



**CITY BOARD OF ADJUSTMENT**  
**AGENDA-Wednesday, June 1, 2022, 6:00 p.m.**  
Miller Building, 1<sup>st</sup> Floor Conference Room  
2825 3<sup>rd</sup> 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](mailto: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](mailto:bartleyr@billingsmt.gov) or 406-247-8676

**Call the meeting to order.**

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

**Public Comment**

**Approval of Minutes:**

The minutes of the Board meeting of May 4, 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:**

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

**Public Hearings:**

- City Variance 1346 -- 1310 30<sup>th</sup> St. W --Cardwell Ranch - Increase building height to 46 feet and reduce required off-street parking penalty for assigned spaces - A variance from the Cardwell Ranch East 80 Planned Development, Article VI.C.3 requiring a 40-foot maximum height for multi-family structures to allow 46 feet and from Section 27-1302.B.7 requiring provision of 20% more off-street parking when some of the off-street parking spaces are assigned on Lot 15A, Block 2 Cardwell Ranch Subdivision 1<sup>st</sup> Filing, a 6.88-acre parcel of land. The purpose of the variance is to allow an increase in maximum height for Cardwell Ranch Apartment Homes to develop a roof design that complies with the aesthetic intent of the Cardwell Ranch Design Standards and to allow the proposed 406 off-street parking spaces to be allowed for the proposed 249 dwelling units. The off-street parking code would otherwise require 479 spaces applying the 20% penalty for some assigned spaces. The proposed parking ratio (spaces/unit) is 1.63 and the required parking ratio with the 20% penalty is 1.92.**

**Other Business/Announcements**

**Adjournment**

**The City Board of Adjustment will hold its public hearing in the 1<sup>st</sup> Floor Conference Room at 2825 3<sup>rd</sup> Avenue North (Miller Building) starting at 6 pm, Wednesday June 1, 2022. All interested persons are invited to attend in person or view the meeting on-line on the Billings-Planning & Community Services Facebook Page here: <https://www.facebook.com/Billings-Planning-Community-Services-Department-1738982159659260/?ref=bookmarks> .**

**A public comment phone line is available for on-line viewers to provide testimony during the specific Public Comment periods announced by the Chairman during the hearings.** The call in phone number is (406) 237-6165. All callers will be in a queued system and are asked to remain on hold and be patient. Calls will be taken in the order in which they are received. Callers will be restricted to 3 minutes of testimony as is customary. **Written comments may also be sent to Board via email to [cromwelln@billingsmt.gov](mailto:cromwelln@billingsmt.gov) , [keithe@billingsmt.gov](mailto:keithe@billingsmt.gov) or [bartleyr@billingsmt.gov](mailto:bartleyr@billingsmt.gov) before 1:00 PM on Wednesday June 1, 2022.** All emails received prior to this time will become part of the record for the public hearings.

Public hearings are accessible to individuals with physical disabilities. Special arrangements for participation in the public hearings by individuals with hearing, speech, or vision impairment may be made upon request at least three days prior to the hearing. Please notify Robbin Bartley, Administrative Assistant, at 247-8676 or e-mail to [bartleyr@billingsmt.gov](mailto:bartleyr@billingsmt.gov)

**Board of Adjustment**

**Date:** 06/01/2022  
**Title:** City Variance 1346 - Cardwell Ranch - Building Height and Off Street Parking  
**Presented by:** Karen Husman  
**Department:** Planning & Community Services  
**Presentation:** No

**Information****RECOMMENDATION**

Planning staff has reviewed this application and is forwarding a recommendation of **conditional approval** for the variance for **height** and **denial** for the variance for **off-street parking** based on the determinations for review provided within this report.

**REQUEST**

A variance from the Cardwell Ranch East 80 Planned Development, Article VI.C.3 requiring a 40-foot maximum height for multi-family structures to allow 46 feet and from Section 27-1302.B.7 requiring provision of 20% more off-street parking when some off-street parking spaces are assigned on Lot 15A, Block 2, Cardwell Ranch Subdivision, 1st Filing, a 6.88-acre parcel of land. The purpose of the variance is to allow an increase in maximum height for Cardwell Ranch Apartment Homes to develop a roof design that complies with the aesthetic intent of the Cardwell Ranch Design Standards and to allow the proposed 406 off-street parking spaces be allowed for the proposed 249 dwelling units. The off-street parking code would otherwise require 479 spaces, applying the 20% penalty for some assigned spaces. The proposed parking ratio (spaces/unit) is 1.63 and the required parking ratio with the 20% penalty is 1.92.

**APPLICATION DATA**

**OWNER:** Yegen Grand Ave Farm, Inc.  
**AGENT:** Steward Land Holding, LLC  
**PURPOSE:** Increase maximum allowed building height, and decrease in required parking  
**LEGAL DESCRIPTION:** 15A, Block 2, Cardwell Ranch Subdivision 1st Filing  
**ADDRESS:** 1310 30th Street West  
**SIZE OF PARCEL:** 6.88 acres  
**ZONING:** Planned Development (PD)  
**EXISTING LAND USE:** Vacant  
**PROPOSED LAND USE:** Residential Multi Family

**CONCURRENT APPLICATIONS**

None

**APPLICABLE ZONING HISTORY**

See attached.

**SURROUNDING ZONING & LAND USE**

**NORTH:** Zoning: PD  
Land Use: Vacant  
**SOUTH:** Zoning: P2  
Land Use: Will James Middle School  
**EAST:** Zoning: P2  
Land Use: Church  
**WEST:** Zoning: PD  
Land Use: Medical Offices, SCL Health Oncology

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

The purpose of the variance is to allow an increase in maximum height for Cardwell Ranch Apartment Homes to develop a roof design that complies with the aesthetic intent of the Cardwell Ranch Design Standards. In 2008, the property was zoned to Planned Development. Adjacent properties to the north and west are also parcels within the Planned Development. The maximum allowed height in the East 80 Cardwell Ranch PD Design Guidelines for all buildings is 40 feet. The reason for the request is to provide a roof design that complies with the aesthetic intent of the Cardwell Ranch Design Guidelines. A lower height requirement would create roof-lines that are not in proportion with the overall architectural design that is intended under the Cardwell Ranch PD design standard. The variance from the provision requiring 20% more off-street

parking when some off-street parking spaces are assigned is to allow a reduction from 474 spaces to 406 to accommodate the 249 dwelling units, a reduction in 65 spaces, by staff's calculation.

The request for increase in maximum height is consistent with the intent of the PD and will allow flexibility in architectural design. The proposed reduction in off-street parking spaces is also allowed under the PD with a variance, however it is not a reduction that can be supported by staff as it does not meet the criteria for granting variance and there have been concerns from Engineering Division staff. These concerns are provided in the attachments to this staff report. Staff did not receive any comments from other city agencies.

## 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;

**Applicant: Height** - Our intention is to build a high-end apartment project within the Cardwell Ranch Project as shown in the attached site plan. It is our opinion that this particular location is ideal for a higher-end, 'legacy' project. The reason for the request for the variance is to allow for a 4-story building while still providing adequate room for architectural roof elements consistent with the existing and future development of Cardwell Ranch. A 4-story product will provide a different, but complimentary, housing option within Cardwell Ranch. This land is peculiar in that it is governed by a Planned Development Agreement, and we are required, per the Development Agreement, to adhere to the "Cardwell Ranch Commercial Design Guidelines," which specify a maximum height of 40'. The Master Developer has agreed to this variance, as is evidenced by the signing of the variance request by Charles Yegen.

**Staff: Height** - Staff agrees with the applicants' statement, although there are not any special circumstances that exist in this situation other than the Planned Development Design Guidelines restrict building height to 40 feet. The PD agreement in this case makes allowances for building height and design with a variance approval. Staff agrees that the additional 6 feet would not significantly affect the development or surrounding properties.

**Applicant: Parking** - This particular piece of land is in an ideal location for a more 'urbanized' multifamily development. It is located with walking distance of grocery, entertainment, schools, restaurants, and an MET bus stop. It is in a controlled development in Cardwell Ranch that will ensure the level of quality is maintained. These, among other reasons, provide for a location ideally suited for a more 'urban' development that will be slightly higher end (interior corridor, good amenities, higher end finishes, ample storage available, (the 30' deep garages will end up being a combination of 'in-garage' storage or separated into additional storage). This will cater to a more 'urban' demographic: likely the younger, working-professional, with higher-than-average income, but value the flexibility and mobility of apartment life. This is the demographic more likely to use public transportation, bikes, and walking. The city has expressed the need for this type of housing as one of the 'housing choices' and the Market definitely has this need. The Market Study that we had done shows that this type of development is filling a market need, but that there is still a desire for garages. Applying the code, as written, would lead to a "Sea of Parking", which is contrary to the goals of the city; and it would also render this type of housing financially unviable in this market, essentially, removing this 'housing choice' from the City.

**Staff: Parking** - Planning staff is not in agreement with the applicants' reasoning for a reduction in parking. There are not any special circumstances that exist in this situation. The area surrounding this proposed development contains a developed neighborhood, a church, and Will James Middle School. The traffic in this neighborhood has consistently been a challenge for the neighborhood. Adding the potential for additional overflow on-street parking will exacerbate an already challenging traffic pattern caused by the school and lack of good traffic management on Grand Avenue at the intersection of 30th St West. Staff concurs with the Engineering Division staff concerns there would be an abundance of new overflow parking on the streets in the neighborhood near Will James Middle School. There would be no way for the city to mitigate the overflow parking in the neighborhood unless the neighborhood residents requested the city investigate a permit parking district for the area (City Code Section 24-451 - 452).

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;

**Applicant: Height** - The current plan has been reviewed by the Cardwell Ranch Design Review Committee, and they are in support of our plan and agree that it goes well with the overall development. This project also aligns strongly with the goals of the City of Billings. It will contribute a new and needed element to a developing community in Cardwell Ranch that will provide an interconnected neighborhood, complete with gathering places, parks, and a diversity of housing options. This is a provision of Current Design Guidelines and not necessarily a provision of the Current PUD requirements or similar zones. Since the Design Guidelines are referenced in the PUD, I am told that, technically, a variance is required. Another multifamily development within Cardwell Ranch has also been granted a similar height variance.

**Staff: Height** - Staff agrees with the applicant in that the Design Review Committee has given preliminary approval to the concept. There have not been any multifamily constructed within the PD, but a variance was approved on Lots 2, 3A, 4A, 5,

6A, & 7A, Block 2 in the Cardwell Ranch Subdivision under Variance 1337 in December 2021 to allow multifamily structures able to exceed the maximum height requirements up to 50 feet. Granting this variance allows the applicant to develop at an increased height not commonly enjoyed by others within the PD aside from the above variance. There have been other property outside the Planned Development the Board of Adjustment has granted height variances for in other commercial or multifamily districts where multifamily uses are present (listed in history attachment).

**Applicant: Parking** - The literal interpretation of the Zoning Code, as we have come to find out after many discussions and back and forth with the City Planning and Engineering departments, is contrary to the previously accepted calculations and typical industry standards. This would currently apply to other similar parcels, and would likely require a variance for any higher-end, denser, 'urban' housing development.

**Staff: Parking** - Planning staff is not in agreement. The applicant's site plan shows 406 off-street parking stalls (which includes 79 garage stalls). The garage stalls themselves do not create issues, however the site plan shows stacked parking in front of the garages. These stacked spaces are considered assigned, as they would not be open to all residents. Section 27-1302.B.7 states **surface parking spaces** provided for multiple-unit structures shall not be assigned and shall be available to all residents. The surface parking space fronting the garage is not available to all the residents. Planning staff has not been made aware of any previous parking variance approved by the City Council under the previous parking code that would indicate denial of this variance would deprive the applicant of rights commonly enjoyed by other tracts in the same district. There is some anecdotal indication that some surrounding uses may have provided less than the required parking, but there is no direct evidence of parking variances granted in the area.

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;

**Applicant: Height** - This is not technically a variance of the Zoning Code, but the PUD, which references the Master Development Design Guidelines. Also, as stated above, a similar variance has been granted to an adjacent development.

**Staff: Height** - Staff agrees with the applicants reason. The variance will not allow the applicant any special privileges, a variance has been approved on Lots 2, 3A, 4A, 5, 6A, & 7A, Block 2 in the Cardwell Ranch Subdivision under Variance 1337 in December 2021, to allow multifamily structures to exceed the maximum height requirements up to 50 feet. The development is compatible with surrounding land uses which include a school to the south, a church to the east adjacent to single family residential, a medical office to the west and a commercial shopping center to the north. This area of Grand Avenue and 30th is a diverse area and promotes a walkable community, desirable under the Growth Policy. The property is located within an already approved PD which contemplates a variety of housing choices including multifamily as well as commercial development. Parcels to the east are currently developed as a medical office and commercial retail within the PD. The Cardwell Ranch Architectural Design Committee has reviewed the preliminary design for compliance with the PD design standards. Granting this variance will not confer on the applicant a special privilege because the Board of Adjustment has granted variances to the maximum building height to other land in the same or similar district.

**Applicant: Parking** - The requirement for additional parking in locations where there are dedicated parking stalls is more appropriately applied in locations where there is shared parking between different types of uses with competing parking needs at the same time, like a retail restaurant use next to a multifamily project, both of which would have peak parking needs in the evening. This particular project has a 'contained' parking lot with a low likelihood of someone in one of the adjacent developments crossing a city street, passing through the entrance to our development, passing the large buildings to find a parking stall.

**Staff: Parking** - Staff does not agree with the applicants' reasoning. With the garage stalls, the site plan shows 409 off-street parking spaces with stacked parking and assigned parking. The reasoning for the addition of the 20% penalty was to ensure there would not be overflow on-street parking in adjacent neighborhoods. If the parking spaces in front of the garages were not considered "assigned" (not triggering the 20% requirement) this site would need to have 412 off-street spaces (1.5 X 249 dwelling units (374) + 1 guest space for each 10 residential spaces (38) = 412). The off-street spaces are slightly below this minimum - 406 shown and 412 required. While these numbers are not far apart, the challenging part is that of the 406 proposed spaces 79 are stacked spaces which are assigned and not available to all residents. Additionally, Planning staff reiterates we cannot -- by the Cardwell Ranch PD zoning document -- allow the applicant to count "on-street" parking as part of their required parking. The standard parking code in Sec. 27-1300 allows developers to count on-street spaces to meet part of the minimum required parking. Planning staff is only counting the 406 spaces shown on the site. As mentioned above, 79 of those spaces are "assigned" by virtue of placement in front of the 79 enclosed garage spaces. The 20% penalty for assigning surface parking spaces would result in an additional 81 required spaces for a total of 487 off-street spaces (1.5 X 249 dwelling units (374) + 20% penalty (75) + 1 guest space for each 10 residential spaces (38) = 487). Staff does not support a variance that that would instigate a situation that can not be easily mitigated. In other words, granting this variance would severely limit the City's ability to mitigate overflow parking given the constraints nearby. By approving this parking variance the applicant would be granted a special privilege that is denied by this Chapter to other land in the same district.

4. That the granting of the variance will be in harmony with the general purpose and intent of the Zoning Code and with the Growth Policy;

**Applicant: Height** - This variance will allow for the construction of 4-Story product that will provide for a "choice of

housing options" that will be complimentary to the adjacent multifamily development. It will also allow for a more efficient use of the investment that the city has made on infrastructure and community services for that area.

**Staff: Height** - The variance is in harmony with the general purpose and intent of the zoning regulations under the PD and the growth policy. Approval of this variance would allow the applicant to complete the design of this portion of the planned development. The proposed multifamily development itself is allowed under the PD, the additional height of 6 feet will not have a significant impact on the surrounding properties.

**Applicant: Parking** - This development will be in line with many of the goals of the city, the first of which is providing this desperately needed housing type, contributing to the City's goal of having a variety of housing choices. This project will encourage the use of public transportation as well as walking and biking. This will provide a strong neighborhood with connectivity to the surrounding developments within Cardwell Ranch. This will also provide an opportunity for the City to take advantage of the investment they have made in infrastructure, fire, police and other neighborhood services; as these costs are most efficiently used in denser developments like this as opposed to urban sprawl on the edges of town.

**Staff: Parking** - Staff agrees with the statement provided, however, this is not a reason to believe a reduction in the required off-street parking will be in harmony with the Growth Policy. The area surrounding this proposed development contains a developed neighborhood, a church, and Will James Middle School. The traffic in this neighborhood has consistently been a challenge for the neighborhood and the school. Adding the potential for additional overflow on-street parking will exacerbate an already challenging traffic pattern. A challenging traffic pattern can have safety concerns. The 2016 Growth Policy does identify the need for safe and accessible transportation system.

5. In granting any variance, the Board may prescribe appropriate conditions and safeguards in conformity with the Zoning Code. Violation of such conditions and safeguards, when made a part of the terms upon which the variance is granted, shall be deemed a violation of the Zoning Code.

Staff is recommending the following conditions for the *Height* variance request:

1. The approval is for a variance from Cardwell Ranch PD (Design Guidelines) under Article VI.C.3 requiring a 40-foot maximum height for multifamily structures to allow 46 feet, on Lot 15A, Block 2 Cardwell Ranch Subdivision 1st Filing, a 6.88-acre parcel of land. The purpose of the variance is to allow an increase in maximum height of 46 feet to develop a roof design that complies with the aesthetic intent of the Cardwell Ranch Design. No other variance is intended or implied with this approval.
2. The variance is limited to Lot 15A, Block 2, Cardwell Ranch Subdivision, 1st Filing, located at 1310 30th St. W.
3. A landscaping buffer will be provided on the south property line adjacent to the school property to the south, but pedestrian connectivity is encouraged for residence to access the school and school grounds.
4. The applicant shall meet all other city code requirements as well as Cardwell Ranch Planned Development requirements with the exception of this variance.
5. The applicant will submit a building permit within 3 years of Board approval and complete construction within 5 years of the first building permit approval. Failure to meet these deadlines will void the variance.
6. 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.
7. 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 has proposed a 3-year time limit for submitting a building permit and completion of the entire project within 5 years of the first building permit approval.
8. Under no circumstances shall the Board grant a variance to allow a use not permissible under the terms of this Chapter in the district involved. A variance shall not be a grant of special privilege inconsistent with limitations placed upon other property in the district.

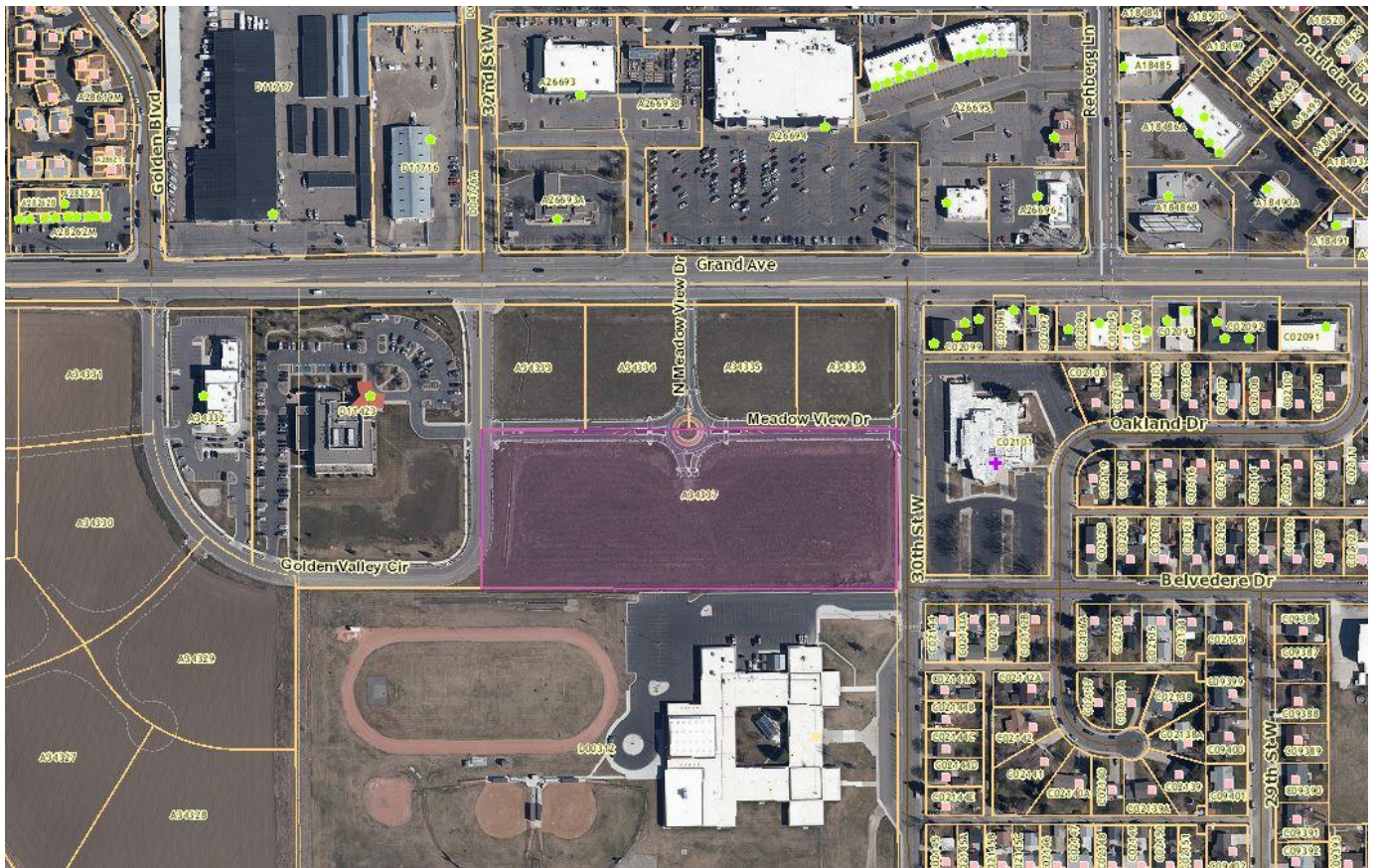
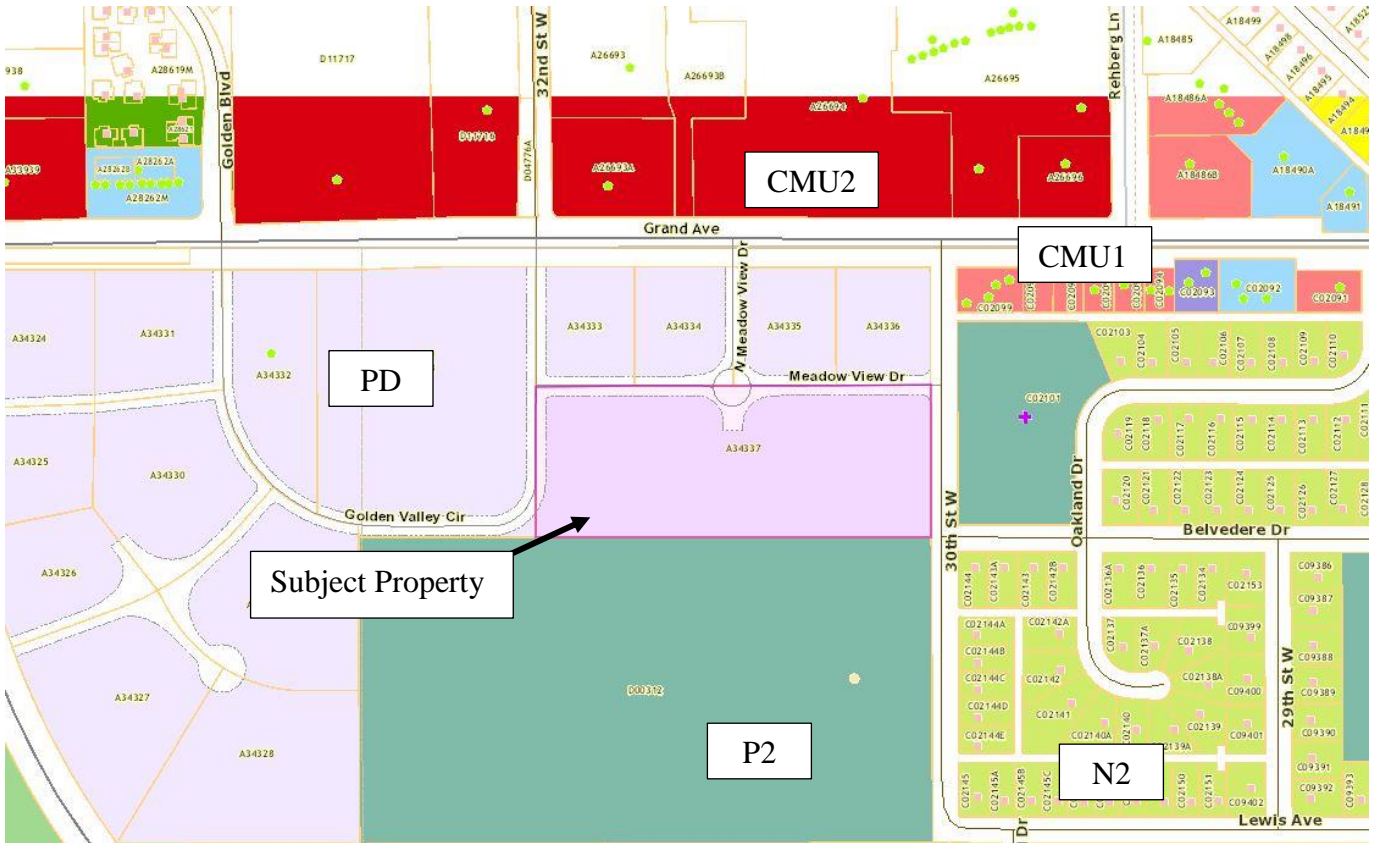
The granting of this variance would not allow a use that is not allowed in the zoning district -- multifamily dwellings are allowed in the PD.

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## Attachments

Zoning Map & Site Photos  
Application & Applicant Letter  
Site Plan  
Chart of zoning History  
Public Works Comments  
Property Owner letter  
Design Committee Letter  
Parking survey of surrounding property  
ITE Parking Demand for Similar Multifamily development

Variance 1346





Looking West from 30<sup>th</sup> St



South



Looking North on 30<sup>th</sup> St.



Looking West across the south of the property



Looking North from the North side of the parcel



Looking East from the North side of the parcel



Looking South Across the parcel toward the School

Application & Applicant Letter

APPLICATION FORM

CITY VARIANCE

ID: Billings Variance # 1346 - Project # PZX-22-00114

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 # A34337 CITY ELECTION WARD # 5

Legal Description of Property: CARDWELL RANCH SUB 1ST FILING (10), S01, T01 S, R25 E, BLOCK 2, Lot 15A, AMD (18)

Address or General Location (If unknown, contact City Engineering): 1310 30th St West, Billings MT, 59102

Zoning Classification: PD-Planned Development

Size of Parcel (Area & Dimensions): 6.88 AC

Covenants or Deed Restrictions on Property: Yes X No

If yes, please attach to application

Variance(s) Requested: Maximum Height of Buildings to be 45 feet and to allow garages to count as parking with stacked spaces in front and to waive the 20% increase for dedicated stalls.

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): YEGEN GRAND AVE FARM INC (Recorded Owner) PO BOX 959 BILLINGS, MT 59103

(Address)

(Phone Number) (email)

Agent(s): Steward Land Holdings LLC

(Name) 1708 E 5550 S Ste 18 Ogden, UT 84403

(Address) (801) 309-0399 brad@stewardland.com

(Phone Number) (email)

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

Signature: [Handwritten Signature] - Recorded Owner Date: 5-2-22

Date Stamp



Dear Chairperson,

Our intention is to build a high-end apartment project within the Cardwell Ranch Project as shown in the attached site plan. It is our opinion that this particular location is ideal for a higher-end, 'legacy' project.

We are requesting a variance on the allowable maximum building height and for an adjustment in the interpretation of the parking code.

#### **Height Variance**

The current PUD ordinance has a height limit of forty-five (45) feet from ground level. The current Design Guidelines, which are referenced as a requirement in the ordinance, have a maximum height for multifamily residential buildings of forty (40) feet. We are requesting an adjustment to the Design Guidelines to allow up to forty-five (45) feet.

The reason for the request for the variance is to allow for a 4-story building while still providing adequate room for architectural roof elements consistent with the existing and future development of Cardwell Ranch. A 4-story product will provide a different, but complimentary, housing option within Cardwell Ranch. This project will be complete with interior corridor, elevator service, upgraded amenities and finishes, all of which are not justified or are at least limited on a three-story project.

The current plan has been reviewed by the Cardwell Ranch Design Review Committee, and they are in support of our plan and agree that that it goes well with the overall development.

This project also aligns strongly with the goals of the City of Billings. It will contribute a new and needed element to a developing community in Cardwell Ranch that will provide an interconnected neighborhood, complete with gathering places, parks, and a diversity of housing options.



### **Parking Variance**

The interpretation of current parking code or 'Recode' as it has been called, is calling for a 20% increase in parking for having dedicated parking spaces, and is not allowing stacked parking spaces or including the garage stalls in the parking calculations.

When we originally went under contract on this property and started designing, our design professionals used, what we were under the impression was the current design standards, which seemed adequate and inline with current industry standards.

Our current design includes 409 stalls (including 79 garages), which would equate to a parking ratio of 1.64 stalls/unit. If we were to have the recommended 482 stalls, that would be a parking ratio of 1.93 stalls/unit without counting the garages. If we also had 79 garages, that would be a total of 2.25 stalls/unit, which is well above the industry standard and would lead to a "sea of parking" that cities typically try to avoid.

We had a Market Study done by Western States Multifamily in which they analyzed the Billings market and they stated that our "proposed parking ratio of 1.7 stalls per unit... is deemed to be adequate of the market." The market study was done early on in our design process and we discussed parking ratio at length with them as we revised our plan, getting their approval along the way. They further did a comparison of other similar projects throughout the city and found most of them to have parking ratios between 1.52 and 1.68 stalls per unit.

The Cardwell Ranch project is unique in that it within walking distance of a host of services including grocery, entertainment, schools, restaurants, and an MET bus stop.



**Suggested Optimal Parking**

<b>PARKING PROVIDED AT COMPETING APARTMENT PROJECTS</b>						
<b>Project</b>	<b>Units</b>	<b>Total Parking Stalls</b>	<b>Parking Ratio (Stalls / Unit)</b>	<b>Garages</b>	<b>Carports</b>	<b>Uncovered</b>
<b>Avenue C</b>	<b>126</b>	<b>192</b>	<b>1.52</b>	<b>65 (0.52)</b>	<b>-</b>	<b>137 (1.09)</b>
<b>InterPointe Apartments</b>	<b>160</b>	<b>269</b>	<b>1.68</b>	<b>120 (0.75)</b>	<b>-</b>	<b>149 (0.93)</b>
<b>InterUrban Apartments</b>	<b>216</b>	<b>339</b>	<b>1.57</b>	<b>168 (0.78)</b>	<b>-</b>	<b>171 (0.79)</b>
<b>Hunter's Pointe</b>	<b>204</b>	<b>328</b>	<b>1.60</b>	<b>50 (0.25)</b>	<b>152 (0.75)</b>	<b>126 (0.62)</b>
<b>Affinity at Billings (55+)</b>	<b>154</b>	<b>269</b>	<b>1.75</b>	<b>85 (0.55)</b>	<b>54 (0.35)</b>	<b>130 (0.84)</b>

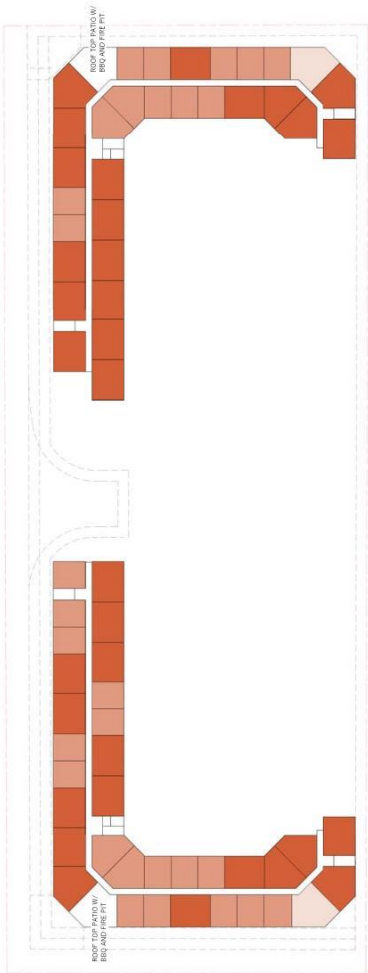
The competing projects above offer between 1.52 and 1.75 parking stalls per unit. Excluding Affinity at Billings, the parking ratios are consistent, ranging from 1.52 to 1.68 stalls per unit.

Garage parking is offered by each of the projects listed above. The most modern projects above (excluding Hunter's Pointe) typically offer garage stalls for 52% to 78% of each project's total unit count. Only two projects offer carport stalls.

A parking ratio of 1.50 stalls per unit is required as per zoning and appears to be adequate considering parking ratios at other comparable apartment projects. It is suggested that the project include detached garage stalls for one-third of units and a carport stall for each unit.

As proposed, the subject will provide parking as follows

The reason for the request for a variance in the interpretation of the parking requirement is that it is contrary to previously accepted calculations and typical industry standards. By not allowing the inclusion of the garage space and the stacked parking space in front of the garage as well as assessing a 20% penalty, the costs for this type of structure and desperately needed housing type becomes prohibitive in the market thus rendering a normally amenitized apartment product potentially unviable. We respectfully request that you review the interpretation of the regulation and, if necessary, grant a variance.



2 SITE FEASIBILITY LEVEL 4  
1" = 30' 0"



3 SITE FEASIBILITY  
1" = 30' 0"



C1.1  
 SITE FEASIBILITY  
 CARDWELL RANCH APARTMENTS  
 MARCH 18, 2022  
 (801) 936-1343

45 E. CENTER STREET STE 202, NORTH SALT LAKE, UTAH 84054 | 849 W. HILL FIELD RD. STE. 200 LAYTON, UT 84041 | 150 N. MAIN STREET STE. 101 HEBER CITY, UT 84032



# EXHIBIT A PRELIMINARY SITE PLAN

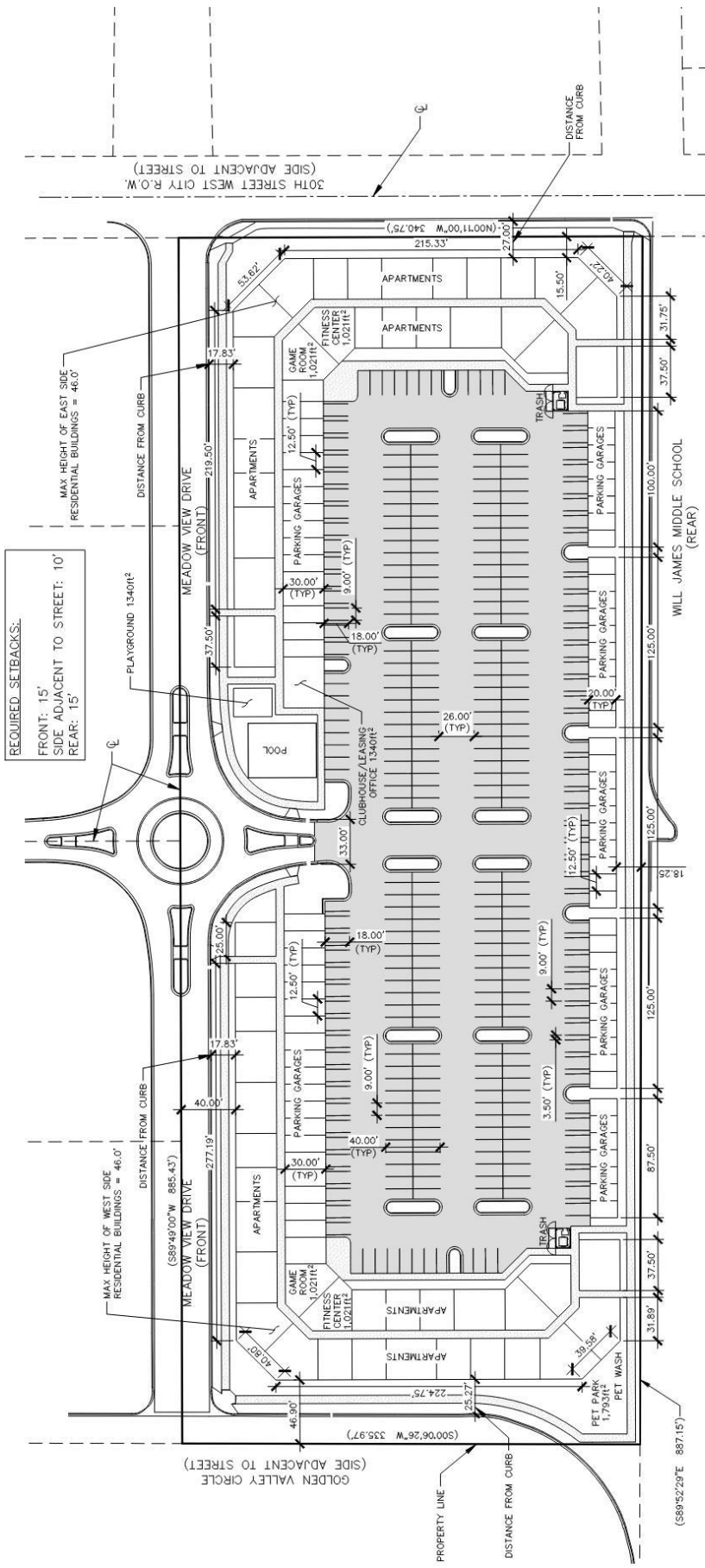
WITHIN

LOT 15A, BLOCK 2, CARDWELL RANCH SUBDIVISION

PREPARED FOR : BILLINGS BOARD OF ADJUSTMENTS



APRIL, 2022  
BILLINGS, MONTANA



### BREAKDOWN OF RESIDENTIAL UNIT SQUARE FOOTAGE

1 BEDROOM APARTMENT (750 ft <sup>2</sup> )	110 UNITS	82,500 ft <sup>2</sup>
2 BEDROOM APARTMENT (1,180 ft <sup>2</sup> )	125 UNITS	147,500 ft <sup>2</sup>
3 BEDROOM APARTMENT (1,298 ft <sup>2</sup> )	14 UNITS	18,172 ft <sup>2</sup>
<b>TOTAL</b>	<b>249 UNITS</b>	<b>248,172 ft<sup>2</sup></b>

### PARKING SPACE REQUIREMENTS

PARKING BASED ON CITY OF BILLINGS  
PARKING ORDINANCE AT  
1.5 SPACE PER DWELLING UNIT +  
1 SPACE PER 10 UNITS

### SPACES REQ'D

399 SPACES

### BREAKDOWN OF SPACES PROVIDED

GARAGE SPACES	79 SPACES
ASSIGNED SURFACE SPACES (SPACES IN FRONT OF GARAGES)	79 SPACES
SURFACE PARKING (NOT ASSIGNED)	248 SPACES
STREET PARKING	19 SPACES
<b>TOTAL PARKING PROVIDED</b>	<b>425 SPACES</b>

<b>SUBJECT PROPERTY</b>	<b>VARIANCE #</b>	<b>DATE</b>	<b>FOR</b>	<b>APPROVED (Y/N)</b>	<b>ADDITIONAL DATA</b>
None					
<b>SURROUNDING PROPERTY</b>	<b>VARIANCE #</b>	<b>DATE</b>	<b>FOR</b>	<b>APPROVED (Y/N)</b>	<b>ADDITIONAL DATA</b>
Cardwell Ranch, Lots 2-7A, Block 2	1337	12/1/21	Height 50'	Y	Cardwell Ranch East 80
2225 Overland Ave	1306	3/4/2020	Height 55'	Y	Marriott Hotel height from 45' to 55'
Lenhardt Square COS 2063	1282	5/2/2018	Height 46'	Y	Apartment height from 34' to 46'
3933 Central Ave	1254	3/1/2017	Height 50'	Y	Shiloh Commons (apts/+commercial) building height from 45' to 50'
5650 Canyonwood Dr	1180	4/2/2014	Height 48'	Y	Residential Home from 34' to 48' in R9600
5720 South Frontage Rd	1148	5/1/2013	Height 49'	Y	LaQuinta Inn, from 45' to 49'
1101 Shiloh Crossing Blvd-Scheels	1112	12/7/2011	Height 87' and Wall Sign Size 544 sq ft	Y	Building height from 70' to 87' and wall sign size from 250 sq ft to 544 sq ft
C/S 3030, Ironwood Subdivision	891	2/4/2003	Height 48'	Y	Residential homes from 30' to 48' in R9600
342 Morningside N	821	8/1/2000	Height 35'	Y	Condo unit height from 30' to 35'
COS 2505, south of Hi-Line Ditch, north of Big Ditch, between 43 <sup>rd</sup> & 46 <sup>th</sup> St	781	10/7/1998	Height 36'	N	Structure height from 30' to 36'



# City of Billings

PUBLIC WORKS DEPARTMENT

*Engineering Division*

2224 Montana Avenue

Billings, Montana 59101

Office (406) 657-8231

Fax (406) 237-6291

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## Memorandum

To: Monica Plecker, Planning Division Manager

From: Chris Hertz, Staff Engineer III

Date: May 19, 2022

Re: City Variance #1310

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Our office has reviewed the parking variance request for the proposed multi-family complex located at Meadow View Drive and 30<sup>th</sup> Street West. Our office recommends denial of the parking variance for the following reasons:

- The applicant is showing 409 parking stalls (which includes 79 garage stalls). The garage stalls themselves do not create issues, however the site plan shows stacked parking in front of the garage. These stacked spaces are considered assigned, as they would not be open to all residents. Section 27-1302.B.7 states parking spaces provided for multiple unit structures shall not be assigned and shall be available to all residents. The parking space fronting the garage is not available to all the residents.
- The stacked, assigned parking spaces in front of the garage require the applicant add 20% to the parking requirements. This equates to 482 stalls being required. With the garage stalls, they are showing 409 stalls with stacked parking and assigned parking. The reason the 20% was put in place is since the right of way cannot bear the overflow parking. If the stalls in front of the garages were not counted, thereby not triggering the 20% requirement, this site would have 330 stalls with 399 parking stalls required. This still leaves a shortfall of approximately 69 stalls.
- The area surrounding this proposed development contains a developed neighborhood, a church, and Will James Middle School. The traffic in this neighborhood has consistently been a challenge for Public Works. Adding overflow on-street parking will exacerbate an already challenging traffic pattern.
- If the site is approved as is, our office feels there would be an abundance of overflow parking on the streets in the nearby neighborhood near Will James Middle School. There would be no way to mitigate the overflow parking in the neighborhood.

## Husman, Karen

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**From:** Brenna Weaver <Brenna@pyegen.com>  
**Sent:** Monday, May 2, 2022 4:36 PM  
**To:** Brad Brown  
**Cc:** Charles Yegen  
**Subject:** Cardwell ranch  
**Attachments:** 20220502164659406.pdf

Brad,  
Attached please find the signed variance application.  
As we discussed, the 40 foot limitation is important and we are willing to move forward with this application signature, but will not grant design review committee approval until we've had the chance to review your renderings and architectural plans. 45 will be the absolute maximum allowed and it must be handled with great care and consideration. We do agree with you that reflecting the prior parking code and not requiring the additional stalls is appropriate.  
Thanks,  
Brenna

Sent from my iPhone

Begin forwarded message:

**From:** Charles Yegen <Chas@pyegen.com>  
**Date:** May 2, 2022 at 4:31:29 PM MDT  
**To:** Brenna Weaver <Brenna@pyegen.com>  
**Subject:** FW: Message from "RNP58387914EAA9"

Hi Brenna,

This is a leap of faith and although I have signed this the folks need to understand that the cart is ahead of the horse in that there have been no final approvals by the DRC. Should that not happen we will have to revisit this situation and at that time this application approval will need to be withdrawn.

## Husman, Karen

---

**From:** Brenna Weaver <Brenna@pyegen.com>  
**Sent:** Wednesday, April 20, 2022 12:32 PM  
**To:** Brad Brown; Sky Hazlehurst  
**Cc:** 'Brian McDonald'; Targee Tomisin; Chris Haak; Charles Yegen; Patterson Yegen  
**Subject:** Re: Cardwell Ranch  
**Attachments:** Cardwell Ranch Light Pole.pdf

Hello all,

Thank you for taking the time to meet with us yesterday. Zoom isn't always ideal, but it was certainly a great opportunity to chat with your team and put "faces" to the names.

Please consider this as preliminary approval for the information submitted thus far for your pending purchase of Lot 15A at Cardwell Ranch. We think your project will be a wonderful part of the Development of Cardwell Ranch and we appreciate your diligent and conscientious approach to the Billings Community as a whole and our development in particular.

We have chosen Southern LedgeStone, Chardonnay as the preferred type of cultured stone for our monument signage. I hope this gives you the opportunity to see what our ideas are for the aesthetic direction our vision. <https://www.culturedstone.com/products/southern-ledgestone#chardonnay>

I'll get the lighting specs forwarded to you as well.

Please feel free to reach out if we can be of further assistance.

Best,  
Brenna



### Southern LedgeStone - Cultured Stone

Cultured Stone Southern LedgeStone brings visual interest to structures with stone of various shapes in blends of natural colors. They can be tight-fitted or mortared to achieve a number of unique treatments. Great for outdoor accents and indoor touches.

[www.culturedstone.com](http://www.culturedstone.com)

*Brenna Yegen Weaver  
Broker Associate  
Peter Yegen, Jr. Inc.*

211 N. 30th Billings, MT 59101  
406-252-0163 Extension 111

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**From:** Brad Brown <Brad@stewardland.com>  
**Sent:** Wednesday, April 13, 2022 4:18 PM  
**To:** Sky Hazlehurst <Sky@stewardland.com>; Brenna Weaver <Brenna@pyegen.com>  
**Cc:** 'Brian McDonald' <bmcDonald@naibusinessproperties.com>; Targee Tomisin <targee@stewardland.com>; Chris Haak <chaak@sandersonstewart.com>  
**Subject:** RE: Cardwell Ranch

Brenna,

Attached are the architectural and civil site plans for your review. We have worked with local real estate agents, we have taken advice from the city staff, and we have done a market study for the area and this property specific. We feel like we have a product that is appropriate for the area and the market demands, and we also designed it to complement and not compete directly with the other project that is being done nearby. It is our understanding that we will need to get a height variance. We have hired Sanderson Stewart as the civil but also to be the boots on the ground and cover local meetings.

We are available between 11 and 2:30 on Monday or after 12 on Tuesday. Let me know which would work for everyone.

Also, I have never done one of these, could you give me an idea what to expect?

Thanks



**Brad Brown** *Managing Partner*  
1708 E. 5550 S. STE 18 Ogden, UT 84403  
O: 801.590.0980 M: 801.309.0399  
[StewardLand.com](http://StewardLand.com)

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**From:** Sky Hazlehurst <Sky@stewardland.com>  
**Sent:** Wednesday, April 13, 2022 3:17 PM  
**To:** Brenna@pyegen.com  
**Cc:** Brad Brown <Brad@stewardland.com>; 'Brian McDonald' <bmcDonald@naibusinessproperties.com>; Targee Tomisin <targee@stewardland.com>  
**Subject:** Cardwell Ranch

Brenna, hope all is well. We have been pressing our civil engineer (Sanderson Stewart) to schedule a DRC meeting for the last 2 or 3 weeks. I'm not sure if they have reached out to the appropriate person yet? We really need to get this meeting set before our DD deadline. That meeting will determine if we can let our DD deposit go non-refundable. Can you please get me in touch with the appropriate contact to make this DRC happen? Feel free to call or email my partner Brad, he will be presenting at the DRC. Thank you for the help! Brad is CCd here and his cell is 801.837.2020.



**Sky Hazlehurst** *Managing Partner*  
1708 E. 5550 S. STE 18 Ogden, UT 84403  
O: 801.590.0980 M: 801.837.2020  
[StewardLand.com](http://StewardLand.com)

### Off street Parking facts – Cardwell Ranch PD

Name	Location	Year constructed	Square ft of building GFA or number of DU	Number of off-street spaces	Number required – previous code	Number required – new code
Frontier Cancer Center	1315 Golden Valley Circle	2009	36,664 sf	160	1/200gfa = 182	1/350 gfa = 105
Icon Apt	Sweetgrass Dr	TBD	326 du	658 (96 garage spaces) 2.02/du	426 (1 /1bd unit; 1.5/=>2 bd unit) approximate	503 = 1.5/unit + 1 guest per 10 units
City Vineyard City Brew BodyRok	1335 Golden Valley Circle	2016	8,000 sf 1,290 sf 900 sf	78	80 Total = 106 17 9	54 Total = 70 13 3

Cardwell Ranch PD does not allow on-street spaces to “count” towards required off-street parking.

### Off-street parking facts for surrounding established multi-family developments

Name	Location	Year constructed	Square ft of building GFA or number of DU	Number of off-street spaces	Number required – previous code	Number required – new code
Country Meadows Apt	1660 & 1550 Country Manor Blvd	1998/1999	132 du	228	175	212
Wheatbaker Apt	1550 41 <sup>st</sup> St W	2016	86 du	200	129	138
Rock Creek Apts	2323 32 <sup>nd</sup> St W	1977 & 1984	80 du	156	Unk	128
Boulder Apts	3031 Boulder Ave	1978	19 du	48	Unk	31
Mountain View Apts	3011 Boulder	2000	16 du	44	Unk	26

## Land Use: 221 Multifamily Housing (Mid-Rise)

### Description

Mid-rise multifamily housing includes apartments, townhouses, and condominiums located within the same building with at least three other dwelling units and with between three and 10 levels (floors) of residence. Multifamily housing (low-rise) (Land Use 220), multifamily housing (high-rise) (Land Use 222), and affordable housing (Land Use 223) are related land uses.

### Time of Day Distribution for Parking Demand

The following table presents a time-of-day distribution of parking demand on a weekday (one general urban/suburban study site), a Saturday (two general urban/suburban study sites), and a Sunday (one dense multi-use urban study site).

Hour Beginning	Percent of Peak Parking Demand		
	Weekday	Saturday	Sunday
12:00–4:00 a.m.	100	100	100
5:00 a.m.	94	99	–
6:00 a.m.	83	97	–
7:00 a.m.	71	95	–
8:00 a.m.	61	88	–
9:00 a.m.	55	83	–
10:00 a.m.	54	75	–
11:00 a.m.	53	71	–
12:00 p.m.	50	68	–
1:00 p.m.	49	66	33
2:00 p.m.	49	70	40
3:00 p.m.	50	69	27
4:00 p.m.	58	72	13
5:00 p.m.	64	74	33
6:00 p.m.	67	74	60
7:00 p.m.	70	73	67
8:00 p.m.	76	75	47
9:00 p.m.	83	78	53
10:00 p.m.	90	82	73
11:00 p.m.	93	88	93

## Additional Data

In prior editions of *Parking Generation*, the mid-rise multifamily housing sites were further divided into rental and condominium categories. An investigation of parking demand data found no clear differences in parking demand between the rental and condominium sites within the ITE database. As more data are compiled for future editions, this land use classification can be reinvestigated.

The average parking supply ratios for the study sites with parking supply information are shown in the table below.

Setting	Proximity to Rail Transit	Parking Supply Ratio	
		Per Dwelling Unit	Per Bedroom
Center City Core	Within ½ mile of rail transit	1.1 (15 sites)	1.0 (12 sites)
Dense Multi-Use Urban	Within ½ mile of rail transit	1.2 (39 sites)	0.9 (34 sites)
	Not within ½ mile of rail transit	1.2 (65 sites)	0.8 (56 sites)
General Urban/Suburban	Within ½ mile of rail transit	1.5 (25 sites)	0.8 (12 sites)
	Not within ½ mile of rail transit	1.7 (62 sites)	1.0 (39 sites)

The sites were surveyed in the 1980s, the 1990s, the 2000s, and the 2010s in California, Colorado, District of Columbia, Maryland, Massachusetts, New Jersey, New York, Oregon, Virginia, Washington, and Wisconsin.

*It is expected that the number of bedrooms and number of residents are likely correlated to the parking demand generated by a residential site. Parking studies of multifamily housing should attempt to obtain information on occupancy rate and on the mix of residential unit sizes (i.e., number of units by number of bedrooms at the site complex). Future parking studies should also indicate the number of levels contained in the residential building.*

## Source Numbers

21, 209, 247, 255, 277, 401, 402, 419, 505, 512, 522, 533, 535, 536, 537, 538, 545, 546, 547, 575, 576, 577, 579, 580, 581, 583, 584, 585, 587

**CITY BOARD OF ADJUSTMENT**

MINUTES May 4, 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	-	1	E	E								
Dave Hagstrom	Member	1	-	1	1	1								
George Warmer	Member	-	-	1	1	1								
Jeff Bollman	Vice Chair	P	-	1	1	E								
Oscar Heinrich	Chair	1	-	1	1	1								
Chris Hayes	Member	-	-	-	1	1								
Josh Sayer	Member	-	-	-	1	1								
<b>TOTAL NUMBER OF APPLICATIONS 2022</b>		<b>01/05/2022</b>	<b>02/02/2022</b>	<b>03/02/2022</b>	<b>04/06/2022</b>	<b>05/04/2022</b>	<b>06/01/2022</b>	<b>07/06/2022</b>	<b>08/03/2022</b>	<b>09/07/2022</b>	<b>10/05/2022</b>	<b>11/02/2022</b>	<b>12/07/2022</b>	<b>TOTAL</b>
<b>Variance</b>		<b>2</b>	<b>-</b>	<b>3</b>	<b>1</b>	<b>*2</b>								<b>7</b>

- 1 Returning variance

Chair Heinrich called the meeting to order at 6:00 p.m.

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

**Attending:** Josh Neibauer, Bill Starr, Steve Bullock, Andy Daleioen, Jenifer McRae, John Ellingsen, Sean Anderson, Brian Whelen, Travis Dennison, Brandie Robbins, Adela Awner

**Public Comment**

Chair 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 March 2, 2022 and April 6, 2022. Approved.

Board member Hayes indicated Exparte communication regarding Variance # 1343 and recused himself from the voting.

Chair Heinrich and Board member Hayes visited the sites.

Board member Hayes expressed a conflict of interest regarding Variance # 1343.

### **Public Hearings**

**Return Item - City Variance 1343 – 3840 Zoo Drive – Parking Siting** - A variance from Section 27-409 requiring surface area parking located to the side and rear of the principal structure, to allow parking in the front of the principal structure in a Heavy Commercial (CX) zone, on Lots, 4 – 8 and 9A, Block 2, Shiloh Business Park Subdivision, a 24.91-acre parcel of land. The purpose of the variance is to allow the development of a new Costco facility. Tax ID: C13936, C13937, C13938, C13939, C13940 and C13941

### **Recommendation:**

Planning Staff is recommending conditional approval based on draft findings of the review criteria for variances:

- 1) There is a hardship with the property that is not applicable to other lands in the same district. The Canyon Creek Ditch cross the northwest corner of the property limiting the ability to place structures close to or across the ditch. While the encumbered area of the property is small, its effect on a development of a 166K+ warehouse building, fueling facility and a future MDO addition are large, given the CX zone requirement for parking location.
- 2) Denying the variance would not deprive this owner of similar rights enjoyed by others in the area. This is a variance of first impression under the new code provisions in Billings. Other property in the area was developed under the previous code that allowed surface parking lots in any yard and of any size. This is a right commonly enjoyed by other properties but these rights are now considered legally nonconforming. Changing zoning regulations always creates some legally nonconforming uses or site development standards for prior projects. The applicant analyzed each alternate proposed or suggested by staff and has proven the proposed site plan balances the intent of the parking siting requirement and the safety and efficiency of the Costco development. Mitigation measures are proposed.
- 3) **Granting the parking siting variance will not confer a special privilege** to this applicant. Any variance has the potential to grant a special privilege to an owner. Based on the analysis of several site plans, the site constraints and proposed mitigation, staff believes a special privilege will not be granted in this case. This finding is limited to this case and these particular circumstances and should not be taken as a precedent for reviewing future parking siting requests for variance.

**4) Granting the variance will be in harmony with the purposes of zoning and growth policy.**

Granting this variance recognizes the value of the current zoning requirement for placing parking to the side or rear of building by providing mitigation measures. The Zoning regulations also recognize the need to provide relief from regulations that may create unnecessary hardship based on site constraints.

**5) In granting the variance the BOA may impose appropriate conditions.** Planning staff recommends the following conditions:

- 1) Variance is to allow up to 535 surface parking spaces in the front yard based on re-submitted site plans – *Costco suggested edits to this condition are acceptable to staff*
- 2) The variance is limited to Lots 4-8 and Lot 9A of Block 2 Shiloh Business Park Sub Amended – *Staff prefers this legal description as it encompasses all the lots.*
- 3) Provide ground markings for two safe pedestrian pathways from Zoo Dr to the warehouse building
- 4) Install gazebos and pavilions as shown on the Concept Landscape Plan at the Zoo Dr street frontage
- 5) No evergreen or conifer trees in the street frontage landscaping, lowest branch height at installation is 8 feet. Concept Landscape Plan is starting basis for final design.
- 6) No outdoor announcement system audibles beyond property lines.
- 7) Apply for building permit within 2 years and complete project within 5 years - *Costco suggested edits to this condition are acceptable to staff*
- 8) Any structures not shown on site plan will comply with all zoning requirements and other city regulations – *Costco suggests eliminating this condition as unnecessary*
- 9) All other city zoning regulations and city ordinances except for the granted variance will apply to the project - *Costco suggests eliminating this condition as unnecessary*
- 10) Failure to begin or complete as required will void the variance
- 11) All conditions apply to this owner and any future owners/managers/lessees, assigns - *Costco suggested edits to this condition are acceptable to staff*

**6) A time limit for action on the variance shall be prescribed.**

See condition No. 7 above

**7) No variance may allow a use not otherwise allowed** or be inconsistent with other limits on uses in the district. The proposed use – Costco Warehouse, Fueling Facility and future MDO – are all allowed uses in the CX zone district

# Costco Proposed Landscape and Mitigation

Nicole Cromwell, Zoning Coordinator  
City of Billings  
Planning & Community Services Department -7-

April 26, 2022

## IV. Providing a Safe and Attractive Pedestrian Connection from Zoo Drive:

The site plan is updated to include a pedestrian connection from the multi-use path along Zoo Drive, which travels south between the fuel facility and the northern parking pod until it connects with the ADA parking area north of the warehouse entrance. As described above, the area along Zoo Drive will be treated with enhanced landscaping to provide a comfortable setting for pedestrians. As the path travels through the parking area toward the warehouse entrance, it will be delineated using bold line striping for drive aisle crossings and concrete for areas passing between parking stalls. This creates an easily visible path of travel for both pedestrians and motorists passing through the site.

Previously recommended conditions regarding the ADA parking location, and site lighting have not been included in this set of recommended conditions. Costco has adequately addressed these issues in the April 26, 2022 supplemental information provided (pages 7 and 8).

## V. Review Options to Improve ADA Pedestrian Safety at the Warehouse Entrance, including Setback of the Driveway:

After consideration of alternate driveway and ADA stall locations, the existing layout along with pedestrian safety enhancements such as bold ground striping and additional signage remains the preferred design. As discussed in the operational description, the drive aisles that travel along the building frontage is separated from the back-lead aisles circulation, meaning that members using this route are likely to be traveling at slower speeds, searching for parking or dropping someone off at the entrance rather than trying to pass through the site. Additionally, the presence of a busy, clearly delineated pedestrian area is likely to deter any drivers looking to quickly pass through the area.

Relocating the ADA stalls against the building frontage eliminates a circulation drive aisle that is included in the current design, resulting in an increased confidence of passing back-lead aisles directly in front of the warehouse entrance. This would cause increased congestion between pedestrians and vehicles circulating through the most desirable parking area on the property. In addition to creating a separate circulation aisle away from the main entrance, the current ADA parking carcase creates a refuge for the pedestrian connection to Zoo Drive.

The proposed location of the ADA stalls is prototypical for Costco and was designed by observing and reviewing feedback on current locations. Additionally, the ADA parking layout and pedestrian areas are designed in compliance with the 2010 ADA Standards for Accessible Design. We find that the proposed design works well in other locations and anticipate that it will also work well at the proposed location in Billings.

## VI. Parking Lot Lighting Pole Height:

External lighting for the warehouse and fuel canopy signage will be wall-mounted down-facing flat lens LED fixtures. Costco's standard silencing-to lighting has been developed over many years with an eye toward sustainability through the reduction of raw materials and on-energy usage. As a result, they have developed a standard site lighting pole that is 30 feet in diameter and uses high efficiency LED fixtures. City staff proposed a Council of Approval, should the variance be granted, limiting the parking lot pole height to 20 feet. Enclosed are two photographic exhibits showing a comparison of light levels between Costco's standard pole height and the proposed conditional height. Both options are equally efficient in limiting light spill and glare onto adjacent streets and properties. However, Costco's standard lighting design only requires 44 poles and 97 fixtures, as opposed to 102 poles and 100 fixtures, which would be required based on the City's conditional height limit. Costco's standard design would

Nicole Cromwell, Zoning Coordinator  
City of Billings  
Planning & Community Services Department -8- April 26, 2022

allow for a 56 percent reduction in materials and a 36 percent reduction in energy use for the site.

## VII. Provide Explanation for Costco's Materials:

The current Costco facility in Billings is undersized, has a poor parking area with narrow drive aisles, no back-lead lanes, and grades that make it difficult to maneuver Costco shopping carts. In addition, the current location does not allow for the ability to expand and add a MDO facility, which will be a critical part of Costco's future business operations. Due to the current physical limitations of the existing Costco location, the existing development regularly experiences parking deficiencies, congestion, and internal circulation issues associated with an inefficient, non-standard layout. Specifically, the existing Costco building located on King Avenue includes 591 parking stalls and is located within a shopping center where on-site parking is shared with adjacent retail tenants. The main internal drive aisle between 50th Street West and King Avenue West also passes directly in front of the warehouse house entrance, where it also intersects with another drive aisle between the commercial areas to the east, and eventually Grant Road. As a result, the area in front of the warehouse entrance regularly experiences large volumes of vehicles interacting with a busy pedestrian area, creating congestion and increasing the risk of potential conflicts. The new project allows Costco to improve the efficiency, safety, and capacity of its operations.

We believe that the above responses, together with the enclosed revised plans, landscape perspectives and alternate layout analysis exhibits address the feedback received from both the Staff Report and our subsequent discussions, and demonstrate the key considerations Costco made in meeting the intent of the Heavy Commercial design standards. This variance request is the minimum necessary deviation from the City parking utility Code in order to allow the project to meet the Costco's operational requirements within the constraints of the site. Based on the additional materials and narrative responses provided in this letter, we believe staff are justified in supporting this variance request. If you have questions or need additional information, please do not hesitate to contact me at (426) 251-6222. Thank you.

Sincerely,  
Sean Anderson, ADP  
Senior Planner

## Questions for staff:

Chair Heinrich asked staff if this was setting precedence for anyone else. Staff replied explaining the "neighborhood manners" listed in the commercial code. ADA parking was also addressed, placing it in a safe zone in front of the building and meeting all ADA specifications.

## Public Hearing opened at 6:35PM

## Applicant:

## John Ellingsen, 999 Lake Drive, Issaquah, Wa. 98027

Also in attendance are Brian Whelan, Steve Bullock, Andy Daleioen, Sean Anderson and Jeff Schumacher via Zoom.

## EXISTING SITE

- Facility in place for 30-years; Costco has outgrown the location
- Smaller building (142,000 Sq. Ft.)
- Limited exclusive parking with narrow drives
- Site access and circulation creates confluence of vehicular activity at warehouse entrance
- No room for future Market Delivery Operation



This 30 year old design has taught us many things about how to improve circulation and parking. Parking is paramount. All surrounding neighbors are in support of this plan.

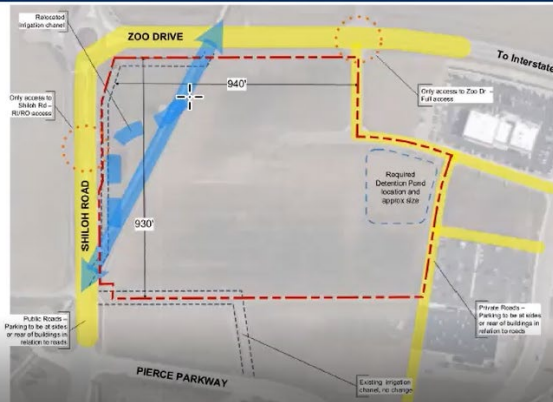
## VARIANCE REQUEST

- In order to relocate within Billings
- Develop a parcel that has unique constraints making strict adherence to the Code infeasible
- Allow Costco to develop a new site that improves the safety, efficiency and capacity of its operations
- Implementing this plan is supported by all immediately surrounding neighbors

**Barghausen Consulting Engineers, Inc – Sean Anderson, agent**  
**18215 72<sup>nd</sup> Avenue South Kent, WA 98032**

## SITE CONSTRAINTS

- Constraints due to the irrigation canal running through the land;
- Fixed access points to surrounding streets that impact internal drive design;
- Known future expansion must be accommodated;
- Existing drainage infrastructure limits design options



The ditch can be relocated and piped to unlock the corner for future needs. There are fixed access points. Staff alternatives would not allow MDO drainage infrastructure. Costco is a 46-year-old business with 572 warehouses in the US and more than 800 warehouses globally. The suggested layout will provide the best way to address all constraints with a minimum variance. The traffic will be kept away from the front of the warehouse. The ideal Costco prototype is to fan parking across the front of the building. The fuel facility must be located in view of the warehouse but separate from the warehouse. We have added features to mitigate parking in the front. A multiuse path and gazebo, also enhanced landscape on Zoo MT route to Riverfront Park. We will use tree species that are acclimated to the area. Landscaping will allow natural observation and enhance pedestrian safety. There will be bold pedestrian striping and an ADA parking pod.

# Costco's Proposal



## DEVELOPMENT ENHANCEMENTS



John Ellingson concluded by thanking the Board and staff for their time.

## CONCLUSION

- Staff has reviewed the project site revisions and agreed with the alternate site plan analysis
- Surrounding property owners support the project design and layout
- Staff recommend a conditional approval of the variance request
- Costco accepts the conditions of approval, as amended

### **Questions for applicant:**

Chair Heinrich asked about additional signage on the building. There are additional signs along Zoo Drive. Chair Heinrich also asked if the property to the south of the current site was able to be purchased to alleviate the ditch hardship. Brian Whelan responded by pointing out the additional ditch complications making the circulation and parking even more cumbersome.

### **In Favor:**

#### **Bill Starr, 6868 Whitetail Lane, Billings**

He is the president of Canyon Creek ditch company. They have talked extensively with Costco and are in agreeance of the proposed changes.

#### **Josh Neibauer, 4404 Neibauer**

He is good with the ditch relocation.

### **Opposed:**

#### **Adela Awner, 1109 Delphinium**

A Costco member for many years. She is concerned for the large empty warehouse being left at the current location. What business will occupy this vacancy? Brian Whelan stated there is a high interest in the current location and a lot of ability to rehabilitate and redo.

Chair Heinrich asked about the Shopko space. Did Costco try to occupy it when it was available. Mr. Whelan explained because of the way Shopko was financed, Costco ability to buy, was not possible. Chair Heinrich asked about the King Ave fuel facility. The facility will be properly decommissioned.

### **Public Hearing closed at 7:08PM**

### **Discussion**

**Motion**

Board Member Warmer made a motion and Board Member Sayer seconded the motion to approve the **City Variance 1343 with staff recommendations, conditions and findings of fact.**

<b>MEMBER</b>	<b>YES</b>	<b>NO</b>	<b>ABSTAINED</b>	<b>NOT PRESENT</b>
David Mitchell				<b>X</b>
Dave Hagstrom	<b>X</b>			
George Warmer	<b>X</b>			
Jeff Bollman				<b>X</b>
Oscar Heinrich	<b>X</b>			
Chris Hayes			<b>RECUSED</b>	
Josh Sayer	<b>X</b>			

**The motion to approve City Variance 1343 passed with a 4-0-1 vote.**

**City Variance 1344 – Classy & Sassy Kiosks –** A variance to allow Group 3 temporary use structures larger than 120 sf at 1508 Main St, 1221 6<sup>th</sup> Ave. N & 1313 Broadwater. 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 200 square foot structure in a Corridor Mixed Use 1(CMU1) zone on Block 2, Lot 1, Arrowhead Sub. a 14,724 square foot parcel of land located at 1508 Main St.; 2) a 150 square foot structure in a East Billings Central Works (EBURD-CW) zone, on Block 4, Lot 23, North Park Sub., a 37,500 sf parcel of land located at 1221 6<sup>th</sup> Ave. N; and 3) a 200 square foot structure in a Corridor Mixed Use 2 (CMU2) zone, on COS 568, Parcel C, a 5.057 acre parcel of land located at 1313 Broadwater 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. Group 3 temporary uses may be located on property indefinitely but require a yearly renewal of the temporary use permit by the City. Tax IDs: D02554, A12100, D01319.

**Recommendation:**

**Planning staff has reviewed this application & is recommending conditional approval of Variance 1344 based on the proposed findings of the review criteria.**

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: two at 200 square feet (66% increase) and one at 150 square feet (30% increase). No other variance is intended or implied with this approval.
2. The variance is limited the existing kiosks only, currently located on the parcels described in this application, 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 permits for any of these kiosks remain 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 structures are not moved from their current location.

5. The applicant shall meet all other city code requirements, including annual renewal of the temporary use permits, except for this variance.

**Staff indicated they had received an email in opposition. It was distributed by email and hardcopy to the Boardmembers.**

**Questions for staff:**

**Public Hearing opened at 7:35PM**

**Applicant: Greg Reid, Agent, WWC Engineering**

The owners did apply for their yearly temporary use permits and were previously approved. A commercial building permit is now in process for the Henesta address. It is now time for yearly renewal for the existing Kiosks thru Planning review. The larger size kiosks help deal with more business.

**Questions for applicant:**

**In Favor:**

**Travis Dennison, 6947 Brave Lookout, Shepherd, MT**

He is the owner and has 45 employees. We were unaware of the size constraints because it is legal to build a 200 square foot shed without a building permit in the City.

**Opposed:**

**Jenifer McCrae, 208 Prickett Lane, Billings, MT**

She purchased Sunshine Espresso and cannot take in more employees or increase the building size. It is a huge disadvantage to her business and it is unfair to allow others in the same business to do it.

**Rebuttal: Greg Reid, WWC Engineering**

A larger building is allowed with a commercial building permit. This variance process is not the only way to build bigger.

**Cassandra Dennison, 6947 Brave Lookout, Shepherd, MT**

She is also an owner and has been in business 10 years. This situation was not done with ill intent. We were approved, with this building size, at yearly renewal. Months later the error was discovered and this variance is the remedy. She understands Ms. McCrae's concerns with fairness.

**Public Hearing closed at 7:44PM**

**Discussion**

**Motion**

Board Member Hayes made a motion and Board Member Hagstrom seconded the motion to approve **City Variance 1344 with staff recommendations.**

<b>MEMBER</b>	<b>YES</b>	<b>NO</b>	<b>ABSTAINED</b>	<b>NOT PRESENT</b>
David Mitchell				<b>X</b>
Dave Hagstrom	<b>X</b>			
George Warmer	<b>X</b>			
Jeff Bollman				<b>X</b>
Oscar Heinrich		<b>X</b>		
Chris Hayes	<b>X</b>			
Josh Sayer	<b>X</b>			

**The motion to approve City Variance 1344 passed with a 4-1 vote.**

**Other Business:** 1 item for June 1, 2022 meeting.

**ADJOURNMENT:** The meeting adjourned at 7:47PM.

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