



**CITY BOARD OF ADJUSTMENT**  
**AGENDA-Wednesday, August 3, 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:**

1.

The minutes of the Board meeting of June 1, 2022 and July 6, 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:**

- Return Item - City Variance 1346 -- 1310 30<sup>th</sup> St. W --Increase building height to 49 feet - 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 49 feet 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.**
- City Variance 1349 -- 1144 N 27<sup>th</sup> St. -- Height within setback to adjacent zone - A variance from 27-504 requiring a maximum building height of 50 feet within 150 feet of a CMU1 zone district to allow a maximum building height up to 155 feet for a 70 foot wide section of the proposed building's east elevation 115 feet west of a CMU1 zone district; and a building height up to 145 feet for a diagonal portion of the north west building elevation 100 feet south and east of a CMU1 zone district. The property is within a Public Campus -- Medical (P3 -- Medical) zone, legally described as Northside Add 3<sup>rd</sup> filing, Block 9, Lots 1 through 48 (LESS 1000 SQ FT STREET 1996) (Less ROW 2019); and Normal Subdivision Block 1, Lots 1 through 21, Block 2 Lots 1 through 9, 10A, 10B, 12, 13, 14, & 15, and the adjacent vacated alley; Normal Subdivision 2<sup>nd</sup> filing, Block 1, Lots 22 through 40, unplatted land between the vacated alley and lots adjacent to the vacated alley; Normal Subdivision 3<sup>rd</sup> filing, Block 1, Lots 2 (Less ROW); C.O.S. 934 Tracts 1 and 2, for total lot area of 9.29 acres. The purpose of the variance is to allow a minor**

encroachment of a taller building into a setback from CMU1 in two locations to accommodate the height of a new hospital building.

## **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 August 3, 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://tinyurl.com/yckr478k>

**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 [husmank@billingsmt.gov](mailto:husmank@billingsmt.gov) , [cromwelln@billingsmt.gov](mailto:cromwelln@billingsmt.gov) or [bartleyr@billingsmt.gov](mailto:bartleyr@billingsmt.gov) before 1:00 PM on Wednesday August 3, 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)

**City Board of Adjustment**  
**Meeting Date:** 08/03/2022

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**Information**

**Subject**

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**Attachments**

BBOA\_2022\_0601  
BBOA\_2022\_0706

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**CITY BOARD OF ADJUSTMENT**

MINUTES June 1, 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	E					
Dave Hagstrom	Member	1	-	1	1	1	1							
George Warmer	Member	-	-	1	1	1	E							
Jeff Bollman	Vice Chair	P	-	1	1	E	1							
Oscar Heinrich	Chair	1	-	1	1	1	1							
Chris Hayes	Member	-	-	-	1	1	1							
Josh Sayer	Member	-	-	-	1	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>1</b>							<b>7</b>

- 1 Returning variance

Chair Heinrich called the meeting to order at 6:08 p.m. Technical difficulties.

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

**Attending:** Brad Brown, Charles Yegen, Jonny Arbuckle, Max Arbuckle, Grayden Arbuckle

**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 May 4, 2022. Chair Heinrich postponed the approval having received them late.

Staff stated Board members Mitchell and Warmer are proprietors of Caldwell Banker and have a conflict of interest and are not in attendance.

## Public Hearings

**City Variance 1346 – 1310 30<sup>th</sup> St. W –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.

## Recommendation:

Planning staff has reviewed this application & is recommending *conditional approval* of Variance 1346 for the *height* & recommending *denial* of the request for *reduction in parking* based on the proposed findings of the review criteria.

- Applicant intention is to build a high-end apartment within Cardwell Ranch, a 4-story building, while still providing adequate room for architectural roof elements consistent with development requirements of Cardwell Ranch. "Cardwell Ranch Commercial Design Guidelines," which specify a maximum height of 40' limits the developer ability to meet the architectural guidelines
- 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.
- A Variance has approved within the Cardwell Ranch for height as well as height variance for other property in the district

## Recommended Conditions:

1. The approval is for a variance from Cardwell Ranch PD (Design Guidelines) under Article VI.C.3 to allow 46 feet, No other variance is intended or implied with this approval.
2. 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.

4. Shall meet all other city code requirements as well as Cardwell Ranch Planned Development requirements with the exception of this variance.
5. Submit a building permit within 3 years of Board approval & complete construction within 5 years of the first building permit approval.
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.
  - 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 without implementing on street parking permit requirements.

### **Questions for staff:**

Board member Bollman asked what the zoning is for this project. Staff responded the Zoning Commission and City Council updated the PD to allow multi-family.

Board member Bollman asked about the 40-foot height variance. Is this part of the design? Yes.

Board member Bollman asked about the streets to the north. They are private, do they allow on street parking? Staff replied on street parking is not allowed. Upon further discussion staff indicated on street parking is allowed but is not counted as part of the required parking because they are public streets. There are some private streets further west. None of the streets are signed no parking. They are public streets. Further discussion about on street parking. More discussion about assigned parking in Planned Developments.

Chair Heinrich asked about the staff recommendations. Staff indicated the applicant may find other solutions to the parking issue. Shared offsite parking agreement, 20 percent transit passes are other options.

Board member Hayes asked how many parking spaces are lacking. Staff replied 406 spaces are showing and the requirement is 479 spaces.

The transit pass option is intended to not need parking for a vehicle. This may or may not be the case. It would be considered an offset.

### **Public Hearing opened at 6:30PM**

**Applicant:**

**Brad Brown, 1708 E 5550 S, Ogden, Utah 89903**

Representing Steward Land Company. They are excited to start a project in Billings. The PD is a strong document, a 4 story interior corridor, with elevator and more amenities. The height and Parking were two issues. Parking needs may or may not meet. A higher ratio than expected. Garages are in demand in this market. The height variance is necessary for a good roof cap design. The design must meet Yegen’s CCR’s and approval. It is a nice development and keeps its value over time.

**Questions for applicant:**

Board member Bollman asked if the garages are bundled. The garage rental is an option for any renter.

Board member Hagstrom suggested the possibility of ending up with empty garages? The market study indicates people in Billings want a garage.

**In Favor:**

**Charlie Yegen**

He is looking forward to working with Steward Land. Design guidelines are very specific and are not varied from. It would be amazing if the garage spaces were not rented. He encouraged the Board to consider the parking variance and the height.

Board member Bollman asked if the offsets were considered. Brad Brown stated the transit passes were being investigated but the shared parking is harder to achieve.

**Public Hearing closed at 6:57PM**

**Discussion**

Chair Heinrich suggested a continuance.

**Motion**

Board Member Sayer made a motion and Board Member Hagstrom seconded the motion to continue **City Variance 1346 for 30 days.**

<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 1343 passed with a 5-0 vote.**

**Other Business:**

**ADJOURNMENT:** The meeting adjourned at 7:24PM.

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

**CITY BOARD OF ADJUSTMENT**

MINUTES July 6, 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	E	1						
Dave Hagstrom	Member	1	-	1	1	1	1	1						
George Warmer	Member	-	-	1	1	1	E	1						
Jeff Bollman	Vice Chair	P	-	1	1	E	1	1						
Oscar Heinrich	Chair	1	-	1	1	1	1	1						
Chris Hayes	Member	-	-	-	1	1	1	E						
Josh Sayer	Member	-	-	-	1	1	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>1</b>	<b>*3</b>						<b>9</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:** Barbara Rasmussen, Joe Bonini, Mark Rosebush, KC Johnson, Dr. Jeff Golini

**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 May 4, 2022. Approved.

## Public Hearings

**Return Item - City Variance 1346 – 1310 30<sup>th</sup> St. W –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 spaces 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 proposed parking ratio (spaces/unit) is 1.63 and the required parking ratio with the 20% penalty is 1.92 or 478 spaces.

## Recommendation:

Planning staff has reviewed this application and is forwarding a recommendation of conditional approval for the variance for height based on the determinations for review provided within this report. The Board of Adjustment opened the public hearing on this request on June 1, 2022, and delayed action on the request to the July 6, 2022 hearing date at the request of the applicant. The updated request is to allow the applicant to withdraw the request for parking variance. Staff is recommending the BOA approve the request to withdraw the parking variance portion of the request and consider the variance for height per the staff recommendation.

## Recommended Conditions;

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 height 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 height 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 residents 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 height 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.

The Parking variance withdrawal was approved 4-0.

No applicants were present. Brad Brown called on the customer inquiry line. He stated the applicant now wished to ask for a height variance of 49 feet. Mr. Brown was informed the Board could not consider this request without the proper protocol of public notice and staff investigation and reporting.

**Discussion**

Board member Bollman requested elevations as they have not seen any yet.

**Motion**

Board Member Hagstrom made a motion and Board Member Sayer seconded the motion to delay the **City Variance 1346 to next meeting.**

<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 delay City Variance 1346 passed with a 4-0 vote.**

**Public Hearings**

**City Variance 1347 – 4143 Banbury Place – Build-To Zone** - A variance from Sec. 27-305 (Table 27-300.4) from the required Front and Street Side Build-To zones to allow the front door and living area of a new residence to be more than 50 feet from the front property line in an N2 zone, on Lot 17A of Block 1, Legends West Subdivision, a 7,150 sf parcel of land generally located at 4143 Banbury Place. The purpose of the variance is to allow a new residence to comply with the clear vision area at an uncontrolled permanent T intersection of Banbury Place and Legends Way.

**Recommendation:**

Planning staff is recommending conditional approval based on the findings of the variance criteria to increase the front build-to area to allow the front door and living area of a new residence to be more than 50 feet from the front property line in an N2 zone.

Recommended Conditions;

1. The build-to zone variance is limited to Lot 17A, Block 1, Legends West Subdivision, generally located at 4143 Banbury Place.

2. The variance is from Section 27-305 (Table 27-300.4) requiring a build-to zone range of 10 feet to 20 feet from the front property line to allow the door of the living area of the new residence to be more than 50 feet from the front property line in an N2 district. No other variance is intended or implied.
3. The structure will be built in substantial conformance to the drawings submitted with this variance request.
4. Construction activity will not occur prior to 7 am or after 8 pm daily.
5. The applicant/developer shall apply for a building permit within 6 months of Board approval and complete the development within 1 year of Board approval.
6. Failure to begin or complete the project according to the time periods within this approval will void the variance.
7. The applicant shall meet all other city code requirements for the proposed single family home, with the exception of this variance.
8. 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.

**Public Hearing opened at 6:27PM**

**Applicant: Miles Egan, 2690 Southridge Drive, 59102**

Joe Bonini is the superintendant on Career Center projects. The builder is actually School District 2. The HBA sponsors the build. It is a safe work project. This will be a single level ranch-style home facing Banbury.

**Joe Bonini, 8047 Longmeadow Drive**

The variance, if approved will allow for a greater side and back yard.

**Public Hearing closed at 6:30PM**

**Discussion**

Chair Heinrich asked if School District 2 owns the property could they juse LUCZ? Staff replied yes, however School District 2 does not own it.

**Motion**

Board Member Mitchell made a motion and Board Member Warmer seconded the motion to approve the **City Variance 1347 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>x</b>
Josh Sayer	<b>x</b>			

**The motion to approve City Variance 1347 passed with a 6-0 vote.**

**City Variance 1348 – 2376 Main Street – Kiosk for Temporary Use of 160 square feet** – 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 a kiosk of 160 sf on Lot 4, Block 1 of North Pointe Square Subdivision and Lot 5, Block 1 of Bergquist Subdivision, a 9.29 acre parcel of land generally located at 2376 Main Street. The purpose of the variance is to allow an existing 160 sf kiosk to remain on the site.

**Recommendation:**

Planning staff has reviewed this application & is recommending **conditional approval** of Variance 1348 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 (**33% increase**). No other variance is intended or implied with this approval.
2. The variance is limited the existing kiosk 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.

**Public Hearing opened at 6:44PM**

**Applicant:**

KC Johnson, 2376 Main St, owner of Steady Grinding

He stated they need space for winter wear donation to the community. He has no interest in moving the kiosk.

**Questions for applicant:**

Board member Bollman has concerns regarding the conditions.

**In Favor:**

Jeff Golini states he allowed the kiosk and is owner of American Pharmaceutical.

**Opposed:**

**Mark Rosebush, 2376 Main Street**

He has no problem with the size of the kiosk. He has a neighboring parcel, not developed and is concerned with the kiosks permanance. Because the variance allows it to stay where it is which may be a problem for his parcel in the future.

**Public Hearing closed at 6:59PM**

**Discussion**

**Motion**

Board Member Mitchell made a motion and Board Member Bollman seconded the motion to approve the **City Variance 1348 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	x			
Dave Hagstrom	x			
George Warmer	x			
Jeff Bollman	x			
Oscar Heinrich	x			
Chris Hayes				x
Josh Sayer	x			

**The motion to approve City Variance 1348 passed with a 6-0 vote.**

**Other Business:**

**ADJOURNMENT: The meeting adjourned at 7:02PM.**

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

**Board of Adjustment**

**Date:** 08/03/2022  
**Title:** Return Item - City Variance 1346 - Cardwell Ranch - Building Height  
**Presented by:** Karen Husman  
**Department:** Planning & Community Services  
**Presentation:** Yes

**Information****RECOMMENDATION**

Planning staff has reviewed this application and is forwarding a recommendation of **conditional approval** for the height variance to allow 49 feet based on the determinations for review provided within this report. The Board of Adjustment opened the public hearing on this request on June 1, 2022, and delayed action on the request to the July 6, 2022 hearing date at the request of the applicant in order to clarify the off-street parking requirement variance request. The Board of Adjustment opened the public hearing on July 6, 2022, and at the request of the applicant allowed the withdrawal of the variance from the off-street parking code. The Board then opened the public hearing on the 46-foot building height variance. The applicant requested additional height at the hearing. Since a larger variance cannot be considered at the public hearing, the hearing was postponed again to allow staff to re-notice the new height variance request of 49 feet. This hearing will consider the request to allow a 49-foot building height limit. The property was re-posted and new notices were sent to surrounding owners with the new request.

**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 49 feet. The purpose of the variance is to allow an increase in maximum height for Cardwell Ranch Apartment Homes to develop a roof design that complies with the aesthetic intent of the Cardwell Ranch Design Standards.

**APPLICATION DATA**

**OWNER:** Yegen Grand Ave Farm, 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 chart

**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 request for increase in maximum height is consistent with the intent of the PD and will allow flexibility in architectural design.

## STAKEHOLDERS

On June 1, 2022, the Board of Adjustment held a public hearing on the two original variance requests for a reduction in off-street parking and to allow a 46-foot building height limit. At the request of the applicant, the Board voted unanimously to continue the hearing to July 6, 2022 to allow the applicant to clarify the off-street parking requirements. No members of the public spoke at the hearing and the Board received testimony from the applicant. The BOA opened the hearing at the meeting on July 6, 2022, and granted the request from the applicant to withdraw the off-street parking variance. During the July 6 hearing, the applicant requested a modification of the application to increase the variance from 46 feet to 49 feet in building height. A requested variance cannot be increased by the Board at the public hearing due to lack of proper notice to the public and surrounding property owners. The BOA voted unanimously to again continue the hearing to the next meeting on August 3, 2022, so the public and property owners can be re-noticed on the new height requested.

## 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 restricting 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 9 feet would not significantly affect the development or surrounding properties.

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).

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.

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 9 feet will not have a significant impact on the surrounding properties.

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 height variance from Cardwell Ranch PD (Design Guidelines) under Article VI.C.3 requiring a 40-foot maximum height for multifamily structures to allow 49 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 height 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 residents 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 height 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.

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. Staff has proposed a 3-year time limit for submitting a building permit and completion of the entire project within 5 years of the first building permit approval.

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

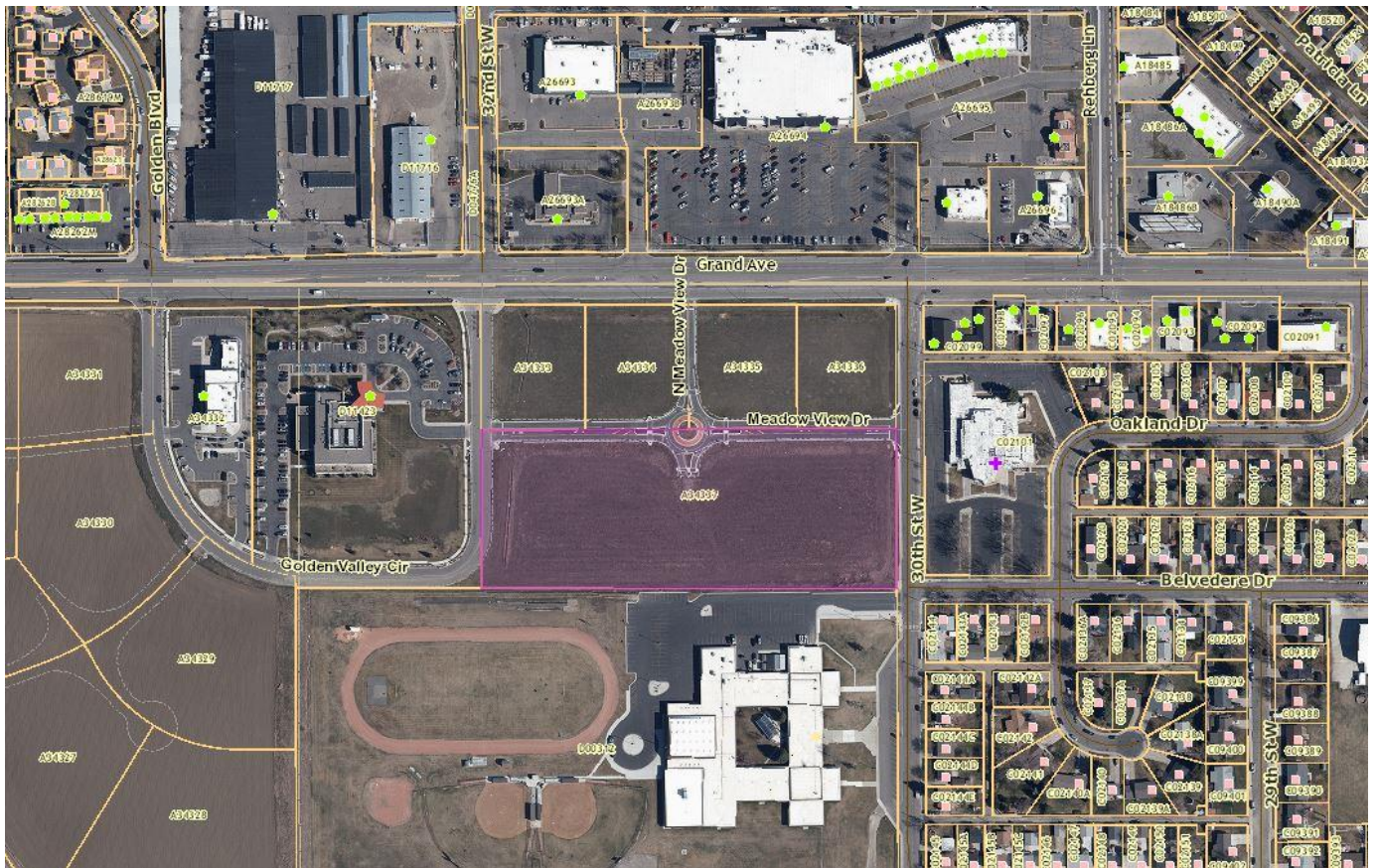
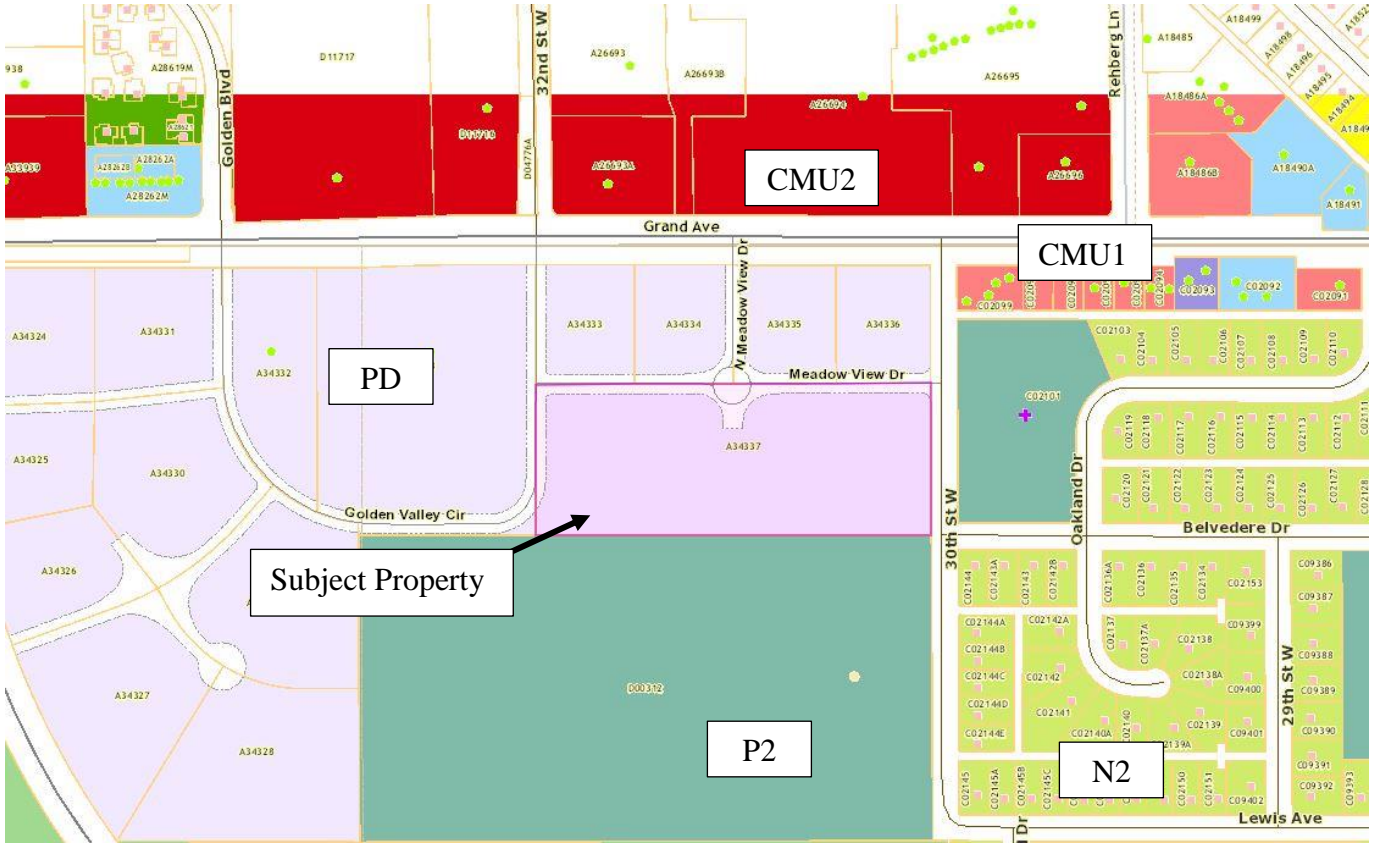
The granting of this height variance would not allow a use that is not allowed in the zoning district -- multifamily dwellings are allowed in the PD.

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### Attachments

Zoning Map & Site Photos  
Application & Applicant Letter  
Applicant Letter July  
Chart of zoning History  
Property Owner letter  
Preliminary Elevation & Site Plan  
Design Committee Letter

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.

## Husman, Karen

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**From:** Brad Brown <Brad@stewardland.com>  
**Sent:** Thursday, July 7, 2022 3:17 PM  
**To:** Husman, Karen; Rick Leuthold  
**Cc:** Cromwell, Nicole; Plecker, Monica  
**Subject:** [EXTERNAL] RE: Variance 1346  
**Attachments:** Cardwell Ranch\_Feasibility & Elevation.pdf

Karen,

I called and left a message. But just to confirm, we are requesting a 49' height limit on our cardwell ranch apartment project.

Attached is a copy of our latest version of elevations as an example. Like we discussed yesterday, this is for reference only. Our elevations will be finalized through the normal process with the Yegans, but we are expecting that we will not be necessarily held to these designs as we are still early in the process.

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)

**From:** Husman, Karen <husmank@billingsmt.gov>  
**Sent:** Thursday, July 7, 2022 10:00 AM  
**To:** Brad Brown <Brad@stewardland.com>; Rick Leuthold <rleuthold@sandersonstewart.com>  
**Cc:** Cromwell, Nicole <CromwellN@billingsmt.gov>; Plecker, Monica <PleckerM@billingsmt.gov>  
**Subject:** Variance 1346

Attached is a copy of the notice of results of the action taken by the City Board of Adjustment on your variance application.

Regards,  
Karen



**Karen Husman**  
Planner I  
[husmank@billingsmt.gov](mailto:husmank@billingsmt.gov)

[billingsmt.gov](http://billingsmt.gov)

2825 3rd Ave N, 4<sup>th</sup> Floor  
Billings, MT 59101  
P 406.247.8684

<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'

## 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

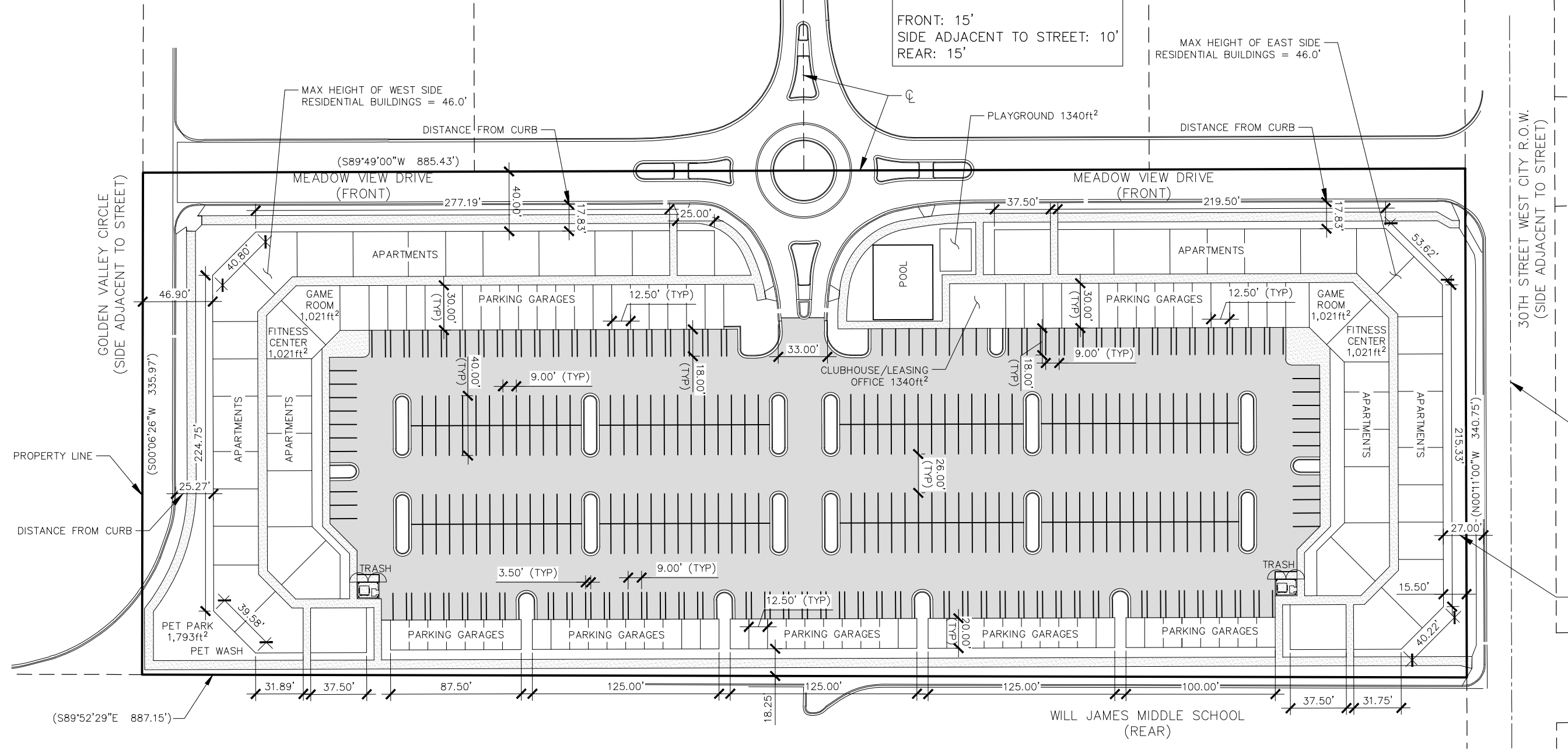
Sent from my iPhone

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.



1  
C1.2

3D PERSPECTIVE



A  
C1.2

BUILDING A FRONT

1/16" = 1'-0"



B  
C1.2

BUILDING B FRONT

1/16" = 1'-0"

PRELIMINARY MATERIAL LEGEND				
IMAGE	CODE	MATERIAL	STYLE	COLOR/FINISH
	B-1	MASONRY - BRICK	INTERSTATE BRICK	CHERRY RED SOLOMON COLORS MORTAR #80A OR APPROVED EQUAL
	E-1	E.I.F.S.	DRYVIT STUCCO	SW 7006 - EXTRA WHITE / QUARZTONE FINE
	E-2	E.I.F.S.	DRYVIT STUCCO	SW 7674 - PEPPERCORN / QUARZTONE FINE
	S-1	STONE	CULTURED STONE	PARCHMENT / CAST-FIT SOLOMON COLORS MORTAR #10X OR APPROVED EQUAL
	C-1	FIBER CEMENT PANEL	VERTICAL SIDING	HARIEPANEL SIERRA 8 OR APPROVED EQUAL

## Husman, Karen

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**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 of 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)

**Board of Adjustment**

**Date:** 08/03/2022  
**Title:** City Variance 1349 - 1144 N 27th St - Height Variance for New Hospital  
**Presented by:** Nicole Cromwell  
**Department:** Planning & Community Services  
**Presentation:** Yes

**Information****RECOMMENDATION**

Planning staff recommends condition approval of the requested variances and adoption of the findings of the review criteria for Variance 1349.

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

This is a variance request from Section 27-504 requiring a building height limitation of 50 feet whenever a structure in a Public 3 - Campus zone district is within 150 feet of a Corridor Mixed Use 1 (CMU1) zone district. This is a new requirement for the Public 3 - Campus zone districts implemented when the city adopted its new zoning code in January 2021. Prior to this time, the Medical Corridor Permit zone district had a similar intent to ensure buildings near the edge of the district were compatible in bulk and height with existing developments. The previous requirement was part of a "point system" for development in the corridor. The Medical Corridor Permit point system had "absolute criteria" and "relative criteria". The absolute criteria had to be met by every proposal and then a certain number of points from the relative criteria had to be achieved for the project to move forward. The building bulk and height limitations were included in the relative criteria.

The new P3-Campus zoning allows three types of districts - Medical, Education and Civic. The subject property is part of the Medical P3-Campus zone for this area. The campus districts used the previous Medical Corridor zone district as a foundation to build a more predictable zone district for all types of medical, educational and civic campuses throughout Billings and in the County zoning area. Each type of campus has a list of primary and accessory uses, and Section 27-500 has regulations that ensure the "edges" of the campus are compatible as possible with adjoining and nearby zone districts and neighborhoods. For example, there are no height limits for buildings within a P3-Campus district unless that building is within 150 feet of the zone boundary of another zone district. Similarly, lot coverage, setbacks or build-to zone requirements are not in effect for interior portions of a P3-campus.

The proposed building will replace the existing hospital current located on the north side of 12th Ave N between N 30th St and N Broadway. The challenge with constructing a new hospital in this location is the existing hospital must continue to function until the new building is complete and ready for patients. The area for the relocation is small but does place the building on N 27th Street between 11th Ave N and Poly Drive. Due to the smaller developable area, the building has to increase in height to accommodate the necessary number of patient beds, off-street parking, separation of emergency services from in-patient services and similar considerations for a medical facility of this size and scope.

The applicant has demonstrated a new facility cannot be constructed within the existing campus and conform to the maximum building height for two sections of the building - one along N 27th St and one near the northwest corner of the new building. The least encumbered property within the campus are on the parcels subject to this application. Other parcels are fully developed or would require extraordinary re-locations of existing services. In addition, the existing hospital must remain fully operational until the new facility is complete.

Zoning across N 27th St (east side) is Corridor Mixed Use 1 (CMU1) and has a variety of commercial businesses including hotels, restaurants, small medical services, coffee and drive through food services. This zone district is "one lot" deep east of N 27th Street and shares an alley with residential neighbors in the North Park neighborhood. The CMU1 zone district has a building height limit of 4 stories. This is generally equivalent to a 50-foot building height. The proposed new hospital will have nine stories for the patient care tower (see attachments) and a short section of the tower along N 27th Street will be within 150 feet of the CMU1 zone district on the east side of N 27th Street. This portion of the patient care tower will be approximately 160 feet above grade.

Zoning of the property to the northwest - owned by the Foundation for MSU - is also zoned CMU1. The previous zoning of the property was Community Commercial (CC). This lot contains MacDonald Hall where the College of Business and International Studies are located for the MSU-Billings. The building is connected to the main campus across Poly Drive by a sky bridge to the parking garage. A portion of the northwest corner of the patient care tower will be within 150 feet of this zone district. The maximum height of this building section is proposed to be about 145 feet above grade and nine stories

tall.

## STAKEHOLDERS

Planning staff sent a mailed notice to surrounding owners, posted the property and published a legal ad twice in a newspaper. In addition, the application materials were published on-line. As of the date of this report, no comments were sent in response to the variance request notification.

## ALTERNATIVES

The Board of Adjustment may:

- Conditionally approve the requested variance and adopt the proposed findings of fact for the review criteria as recommended by the Planning staff;
- Approve the requested variance with different or added conditions, or no conditions;
- Deny the requested variance and amend the findings of fact for 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.**

**Applicant:** When considering the design/construction of a full-service replacement hospital, the limited undeveloped and/or potentially available property contained within this urban campus creates a hardship. The area being proposed to locate this new hospital facility is at a minimum distance from the current hospital to support the new construction while minimizing impact on the existing hospital operations and the delivery of care to the community while under development. It is also the least encumbered with structures and infrastructure and is therefore easier and more cost-effective to develop.

**Available Land Area:** Of significance is the decision to continue to provide medical care to the community from the location where it has historically been provided by keeping this new development within the existing St. Vincent campus. In this dense, urban setting, the available land for a replacement hospital as described earlier in this document is extremely limited. After significant evaluation and consideration of alternate locations, we concluded that land in the east/northeast portion of the property is the least encumbered with occupied structures and infrastructure and is at a distance from the current hospital to ensure uninterrupted operation and provision of medical services to the community while the new hospital is under construction. Through the removal of surface parking lots and one small structure (area of redevelopment is shown in Diagram 1), we can accommodate a new, multi-level, state-of-the-art urban hospital in this location on the St. Vincent campus.

**Hospital Function and Efficiency:** The hospital property zoning (P3) does not define a height limit for structures, so most of the proposed development is accommodated within the current zoning allowances. The only exception is the height limitation triggered by the 150' setback from the Commercial zoning that impacts two areas of the patient care tower as previously described. We have been diligent about minimizing the building footprint but to fit the new facility into the available land on the campus, we are requesting that the two small portions of the upper floors of the north and east patient care towers that encroach into this height setback be allowed. This encroachment is essential for the success of the replacement hospital for several reasons:

- It will support a new hospital and patient care tower that takes advantage of vertical construction to enhance function, workplace efficiency, and to expedite life-saving medical treatment to patients.
- It optimizes the available land on the campus by stacking patient rooms and hospital services, thereby reducing horizontal growth/sprawl.
- Efficient use of the redevelopment property through minimizing horizontal construction allows for the continued operation of current hospital facility throughout construction and occupancy of the new hospital facility.

**Staff:** Staff agrees with the applicant's assessment of the constraints to conformance with the regulation. Although from a 2-dimensional aspect it appears to be a small shift to the south and a small shift to the west from where the proposed building is located, significant issues arise including encroachment on right of ways, and less than adequate clearance from existing facilities that support the continuation of hospital operations at 1233 N 30th St. The design could add more height to reduce the footprint of the structure but this would likely introduce additional challenges to meet building and fire safety

codes. Another alternative is to reduce the height and spread the footprint of the building however this would cause the same challenges as shifting the building to the west and south.

**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.**

**Applicant:** The St. Vincent property is zoned P3 which supports the use, density and vertical development required for a major medical center and Hospital of the Future. The hardship encountered when abutting or near to the Commercial zone district CMU1 is the imposed setback that influences the building height of the upper floors. This negatively impacts the ability to design a compact and efficient hospital as is supported by the P3 zoning and commonly leveraged by surrounding properties/owners in the medical corridor. Our Patient Care Tower setback encroachment is so minor that there will be minimal to no negative impact on these commercial properties.

**Staff:** The existing hospital at 1233 N 30th Street is seven stories at its highest point and within close proximity to the residential neighborhood to the west (North Elevation). There are other buildings within the former medical corridor that are more than 50 feet in height and within 150 feet of other zone districts such as CMU1, N1, NX2 and DX. The prior zoning regulations did not have a specific height limit for medical facilities but did require taller structures to be setback further from the corridor edges. There were several height variances granted in the area for building height but none were ever required within the medical corridor district. The existing hospital (seven stories) and the Billing Clinic hospital (five stories) are the two main healthcare facilities in the campus 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.**

**Applicant:** We are seeking an accommodation for a minor setback encroachment to support a new structure that is designed to meet all other P3 zoning criteria. Existing development on the St. Vincent campus and on other properties within this zone currently supports the use, development density and height. Granting this request does not provide any special privilege beyond what other land in the district already allows.

**Staff:** There are several height variances of record in the surrounding area and the campus is within walking distance of the Central Business District where there are no building height limits. Granting this variance is not a special privilege based on the prior zoning history and the existence of taller and larger buildings within the area.

**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.**

**Applicant:** The general purpose/intent of the P3 zone as described in the City's Zoning Code supports large scale, vertical structures like we are proposing so the new replacement hospital will be in harmony with that purpose/intent. Attached as a separate document are thoughts on alignment of this facility with the growth policies. (See application and site plan attachment)

**Staff:** The application is supported by the 2016 City Growth Policy guidelines and the Infill Policy (2011). The proposed development will address the need to allow incremental increases in development intensity in the downtown core to support all the existing infrastructure investments for water, sewer, public safety, streets and other core civic functions. The medical facilities in this part of Billings provide a central location for families - local and visiting - to find health services. This activity in turn supports additional economic activity in the downtown core.

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 conditions for the variance request:

1. The variance requested is approved: Billings City Code Section 27-504 requiring a maximum building height of 50 feet within 150 feet of a CMU1 zone district to allow a maximum building height up to 155 feet for a 70-foot wide section of the proposed building's east elevation 115 feet west of a CMU1 zone district; and a building height up to 145 feet for a diagonal portion of the northwest building elevation 100 feet south and east of a CMU1 zone district. No other variance is intended or approved by this application.
2. The development of the new hospital will be in substantial conformance with the submitted site plan (footprint) and proposed building maximum height within the 150 feet of the CMU1 zone districts. Minor changes to the site plan will be allowed to accommodate site specific issues as part of the building permit process.
3. The applicant will submit the first building permit for the project within 3 years of Board of Adjustment approval.
4. The applicant will complete the new hospital building within 9 years of Board of Adjustment approval.
5. All other zoning regulations, except for this specific variance, and any other applicable city regulations apply to the development of the proposed new hospital.
6. Failure to begin or complete actions required by this approval within the time limits set forth shall void this variance.
7. This variance is approved, subject to the conditions set forth herein, and shall become effective immediately upon approval of the Board of Adjustment, shall run with the land described in this authorization, and shall apply to all current and subsequent owners, operators, managers, leaseholders and their heirs and assignees.

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 first permit be submitted within 3 years and the entire hospital structure be completed within 9 years of Board approval.

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. Hospitals and medical facilities are allowed uses within the P3-Campus Medical zone district.

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#### **Attachments**

Zoning Map and Site Photos

Chart of Zoning History

Application and site plan

Zoning Map and Site Photos

Variance 1349





Subject Property



Subject Property – intersection of 12<sup>th</sup> Ave N and N 27<sup>th</sup> St



View north on N 27<sup>th</sup> St at intersection of 12<sup>th</sup> Ave N



View north and west from intersection of 12<sup>th</sup> Ave N and N 27<sup>th</sup> St



View south and west from intersection of 12<sup>th</sup> Ave N and N 27<sup>th</sup> St



View south along N 27<sup>th</sup> St from intersection with 12<sup>th</sup> Ave N



View south east across N 27<sup>th</sup> St



View north and east across N 27<sup>th</sup> St



View west on 12<sup>th</sup> Ave N from N 27<sup>th</sup> St



View north and west from 12<sup>th</sup> Ave N



View south across 12<sup>th</sup> Ave N

<b>SUBJECT PROPERTY</b>	<b>VARIANCE #</b>	<b>DATE</b>	<b>FOR</b>	<b>APPROVED (Y/N)</b>	<b>ADDITIONAL DATA</b>
90 Poly Drive	<b>73</b>	12/30/1975	Front yard setback 20 ft to 1 ft	Yes	Medical Arts Bldg
90 Poly Drive	<b>63</b>	9/30/1975	Waiver of req parking	Yes	Medical Arts Bldg
1202 N 27 <sup>th</sup> St	<b>466</b>	8/27/1985	Sign setback and CV	Yes	Sign on NW corner of 12 <sup>th</sup> Ave N & N 27 <sup>th</sup> St
1230 N 28 <sup>th</sup> St	<b>548</b>	11/27/1987	Sign setback	Yes	Former location of Children's Clinic
1230 N 30 <sup>th</sup> St	<b>571</b>	9/27/1988	More than 1 sign	Yes	Surgery Plus
1202 N 27 <sup>th</sup> St	<b>593</b>	7/7/1989	To allow taller and larger sign	No	
<b>SURROUNDING PROPERTY</b>	<b>VARIANCE #</b>	<b>DATE</b>	<b>FOR</b>	<b>APPROVED (Y/N)</b>	<b>ADDITIONAL DATA</b>
550 N 30 <sup>th</sup> St	266	9/30/1980	Height increase to 69 feet	Yes	Transwestern Office (5 stories)
490 N 31 <sup>st</sup> St	298	11/5/1985	Height increase to 69 feet	Yes	Transwestern Office (5 stories)
222 N 30 <sup>th</sup> St	22	8/27/1974	Height increase to 125 feet	Yes	Granite Towers Office
715 S 28 <sup>th</sup> St	104	10/26/1976	Height increase to 72 feet	Yes	Fraser Tower Apartments
725 N 25 <sup>th</sup> St	170	11/29/1977	Height increase to 70 feet	Yes	Prairie Tower Apartments

CITY VARIANCE

APPLICATION FORM

ID: Billings Variance # 1349 - Project # 22-00164 <sup>P2X</sup>

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 # See attached Certified Owner's list CITY ELECTION WARD # I & IV

Legal Description of Property: See attached "Exhibit A - Property Legal Description"

Address or General Location (If unknown, contact City Engineering): 1233 N 30<sup>th</sup> St, Billings, MT 59101

Zoning Classification: P3 (medical)

Size of Parcel (Area & Dimensions): See attached "Exhibit B - Parcel Description"

Covenants or Deed Restrictions on Property: Yes        No X

If yes, please attach to application

Variance(s) Requested: Minor encroachment into setback from CMU1 (Commercial) in two locations to accommodate height of structure. See attached letter for detailed description of this request.

Facts of Hardship: (attach letter) See attached letter for a description of the Facts of Hardship.

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

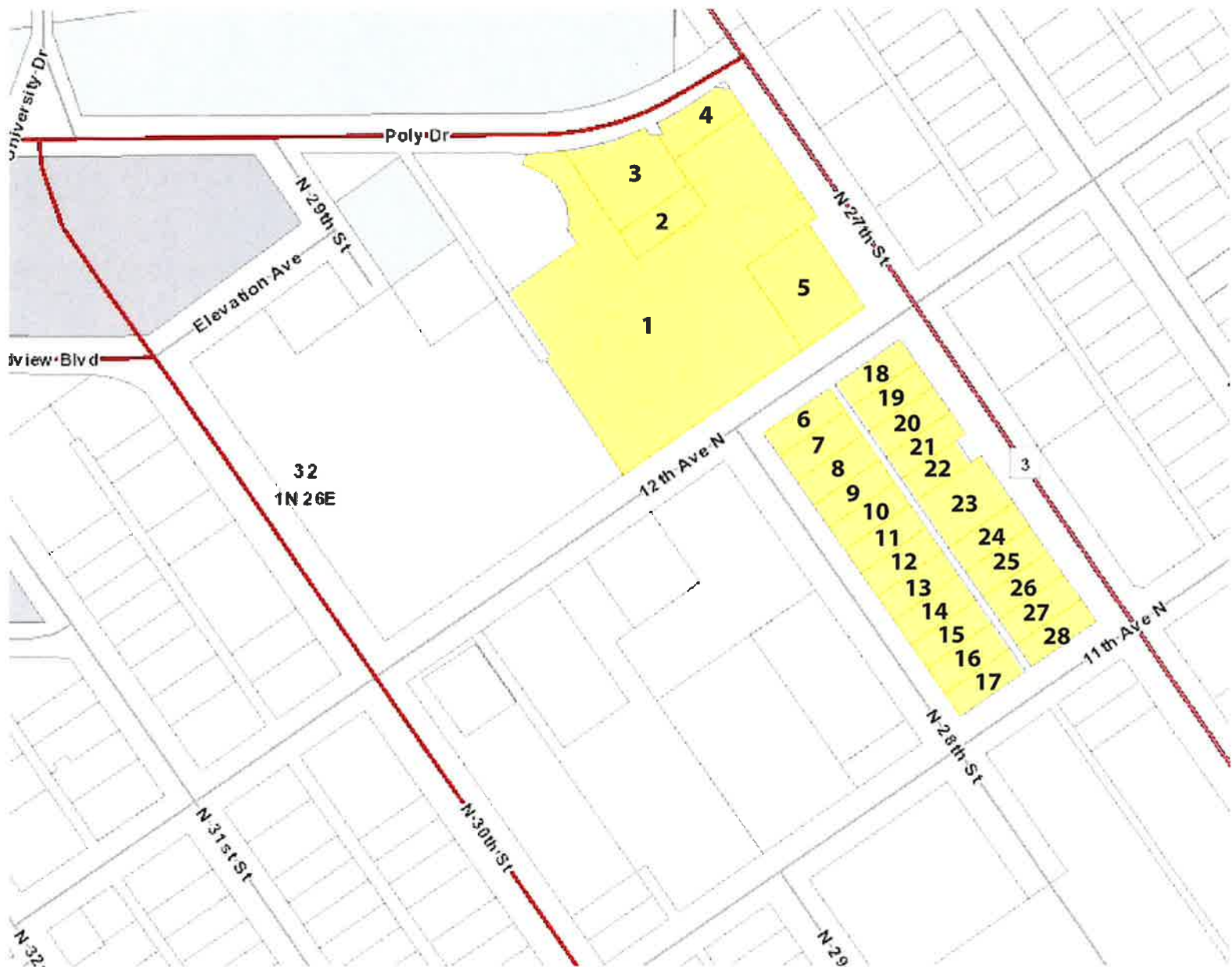
Owner(s): Sisters of Charity of Leavenworth Health Systems; Representative - Bruce Fong, AIA  
(Recorded Owner) 500 Eldorado Blvd., Broomfield, CO 80021  
(Address) 303-813-5130 bruce.fong@imail.org  
(Phone Number) (email)

Agent(s): Lynn Moore – Davis Partnership Architects  
(Name) 2901 Blake Street, Suite 100, Denver, CO 80205  
(Address) 303-881-1981 lynn.moore@davispartnership.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.

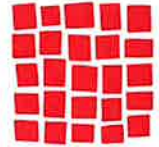
Signature: Bruce Fong Digitally signed by Bruce Fong Date: 2022.06.29 16:01:32 -06'00' Date: July 1, 2022  
(Recorded Owner)





- ap # Legal Description
- 1 NORMAL SUBD, S32, T01 N, R26 E, BLOCK 1, Lot 1 - 12, & BLK 2 LTS 1-9, 10A-11B. 12-15, NORMAL 2ND FIL, BLK 1 LOTS 25-33, NORMAL 3RD FIL, BLK 1 LT 2. (LES ROW) (19)
  - 2 NORMAL SUBD, S32, T01 N, R26 E, BLOCK 1, Lot 13 - 14, & N6' LT 12 & ADJ VAC ALLEY (08)
  - 3 NORMAL SUBD, S32, T01 N, R26 E, BLOCK 1, Lot 15 - 21, & TR 2 COS 934 & ADJ VAC ALLEY (01)(08)
  - 4 NORMAL SUBD 2ND FILING, S32, T01 N, R26 E, BLOCK 1, Lot 22 - 24, & TR 1 COS 934 & ADJ UNPLATTED LAND BETWEEN VAC ALLEY & LTS PORTION VAC ALLEY (LESS ROW) (19)
  - 5 NORMAL SUBD 2ND FILING, S32, T01 N, R26 E, BLOCK 1, Lot 34 - 40, (LESS 3500 SQ FT STREET) (96) (PLUS 1750 SQ FT VAC.ALLEY) (2001)
  - 6 NORTHSIDE ADD 3RD FILING, S32, T01 N, R26 E, BLOCK 9, Lot 25 - 26
  - 7 NORTHSIDE ADD 3RD FILING, S32, T01 N, R26 E, BLOCK 9, Lot 27 - 28
  - 8 NORTHSIDE ADD 3RD FILING, S32, T01 N, R26 E, BLOCK 9, Lot 29 - 30
  - 9 NORTHSIDE ADD 3RD FILING, S32, T01 N, R26 E, BLOCK 9, Lot 31 - 32
  - 10 NORTHSIDE ADD 3RD FILING, S32, T01 N, R26 E, BLOCK 9, Lot 33 - 34
  - 11 NORTHSIDE ADD 3RD FILING, S32, T01 N, R26 E, BLOCK 9, Lot 35 - 36
  - 12 NORTHSIDE ADD 3RD FILING, S32, T01 N, R26 E, BLOCK 9, Lot 37 - 38
  - 13 NORTHSIDE ADD 3RD FILING, S32, T01 N, R26 E, BLOCK 9, Lot 39 - 40
  - 14 NORTHSIDE ADD 3RD FILING, S32, T01 N, R26 E, BLOCK 9, Lot 41 - 42
  - 15 NORTHSIDE ADD 3RD FILING, S32, T01 N, R26 E, BLOCK 9, Lot 43 - 44
  - 16 NORTHSIDE ADD 3RD FILING, S32, T01 N, R26 E, BLOCK 9, Lot 45 - 46
  - 17 NORTHSIDE ADD 3RD FILING, S32, T01 N, R26 E, BLOCK 9, Lot 47 - 48
  - 18 NORTHSIDE ADD 3RD FILING, S32, T01 N, R26 E, BLOCK 9, Lot 23 - 24
  - 19 NORTHSIDE ADD 3RD FILING, S32, T01 N, R26 E, BLOCK 9, Lot 21 - 22
  - 20 NORTHSIDE ADD 3RD FILING, S32, T01 N, R26 E, BLOCK 9, Lot 19 - 20
  - 21 NORTHSIDE ADD 3RD FILING, S32, T01 N, R26 E, BLOCK 9, Lot 17 - 18
  - 22 NORTHSIDE ADD 3RD FILING, S32, T01 N, R26 E, BLOCK 9, Lot 15 - 16, (LESS 1000 SQ FT STREET) (96)
  - 23 NORTHSIDE ADD 3RD FILING, S32, T01 N, R26 E, BLOCK 9, Lot 11 - 14
  - 24 NORTHSIDE ADD 3RD FILING, S32, T01 N, R26 E, BLOCK 9, Lot 9 - 10
  - 25 NORTHSIDE ADD 3RD FILING, S32, T01 N, R26 E, BLOCK 9, Lot 7 - 8
  - 26 NORTHSIDE ADD 3RD FILING, S32, T01 N, R26 E, BLOCK 9, Lot 5 - 6
  - 27 NORTHSIDE ADD 3RD FILING, S32, T01 N, R26 E, BLOCK 9, Lot 3 - 4
  - 28 NORTHSIDE ADD 3RD FILING, S32, T01 N, R26 E, BLOCK 9, Lot 1 - 2, (LESS ROW) (19)

July 1, 2022



**DAVIS**  
PARTNERSHIP  
ARCHITECTS

**To: City of Billings Board of Adjustment**

**RE: Variance Request for Building Height Encroachment**

### **1. Variance Request Overview**

#### **General Project Vision / Concept:**

The leaders at St. Vincent Healthcare are fortunate to be able to plan for a significant investment in healthcare for the Billings community and Montana region. They are committed to building a healthier community by constructing a replacement facility within the current St. Vincent campus located in the Medical Corridor along N 27<sup>th</sup> St. the new "Hospital of the Future" will enhance the care experience of patients, their families, and caregivers as it will be the most staff-efficient facility in the region. The Guiding Principles for this new facility are focused on:

- Patient, Family, and Caregiver Experience
- Operational Excellence
- Environmental Leadership
- Connectedness to Community
- Accessibility and Inclusiveness
- Adaptable, Flexible and Responsive

The decision to build a replacement hospital was driven by the age of the existing facility and the investment required to modernize it. The St. Vincent leadership did a thorough cost-benefit review and determined it made the most sense to construct a new hospital rather than attempt to update all the current facilities. This decision set the foundation for designing a facility with enhanced function and efficiency. An essential part of the planning of the hospital is to look toward the future and design an infrastructure to accommodate technology and the delivery of healthcare in ways we are just beginning to envision. This new Hospital of the Future will embrace flexible, sustainable design principles to accommodate community healthcare needs long into the future. See *Diagram 1* for location of the proposed replacement hospital.

#### **Ownership/Applicant Information:**

##### **Applicant/Landowner:**

Sisters of Charity of Leavenworth Health Systems Inc.  
500 Eldorado Boulevard, Suite 6300  
Broomfield, CO 80021  
Contact: Bruce Fong, AIA (303) 813-5130; 303-880-7239 (mobile)

##### **Applicant Representative:**

Davis Partnership Architects  
2901 Blake Street, Suite 100  
Denver, CO 80205  
Contact: Lynn Moore, FASLA (303) 881-1981

#### **DENVER OFFICE**

2901 Blake Street, Suite 100  
Denver, CO 80205-2303  
T 303.861.8555  
F 303.861.3027

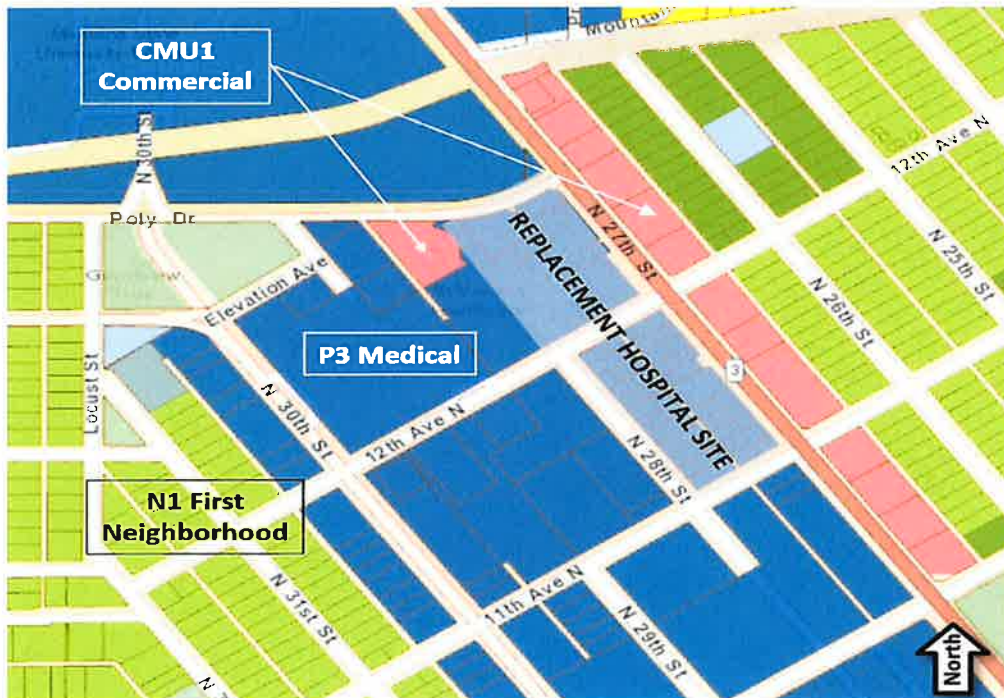
[www.davispartnership.com](http://www.davispartnership.com)



**Diagram 1: Location of Proposed Replacement Hospital**

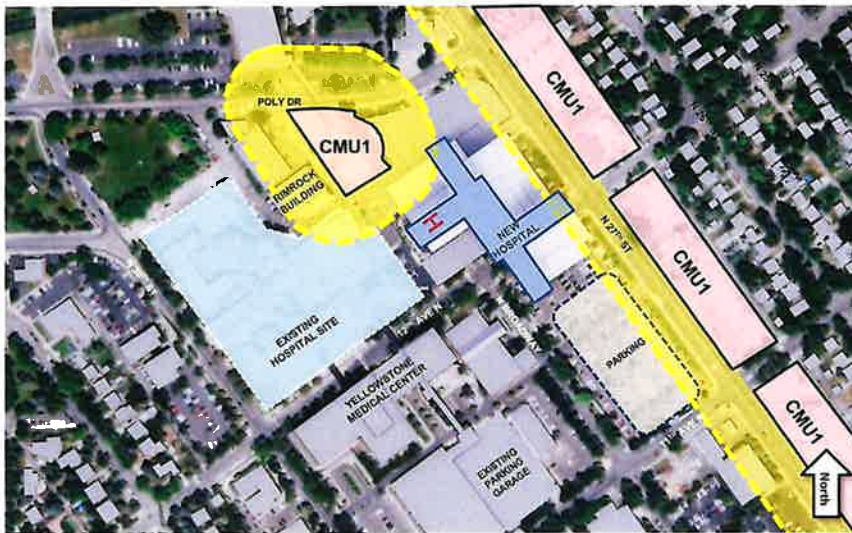
**2. Purpose of Variance Request**

The purpose of this Variance request is to allow for a small portion of two wings of the patient care tower to encroach into the 150' setback that is required when adjacent to CMU1 (Commercial) zoning. The St. Vincent property is zoned P3 (medical) which supports hospital and medical development. See *Diagram 2* showing current area zoning.



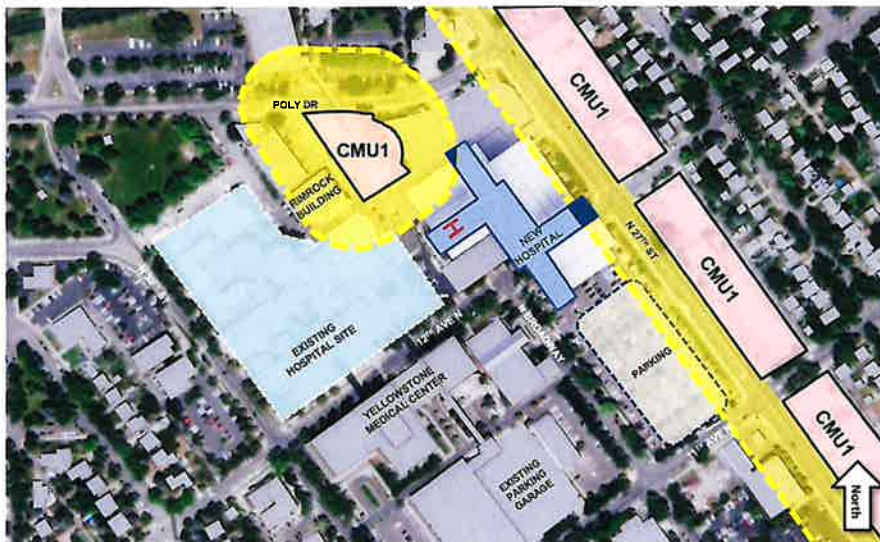
**Diagram 2: Current Zoning Map**

The proposed redevelopment site is contained exclusively within the P3 zone, but it abuts the CMU1 zone in two areas, triggering the 150' setback that regulates building placement and height within the St. Vincent campus. As an urban campus, the available area for redevelopment is limited, especially when considering the importance of continued operation of the existing hospital and support facilities during the construction. The location of the new hospital is generally in the east/northeast portion of the St. Vincent campus because this is the least encumbered property on the campus. See *Diagram 3* showing the proposed location of new hospital/parking and the 150' setback from CMU1.

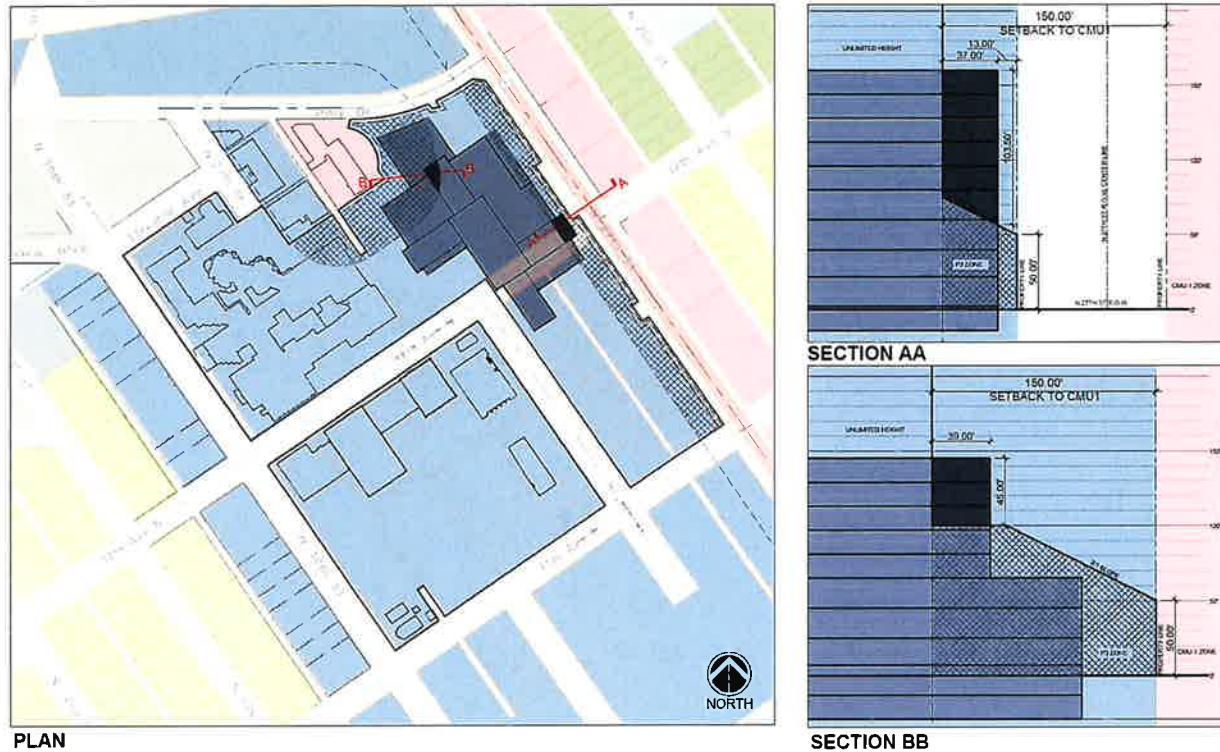


**Diagram 3: New Hospital and Impact of 150' Setback from CMU1**

A small portion of two wings of the patient care tower encroach into the 150' setback: one adjacent to the MSU property on Poly Drive, another along N 27<sup>th</sup> St. See *Diagram 4* showing these minor encroachments in dark blue. *Diagram 5* that follows, provides more detail and dimensions of each encroachment.



**Diagram 4: Patient Tower Encroachment into Setback**



**Diagram 5: Setback Encroachment Sections**

All proposed development is located within the P3 zoning of the campus (blue in Diagram 5) which allows the height, density and all supporting facilities required for the new hospital. As previously stated, the impact imposed by the height limitations in the setback from the CMU1 zone (pink in Diagram 5) is the only conflict and the basis of our variance request.

It should be noted that the new hospital design is still early in the process and there may be some small tweaks to the location of the building on the property. With the limited site area available and our confidence in the current building footprint, we expect the information relative to location and area of encroachment described in the Diagrams is not likely to change much/or at all as the design evolves.

**3. Hardship Facts & Justification**

**A. What reasons prevent you from using this property in conformance with the Zoning Regulation requirements.**

Available Land Area. Of significance is the decision to continue to provide medical care to the community from the location where it has historically been provided by keeping this new development within the existing St. Vincent campus. In this dense, urban setting, the available land for a replacement hospital as described earlier in this document is extremely limited. After significant evaluation and consideration of alternate locations, we concluded that land in the east/northeast portion of the property is the least encumbered with occupied structures and infrastructure and is at a distance from the

current hospital to ensure uninterrupted operation and provision of medical services to the community while the new hospital is under construction. Through the removal of surface parking lots and one small structure (area of redevelopment is shown in Diagram 1), we can accommodate a new, multi-level, state-of-the-art urban hospital in this location on the St. Vincent campus.

Hospital Function and Efficiency. The hospital property zoning (P3) does not define a height limit for structures, so most of the proposed development is accommodated within the current zoning allowances. The only exception is the height limitation triggered by the 150' setback from the Commercial zoning that impacts two areas of the patient care tower as previously described. We have been diligent about minimizing the building footprint but to fit the new facility into the available land on the campus, we are requesting that the two small portions of the upper floors of the north and east patient care towers that encroach into this height setback be allowed. This encroachment is essential for the success of the replacement hospital for several reasons:

- It will support a new hospital and patient care tower that takes advantage of vertical construction to enhance function, workplace efficiency, and to expedite life-saving medical treatment to patients.
- It optimizes the available land on the campus by stacking patient rooms and hospital services, thereby reducing horizontal growth/sprawl.
- Efficient use of the redevelopment property through minimizing horizontal construction allows for the continued operation of current hospital facility throughout construction and occupancy of the new hospital facility.

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

As previously stated, there is a full commitment to construct this replacement facility within the current, legacy St. Vincent campus located in the Medical Corridor along N 27<sup>th</sup> St. Throughout history, this has been the location that has provided compassionate medical care to the Billings community, the surrounding region, and State of Montana, and this new facility will continue that tradition and be able to offer other enhanced medical services. The urban nature of this campus (vs. a greenfield site with unlimited horizontal growth opportunities), and the current P3 zoning of the property supports the proposed uses and vertical building stacking/height with the only exception being the two small portions of the patient care tower that encroach into the setback.

**C. Explain any demolition, construction, or reconstruction intended for all structures.**

Demolition. The property identified as the location for the replacement hospital and supporting access and parking contains surface parking lots and one small structure facing Poly Drive. The structure and all or part of the parking lots will be demolished to make room for the new hospital. Note that via a separate Right-of-Way Vacation application, we are requesting the closure/removal of one block of 12<sup>th</sup> Ave N (between N 27<sup>th</sup> St & N Broadway St) to accommodate the footprint of the new hospital.

St. Vincent /Intermountain Healthcare - Setback Encroachment Variance Request  
July 1, 2022



**Existing Condition of Overall Project Area**



**Area of New Building Site**



**Structure to be Demolished**

Construction/Reconstruction. The new hospital will be in the northern portion of the redevelopment site with the southern portion being dedicated to vehicle access and parking. Removal of 12<sup>th</sup> Ave N as public ROW to accommodate the building footprint is shown in Diagram 6.

With its alignment to N 27<sup>th</sup> St and Poly Drive, we see this as an opportunity to enhance the campus edges and public corridors. 11<sup>th</sup> Ave N is intended to be the primary access/gateway to the St. Vincent campus from N 27<sup>th</sup> St with a main entry generally located off 12<sup>th</sup> Ave N near Broadway. The patient care tower sits upon two floors of hospital services and the new rooftop helipad is located on the west wing of the patient care tower. Of note is that this proposed "Hospital of the Future" is being designed to not only meet the current medical needs of the community and offer immediate expanded services, it will also support projected facility and service growth needs up to year 2038.

See the following Diagram 6 for the proposed location of the hospital (light gray), patient care tower (blue) and support parking (light yellow).



**Diagram 6: Conceptual Site Plan of Proposed Hospital on Existing St. Vincent Campus**

### **Community Engagement**

Being a vital part of the Billings community for over a century brings an expectation that St. Vincent will regularly engage with the local and greater community to provide timely project information and seek stakeholder feedback on a regular basis. Even at this early stage, we have reached out to our neighbors and other stakeholders in the community to provide key project information, and an information meeting was held on the campus with the neighboring Task Forces and other stakeholders on June 14, 2022.

### **Estimated Project Schedule**

Design of this Hospital of the Future is currently underway, and it is anticipated for construction to begin in the spring/summer of 2024 and be complete for facility occupancy in the summer/fall of 2028. Once this replacement hospital is occupied, all or portions of the existing hospital are intended to be demolished to provide campus land for needed/future facilities.

## **4. Commentary on Board of Adjustment Decision Criteria for Variances**

Specific to the criteria the BOA reviews when determining the granting of a Variance (BMCC 27-1627.D) we offer the following commentary:

**Criteria 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.**

*Response: When considering the design/construction of a full-service replacement hospital, the limited undeveloped and/or potentially available property contained within this urban campus creates a hardship. The area being proposed to locate this new hospital*

*facility is at a minimum distance from the current hospital to support the new construction while minimizing impact on the existing hospital operations and the delivery of care to the community while under development. It is also the least encumbered with structures and infrastructure and is therefore easier and more cost effective to develop.*

**Criteria 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.**

*Response: The St. Vincent property is zoned P3 which supports the use, density and vertical development required for a major medical center and Hospital of the Future. The hardship encountered when abutting or near to the Commercial zone district CMU1 is the imposed setback that influences the building height of the upper floors. This negatively impacts the ability to design a compact and efficient hospital as is supported by the P3 zoning and commonly leveraged by surrounding properties/owners in the medical corridor. Our Patient Care Town setback encroachment is so minor that there will be minimal to no negative impact on these Commercial properties.*

**Criteria 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.**

*Response: We are seeking an accommodation for a minor setback encroachment to support a new structure that is designed to meet all other P3 zoning criteria. Existing development on the St. Vincent campus and on other properties within this zone currently supports the use, development density and height. Granting this request does not provide any special privilege beyond what other land in the district already allows.*

**Criteria 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 policies.**

*Response: The general purpose/intent of the P3 zone as described in the City's Zoning Code supports large scale, vertical structures like we are proposing so the new replacement hospital will be in harmony with that purpose/intent. Attached as a separate document are thoughts on alignment of this facility with the growth policies.*

## **5. Supporting Materials**

In support of this written information, please find attached the following supplemental documents in support of the St. Vincent Replacement Hospital Variance Request:

- City Variance Application Form
- Exhibit A – Property Legal Description
- Exhibit B – Parcel Description
- Exhibit C – Concept Site Plan Diagrams (4 sheets)
- Applicant Thoughts on the 2016 Billings Growth Policy Statement and Guidelines
- Certified Names and Mailing Address Labels for land owner notification (delivered directly to City Planning office)
- Application Fee Check delivered directly to City Planning office)

ST. VINCENT HOSPITAL  
ST. VINCENT HOSPITAL VARIANCE APPLICATION  
WITHIN

LOCATED WEST OF NORTH 27TH BETWEEN POLY DRIVE AND 11TH AVE NORTH

PREPARED FOR : CITY OF BILLINGS

PREPARED BY : SANDERSON STEWART

JUNE, 2022

BILLINGS, MONTANA

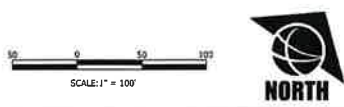
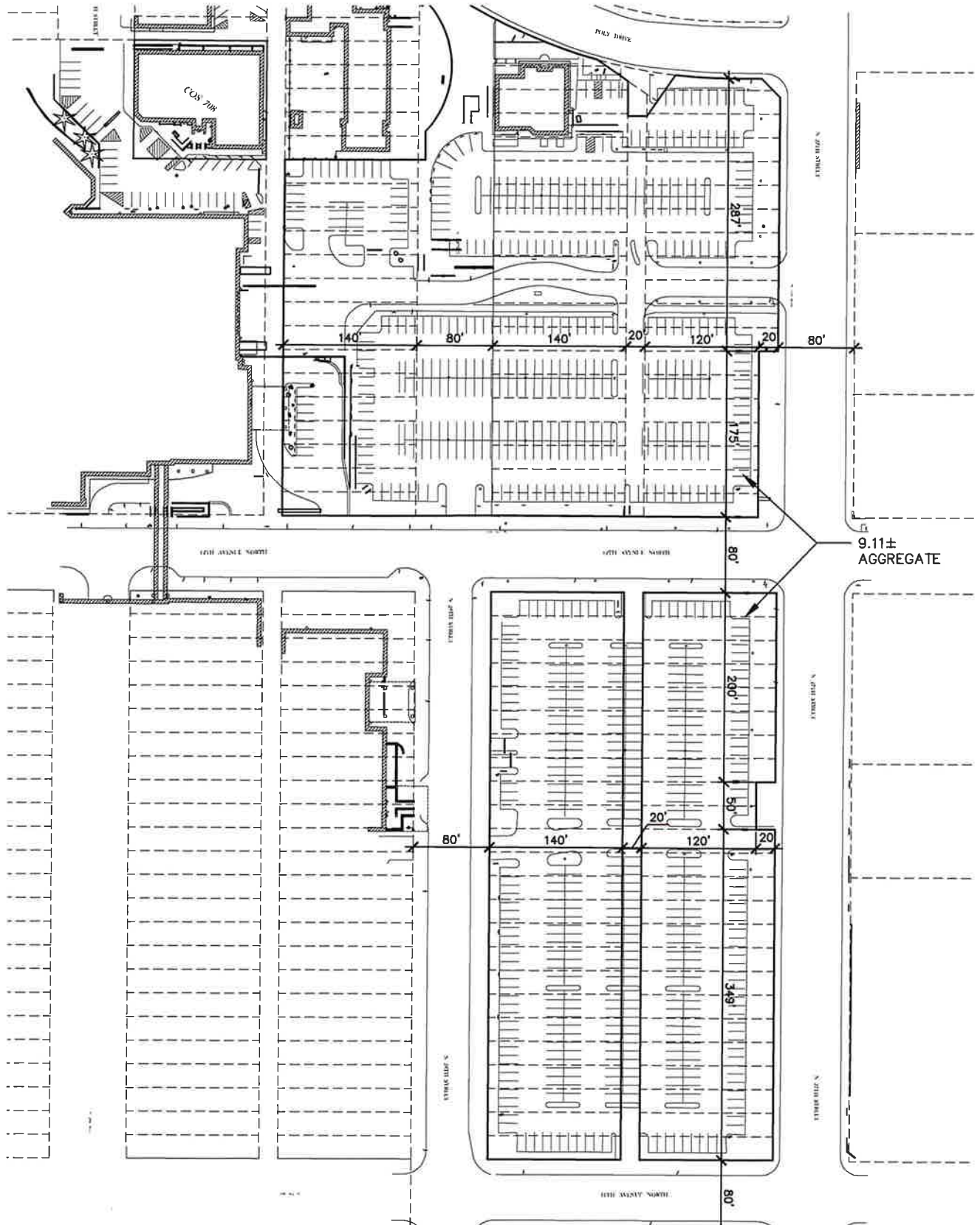
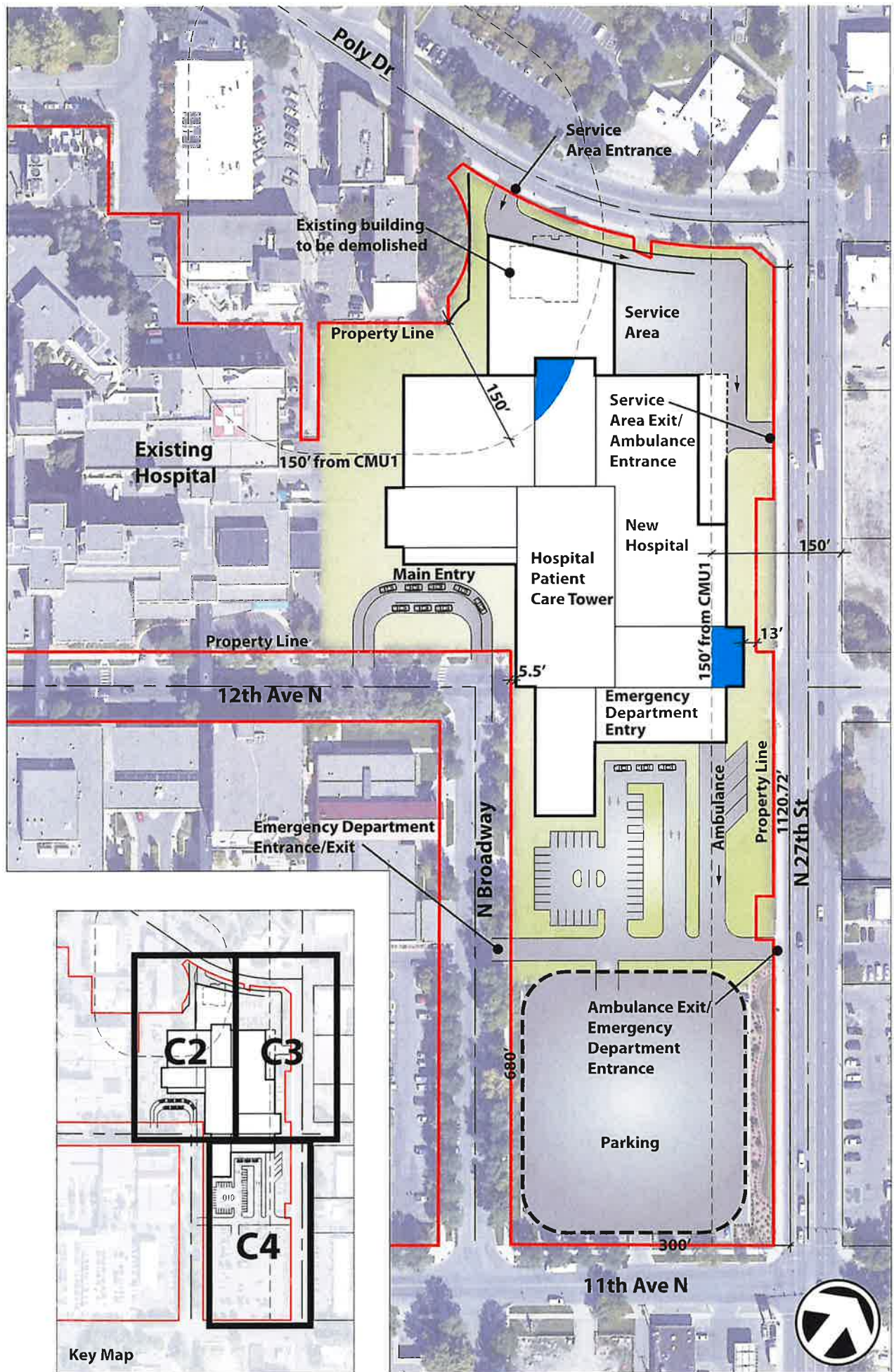


Exhibit B - Parcel Description



**Exhibit C1 - Overall Concept Site Plan**

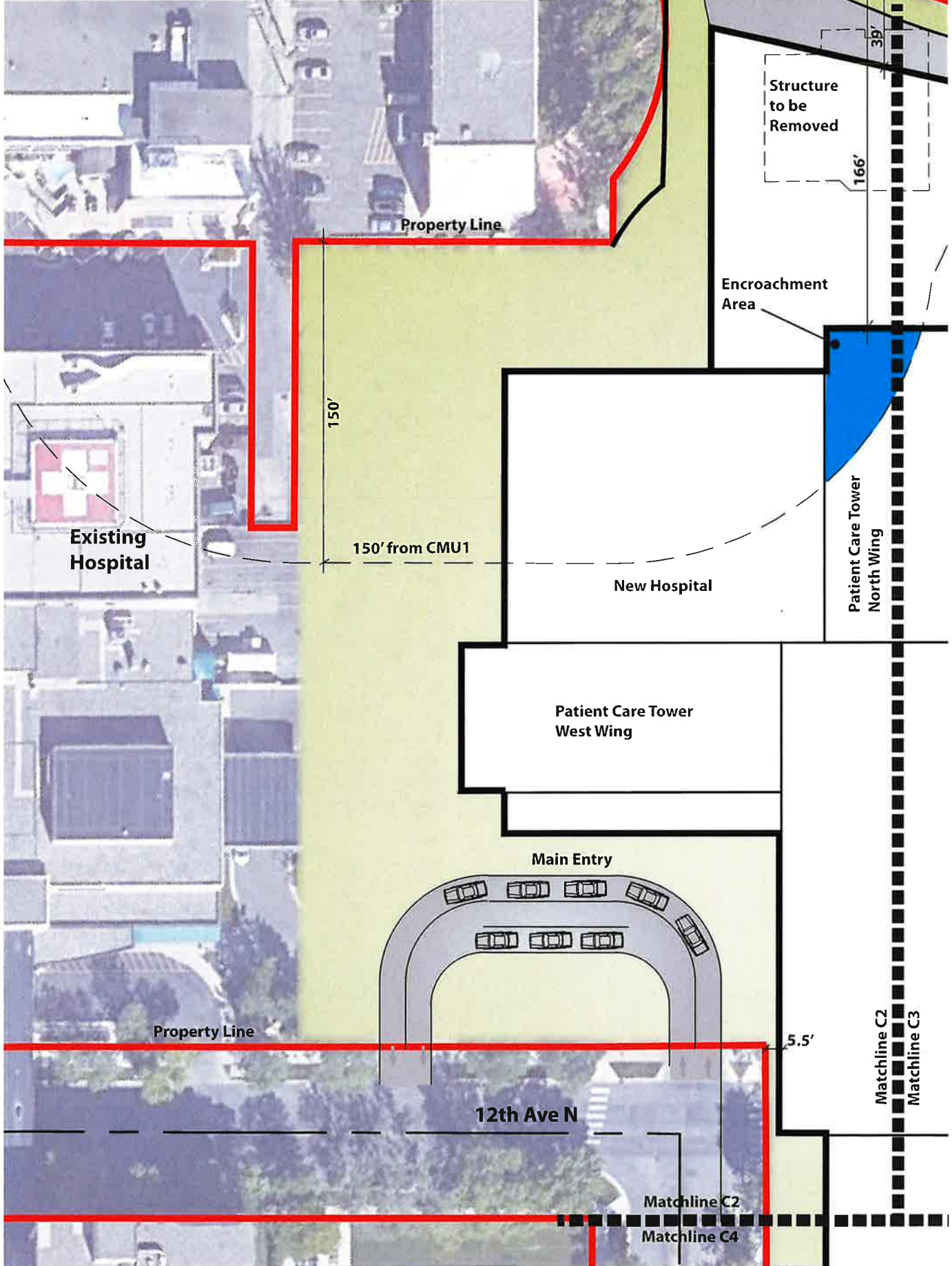




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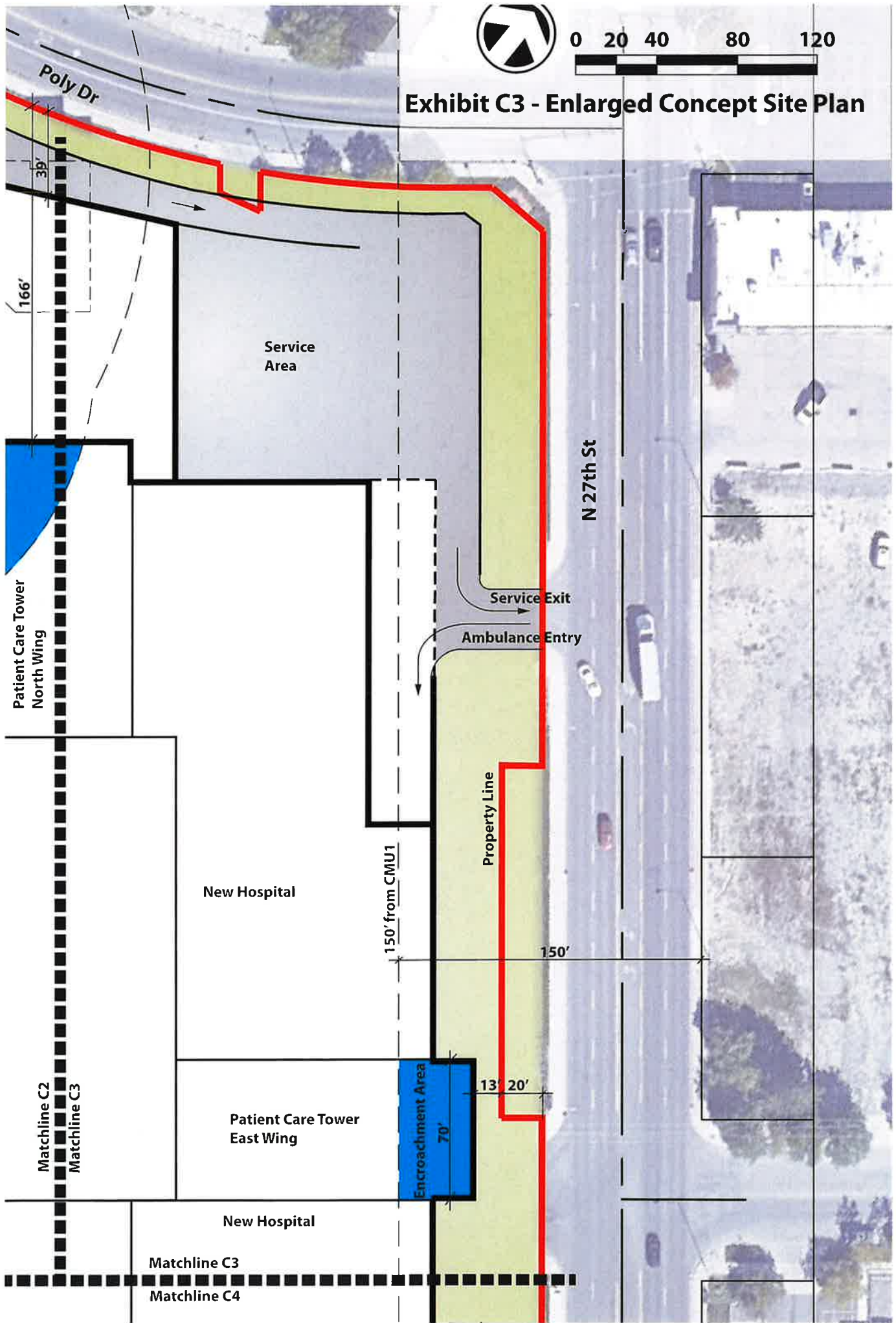


### Exhibit C2 - Enlarged Concept Site Plan





# Exhibit C3 - Enlarged Concept Site Plan



Patient Care Tower North Wing

Service Area

New Hospital

Patient Care Tower East Wing

New Hospital

Matchline C2  
Matchline C3

Matchline C3  
Matchline C4

150' from CMU1

150'

Property Line

Encroachment Area  
70'  
13' 20'

Service Exit  
Ambulance Entry

N 27th St

Poly Dr

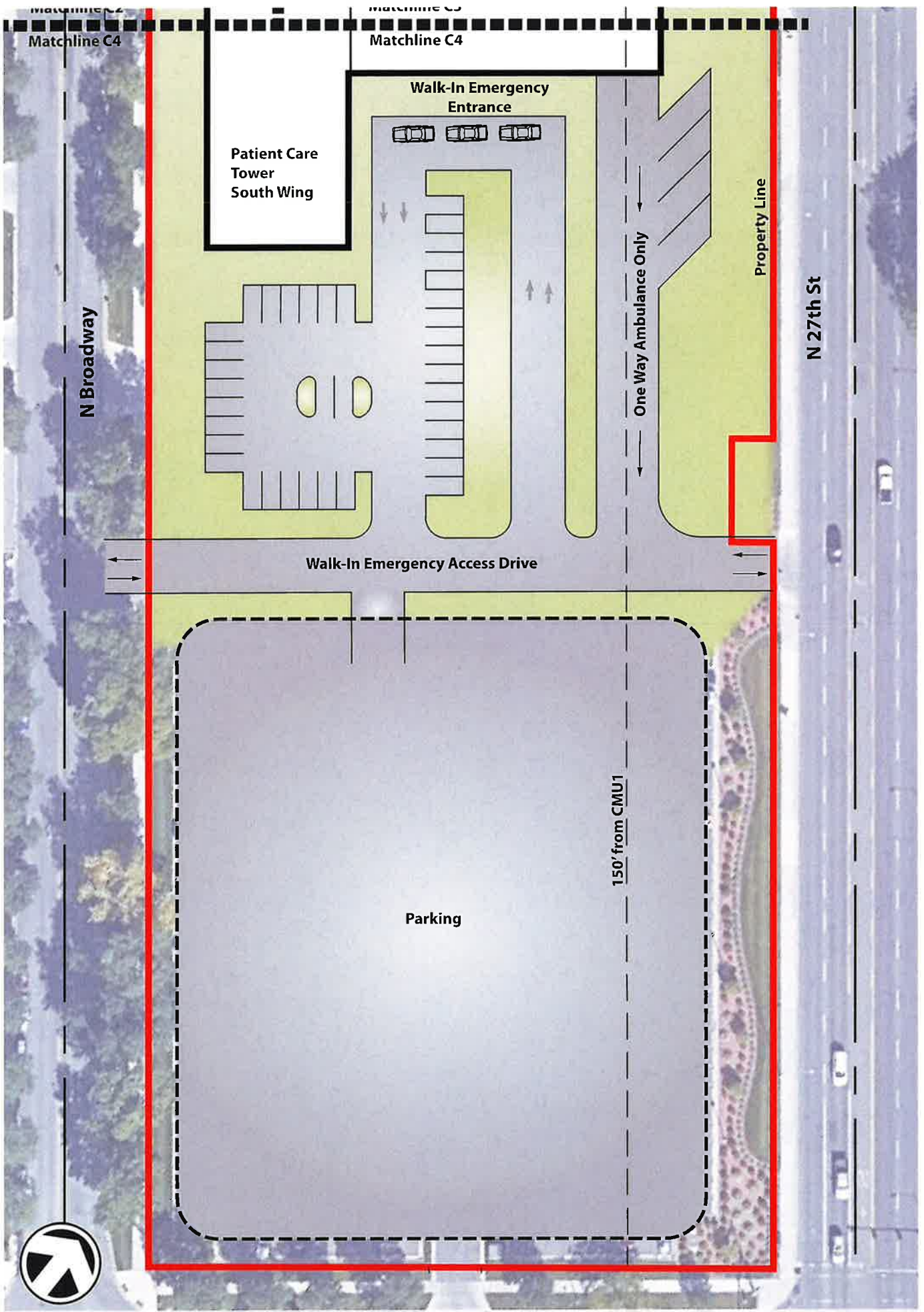
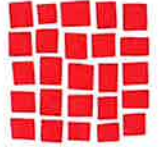


Exhibit C4 - Enlarged Concept Site Plan



## APPLICANT THOUGHTS ON THE 2016 BILLINGS GROWTH POLICY STATEMENT AND GUIDELINES



**DAVIS**  
PARTNERSHIP  
ARCHITECTS

We have reviewed the *City of Billings Growth Policy Statement and Guidelines* and offer the following commentary on how this project can support and enhance the applicable policy intent and guidelines.

### Essential Investments

- **Public transit and commercial air service are critical to ensure access to and around the City.**

*Response: We are excited about the opportunity to enhance bus transit service to the St. Vincent campus for patients, visitors and staff use. It is our intent to work collaboratively with Met-Transit in the routing, timing, and bus stop locations serving the hospital facility. Helicopter access and support facilities for medical transport of patients is an integral component, and a regional life-saving service of a hospital, and this will be preserved in the new hospital facility.*

- **Natural landscapes are important because they define the uniqueness of Billings and help protect the environment.**
- **Landscaping of public rights-of-way and entryways makes Billings more visually appealing to residents and visitors.**

*Response: The landscape design is part of the fabric that grounds a site to its context and links it to its surroundings. Recognizing and implementing landscape strategies that take their cues from the local ecology is a primary design objective for this new development. This approach enhances long-term sustainability of plant materials as well as a visual connection to the surrounding native landscape of the Great Plains Grasslands, Sand Prairie, and Yellowstone River basin. Located along N 27<sup>th</sup> St at Poly Drive in the Billings urban core, the new hospital has a unique opportunity to be a beacon of high-quality development along this public corridor linking the airport and northern development to downtown. Integration of the new hospital with its landscape, the streetscape, and surrounding area is important for visual continuity, and a basis of thoughtful design.*

- **Public health and safety and emergency service response are critical to the well-being of Billings' residents, businesses, and visitors.**

*Response: The leadership at St. Vincent Healthcare are committed to making a significant investment in community health and well-being through the development of a new hospital facility to serve residents, businesses and visitors. This "Hospital of the Future" will continue St. Vincent's mission of providing compassionate care to the citizens of Billings and Yellowstone County and will also offer enhanced emergency facilities and new expanded medical services not previously available.*

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

*Response: Infilling an underutilized area of the current St. Vincent campus with the new hospital eliminates development of a new hospital elsewhere. Remaining in place on the original campus near established City infrastructure is both cost-effective and highly beneficial in supporting the new hospital. Adjacent public rights-of-way and utility infrastructure supports good vehicle access options and the essential utilities needed to support a medical facility of this scale.*

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- **The history and heritage of Billings are cornerstones of our community.**  
*Response: St. Vincent Hospital has been a cornerstone of the community and a reliable source of medical care and employment in Billings for over a century. Deciding to remain in place and invest in their original, historic campus near the City's urban core was a decision made after focused evaluation and deliberation. The St. Vincent leadership has chosen to invest in their legacy campus through the building of their "Hospital of the Future" – an efficient, high-quality medical facility that will continue their century long history of serving the Billings community.*
- **Neighborhoods that are safe and attractive and provide essential services are much desired.**  
*Response: Healthcare and medical services are essential to the community and this new hospital facility will expand and enhance the services provided to the residents. Facilities and campuses that are open and in use all hours of the day can also enhance safety through sustained human presence and activity.*
- **Integrated, long range water planning that better utilizes existing resources and treatment options, and when necessary, acquires new ones, is vital.**  
*Response: Sustainability is at the forefront as we move forward with the design of the new hospital. As part of our goal to achieve LEED Silver certification for the project, site and building resource use will be evaluated and efficiencies sought. Site sustainability will be achieved through energy efficient lighting and thoughtful selection of drought-tolerant, native and adapted plants to minimize water consumption through supplemental irrigation.*
- **A cost/benefit study is important to make cost effective land use decisions.**  
*Response: The decision to build a replacement hospital on St. Vincent's long-time campus was based on a thorough cost/benefit assessment. The cost of a new facility vs. modernizing many aged existing facilities on the campus proved to be financially advantageous. Effective land use was also achieved through the fundamental decision to repurpose campus property that currently contains other non-medical uses (parking, etc.).*

### **Place Making**

- **The history and heritage of Billings are cornerstones of our community.**  
*Response: See commentary on this topic under "Essential Investments" above.*
- **Natural landscapes are important because they define the uniqueness of Billings and help protect the environment and beautify neighborhoods.**  
*Response: See commentary on this topic under "Essential Investments" above.*
- **Enhancing public buildings and spaces to be more efficient in their uses of energy, money, and space is important to having a vibrant and livable City.**  
*Response: There are many benefits and efficiencies in developing new facilities on property that is aged and sometimes underutilized. Reinvesting in property already under St. Vincent ownership on the campus is cost efficient and the urban nature of the site leads to land use efficiency through a vertical vs. sprawling development. Designing a state-of-the-art facility focused on sustainable materials and energy efficiency (LEED Silver goal) is an investment in long-term health and benefit of the building and the staff who work there.*

### **Community Fabric**

- **Developed landscape areas in commercial areas encourage more pedestrian activity and vibrant commercial activity.**  
*Response: The landscaped spaces between buildings on a campus offer excellent opportunities for pedestrian connectivity, pausing, and gathering, and will be thoughtfully developed as part of the new hospital. Additionally, the extensive frontage of the new hospital along N 27<sup>th</sup> St will showcase a high-quality medical facility surrounded by vibrant landscape.*
- **Attractive streetscapes provide a pleasant and calming travel experience in urban and suburban neighborhoods.**  
*Response: The streetscapes between the new hospital, Poly Drive, and N 27<sup>th</sup> St is an opportunity for enhanced pedestrian pathways and landscapes to encourage pedestrian activity, relaxation, and a safer human passage along these vital transportation corridors.*
- **Planning and construction of interconnected sidewalks and trails are important to the livability of Billings.**  
*Response: Good, safe access for pedestrians to and from the St. Vincent campus is paramount. Many employees live within walking and cycling distance from the hospital and maintaining connectivity with the surrounding neighborhoods that link to community and regional trails is important and will be thoughtfully considered in the development of the new hospital.*
- **Natural landscapes and parks are important because they define the uniqueness of Billings and help protect the environment. Cost-effective landscaping of public rights-of-way and entryways makes Billings more visually appealing to residents and visitors.**  
*Response: See commentary on this topic under “Essential Investments” above.*

### **Prosperity**

- **A diversity of available jobs can ensure a strong Billings’ economy.**
- **Successful businesses that provide local jobs benefit the community.**
- **Community investments that attract and retain a strong, skilled, and diverse workforce also attracts businesses.**
- **Continued workforce training benefits the community and helps attract and retain businesses.**  
*Response: There are many economic advantages to hospital/medical campuses. St. Vincent is one of the top sources of employment in the City of Billings and the region, and this new facility will present opportunities for continued employment diversity, growth, and ongoing staff training in a wide variety of fields. The density of staff and visitors on a full-service hospital campus also support the local community by purchasing goods and services from nearby businesses.*
- **Retaining and supporting existing businesses helps sustain a healthy economy.**  
*Response: St. Vincent’s commitment to remaining on their current campus and investing in their new “Hospital of the Future” will continue to help to foster a vibrant, healthy, and sustainable economy for the City of Billings.*