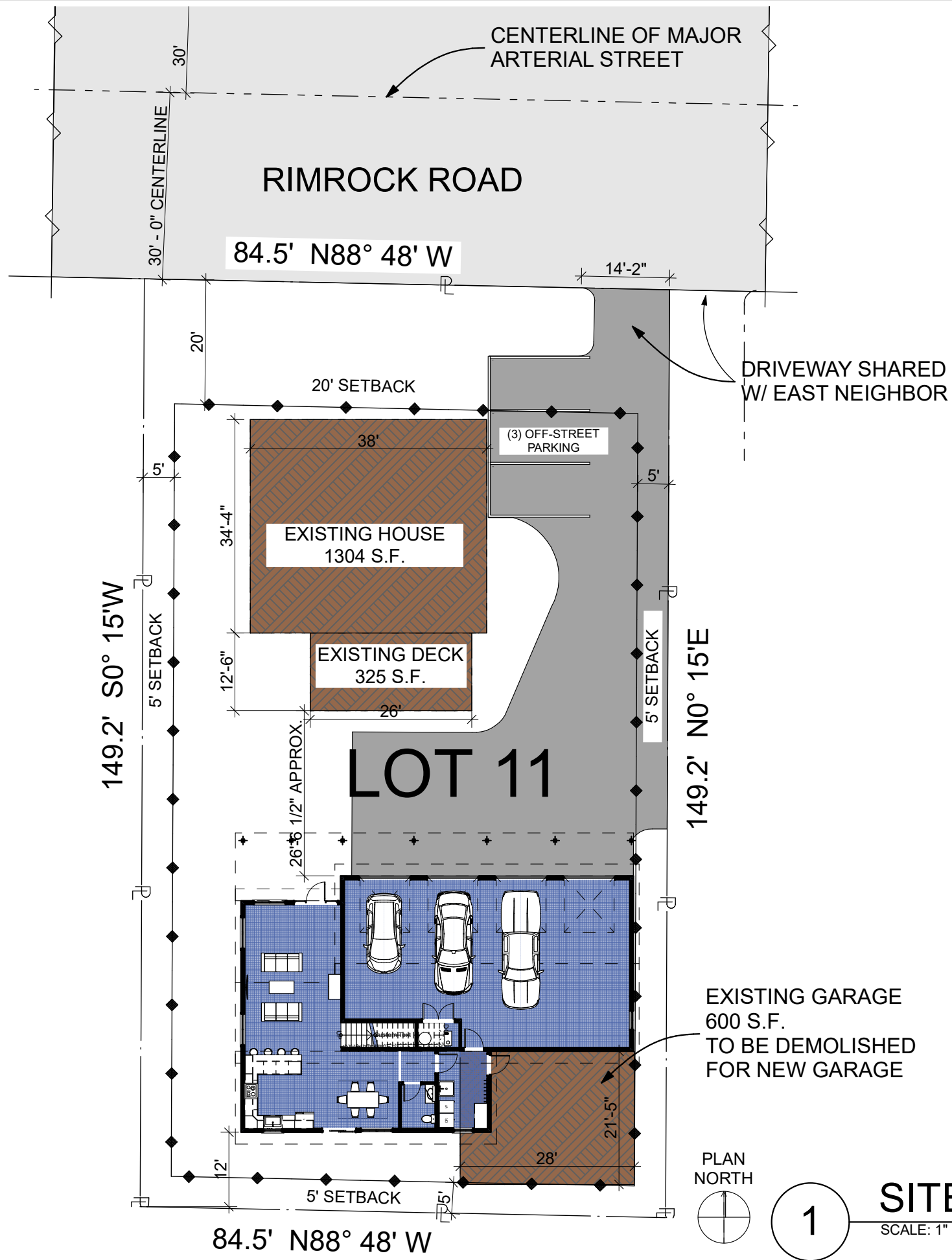
Signature: [Signature] Date: 1/24/22

(Recorded Owner)



Date Stamp

1. What reasons prevent you from using this property in conformance with the Zoning Regulation requirements?
 - a. We feel that the lot is sufficiently large to accommodate more than one residence. The lot is over 12,000 square feet but is narrow, so it does not meet the lot width requirement. We feel that a second primary residence on our lot would be in keeping with the current character of the neighborhood. There are many other lots within 1 mile of us that are using their properties similarly. We have created a list of nearby properties that we believe are using their lots similarly to what we are proposing.
 - i. 2714 W Bridger
 - ii. 2706 W Bridger
 - iii. 2707 Louise Lane
 - iv. 2644 Rimrock Rd
 - v. 2646 Rimrock Rd
 - vi. 3332 Rimrock Rd
 - vii. 2815 Woody Drive
 - viii. 2110 Rimrock Rd
 - ix. 2050 Rimrock Rd
 - x. 2030 Rimrock Rd
 - xi. 2625 Poly Drive
 - xii. 2611 Poly Drive
2. Why is there a need for the intended use of the property at this location?
 - a. Billings has recently become the hottest housing market in the nation. This along with red tape regulations and codes have created a shortage of options for new homeowners and those seeking affordable housing. This can also provide for expanded square footage for a family to take care of aging parents on site. We have no choice but to improve the property we currently own as we cannot afford a replacement property. Our current home was built in 1942 and does not function well for a modern growing family. Bridger subdivision was platted before modern tastes and amenities for housing which are reflective of Billings codes/zoning, thus the need for a lot-width variance. We have been priced out of the current Billings real estate market and need to provide a comfortable living situation for our family.
3. Explain any demolition, construction, or reconstruction intended for all structures.
 - a. We plan to demolish an existing garage/shop that does not fit modern vehicles (see site plan attached). We intend to replace this structure with a larger garage and small living quarters.



SITE INFORMATION:

ZONING: N3 - SUBURBAN NEIGHBORHOOD RESIDENTIAL

FRONT SETBACK: 20 FEET MIN.
 SIDE SETBACK: 5 FEET MIN.
 REAR SETBACK: 5 FEET MIN. (0 FEET WITH ALLEY)
 ACCESSORY BUILDING YARD LOCATION: REAR
 ACCESSORY BUILDING REAR SETBACK: 5 FEET MIN.
 MAX. TOTAL BUILDING COVERAGE: 40 %

PRINCIPAL BUILDING:
 MAX HT. IN STORIES: 3
 MAX. HEIGHT: 34 FEET

ACCESSORY BUILDING:
 MAX. HT. IN STORIES: 1.5 STORIES, NO TALLER THAN PRINC. BLDG.
 ACCESSORY ROOF PITCH = PRINC. BLDG.

LOT AREA: 12,607 S.F.

EXISTING HOUSE = 1,304 S.F.
 NEW APARTMENT PLAN = 2,218 S.F.
 TOTAL COVERAGE = 3,522 S.F. (28% ACTUAL COVERAGE)

SPECIAL REVIEW FOR ACCESSORY BUILDING ON N3 ZONED PROPERTY
 (DEMOLISH AND REBUILD EXISTING GARAGE WITH LARGER FOOTPRINT TO ACCOMODATE LARGER, MODERN VEHICLES WITH ADDED LIVING SPACE ADJACENT AND ABOVE)

VARIANCE: HARDSHIP CASE WITH SMALL EXISTING RESIDENCE AND SMALL GARAGE THAT DOES NOT ADEQUATELY MEET THE FAMILY NEEDS, VEHICLE NEEDS. BECAUSE THE PROPERTY SHARES AN ACCESS DRIVEWAY WITH NEIGHBOR, THE OWNER IS ASKING FOR A VARIANCE ON THE ALLOWABLE SIZE OF THE ACCESSORY BUILDING ON THE PROPERTY, INCREASING THE SIZE FROM THE 1,304 S.F. (EQUAL TO EXISTING RESIDENCE) TO 2,218 S.F. THE LOT SIZE IS 12,607 S.F., THUS THE COVERAGE IS ONLY 28% VERSUS 40% WHICH IS ALLOWED. TO DEMO THE EXISTING RESIDENCE AND REBUILD IN ORDER TO INCREASE ALLOWABLE GARAGE S.F. IS COST PROHIBITED. THE OWNER IS ALSO REQUESTING A VARIANCE FOR THE HEIGHT OF THE GARAGE BASED ON THE EXISTING RESIDENCE DUE TO THE LARGE SLOPE ON THE PROPERTY FROM NORTH TO SOUTH. OWNER IS ASKING TO WAVE THE HEIGHT RESTRICTION AND BASE THE HEIGHT OF THE GARAGE FROM GARAGE FINISHED FLOOR TO PEAK WHICH WILL NOT EXCEED THE PHYSICAL HEIGHT OF THE ROOF PEAK OF THE EXISTING RESIDENCE.

SITE LEGAL:

PRIMARY OWNER: BUSKA, KRISTA

2022 MAILING ADDRESS: BUSKA, KRISTA
 2622 RIMROCK RD
 BILLINGS, MT 59102-0560

PROPERTY ADDRESS: 2622 RIMROCK RD

TOWNSHIP: 01 N RANGE: 25 E SECTION: 35

SUBDIVISION: BRIDGER SQUARE 7TH FILING BLOCK: 4 LOT: 11

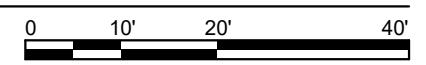
FULL LEGAL: BRIDGER SQUARE 7TH FILING, S35, T01 N, R25 E, BLOCK 4, LOT 11

GEOCODE: 03-1032-35-2-18-13-0000

1

SITE PLAN 1

SCALE: 1" = 20'

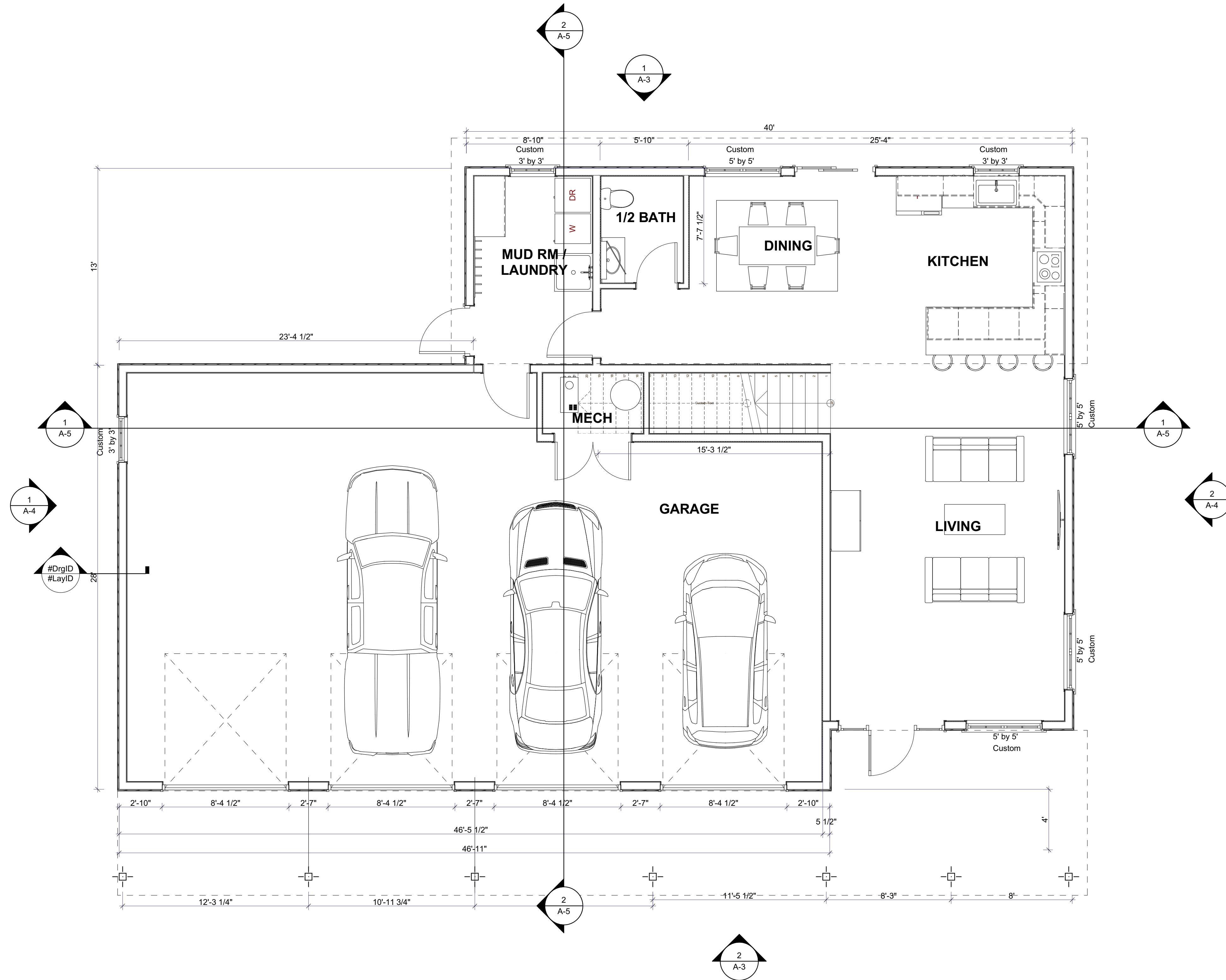


ARCHITECTS PLLC
 VANGO ARCHITECTS PLLC
 van@vangoarchitects.com
 406.371.6200
 vangoarchitects.com

DeVries Apartment FINAL
 2622 Rimrock Road
 Billings, MT

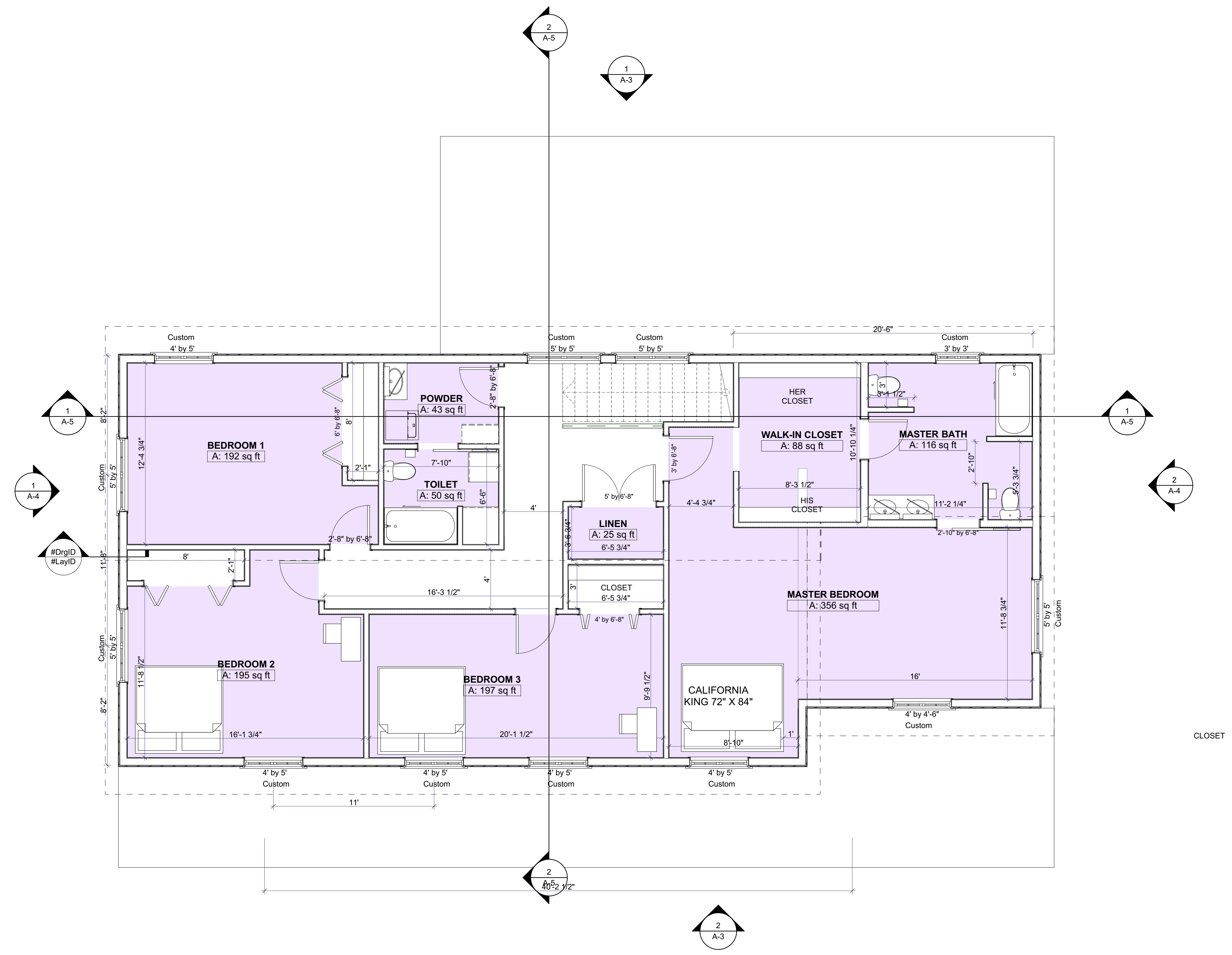
SITE PLAN

<DATEOFISSUE>
A-002



1 1st FLOOR PLAN
 SCALE: 1/4" = 1'-0"
 0 2' 4' 8'

THE ABOVE DRAWINGS AND SPECIFICATIONS ARE IDEAS, SKETCHES AND APPROXIMATIONS. THESE DRAWINGS ARE NOT TO BE USED FOR CONSTRUCTION. THE ARCHITECT AND ARCHITECTURAL FIRM SHALL BE RESPONSIBLE FOR ALL DIMENSIONS AND CONDITIONS ON THE PROJECT AND THIS OFFICE SHALL BE NOTIFIED OF ANY VARIATIONS FROM THE DIMENSIONS AND CONDITIONS SHOWN BY THESE DRAWINGS. 20210



1 2nd FLOOR PLAN

 SCALE: 1/4" = 1'-0"



DeVries Apartment OPTION 3

 2622 Rimrock Road

 Billings, MT

2nd FLOOR PLAN

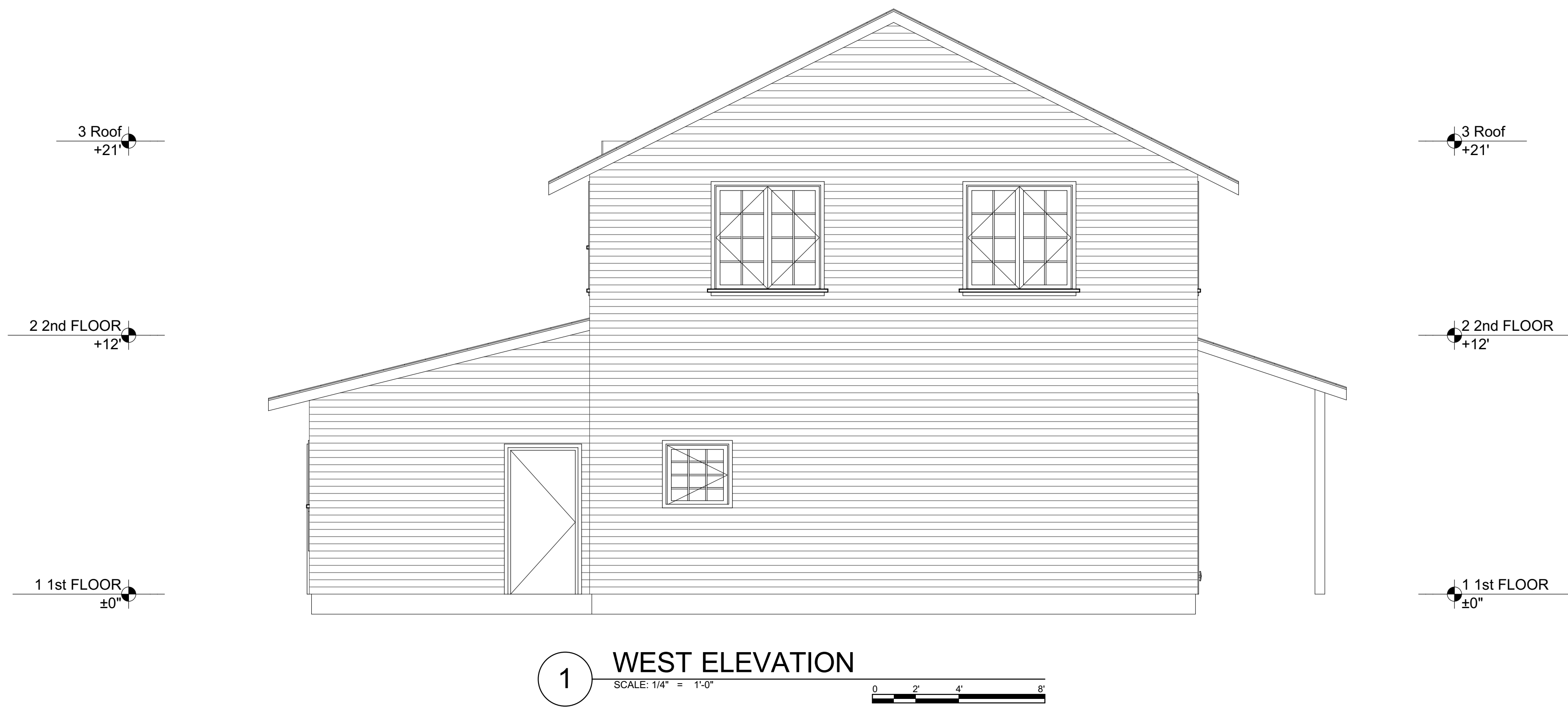
THE ABOVE DRAWINGS AND SPECIFICATIONS AND IDEAS, DESIGN AND APPROVALS ARE THE PROPERTY OF VANCOS ARCHITECTS, PLLC AND SHALL REMAIN THE PROPERTY OF THE ARCHITECT AND SHALL NOT BE REPRODUCED, COPIED, OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF VANCOS ARCHITECTS, PLLC. ANY REPRODUCTION OR TRANSMISSION OF THESE DRAWINGS OR SPECIFICATIONS SHALL CONSTITUTE A VIOLATION OF THE PROFESSIONAL ETHICS OF THE ARCHITECT AND SHALL BE SUBJECT TO LEGAL ACTION. THE ARCHITECT'S LIABILITY IS LIMITED TO THE PROFESSIONAL SERVICES PROVIDED AND DOES NOT INCLUDE THE DESIGN OR CONSTRUCTION OF THE PROJECT. THE ARCHITECT'S LIABILITY IS LIMITED TO THE PROFESSIONAL SERVICES PROVIDED AND DOES NOT INCLUDE THE DESIGN OR CONSTRUCTION OF THE PROJECT. THE ARCHITECT'S LIABILITY IS LIMITED TO THE PROFESSIONAL SERVICES PROVIDED AND DOES NOT INCLUDE THE DESIGN OR CONSTRUCTION OF THE PROJECT.



1 NORTH ELEVATION
 SCALE: 1/4" = 1'-0"
 0 2' 4' 8'



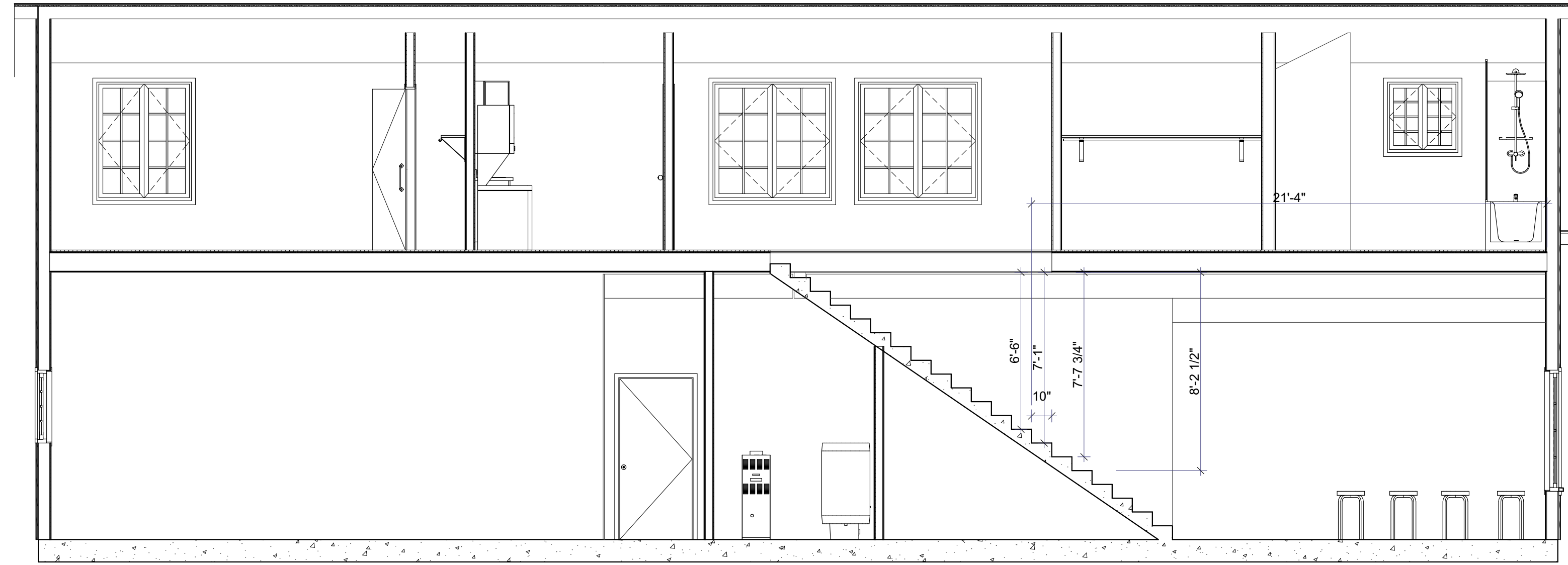
2 SOUTH ELEVATION
 SCALE: 1/4" = 1'-0"
 0 2' 4' 8'



+21'
3 Roof

+12'
2 2nd FLOOR

±0"
1 1st FLOOR



+21'
3 Roof

+12'
2 2nd FLOOR

±0"
1 1st FLOOR

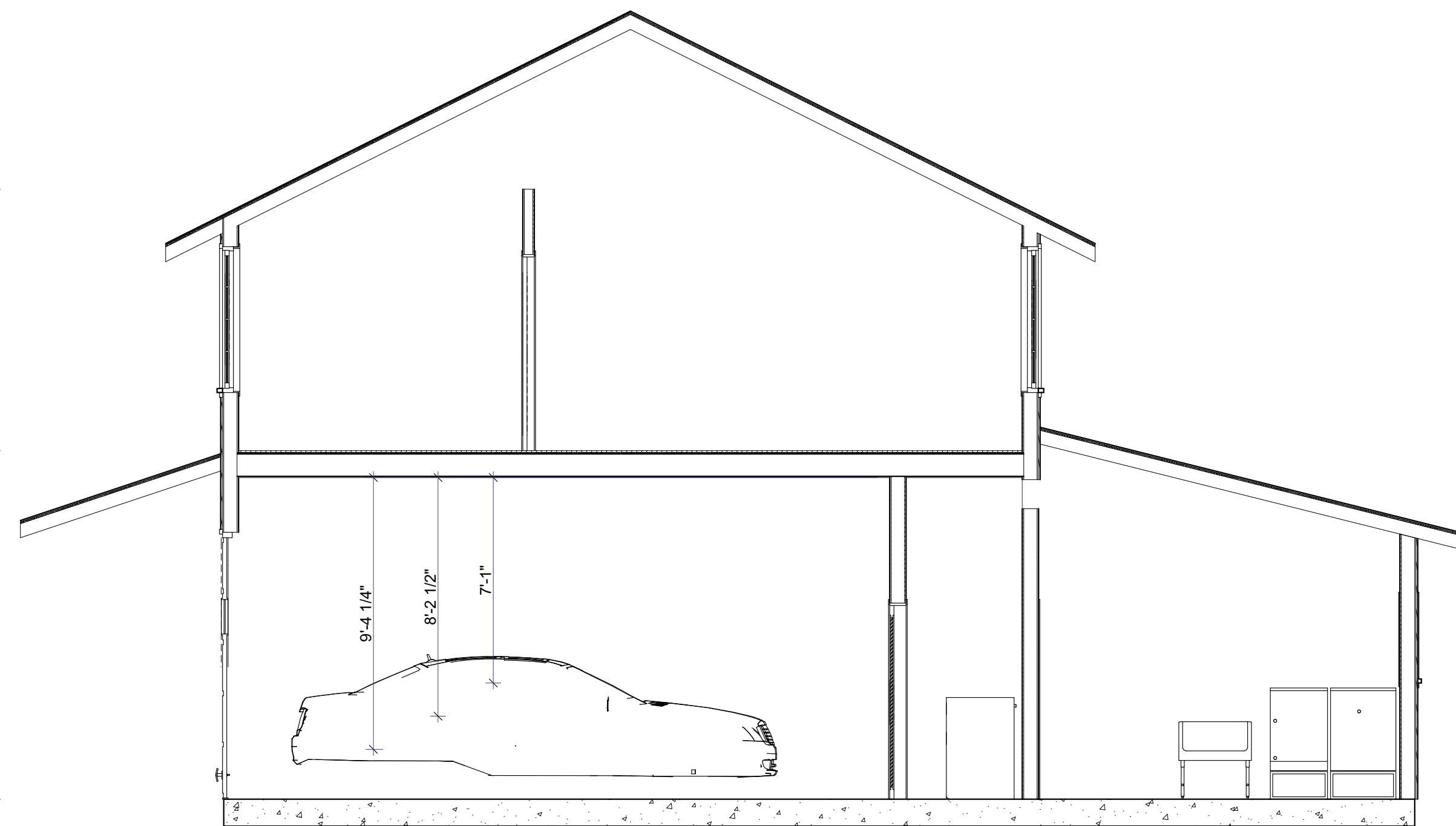
1 BUILDING SECTION
SCALE: 1/4" = 1'-0"



+21'
3 Roof

+12'
2 2nd FLOOR

±0"
1 1st FLOOR

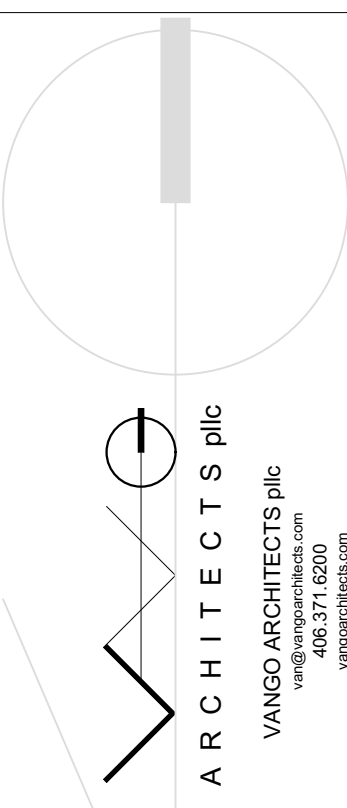
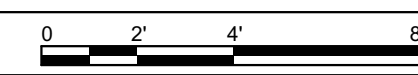


+21'
3 Roof

+12'
2 2nd FLOOR

±0"
1 1st FLOOR

2 SECTION
SCALE: 1/4" = 1'-0"

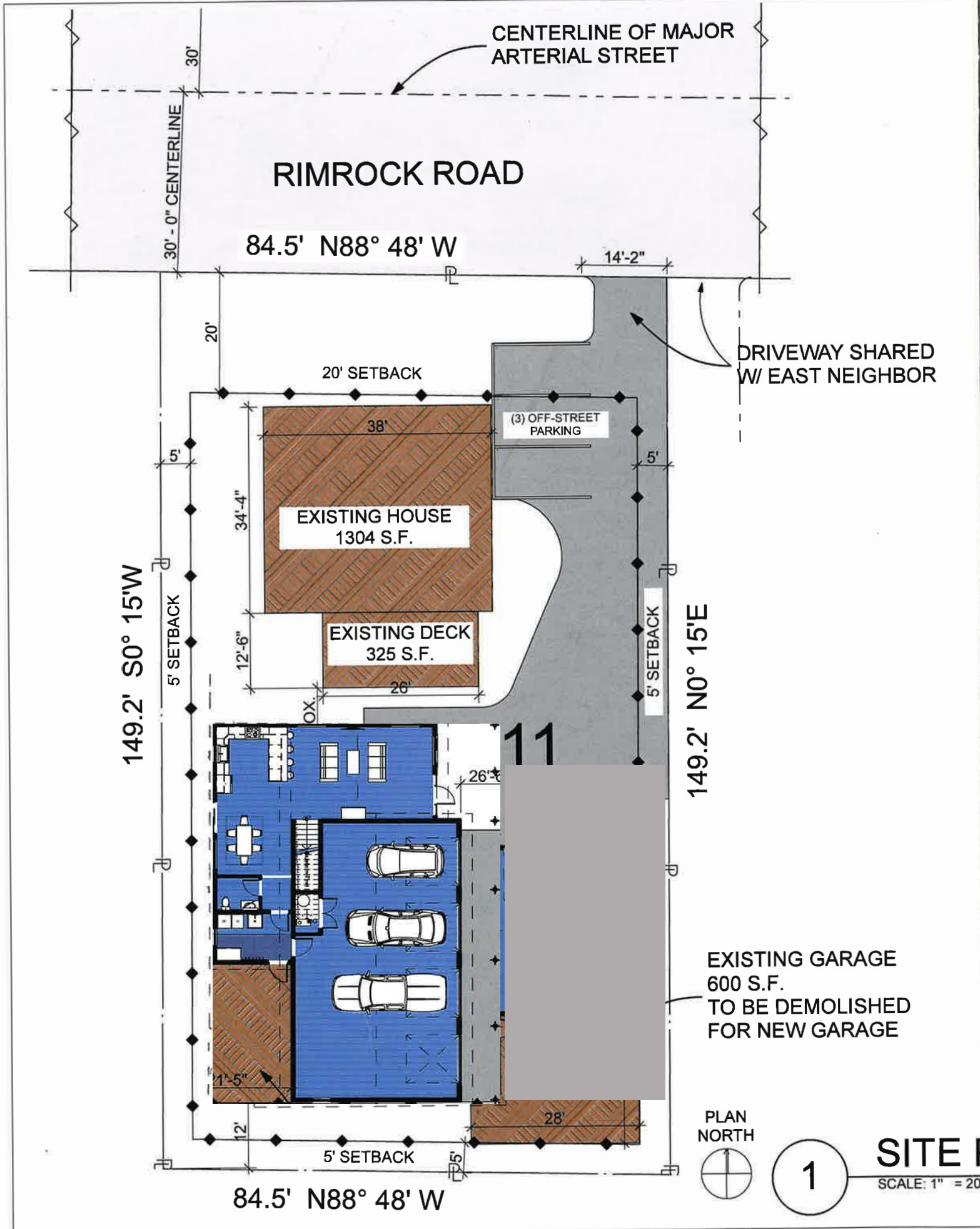


DeVries Apartment OPTION 3
2622 Rimrock Road
Billings, MT

SECTIONS

THE ABOVE DRAWINGS AND SPECIFICATIONS AND IDEAS, SKETCHES AND APPROVED REVISED WORK SHOWN HEREIN ARE THE PROPERTY OF VANGO ARCHITECTS AND SHALL REMAIN THE PROPERTY OF VANGO ARCHITECTS AND SHALL BE KEPT IN CONFIDENTIALITY. NO PART OF THIS DRAWING OR SPECIFICATION SHALL BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF VANGO ARCHITECTS. THESE PLANS OR SPECIFICATIONS SHALL CONSTITUTE CONCLUSIVE EVIDENCE OF ACCEPTANCE OF THESE REPRESENTATIONS.

WRITTEN COMMENTS ON THESE DRAWINGS SHALL BE SUBMITTED TO VANGO ARCHITECTS IN WRITING. VANGO ARCHITECTS SHALL BE RESPONSIBLE FOR ALL DIMENSIONS AND CONDITIONS ON THE PROJECT AND THIS OFFICE SHALL BE NOTIFIED OF ANY VARIATIONS FROM THE DIMENSIONS AND CONDITIONS SHOWN BY THESE DRAWINGS. 2019



CENTERLINE OF MAJOR ARTERIAL STREET

RIMROCK ROAD

84.5' N88° 48' W

DRIVEWAY SHARED W/ EAST NEIGHBOR

20' SETBACK

(3) OFF-STREET PARKING

EXISTING HOUSE
1304 S.F.

EXISTING DECK
325 S.F.

149.2' S0° 15'W

149.2' N0° 15'E

11

EXISTING GARAGE
600 S.F.
TO BE DEMOLISHED
FOR NEW GARAGE

PLAN NORTH



1

SITE P
SCALE: 1" = 20'

84.5' N88° 48' W

Re: City Variance 1342
Project Number: PZX-22-00031

From Diana Koenig, 2612 Rimrock Road, Billings, MT 59102

My husband and I HIGHLY object to this requested variance.

In trying to find the city planning variance criteria, we referenced the Planning Boards Handbook page 17. It lists under variances:

1. Relaxation of requirements
2. "Undue" hardship
3. Economic hardship alone is insufficient
4. Unique conditions on site
5. Cannot violate other regulations, increase public costs, adversely affect public health or safety

I would like to address these issues per each number:

1. **Relaxation of requirements-** Ms. Buska/DeVries, in her own handwriting, gave false information on her application for a variance. She is asking for a width variance. She stated her lot width as **90 feet!** That is false! We have a copy of the City/County Plat lot 11 Bridger Square, 7th filing showing only 84.5 feet in width of her lot. This alone should be a reason to **DENY** the variance! They need a minimum of 130 feet for two dwelling units on this property. **They are short 45.5 feet in width.** She also wants a height variance per the architecture drawing. They state this is because of the "large slope" of the property from north to south (which I will address in item #4) which is also a false statement.

2. **"Undue" hardship-** The hardship case statement on the Site Plan 1 states the "small existing residence and small garage does not adequately meet the family needs, vehicle needs, because the property shares an access driveway with neighbor." That is false information. We own lot 10 directly to the east of their lot number 11. We own our drive and they own theirs. **There is NO easement with them to use our drive.** This is another reason to **DENY** the variance. Their proposed variance will not change their access in and out of their property. The DeVries primary residence (recently remodeled) may be 1304' on the MAIN floor as shown, but they have a full two bedroom apartment in the basement that has 958 square feet that they could utilize as living space for themselves rather than a rental as they use it now.

3. **Economic hardship** - They say they have been "priced out of the current Billings real estate market and need to provide a COMFORTABLE living situation for their family." **She is a board certified Physician Assistant and he is a Real Estate agent. He was involved in marketing his family wagyu beef and probably still is. How can they call that a hardship?** They are using this situation as a way to gain more rental income for themselves!! Evidently they aren't priced out of the rental business. Clearly they only want to capitalize on the situation with no regard for the neighborhood. At one time they told us to contact the Debizel Property Management Company to complain about their renters cutting through our property because they weren't going to address it with the renter themselves. They have used the Debizel Property Management Company to handle their basement rental.

They are complaining about "red tape regulation and codes have created a shortage of options" for their "modern growing family." How is that a hardship? Aren't they going to have to follow those same regulations and codes for an apartment complex building?

4. **"Unique" site conditions** - They state the slope of the lot as a reason for the height variance on the apartment complex. From the Billings rimrocks south to Colton Blvd. and Grand Avenue, is a gradual slope for the lots in this area. Most lots are sloped and theirs is a very gradual slope like others in the neighborhood. Many homeowner lots have narrow driveways. This is not unique to them, for this reason the variance should be DENIED. This variance will not correct their driveway situation. It will make it worse with more cars and trucks coming in and out of their drive unto Rimrock Road. In the past some renters have had to park their extra vehicles on West MacDonald Street and Beth Street, both narrow over crowded streets with many parked cars there already.

5. **Cannot violate other regulations, increase public costs, adversely affect public health or safety** - The DeVries think these changes would be in keeping with the 'current character' of the neighborhood. NO, it will downgrade our neighborhood! We will all lose resale market value of our homes. Why should the neighbors lose value while the DeVries gain? We don't need to squeeze in an over large APARTMENT complex with no regard on how it will negatively affect the neighbors who live in the direct vicinity with loss of views, sunlight, privacy and extra congestion of vehicles accessing the property. There is only one entrance to this lot; there is no alleyway separation to the south of the lot either. This will create a safety issue when vehicles from four dwelling units on that lot are trying to come in and out of their narrow drive unto Rimrock Road; especially when the road is often icy in the wintertime or has a berm of snow in the middle of the road.

Another safety issue is the problem of renters and owners cutting across our property to exit or enter from Rimrock Road. One rental lady was particularly bad about crossing through our property even after being told not to. Her children would also cut through and then we had to worry about children loitering in our drive when we backed out of our garage. One of the previous owners had lawn removed in front the DeVries lot for a parking pad for the basement rental. Those construction workers had no regard for our property and ran over our mailbox while unloading heavy equipment on our property without permission. These aren't the only incidents. There have been many trespassing violations. Our property is NOT for their convenience in entering and exiting their property. It is for our use. Their drive is for their use. . If this variance passes, there needs to be a **CONDITION placed on it stating that the DeVries erect a permanent 6 foot fence (not chain length or wire mesh) the full length of the property from the north to the south on their side of property line before construction/destruction begins.** In no way should we as direct neighbors have to pay for that!

As to their plan for demolition of the old garage (in which they currently park their modern SUV), we suspect the siding on the garage is asbestos shake siding and may need to have special abatement conditions met for removal. Construction workers will have a difficult time accessing the worksite with equipment. WE WILL NOT ALLOW them to have any construction vehicles parked on our land or drive across it. No concrete trucks, pump trucks, workmen, large debris containers or porta-potty, etc. will be allowed to park on our land or drive across it. Where are all these construction vehicles going to park during construction without causing serious disruptions on Rimrock Road?

Where will they tie into the sewer and water lines? The DeVries current house has had problems for years with plumbers over there often for sewer backups and damage to the basement. The owner that lived there

a dozen years ago had to tear out all the sheetrock in the basement apartment because of sewer water damage. We understand that some of their old pipes had collapsed, whether from age or tree roots, we don't know. And yet, we still see plumbing trucks there periodically.

The architectural renderings of the proposed apartment are lacking. They don't provide enough details for dimensions and provided no floor plan schematic for the upper unit or is it units? Is this because they don't want us to know the true size of the apartment complex??

Please seriously consider our objections. These changes would cause our home to **lose resale value**. Our house sits back south behind our attached garage on the north of our lot. Thus the front of our house faces west which would be facing right into the side of this apartment complex. We would lose our south and west sunlight access and our daylight windows in basement would also be in shadow. We purchased this home in 2009 for our retirement home knowing it was a well established neighborhood with single family homes and with fully filled in lots. We are both in our mid to late 70s. My husband is being treated for cancer at this time and we are dealing with infusions and the stress of a terminal illness. We certainly don't need additional stress of this enormous change in our living conditions.

We ask the City/County Planning Division to deny this request for a variance that asks for 84.5 feet in width to be considered adequate for a required 130 feet minimum width requirement.

Based on the facts and findings in this letter, we would truly appreciate if the City/County Planning Division and the City Board of Adjustment would take our concerns very very seriously and **DENY this variance request**. Thank you for your consideration.

Sincerely,

Diana Koenig

From: Krysta Buska <kbuska406@gmail.com>
Sent: Wednesday, February 23, 2022 10:22 AM
To: Cromwell, Nicole <CromwellN@billingsmt.gov>; Plecker, Monica <PleckerM@billingsmt.gov>
Subject: [EXTERNAL] Re: Conditions of approval for zoning variance

Hi Nicole,

We plan to attend the meeting on March 2nd. However, I wanted to send you our rebuttals just in case we are not able to attend. We recently welcomed a new niece into the family and have another family member in poor health.

We can see that this has not been an easy project and that you have put a tremendous amount of consideration into this. Thank you very much for working with us. We know it has been a difficult process. My husband and I respect and appreciate your work and effort. I am leading with this because my husband is very firm and direct in his position on this issue. He works in real estate and so has very strong opinions on this project. The following may have an irritable tone, but we hope you know that this is not at all a personal attack on you.

I would like to start with our general rebuttal to disagreeable neighbors. Below I have addressed a response to your numbered items.

There has been concern with the impact of the two-story structure on the adjacent properties. We believe our neighbor to the south has been the most vocal. However, we have had support from some of our other neighbors and we believe their opinion should hold as much weight. We think compromising our project to appease Don is unnecessary. We do not feel that he should have any say in what is done with our property. We don't feel that the compromises you have put forth will keep Don happy. He seems entitled to have authority over our property. He did call me directly after receiving the letter regarding the variance and I wish you could have heard the language he used during that call with us. Instead of directing his objections through proper channels to your office, he called and essentially verbally attacked me and was very insulting to both me and my husband.

The height of the two-story structure is within city code. Don takes exception to the structure because it will block views that he has no right to. This "view" was not part of a purchase agreement for his property. Our lot is located on an arterial road. For this reason, we must deal with quite a bit of noise and capped property values. We accept these limitations of our property. Don should accept that his property has the limitation of being downslope from our property and therefor his view is not protected.

I would now like to individually address the numbered points from your previous email.

2. I believe the compromise to reorient the building would make our diagonal neighbor to the south, Eddie Schmidt, just as unhappy as Don has been with the project. I would also assume that this will be less desirable for our east neighbor, Nicollete Schuman. She is less likely to be as vocal about her objection than Don, but we believe she would have objections none-the-less. In any case, none of our neighbors should have direct authority over the project as this is not their property and we do not believe they have a right to a view. We have paid for our air rights by purchasing the property. We would essentially be transferring our property rights to Don by compromising our project; we do not intend to do so.

4. If the orientation of the building were to remain the same, we would be willing to compromise on the height of the south facing windows as to not directly look over into Don's property.

5. We are opposing the reorientation of the building as this puts the north facing wall of the new residence directly up against the existing deck. We think it is self-explanatory why we would oppose this.

6. We think adjusting the allowable set back from 5 feet to 12 feet simply to appease a complaining neighbor is unnecessary. We have a right to peaceful use and enjoyment of the property we paid for, which is an inherent property right. We believe this set back is only being proposed to appease Don.

9. We feel you are asking us to give away our rights and the rights of future property owners into perpetuity. Material compensation should come from Don directly if he wishes to benefit from our air rights. We would be willing to sell our air rights to him or any other neighbor who disagrees with the project as it has been initially set out.

We feel that any hesitation to approve our variance request would be done in sole hopes of appeasing one begrudged neighbor. We do not feel that he should have such influence over our property. We have planned this project because our lot is dated. Our first concern is providing a reasonable living space for our growing family. If the current property doesn't work for us today, it won't work for families and residential buyers in the future. As you can see from the aerial views, our lot is rectangular. Your proposed change to the orientation of the new building makes use of the lot even worse than it is currently. We cannot see ourselves following through with the project as you have proposed. We would likely plan to build a new garage where the existing one already sits within codes, which would likely upset Don just as much.

Donald and Evelyn Bergeron
2729 E. Bridger Drive
Billings, MT
406-208-2911

February 23, 2022



City County Planning Division
City Board of Adjustments
2825 Third Avenue North
Billings, MT 59101

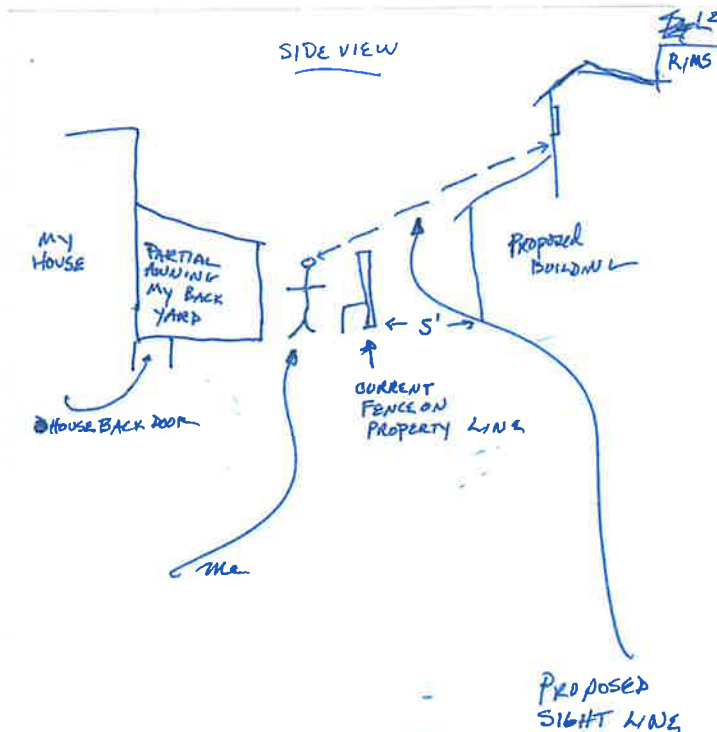
Re: City Variance 134211
Project Number: PZX-22-00031

We have recently been notified of the above variance request adjacent to our property at 2729 E. Bridger Drive, Billings, MT.

It is our sincere request that YOU DO NOT APPROVE THIS VARIANCE.

There will be a tremendous transfer of value from our property to the petitioning neighbor. Estimated reduction in the value of our property is a minimum of \$35,000-\$40,000 due to the complete loss of backyard privacy with the placement of a 34 foot building within feet of my property line. A future buyer of my home would not appreciate the blockage of views north to the rims.

Attached is a hand sketch and photos of our backyard which shows the detrimental effect this variance building would have on us.





The views out our back solarium and upstairs, which would be blocked.

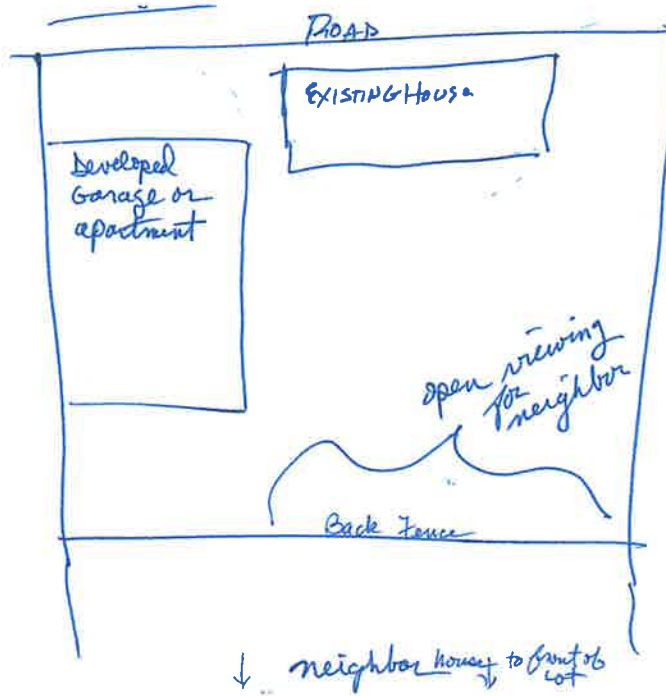


The privacy of our backyard.

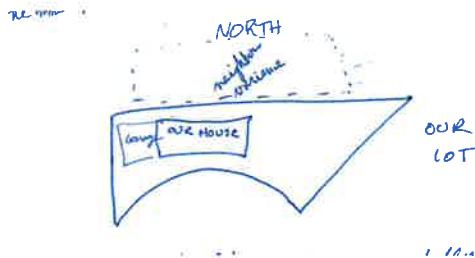


The front of our house.

I personally visited all the 12 properties listed as “similar” to this variance request. I report to you that none of them are similar. Most have the below configuration which allows at least moderate open space to the affected neighbors. The homes affected are located at the “front” of their lots thereby creating more space between the buildings.



Our home was also built many years ago. Our lot has an odd shape which requires the home to be situation toward the north.



It is insulting to us that a need or reason for this variance is because “Billings has recently become the hottest housing market in the nation.” So does this mean it is reasonable to destroy the view and privacy of our backyard? I hope not!

We have lived here 37 years peacefully investing in and enjoying our property. Are we now going to have to move to accommodate someone’s desire to capture a hot real estate deal? I hope not! Montana is a large state and the reason we live in Montana is for the its Big Sky and views. Do we really have to live on top of each other as in a large eastern city?

Please do not approve this variance request. Please consider that peace, quiet, and backyard views are important to all residences in Billings - including us. What good does it do to cram in a building so close to our property that could cause **US** to move? We have done nothing wrong! We have lived here 37 years protected by city codes and regulations. We are not asking to change the rules—the neighbor is!

This is not in the sense of “fair play” to allow new development at the expense of a current resident.

Please use this opportunity, that only your boards have, to disapprove this variance.

Sincerely,

Handwritten signatures of Don Bergeron and Ev Bergeron in blue ink. The signature of Don Bergeron is on the left and Ev Bergeron is on the right.

Don and Ev Bergeron

Cc: Krysta Buska
2622 Rimrock Road
Billings, MT. 59102-0560

Krysta Buska, PA
c/o Billings Clinic
2675 Central Avenue
Billings, MT. 59102

kbuska406@gmail.com

Curriculum Vitae

Don Bergeron

- Graduated from EMC (MSU-B)
- Retired from CTA Architects Engineers in 2012.
- I have been a long-time volunteer in Billings.
- Twenty years tutoring reading for 3rd graders at Newman and Poly Elementary Schools. Signed up 15 others to do the same.
- Board Member:
 - Education Foundation of Billings Public Schools
 - Big Brothers & Sisters of Yellowstone County
 - Breakfast Exchange Club
 - Billings JC's
- Cross-guard for Poly Elementary School.

Ev Bergeron

- Graduated from EMC (MSU-B)
- Native Montanan
- Worked in Billings for 30 years.
- Volunteer for Billings Food Bank
- Officer of Billings Arts Association

From: [Eddie @ Billings Army Navy](mailto:Eddie@BillingsArmyNavy)
To: [Bartley, Robbin](mailto:Bartley.Robbin)
Subject: [EXTERNAL] variance1342 tax id AO3197D
Date: Wednesday, February 23, 2022 10:23:14 AM

Good morning, this e-mail is in regards to the variance request listed in the subject line of this e-mail. I am 100% against granting this variance. I don't think due diligence has been performed in researching the request. There were multiple properties listed that the applicant felt were similar in nature. I viewed several of these and none are anywhere near this scope. I know the neighbor directly to the east of this property allows a great % of his entry and drive to be used by the applicant. I can't imagine that he would like more traffic into and near his property. This is a very quiet mature subdivision and we do not need anymore rentals. The owner of the subject property seeking the variance already has 1 in his basement. As part of his request he says he is doing this because of the hardships of buying property for a growing family. He is a successful ranch realtor and his wife is a pa. I think his real motivate is to add another couple rentals to his portfolio. If cost is an issue, he obviously hasn't put a pencil to the construction cost of this project. Please deny this variance for the applied use. It would be a detriment to the neighborhood and all parties involved. I can be reached at this e-mail or during the day at 259-8528

EDDIE SCHMIDT

2625 N BRIDGER

BILLINGS, MT 59102

To; City/County Planning Division Board
2825 3rd Ave. N, 4th Floor Billings Montana 59101

February 24, 2022

Re: Variance Request 1342
Project Number PZX-22-00031



From Verlin Koenig, 2612 Rimrock Rd, Billings MT 59102
Dear City Planning Division Board,

Be it known that my wife and I are strongly opposed to the variance request # 1342 at 2622 Rimrock Road; as are the majority of the surrounding neighbors.

There are not any laws against applying for a variance in the city of Billings, BUT the city does have bylaws for all of the subdivisions in the city, PLUS City codes for homeowners to follow. This application has **NO REGARD** for the subdivision bylaws and **the codes of the city regarding a single family residence (or the impact on the surrounding neighbors).**

By far the most blatant disregard for the CITY CODE is the request of the HUGH variance in street frontage required. CITY CODE states that a minimum of sixty five Ft (65') of frontage width per dwelling on EACH property (lot). **For two (2) dwellings** on one (1) lot would require **one hundred and thirty Ft (130') of street frontage** **NOTE: this lot has eighty four and a half Ft (84.5') of street frontage THAT is a whopping forty five and a half Ft. (45.5') shortfall.** **MAYBE, the variance could or would be approved with a 2 Foot or 4 Foot difference BUT DEFINITELY DENIED with a 45.5' SHORTFALL.**

Essentially what this variance is proposing is adding a brand new second (2nd) home to the existing property with a **HUGE four (4) car garage.** **NOTE:** It is not something that anyone that claims to be or is a **"hardship case"** would even approach trying to do. If they can afford this type of building project, which would be estimated to be **\$450,000 to \$500,000** it is very difficult to see where the hardship is (**EXCEPT** on the neighbors) **NOTE: The DeVries both have good paying jobs.** An option for them would be to terminate the present renters lease and raise a family in a four (4) bedroom – 2 bath house that has 1304 Sq Ft upstairs PLUS a 958 Sq. Ft basement, both living areas have recently been fully or partially remodeled. **NOTE: The existing home at 2622 Rimrock Road has had some serious sewer drainage problems thus flooding the basement several times not to mention having to be treated for termites.**

The **driveway is not a shared driveway** as indicated. The approach from the street is connected BUT I repeat the driveway is not a shared driveway. The property line dividing the two yards are not presently fenced, however the property line between the two properties is clearly marked. We have expressed to the DeVries many times that the renters, maintenance personnel, visitors etc. need to stay on their property. There is no verbal or written agreement with us stating otherwise. Therefore we will not allow any trespassing on our property. Period. A necessary **CONDITION** to be placed on this variance request (**IF approved**) shall be that the DeVries construct a six ft (6') Tan vinyl fence the full length of their lot on the east side upon having a survey completed by a city certified surveyor. That survey will need to be approved by the city and the owners of LOT 10 (Koenig's)

A LARGE SAFETY ISSUE surrounding the existing narrow driveway is the additional traffic they propose to push through in order to reach Rimrock Road. This congestion may also lead to conflicts between renters seeking to “get ahead” of other renters while exiting or entering the property.

Were the following FACTS and important items and dimensions purposely left off this variance application by the DeVries and their architect to confuse people reviewing it?

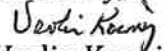
1. How is adding another dwelling to the narrow lot going to elevate their NARROW driveway problem? The narrowest section has about ten (10') of clearance, where the large ash tree has grown onto the driveway.
2. What is the width of each proposed garage space and what is the total length of this House/Apt. with a four (4) car garage.
3. What is the total width of the new building?
4. What is the total height of the new building?
5. Where is there proposed sewer line running? Do they propose digging beside the west side of the existing house to get to Rimrock Road?
6. Do they propose putting the drinking water line in the same trench?
7. Where do they **propose capturing the STORM WATER** that will be coming off this huge building?
8. How do they envision having room for three (3) parked vehicles on the east side beside the existing house? **NOTE:** There may be space for two (2) vehicles to park in front of the North East corner of the house (where only one (1) can barely park now) **IF the cement pad is widened and lengthened.** BUT that will place one of the vehicles **TOO CLOSE to the street**, which is also against city code!! (See attached photo)
9. Do the DeVries plan on living in the existing house or in the NEW proposed House/Apt?
10. Will the siding on the proposed structure match the original building or will they both receive matching siding? **NOTE:** **The old siding contains asbestos** therefore **IF** the application is miraculously approved, **the asbestos siding will need to be properly abated.**
11. **Principal Building or Accessory Building?** In the printed application **Krista asks for a variance for a principal building** however in the site information paragraph (next to the proposed plan layout) someone is calling it an Accessory Building. **NOTE:** The requirements for height (of which she is also asking for a variance) and number of floors allowed are different between an Accessory Building and a Principal Building. Vary confusing to say the least!
12. **LAWN AREA:** Will the lawn area be diminished to the point it also DOES NOT meet city code? This will definitely affect the property values of the surrounding neighbors.

In Summary

In my humble opinion any one of the above comments and or questions should be adequate grounds for the variant request # 1342 located at 2622 Rimrock road to be DENIED.

Therefore I am highly recommending that variance # 1342 be DENIED - THANK YOU.

Sincerely,


Verlin Koehig

2612 Rimrock Road, Billings, Montana 59102



NARROW DRIVEWAY there is only 10 foot of space between the base of the ash tree trunk and the property line. Removing the tree would only add 2 feet (totaling 12') until the vertical cement is an obstruction that will limit the driveway width.



A LARGE SAFETY ISSUE surrounding the existing narrow driveway is the additional traffic they propose to push through in order to reach Rimrock Road. This congestion may also lead to conflicts between renters seeking to “get ahead” of other renters while exiting or entering the property. **The driveway is not a shared driveway.**



NOTE: this lot has eighty four and a half Ft (84.5') of street frontage THAT is a whopping 45.5' SHORTFALL. How do they envision having room for three (3) parked vehicles on the east side beside the existing house? **NOTE:** There may be space for two (2) vehicles to park in front of the North East corner of the house (where only one (1) can barely park now) **ONLY IF the cement pad is widened and lengthened.** BUT that will place one of the vehicles **TOO CLOSE to the street, which is also against city code!!**



The present garage is a **LARGE oversized single car garage** with an attached good sized shop and an electric garage door opener. They presently park their "modern" SUV in it.

Staff of the City/County Planning Division

Re: City Variance 1342

Project Number: PZX-22-00031

From Camrin Koenig, 5800 Lexington Circle, Lumberton, TX, 77657.

I **object** to this requested variance. My parents, Verlin and Diana Koenig, live at 2612 Rimrock Rd (directly east of the proposed variance). My daughter and I flew from Texas to visit my folks this week (2/12 - 2/20/22). I haven't seen them since the beginning of the pandemic. My father was diagnosed with a terminal cancer last month; hence our visit now. This entire trip, they have been quite upset due to this variance letter (received 2/12). This is NOT providing them **quality of life** right now, not to mention if this project is allowed to proceed.

1. Width Variance grossly in violation

Per the existing Billings residential zoning laws for area N3, the minimum width spacing required per lot (between primary residences on properties) is listed as 65'. Their variance request is poorly written and confusing (purposefully?), at one point referring to it as a second primary structure (on written application form 1342), and at another calling it an accessory building. The physical layout of the properties involved here needs to be scrutinized. See attached photos that show the resulting over-congestion. Their request does not make logical sense. If it is an accessory building, it also grossly violates height zoning laws. This should **never** have been allowed to proceed to a variance request, as it grossly violates the established zoning laws.

2. False claims and deception in the DeVries' variance application

- i) Small existing residence, 1,304 sq. - NO - 34.4 x 38 just captures their *upstairs sf.* They have 2 floors; they rent out the basement - which is 958 sf, plus furnace room. Total: 2,390 sf (realtor.com). They also have an attic, with two rooms and windows? Is Billings receiving it's due property taxes on that residence now? Since this is a DUAL residence currently; y'all should revisit the width variance.
- ii) Small existing garage - NO - it is 28 x 21.5' ~ 602 sf. They use it now; but if not happy with 2 cg, then maybe a good compromise would be to rebuild it, without adding an apartment complex on top.
- iii) Large Slope down the driveway - NO. The grade is a gradual slope.
- iv) Shared Driveway - NO. The DeVries **do not** have a "shared driveway" as their application purports. I've shoveled snow for several years when visiting my folks in the winter, and I can assure you of the understood property boundaries. They routinely park their 2nd vehicle in their garage, with their other parked in their driveway, and the renters parking just about everywhere else they can think of, other than on my folk's driveway (despite the "Don't Tread On Me" flag that the DeVries fly on the front of their property, they have some common sense and know better than to park on my folk's driveway).
- v) Inconsistent Language - in the application, they ask for a 2nd Primary Structure, 2nd Primary Residence, and then finally refer to it as an Accessory Building. This is sloppy and misleading.
- vi) Incomplete Information - the submittal drawings lack vital information; dimensions, etc.

3. Hardship claim is without merit

The DeVries are claiming a hardship. This is not a hardship. They are both gainfully employed. They complain about "red tape regulations and codes creating a shortage of options". I vehemently disagree and believe whole heartedly that they are looking to *capitalize* here. Per realtor.com, they purchased that property on 9/12/2016 for (\$198,500 - a veritable bargain). Their comment of being priced-out of the current Billings real estate area impacts everyone in this city; they are not unique and **do not** deserve some unique treatment. I don't believe this request

is in keeping with the intent of the zoning changes; which happened since they moved in, which would allow them some things to do. Why in the world do they also then need a variance? Give them an inch, and they are wanting a mile. Their greed would in fact create several other REAL hardships if allowed.

4. Existing Renters

The DeVries have renters in their primary residence now. They cannot successfully argue that they prioritize families. They claim they want to "provide for a family to take care of aging parents on-site". If they truly cared about aging parents, they wouldn't be putting this stress on MY aging parents right now (aged 75 and 78). If they want the "comfortable living situation" for their family, then they should remove the renters they have now! Instead they intend to build an apartment dwelling, in order to further build income through additional renters. Since their home now is basically functioning like a duplex, what makes them think they can add *more* units?

5. Congestion

This would put severe congestion right on the property line, not to mention with the lack of an alley, how it would intrude on the southern neighbors. The DeVries never bothered to contact any of their neighbors by any means prior to this claim. The "modern tastes and amenities for housing" is in stark contrast with shoe-horning in a 2nd primary residence above a 4-car garage right up against the existing one-family homes in the immediate area.

I met with a next-door neighbor to the south, Don Bergeron, when he came by (my folks were out receiving medical care). He has investigated all the "nearby properties" that the DeVries claim are using their lots similar to what they propose doing. In none of those occurrences is such an establishment as they propose found. It would be a mistake to accept what they are proposing here.

6. Compassion plea

My folks moved into 2612 Rimrock Rd, to be their retirement home. They selected this precise neighborhood here in Billings because it was a desirable location, in a place where they had family and friends. They've lived here by themselves in this home for over the past 12 years, and purchased the place from Rita Lewis. My folks are highly reputable and upstanding citizens, and are life-long Montanans. The demographics of this neighborhood will show similar results. All these neighbors bought their homes understanding and abiding by the rules in place at the times they purchased their homes. These neighbors have worked their entire lives to enjoy their homes; they haven't violated any rules and don't deserve the negative consequences they would suffer if this variance would be allowed to pass. The surrounding neighbors do not deserve to be at the brunt end of the DeVries' money-grab, and without question the neighbor's property values would all go down if this were allowed; some worse than others. This is a nightmarish joke that can not in any way advance public health, safety, or general welfare

7. Aside

This is not how I'd wanted to spend this valuable time. Where do I send the bill for **my** travel, air flight, and loss of quality time? I'd like to believe that the point of recent zoning changes wasn't to allow people to be unreasonable and do things that would be compromising to others. I and my sister Nancy Senitte will eventually inherit our parent's property. My main concern is for my parents right now; but of course this impacts the future as well.

I would appreciate it if the City/County Planning would take these concerns very seriously and **turn down this variance request**. Thank you for your consideration.


CAMRIN KOENIG

Picture 01. View facing West out 2612 Rimrock property, onto 2622 Rimrock property. With the way my folk's house is situated, the 2 story Apt w/ 4 car gar would completely blot out their only view from Living Room.

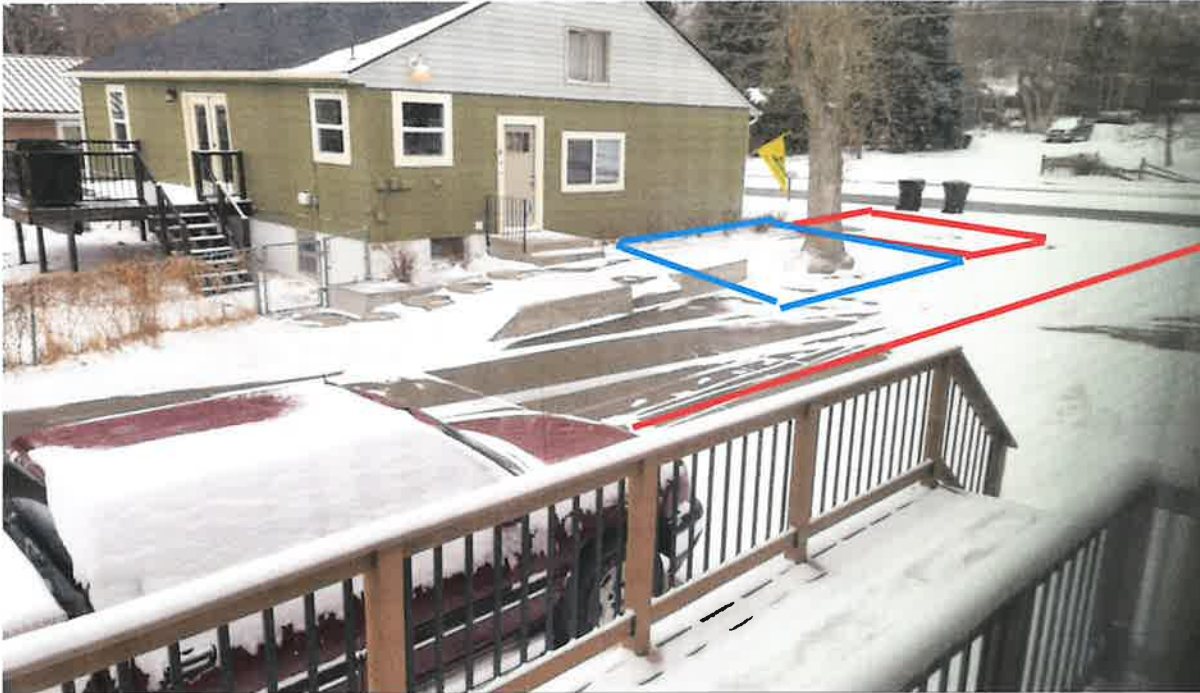


Picture 02. Rough visualization of approximate area blotted out by proposed Apartment & 4 car garage



Picture 03. View from 2612 Rimrock Rd, facing Northwest, into existing primary residence at 2622 Rimrock Rd. Area northmost (red) was recently paved lawn of 2622.

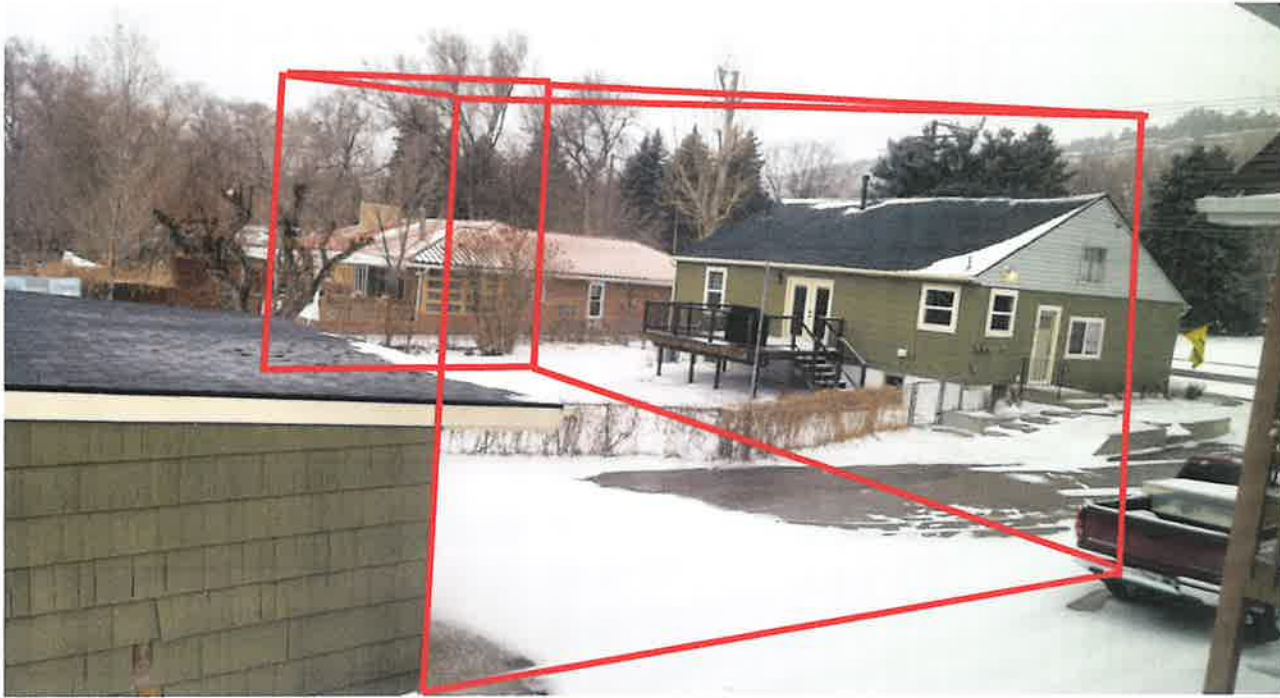
Blue boundary is approximately where they propose to park 3 vehicles, along with the red spot? That's not going to work.



Picture 04. View from SW corner office of 2612 onto garage of 2622. Asbestos shingles? Abatement concerns. Don's view N (rims) from south property would be wiped out.



Picture 05. View from southwest corner office of 2612 onto garage of 2622. Rough visualization of approximate area blotted out by proposed Apartment & 4 car garage. View of Rims blotted out.



Picture 06. Mr. DeVries' black truck parked on his driveway; Verlin Koenig's maroon truck parked on his driveway. Yellow "Don't Tread On Me" flag ironically flying from 2622 Rimrock Rd property.



Picture 07. View from north between 2612 and 2622. Rough visualization of approximate area blotted out by proposed Apartment & 4 car garage.



Picture 08. Rough visualization of approximate area blotted out by proposed Apartment & 4 car garage. Goodbye sunsets; hello additional renters and who knows what else...



Picture 09. Clearly existing garage is able to easily accommodate a modern SUV; Don's house directly behind their garage.



Picture 10. Existing renter's vehicle out front/with separate side entrance.

