

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.

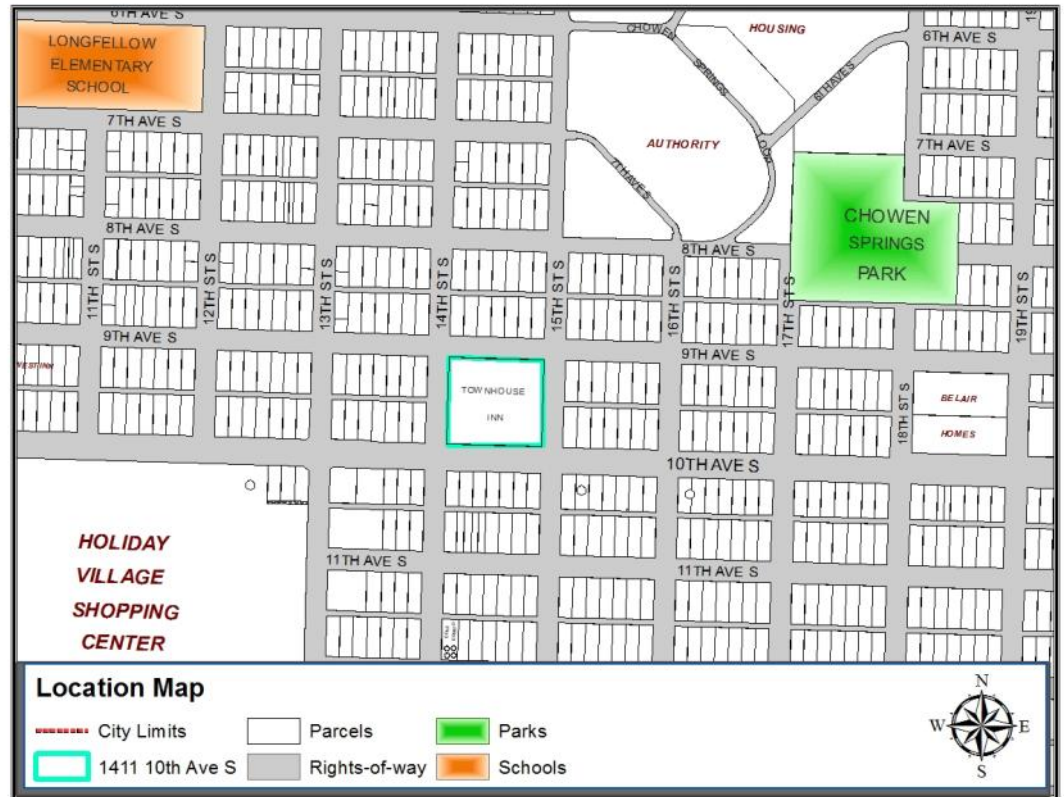
Recommendation

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: $\pm 112,242$ 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

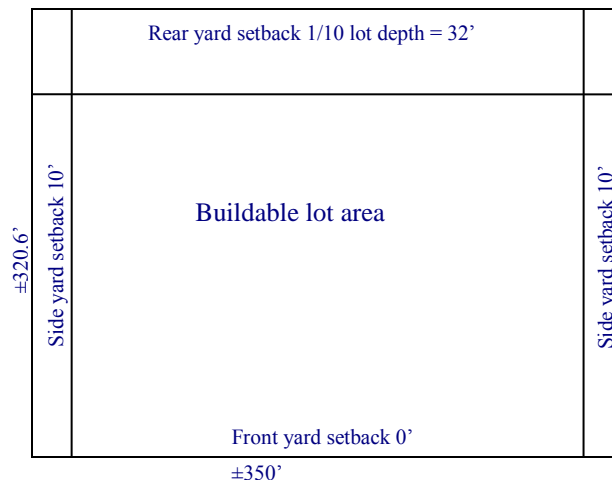
- Phy4.1.1 Promote and incentivize infill development that is compatible with the scale and character of established neighborhoods.
- Phy4.1.5 Encourage and incentivize the redevelopment or adaptive reuse of vacant or underutilized properties so as to maximize the City's existing infrastructure.

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 $\pm 14,372.36$ square feet, or ± 0.33 acres, or 12.8% of property area, the buildable lot area is still $\pm 97,869.64$ 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:

Representative's Signature:

Date:



Date:

EXHIBIT B - AERIAL MAP



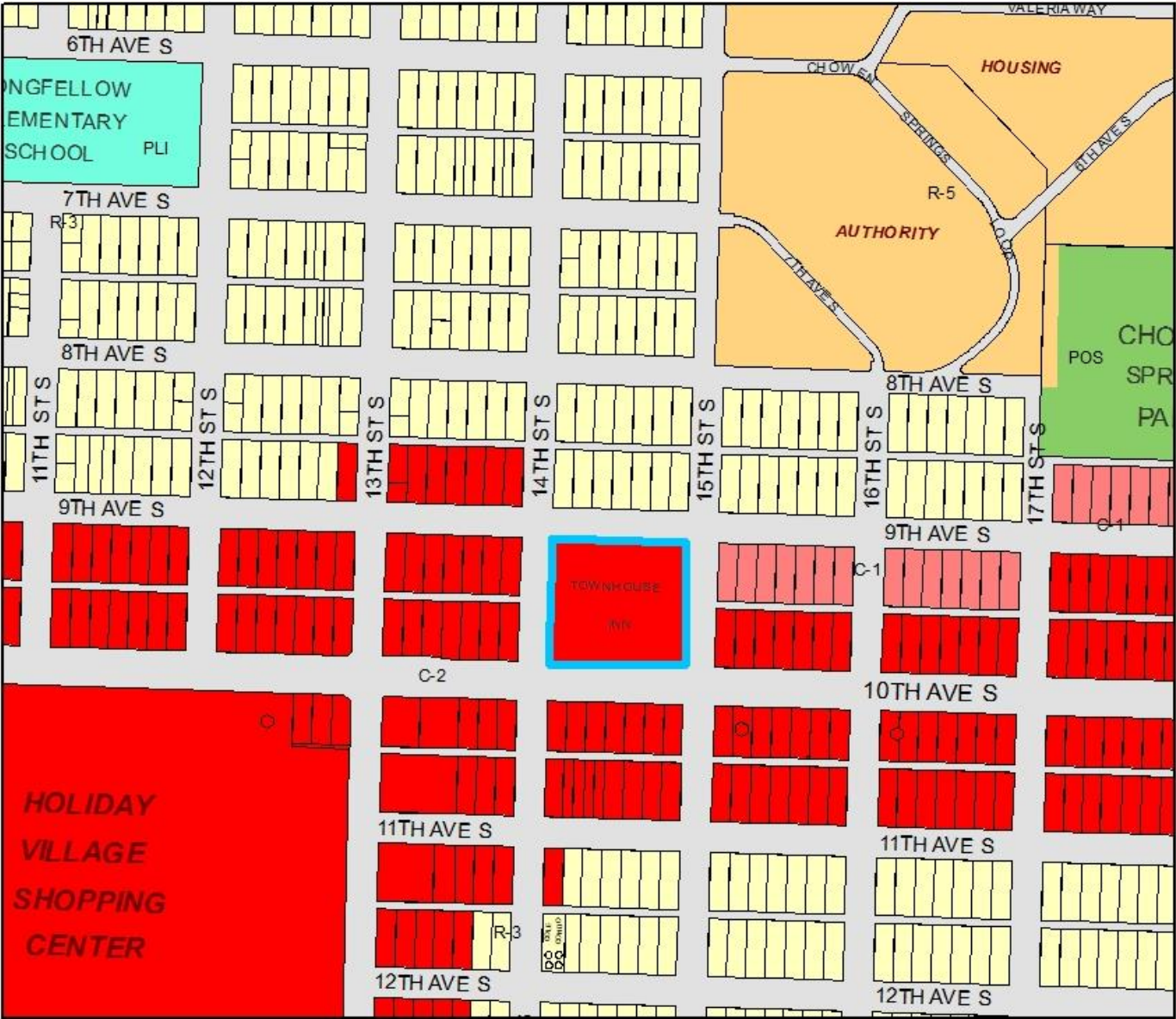
100 50 0 100 Feet



-  Tracts of Land
-  1411 10th Ave S

Townhouse Inn redevelopment

EXHIBIT C - ZONING MAP

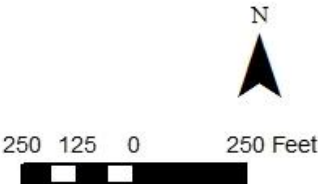


Legend

- 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

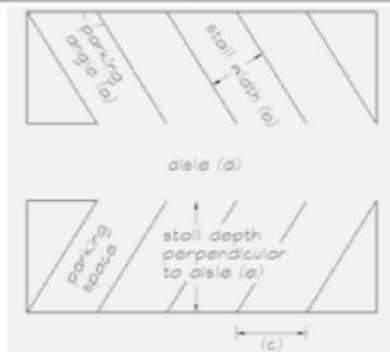
17.36.2.040 - Design requirements.

- 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.

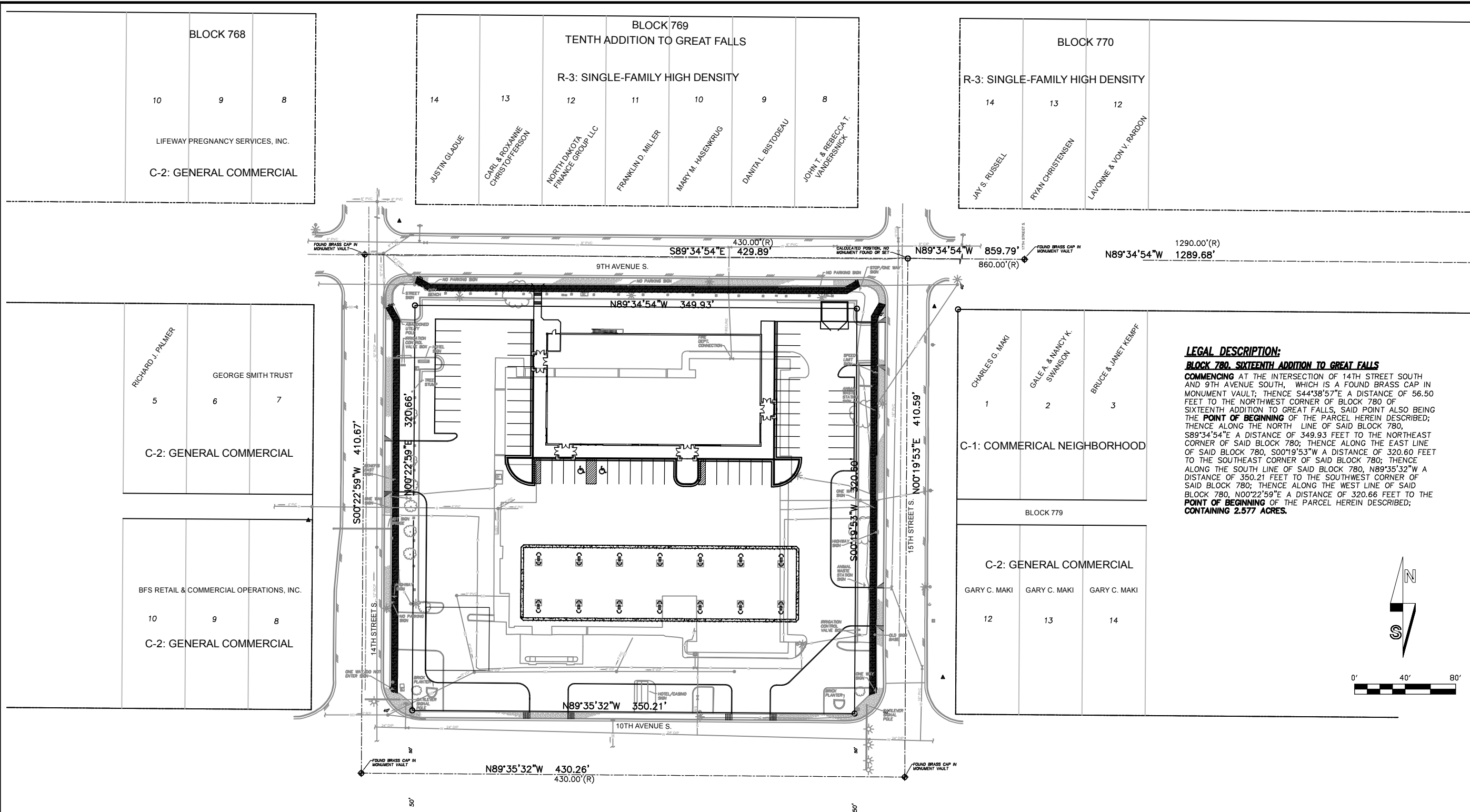
(Ord. 2950, 2007)

- 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.

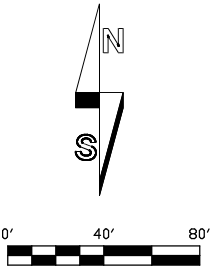
(Ord. 2950, 2007)

- 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



LEGAL DESCRIPTION:
BLOCK 780, SIXTEENTH ADDITION TO GREAT FALLS
COMMENCING AT THE INTERSECTION OF 14TH STREET SOUTH AND 9TH AVENUE SOUTH, WHICH IS A FOUND BRASS CAP IN MONUMENT VAULT; THENCE S44°38'57"E A DISTANCE OF 56.50 FEET TO THE NORTHWEST CORNER OF BLOCK 780 OF SIXTEENTH ADDITION TO GREAT FALLS, SAID POINT ALSO BEING THE **POINT OF BEGINNING** OF THE PARCEL HEREIN DESCRIBED; THENCE ALONG THE NORTH LINE OF SAID BLOCK 780, S89°34'54"E A DISTANCE OF 349.93 FEET TO THE NORTHEAST CORNER OF SAID BLOCK 780; THENCE ALONG THE EAST LINE OF SAID BLOCK 780, S00°19'53"W A DISTANCE OF 320.60 FEET TO THE SOUTHEAST CORNER OF SAID BLOCK 780; THENCE ALONG THE SOUTH LINE OF SAID BLOCK 780, N89°35'32"W A DISTANCE OF 350.21 FEET TO THE SOUTHWEST CORNER OF SAID BLOCK 780; THENCE ALONG THE WEST LINE OF SAID BLOCK 780, N00°22'59"E A DISTANCE OF 320.66 FEET TO THE **POINT OF BEGINNING** OF THE PARCEL HEREIN DESCRIBED; CONTAINING 2.577 ACRES.





bsc&e
BIG SKY CIVIL &
ENVIRONMENTAL, INC

ENGINEERS - PLANNERS - DESIGNERS -
LAND SURVEYORS - ENVIRONMENTAL SPECIALISTS

1324 13th Ave. SW
P.O. BOX 3625
GREAT FALLS, MT 59403
(406) 727-2185 OFFICE
(406) 727-3656 FAX
www.bigskyce.com

PROFESSIONAL SEAL

BY: KJM
DATE: 12/18/15

OWNER:

NEW INNS
LIMITED
PARTNERSHIP

PROJECT NAME:

GREAT FALLS
TOWN PUMP #7

SHEET TITLE:

SITE
PLAN

DRAWING INFORMATION:
BSCE PROJECT NUMBER: 1500
OWNER FILE NUMBER: XXXX
CADD FILE NAME: 1500-SITE PLAN
ASSOCIATED PROJECTS: XXXX

SHEET:
1 OF 1