

# 2016

## **BUTTE-SILVER BOW ZONING BOARD OF ADJUSTMENT**

**Thursday, January 21, 2016, at 5:30 P.M.  
Council Chambers – Room 312 -- Courthouse**

- I. Call to Order.
- II. Approval of the Minutes of the meeting of December 3, 2015.
- III. Hearing of Cases, Appeals and Reports:

**Use Variance Application #14983** – An application for a use variance by Chad Silk, owner, and Janelle Johnson, agent, to locate a commercial operation (dog grooming business) in an existing building in a residential zone, varying from the requirements of Section 17.16.020, Permitted Uses, of the BSBMC. The property is located in an “R-4” (Manufactured Home) zone, legally described as Lots 12 & 13, Block 19 of the Whites Addition, commonly located at 2404 Farrell Avenue, Butte, Montana.

**Use Variance Application #14990** – An application for a use variance and variances from Digger-Digs, LLC, c/o Terry Holzwarth, owner, and Josh Vincent, Water & Environmental Technologies, Inc., agent, to locate four (4) multi-family apartment buildings having a total of 90 apartments in a one family residence zone, varying from Section 17.10.020, Permitted Uses, and to locate two (2) of the buildings within thirteen feet (13') of the front yard property boundary, varying from the minimum required twenty-five (25') of Section 17.14.070, Minimum Front Yard Depth, and to locate a seventeen-foot section of one (1) building within ten feet (10') of the rear yard property boundary, varying from the minimum required fifteen feet (15') of Section 17.14.090, Minimum Rear Yard Depth, and to not construct sidewalk for approximately eighty-eight feet (88') along the east property boundary adjacent to Ophir Street and to not construct sidewalk for approximately one hundred thirty-eight feet (138') along the west property boundary adjacent to

***Applicant or Representative must be present at the meeting***

# A G E N D A

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May Street, varying from Section 17.38.050, Landscaping Requirements – Sidewalk and Curb/Gutter; Front and Corner Yards, of the BSBMC. The property is located in an "R-1" (One Family Residence) zone, legally described as Lots 6-14, Block 3, Fairview Addition and Lots 13-16, Block 10, Big Butte, and south ½ vacated alley adjacent and north ½ of vacated Quartz Street adjacent, and Lot 18A of Certificate of Survey 950B-RB, and Lots 7-14, south ½ of vacated Quartz Street, Block 6, Fairview Addition, and Lots 1-6, and the south ½ of vacated Quartz Street, Block 6, Fairview Addition, and Lot 15, Block 6, Fairview Addition, and Lots 16-19, Block 6, Fairview Addition, generally located in the 1400 Block of Granite Street bounded on the east by Ophir Street and on the west by May Street, Butte, Montana.

IV. Other Business:

A. Election of Officers

V. Adjournment.

By: Lori Casey  
Lori Casey, Assistant Planning Director

**BUTTE-SILVER BOW  
ZONING BOARD OF ADJUSTMENT  
STAFF ANALYSIS**

**ITEM:**                    **Use Variance Application #14983** - An application for a use variance to locate a dog grooming operation in an existing building in a residential zone, per Section 17.16.020, Permitted Uses, of the BSBMC.

**APPLICANT:**        Chad Silk, 3564 Hartford Ave, Butte, Montana, owner, and Janelle Johnson, 39 E. Center Street, Butte, Montana, agent.

**TIME/DATE:**        Thursday, January 21, 2016, at 5:30 P.M., Council Chambers, Third Floor, Room 312, Silver Bow County Courthouse, Butte, Montana.

**REPORT BY:**        Lori Casey, Assistant Planning Director

**VICINITY MAP:**



**LOCATION/**

**DESCRIPTION:** The property is located in an "R-4" (Manufactured Home) zone, legally described as Lots 12-13, Block 19 of the Whites Addition, commonly known as 2404 Farrell Street, Butte, Montana.

**PROPOSAL:** The applicant is proposing to locate a dog grooming operation on a property that contains a structure that appears to have been constructed as the office and store for the former Town Pump gas station.

**STAFF**

**FINDINGS:** The Butte-Silver Bow Municipal Code, Section 17.16.020, Permitted Uses, does not list a dog grooming business as a permitted use within the "R-4" zone. In order to conduct the proposed business in this zone, a use variance approved by the Zoning Board of Adjustment is required.

Use variances have two subcriteria under the main criteria of hardship. In order to receive a use variance, the applicant must prove under the first subcriteria that the land in question cannot secure a "reasonable return", if the land is restricted to only those uses permitted outright in the zone.

The second subcriteria used in evaluating use variance cases requires that the applicant prove that the proposed use will not alter the essential character of the neighborhood in which it is located. The applicant must show that the proposed use will not "practically destroy or greatly decrease the value of a parcel", nor will the use involve elements which make it unwelcome in the neighborhood.

***The staff will review the three point criteria established by the Montana Supreme Court for the granting of variances.***

- 1. A variance must not be contrary to the public interest.**

The public's interest in segregating commercial and residential land uses is to prevent the intensity of the former from adversely affecting the latter. Generally speaking, commercial uses need to be segregated from residential areas due to incompatible impacts or negative effects from traffic, noise, light, odors, and general nonresidential characteristics.

The property in question is located on the border between the "R-4" zone and the "No-Zone" mining area to the north of Farrell Street. Consequently, the property is located in an area that provides a transition from the residential community to the south and the active mining area, including the Concentrator, to the north. Although this property is located in the "R-4" (Manufactured Home) zone, the Growth Policy designation is Commercial. The Planning Board and Council of Commissioners changed the Growth Policy designation for this area of Continental Drive from residential to commercial in 1995. This change resulted from the recognition by the public and staff that the location of properties adjacent to Continental Drive and Farrell Street and between Dexter and Texas Avenue would be more suitable for commercial purposes.

Nonetheless, as the area is still zoned residential, potential negative impacts from the proposed commercial activity on the adjacent residences must

be considered and mitigation measures must be included, if the application is approved.

There appears to be several potential negative impacts associated with a dog grooming business being located within a residential neighborhood. One potential negative impact is an increase in noise from dogs barking when entering/exiting the property or if they are allowed to roam in the yard. In that regard, the agent has indicated to staff that the dog grooming will be conducted by appointment only during normal business hours. While a dog may need to use the yard for bathroom purposes, a relief area will be established along the north side of the property (farthest from the residences). In addition, they will only be outside long enough to go to the bathroom.

Another potential negative impact on the neighbors is a potential for a build-up of animal waste. In that regard, the agent has indicated that if a dog does go outside, the waste will be cleaned up that day. The agent has also stated that any dogs waiting to be picked up will be kenneled inside. As such, no dog will be permitted to run loose in the yard.

In regards to a potential loss of on-street parking for neighbors, the agent's property includes an off-street parking area that can accommodate several vehicles.

Because of the varying land uses in the surrounding area and the amount of traffic that utilizes Farrell Street and Continental Drive on a daily basis, it would appear that the establishment of a low impact commercial use, such as a dog grooming operation, would not appear to be out of character in the

neighborhood. In fact, the proposed commercial use would appear to be approximately the same intensity as the AWARE bus facility and less than the Rocky Mountain Traffic Control facility to the west. Both of these uses were approved by the Zoning Board of Adjustment. Nonetheless, this application may need to be conditioned to ensure that the negative impacts on the surrounding neighborhood are minimal.

**2. A literal enforcement of the Zoning Ordinance must result in unnecessary hardship owing to conditions unique to the property.**

Unnecessary hardship, as defined by the Montana Supreme Court, must result from a condition unique to the property, such as a unique property shape, topographical feature, or geological trait. This quality must preclude the applicant's ability to place a structure or an addition on the property in compliance with the Zoning Ordinance. The hardship may not result from a condition created by the applicant.

The hardship associated with this property relates to the property being located adjacent to the active mining landscape of Montana Resources. Due to the property in question being located across Farrell Street from an active mining operation that produces excessive noise, dust and odor, it would appear that the potential use of this property for residential purposes is limited. In addition, the property and existing structure were utilized by Town Pump, Inc. as a gas station until the late 1990's and the existing structure appears to have been constructed for commercial use and not for residential use. As such, the existing structure would have to be demolished

and replaced with a new residential structure and the return on the investment would appear to be questionable based on the location of the property.

Subcriteria Number One states the land cannot secure a “reasonable return” if the land is restricted to only those uses permitted outright in that zone. Again, the property is located in an area that is a transitional point between the residential neighborhood to the south and the “no-zone/mining area” to the north. As noted above, the property in question has a long history of being utilized for commercial purposes, including a gas station, pet store, beauty salon and most recently a used car sales lot. As such, the property and structure have commercial characteristics and the renovation of the property and structure to residential use may not secure a “reasonable return” for the owner.

Subcriteria Number Two states that the proposed use will not alter the character of the neighborhood in which it is located. The general character of the neighborhood is mining on the north side of Farrell Street and a mix of residential and commercial on the south side of Farrell Street. Since no new construction is proposed on the existing structure and the applicant has informed the Planning Department that the dog grooming will be done by appointment, it would appear the proposed use would not compromise the character of the neighborhood.

Based on the above discussion, staff believes that the proposed project does meet the criteria to justify a hardship.

**3. The spirit of Zoning Ordinance must be observed and substantial justice done.**

It is the intent of the Zoning Ordinance to permit the reasonable use of private property while restricting practices which may infringe on the rights of adjacent landowners and the public in general.

Public health, safety and general welfare must be protected and weighed against the rights of the applicant to develop a property in a way that may be suitable. If public interest can be protected pertaining to these issues, a variance may be appropriate.

There could be a safety hazard for children (and adults) in the neighborhood, if they were confronted by a dog that is allowed to run off of a leash (or breaks free from an owner) while entering or exiting the property. However, the property does have a parking lot that patrons will be using for drop off and pick up of their animals. In addition, the south boundary adjacent to the alley contains a six foot (6') tall privacy fence to shield the neighbor to the south. The property to the east has a fenced yard. It should be noted that the owner of this property, who has agreed to lease the property to the agent for her business, is also the owner of the property on the east. The property to the west across Adams Street is vacant.

The applicant is not proposing any additional lighting that could negatively impact adjacent residents or new fencing that would result in a more commercial appearance to the property.

**CONCLUSION:** Based on the above analysis, staff believes that this use variance would not disrupt the character of the neighborhood or be contrary to the spirit of the Zoning Ordinance to allow for the reasonable use of private property.

Therefore, staff would recommend approval of Use Variance Application #14983, provided the following conditions are met:

1. The property described by this use variance application is approved for use as a dog grooming operation. Any expansion of the existing structure or change in business use will require review and approval by the Zoning Board of Adjustment.
2. Prior to the issuance of a business license, the applicant shall submit a landscape plan for review and approval by the Planning Department and post a bond for the cost of the installation of the landscaping plus ten percent. This bond may be in the form of cash, letter of credit, surety bond, or other guaranteed negotiable instrument.
3. All animal waste must be cleaned up daily.
4. The applicant will be limited to the following hours of operation, 8:00 a.m. to 8:00 p.m., Monday through Friday and 9:00 a.m. to 6:00 p.m. on Saturday and Sunday.



Relief  
Area

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**BUTTE-SILVER BOW  
ZONING BOARD OF ADJUSTMENT  
STAFF ANALYSIS**

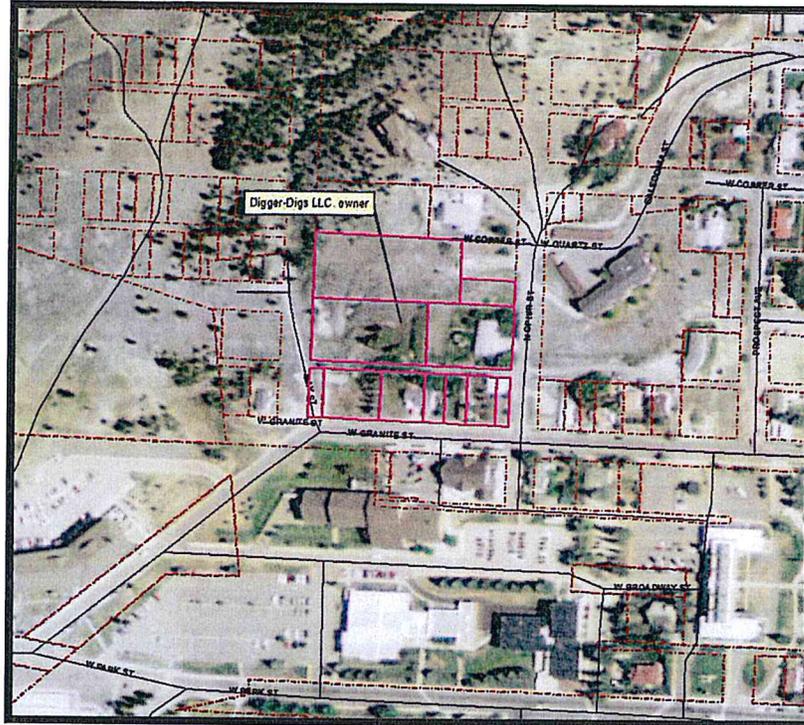
**ITEM:**                    **Use Variance Application #14990** - An application for a use variance to construct four multi-family apartment buildings having a total of 90 apartments in a One Family Residence zone, varying from Section 17.10.020, Permitted Uses. In addition, the application requests three site variances: a) to locate two of the buildings within thirteen feet (13') of the front yard property boundary, varying from the minimum required twenty-five (25') of Section 17.14.070, Minimum Front Yard Depth; b) to locate a seventeen-foot (17') section of one building within ten feet (10') of the rear yard property boundary, varying from the minimum required fifteen feet (15') of Section 17.14.090, Minimum Rear Yard Depth; and c) to not construct sidewalk for approximately 88 feet along the east property boundary adjacent to Ophir Street and approximately 138 feet along the west property boundary adjacent to May Street, varying from Section 17.38.050, Landscaping Requirements – Sidewalk and Curb/Gutter; Front and Corner Yards, of the BSBMC.

**APPLICANTS:**    Digger-Digs LLC, c/o Terry Holzwarth, 3137 Avenue D, Billings, Montana, owner, and Josh Vincent, Water & Environmental Technologies, 480 E Park Street, Butte, Montana, agent.

**DATE/TIME:**        Thursday, January 21, 2016, at 5:30 p.m., Council Chambers, Third Floor, Room 312, Courthouse Building, 155 W. Granite Street, Butte, Montana.

**REPORT BY:**        Jon C. Sesso, Planning Director

**VICINITY MAP:**



**LOCATION/**

**DESCRIPTION:**

The property is located in an "R-1" (One Family Residence) zone, legally described as Lots 6-14, Block 3, Fairview Addition and Lots 13-16, Block 10, Big Butte, and south ½ vacated alley adjacent and north ½ of vacated Quartz Street adjacent, and Lot 18A of Certificate of Survey 950B-RB, and Lots 7-14, south ½ of vacated Quartz Street, Block 6, Fairview Addition, and Lots 1-6, and the south ½ of vacated Quartz Street, Block 6, Fairview Addition, and Lot 15, Block 6, Fairview Addition, and Lots 16-19, Block 6, Fairview Addition, generally located in the 1400 Block of Granite Street bounded on the east by Ophir Street and on the west by May Street, Butte, Montana.

**PROPOSAL:**

The applicant is proposing to construct three 4-story buildings and one 3-story building in an "R-1" (One Family

Residence) zone. Each building will have 20-30 units with a mix of two- and three-bedroom apartments. Off-street parking will be provided in compliance with the prevailing development standard of 1.5 spaces per apartment and the required number of handicapped-accessible spaces.

A two-phase construction is proposed with construction starting in 2016 on the first two buildings facing Granite Street with the other two buildings on the northern section of the property to be built after completion of the first two buildings. The property currently has four single-family residences and two garages/sheds that will be either demolished or moved to appropriate sites elsewhere.

The building site currently has public access from Granite Street on the south, May Street on the west and Ophir Street on the east; to the north is open space, i.e., the Big Butte Open Space Area. The applicant has proposed upgrades to both May and Ophir Streets although does not intend to use the two streets for ingress/egress to the development.

**STAFF  
FINDINGS:**

Butte-Silver Bow Municipal Code, Section 17.10.020, Permitted Uses, lists the permitted uses within the "R-1" zone. The agent's request to construct four multi-unit apartment buildings on the subject property is not permitted within this zoning classification, hence the request for a use variance in the "R-1" zone. In addition, the applicant is requesting three site variances as part of this proposal, as follows: a) a thirteen-foot front yard setback (vs. 25') on Granite Street; b) a ten-foot rear yard setback (vs. 15') for a short, seventeen-foot section for the building in the NE section of the lot; and c) to not construct sidewalk for approximately 88 feet along the east property boundary adjacent to Ophir Street and approximately 138 feet along the west property boundary

adjacent to May Street (vs. the full length of the side properly boundaries).

Use variances have two subcriteria under the main criteria of hardship: 1) the applicant must prove that the land in question cannot secure a "reasonable return", if the land is restricted to only those uses permitted outright in the (R-1) zone; and 2) the applicant must prove that the proposed use will not alter the essential character of the neighborhood in which it is located. The applicant must show that the proposed use will not "practically destroy or greatly decrease the value of a parcel" nor will the use involve elements which make it unwelcome in the neighborhood.

*The staff will review the three criteria established by the Montana Supreme Court for the review of variances.*

**1. The variance must not be contrary to the public interest.**

The public's interest in segregating land uses such as single-family residential, two-family residential and multi-family residential is to prevent the intensity and development patterns from adversely affecting land uses that are not similar. Therefore, zoning districts are established to separate uses that conflict with each other and to integrate and group compatible uses.

One public interest issue to consider is whether the proposed apartment complex is compatible with the existing neighborhood. The proposed site is located in an "R-1" (One Family Residence) zone. Nearby, there are several single-family homes located on the 1300 block of West Granite Street to the east and the multi-unit Hilltop Apartments building to the north and east. The property to the west of the site

is owned by Montana Tech or the applicant and is currently vacant or has university buildings.

Directly south of the proposed property is the Montana Tech campus, which is zoned as "E-1" (Public College). Montana Tech currently has two Residence Halls located on campus (Prospector Hall and Centennial Hall) that house multiple students per unit and each have multiple stories. Prospector Hall is a two-story brick building and Centennial Hall is a three-story partial brick building with a hip roof style. Centennial Hall utilizes a step foundation approach to allow the Hall to integrate into the existing land topography. The proposed complex will also utilize a stepped foundation for each building which will allow it to also blend in with the existing topography. Likewise, the proposed apartment complex would look very similar to the Centennial Hall and other campus structures.

As described, the area surrounding the proposed development is already a mix of single-family residences with a fair amount of multi-family apartment residences to allow for the housing needs of a college campus. Therefore, the proposed complex, as presented in the submitted site plans, would appear to be reasonably compatible with existing residential uses.

A second issue to consider is access – both vehicle traffic and pedestrian users. The applicant has proposed two approaches off Granite Street to the off-street parking areas built as part of the project, and no access points off May or Ophir Streets, which have a steep grade and would be much less vehicle-friendly. Granite Street, which is mainly used by students and faculty to access MT Tech facilities and the on-campus parking lot to the

southwest of the property, is a better option for access to the proposed complex.

The applicant has suggested that the proposed housing complex immediately adjacent to campus may ultimately result in a slight decrease in traffic on Park and Granite Streets, based on less tenant/student trips per day to and from campus.

Further, the site plan submitted by the applicant includes new, ADA-compliant sidewalks and corners, curb and gutter, and widening both Granite and Ophir Streets to upgrade these public right-of-ways to BSB standards – improvements that should mitigate any adverse impacts of additional traffic.

A third concern is the possibility of increased noise from the new development. The area already experiences a higher level of noise due to the proximity of a college campus. Generally, it is difficult to quantify the difference in noise between several single-family residences vs. four apartment buildings. Also, the location of the apartment complex at the end of the block should be beneficial with mostly vacant land to the west.

A fourth public interest issue is less **on-street** parking, which would have an adverse impact for neighboring residences. The site plan for the proposed complex provides for off-street parking at a ratio of 1.5 stalls to each apartment unit, in compliance with the development standards in the Zoning Ordinance, and the required number of handicapped-accessible spaces. The applicant has also proposed a permit system that would only allow residents to park in the designated parking lot for the Granite Street Apartments. These measures should help keep tenants from using on-street

parking, although the development will displace an unimproved area currently used for parking.

A related, public interest concern is the demolition of the existing single-family residences on the property, two of which are eligible for inclusion on the National Register of Historic Places but are not currently registered. The applicant and his consultant team have worked closely with the Butte-Silver Bow Historic Preservation Officer and Commission to fulfill all requirements in terms of mitigation measures for demolition. In addition to going through design review of the new buildings, the two homes slated for demolition are being advertised and offered for sale/relocation, and if no interested parties are found, the applicant has agreed to allow salvaging of any important historical elements of the homes before demolition. The remaining residences and the two garages on the project site are not eligible for inclusion in the National Register of Historical Places.

A final public interest issue would be the elimination of views posed by the new apartment buildings. There are currently two property owners north of the proposed site that could have views affected by the project although most properties already have limited views due to existing buildings on the Montana Tech Campus. Regardless, the applicant has proposed a site plan that incorporates the steep topographic drop in the property, from north to south, to locate the buildings in a way that minimizes obstructions for north property owners and preserves views to the extent possible.

Besides the potential impacts of the proposed project related to the use variance, as discussed above, the applicant has also requested three

variances to the development standards of the property. Regarding the request to locate the two buildings facing Granite Street within 13 feet of the front yard property boundary instead of the required 25 feet, the proposal serves the public interest. In fact, locating the buildings closer to the street is more compatible with the surrounding structures and was the preference of the Historic Preservation Commission.

The second request – to locate a 17 foot section of the northeast building in the complex within 10' of the rear yard property boundary (vs. 15') is minor and certainly not contrary to the public interest. The remaining extent of the north wall of that building – about 130 feet long – is set back comfortably in excess of the 15 foot standard.

The third variance request is to not construct sidewalk for approximately 88 feet along the northernmost section of the east property boundary adjacent to Ophir Street and approximately 138 feet along the north section of the west property boundary adjacent to May Street. The request does not appear to be contrary to the public interest regarding May Street, however, on Ophir Street there does appear to be a public benefit to extend the sidewalk to the end of the property line.

In reviewing the site plan, the applicant has proposed terminating the sidewalks at convenient points for tenants to enter the apartment complex. Extending beyond the proposed endpoint on May Street to the north property boundary on May Street would result in a dead-end on a steep slope. Thus, that variance is recommended for approval.

As for the sidewalk on Ophir Street, the applicant has proposed a pedestrian trail that would tie into the street near the Hilltop Apartments, effectively creating a pedestrian connection from Granite Street. However, Ophir Street is a main route for students to access the campus, and it would be a safer, more complete pedestrian facility to extend the sidewalk the full length of the street. Butte-Silver Bow has initiated conversations with NorthWestern Energy to finish the sidewalk in front of their Ophir Street property, directly adjacent to the north boundary of the applicant's property. When completed, there would be sidewalk along the west curb of Ophir Street from Granite Street to the driveway of the Hilltop Apartments. Given the public benefits, staff recommends denial of this variance.

**2. A literal enforcement of the Zoning Ordinance**

Unnecessary hardship, as defined by the Montana Supreme Court, must result from a condition unique to the property, such as a unique property shape, topographical feature or geological trait. This quality must preclude the applicant's ability to use the property in compliance with the Zoning Ordinance. The hardship may not result from a condition created by the applicant.

The proposed property does have a unique trait – a significant grade change from Granite Street to the north - which has made it almost impossible to develop a large portion of the property as single-family dwellings. Several lots above the existing houses that front Granite Street have remained vacant due to the complexity of the site. To address the slope, each of the apartment buildings

will have to utilize stepped foundations to conform to the existing topography; the applicant also contends it may be necessary to build retaining walls as well. Given the significant investment needed to utilize the property, the use variance for multi-family units has been proposed.

As for the two subcriteria for a use variance: first, the reasonable return from the land in question. Any development of the north portion of the property will require the extension of the water and sanitary sewer mains. This will also require a significant investment in addition to managing the steep grade of the site. The total investment required to develop this set of lots would make it very difficult for any future owner to secure a reasonable amount of return, if only single-family homes were allowed.

The second subcriteria, i.e., will the proposed complex have an adverse effect on the existing use of the neighborhood, is also addressed. As stated previously, the area surrounding the proposed development is already a mix of single-family residences with a fair amount of multi-family apartment residences to allow for the housing needs of a college campus. With careful consideration of the historical look and fit of the proposed buildings, the proposed apartment complex should not have an adverse effect on the existing use of neighborhood. On the contrary, the proposed housing has the potential to enhance the aesthetics of the Granite Street corridor and complement the surrounding community.

- 3. The spirit of the Zoning Ordinance must be observed and substantial justice done.**

It is the intent of the Zoning Ordinance to permit the reasonable use of private property while restricting practices that may infringe on the rights of adjacent landowners and the public in general.

Public health, safety and general welfare must be protected and weighed against the rights of the applicant to develop a property in a way that may be suitable. If public interest can be protected pertaining to these issues, a variance may be appropriate.

As discussed above, the applicant has collaborated with the local Historic Preservation Commission to develop a project plan and design the buildings to ensure a cohesive look with the overall neighborhood. By integrating the buildings into the land as much as possible, the single-family residences surrounding the proposed development will be able to preserve their wonderful views.

The design also complies with the provision of off-street parking spaces to minimize impacts on the existing parking difficulties surrounding the Montana Tech campus. Also, given the mass and scale of the adjacent buildings on the Montana Tech campus, the proposed apartment buildings are compatible with the neighborhood and will not diminish the existing surrounding structures.

In conclusion, the addition of the Granite Street Apartment complex would allow for more safe, affordable, and energy efficient housing for Montana Tech students. Allowing Montana Tech to grow and thrive by providing better housing for students can only benefit the entire Butte

Community. Consequently, the proposed use variance and the three development standard variances appear to be consistent with the spirit of the Ordinance.

**CONCLUSION:** After careful consideration and the analysis done for this report, staff would recommend approval of all variances requested in this Application #14990, with the exception of the request to not build the north section of the sidewalk on Ophir Street, subject to the conditions as stated below:

1. At a minimum, the buildings shall match the design presented in the submittal documents for this variance, and in particular, the placement and height of the buildings shall minimize any adverse impacts on the views of surrounding property owners to the north and east.
2. Prior to the issuance of a building permit, the applicant shall fulfill all conditions of approval for the demolition of the two houses on the property that are eligible for consideration on the Historic Register, as specified by the recommendations of the Historic Preservation Commission at its January 5, 2016, meeting.
3. Prior to the issuance of a building permit, the applicant shall submit a detailed landscaping plan to the Planning Department staff for review and approval. At a minimum, the plan shall include the number and size of trees and shrubs and where they will be located. The plan shall comply with the landscaping provisions described by Chapter 17.38, Special Provisions of the BSBMC.

The applicant shall submit a cost estimate from a licensed landscape contractor for the materials and installation of the approved landscaping plan. This cost estimate will be used as the landscaping bond amount plus ten percent (10%). This bond can be in the form of cash, letter of credit, surety bond, certified check or other guaranteed negotiable instrument.

4. Prior to receiving a building permit, the applicants shall make arrangements to screen the garbage area, including receptacles, according to the Butte-Silver Bow Municipal Code, Section 17.38.054 (Screening Waste Material).
5. Prior to the issuance of a building permit, the applicant shall submit a detailed off-street parking and paving plan to the Planning Department staff for review and approval. At a minimum, the plan shall include the required number of standard and handicapped spaces and complementary landscaping in compliance with the provisions as described in Chapter 17.40, Off-Street Loading and Parking of the BSBMC.

The applicant shall submit a cost estimate from a licensed paving/landscaping contractor for the materials and installation of the approved parking and paving plan. This cost estimate will be used as the off-street parking and paving bond amount plus ten percent (10%). This bond can be in the form of cash,

letter of credit, surety bond, certified check or other guaranteed negotiable instrument.

6. The applicant shall submit the required documentation for review and secure written approval from the Butte-Silver Bow Public Works Department for the proposed design to install curb and gutter and widen May and Ophir Streets, and to install the two access approaches to the apartment complex off of Granite Street, in compliance with all sections of Chapter 12.04, Construction within Public Right-of-Way, of the BSBMC.

The applicant/agent shall submit a cost estimate for materials and installation of the road improvements stated above from a licensed contractor. Improvements must be approved by the Butte-Silver Bow Public Works Department prior to the bond amount being approved.

This cost estimate will be used as the road improvement bond plus ten percent (10%) to secure the installation of the above stated road improvements. This bond may be in the form of cash, letter of credit, surety bond, or other guaranteed negotiable instrument.

7. The applicant shall install new sidewalks adjacent to Granite Street, May Street and Ophir Street along the property boundaries, per the requirements of Section 17.38.050. Prior to receiving a building permit, the agent shall submit a detailed sidewalk plan to the Butte-Silver Bow Public Works Department for

review and secure written approval. At a minimum, the design shall meet the Americans with Disabilities Act. The agent shall submit a cost estimate for materials and installation of the approved curb/gutter and sidewalks from a licensed contractor.

This cost estimate will be used as the sidewalk bond plus ten percent (10%) to secure the installation of the above stated curb/gutter and sidewalks. This bond may be in the form of cash, letter of credit, surety bond, or other guaranteed negotiable instrument.

8. Prior to receiving a building permit, the applicant shall submit the required documentation for review and secure written approval from the Butte-Silver Bow Public Works Department for the following public infrastructure:
  - a) Compliance with all sections of Chapter 13.04, Wastewater Treatment System, of the Butte-Silver Bow Municipal Code.
  - b) Compliance with all sections of Chapter 13.20, Water System Regulations, of the Butte-Silver Bow Municipal Code, including Chapter 13.24, Main Extensions and Material Specifications.

In addition, all water and sewer main extension plans must be approved by the Montana Department of Environmental Quality prior to installation.

The applicant shall submit a cost estimate for materials and installation of the water and sewer main extensions from a licensed contractor. Improvements must be approved by the Butte-Silver Bow Public Works Department prior to the bond amount being approved.

This cost estimate will be used as the water and sewer main extension bond plus ten percent (10%) to secure the installation of the above stated water and sewer mains. This bond may be in the form of cash, letter of credit, surety bond, or other guaranteed negotiable instrument.

9. Prior to receiving a building permit, the applicant shall submit an engineering plan and analysis to address on-site storm water drainage in compliance with all sections of Chapter 13.32, Storm Water Management, of the Butte-Silver Bow Municipal Code, including the Butte Silver Bow Municipal Storm Water Engineering Standards and receive a Storm Water Management Permit.
10. In order to reduce the potential negative impact of on-site lighting on adjacent residences, all lighting must be designed as low glare, be directed away from all residences and not exceed sixteen feet (16') in height.
11. Prior to receiving any sign permits, the applicant shall submit to the Planning Office for review and approval, a detailed sign plan and drawings.

12. Prior to receiving a building permit, the applicant shall submit a weed management plan to the B-SB Weed Board for review and approval.

