

**CITY BOARD OF ADJUSTMENT**

MINUTES August 3, 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	E					
Dave Hagstrom	Member	1	-	1	1	1	1	1	1					
George Warmer	Member	-	-	1	1	1	E	1	1					
Jeff Bollman	Vice Chair	P	-	1	1	E	1	1	1					
Oscar Heinrich	Chair	1	-	1	1	1	1	1	1					
Chris Hayes	Member	-	-	-	1	1	1	E	1					
Josh Sayer	Member	-	-	-	1	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>*2</b>					<b>10</b>

\*1 Returning variance

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

Chair Heinrich 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:** Jim Thomson, Rick Leuthold, Bruce Fong, Lynn Moore

**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 June 1, 2022. Approved. July 6, 2022 – delayed.

Disclosure of Exparte Communications: None for 1346 or 1349

Disclosure of Site Visits: 1346, Board members Hayes, Warmer, Heinrich and Hagstrom visited  
1349 Board members Warmer, and Heinrich visited

Disclosure of Conflict of Interest: Board member Warmer has a conflict with 1346 and will be recusing himself. No other conflicts.

### **Public Hearings**

Chair Heinrich referred to a late email that was received it is attached to these minutes.

Brad Brown, applicant is attending by ZOOM.

**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.

### **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.

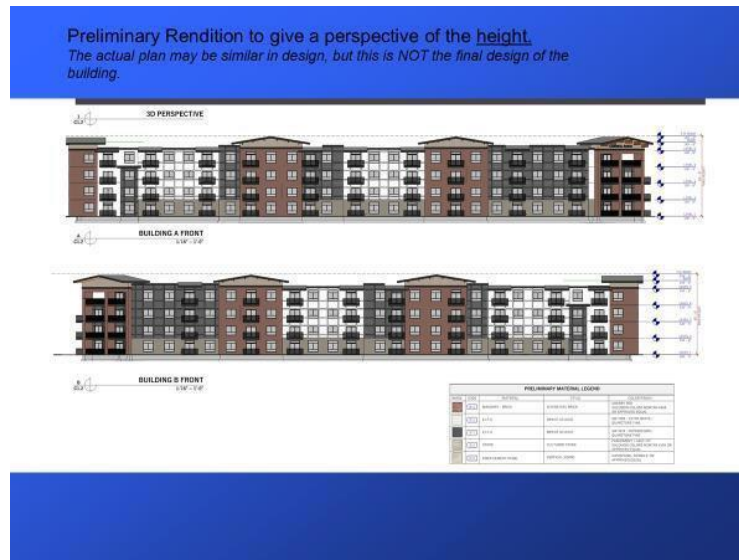
Recommended Conditions;

1. The approval is for a variance from Cardwell Ranch PD (Design Guidelines) under Article VI.C.3 to allow 49 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.

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.



**Public Hearing opened at 6:10PM**

**Applicant: Brad Brown, 719 West 4350 South, Riverdale, Utah**

He refers to a letter submitted previously by Charlie Yegen.

**In Favor:**

**Rick Leuthold, Sanderson Stewart**

Has been working on this project with Brad Brown and with the Yegens for many many years. We are

aware of the heighth variance request and is here to offer any assistance or answer any questions.

Board member Hagstrom referred to the rendering staff showed, is that close to the true pitch of the roof? It does not appear to be a steep pitch.

Mr. Leuthold replied the old zoning and the new zoning overlap in this situation and the peaks are adusted for aesthetic purposes.

Brad Brown referred to these renderings not giving a true dimensional effect.

**Opposed: None**

**Public Hearing closed at 6:17PM**

**Discussion**

Chair Heinrich asked staff if they are comfortable with what has been received from the applicant. Staff replied in the affirmative.

**Motion**

Board Member Bollman made a motion and Board Member Sayer seconded the motion to approve the **City Variance 1346 with staff conditions and recommendations.**

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

**The motion to approve City Variance 1346 passed with a 5-0-1 vote.**

**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.

**Recommendation:**

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

Recommended Conditions;

1. The approval is for the variance requested and no other variance from the zoning is intended or implied. Specifically, from 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.
- 2) Substantial conformance with the submitted site plan with minor adjustments allowed.
- 3) Submit the first building permit within 3 years of BOA approval
- 4) Complete the project within 9 years of BOA approval
- 5) All other zoning except for this variance or other city codes apply to the development
- 6) Failure to begin or complete the project will void the variance
- 7) This approval runs with the land and applies to any and all existing or future owners
- 6) A time limit for action on the variance shall be prescribed.  
See conditions 3 and 4 above
- 7) No variance may allow a use not otherwise allowed or be inconsistent with other limits on uses in the district.  
The proposed use – a hospital is an allowed use within the P3-Medical Campus zone

**Question for staff:**

Board member Bollman asked if staff knew how tall the new Billings Clinic addition is. Staff replied the addition was built before the zone change, the addition may be 6 stories and therefore 75 feet.

Chair Heinrich asked how close the Billings Clinic will be to the new SCL hospital. Staff replied Billings Clinic is at 9<sup>th</sup> Ave North. The elevation drops substantially on N 27<sup>th</sup>.

Chair Heinrich asked if the City has approved vacating 12<sup>th</sup> Ave N. Staff replied the decision is to be heard August 22<sup>nd</sup>. All pieces need to align for the project to move forward.

Chair Heinrich asked if staff has received any public comment. Staff replied the applicants have held at least 2 public meetings. He also asked if landscaping would be required along N 27<sup>th</sup>. Staff replied there will be an abundance of landscaping.

**Public Hearing opened at 6:35PM**

**Applicant: Bruce Fong, 546 Trenton St, Denver Colorado**



BOA Hearing  
Presentation Final 2

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**Jim Thomson, HDR, 600 Hennepi, Minneapolis, MN**

A key component with St. Vincents is patient experience. The guiding principles are to give the best patient experience and the best caregiver experience. This will be an expansion and increase from the current hospital. We will increase from 253 patient beds to 294 beds. There will be an increase in numbers of operating rooms as well as size of operating rooms. The site was selected because of the desire to stay downtown. Going up in elevation is the best solution for this new build. The entrances and egresses have been revamped for ease and traffic flow. It is anticipated the hospital will be 9 stories tall. It is necessary to keep the existing hospital operating during this construction. It has been determined it is much more efficient to provide care for patients vertically rather than a horizontal sprawl.

**Lynn Moore, 2901 Blake, Denver Colorado**



1349  
presentation.pdf

This will be an efficient hospital and patient care towers. We are optimizing the land and minimizing sprawl. We will keep the current hospital functioning during construction. The variance applied for is for 2 very minor areas. The conditions as presented by staff are acceptable.

**Questions for applicant:**

Board member Bollman asked if they need “breathing room”. Ms. Moore stated that would be appreciated.

**Rick Leuthold, Sanderson Stewart**

The site is at the extreme edge of the easterly boundary due to a utility set back.

**In favor: None**

**Opposed: None**

Chair Heinrich considered the hardship and asked the applicant why the West End was not considered. Again, the applicants stated the study was done determined this location is the most convenient for patients. The old building cannot continue to meet the needs of the community and codes. He then asked what will happen to the old building. The applicants stated there will be a visioning masterplan meeting next year to decide. It is likely it will be leveled for parking and provide surface parking right at the front door. Chair Heinrich expressed the communities current dislike for the distant parking. The applicant explained the probable plan but also explained there is plenty of parking now, it is just in he wrong place.

**Public Hearing closed at 7:01PM**

**Discussion**

**Motion**

Board Member Bollman made a motion and Board Member Hayes seconded the motion to approve the **City Variance 1349 with staff recommendations, conditions and findings of fact modifying condition #1 as follows:**

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 105 feet west of a CMU1 zone district; and a building height up to 145 feet for a diagonal portion of the northwest building elevation 90 feet south and east of a CMU1 zone district. No other variance is intended or approved by this application.

<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 1349 passed with a 6-0 vote.**

**Other Business:**

**ADJOURNMENT: The meeting adjourned at 7:05PM.**

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

## Bartle,I, Robbin

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**From:** Teri's Email <tecurtiss@gmail.com>  
**Sent:** Tuesday, August 2, 2022 4:32 PM  
**To:** Bartley, Robbin  
**Cc:** Teri Curtiss  
**Subject:** [EXTERNAL] City Variance 1346. Project Number: PZX-22-00114 Cardwell Ranch East Planned Development

We are voicing our deep concern for the Cardwell Ranch East 80 Development and the detrimental effects on our neighborhood. We live at 2849 Belvedere Dr.

1. We are concerned about the way that the public is notified of this proposed project. We saw a notice staked to a post at 30th St W and Meadow View Dr. (An empty field). I don't know if most of the residents in this area are aware of this project.

2. We are concerned that people are not aware that a 249 apartment complex with 479 off street parking place is being proposed for the 2 block area between 30th St W (east) and Meadow View Dr (north) and Golden Valley Cir (west) and Will James (south). There would probably be more than 500 people moving into that small area.

3. We are concerned about the traffic on 30th St W. Right now it is very difficult at different times of the day to cross Grand or turn west on Grand. When school is in session, traffic is backed up to Grand during drop off and pickup times for Will James.

Adding over 500 more vehicles to this situation is unfathomable. People will be leaving for work during this peak time.

4. We are also concerned about the traffic on Belvedere where we live. Right now we have a lot of traffic because of the 2 schools (Will James and Trinity Lutheran School). The cars drive too fast and are constantly making u-turns in front of our house. If this project is approved the traffic on Belvedere, Lewis, Manhattan and Vermilion will be unmanageable. This is a residential area with small children.

5. We urge you not to approve the variance change to 49 feet. Projects should be within the variance requirements that are in place. I see that Cardwell Ranch advertises the wonderful view from this property. This change will take away the wonderful view that we currently have. Also, we hope that they are still being required to have the number of off street parking spaces that the current variance requires. Changing the parking space requirements will cause additional problems for the surrounding areas.

We are requesting that you do not approve this project at all, adding an additional 500 or more people in that small space is too much for our neighborhood.

Ronald and Theresa Curtiss  
2849 Belvedere Dr.  
Billings, MT 59102  
406-656-5727

Sent from my iPad