



CITY BOARD OF ADJUSTMENT
AGENDA-Wednesday, January 4, 2023, 6:00 p.m.
Miller Building, 1st Floor Conference Room
2825 3rd Avenue North, Billings, Montana

NOTICE TO THE PUBLIC

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://tinyurl.com/yckr478k>

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

- Mail: City/County Planning Division, 2825 3rd Ave N 4th Floor, Billings, MT 59101
 - Email: bartleyr@billingsmt.gov
- Call in during the Public Comment periods as indicated on the agenda:
 - Citizens may call in during specific Public Comment periods at **406.237.6165**.
All callers will be placed in a queued system and are asked to remain on hold and be patient. Calls will be taken in the order in which they are received. Callers will be limited to 3 minutes of testimony as is customary.
Future delivery methods may be explored as best practice is learned.

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

Call the meeting to order.

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

Public Comment

Approval of Minutes: DELAYED

The minutes of the Board meeting of December 7, 2022 are delayed.

Disclosure of any Conflict of Interest-Members of the Commission and Staff

Disclosure of an Outside (Ex Parte Communication)-Members of the Commission and Staff
a. The Exparte Communication Binder is available at the Sign-In and Agenda Station.

Regular Business:

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

Public Hearings:

- a. **City Variance 1355 -- Intersection of Golden Acres Dr and Southern Bluffs Lane -- Location of the attached garage entry in NX2 - A variance from 27-308 -- Table 27-300.7 requiring a garage entry to be located on the rear or street side façade, to allow garage entries to be located facing the front street in a Mixed Residential Neighborhood 2 (NX2) zone, on Lot 6, Block 2 of Falcon Ridge Estates, 2nd Filing, a 14,261 square foot parcel of land. The purpose of the request is to allow the construction of a 4-unit building with attached garages that face the front streets.**

Other Business/Announcements

Adjournment

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

Additional information on this application is available on-line at <https://www.billingsmt.gov/2361/Current-Zoning-Applications> or in the Planning Offices at 2825 3rd Ave N -- 4th Floor.

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

Board of Adjustment

Date: 01/04/2023
Title: City Variance 1355- Falcon Ridge Estates Sub, Blk 2, Lot 6
Presented by: Karen Husman
Department: Planning & Community Services
Presentation: Yes

Information**RECOMMENDATION**

Planning staff recommends conditional approval of Variance 1355 and adoption of the findings of the review criteria.

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

This is a variance from 27-308 -- Table 27-300.7 requiring a garage entry to be located on the rear or street side façade, to allow garage entries to be located facing the front street in a Mixed Residential Neighborhood 2 (NX2) zone, on Lot 6, Block 2 of Falcon Ridge Estates, 2nd Filing, a 14,261 square foot parcel of land.

The purpose of the request is to allow the construction of a 4-unit building with attached garages that face the front streets on a corner lot. Planning staff is recommending approval based on the findings of the review criteria for granting a variance which are provided in the summary section of this report. The applicant is proposing development of a 4 plex on the property with garages on the same side as the front entrance. The attached site plan shows that as a corner lot, each street side would have a maximum of two garage doors on each side. This layout avoids a 4-plex with 4 garage doors on one street facade. The design as proposed lessens the garage impact for the number of units. The parcel at 6433 Southern Bluffs is a corner lot with no alley for accessing a garage located at the rear of the property. It would be difficult to accomplish a plan supporting four livings units and a functional rear loading garage on the lot.

There are other properties in the subdivision that were constructed under the previous zoning code that allowed a front loading garage. This is not specifically a reason to support the variance. The currently adopted code intends to change the development pattern in neighborhoods by bringing front doors and eyes on the street as apposed to being garage dominated. However, the proposed layout of the 4-plex is in character with the already developed subdivision. This parcel is one of the two remaining vacant lots in the subdivision. Denying this request would deprive this applicant of rights commonly enjoyed by other property in the area and within this subdivision.

APPLICATION DATA

OWNERS: Christopher Marks
PURPOSE: Garage located on the street frontage
LEGAL DESCRIPTION: Lot 6, Block 2 of Falcon Ridge Estates, 2nd
ADDRESS: Golden Acres Dr. & Southern Bluffs Dr.
EXISTING LAND USE: Vacant
PROPOSED LAND USE: Residential
EXISTING ZONING: NX2

CONCURRENT APPLICATIONS

None

SURROUNDING ZONING & LAND USE

NORTH: Zoning: N3
Land Use: Single Family Residential
SOUTH: Zoning: NX2
Land Use: Residential Multi Family
EAST: Zoning: NX2
Land Use: Residential Multi Family
WEST: Zoning: NX1
Land Use: Residential Multi Family

STAKEHOLDERS

Planning staff has not received any comment from the surrounding property owners as of the date of this report. The Board of Adjustment will hold a public hearing prior to taking action on the item.

ALTERNATIVES

The Board of Adjustment may:

- Conditionally approve the requested variance and adopt the recommended findings of the review criteria; or
- Deny the variance and adopt different findings of the review criteria; or
- Delay action on the variance to the next scheduled Board meeting; or
- Allow the applicant to withdraw.

Four votes in favor are required to approve any variance. If a variance is denied, the applicant must wait one year to reapply for the same variance.

FISCAL EFFECTS

The Planning Division budget will not be effected by the Board's decision on this variance.

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.

The subject property does not have unique topographic features or circumstances that are relevant in the review of this variance request, however, there may be some design features of the subdivision that creates limitations for rear access. The subdivision in which this lot is located, was developed in whole without an alley system. Being a corner lot, there are options for rear entry of the parcel, but whether it is a private drive or alley, the size and layout of the lot, coupled with the layout of the building would make it difficult to provide four rear loading garages on the property ultimately reducing the infill opportunity of the lot. This lot is one of the last two undeveloped lots in the subdivision. The majority of the parcels within the subdivision have been developed and constructed with front loading garages. The granting of this variance would not create a design outcome that is not already prevalent within the subdivision.

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

The subdivision in which this lot is located was developed prior to the adoption of the new zoning districts that require rear-entry garages. In other words the houses that existing with front entry garages were developed under old zoning ordinances and were not subject to the location requirement of the currently adopted code. If existing lots were to be re-developed they would need to conform to the same garage location requirement of the currently adopted code and the same requirement in which this applications seeks to vary from. However, lot owners within the subdivision enjoy front-loaded garages. Denying this variance request would prevent this lot from enjoying the same benefit and would create an unusual development pattern not commonly seen, if at all, within the existing development.

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.

Similar to criteria two, the lots within the subdivision are now subject to the same zoning district requirements, but because they were developed prior to adoption of the new zoning code, front load garages were allowable. Any redevelopment would need to be in conformance with the new district requirements. The granting of this variance will not confer a special privilege since front load garages are the predominant development pattern within the vicinity of this property. The lot is one of the last few undeveloped lots in the subdivision that were not developed before the adoption of Project Re:Code. The applicants design conforms to the existing development pattern and has lessened the impact of front loading the garages by placing no more than 2 garage doors on a single street facade. The granting of this variance does not create a compatibility issue with the existing development pattern within the subdivision.

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

Granting of this variance application is most compatible with the following goals of the 2016 Growth Policy:
Strong Neighborhoods:

- Zoning regulations that allow a mixture of housing types provide housing options for all age groups and income levels
- Neighborhoods that are safe and attractive and provide essential services are much desired

Home Base:

- A mix of housing types that meet the needs of a diverse population is important
- The Housing Needs Assessment is an important tool to ensure Billings recognizes and meets the demands of future

development

- Common to all types of housing choices is the desire to live in surroundings that are affordable, healthy and safe

Allowing continued investment in residential property supports a use that is compatible with the neighborhood. Granting this variance for the location of a garage should also be in harmony with the general purpose and intent of the Zoning Regulations. The development is compatible with surrounding land uses which include the majority of residential multifamily structures in a subdivision that was developed under the requirements of the previous zoning code.

Section 27-1627.E

2) In granting any variance, the Board may prescribe appropriate conditions and safeguards in conformity with this Zoning Code. Violation of such conditions and safeguards, when made a part of the terms upon which the variance is granted, shall be deemed a violation of this Zoning Code; Staff is recommending several conditions for the variance request:

1. This approval is to allow a front loading garages on the front of the property, two single garages on Golden Drive and two single garages on Southern Bluffs Lane. No other variance is intended or implied.
2. The variance is limited to Lot 6, Block 2 of Falcon Ridge Estates, 2nd Filing.
3. Each unit is allowed to have a garage entry no more than 10 feet in width on the front façade. The preferred arrangement is to have both garage entries side-by-side, so one driveway from the street serves at least two units.
4. The applicant will apply for and receive approval for a building permit within 1 year and complete construction within 3 years of BOA approval. Failure to meet the time limits of this condition will void the variance.
5. There will be no construction activities before 7 a.m. or after 8 p.m. daily.
6. The applicant shall meet all other city code requirements in place at the time of construction except for the variance granted herein.
7. These conditions of variance approval shall run with the land described in this authorization and shall apply to all current and subsequent owners, operators, managers, leaseholders, heirs and assigns.

3) The Board shall prescribe a time limit within which the action for which the variance is required shall be begun or completed, or both. Failure to begin or complete such action within the time limit set shall void the variance.

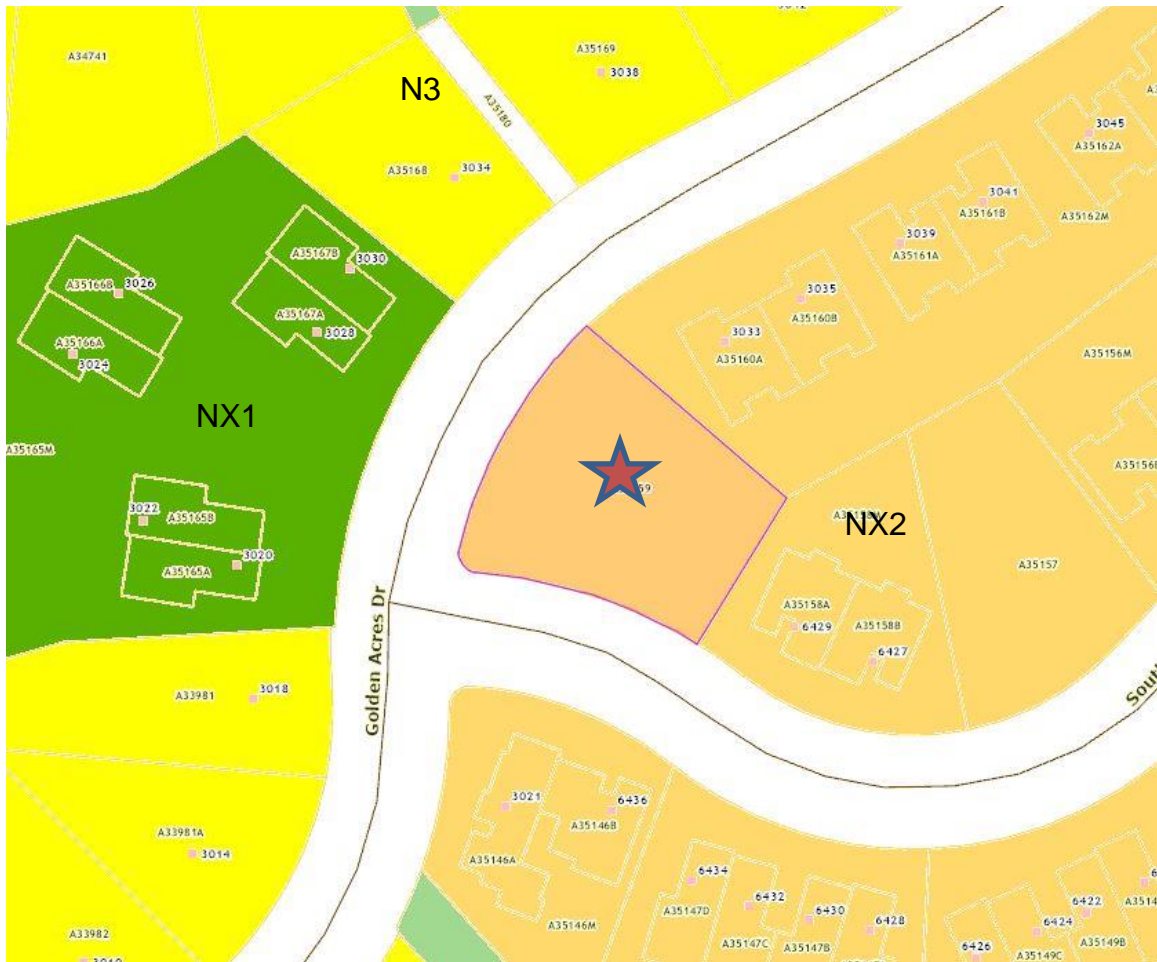
Staff is recommending the applicant receive approval for a building permit within one year and complete construction within three years of BOA approval.

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. Dwellings are allowed uses in this zone district.

Attachments

Zoning Map & Site Photos
Application & Applicant Letter
Zoning History
Site Plan





Subject Property



North



West



South



South



West

CITY VARIANCE

APPLICATION FORM
ID: Billings Variance # 1355 - Project # P2X-22-00275

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 # A35159 CITY ELECTION WARD # _____

Legal Description of Property: FALCON RIDGE ESTATES 2ND (14), S25, T01 N, R24 E, BLOCK 2, Lot 6

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

Zoning Classification: NX2-Mixed Residential 2 - 2 to 8 unitsType text here

Size of Parcel (Area & Dimensions): 14,261 SQ. FT.

Covenants or Deed Restrictions on Property: Yes _____ No _____

If yes, please attach to application

Variance(s) Requested: trying to get Relieve on the Driveway to Be on the Same Side of the Street as the front Door.

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): CHRISTOPHER T. MARKS

(Recorded Owner)

6417 SOUTHERN BLUFFS LANE BILLINGS MT 59106

(Address)

406-672-9782

(Phone Number)

CHRIS@WHOLESALEMARKETING.COM

(email)

Agent(s): _____

(Name)

(Address)

(Phone Number)

(email)

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

Signature: _____ Date: 9/26/22

(Recorded Owner)



November 1, 2022

RE: Zoning Variance Request for 6433 Southern Bluffs Lane

To whom it may concern,

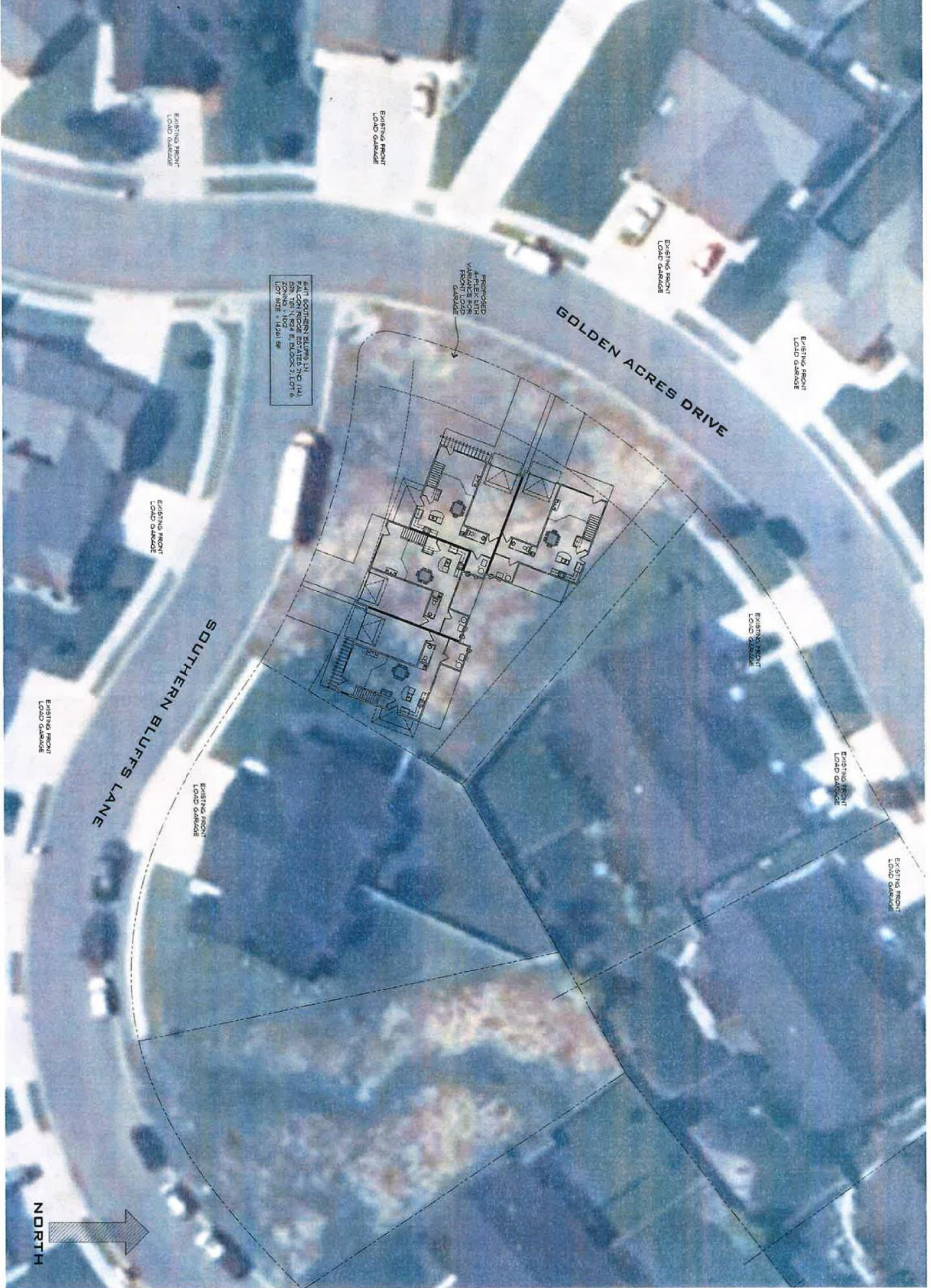
This letter is a request for a zoning variance to allow for front facing attached garages on a proposed fourplex building. 6433 Southern Bluffs Lane resides in the Falcon Ridge Estates subdivision. This particular lot is currently zoned NX2. Under the current regulations, this site will be required to comply with an attached garage to be located on the rear half of the structure. Due to the dimensions of the lot, and lack of an existing alley, accomplishing a functional rear facing garage, for multiple tenants will not be feasible. Additionally, this lot is one of two remaining vacant lots within this subdivision. Currently all existing single family homes and town homes within this subdivision utilize a front loading garage. Granting this variance would keep the design and feel of the proposed structure consistent with the homes throughout the subdivision.

Sincerely,

Cory Hess
Peak Custom Home Design
(406)855-4231

APPLICABLE ZONING HISTORY

SUBJECT PROPERTY	VARIANCE	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
None					
SURROUNDING PROPERTY	VARIANCE	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
6737 Cove Creek	1044	2018	LC from 30% to 32%	Y	
There were no similar variances approved, however, the entire subdivision was developed with the previous zoning code regulations and the majority of lots have been developed with front loading garages.					



S41T SOUTHERN BLUFFS LN,
 FALCON RIDGE ESTATES INC (14),
 250' x 100' N100 E, BLOCK 7,
 LOTS 6,
 LOT SIZE = 14541 SF

GOLDEN ACRES DRIVE

SOUTHERN BLUFFS LANE



FALCON RIDGE 4-PLEX



Billings, MT
 ph: 406.333.4888

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