



CITY BOARD OF ADJUSTMENT
AGENDA-Wednesday, March 1, 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:

The minutes of the Board meeting of February 1, 2023 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 1360 -- 4825 Midland Rd - Maximum Build-to Range, Minimum Front Lot Line Coverage, Location of Surface Parking, Window and Door Coverage on the Ground Story Front Façade --** A variance request from Section 27-406, Table 27-400-3. A3 (Minimum Front Lot Line Coverage), A4 (Maximum Front Build-to Zone), B8 (Surface Parking Yard Location) and D16 (Window and Door Coverage on Ground Story Façade), in a CMU2 zone, on Lot 2A, Block 1, Billings Operations Center Subdivision, a .78 acre parcel of land. The variance would allow a greater building setback and reduce building façade requirements to accommodate a new commercial structure and the Suburban Ditch easement that crosses the street frontage of the parcel.

- b. **City Variance 1361 -- Angel Oak Lane, The Timbers Sub -- Attached Garage Location Entry** -- A variance from Section 27-307, Table 27-300.6, A11 (Attached Garage Location and Entrance) to allow attached garage space in the front half of structures and allow the garage entrance to face the street frontage, in a Mixed Residential 1 (NX1) zone, on Lots 1 through 27 of Block 1, The Timbers Subdivision (final plat pending). The total area affected is 4.9 acres of land.
- c. **City Variance 1362 -- 807 Bench Blvd -- Maximum Build-to Range, Minimum Front Lot Line Coverage** -- A variance request from Section 27-406, Table 27-400-3, A3 (Minimum Front Lot Line Coverage), and A4 (Maximum Front Build-to Zone), in a CMU2 zone, for proposed Lot 3A1 of Brittain Acres, a 1.869 acre parcel of land. The variance would allow a greater setback than the maximum allowed and less than the minimum front lot line coverage to accommodate a new commercial structure and a sewer line easement that crosses the street frontage of the parcel.

Other Business/Announcements

Adjournment

The City Board of Adjustment will hold its public hearing in the 1st Floor Conference Room at 2825 3rd Avenue North (Miller Building) starting at 6 pm, March 1, 2023. 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 or bartleyr@billingsmt.gov before 1:00 PM on March 1, 2023. All emails received prior to this time will become part of the record for the public hearing.

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: 03/01/2023
Title: Variance 1360 - 4825 Midland Rd - Front Lot Line Coverage, Build-to Zone, Parking Location, Window & Door Coverage
Presented by: Karen Husman
Department: Planning & Community Services
Presentation: Yes

Information**RECOMMENDATION**

Planning staff recommends conditional approval of the variance request from Section 27-406, Table 27-400-3. A3 (Minimum Front Lot Line Coverage), A4 (Maximum Front Build-to Zone), B8 (Surface Parking Yard Location) and denial of a variance from D16 (Window and Door Coverage on Ground Story Façade) and adoption of the recommended findings of the review criteria for Variance 1360.

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

This is a variance request from Section 27-406, Table 27-400-3. A3 (Minimum Front Lot Line Coverage), A4 (Maximum Front Build-to Zone), B8 (Surface Parking Yard Location) and D16 (Window and Door Coverage on Ground Story Façade), in a CMU2 zone, on Lot 2A, Block 1, Billings Operations Center Subdivision, a .78 acre parcel of land. The variance would allow a greater building setback, relieve the requirement for minimum front lot line coverage, allow surface parking in the front yard, and reduce building façade requirements to accommodate a new commercial structure and the Suburban Ditch easement that crosses the street frontage of the parcel.

The Board of Adjustment previously granted a variance to the limitation of front yard parking at 3840 Zoo Drive for a new Costco (CX zone) and at 3160 S Frontage Rd for a new warehouse and office for Mobile Stor (CX zone). In addition, the Board granted a variance for property on Blue Creek Road (CMU1 zone) in 2021 to accommodate a 100-year flood plain that crossed the front of the property. A property at 3032 King Avenue West was granted a front lot line coverage reduction for a new Panda Express (CMU2 zone) due to the narrowness of the lot and the shared access easement for property to the south. These are similar requests although separated by degrees of intensity and use. The Costco parcel on Zoo Drive also had physical constraints (an irrigation ditch) and building functional needs for access. The Mobile Stor parcel on S Frontage Rd. also had site restrictions with three petroleum pipelines running through the parcel and a floodplain along the rear. The King Ave West parcel was burdened by topography and a shared access easement, while the Blue Creek Road parcel had a flood plain. The Board conditionally approved the Costco variance request in May 2022, and the S Frontage Road variance in February 2023. The Blue Creek Road variance was approved in May 2021 and the King Ave West variance was approved in October 2022. Additionally, in March 2022, the City Council approved a Special Review for an Auto repair center on Shiloh Crossing Blvd in a CMU2 zone that included a variance approval for relief from the front lot line building coverage.

There have been no variances granted from the window and door coverage requirement on the ground story facade. The width of the front portion of the proposed building is 30 feet, and the submitted elevations indicate the window and door coverage for the front of the building would be less than the required 65%. Other than the elevations submitted, the application did not include information for a variance from this item and there is no indication there is a hardship or other relevant finding that would support a variance for less than the required 65% of window and door coverage. Staff has elaborated on this item in the proposed findings and recommended conditions of approval.

APPLICATION DATA

OWNERS: Midland Shops, LLC
AGENT: Scott Atwood, Atwood Architecture
PURPOSE: Construct a new building behind the required maximum build-to area
LEGAL DESCRIPTION: Lot 2A, Block 1, Billings Operations Center Subdivision
ADDRESS: 4825 Midland Road
EXISTING LAND USE: Vacant
PROPOSED LAND USE: Commercial building
EXISTING ZONING: CMU2

CONCURRENT APPLICATIONS

None

SURROUNDING ZONING & LAND USE

NORTH: Zoning: None

Land Use: Interstate 90

SOUTH: Zoning: Public 2 (P2)

Land Use: Billings Operations Center

EAST: Zoning: CMU2

Land Use: Office/warehouse - current lessor, Dotty's Casino Operations and Maintenance

WEST: Zoning: P2

Land Use: Vacant - City-owned

STAKEHOLDERS

Planning staff notified the surrounding property owners by mail, placed a legal advertisement in the Yellowstone County News, and posted the property with the required sign. No comments from any surrounding owners were received by Planning staff.

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.

Under local regulations and state law, four votes in favor of a variance request are needed for approval. The applicant has not requested a delay of the hearing or a withdrawal of the application.

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.

The property is subject to physical constraints including a 30-foot ditch easement that runs through the south of the property, and a utility easement and a gas line easement on the south 11 feet of the parcel. In addition to the easements on the parcel the shape of the lot limits the ability to have adequate vehicular access and parking to the rear of the property as well as restrict the location of the building from the front lot line coverage to at least 90 feet from the front property line. The width to the south along Midland is approximately 178 feet of frontage along the ROW and narrows to about 59 feet wide on the north side (rear of the parcel). The property is adjacent to the interstate off ramp to the north, and has access to Midland Road to the south, however, the proposal is to provide access from the parcel to the east with an access easement/agreement with the adjacent property in an effort to provide the required parking. These are conditions that are peculiar to this location. There are no circumstances that would prevent the building from being designed with the required 65% of window and door coverage on the front facade of the building.

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.

There are several buildings in the area that have conformed to the zoning standards for the placement of parking, but these uses and tracts were not subject to the same physical constraints as this parcel and, except for the vacant parcel the west, were developed under the old code and so were not required to develop like new projects. The developed properties in proximity to the subject parcel have also been developed with parking in the front and side yards, and structures not close to the front property line as required under the CMU2 district. There are properties on the S Frontage Road corridor that have large front yard parking lots including Hogan Crane and Transport (3716 S Frontage Rd), Intermountain Distributing at (1010 Intermountain St), and the I-State Truck Center at (4600 S Frontage Road-also CMU2). Two previous variances in the CMU zone districts for new development restricted by easements or other restrictions have been approved that allowed buildings behind the maximum build-to range. In addition, the variance approved for the Costco Warehouse in 2022 is an example of similar variance request to allow front yard parking, but on a much larger scale of development.

Specific to the Doors/Windows requirement, there are other developed properties in the area that have less than the required

front facade of window and door coverage, these properties were developed under the old code and if they were redeveloped or modified, there are rules in place under the code that allow specific relief from adherence to the current code depending on the extent of the redevelopment. Other than the other developed parcels in the area with less than the current code requirements for front facade design the literal interpretation of this chapter would not deprive the applicant of rights enjoyed by other tracts, there are no circumstances that would prevent the building from being designed with the required window and door coverage on the front facade of the building. This is an undeveloped parcel and the provisions of the code were developed to promote an aesthetically pleasing facade and promote design features to beautify the commercial developments.

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 the finding for criteria 2 above, the granting of this variance may not confer a special privilege on the applicant due to the existing developments in the area. In addition, there have been variances approved for parcels in CMU zones with similar hardships. There is existing developments in the area built under the previous code. Although this parcel is a CMU2 zoned parcel, the restrictions are similar, but on a much smaller scale than the previous approved variances in the CX zone districts. Another example of similar development approved with a variance occurred in March of 2022. The City Council approved a special review for an auto repair center on Shiloh Crossing Blvd in the CMU2 zone that included a variance approval for relief from the front lot line building coverage. The Board granted variances for new development on Blue Creek Road and King Ave West to accommodate restrictions to property in the CMU zone district. Specific to the doors/windows requirement, there are other developed properties in the area that have less than the required front facade of building and door coverage, these properties were developed under the old code and if they were redeveloped or modified, there are rules in place under the code to address these cases depending on the extent of the redevelopment. Approval of a variance for less than the required window and door coverage on the front facade would confer on the applicant a special privilege under the new code. This is an undeveloped parcel and the provisions of the code were developed to promote and aesthetically pleasing facade and promote design features to beautify the commercial developments.

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.

The 2016 Growth Policy and the 2021 Zoning Code adopted to further the Growth Policy goals, are intended to curtail the out-of-date development style of placing all new commercial development behind a sea of parking stalls. Approval of this variance with the provision of parking stalls along the front of the property, with a reciprocal access easement and agreement with the property owners to the east, will be in harmony with the general purposes and intent of the Growth Policy and zoning code. The appearance of the structure itself will be the most prominent feature from the right of way and a variance from the required window and door covering would not be harmony with the general purpose of the zoning code and the Growth Policy. As addressed in items 2 and 3 above, the zoning code was designed to address the Growth Policy intentions to promote aesthetically pleasing building facades in the commercial districts. Beautification of entryways and commercial districts is preferred under the Growth Policy.

Section 27-1627.E

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

Staff is recommending conditions for the approval of this variance request.

1. The variance is to allow variance request from Section 27-406, Table 27-400-3. A3 (Minimum Front Lot Line Coverage), A4 (Maximum Front Build-to Zone), B8 (Surface Parking Yard Location), in a CMU2 zone, as depicted on the submitted site plan for the new building. No other variance is intended or implied.
2. The variance from D16 (Window and Door Coverage on Ground Story Façade) is not approved with this variance and the design of the submitted elevation must be modified to meet the 65% window and door coverage requirements under the CMU2 zone district.
3. The variance is limited to Lot 2A, Block 1, Billings Operations Center Subdivision, generally located at 4825 Midland Road.
4. The structure will be built in substantial conformance to the drawings submitted with this variance request, except for condition 2 above concerning window and door coverage on the front facade. Minor modifications to the location of the proposed structures and other site improvement as shown on the submitted site plans is allowed.
5. The applicant will complete the building permit process within 1 year of Board approval and complete the project within 3 years of Board approval.
6. The applicant will install two street trees in the area between the row of parking stalls at the south edge of the property and the city sidewalk on Midland Road. Trees will be chosen that are listed as recommended for boulevards on the City of Billings tree list.
7. All other zoning regulations, except for these specific variances, and any other applicable city regulations apply to the development of the site.
8. Failure to begin or complete actions required by this approval within the time limits set forth shall void this variance.

9. These conditions of variance approval shall run with the land described in this authorization and shall apply to all current and subsequent owners, operators, managers, lease-holders, heirs and assigns.

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

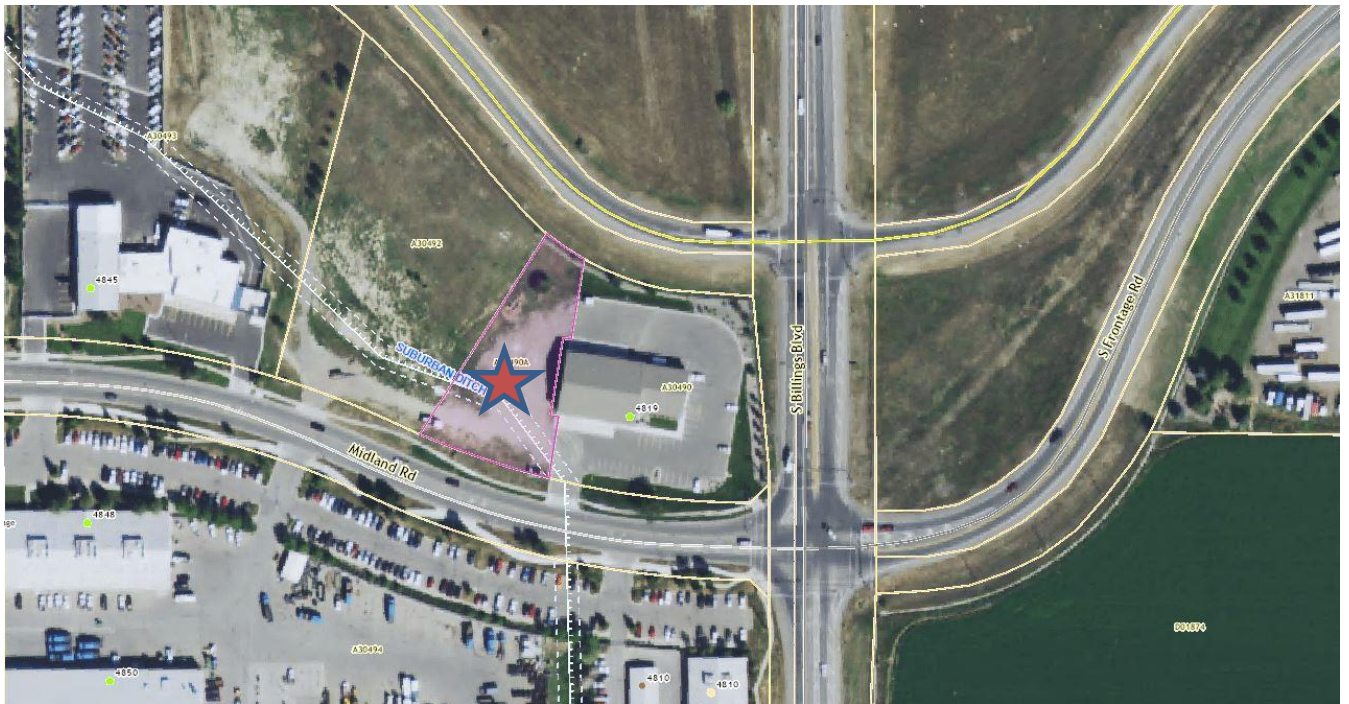
Staff is recommending conditions of approval that include time limits to begin and complete the project. Specifically the recommendation is that the applicant will complete the building permit process within 1 year of Board approval and complete the project within 3 years of Board approval.

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. Offices are allowed uses in the CMU2 zone.

Attachments

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





West



East



South



ZONING VARIANCE REQUEST



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

Check one: City of Billings Variance Yellowstone County Variance

Address Midland Road

Legal Description Lot 2A Block 1 Billings Operations Center

STATEMENT: Answer the following questions on a separate document and upload to the online project attachments.

1. What reasons prevent you from using this property in conformance with the Zoning Regulation requirements? see attached letter

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

3. Statement to Chairperson of the Board Adjustment. What is intended to be done with the property, including new construction or change in the use of the property and why the variance is being sought.

Required Project Uploads

- Site Plan
- Signed Application and Statement (Variance Questions)
- Radius Map & Certified List of Property Owners
- Typed Mailing Labels Certified Surrounding Property Owners

Online Access: <https://services.billingsmt.gov/citizenaccess/>

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

Recorded Owner(s) Midland Shops LLC
Owner's Address 2040 Grand Ave. - Suite 1

Owner's Phone Number 307-751-5318 (E-mail) bsgrealestate@gmail.com

Applicant/Agent Atwood Architecture

Applicant/Agent's Address 1301 Division Street

Applicant/Agent's Phone Number 406-855-4262 (E-mail) scott@atwoodarchitecture.com

Signature of Recorded Owner(s) [Signature] Date 1-31-2023

AUTHORITIES: Procedures and review Criteria for Variance requests Billings Montana City Code (BMCC) 27-1506 et seq. (SEC. 27-1506. CITY VARIANCES, CITY BOARD OF ADJUSTMENT a) Authority. The City Board of Adjustment shall have the authority to grant a variance from the terms of this chapter in specific cases where it is found that the granting of the variance will not be contrary to the public interest and where, because of special conditions with respect to City Variance 2020-2021 updated Nov 8, 2019 the lot shape or topography, a literal enforcement of the provisions of the chapter would result in unnecessary hardship.

AUTHORITIES: Procedures and Review Criteria for County Variance requests: Unified Zoning Regulations Section 27-1511 et seq. SEC. 27-1511. COUNTY VARIANCES, YELLOWSTONE COUNTY BOARD OF ADJUSTMENT a) Authority. The County Board of Adjustment shall have the authority to grant a variance from the terms of the chapter in specific cases where it is found that the granting of the variance will not be contrary to the public interest and where, because of special conditions with respect to the lot shape or topography, a literal enforcement of the provisions of the chapter would result in unnecessary hardship.

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

CITY VARIANCE **APPLICATION FORM**
ID: Billings Variance # _____ - Project # ^{12x} 23-00019

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 # 01A30490A CITY ELECTION WARD # 3

Legal Description of Property: Lot 2A, Block 1, Billings Operations Center Sub.

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

Zoning Classification: CMU2

Size of Parcel (Area & Dimensions): 33,915 s.f. (310' x 108' pie-shaped)

Covenants or Deed Restrictions on Property: Yes _____ No X

If yes, please attach to application

Variance(s) Requested: SET BACK / BUILDING PLACEMENT

Facts of Hardship: (attach letter) attached

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

Owner(s): Midland Shops LLC

(Recorded Owner) 2646 Grand Ave. - Suite 1

(Address) 307-751-5378 bsgrealestate@gmail.com

(Phone Number) (email)

Agent(s): Atwood Architecture

(Name) 1301 Division Street

(Address) 406-855-4262 sottie@atwoodarchitecture.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: [Signature] Date: 1-31-2023
(Recorded Owner)





January 30, 2023

Nicole Cromwell, Zoning Coordinator
Billings Planning Department
2825 3rd Avenue North
Billings, MT 59101

Re: Variance Application - Midland Road
Identification of Hardship

Dear Board of Adjustment,

Facts of Hardship for Lot 2A Block 1, Billings Operations Center

As shown on the attached site layout study we find the following hardships for the property:

- 1) The primary hardship is the existence of an existing drainage easement across the lot. Because it cannot be built upon, this easement forces the owner to push any future building back (South) on the site.
- 2) The secondary issue is the "pie-shaped" nature of the lot. Because the building must be pushed back on the site due to the easement noted above, the lot narrows and essentially forces the building to be rotated in order to gain any true useful square footage.
- 3) After a series of studies, the Owner has decided that the layout as shown gains enough useful square footage to be economically feasible. You may notice that the layout relies on passing across the adjacent property for both private and Fire Dept./Solid Waste access. The Owner is aware of this and will follow up with appropriate documentation/filing of access easement if this variance is granted.

We hope the above explains the challenges that the Owner must deal with in developing the property.

Sincerely,
Atwood Architecture

A handwritten signature in blue ink that reads 'SCOTT ATWOOD'.

Scott Atwood, Registered Architect
copy: Bryan Gentry

1301 Division Street

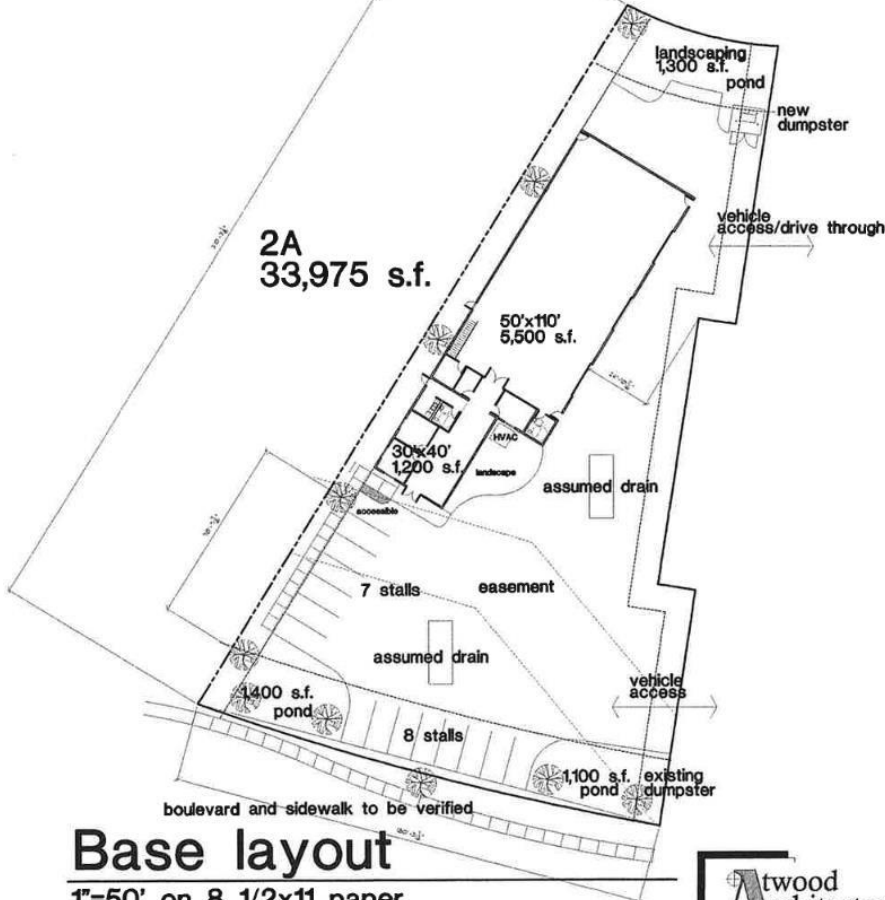
Billings, MT 59101

406-855-4262

PRELIMINARY FOOTPRINT STUDIES FOR: RAY'S PROPERTY DEVELOPMENT

MIDLAND ROAD

BILLINGS, MONTANA



Base layout

1"=50' on 8 1/2x11 paper

Parking:

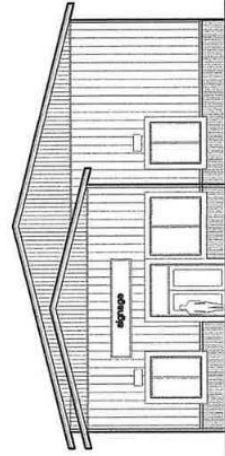
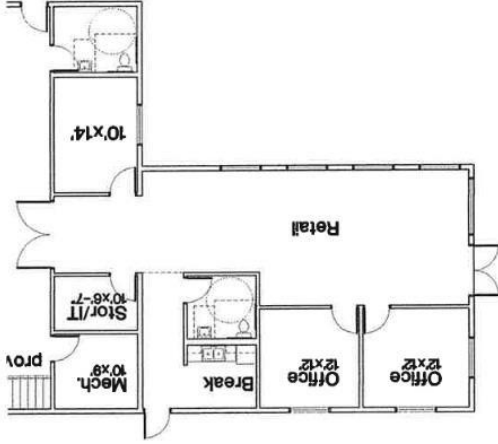
5,500 s.f. Warehouse - 6 stalls required
1,200 s.f. Retail - 6 stalls required
15 stalls provided - including one accessible

Landscaping:

33,975 s.f. of property
assumed 6,700 s.f. bldg.
27,095 s.f.: 10% = 2,710 s.f.
3,000+ s.f. provided

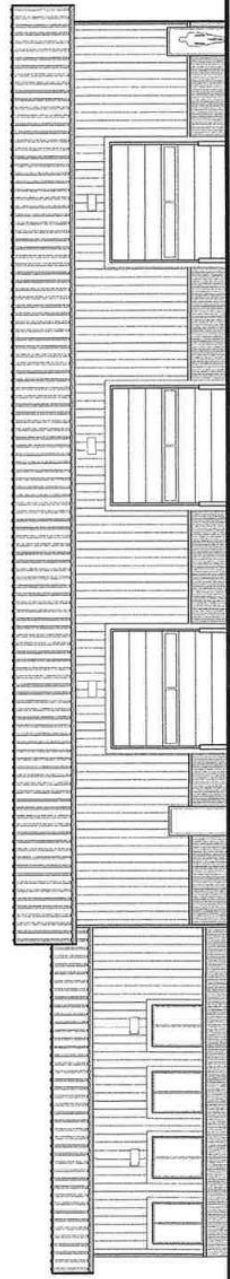
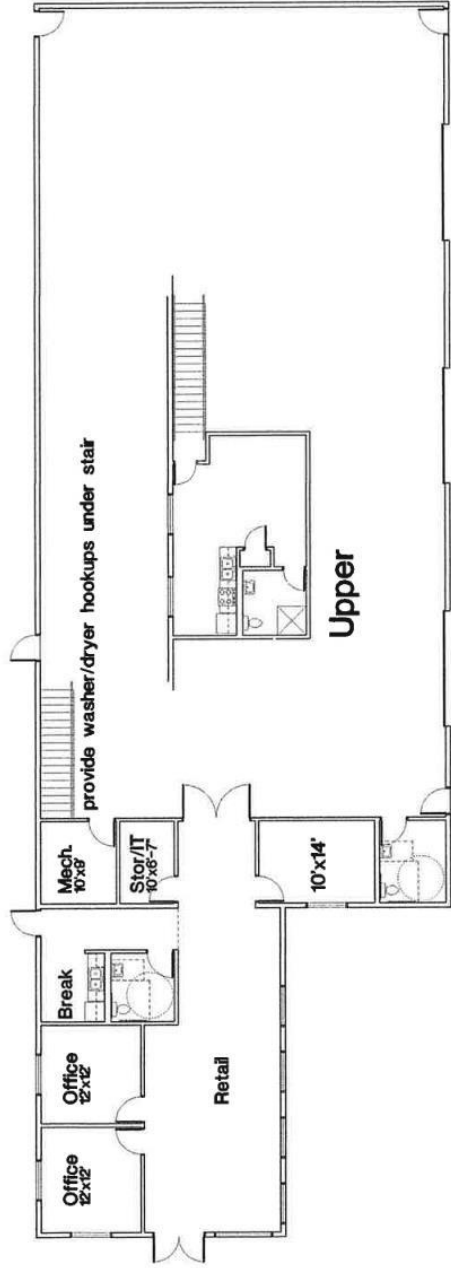


3-14-2022(b)
1-12-2023(b)



"Front" Elevation

Attwood
Architecture
1-12-2023



"Side" Elevation

APPLICABLE ZONING HISTORY

SUBJECT PROPERTY	VARIANCE	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
None					
SIMILAR REQUESTS	VARIANCE	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
2910 3rd Ave S	1334	7/7/21	Build to zone 0	yes	
Shiloh Crossing Blvd	SR 993 With Variance	3/28/22	Front lot line cov.	Yes	
3840 Zoo Drive	1343	5/8/22	Parking Siting	Yes	
3160 S Frontage Rd	1359	2/1/23	Parking location	yes	
Shiloh Crossing Blvd	SR 993 With Variance	3/28/22	Front lot line cov.	Yes	

Board of Adjustment

Date: 03/01/2023
Title: City Variance 1361- Angel Oak Lane, The Timbers Subd. -Attached garage entry location
Presented by: Karen Husman
Department: Planning & Community Services
Presentation: Yes

Information**RECOMMENDATION**

Planning staff recommends denial of Variance 1361 and adoption of the findings of the review criteria.

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

This is a variance from Section 27-307, Table 27-300.6, A11 (Attached Garage Location and Entrance) to allow attached garage space in the front half of structures and allow the garage entrance to face the street frontage, in a Mixed Residential 1 (NX1) Zone. The purpose of the request is to allow attached garage space in the front half of structures and allow the garage entrance to face the street frontage on lots 1-27, in The Timbers Subdivision (final plat pending). The total area affected is 4.9 acres of land.

Denying this request may not deprive this applicant of rights commonly enjoyed by other property in the area and within this subdivision, however there are unique circumstances with this request. The Timbers Subdivision in the annexation process was required to development under the Planned Neighborhood Development (PND) regulations. The PND requires a mix of districts, which includes the NX districts for lots greater than 40 acres per Section 27-800E.3(b). The Timbers Subdivision in total is approximately 56.5 gross acres but is part of a phased annexation that will include additional acreage over time and additional subdivision filings. In order to be annexed and in conformance with the Neighborhood PND the development had to include some NX zoned land. The PND regulations also restrict N zones (N1,N2 or N3) from arterial street frontage. The primary reason the development chose the NX1 zone is because the PND regulations 1) do not allow N zones to have frontage on arterial streets and 2) for a PND over 40 acres at least 1 acre of NX zone is required. Section 27-802.B.2(d), and Section 27-802.E.3(b). The NX1 allows 1-4 units, and the applicants believe this zone is the most appropriate for their desired development style. They have the ability to change the building design to fit the lots under the NX requirements but would prefer to apply for a variance to use the design plans they created for this development. It was required by the code, so they placed the NX1 zone at one of the entries to the subdivision along the arterial street. One option for the developer is to change the layout of the buildings to fit the lots they designed and created for this subdivision. The redesign would likely require shared driveways along property lines between two or more lots. This shared driveway design could accommodate side load or rear load garages.

APPLICATION DATA

OWNERS: Alkali Timbers, LLC
AGENT: Jeff Wollschlager, A-Line Drafting
PURPOSE: Garage located on the street frontage
LEGAL DESCRIPTION: lots 1-27, The Timbers Subdivision
ADDRESS: Addresses pending
EXISTING LAND USE: Vacant
PROPOSED LAND USE: Residential
EXISTING ZONING: NX1

CONCURRENT APPLICATIONS

The Timbers Subdivision final plat pending, PND (PZX-21-00273) and Annexation (PZX-21-00272) approved.

SURROUNDING ZONING & LAND USE

NORTH: Zoning: Ag
Land Use: Vacant Ag
SOUTH: Zoning: N3 & Ag
Land Use: Proposed Residential and Ag
EAST: Zoning: Ag
Land Use: Vacant Ag
WEST: Zoning: P1
Land Use: Parkland (in the flood plain)

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 these lots are located, is being developed in whole without an alley system. Being a new subdivision there are options for rear or side entry garages, but whether it is a private drive or alley, the size and layout of the lots, coupled with the layout of the proposed buildings would make it difficult to provide rear loading garages. There are other layout options and building designs that would work for these lots. Redesign of the proposed buildings and layout on the lots is a preferred option in this situation given the applicant designed the lots after the adoption of the zoning code and has created a self-imposed hardship.

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 these lots are located is a new development and the lots are currently pending final subdivision approval as designed under the Timbers Subdivision. Denying this variance request would not prevent the lots from being developed under the current zoning regulations, there are other building designs and layout options to use. The building designs can be modified at this point in development in order to conform to the code requirements. The subdivision has not been developed at this point and would not deprive rights enjoyed by other tracts in the same district in this subdivision. The BOA has approved one other variance recently for garage entry location. However, that was for one parcel and was in an already developed subdivision that was not only developed under the old code, but the entire subdivision was developed with front loading garages.

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 new zoning requirements, front load garages are not allowed in the NX1 zone district. Any development would need to be in conformance with the district requirements set forth within the PND. The granting of this variance will confer a special privilege since there are no other developed parcels in the subdivision. The applicants building and layout design can be modified to comply with the zone district requirements.

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 is not in harmony with the general purpose and intent of the Zoning Regulations. The primary reason they chose the NX1 zone is because the Planned Neighborhood Development regulations 1) do not allow N zones to have frontage on arterial streets and 2) for a PND over 40 acres at least 1 acre of NX zone is required. (Section 27-802.B.2(d), and Section 27-802.E.3(b)).

The PND requires a mix of zoning in new subdivisions that are to enhance development of properties that are annexed into the City of Billings. These development standards are in place to bring a mix of housing types that meet the needs of the city's growing population and give Billings more diverse housing options that are aesthetically pleasing and encourage more walkable communities. Granting this variance would not be desirable as it goes against the purpose of the PND and the NX1 design standards and against the Growth Policy that encourages development without garage dominated homes in new developments.

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; Although staff is recommending denial of the variance, if the BOA chooses to approve the variance, Staff recommends the following conditions;

1. This approval is to allow the garage entrance to face the street frontage on lots 1-27, in The Timbers Subdivision (final plat pending). No other variance is intended or implied.
2. The variance is limited to lots 1-27, in The Timbers Subdivision (final plat pending).
3. The applicant will apply for and receive approval for the first building permit within 1 year and complete construction on the first dwelling within 3 years of BOA approval. Failure to meet the time limits of this condition will void the variance. All remaining lots will have completed construction within 7 years of BOA approval. Failure to construct within this time frame will require a new application and action from the BOA.
4. There will be no construction activities before 7 a.m. or after 8 p.m. daily.
5. Development of the parcels shall be in substantial conformance to the submitted site plans, minor modifications are allowed.
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.

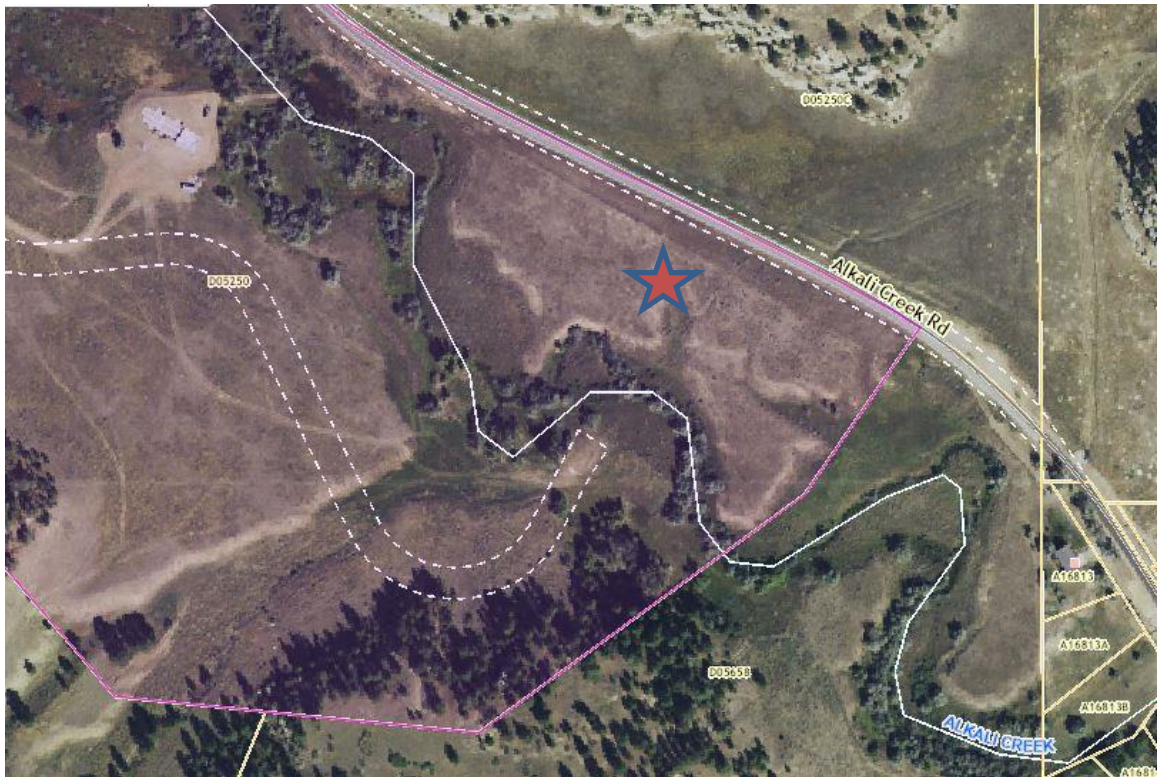
If the Board chooses to approve the variance, staff is recommending the applicant receive approval for a first building permit within one year and complete construction on the first dwelling within three years of BOA approval. Staff is also recommending all dwellings on all lots be completed within 7 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. Residential dwellings are allowed uses in this zone district.

Attachments

- Zoning Map & Site Photos
- Application & Applicant Letter
- Site Plan
- History
- Front Facade examples





South



South West



South East



West



North

CITY VARIANCE

APPLICATION FORM
ID: Billings Variance # 1361

Pzx - 23 - 00021
- Project # _____

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

PROPERTY TAX ID # D05250 (part) CITY ELECTION WARD # 1

Legal Description of Property: THE TIMBERS SUBDIVISION Lots 1-27 Block 1

Address or General Location (If unknown, contact City Engineering):
Angel Oak Lane lots 1-27

Zoning Classification: NX-1

Size of Parcel (Area & Dimensions):

Covenants or Deed Restrictions on Property: Yes No

If yes, please attach to application

Variance(s) Requested: To allow front facing garages to be on the front 1/2 of home structure.

Facts of Hardship: (attach letter) Small lots and narrow lot widths make it very difficult to get a design layout to work on the lot.

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

Owner(s): Alkali Timbers, llc
(Recorded Owner)

(Address) 406-690-2075 ali@theblackarc.com (Ali Mitchell)
(Phone Number) (email)

Agent(s): A-Line Drafting and Design
(Name)

(Address) 406-321-2280 alinedrafting@gmail.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:  Date: 1-31-23
(Recorded Owner)



1-31-23

The Timbers Lot 1-27 Angel Oak Lane. Variance request

Subject: The Timbers Subdivision

Chairperson of the Board of Adjustment:

We are requesting a variance to allow front façade facing garages to be on the front half of the home structure., not to extend beyond front façade of home and setback 20' min. from the front property line. With the size of the lots and the minimal width of the lots in this portion of the development it makes it very difficult to position the garage on the rear half of the home structure. This also drastically restricts the area of the lot that the livable space can be built and creates a longer driveway. It is impossible to have rear or side load garages on these lots.

Sincerely,

Owners Representative of The Timbers Subdivision

APPLICABLE ZONING HISTORY

SUBJECT PROPERTY	VARIANCE	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
PND	ZC 1003	1/24/22	PND & Annex	Y	
SURROUNDING PROPERTY	VARIANCE	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
Falcon Ridge, B15, L2	1355	1/24/23	Garage location in NX2	Y	***
***There were no similar variances approved, however, the entire subdivision of Falcon Ridge was developed with the previous zoning code regulations and the lots in the subdivision have been developed with front loading garages.					











Board of Adjustment

Date: 03/01/2023
Title: City Variance 1362- 807 Bench Blvd & Yellowstone River Rd
Presented by: Karen Husman
Department: Planning & Community Services
Presentation: Yes

Information**RECOMMENDATION**

Planning staff recommends conditional approval of Variance 1362 and adoption of the findings of the review criteria.

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

This is a variance request from Section 27-406, Table 27-400-3, A3 (Minimum Front Lot Line Coverage), and A4 (Maximum Front Build-to Zone), in a CMU2 zone, for proposed Lot 3A1 of Brittain Acres, a 1.869 acre parcel of land. The variance would allow a greater setback than the maximum allowed and less than the minimum front lot line coverage to accommodate a new commercial structure and a sewer line easement that crosses the street frontage of the parcel. Tax ID: C00163 (east 228 feet)

The purpose of the request is to allow development of the parcel principal structure at approximately 38 feet from the front property line and allow less than 50% of the front lot line coverage. 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. Although the current access is allowed from Bench Blvd as it is addressed, the applicant will be submitting an application for an exempt plat to relocate lot lines as depicted on the attached proposed Brittain acres amended plat, as well as the detailed site plan. The amendment will change the property right of way frontage to Yellowstone River Road. Currently, there is an existing paved private shared access from Yellowstone River Rd. to Bench Blvd. The applicant is proposing development of the parcel, however, the lot has a 10 foot wide sewer service easement located approximately 27 feet from the proposed front property line adjacent to Yellowstone River Road.

APPLICATION DATA

OWNERS: Fleury Properties, LLC
AGENT: Taylor Kasperick, Performance Engineering
PURPOSE: To relieve build to zone and front lot line coverage requirements
LEGAL DESCRIPTION: Proposed Lot 3A1 of Brittain Acres, sub amended
ADDRESS: 807 Bench Blvd.
EXISTING LAND USE: Vacant
PROPOSED LAND USE: Commercial
EXISTING ZONING: CMU2

CONCURRENT APPLICATIONS

None

SURROUNDING ZONING & LAND USE

NORTH: Zoning: RMH
Land Use: Mobile Home Park
SOUTH: Zoning: CMU1
Land Use: Residential multi family
EAST: Zoning: CMU2
Land Use: Econo Glass company
WEST: Zoning: CMU1
Land Use: Guinanes Garden center

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 property is subject to physical constraints of a 10 foot wide sewer service easement located about 27 feet from the property line adjacent to Yellowstone River Road that will be the front property line for this parcel. The location of this easement makes developing on this parcel difficult under the constraints of the CMU2 site development restrictions.

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 a specific build to zone and 50% front lot line coverage. In other words, the existing structures in the area, specifically the adjacent lots to the east and west, developed under old zoning ordinances and were not subject to the location requirements of the currently adopted code. If existing lots were to be re-developed they would need to conform to the same location and building siting requirement of the currently adopted code and the same requirement in which this application seeks to vary from. In order to meet the build to and 50% lot line coverage, they would have to build over the existing sewer easement which is not recommended due to access needed to the easement. Denying this variance request would prevent this lot from enjoying the same benefit and would create an unusual development pattern not commonly seen in the area, the area surrounding was developed prior to the new code restrictions. This parcel is considered an infill parcel and development is encouraged under the code and the Growth policy.

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 in this area are now subject to the new zoning district requirements, but because they were developed prior to adoption of the new zoning code, there are parcels developed similar to the proposed plan for this parcel. 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 there are other similar developed parcels in the vicinity of this property. The lot is an infill parcel not developed before the adoption of Project Re:Code. The applicants design conforms to the existing development pattern specifically the adjacent commercial parcel to the east and the residential parcels west along Bench Blvd., but also others in this area of the Billings Heights. The granting of this variance does not create a compatibility issue with the existing development pattern in this 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.

The 2016 Growth Policy and the 2021 Zoning Code adopted to further the Growth Policy goals, are intended to curtail the out-of-date development style of placing all new commercial development behind a sea of parking stalls. The application is supported by the City Growth Policy guidelines and the Infill Policy (2011). The Growth Policy guidelines support new developments that support existing investments in infrastructure, stabilize and grow the city's tax base. The zoning regulations were also adopted to recognize that not all regulations can apply everywhere in all circumstances especially when geography and topography and other lot specific restrictions create hardships. The intent of the zoning regulations is also to recognize when these site hardships occur and to grant variances from strict adherence to the code requirements.

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 variance request from Section 27-406, Table 27-400-3, A3 (Minimum Front Lot Line Coverage) to allow less than 50% front lot line coverage, and A4 (Maximum Front Build-to Zone) to allow a maximum setback of 40 feet from the front property line on Yellowstone River Road, in a CMU2 zone. No other variance is intended or implied.
2. The variance is limited to the proposed Lot 3A1 of Brittain Acres.
3. 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.
4. There will be no construction activities before 7 a.m. or after 8 p.m. daily.
5. The applicant shall meet all other city code requirements in place at the time of construction except for the variance granted herein.
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.

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. Specific uses as stated under the CMU2 zone district per BMCC 27-1000 are permitted, uses not listed within the district parameters will be allowed.

Attachments

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



North on Bench



East on Yellowstone River Rd.



South Across Yellowstone River Rd @ Bench Blvd.



North across Yellowstone River Rd.



West on Yellowstone River Rd. Toward Bench Blvd.



South across Yellowstone River Rd.



Property to the East Building Siting



Building Site along Bench Blvd.



Building Site along Bench Blvd.

CITY VARIANCE

APPLICATION FORM

ID: Billings Variance # 1362 - Project # PZ-23-00022

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 # C00163 CITY ELECTION WARD # 2

Legal Description of Property: Lots 2A, 3A and 4A of the Amended Plat of Brittain Acres Subdivision
(Proposed Lot 3A-1 of the Amended Plat of Lots 2A, 3A, and 4A)

Address or General Location (If unknown, contact City Engineering): 807 Bench Blvd

Zoning Classification: Corridor Mixed-Use 2

Size of Parcel (Area & Dimensions): 81,412.74 SF (228.65' x 357.35')

Covenants or Deed Restrictions on Property: Yes No See attached Reciprocal Easement

If yes, please attach to application

Variance(s) Requested: Variance from Table 27-400-3, A, 4. Front Build-to-Zone 10-20 feet.

Facts of Hardship: (attach letter) See Attached Letter.

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

Owner(s): Fleury Properties, LLC
(Recorded Owner) 2730 Cass Lane, Billings, MT 59105
(Address) 406-861-9267 bnfleury12@gmail.com
(Phone Number) (email)

Agent(s): Performance Engineering
(Name) 608 N. 29th Street, Billings, MT 59101
(Address) 406-384-0080 taylor@performance-ec.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: [Signature] Date: 1-27-23
(Recorded Owner)





608 North 29th Street • Billings, MT 59101 • 406-384-0080

January 31, 2023

Chair of the Board of Adjustments
City of Billings Planning Department

RE: Build-To Variance Application – Proposed Lot 3A-1 of the Amended Plat of Lots 2A, 3A, and 4A of Amended Plat of Lots 1, 2, 3, 4, and 5 of Brittain Acres Subdivision

To the Chair of Board of Adjustments,

Thank you for the time and consideration in reviewing the submitted City Zoning Variance Application for the proposed development currently located on Lots 2A, 3A, and 4A of Amended Plat of Lots 1, 2, 3, 4, and 5 of Brittain Acres. The current lot lines will be relocated as shown on the draft plat included with this application, and the proposed development will be located on Lot 3A-1 of the Amended Plat of Lots 2A, 3A, and 4A of Amended Plat of Lots 1, 2, 3, 4, and 5 of Brittain Acres Subdivision. The property is located northeast of the intersection of Bench Boulevard and Yellowstone River Rd. The proposed project will include a new commercial building to serve a drive through restaurant establishment. Performance Engineering and the Owner feel that the property is an excellent location for the proposed use. The area that the proposed building is to be built on is an undeveloped empty field adjacent to two homes. The surrounding area is largely residential, and the proposed use would promote strong community connections as it would provide a relaxing place for people to gather and socialize.

The submitted variance applies to Table 27-400-3, A 4, of the City of Billings Zoning Code Section Commercial and Mixed-Use Districts (CMU2) which requires the front of the building be built to within 10 to 20 feet of the property frontage. The proposed Lot 3A-1 is fronted by Yellowstone River Rd. at the south end of the lot.

Facts of hardship to meet this requirement for the proposed building relate to an existing sanitary sewer easement service line located north

of the build-to zone along Yellowstone River Rd. The facts of hardship experienced with this requirement are as follows:

- The southern boundary of the 10-foot wide Sanitary Sewer Service Easement benefitting Lot 1A of the Amended Brittain Acres Subdivision (Doc. No. 3833648) runs parallel to the southern boundary of the proposed Lot 3A-1 at an approximate distance of 27.60 feet, therefore any building meeting the build to requirements would be built on and across the existing Sanitary Sewer Service Easement, which is included with this application for reference.
- Additionally, an existing sanitary sewer service which services EconoGlass located on Lot 1A is centered within the easement and meeting the build-to requirements would mean the southern building face would be built approximately 12.5 feet over the existing sanitary service.
- Meeting the build-to zone requirements would make future repair or replacement of the existing sanitary service impossible without impacting the proposed building's foundation.

We appreciate your consideration of this variance request given the property's unique characteristics and the area's existing nature. Should you have any further questions please do not hesitate to call at 406-384-0080 or email myself at taylor@performance-ec.com. We look forward to presenting this request to you at the schedule meeting for consideration.

Best Regards,



Taylor Kasperick, PE
Project Manager

SECTION 23
SECTION 24
SECTION 25

SECTION 26
SECTION 27
SECTION 28

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SECTION 30
SECTION 31

SECTION 32
SECTION 33
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SECTION 49

AMENDED PLAT OF LOTS 2A, 3A, AND 4A OF AMENDED PLAT OF LOTS 1, 2, 3, 4, AND 5 OF
BRITAIN ACRES
 LOCATED IN THE SW 1/4 OF SECTION 23, TOWNSHIP 01 NORTH, RANGE 26 EAST, P.M.M., CITY OF BILLINGS, YELLOWSTONE COUNTY, MONTANA

PREPARED FOR: FLEURY PROPERTIES, LLC
 PREPARED BY: PERFORMANCE ENGINEERING, LLC
 JANUARY 2023



LEGEND

- FOUR PROPERTY CORNER, AS DESCRIBED
- SECTION CORNER, 1/4 SECTION W/ REC. CAP.
- SECTION CORNER
- CALCULATED POINT, NOT FOUND, NOT SET
- SURVEY BOUNDARY
- SECTION LINE
- RIGHT OF WAY LINE
- EXISTING PROPERTY LINE
- PROPOSED PROPERTY LINE
- RECORD DISTANCE

CERTIFICATE OF CITY COUNCIL APPROVAL

STATE OF MONTANA)
 County of Yellowstone)
 We hereby certify that we have examined the foregoing Plat of Amended Lots 2A, 3A, and 4A of Amended Lots 1, 2, 3, 4, and 5 of Britain Acres and find the same conform to the requirements of the laws of the State of Montana and the requirements of the Yellowstone County Board of Planning and Zoning, and the calculations of area and acreage shown on this plat being the same as we received.

IN WITNESS WHEREOF, we have set our hands and the seal of the CITY OF BILLINGS, MONTANA, this _____ day of _____, 20____.
 CITY OF BILLINGS, MONTANA

By: _____
 Mayor
 Attest: _____
 City Clerk

CERTIFICATE OF CITY ATTORNEY

This document has been reviewed by the City Attorney and is acceptable as to form.
 Dated this _____ day of _____, 20____.

Reviewed by: _____

CERTIFICATE OF COUNTY TREASURER

I hereby certify, pursuant to Section 76-0202 M.C.A., that this accompanying plat has been duly examined and that all real property taxes and special assessment are assessed and listed on the plat hereinbefore.

Dated this _____ day of _____, 20____.

Yellowstone County Treasurer: _____

ERRATA AND OMISSIONS REVIEW

I hereby certify that I have examined the foregoing plat for errors and omissions in calculations and drafting.
 Dated this _____ day of _____, 20____.

Examining Engineer: _____

LEGAL DESCRIPTION AND OWNER CERTIFICATION

The undersigned certifies that the survey was taken in the authorized, approved, and defined in its law, books, maps, and other records and publications, as shown on the plat herewith filed, the same as described in the plat.
 Being Lots 2A, 3A, and 4A of the Plat of Amended Lots 1, 2, 3, 4, and 5 of Britain Acres (Doc. No. 381764), located in the SW 1/4 of Section 23, Township 01 North, Range 26 East, P.M.M., City of Billings, Yellowstone County, Montana.
 Said lots contain 2.04 acres, more or less, to-wit: and gross.

The undersigned hereby certifies that the purpose of the survey is to indicate non-man boundaries with a partial subdivision and that it is exempt from subdivision when subject to Section 76-0201(1)(b), M.C.A.
 This survey is not subject to review by the Department of Environmental Quality pursuant to 76-11-202(1), M.C.A.

Fleury Properties, LLC
 State of Montana)
 County of)
 On this _____ day of _____, 20____, before me, a Notary Public, in and for the State of Montana, personally appeared _____, known to me to be the _____ of Fleury Properties, LLC, known to me to be the person who signed the foregoing instrument and who acknowledged to me that she executed the same. Witness my hand and seal the day and date herein above written.

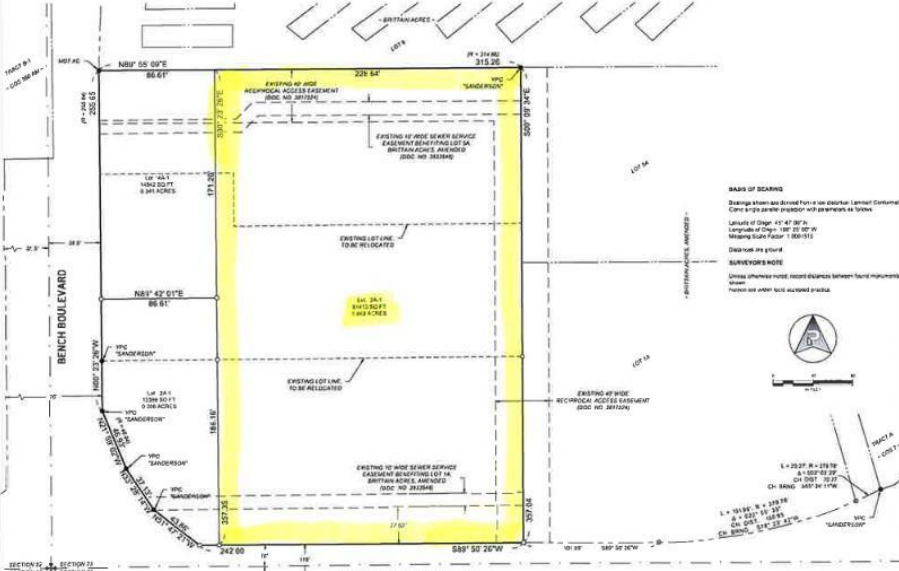
Notary Public in and for the State of Montana
 My Comm. Expires _____
 My Comm. No. _____
 My Comm. State _____

CERTIFICATE OF SURVEYOR

I, the undersigned Mark W. Anderson, Registered Land Surveyor, do hereby certify that this survey was done under my direct supervision of a plat of land located in the SW 1/4 of Section 23, Township 01 North, Range 26 East, P.M.M., City of Billings, Yellowstone County, Montana, and property being Lots 2A, 3A, and 4A of the Plat of Amended Lots 1, 2, 3, 4, and 5 of Britain Acres (Doc. No. 381764).
 Said lands contain a gross and net area of 2.04 acres, more or less.
 Said lands subject to all easements and right of ways of record on the ground.
 This survey was conducted in accordance with the provisions of the Montana Subdivision and Platting Act, Sections 76-01-101 thru 76-01-302, M.C.A.

Dated this _____ day of _____, 20____.

Mark W. Anderson, PLS (1745)
 Registered Land Surveyor
 State of Montana



DATA OF RECORDS
 Bearings taken and derived from a true direction Lateral Control Curve 4-2/3 degree (plotted) with parameters as below:
 Length of Curve = 47' 47" 30"
 Length of Chord = 100' 22" 00"
 Mid-chord Offset = 1' 00" 51"
 Displacement from station =

SURVEYOR'S NOTE
 Unless otherwise noted, record distances between fence requirements shown herein are shown to be accurate to within 1/100th of a foot.



1 + 2027 M + 219 19
 2 + 027 19 + 281 19
 3 + 027 19 + 281 19
 4 + 027 19 + 281 19
 5 + 027 19 + 281 19
 6 + 027 19 + 281 19
 7 + 027 19 + 281 19
 8 + 027 19 + 281 19
 9 + 027 19 + 281 19
 10 + 027 19 + 281 19

UNAMED PRIVATE RD.

18', TYP.
UNLESS NOTED

PROPOSED LOT
LINE, TYP.
8.91'

9', TYP.
UNLESS NOTED

WS

EXISTING BUILDING
1863 SF

CENTERLINE, TYP.

OHP

LOT LINE TO BE
RELOCATED, TYP.

WS

EXISTING BUILDING
438 SF

EXISTING BUILDING
1456 SF

PROPOSED BUILDING
10014 SF

EXISTING BUILDING
6.08'

EXISTING LOT
LINE, TYP.

LOT LINE TO BE
RELOCATED, TYP.

UNAMED PRIVATE RD.

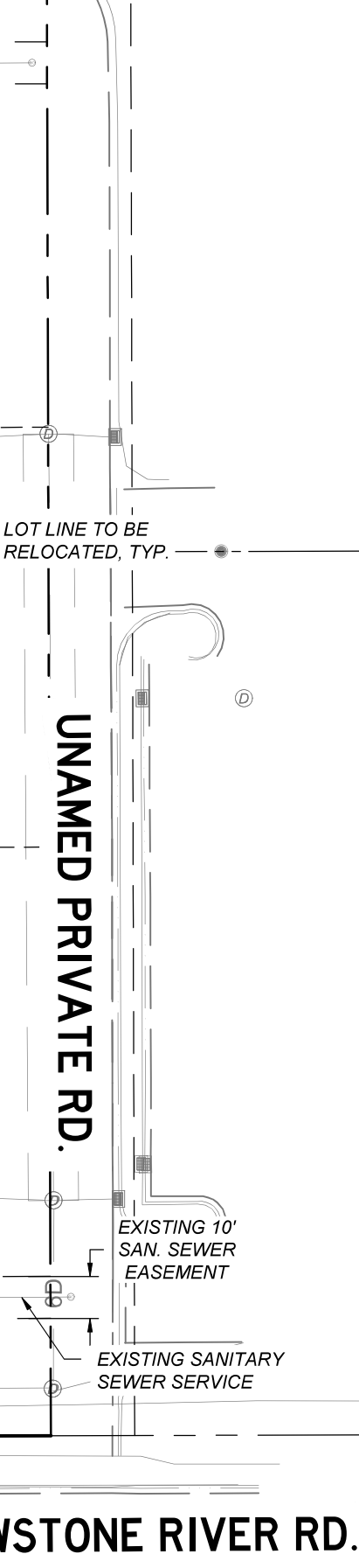
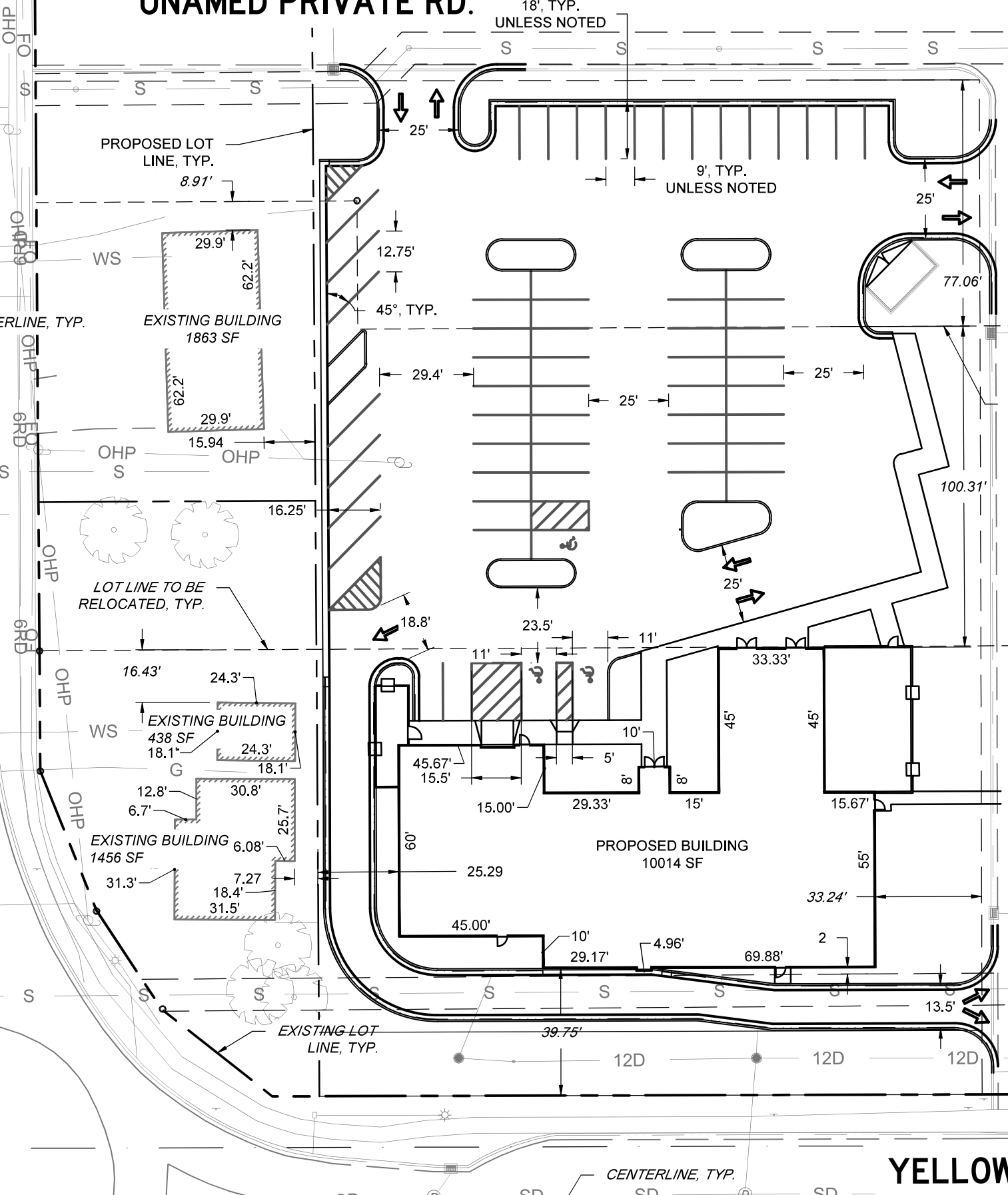
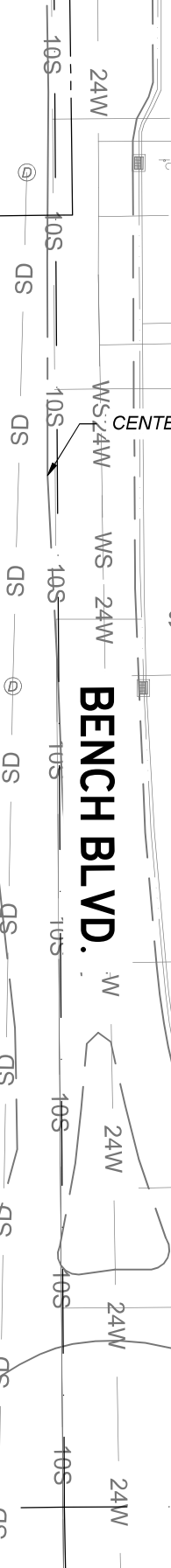
EXISTING 10'
SAN. SEWER
EASEMENT

EXISTING SANITARY
SEWER SERVICE

YELLOWSTONE RIVER RD.

CENTERLINE, TYP.

BENCH BLVD.



APPLICABLE ZONING HISTORY

SUBJECT PROPERTY	VARIANCE	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
None					
SIMILAR REQUESTS	VARIANCE	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
2910 3rd Ave S	1334	7/7/21	Build to zone 0	yes	
Shiloh Crossing Blvd	SR 993 With Variance	3/28/22	Front lot line cov, building siting, front window & door coverage.	Yes	