



**Board of Adjustment / Appeals
March 2, 2023 Agenda
Civic Center 2 Park Drive South, Great Falls, MT
Commission Chambers, Civic Center
3:00 PM**

In order to honor the Right of Participation and the Right to Know (Article II, Sections 8 and 9 of the Montana Constitution), the City of Great Falls and Board of Adjustments/Appeals are making every effort to meet the requirements of open meeting laws:

- The agenda packet material is available on the City's website: <https://greatfallsmt.net/meetings>. The Public may view and listen to the meeting on government access channel City-190, cable channel 190; or online at <https://greatfallsmt.net/livestream>.
- Public participation is welcome in the following ways:
 - Attend in person. Please refrain from attending in person if you are not feeling well
 - Provide public comments via email. Comments may be sent via email before 12:00 PM on Thursday, March 2, 2023, to: jnygard@greatfallsmt.net. Include the agenda item or agenda item number in the subject line, and include the name of the commenter and either an address or whether the commenter is a city resident. Written communication received by that time will be shared with the City Commission and appropriate City staff for consideration during the agenda item and before final vote on the matter; and, will be so noted in the official record of the meeting.

OPEN MEETING

1. Call to Order - 3:00 P.M.
2. Roll Call - Board Introductions
Joe McMillen - Chair
Aspen Northerner - Vice Chair
Antoinette Collins
Pete Fontana
Christian Stone
3. Recognition of Staff
4. Approval of Meeting Minutes - January 5, 2023

CONFLICT DISCLOSURE/EX PARTE COMMUNICATIONS

BOARD ACTIONS REQUIRING PUBLIC HEARING

5. Variance from Section 17.20.4.010 Exhibit 20-4 of the Official Code of the City of Great Falls (OCCGF) to allow a reduced rear yard setback for construction of a loading bay addition to the building located at 1411 10th Avenue South

BOARD ACTIONS NOT REQUIRING PUBLIC HEARING

COMMUNICATIONS

PUBLIC COMMENT

Public Comment on any matter and that is within the jurisdiction of the Board of Adjustment/Appeals. Please keep your remarks to a maximum of five (5) minutes. Speak into the microphone, and state your name and address for the record.

ADJOURNMENT

(Please exit the chambers as quickly as possible. Chamber doors will be closed 5 minutes after adjournment of the meeting.)

Assistive listening devices are available for the hard of hearing, please arrive a few minutes early for set up, or contact the City Clerk's Office in advance at 455-8451. Wi-Fi is available during the meetings for viewing of the online meeting documents.

Board of Adjustment/Appeals meetings are televised on cable channel 190 and streamed live at <https://greatfallsmt.net>. Meetings are re-aired on cable channel 190 the following Friday morning at 10 a.m.

MINUTES OF THE MEETING
OF THE
GREAT FALLS BOARD OF ADJUSTMENT/APPEALS
January 5, 2023

CALL TO ORDER

The meeting of the Great Falls Board of Adjustment/Appeals was called to order by Chair Joe McMillen at 3:02 p.m.

ROLL CALL & ATTENDANCE

Great Falls Board of Adjustment/Appeals members present:

Mr. Joe McMillen, Chair
Ms. Aspen Northerner, Vice Chair
Ms. Antoinette Collins
Mr. Pete Fontana

Great Falls Board of Adjustment/Appeals members absent:

Ms. Christian Stone

Planning Staff members present:

Mr. Craig Raymond, Director Planning and Community Development
Mr. Thomas Micuda, Deputy Director Planning & Community Development
Ms. Sara Doermann, Planner I
Ms. Jamie Nygard, Sr. Admin Assistant
Ms. Chastity Tarrow, Permit Technician

Others present:

Mr. David Dennis, City Attorney

Mr. Raymond affirmed a quorum of the Board was present.

MINUTES

Chair McMillen asked if there was a motion to approve the meeting minutes as stated for July 7, 2022. Ms. Northerner moved to approve the minutes, seconded by Ms. Collins. All in favor, the minutes were approved.

CONFLICT DISCLOSURE/EX PARTE COMMUNICATIONS

None.

BOARD ACTIONS REQUIRING PUBLIC HEARING

Variance from Section 17.20.6.250 of the Land Development Code to allow for an addition to a telecommunication tower exceeding height requirements

Mr. Micuda presented to the Board. He stated that the applicant, T-Mobile/Powder River Development Services, LLC, is proposing to construct a 23-foot high extension to an existing 151-foot tall telecommunications tower located at 906 23rd Street North. The property area is 5.32 acres and the tower site is on 0.02 acres. The current zoning is I-1 Light Industrial and the current use is Industrial – All Purpose Storage.

Mr. Micuda stated that Telecom towers are permitted in the I-1 district, with a max height of 150 feet, if it is a co-located tower. The applicant is requesting relief from the maximum height allowance and is asking for an additional 23 feet of height, so the Tower would be 174 feet tall. He stated that the proposed height increase, on the existing tower, is an opportunity for T-Mobile to improve coverage especially in the residential area to the south of the proposed tower.

Mr. Micuda presented an Aerial Map, Zoning Map, Site Photos, existing and proposed tower drawings, and a proposed coverage map, that can all be found in the Agenda Packet.

Mr. Micuda presented the Findings for the Basis of Decision: The basis for decision for a variance request is listed in §17.16.32.040 of the Land Development Code.

The decision of the Board of Adjustment shall consider the three Basis of Decision criteria.

1. The variance is not contrary to the public interest.
 - It will provide improved service coverage for T-Mobile customers.
 - It is preferable to expand the height of the existing tower rather than deny the variance and rely on an unknown impact of a new tower.
 - The Tower is in an ideal location and is 300+ feet away from the residential area.
2. A literal enforcement would result in unnecessary hardship, owing to conditions unique to the property.
 - Enforcement of the code would result in the applicant having to build a new tower in an industrial zone (100-150 feet tall), or in another zone to the south (35-45 feet tall).
 - A variance would be a better option.
3. The spirit of the Title would be observed and substantial justice done by granting the variance.
 - There would be additional coverage, without the potential negative impacts due to the height variance being requested.

- It is a site specific and project specific decision – not precedent for new construction of taller towers.

Mr. Micuda stated that based on the findings for the Basis of Decision, staff recommends approval of the requested variance.

PETITIONER'S PRESENTATION

Cameron Colgan, Powder River Development, was representing T-Mobile. He stated that staff covered everything. They looked at using a shorter tower, but their Engineers could not make it work. He was hoping that the Board would approve the variance and was available for any questions.

BOARD QUESTIONS

None.

PUBLIC QUESTIONS

None.

PROPONENTS

None.

OPPONENTS

None.

BOARD DISCUSSION AND ACTION

Ms. Northerner asked what the conditions were that were unique to the property for the unnecessary hardship. Mr. Micuda responded that the unique condition is the existing tower on the property already and the location a great distance away from the residential area.

Minutes January 5, 2023
Great Falls Board of Adjustment/Appeals
Page 4

MOTION: That the Board of Adjustment, based on the Findings for the Basis of Decision approve the variance request from OCCGF Title 17, Chapter 20, Article 6, Telecommunications facility - maximum height, subject to the conditions of approval.

MADE BY: Ms. Collins
SECOND BY: Mr. Fontana

VOTE: All in favor, the motion passed 4-0

BOARD ACTIONS NOT REQUIRING A PUBLIC HEARING

Election of Officers for 2023

Mr., Micuda stated that every year there is a vote from the Board as to who will be elected Chair and Vice-Chair of the Board. Joe McMillen is the current chair, and with Krista Smith's vacancy from the Board of Adjustment, there is a vacancy for the Vice-Chair.

BOARD DISCUSSION AND ACTION

MOTION: That the Board of Adjustment/Appeals appoint Joe McMillen as the Chairperson for 2023

MADE BY: Mr. Fontana
SECOND BY: Ms. Northerner

VOTE: All in favor, the motion passed 4-0

MOTION: That the Board of Adjustment/Appeals appoint Aspen Northerner as the Vice Chairperson for 2023

MADE BY: Ms. Collins
SECOND BY: Mr. Fontana

VOTE: All in favor, the motion passed 4-0

COMMUNICATIONS

Mr. Raymond stated that there were no upcoming items pending.

PUBLIC COMMENT

None.

ADJOURNMENT

There being no further business, Chair McMillen adjourned the meeting at 3:21 p.m.



Date: March 2, 2023
CITY OF GREAT FALLS
BOARD OF ADJUSTMENT AGENDA REPORT

Item:	Variance from Section 17.20.4.010 Exhibit 20-4 of the Official Code of the City of Great Falls (OCCGF) to allow a reduced rear yard setback for construction of a loading bay addition to the building located at 1411 10 th Avenue South
Applicant:	Great Falls 7 RE LLC (Town Pump)
Representative:	Mary Staigmilller, District Manager, Town Pump, Inc.
Presented By:	Lonnie Hill, Planner II, Planning and Community Development
Action Requested:	Consideration of a reduced rear yard setback from the standard of “1/10 of lot depth but not less than 1/10 of building height” contained in Title 17, Chapter 20, Article 4, Exhibit 20-4 of the OCCGF

Public Hearing:

1. Chairperson conducts public hearing, pursuant to OCCGF 1.2.050 and Title 17, Chapter 6.
2. Chairperson closes public hearing and asks the will of the Board.

Suggested Motion:

1. Board Member moves:
 - I. “I move that the Board of Adjustment, based on the Findings for the Basis of Decision (approve/deny) the variance request from OCCGF Title 17, Chapter 20, Article 4, Exhibit 20-4, *minimum rear yard setback of principal and accessory buildings*.
2. Chairperson calls for a second, discussion, and calls for the vote.

Synopsis:

The subject property, Town Pump #7, is addressed as 1411 10th Avenue South and located upon a full City block on the north side of 10th Avenue South between 14th and 15th Streets South. The site is ±2.58 acres, or ±112,242 square feet, in total area. This location includes a building with a footprint of approximately 15,310 square feet. Amenities include 32 fueling stations protected by a large canopy, retail including the convenience store and deli, and a casino and liquor store.

The lots adjacent to 9th Avenue South to the north are zoned R-3 Single-family high density zoning and contain single-family residences. The properties to the west, east, and south adjacent to 10th Avenue South are zoned C-2 General Commercial and are commercial in use. There is a half block of C-1 Neighborhood Commercial zoning immediately east of the subject property, adjacent to 9th Avenue South, with a restaurant on the corner and single-family residences to the east.

On March 3rd, 2016, Town Pump requested a similar variance from the rear yard setback requirement during the planning of the current store. This request, which was for the entire length of the store to extend 17 feet into the rear yard setback (reducing the setback to 15 feet), was denied by the Board of Adjustment. The meeting information, including application and minutes, has been provided as an attachment to this report titled *2016 Variance Request*. For that request, staff and board members concluded that in order to perpetuate a healthier transition between residential and commercial land uses in this area, it was in the public's interest and was not unreasonable for the proposed convenience store and casino building to be located the required 32 feet from the north property line. In addition, staff stated the property is a full City block with ample room to comply with development standards. Therefore, the Board concluded that the spirit of Title 17 – the City's Land Development Code would not be served if a variance was granted for the 2016 request.

The applicant states in its current application that this variance request differs from the 2016 variance request. In its previous request, the applicant asked for a reduced rear setback for the entire length of the building. In contrast, this variance request is to allow construction of a loading bay addition to extend into the rear yard setback for approximately 20% of the rear wall. According to the applicant, this new structure will represent less than 10% of the total square footage of the footprint of the building and not have the same impact as the previous request.

In its application, Town Pump states this variance is being requested due to the business operations and traffic exceeding the original plans developed in 2016, and the current layout does not adequately serve the operations of this increase in business. Specifically, as part of the original plans, deliveries were designed to come through customer service entrances. Town Pump states the store gets such high traffic and turnover of products that the current delivery operation through the entrances of the store is no longer safe or functional for individuals making deliveries, Town Pump employees, or customers. The proposed receiving bays within the rear yard setback would provide a dedicated area for delivery trucks to park, product to be checked-in and be stored and shelved with less interruption to the functionality of the retail space.

Town Pump states the proposed layout of the loading bays is designed to minimize negative impacts to the surrounding properties. The loading bays are proposed to be located in an area that can be accessed from the existing internal site circulation, not from 9th Avenue South. This proposal does not create a new access point to 9th Avenue South. The proposed addition would also have no impact to the existing sidewalk along 9th Avenue South. Town Pump states granting this variance will improve the operations in a number of ways. The loading bays will allow deliveries to run more efficiently by decreasing vendors' time, allowing them to move on to their next delivery more quickly. It will also make the site function more safely for customers by allowing more access to parking spaces that are currently blocked by delivery trucks, and access to entryways that are blocked by delivery of pallets of product.

Site photos showing the interruption of current operations and letters of support from three distributors were provided as part of the applicant's submittal.

Background Information:

Requested Variance: Chapter 20 - Land Use §17.20.4.010 Development standards for other zoning districts, Exhibit 20-4.

The minimum rear yard setback of principal and accessory buildings in the C-2 General Commercial zoning district is 1/10 of lot depth but not less than 1/10 of building height. For the subject property the rear setback is approximately 32 feet, as the lot is approximately 320 feet in depth. The applicant requests that the proposed loading bay project have a 1-foot and 1-inch rear yard setback from the loading bay addition to the property line along 9th Avenue South.

Notice of the Board of Adjustment hearing was published in the Great Falls Tribune on Sunday, February 12, 2023. Additionally, notices were sent to adjoining property owners within 150 feet of the subject property and a sign was placed upon the premise per code requirements. Staff received one inquiry from an individual through a FOIA submittal and one phone call requesting information about the variance request.

Findings for the Basis of Decision: The basis for decision for a variance request is listed in §17.16.32.040 of the Land Development Code. The decision of the Board of Adjustment shall consider the three Basis of Decision criteria. Staff provides the following Basis of Decision for consideration by the Board:

1. The variance is not contrary to the public interest.

The purpose of rear yard setbacks in the City's Land Development Code is to ensure that there is an adequate minimum distance between adjoining lots, structures, and uses. The C-2 General Commercial zoning district is primarily intended to accommodate high-traffic businesses that focus on vehicle traffic. City code states where this district abuts a residential district, appropriate screening and landscaping will be provided to lessen associated impacts. During planning and development of the new Town Pump #7 store in 2016, the rear setback was enforced as 32 feet and landscape plantings were encouraged along 9th Avenue South to separate and buffer the commercial activity from the existing residential neighborhood to the north. Although this request is different than the variance request in 2016 and would maintain a distance of approximately 75 feet to the nearest residential property, the setback requirements and intent of the code remain the same. This proposal would place part of the structure, as well as large commercial vehicles, closer to the existing neighborhood and therefore is contrary to the public interest. Additionally, staff notes that the variance request is to eliminate almost 31 feet of the required 32 foot setback requirement, which is an extremely large deviation from code.

2. A literal enforcement would result in unnecessary hardship, owing to conditions unique to the property.

As previously stated, the subject property is ±2.58 acres in total area and the site was completely redeveloped in 2016. The size of the site provided ample area for the construction of the new store in 2016. At the time of redevelopment, the applicant integrated the delivery operations of the store into the site circulation. This design has created the issues the applicant states in their narrative. Although this site is unique in that it has a larger than typical rear yard setback due to the lot depth of 320 feet, it is staff's opinion this does not meet the strict definition of an unnecessary hardship, owing to conditions **unique** to the site. With this stated, staff does acknowledge that the applicant has made an excellent case that there is hardship related to business operations if the variance is denied.

3. The spirit of this Title would be observed and substantial justice done by granting the variance.

In the spirit of the code to safeguard the public health, safety, and general welfare, minimum standards have been set and should be complied with to the greatest extent possible. The applicant argues that no additional access to 9th Street South will mitigate the impacts to the existing residential neighborhood to the north and that any portion of the structure will be at least 75 feet from any residential property, providing adequate separation. However, at the time of redevelopment of the site in 2016, all Title 17 standards were met. Additionally, allowing the placement of the loading bays near the residential neighborhood could affect the general welfare of the occupants of the homes by introducing commercial vehicle noise and active components of the commercial operation closer to the residences. Therefore, the spirit of Title 17 - Land Development Code would not be served if a variance was granted.

Recommendation:

Based on the findings for the basis of decision, staff recommends denial of the variance request.

Alternative:

The Board of Adjustment could choose to approve the variance request if the Board determines the request meets each of the basis of decision criteria. For such action, the Board must provide separate Basis of Decision findings to support the approval.

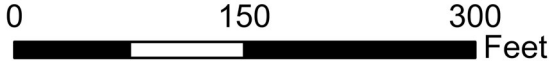
Attachments:

- Location Map
- Location Map Close-up
- Zoning Map
- Site Photo of Proposed Loading Bay Area
- Project Narrative
- Proposed Plans
- Site Photos of Operation Problems Provided by the Applicant
- Letters of Support Provided by the Applicant
- 2016 Variance Request

Location Map



- Parcels
- Subject Property



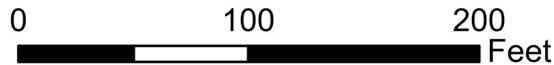
Location Map Close-up



LOCATION OF PROPOSED LOADING BAYS



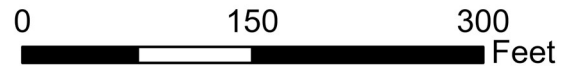
- Parcels
- Subject Property



Zoning Map



- Parcels
- Subject Property







MONTANA OWNED
AND OPERATED
FOOD STORES

Town Pump, Inc. & Affiliates

Corporate Offices
600 South Main Street
P.O. Box 6000 · Butte, Montana 59702-6000
Phone (406) 497-6700 · FAX (406) 497-6705

TO: Board of Adjustment
FROM: Mary Staigmiller
District Manager, Town Pump, Inc.
RE: Proposed Loading Dock/Receiving Room

To whom it my concern:

Town Pump is requesting a variance from the rear setback requirements of current city code 17.20.4 Exhibit 20-4 to add a receiving room/loading dock at the 1411 10th Ave South Town Pump. There are several reasons for the request. The business model was not fully fleshed out on the initial design. The business needs of the facility have superseded the original site plan. When originally designed, deliveries were intended to come through shared customer service entrances. This is no longer proving safe or practical and thus, results in an unnecessary hardship, owing to the large setback requirements. The issues are caused by the frequency of deliveries, size of deliveries, and weight of deliveries. When vendors arrive at the location it is common to bring 3 to 5 pallets of product. With the weight of these pallets, they must be unloaded and wheeled in with hand carts. If not, the pallets and pallet jacks break the floor tiles which is very costly to repair. This is a time-consuming task for both local vendors and TP staff. The receiving area will allow vendors to deliver from truck to dock, be checked in, and put away product with more minimal impact to customer traffic on the lot and customer flow and safety inside the store. The deli design and size are not sufficient for current business needs. Some of the additional space in the receiving area could be allocated to additional coolers and relocation of the "ice room" to make additional working area in the current deli area of the store.

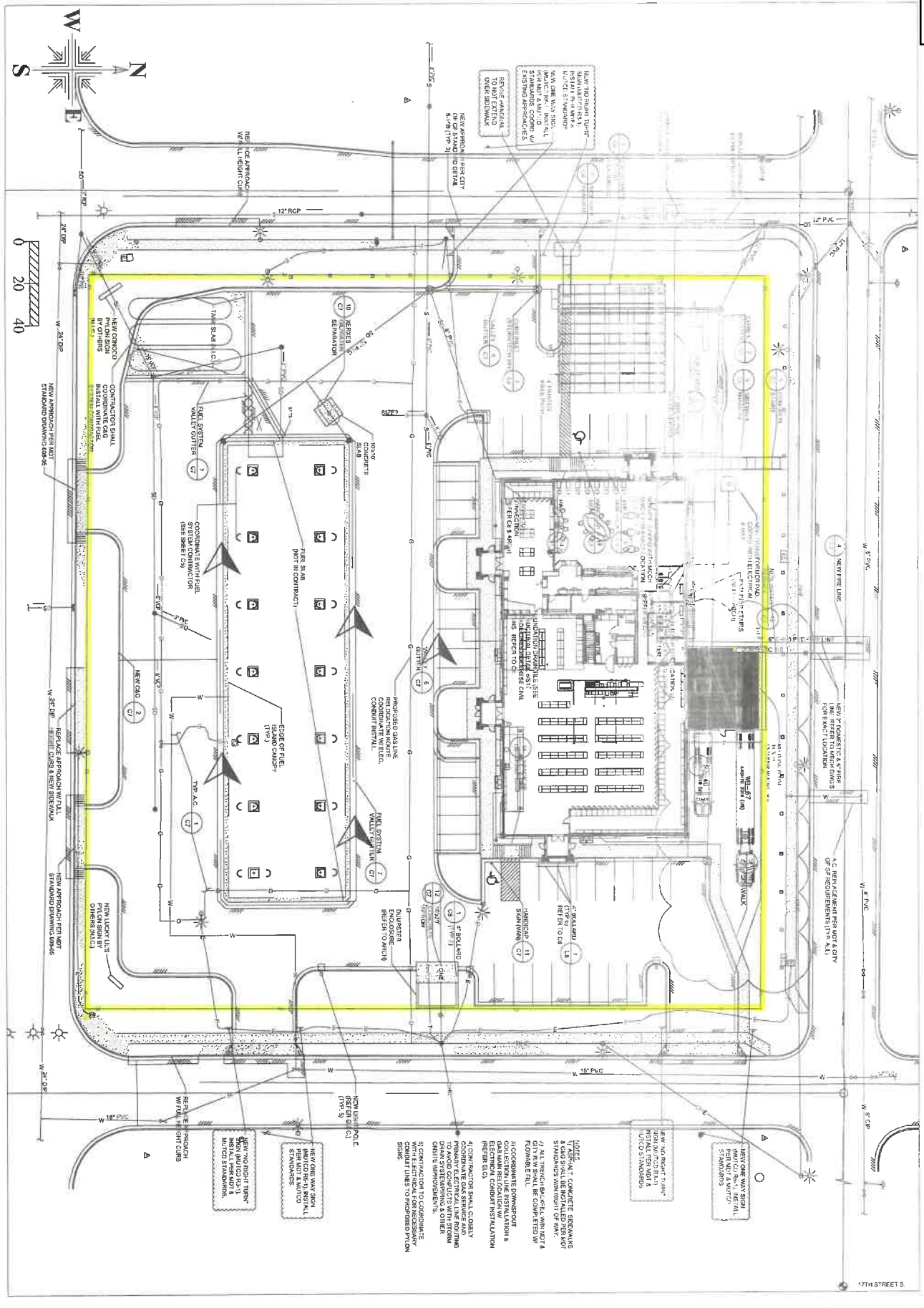
Town Pump requested a variance in 2016, when the building was originally designed. However, this variance request is significantly different than the original request. The original request asked for a variance along the entire length of the building. This request seeks to alter the building and landscaping on only a portion of the building's Northern wall. In fact, less than 20% of the total wall space. The dimensions of the suggested receiving area addition are 35ft by 40ft, or 1400 square feet. The square footage of the main floor of the building is 15,310. So, this request is for less than 10% of the total square footage of the main floor. The receiving area will be a 1 story tall addition, at approximately 9 feet 9 inches tall. About 1/3 of the building has a second story. The height of that portion of the building is 32 feet 1 inch tall.

The functionality being added will not create negative impacts to the surrounding properties. The distance from the property line to the new addition will be 1 foot 1 inch. The reason this distance is so small is that the location's setback is unique to the property. No neighboring business has nearly this amount of setback, nor do they have the landscaping of this location. Even with the addition, the facility would still have more landscaping and would continue to fit in and improve the neighborhood. There will be no additional street access to 9th Ave South. The addition will not impact the existing sidewalk. Neighborhood houses are still approximately 75 feet away from the building. Our neighbors are also our customers, these changes will decrease vendor time on the lot, increase customer parking and access to the store, and improve their safety both inside and outside the location. All these things are in step with the public interest.

Thank you for your time and consideration in the matter.

Sincerely,

Mary Staigmiller
District Manager, Town Pump, Inc.



PROPERTY LINE HIGHLIGHTED IN YELLOW.

Sheet Nr.
A1

12/28/2022
DWS

PEI
MEMBER

Contractor is to complete the project in accordance with all local, state, and federal regulations.

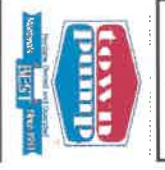
Drawn by: DWS
Date: 12-15-22

GREAT FALLS #7 TP-7033

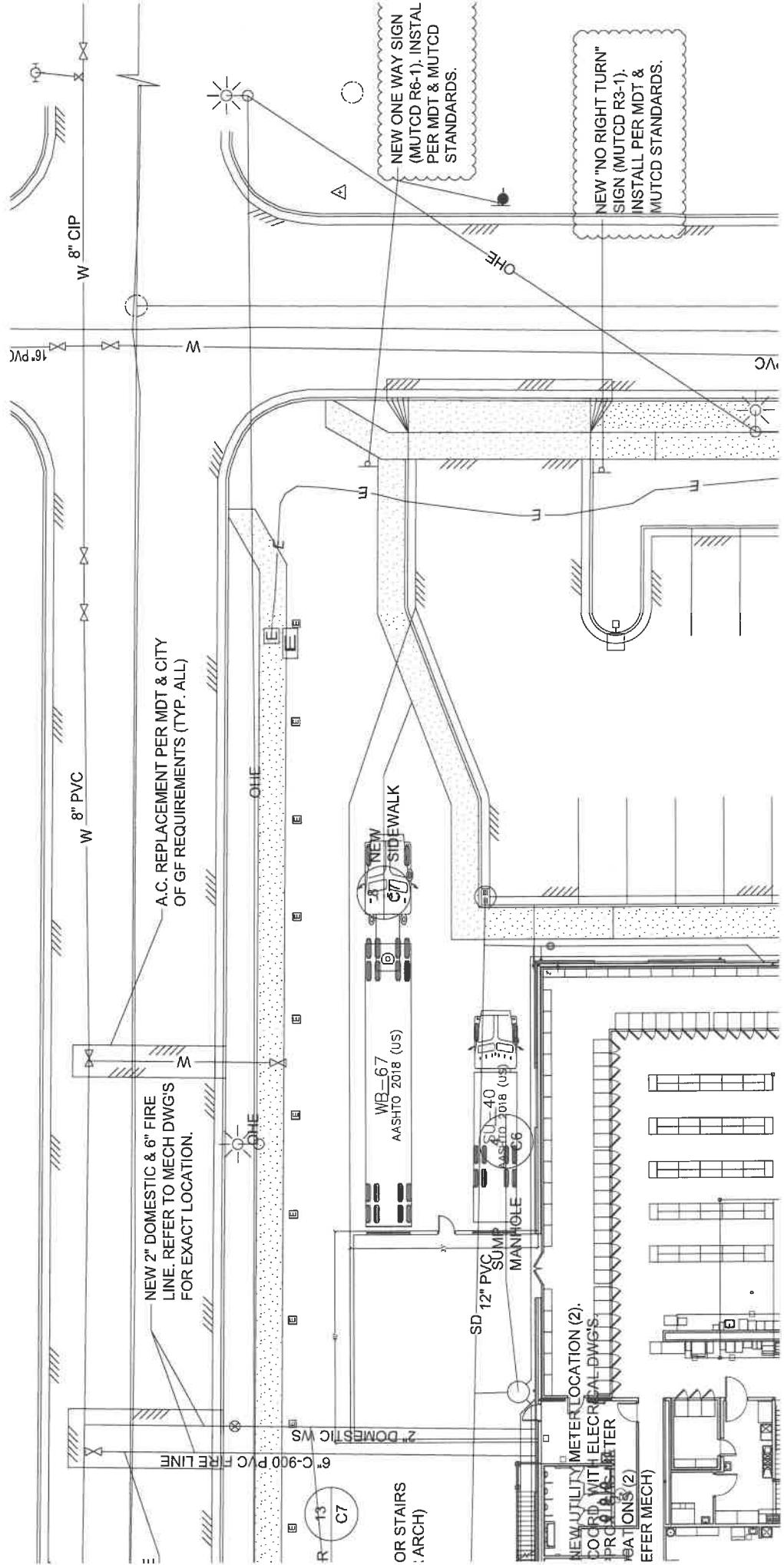
1411 10th Ave S, Great Falls, MT 59405
(406) 952-0765

Scale: 1" = 20'
Property Owner:
GREAT FALLS #7 TPTLC
Box: MT 59701
Bldg: MT 59701

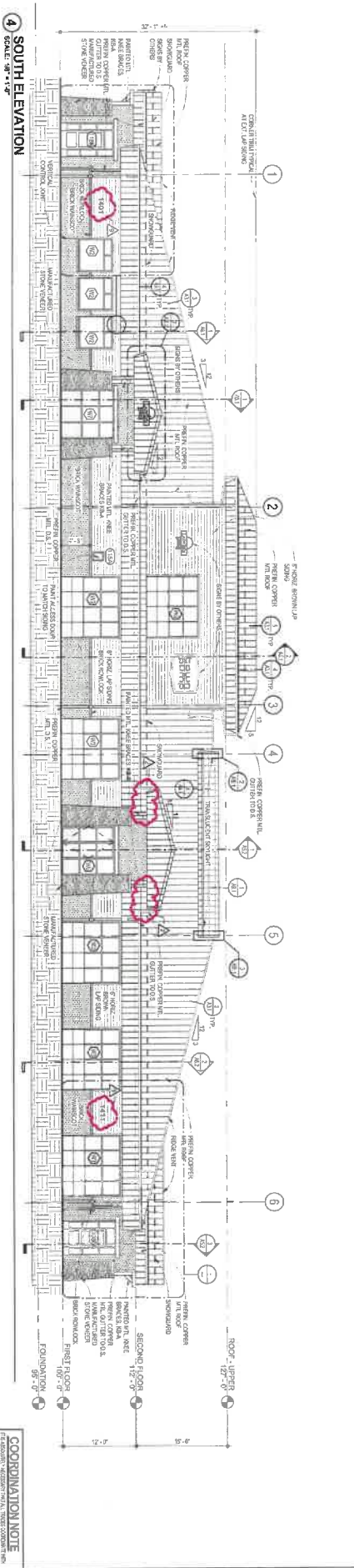
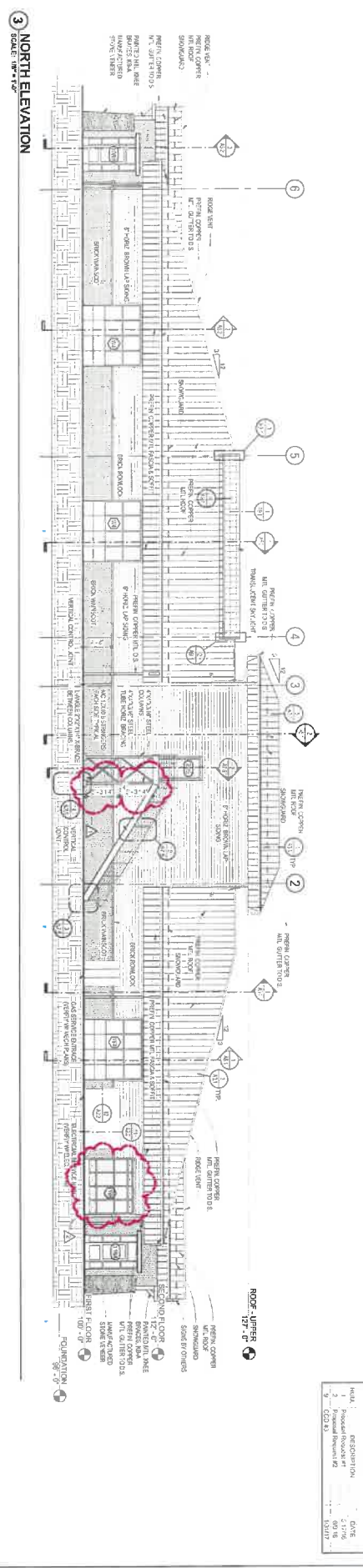
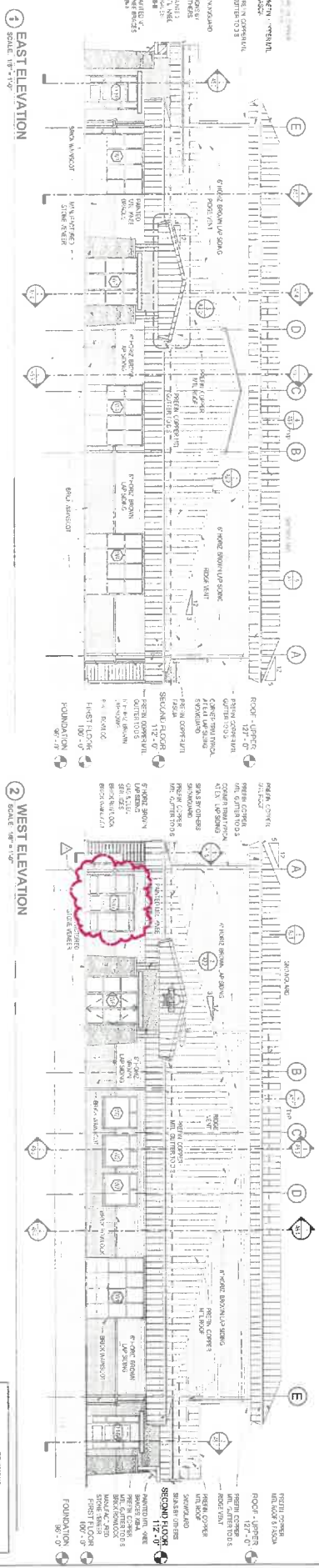
TOWN PUMP, Inc.
Construction Department
600 S. Main P.O. Box 6000
Butte, MT 59701
406-497-6700
dws@townpump.com amolde@townpump.com



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RECORD DRAWING
6/20/2017



REVISIONS	DATE
1. INITIAL REVISION	12-7-16
2. REVISION	12-16-16
3. REVISION	12-16-16
4. REVISION	12-16-16
5. REVISION	12-16-16
6. REVISION	12-16-16
7. REVISION	12-16-16
8. REVISION	12-16-16
9. REVISION	12-16-16
10. REVISION	12-16-16

COORDINATION NOTE
 ALL WORK SHOWN IS BASED ON THE LATEST REVISIONS OF THE PERMITS AND RECORD DRAWINGS. THE CONTRACTOR SHALL VERIFY ALL DIMENSIONS AND CONDITIONS ON THE JOB SITE PRIOR TO COMMENCING WORK.

<p>41827-30-02 SHEET NO. 11 DATE: 11/20/17</p>	<p>TOWN PUMP, INC. 600 S. MAIN P.O. BOX 6000 BUTTE, MONTANA 59702</p>	<p>NEW INNS HOLDINGS, LLC. GREAT FALLS #7 1411 10th Avenue South Great Falls, MT 59405</p>	<p>CROSSMAN WHITNEY GRIFFIN P.C. ARCHITECTS S.A.L.L. 859 POWER STREET P.O. BOX 1198, HELENA, MT 59604 (406) 445-2340 (PHONE) (406) 442-8585 (FAX) cwg@cwg-architects.com</p>
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Above in an aerial view of the current property with an approximation of the landscaping that will need to be removed to allow for the receiving room and loading dock. As you can see, even with that amount of vegetation removed from the setback area, there is still way more landscaping at that location than all neighboring businesses to the South and West, pictured above, and to the South and East, pictured below.



TO: Mary Staigmiller
FROM: Brent A. Zorner
Operations Manager – Gusto Distributing
RE: Proposed Loading Dock/Receiving Room

Hello, Mary,

I would like to take a moment to voice some concerns about the current delivery situation at your Great Falls #7 location. As you know, this is a very busy store, and the loads from all vendors are quite large. This location often has a higher volume of beverages delivered than do some large grocery retailers. Now that my drivers cannot bring pallets inside the store, they are required to park them outside, and wheel them in. This creates several concerns.

- Safety: Due to the deliveries taking longer, the parking lot gets to be very congested. The number of wheeler stacks in the store take up lots of space, and could easily create issues with access, and visibility. Pulling pallets across an ice or snow-covered parking lot presents many potential issues.
- Theft: Pallets of beer & wine left outside are a huge theft risk, and potentially allows minors access.
- Product integrity: pallets left outside in inclement weather get wet, potentially making the packages unsellable, and creating slip hazards inside the cooler.

Please take these issues into consideration.

Thank you for your time,

Brent A. Zorner

Operations Manager
Gusto Distributing
Great Falls, Havre, and Helena MT
bzorner@gustobev.com





P O Box 209 – 1011 Broadwater Drive -- Great Falls, Montana 59403
Tel: 406-453-5457 Fax: 406-771-7635

TO: Board of Planning

FROM: Todd Bahmiller

RE: Proposed Loading Dock

To Whom It May Concern:

Eagle Beverage is writing this letter in support of the Proposed Loading Dock at the Town Pump store at 1411 10th Ave. South. The loading dock would be a huge asset for Eagle as we service Town Pump with beer, wine, and soda. One of the main issues of concern right now is the safety of our employees along with the safety of those customers and employees of Town Pump. When you leave pallets of alcohol outside there is a higher temptation for theft of that alcohol. It takes our employee several minutes to wheel in each stack and that creates an opportunity for alcohol to be stolen. Also, there is a higher risk of employee injury due to the length that employee has to wheel in each stack by hand.

The loading dock would help the congestion of Town Pump's parking lot and make it safer for all of the vendors that service this store. Right now all of the trucks park in front of the store creating a traffic jam at times with customers. This can lead to personal vehicles getting hit or even worse. This Town Pump location is a very high volume account and the loading dock would save countless amounts of product be delivered by wheelers versus the use of pallets. When our employees have to deliver by wheeler they are constantly in customers' way thus creating a traffic jam that can be frustrating for all involved.

We believe that a loading dock would not only save time for employees, but time for the employees at that Town Pump location as well. It would also create a better environment for the customers at this location. We strive to do our best possible job in delivery and service for each of our customers. A loading dock would help us to provide a better service to Town Pump.



Todd Bahmiller
Sales Manager

To whom it may concern:

I am writing to voice my support for a proposed receiving area at Great Falls #7 Town Pump. The way that we typically deliver is a little different than other vendors. We have our warehouse load our product on 6 wheeled carts that we roll into our customers locations. In the past we were able to do this at this location, but due to concerns about weight and broken tiles we have had to change our delivery model for this store.

As a result of this change we have become less efficient. Our Driver is now having to take the product off of a pallet, stack it outside and wheel it in the store with a hand truck. Then the product is checked in and has to be wheeled into the cooler and stocked. This not only increases the time our Driver has to spend at the location but can lead to delays for customers at this store and other Town Pump's that are on his route on this day. On top of being less efficient we have a much higher potential for damage as the driver is handling the product 3 times more than he would with carts, and with winter temperatures dipping down the product can start to freeze.

The proposed dock would allow us to go back to delivering our product on the carts and allow us to get in and out of the location in a timely fashion without having to handle the product multiple times. The dock would allow us to be checked in off the sales floor where we wouldn't be in the way of any customers.

Thanks

Tom Senter

Coca Cola High Country

BOARD OF ADJUSTMENT

March 3, 2016

Case Number

BOA2016-3

Applicant/Owner

New Inns Limited Partnership

Property Location

On the north side of 10th Ave S, between 14th St S and 15th St S

Zoning

C-2 General commercial

Request

Variance to Section 17.20.4.010 of the City Code that would reduce the required rear yard setback from the property line related to redevelopment of the entire site.

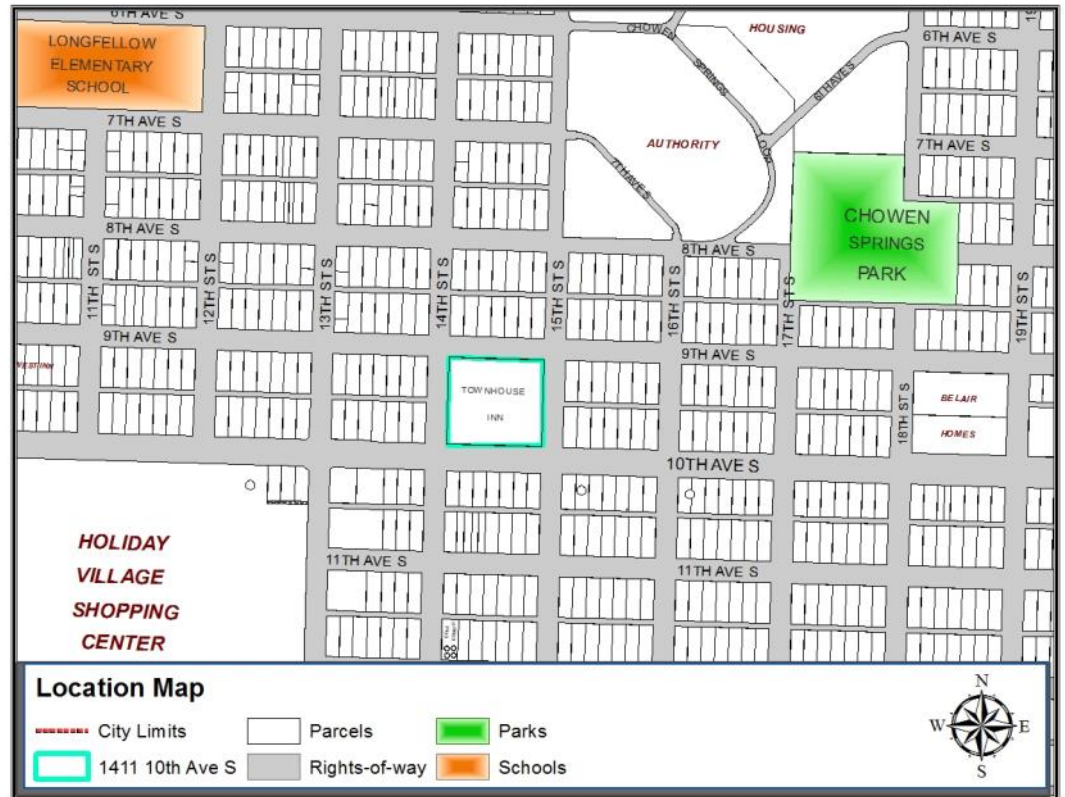
Recommendation

Deny the request

Project Planner

Galen A. Steffens

1411 10TH AVENUE SOUTH



Synopsis

The applicant is requesting a variance to City Code, Title 17, Chapter 20, Article 4, Section 010, Exhibit 20-4, Minimum rear yard setback. Code requires a rear yard setback of 1/10 the lot depth, but not less than 1/10 the building height in the C-2 General commercial zoning district. The building is 32 feet in height, so it is not ultimately applicable to determining the subject property’s rear yard setback. The property is ±320 feet in depth, so the required rear yard setback would be ±32 feet. The applicant is requesting consideration for a 15 foot rear yard setback as part of the redevelopment of the property to construct a new Town Pump convenience store with attached Casino, type I, and associated fuel island.

- Legal description: Lots 1-14, Block 780, Great Falls Sixteenth Addition, of Section 7, Township 20 North, Range 4 East, P.M.M., Cascade County, Montana
- Total Area: ±112,242 square feet or ±2.58 acres

Background Information:

The subject property incorporates a full City block and is located on the north side of 10th Avenue South, between 14th and 15th Streets South. For the past 53 years a motel has operated at this site. When the motel was constructed, 10th Alley South was concurrently vacated. This original vacation of the alley was proposed and approved by adoption of Ordinance 1447 in 1963, and was ultimately conditional “so long as said alley shall be used as a building site for motel purposes”. As a result, the owner applied to amend Ordinance 1447 in order that the alleyway can be vacated and other commercial uses can be established on the subject property. Notice of public hearing before the City Commission was published in the *Great Falls Tribune* on February 28, 2016. In accordance with Montana Code Annotated §7-3-4448, adjacent property owners were personally served notice of the alleyway vacation. The City Commission will take final action at the public hearing on March 1, 2016.

For the variance request, adjacent property owners received notice of public hearing before the Board of Adjustment, and notice ran in the *Great Falls Tribune* on January 24, 2016. As a courtesy, Patty Cadwell, Neighborhood Council Coordinator, will provide Neighborhood Council #9 information on February 26, 2016. As of the writing of this report, Staff has received numerous phone calls with general inquiries about the project, as well as one written comment in objection via email (Exhibit E).

Abutting properties to the east, west and south adjacent to 10th Avenue South are zoned C-2 General commercial. There is a half block of C-1 Neighborhood commercial immediately the east of the subject property, adjacent to 9th Avenue South; however, the majority of those lots are single-family residential. The lots adjacent to 9th Avenue South on the north are zoned R-3 Single-family high density zoning. The proposed convenience store and casino is shown as 170.7 feet by 80.7 feet, totaling 13,775.49 square feet. There is also a 14 pump fuel island with a canopy shown as 220 feet by 59.7 feet, totaling 13,134 square feet, which amounts to only 24% lot coverage (see Exhibit H - Site Plan).

Basis of Decision and Findings

The basis for decision for a variance request is listed in §17.16.32.040 of the Land Development Code of the Official Code of the City of Great Falls (OCCGF). The decision of the Board of Adjustment shall consider the three Basis of Decision criteria. Staff provides the following Basis of Decision for consideration by the Board:

1. The variance is not contrary to the public interest.

The existing Townhouse Inn is located 40.5 feet from the north property line, which works well with the neighborhood character to the north and east along 9th Avenue South. In order to perpetuate a healthier transition between residential and commercial land uses in this area, it is in the public’s interest and is not unreasonable for the proposed convenience store and casino building to be located the required 32 feet from the north property line.

The Growth Policy is the key adopted plan that Staff use for guidance in analyzing development applications and providing recommendations to Board members. While the City Growth Policy supports and encourages efficient, sustainable development and redevelopment throughout the City, it also recognizes that the Design Review Board addresses visual aspects of commercial and industrial development applications subject to §17.12.3.010, and that the Design Review Board makes recommendations on commercial applications. These recommendations are intended to further goals related to compatibility and neighborhood character, street activity, safety and visual aesthetics. The Growth Policy also identifies Policies related to redevelopment, such as:

Environmental – Urban Form

Env2.3.1 In order to maximize existing infrastructure, identify underutilized parcels and areas with infill potential as candidates for redevelopment in the City.

Physical - Land Use

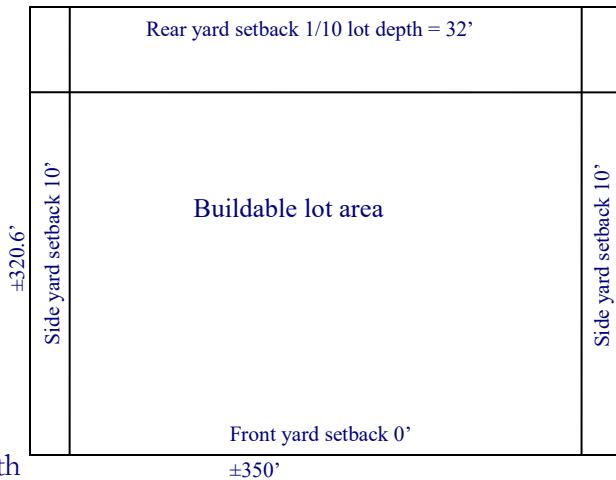
- Phy4.1.1 Promote and incentivize infill development that is compatible with the scale and character of established neighborhoods.
- Phy4.1.5 Encourage and incentivize the redevelopment or adaptive reuse of vacant or underutilized properties so as to maximize the City's existing infrastructure.

The theme of utilizing existing infrastructure is repeated throughout the Growth Policy, which the proposed redevelopment does; however, understanding and analyzing the impact that redevelopment has on existing neighborhoods and the compatibility of any development to adjacent properties is equally emphasized. As such, there are ways to mitigate the impact of certain land uses, some of which are outlined by the OCCGF as Special Standards.

Casino, type I is an example of a land use that has special standards outlined in §17.20.6.140, which states the purpose of which “is to allow the location of new type I casinos or the relocation of existing type I casinos in certain zoning districts provided they meet more stringent development and appearance standards than type II casinos”, which are not permitted in the C-2 General commercial zoning district. The Casino, type I special standards are attached as Exhibit G, and one of the required standards is increased landscaping. The subject property is a highly visible site to the public at large, not just the neighborhood, as it is a full City block, just over 2.5 acres, with high traffic arterial roadways on three sides. Due to the change in land use from a motel with a casino to a gas station with a convenience store and casino, which is a much higher traffic generator, the rear yard setback should remain at 32 feet in order to serve as a buffer to help mitigate the impact of the constant flow of traffic upon the adjacent neighborhood that the proposed redevelopment creates.

2. A literal enforcement would result in unnecessary hardship, owing to conditions unique to the property.

As stated previously, this is a very large site, and as such provides ample area for redevelopment that meets the development standards required for a gas station, convenience store, and casino, type I use in C-2 zoning district related to lot coverage, setbacks, height limitations, landscaping, parking requirements, and lighting. Additionally, the C-2 zoning district has a zero (0) foot front yard setback, in order to encourage a business corridor with buildings in the front of the lots with parking in the back. The subject property is 112,242 square feet in size. After applying the required setbacks, which comprise a total of ±14,372.36 square feet, or ±0.33 acres, or 12.8% of property area, the buildable lot area is still ±97,869.64 square feet, or ±2.25 acres, or 87.2% of the property area. See following diagram:



It is also worth noting that the reduction to the buildable area that the setbacks create is surpassed by the area of the property that Chapter 44 of the OCCGF outlines for landscaping requirements. For a standard commercial use, 15% of the gross property area to be developed or redeveloped is required to be landscaped, which for a site this size is 16,448.4 square feet of landscaping area. This is more than the area that accounts for the setbacks (12.8%). Moreover, a Casino, type I has special standards that require 20% of the gross property area to be landscaped, which is 22,448.4 square feet for the subject property.

Additionally, the drive aisles shown on the site plan do not comply with the City standard shown in Exhibit F. Chapter 36 of the OCCGF provides dimensional standards for a 2-way drive aisle at 25 feet wide. The applicant shows drive aisles that are all well over the standard 25 feet. Thus, the variance request appears to be based on the applicant's preference for site layout, not on a hardship related to the standards presented in the Land Development Code.

Finally, the site has no unusual topography or access limitations; is not a lot of unusual dimensions or configuration; or any other unique condition that would typically warrant a setback deviation.

3. **The spirit of this Title would be observed and substantial justice done by granting the variance.**

Redevelopment of a site this size, into the proposed use of a gas station, convenience store and casino is a redevelopment that has a long lifespan. As this site will not likely be redeveloped for quite a long time, it is crucial that the proposed use meet code requirements. The intent of the code is such that any new development or redevelopment be reviewed to meet the standards put forth in the code. Title 17 - Land Development Code of the OCCGF list the following purposes:

17.4.050 - Purpose.

A. General purpose. This Title is established to promote the public health, safety, and welfare and is intended to accomplish the following purposes:

- 1. implement the goals, objectives, and policies of the growth policy*
- 2. ensure that all development is guided by and gives consideration to the growth policy*
- 3. establish a comprehensive compendium of regulations that controls the use or development of land within the City*
- 4. provide for clear, consistent standards, regulations, and procedures for the review and approval of all proposed development within the City*
- 5. address the substantive findings as contained in this Title*
- 6. safeguard the public health, safety, and general welfare by establishing minimum standards for design and development*

In the spirit of the code to safeguard the public health, safety, and general welfare, minimum standards have been set and should be complied with to the greatest extent possible. The property is a full City block with ample room to comply with development standards. Therefore, the spirit of Title 17 - Land Development Code would not be served if a variance was granted.

Conclusion

Staff finds inadequate basis and hardship for the variance and does not support granting the reduction of the rear yard setback. This site is a full City block with ample room for the proposed redevelopment improvements. The rear yard setback acts as a buffer, and serves to meet the landscaping requirements, between the proposed building and the residential neighborhood. Additionally, the greater distance of 32 feet helps to reduce the impacts of the building height and mass upon the adjoining neighborhood. The rear yard setback required by Code is reasonable as it relates to the proposed redevelopment land use and the adjacent neighborhood.

Recommended Motion

Board Member moves:

“I move the Board of Adjustment, based on the Findings for the Basis of Decision, (deny/approve) the variance request for a 15-foot rear yard setback from the northern property line, at the property legally described as Lots 1-14, Block 780, Great Falls Sixteenth Addition, subject to the following condition:

1. The proposed project shall be developed consistent with the conditions in this agenda report, all codes and ordinances of the City of Great Falls, the State of Montana, and all other applicable regulatory agencies.”

Chairman calls for a second, discussion, and calls the vote.

Cc: Jim Rearden, Public Works Director
Dave Dobbs, City Engineer
Patty Cadwell, Neighborhood Council Coordinator
Dan Sampson, New Inns Limited Partnership, dans@townpump.com
Joe Murphy, Big Sky Civil & Environmental, Inc., representative, jmurphy@bigskyce.com

EXHIBIT A - APPLICATION

CITY OF GREAT FALLS
PLANNING & COMMUNITY DEVELOPMENT DEPT.
 P.O. BOX 5021, GREAT FALLS, MT, 59403-5021
 406.455.8431 • WWW.GREATFALLSMT.NET

VARIANCE APPLICATION

Date:
Application Number:
\$1,250 Application Fee
Public Hearing Notice
Paid (Official Use ONLY):

CONDITION FOR VARIANCE

Montana Statutes require an *unnecessary hardship* as a condition for a variance. "Variance" means a grant of relief from the strict application of a rule or regulation that would permit development in a manner otherwise prohibited.

New Inns Limited Partnership (Attn: Dan Sampson)

Owner / Representative Name:

P.O. Box 6000 Butte, MT 59702

Mailing Address:

406-497-6860

DanS@townpump.com

Phone:

Email:

Requested Action: A variance from Title: 17

Chapter: 20

Article: 4

We hereby request a variance from the "Minimum rear yard setback of principal and accessory buildings" Development standard for C-2 zoning is defined as 1/10 of lot depth but not less than 1/10 of building height

Basis for Request:

Because the lots have been aggregated on the subject parcel, the lot depth is 320 feet in depth. Virtually all other commercial lots along the 10th Ave corridor are 150 feet in depth and are therefore held to a 15-ft setback, making the 32-ft setback unusually strict and inconsistent with most other properties in the area.

PROPERTY DESCRIPTION LOCATION:

Block 780 Great Falls Sixteenth Addition S07 T20N R04E

Mark/Lot/Block: **Addition:** **Section:** **Township:** **Range:**

1411 10th Avenue South

Street Address:

ZONING:

C-2

LAND USE:

Hotel w/ Casino

Current:

Current:

I (We) the undersigned understand that the filing fee accompanying this application is not refundable. I (We) further understand that the fee pays for the cost of processing, and the fee does not constitute a payment for approval of the application. I (We) further understand that public hearing notice requirements and associated costs for land development projects are my (our) responsibility. I (We) further understand that other fees may be applicable per City Ordinances. I (We) also attest that the above information is true and correct to the best of my (our) knowledge. NOTE: If the applicant is not the owner of record, the signature of the owner of record must also be obtained.

Property Owner's Signature:

[Handwritten Signature] agent for TownPump

Date:

12/18/15

Representative's Signature:

Date:

EXHIBIT B - AERIAL MAP



-  Tracts of Land
-  1411 10th Ave S



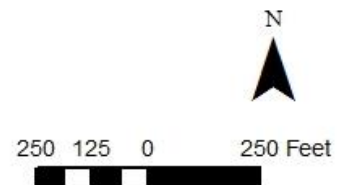
Townhouse Inn redevelopment

EXHIBIT C - ZONING MAP



Legend

- 1411 10th Ave S
- Tracts of Land
- right-of-way
- ZONING**
- R-3 Single-family High Density
- R-5 Multi-family Medium Density
- C-1 Neighborhood Commercial
- C-2 General Commercial
- PLI Public Lands and Institutional
- POS Parks and Open Space



Townhouse Inn

EXHIBIT D - SITE PHOTOS



View looking northeast from the 14th Street South and 9th Avenue South intersection.



View looking east down the drive aisle behind the existing Townhouse Inn. The Inn is ± 40.5 from the north property line.



View looking west from 15th Street South across the 10th Avenue South frontage.

EXHIBIT E - PUBLIC COMMENT

Galen Steffens

From: Jay Russell [jstuartruss1805@gmail.com]
Sent: Friday, February 12, 2016 5:23 PM
To: Galen Steffens
Subject: Comment on Variance for the Town Pump project

Subject: Comment on Variance for the Town Pump project

Dear Ms. Steffens,

I would like to add my comments for the record, in opposition to the variance requested by Town Pump, concerning the project on the block between 14th and 15th Streets South, and bordered by 10th Avenue South and 9th Avenue South. I am the owner of the 4-plex with units located at 815, 819, and 821 15th Street South, and 1501 9th Avenue South. I am opposed to the variance request for the following reasons:

1. The project features a casino, and I do not feel we need to make an exception to the code so that the casino can be located an additional 17 feet closer to the residential area. The property has ample space for planning without it being that much closer to residential housing. The neighborhood needs as much of a buffer as possible between the residential housing and the casino/gas station.
2. The neighborhood features a large concentration of low income properties, and having a casino in the mix and so close to the area is a bad idea. Locating the building even 17 feet closer should not be allowed.

**Thank you,
Jay Russell
Owner, 815/819/821 15th Street South, and 1501 9th Ave South**

EXHIBIT F - PARKING DESIGN REQUIREMENTS

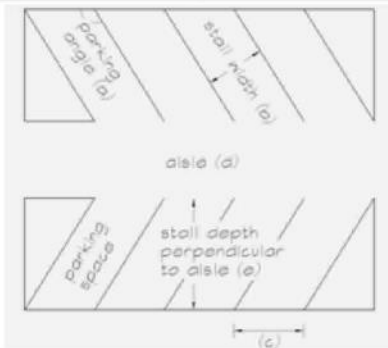
17.36.2.040 - Design requirements.

- A. Parking space dimensions. Standard and compact parking spaces shall conform to the dimensions in Exhibit 36-2.
- B. Service drive, when required. Groups of three (3) or more parking spaces, except those in conjunction with single-family or two-family dwellings on a single lot, shall be served by a service drive so that no backward movement or other maneuvering of a vehicle within a public right-of-way, other than an alley, will be required.
- C. Service drive, standards. Service drives shall be designated and constructed to facilitate the flow of traffic, provide maximum safety in traffic ingress and egress and maximum safety of pedestrian and vehicular traffic on the site, and meet the dimensional standards in Exhibit 36-2.
- D. Drive-through stacking requirements. Drive-through facilities shall have stacking room for at least six (6) vehicles, including one (1) vehicle at the window (or call box, etc.). Stacked vehicles shall not extend into any public street, road, alley or right-of-way, or required service drive.

(Ord. 2950, 2007)

Exhibit 36-2. Dimensional standards for standard and compact parking spaces

Angle (a)	Parking Type	Stall Width (b)	Curb Length (c)	1-Way aisle Width (d)	2-Way aisle Width (d)	Stall Depth (e)
0°	Standard	9 ft.	22 ft. 6 in.	12 ft.	24 ft.	9 ft.
	Compact	8 ft.	19 ft. 6 in.	12 ft.	24 ft.	8 ft.
30°	Standard	10 ft.	20 ft.	12 ft.	24 ft.	17 ft.
	Compact	8 ft.	16 ft.	12 ft.	24 ft.	14 ft.
45°	Standard	10 ft.	14 ft. 2 in.	12 ft.	24 ft.	19 ft.
	Compact	8 ft.	11 ft. 4 in.	12 ft.	24 ft.	16 ft.
60°	Standard	10 ft.	11 ft. 7 in.	18 ft.	24 ft.	20 ft.
	Compact	8 ft.	9 ft. 3 in.	15 ft.	24 ft.	16 ft. 6 in.
90°	Standard	10 ft.	10 ft.	24 ft.	25 ft.	19 ft.
	Compact	8 ft.	8 ft.	22 ft.	24 ft.	15 ft.



(Ord. No. 3056, § 1, 8-17-2010)

EXHIBIT G - CASINO, TYPE I SPECIAL STANDARDS

17.20.6.140 - Casino, type I.

- A. Purpose. This section is intended to allow the location of new casinos or the relocation of existing casinos in certain zoning districts provided they meet more stringent development and appearance standards than type II casinos.

(Ord. 2950, 2007)

- B. Classification. A casino shall be identified by definition in Chapter 8 of this Title.
- C. Proximity to residentially zoned properties. There is no minimum distance requirement from residential uses or between casinos.
- D. Proximity to other specified uses.
1. Casinos shall not locate within six hundred (600) feet of an education facility (K through post-secondary), worship facility, park or playground. The distance shall be measured by direct line, without regard to intervening structures or streets, between closest property boundaries; and,
 2. Casinos shall not locate on premises operating a sexually oriented business.
- E. Design Review Board approval. The Design Review Board shall review and approve the exterior building design and finishes; and landscaping, signage, lighting and parking plan for any new or relocated casino, or an expansion or exterior renovation of an existing casino.

(Ord. 2950, 2007)

- F. Special landscaping. Casinos must comply with all applicable landscaping requirements in Chapter 44 Landscaping. Additional or special landscaping requirements for type I casinos include the following:
1. Minimum square footage of interior landscaping, inclusive of landscaping in vehicular use areas and foundation planting areas, shall be twenty (20) percent of the gross property area to be developed.
 2. Fifty (50) percent of said landscaping shall be located between the front lot line and the building.
- G. Special signage. The following signage requirements shall apply:
1. No freestanding signs shall be allowed.
 2. Wall signs shall not exceed seven and one-half (7.5) percent of the building wall area per frontage.
 3. No exterior or interior signage indicating any form of gaming shall be allowed to face an adjacent residential use.

EXHIBIT H - SITE PLAN

MINUTES OF THE MEETING
OF THE
GREAT FALLS BOARD OF ADJUSTMENT/APPEALS
March 3, 2016

CALL TO ORDER

The meeting of the Great Falls Board of Adjustment/Appeals was called to order by Chair Jule Stuver at 3:00 p.m. in the Commission Chambers of the Civic Center.

ROLL CALL & ATTENDANCE

Great Falls Board of Adjustment/Appeals members present:

Mr. Jule Stuver, Chair
Mr. David Saenz
Ms. Krista Smith
Mr. Chris Ward

Great Falls Board of Adjustment/Appeals members absent:

None

Planning Staff members present:

Mr. Craig Raymond, Director Planning & Community Development
Ms. Galen Steffens, Planner II
Ms. Erin Borland, Planner I
Mr. Gregory Gordos, Planner I
Ms. Connie Rosas, Sr. Administrative Assistant

Others present:

None

Mr. Raymond affirmed a quorum of the Board was present.

MINUTES

Chair Stuver asked if there were any changes to the minutes of the February 11, 2016, meeting of the Board of Adjustment/Appeals. Seeing no corrections, Ms. Smith moved to approve the minutes as submitted, seconded by Mr. Saenz. All being in favor, the minutes were approved.

Action Minutes of the Board of Adjustment/Appeals. Please refer to the audio/video recording of this meeting for additional detail.

OLD BUSINESS

There was no old business.

NEW BUSINESS

BOA2016-03, 1411 10th Avenue South Variance: Sections 17.20.4.010 – Minimum rear yard setback

Galen Steffens, Planner II, presented the staff report for the request from the applicant/owner, New Inns Limited Partnership, for a variance request for a change in minimum rear yard setback for commercial property located on the north side of 10th Avenue South between 14th Street South and 15th Street South. The subject property is zoned C-2 General Commercial, and the proposed redevelopment project consists of a gas station, convenience store and casino Type I.

As part of this development, the applicant needed to vacate 10th Alley South, which was conditionally vacated in 1963 for motel purposes. At a City Commission meeting on March 1, 2016, the request to vacate the alley was approved; the status of the alley will not interfere with any current or future redevelopment proposal. The applicant is requesting a variance to Section 17.20.4.010 of the City code, which would require a 32-foot rear yard setback on the subject property. Currently, the property consists of the Townhouse Inn.

Notice of Public Hearing was mailed to neighboring property owners and published in the Great Falls Tribune on January 24, 2016. As a courtesy, Patty Cadwell, Neighborhood Council Coordinator, provided information to Neighborhood Council #9 on February 26, 2016. To date, staff has received numerous phone calls with general inquiries about the project, as well as two written comments in opposition to the variance request. One of the written comments represents two separate residences.

Ms. Steffens reviewed the requirements for the basis of decision for granting a dimensional variance per City Code 17.16.32.040. The existing Townhouse Inn is located 40.5 feet from the north property line, and staff states that the required setback works well to perpetuate a healthy transition between residential and commercial land uses in this area. Ms. Steffens noted that Type I casinos have more stringent zoning requirements than Type II casinos, which are not permitted in the C-2 General Commercial districts. In order to construct a casino in the C-2 General Commercial district, it needs to meet the standards for a Type I casino. Casino Type I standards include increased landscaping and requirements on location of landscaping. This specific location is a highly visible, high traffic area with three adjacent arterial roadways and consists of a full city block. The required rear yard setback will assist with mitigating traffic flow at all times of the day and night, which affects the adjacent neighborhood.

Ms. Steffens reviewed other items for the basis of decision in granting a dimensional variance as presented in the staff report and the reasons staff supports denying the variance request. In conclusion, staff finds inadequate basis and hardship for the requested variance.

PETITIONER'S PRESENTATION

Joe Murphy, Big Sky Civil and Environmental, 1324 13th Avenue Southwest, representing the applicant, said the proposed project includes demolition of the current structure. He said the subject property actually consists of separate lots, even though the current structure covers the entire block. For each lot, it is permissible to have a 15-foot rear yard setback, so therefore the requested variance is, in his opinion, acceptable. He said he understood the vacation of the alley is not official until April 2016. He said that if the development occurred on the north half of the alley, they feel that the 15-foot rear yard setback is permissible.

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He said if the alley is vacated and the lots aggregated, it is true that the building could be pulled forward and there could be additional parking and lighting on the north side of the property. He said the developers chose their plan in order to assist the City in order to provide screening on the north side of the property. He does not agree that traffic flow would be better if the development was further south on the property but said that would restrict traffic movements and reduce visibility for parked vehicles and pedestrians. He said that from a standpoint of noise, light pollution and safety, they feel their proposal meets the standards for the City and are requesting the variance.

PROPONENTS OPPORTUNITY TO SPEAK

There were no proponents.

OPPONENTS OPPORTUNITY TO SPEAK

There were no opponents.

PETITIONER'S CLOSING

The petitioner had no further comments.

PUBLIC COMMENT

There was no public comment.

BOARD DISCUSSION AND ACTION

MOTION: That the Board of Adjustment, based on the Findings for the Basis of Decision, deny the variance request for a 15-foot rear yard setback from the northern property line, at the property legally described as Lots 1-14, Block 780, Great Falls Sixteenth Addition.

Made by: Mr. Ward
 Second: Ms. Smith

Ms. Smith asked Mr. Murphy what type of barrier was proposed between the residential properties and the proposed project. Mr. Murphy brought forward the landscape plan and explained some details of that plan; he said he felt this plan is a better fit for the neighborhood. Mr. Saenz asked if there had been any acoustic study, and Mr. Raymond said the City has not received any. Ms. Steffens said City Code requires a buffer between uses, and the trees shown on the landscaping plan are according to Code requirements.

Mr. Ward asked about adding parking in a setback, and Ms. Steffens said there cannot be parking in the setback. Mr. Murphy asked Ms. Steffens to clarify parking in a setback, and she referred to the Code and then stated that parking can be allowed to within 6 feet of the property line, and therefore could be in the setback. Mr. Murphy said that if the building were reconfigured, then parking could exist north of the building. Mr. Raymond said that the challenge in that situation would be to fulfill the landscaping requirements.

Mr. Ward asked if the 14 lots could be aggregated into two lots, one north and one south. Ms. Steffens said that there are still requirements for parking and landscaping that cannot be met on

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two partial lots. Mr. Murphy said they had proposed two separate lots but the City said this project had to be developed as a whole. Mr. Ward said that the hardship factor for the developer is related to aggregating the lots, and Ms. Steffens addressed some of the issues for the code requirements related to aggregating into two lots.

Dan Sampson, Construction Development Manager for Town Pump, 600 South Main, Butte, MT, gave clarification on the reasons for the current site design. He said drive aisles within the site are greater than code requirements for safety reasons and reduction of vehicle conflicts both on site and on the streets. He said on the west side of the proposed fuel islands, there is a tank field where tanker vehicles deliver fuel, so it is a larger space.

Ms. Smith asked if the developers have considered a CMU block fence along the north side for the benefit of the neighbors. Mr. Sampson said they were hoping to use the backside of the building as a noise buffer. Their goal was to put in a retention wall along 9th Avenue South, as well as fence and landscaping. He noted that if the building is moved toward the south, there is no extra landscaping requirement, so the potential of noise and light in the neighborhood is greater. They were considering a 6-foot opaque fence.

Ms. Steffens said it is possible to design a site to meet all the code requirements, even if it means reducing the number of fuel pumps. Mr. Sampson agreed but said the reduction of fuel islands is a hardship. He said the developer is trying to create a larger offering in the store portion also, and that shrinking the number of fuel islands or reducing store size could mean the economic factor won't be there for this project. It looks like there is one extra parking space than required in the most current plan, and maybe more.

Chair Stuver said that it looks like there is the potential to adjust details of the plan. Mr. Saenz asked about the height of the Townhouse Inn and the proposed height of this project. Ms. Steffens said the issue is more about how a two-story building versus a one-story building impacts a neighborhood. Mr. Murphy said there are industry standards for spacial distances between fueling islands and the face of the building and necessary traffic movements, and the developer is trying to achieve those standards here, particularly with fuel trucks making deliveries. By decreasing those spaces, you give up safety and vehicle turning movements. Ms. Steffens said the City has requested but not yet been provided with information on turning movements and safety standards.

Mr. Ward asked if the building front were rotated on the property, would the setbacks rotate also, and Ms. Steffens said they would. Ms. Smith said she understood the neighbors' concerns and that she would be more comfortable with a buffer other than trees.

Mr. Ward asked for further input on the hardship factor from the developer's point of view. Mr. Sampson said there is no better buffer for the neighbors than the wall of the proposed building. He said that reducing the drive aisles, size of the fuel islands and the building will make this project less economically viable. He said they design their sites for the best design for customer, pedestrian and vehicle safety. Mr. Murphy said that if they were allowed to aggregate into two parcels, they would be able to have a 15-foot setback without a variance and therefore, this becomes a hardship.

Mr. Ward had a question about vacating the alley. Mr. Raymond said it is not desirable with a development like this to have a public alley going through it. He said there is still room to be flexible with this development, and there are lots of developments of this type in Montana that

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are doing economically well and are not developed on an entire city block. Mr. Ward asked if staff have a concern about the quality of the buffer, and there was discussion among staff regarding plants being as effective as fencing.

Mr. Stuver reviewed details of the variance request. He said there are areas of flexibility in the site design and he has a difficult time seeing a hardship. Mr. Ward agreed, saying there may be a justification for serving the public interest with the current design but he has a difficult time finding a hardship.

There was no further discussion by the Board.

VOTE: All being in favor, the motion passed.

PUBLIC COMMENT

Mr. Raymond said there are a couple of applications for appointments by City Commission to the Board of Adjustment. Those will be on the next meeting agenda.

ADJOURNMENT

There being no further business, Ms. Smith motioned to adjourn, seconded by Mr. Saenz. All being in favor, the meeting adjourned at 4:17 p.m.