

2016

BUTTE-SILVER BOW ZONING BOARD OF ADJUSTMENT

Thursday, June 9, 2016, at 5:30 P.M.

Council Chambers – Third Floor – Room 312

- I. Call to Order.
- II. Approval of the Minutes of the meeting of May 19, 2016.
- III. Hearing of Cases, Appeals and Reports:

Variance Application #15100 – An application for a variance by GMR Holdings, LLC, owners, and Colin Higgins, agent, to locate wall signs on the north elevation of a building that does not contain any northern street frontage, varying from Section 17.42.050(C-7), On-Premise Signs, of the BSBMC. The property is located in a “C-2” (Community Commercial) zone, legally described as Lots 21-25, and 36-40, Block 11, of the Atherton Place Addition, commonly known as 3450 Monroe Avenue, Butte, Montana.

Special Use Permit Application #15111 - An application for a special use permit by Leland Sampson, owner, and Gold Creek Cellular of Montana Limited Partnership d/b/a Verizon Wireless, c/o Paul Slotemaker, AICP, agent, to install a new concealed rooftop wireless communication facility on the top of an existing building in a commercial zone, per the requirements of Section 17.38.180, Special Use Permit – Uses Allowed, of the BSBMC. The property is located in a “C-2” (Community Commercial) zone, legally described as Lots 6-13, Block 2, of the Storey Addition, commonly known as 821 S. Montana Street, Butte, Montana.

Variance Application #15113 - An application for a variance by Hotel Developers-Butte, LLC, owners, and Ken Smith – Process Architecture, PC, agent, to locate two wall signs, one on the southern elevation and one on the south-facing porte cochere wall, of a building that does not contain any southern street frontage, varying from Section 17.42.050(C-7), On-Premise

Applicant or Representative must be present at the meeting

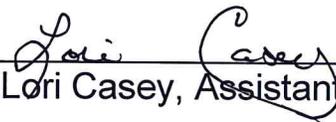
A G E N D A

(Page 2)

Signs, of the BSBMC. The property is located in a "C-2" (Community Commercial) zone, legally described as a part of the NW ¼ of Section 29, T03N, R07W, P.P.M., Butte-Silver Bow County, commonly known as 2340 Cornell Avenue, Butte, Montana.

IV. Other Business.

V. Adjournment.

By: 
Lori Casey, Assistant Planning Director

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

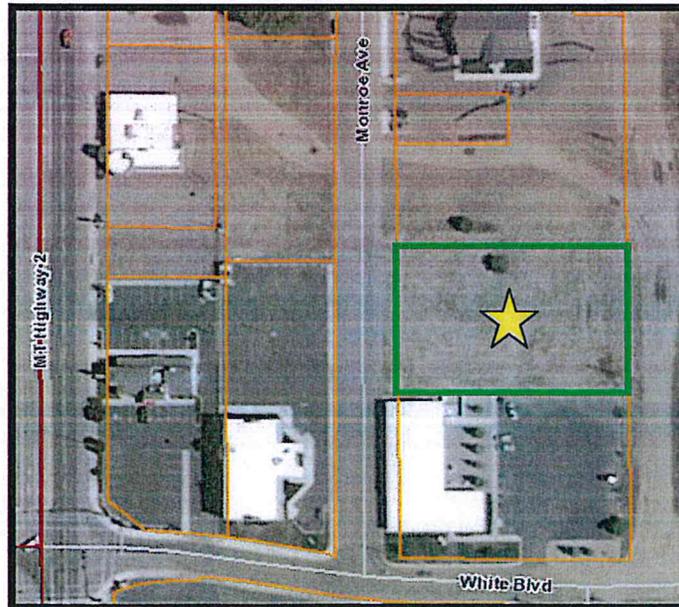
ITEM: Variance Application #15100 - An application for a variance to locate wall signs on the north elevation of a building that does not contain any northern street frontage, varying from Section 17.42.050(C-7), On-Premise Signs, of the BSBMC.

APPLICANTS: GMR Holdings, LLC, 1925 Elizabeth Warren Avenue, Butte, MT, owners, and Colin Higgins, 3450 Monroe Avenue, Butte, MT, agent.

TIME/DATE: Thursday, June 9, 2016, at 5:30 p.m., in the Council Chambers, Room 312, Third Floor, Butte-Silver Bow Courthouse, Butte, Montana.

REPORT BY: Rebecca Farren, Land Use Planner

**VICINITY
MAP:**



LOCATION/

DESCRIPTION: The property is located in a "C-2" (Community Commercial) zone, legally described as Lots 21-25, and 36-40, Block 11, of the Atherton Place Addition, commonly known as 3450 Monroe Avenue, Butte, Montana.

PROPOSAL: The applicants are proposing to locate wall signs on the north facade of the existing building. The north facade is not adjacent to a public street, however, it is adjacent to the customer parking lot and main entrance of the building. As such, a variance to allow for the wall signs is required.

STAFF

FINDINGS: The Butte-Silver Bow Municipal Code Section 17.42.050 (C)(7)(b), Wall Signs in C-2 zone, prohibits wall signs from being located on a building facade that is not adjacent to a public street. Typically, prior to installing the proposed wall sign, the applicants must either meet the requirements of the Ordinance or receive a variance from the Zoning Board of Adjustment. Unfortunately, in this particular case, oversight by an out of town sign company resulted in the installation of wall signs on the north building facade, which is not adjacent to a public street. Consequently, the applicants are requesting a retroactive variance from Section 17.42.050(C)(7)(b) to allow these signs to remain in place.

Planning Department 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.**

Sign specifications have been established to prevent the proliferation of signs within the Butte community to eliminate the potential for signs to have a negative impact on surrounding or adjacent property owners and to protect the natural environment. Potential negative impacts may include glare from lighting, disruption of the view to the surrounding mountains and increased visibility of the signs from residential areas.

This site is located in the "C-2" zone and is adjacent to other commercial uses. As such, there are no single family residents that have a direct view of the requested signs. In addition, while the land to the east is currently vacant, it is also zoned commercial, and buffered even farther to the east by the golf course. Therefore, no new single family residences could be constructed immediately to the east that might have a view of the requested wall signs. Finally, all proposed signage is non-illuminated, with separately mounted and appropriately directed lights providing for visibility. This will mitigate any light pollution potentially caused by the requested signs.

Section 17.42.050(C)(7)(b) stipulates that the maximum wall sign area shall not exceed forty percent (40%) of the building façade to which it is attached. The applicants are requesting four (4) wall signs totaling approximately 165 square feet in area, to be mounted on a building façade that is approximately 1,650 square feet in area. This 5% coverage is substantially less than the forty percent (40%) maximum.

Based on these factors, it appears that the requested wall signs to be located on the north

façade of the building in question would not be contrary to the public interest.

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 applicants' ability to place a structure on the property in compliance with the Zoning Ordinance. The hardship may not result from a condition created by the applicants.

In this case, the property does not have any unique conditions that would result in an unnecessary hardship. Although it may be noted that the requested signs are to be located on the main entrance of the building, once again, the hardship may not result from a condition created by the applicants.

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 applicants 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.

Allowing for the requested signs would appear to promote reasonable development of private property by identifying the main entrance of the building, despite its lack of adjacent public street frontage. In addition, the north elevation and entrance face the parking lot for the restaurant.

As an alternative to illuminated signs, the building has separately mounted and appropriately directed lights providing for sign visibility. This conservative lighting scheme will not result in the lights shining outward from the signs. In addition, there are no single family residences that would be negatively impacted by the signs. As such, it does not appear that the requested wall signs would result in any public health or safety concerns.

All signs are securely mounted and placed on the north façade of the existing building, out of the facility's main traffic pattern. These locations will not impede access in any way. As such, the requested wall signs would appear to be consistent with the spirit of the Zoning Ordinance.

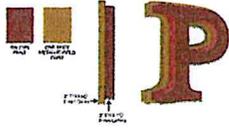
However, it must be noted that the signs were installed prior to obtaining the necessary permits. As per Section 17.56.040, Permit fees, of the BSBMC, "Where work for which a permit is required by this title is started or proceeded with prior to obtaining said permit, the fees established by the council of commissioners shall be doubled. The payment of such doubled fees shall not relieve any person from fully complying with the requirements of this title in

the execution of the work nor from any other penalties prescribed herein.”

CONCLUSION: Based on the above analysis, staff would recommend approval of Variance Application #15100 with the following conditions:

1. As per Section 17.56.040, Permit fees, of the BSBMC, the sign permitting fees established by the Council of Commissioners shall effectively be doubled for this instance, owing to the fact that signs were installed without the appropriate permits in place. These fees shall be paid in full no later than 5:00 p.m. on Friday, June 10, 2016.
2. The variance shall be specific to the signs already installed. Any changes to the installed signs shall require separate review and approval from the Zoning Board of Adjustment.

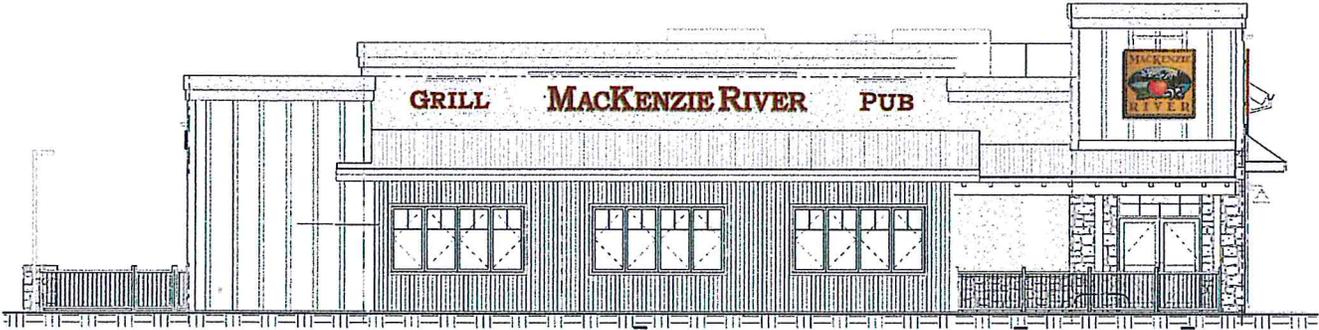
PIZZA
PASTA
MACKENZIE RIVER
GRILL
PUB



3" THICK HIGH DENSITY FOAM LETTERS,
 PAINTED SW 7585 SUNDRIED TOMATO
 2" THICK HIGH DENSITY FOAM BACKS
 PAINTED WITH ONE SHOT METALLIC GOLD
 STUD MOUNTS TO WALL



OVERALL 5' X 5'-4" SANDBLASTED AND
 HAND CARVED HDU PRECISION BOARD
 DISPLAY, UP TO 4" THICK, CLEAT MOUNT



1 NORTH ELEVATION
A201

Scale 1/8"=1'-0"

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Mackenzie River Pizza
 Butte, Montana

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

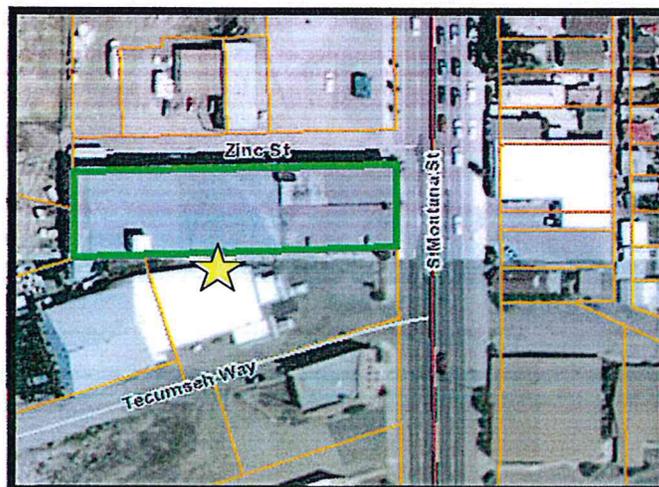
ITEM: Special Use Permit Application #15111 - An application for a special use permit to install a new concealed rooftop wireless communication facility on the top of an existing building in a commercial zone, per the requirements of Section 17.38.180, Special Use Permit – Uses Allowed, of the BSBMC.

APPLICANT: Leland Sampson, 821 S. Montana Street, owner, and Gold Creek Cellular of Montana Limited Partnership d/b/a Verizon Wireless, c/o Paul Slotemaker, AICP, 11500 SW Terra Linda Street, Beaverton, Oregon, agents.

DATE/TIME: Thursday, June 9, 2016, at 5:30 p.m., Council Chambers, Room 312, Courthouse Building, 155 W. Granite Street, Butte, Montana.

REPORT BY: Rebecca Farren, Land Use Planner

VICINITY MAP:



LOCATION/

DESCRIPTION: The property is located in a "C-2" (Community Commercial) zone, legally described as Lots 6-13, Block 2, of the Storey Addition, more commonly known as the former Rosenberg Building at 821 S. Montana Street, Butte, Montana.

PROPOSAL: The applicant is proposing to locate a new concealed rooftop wireless communication facility (15.2' W x 15.3' D x 18' tall) on top of the former Rosenberg Building in a commercial zone.

STAFF

FINDINGS: Wireless communication towers are recognized as special uses allowed in any residential zoning district, provided that the prescribed use is in harmony with the other uses permitted in the zone and not found to be contrary to the public interest. The special use permit process provides for review of public input, a measure of the potential impact of the proposed use on the surrounding area and the compatibility of the proposed use with the adjoining neighborhood.

The Zoning Board of Adjustment will review the physical conditions, which exist at the location, the conduct and operation of the proposed use, and whether the combination of these factors will be compatible with the proposed site and surrounding area.

To provide the Board with information about the proposed special use, the applicant has responded to the established 20 question review criteria. The applicant's responses are shown after each question. The Planning staff will, in turn, respond to the 20 review questions.

- 1. The location, character and natural features of the property.**

Applicant's Response: "The subject property, located at 821 S. Montana Street, is developed with an existing two story brick building which encompasses the entire lot and is characterized as a commercial use. The building has a bar and restaurant on the first floor, while the eastern 2/3 of the second floor is a retail store for second hand goods. Properties surrounding the parcel are commercially developed to the north, south, east, and west, and residential across S. Montana Street to the northeast."

Staff Comments: The communication tower is proposed to be located on the top of the former Rosenberg Building.

The property is located in a "C-2" (Community Commercial) zone. This zoning classification allows for a variety of commercial uses.

2. The location, character, and design of adjacent buildings.

Applicant's Response: "Adjacent and nearby buildings to the north include a small, single-story brick building, and single family homes north of W. Iron Street, wood and brick commercial and warehouse buildings to the south, single-story commercial and residential buildings across S. Montana Street to the east, and an automobile consignment lot to the west. There are several vacant lots spaced throughout the area as well.

The architecturally concealed rooftop wireless facility eliminates the need for a new tower in the area and will not negatively affect the character and design of the adjacent buildings."

Staff Comments: The building is located in a “C-2” (Community Commercial) zone. There is somewhat of a mixed-use character to the area, as a transition between commercial and residential zoning occurs within a five block radius. The architecture in the area, as stated by the applicant, is predominantly made up of a mix of brick commercial buildings with some residential buildings to the northeast.

3. Substantial changes that have occurred in the surrounding land uses since the original adoption of this Ordinance.

Applicant's Response: “The applicant is aware of no substantial changes in the surrounding land uses since the original adoption of the ordinance codified in this title.”

Staff Comments: There have been no substantial changes in surrounding land uses. The property in question and the surrounding properties have historically had a mix of commercial and residential uses.

4. Proposed fencing, screening and landscaping.

Applicant's Response: “No new fences or landscaping is proposed as part of this application. As illustrated in the attached site plan drawings (Exhibit A), the proposed rooftop wireless facility will be architecturally screened within a penthouse, colored to match the existing elevator penthouse, and the associated equipment cabinets will be located indoors, completely hidden from view. As shown in the attached drawings and photo simulations (Exhibit B), the concealed wireless facility will be screened to blend in with the surrounding area.”

Staff Comments: Fencing and landscaping are not necessary for this proposed rooftop wireless transmission facility.

The tower is proposed to be located on top of the roof of the existing building and will be fully enclosed by an architecturally designed rooftop penthouse. The proposed design details dimensions of 15.2'D x 15.3'W x 18' tall, situated 16.7' from the rear edge of the building, 29.6' from the sides of the building, and 240' from the front of the building. The penthouse is designed to match the building's existing elevator penthouse. The tower's associated equipment cabinets will be located in an equipment room inside of the building itself. This proposed screening is designed to completely conceal the structure and its associated components.

5. Proposed vegetation, topography and natural drainage.

Applicant's Response: "As illustrated in the attached site plan drawings (Exhibit A), no new ground disturbances are proposed for the concealed rooftop wireless facility. The proposed rooftop wireless facility will not affect vegetation, topography or natural drainage. No vegetation will be removed as part of this application. The topography and natural drainage of the property will not be affected as part of the application."

Staff Comments: As the proposed structure is designed to be completely contained on the upper floor and roof penthouse of the existing building, there will be no changes in existing vegetation, topography, or natural drainage.

6. Proposed vehicle access, circulation and parking, including that relating to bicycles and

other unpowered vehicles and provisions for handicapped persons.

Applicant's Response: "The proposed facility is a passive, unoccupied facility that generates approximately one maintenance visit a month. Access will be provided via the building's existing access from Zinc Street. Parking will be provided on Zinc Street on the north side of the building. The existing building fills the entire property, leaving no room for vehicular access or onsite circulation. There will be virtually no transportation impact to the surrounding area based on the infrequent trips generated typically once a month for maintenance."

Staff Comments: Staff concurs with the applicant's response.

7. Proposed pedestrian circulation, including provisions for handicapped persons.

Staff Comments: There is currently a sidewalk along the existing building's S. Montana Street property line, as well as appropriate laydown curbs at the building's approach. All sidewalks are handicapped accessible.

8. Proposed signs and lighting.

Applicant's Response: "No lighting is proposed as part of this application. A small site identification sign, and small FC required signage will be posted at the site. No large advertisement signs are proposed."

Staff Comments: The Federal Aviation Administration (FAA) may or may not require that the tower have a red light on top for aviation safety purposes. Prior to receiving a building permit, the

applicant will be required to receive approval from the FAA for the specific tower height and location. This would include the installation of any required lighting on top of the tower.

9. All potential nuisances.

Applicant's Response: "There are very few, if any, nuisances associated with the proposed wireless facility. The proposed facility is a passive, unoccupied use. Its only interaction with other uses in the neighborhood is providing wireless communication services to customers in the area. There are no activities associated with the site that will produce airborne emissions, odor, vibration, heat, glare, radioactive materials, or noxious and toxic material. Because the facility does not have water or sanitary facilities, it will generate no wastewater.

Despite the minimal visual impacts of the proposed facility, there are many public benefits to be gained including additional capacity for more reliable wireless service and increased safety by quickly connecting those in need with emergency services."

Staff Comments: An eighteen foot (18') tall completely enclosed structure on top of the two story former Rosenberg Building should have little to no impact on the surrounding property owners or on the character of the area. The screening, as proposed, will blend well with the existing elevator penthouse and minimize the degree of aesthetic change to the building.

At this time, no potential nuisances are present.

10. Public safety and health.

Applicant's Response: "The wireless facility is being proposed at the subject location in response to increased demand for wireless services by residents, commuters, businesses and their customers in the area. Existing wireless facilities serving the area are currently overloaded with customer calls and need additional capacity to handle the high volume of calls in this area. As a result, an increasing number of customers are being blocked or prevented from initiating or receiving calls. This problem is expected to get worse in the future. The proposed wireless facility would alleviate this problem by creating additional capacity.

The improved service provided by the proposed facility will improve access to Verizon Wireless' network and improved reliability and access to E911 and emergency services such as police and fire who serve the area. This is particularly important when traditional landline phones are inaccessible or not working which is often the case for stranded motorists, after a severe storm or earthquake, or the result of other types of emergencies. Law enforcement agents, neighborhood watch programs and individuals use wireless phones in emergency situations to improve emergency service with reduced notification times, improved response times, improved knowledge for emergency response teams and an increased number of life-saving outcomes.

The proposed facility is a passive, unoccupied use. Its only interaction with other uses in the neighborhood is providing wireless telecommunication services to customers in the area. There are no activities associated with the site that will produce airborne emissions, odor, vibration, heat, glare, radioactive materials, or

noxious and toxic material. Because the facility does not have water or sanitary facilities, it will generate no wastewater.

Therefore, due to the passive nature of the facility and its valuable service of providing reliable high speed wireless service and connecting those in need with emergency service providers, the proposed facility will result in a net positive effect on public safety and health.”

Staff Comments: Staff can foresee no potential negative impacts on public health and safety as long as the site is in compliance with all FAA regulations.

11. The availability of public utilities and services.

Applicant's Response: “The proposed facility requires electric, telephone, and fiber services. All are available at the proposed location. Because the facility does not have water or sanitary facilities, it will generate no wastewater.”

Staff Comments: Staff would concur with the applicant's response.

12. Situations that prevent the utilization of the property for the full range of uses in that district.

Applicant's Response: “The proposed concealed rooftop facility is a passive, unoccupied use. Its only interaction with other uses in the neighborhood is providing wireless telecommunication services to customers in the area. There are no activities associated with the site that will produce airborne emissions, odor, vibration, heat, glare, radioactive materials, or noxious and toxic material. Because the facility does not have water or sanitary facilities, it will generate no wastewater.”

Staff Comments: The existing building utilizes the property in accordance with BSB Zoning and Growth policies. The proposed wireless transmission facility should have no impact on the use of the existing building.

- 13. The use or zone classification sought would enhance and promote the comprehensive development of the immediate neighborhood and community.**

Applicant's Response: "The proposed wireless facility will enhance and promote the comprehensive development of the immediate neighborhood and community.

The additional capacity and reliable wireless service provided by the proposed site will stimulate balanced, comprehensive development by providing the surrounding area with improved access to the latest in mobile technology providing voice and data services including conventional calling, voice mail, caller ID, text messaging, as well as high speed data for mobile internet service and a seemingly endless array of downloadable application services. The proposed wireless facility services are an essential capability in the information age. Such infrastructure is essential to insure that residents and businesses in this portion of the City receive the same or better wireless service as their counterparts in other areas of the City."

Staff Comments: Keeping Butte up-to-date with national wireless technology and business operations may be important in promoting the future stability and development of the community.

- 14. That the use or classification conforms generally to the objectives of the adopted comprehensive plan and to the purpose of this Ordinance.**

Applicant's Response: "The proposed wireless facility conforms to the objectives of the comprehensive plan and the purpose of this title."

Staff Comments: The Growth Policy designation for this area is commercial. The proposed communication tower is a commercial use, therefore, it is consistent with the objectives of the Growth Policy that promote commercial development in this area.

In the spirit of the Zoning Ordinance, this proposal appears to be a reasonable use based on the analysis of the specific site location.

- 15. That the use will promote or not substantially impede the conservation of resources and energy and the conservation policy of Butte-Silver Bow, State of Montana.**

Applicant's Response: "The proposed wireless facility will not impede the conservation of resources and energy or the conservation policy of Butte-Silver Bow. The passive nature of the unoccupied facility ensures an efficient use of resources and energy. Because the facility does not have water or sanitary facilities, it will not waste water either.

Note that many wireless customers believe that the use of cellular phones can reduce the number of physical trips they must take in a typical business day, resulting in a net energy savings in fuel consumption which translates to conservation of resources and energy."

Staff Comments: This proposed tower will not substantially impede the conservation of resources and energy.

- 16. That the use meets the overall density, yard, height and other requirements of the zone in which it is located.**

Applicant's Response: "The proposed facility will meet the requirements of the C-2 zone. No lot line adjustments are proposed. As illustrated in the attached site plan drawings (Exhibit A), the setbacks requirements will be met, and according to Chapter 17.50.020, height limitations are not applicable to the proposed facility."

Staff Comments: There will be no change to the existing property with respect to lot coverage, yard, parking, or landscaping, as the proposed structure is completely located on top of the existing building.

As per Section 17.50.020(C), Height Limitations Not Applicable, of the BSBMC, height limitations are not applicable to transmission towers outside of airport zoning. Additionally, height limitations are not imposed on elevator penthouses, provided that no linear dimension of the structure exceeds fifty percent (50%) of the corresponding street front lot line coverage.

As such, the structure, as proposed, meets applicable requirements of the "C-2" zone.

- 17. That the use or classification will not adversely affect nearby properties or their occupants.**

Applicant's Response: "The proposed wireless facility will not adversely affect nearby properties or their occupants.

As stated earlier, the proposed facility is a passive, unstaffed use, whose only interaction with nearby properties is providing reliable, state of the art wireless services to nearby properties and their occupants. There are no activities associated with the site that will produce airborne emissions, odor, vibration, heat, glare, radioactive materials, or noxious and toxic material. Because the facility does not have water or sanitary facilities, it will generate no wastewater.

The additional capacity and reliable wireless service provided by the proposed site will stimulate balanced, comprehensive development by providing the surrounding area with improved access to the latest in state of the art wireless communication services. Access to wireless services is essential to the prosperity, safety and balanced development of the community. Customers will have access to the latest in mobile technology providing voice and data services including conventional calling, voice mail, caller ID, text messaging, as well as high speed data for mobile internet service and a seemingly endless array of downloadable application services. The proposed wireless facility services are an essential capability in the information age. Such infrastructure is essential to insure that residents and businesses in this portion of the City receive the same or better wireless service as their counterparts in other areas of the City."

Staff Comments: Staff would concur with the applicant's response.

18. Conformity of the proposed use with the Neighborhood Plan, if one has been adopted.

Applicant's Response: "No known neighborhood plan has been adopted for this area."

Staff Comments: There is no known Neighborhood Plan for this area of Butte-Silver Bow.

19. Compatibility of proposed project with the existing adjacent buildings, structures, neighborhood, topography or other considerations.

Applicant's Response: "The proposed facility will be compatible with the existing adjacent buildings, structures, neighborhood, and topography of the area."

Adjacent and nearby buildings to the north include a small, single-story brick building, and single family homes north of W. Iron Street, wood and brick commercial and warehouse buildings to the south, single-story commercial and residential buildings across S. Montana Street to the east, and an automobile consignment lot to the west. There are several vacant lots spaced throughout the area as well.

Although the proposed penthouse will be visible, the proposed wireless facility will not adversely affect any significant natural or cultural resources. When viewed from the surrounding areas, the proposed facility will be similar to the existing elevator penthouse. It will, therefore, be compatible with adjacent development and surrounding land uses and will not alter the character of the surrounding area.

Because the wireless site is an unstaffed passive use, it will not alter the character of the surrounding area. After an initial construction period of 30 to 45 days, the only traffic generated will be routine maintenance visits, typically once a month. There are no activities associated with the site that will produce airborne emissions, odor, vibration, heat, glare, radioactive materials, or noxious and toxic materials. All equipment and materials needed to operate the site will be located inside an equipment room in the building. Because the facility does not have water or sanitary facilities, it will generate no wastewater. The proposed passive use of the proposed facility will be compatible with adjacent development and surrounding land uses.”

Staff Comments: This question has been adequately addressed previously in this report.

20. Expressed public opinion relating to the criteria enumerated above, including the views of Neighborhood Associations.

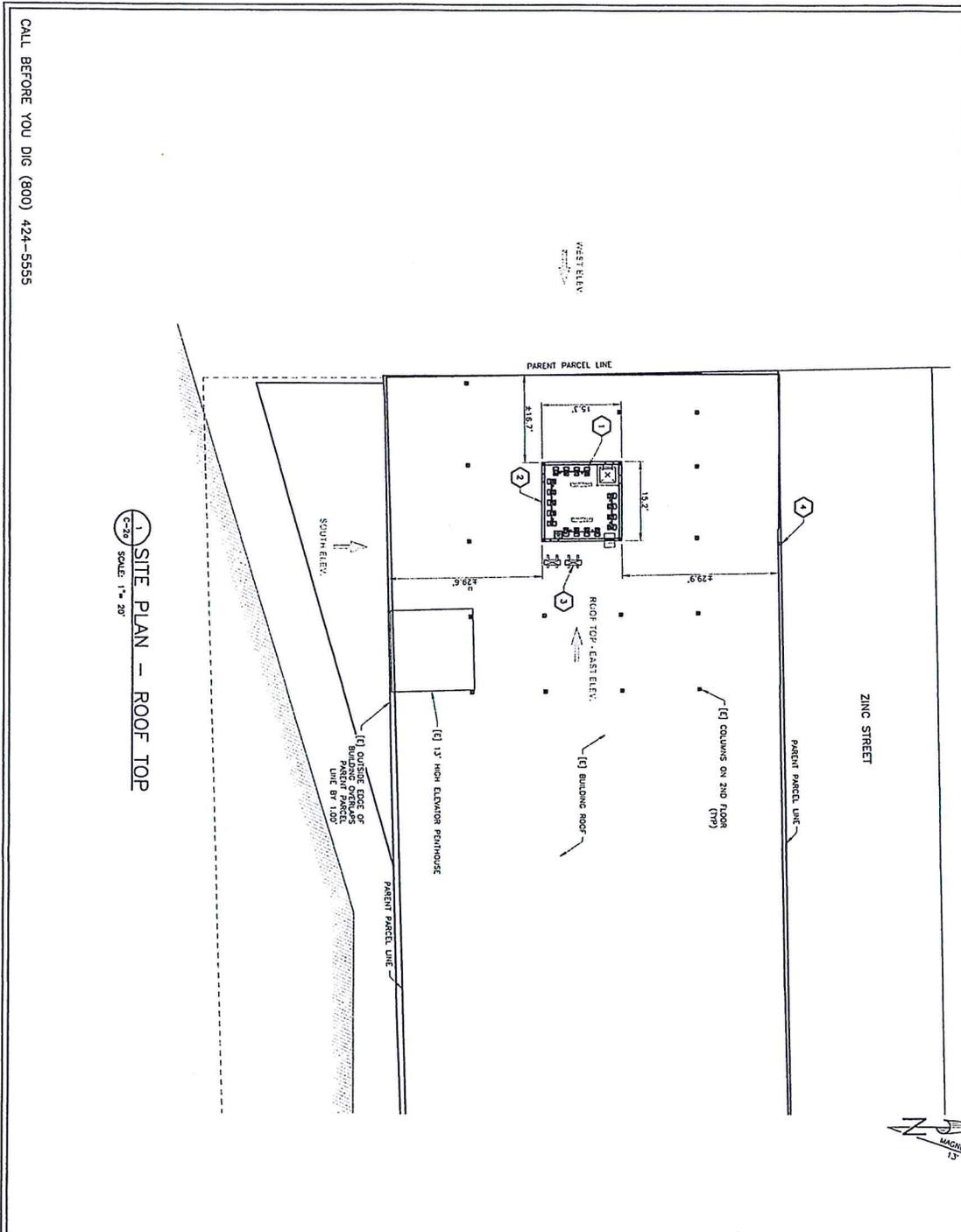
Applicant's Response: “The applicant is not aware of any public opinion regarding this application.”

Staff Comments: Staff will make available all correspondence received regarding this application prior to or at the meeting.

CONCLUSION: Based on the above discussion, it appears that a wireless communication tower completely enclosed in the proposed eighteen foot (18') tall penthouse at this location would have a minimal impact on the character of this commercial area. Therefore, staff recommends that the Zoning Board approve Special Use Permit Application #15111, provided the following conditions are met:

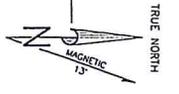
1. Prior to receiving a building permit, the applicant shall receive FAA approval for the proposed tower or submit written documentation proving that FAA approval is not required.
2. The applicant shall meet all applicable building, electrical, plumbing, mechanical, fire and health codes and shall purchase all necessary permits from the Butte-Silver Bow Building Code Department.
3. The approval of this special use permit is for a wireless communication tower that will be completely enclosed within a 15.2'D x 15.3'W x 18'H penthouse that matches the building's existing elevator penthouse. Should the applicant choose to place a higher tower on the property or at any time in the future alter the approved design of the structure, further review from the Zoning Board of Adjustment will be required.
4. The applicant will be required to meet all Building Code and Health Code requirements where applicable.

NOTE:
 THE LOCATION OF EXISTING UTILITIES SHOWN IN THE PLANS ARE APPROXIMATE. THE CONTRACTOR SHALL BE RESPONSIBLE FOR LOCATING ALL UTILITIES AND VERIFYING THE DEPTHS AND CONDITIONS BETWEEN THE PLANS AND EXISTING CONDITIONS ARE ENCOUNTERED. THE CONTRACTOR SHALL IMMEDIATELY NOTIFY THE DESIGN ENGINEER.



1 SITE PLAN - ROOF TOP
 SCALE: 1" = 20'

CALL BEFORE YOU DIG (800) 424-5555



- PROPOSED CONSTRUCTION KEYED NOTES**
- (1) 15'-2" x 18'-0" room addition on roof.
 - (2) HVAC condensing units on roof.
 - (3) 13" high elevator penthouse.
 - (4) APN connection for portable generator connection.

SYMBOLS AND ABBREVIATIONS

- TELEPHONE LINE
- OVERHEAD UNDER LINE
- UNDERGROUND GAS LINE
- UNDERGROUND WATER LINE
- FENCE LINE
- (P) PROPOSED
- SSI SELF-SUPPORTING TOWER
- UTILITY POLE
- OUR ANCHOR
- LUMINAIRE
- ASPHALT
- CONCRETE
- BUILDING
- DETAIL NUMBER
- SHEET NUMBER



AG
 ADAMS & CLARK INC.
 1720 W. ROBERTS BLVD.
 PHOENIX, AZ 85027
 PH: (602) 744-0000 FAX: (602) 777-4812

AAC PROJECT # 2014-01-114

PRELIMINARY DRAWING

APPROVALS

ENGINEER	_____
RF ENGINEER	_____
REAL ESTATE	_____
AREA MANAGER	_____
PROPERTY OWNER	_____
ZONING	_____
CONSTRUCTION DIRECTOR	_____

REVISIONS

NO.	DATE	DESCRIPTION
1	03/23/16	PRELIMINARY CD

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SITE
 ALT #2
MT6 PATTY
 BUTTE, MT

SHEET TITLE
 SITE PLAN - ROOF TOP
C-2a

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

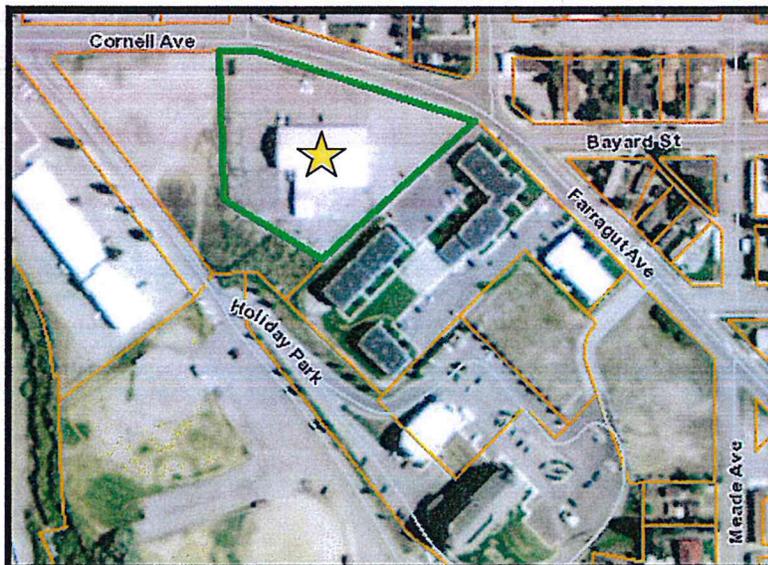
ITEM: **Variance Application #15113** - An application for a variance to locate two wall signs, one on the southern elevation and one on the south-facing porte cochere wall, of a building that does not contain any southern street frontage, varying from Section 17.42.050(C-7), On-Premise Signs, of the BSBMC.

APPLICANTS: Hotel Developers-Butte, LLC, 3640 S. Yellowstone Hwy., Idaho Falls, ID, owners, and Ken Smith – Process Architecture, PC, 241 E. Alder, Missoula, MT, agent.

TIME/DATE: Thursday, June 9, 2016, at 5:30 p.m., in the Council Chambers, Room 312, Third Floor, Butte-Silver Bow Courthouse, Butte, Montana.

REPORT BY: Rebecca Farren, Land Use Planner

**VICINITY
MAP:**



LOCATION/

DESCRIPTION: The property is located in a "C-2" (Community Commercial) zone, legally described as a part of the NW ¼ of Section 29, T03N, R07W, P.P.M., Butte-Silver Bow County, commonly known as 2340 Cornell Avenue, Butte, Montana.

PROPOSAL: The applicants are proposing to locate two south-facing signs – a small sign mounted on the porte cochere wall (Sign #4 on the site plan) and a wall sign on the southern elevation (Sign #5 on the site plan) – on a building that does not contain any southern street frontage. The proposed porte cochere sign (Sign #4) would be approximately 15 square feet in area. The proposed wall sign (Sign #5) would be approximately 92 square feet in area. The applicants will also be installing a monument sign adjacent to Cornell Avenue, a wall sign on the northwest façade that faces Cornell Avenue and a porte cochere sign that also faces Cornell Avenue. The monument sign, along with the northwest façade wall sign, and north-facing porte cochere sign are permitted uses in the "C-2" (Community Commercial) zone. However, the south-facing porte cochere and wall signs both are proposed to face property lines that are not adjacent to public street frontage. As such, a variance for each of these signs is required.

STAFF

FINDINGS: The Butte-Silver Bow Municipal Code Section 17.42.050 (C)(7)(b), Wall Signs in "C-2" zone, prohibits wall signs from being located on a building façade that is not adjacent to a public street. Prior to installing the proposed signs, the applicants must receive a variance from the Zoning Board of Adjustment.

Planning Department 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.

Sign specifications have been established to prevent the proliferation of signs within the Butte community, to eliminate the potential for signs to have a negative impact on surrounding or adjacent property owners and to protect the natural environment. Potential negative impacts may include glare from lighting, disruption of the view to the surrounding mountains and increased visibility of the signs from residential areas.

The property in question is located in the "C-2" zone and is adjacent to other commercial uses. However, the property is also located within one block of the transition between the "C-2" (Community Commercial) and "R-1" (Single Family Residential) zone. Additionally, the adjacent property to the southeast is a two-story residential apartment complex, built in 1973. Although apartment complexes are residential in nature, they are a permitted use in the "C-2" zoning district. As such, great care should be taken to ensure that the proposed signage does not negatively affect this apartment complex and its residents.

It should be noted, the applicants have also proposed a monument sign at the entrance to the property, as well as two additional signs that face the Cornell Avenue public street frontage, none of which require a variance. The applicants are requesting this variance for two additional signs facing away

from the street frontage in order to increase visibility from I-90.

The most significant concern would be disruption of the residential character of the Park View Apartments, located adjacent to the applicants' southeastern property line. The Park View Apartment complex is home to multiple residents who would be considerably affected by the proliferation of signage, especially illuminated signage, directed towards their homes.

It is imperative to clarify that, as proposed, both of the requested signs would be located on southern façades that face the entrance of Father Sheehan Park, *pointing away from the adjacent apartment complex.*

Planning staff recognizes that south facing signs placed as proposed would provide the applicants with the desired visibility from I-90 without compromising the interests of the Park View Apartments' residents to the southeast.

Based on the above discussion, it appears that, as proposed, this variance may not be contrary to the public interest.

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 applicants' ability to place a

structure on the property in compliance with the Zoning Ordinance. The hardship may not result from a condition created by the applicants.

In this case, the property does not have any unique conditions that would result in an unnecessary hardship. Although it may be noted that the applicants' objective for the requested sign location variance is to increase visibility from the interstate, it does not constitute a hardship.

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 applicants 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.

The proposed porte cochere sign (Sign #4) is designed only to be lettering affixed to the stone surface, and illumination would be from externally placed landscaping lights, pointed appropriately at the sign. Additionally, the majority of this lighting would be contained between the porte cochere wall and the hotel itself, mitigating any negative effects of the illumination.

Although the proposed 92 square foot wall sign (Sign #5) would be illuminated, the proposed illumination

consists of LED lights installed within the lettering of the sign. This would be beneficial in mitigating direct glare from the sign illumination. In addition, the illuminated lettering is proposed to be located on the upper portion of the proposed building, approximately twenty feet (20') above ground level. Considering the lower elevation of the adjacent properties to the south/southwest, effects from the illumination of the wall sign (Sign #5) should be minimal.

Based on the relatively conservative proposal for illumination, it does not appear that the proposed wall signs would result in any public health or safety concerns.

Both signs are proposed to be securely mounted on façades of the existing building, therefore, not impeding emergency access in any way. As such, the requested wall signs would appear to be consistent with the spirit of the Zoning Ordinance.

CONCLUSION: Based on the above analysis, staff would recommend approval of Variance Application #15113 with the following conditions:

1. All signs on the property must adhere to the requirements listed in Section 17.42, Signs, of the BSBMC.
2. Prior to the installation of the signs, the applicants shall meet all applicable building, electrical, mechanical, and fire codes and shall purchase all necessary permits from the Butte-Silver Bow Building Code Department.

3. The south-facing signs (referenced on the site plan as Sign #4 and Sign #5) shall be approved *only* as submitted in this variance application with respect to location, size, materials, color, and illumination. Any deviation from these submitted plans will require further approval from the Zoning Board of Adjustment.

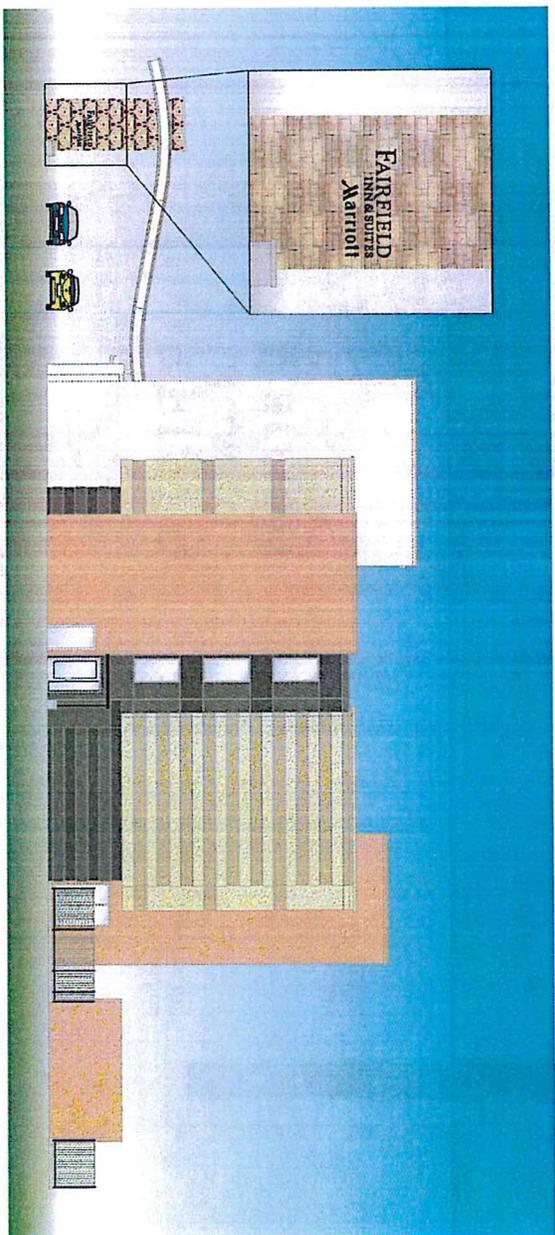
2 channel letters

PORTE COCHERE LETTER
APPLICATIONS

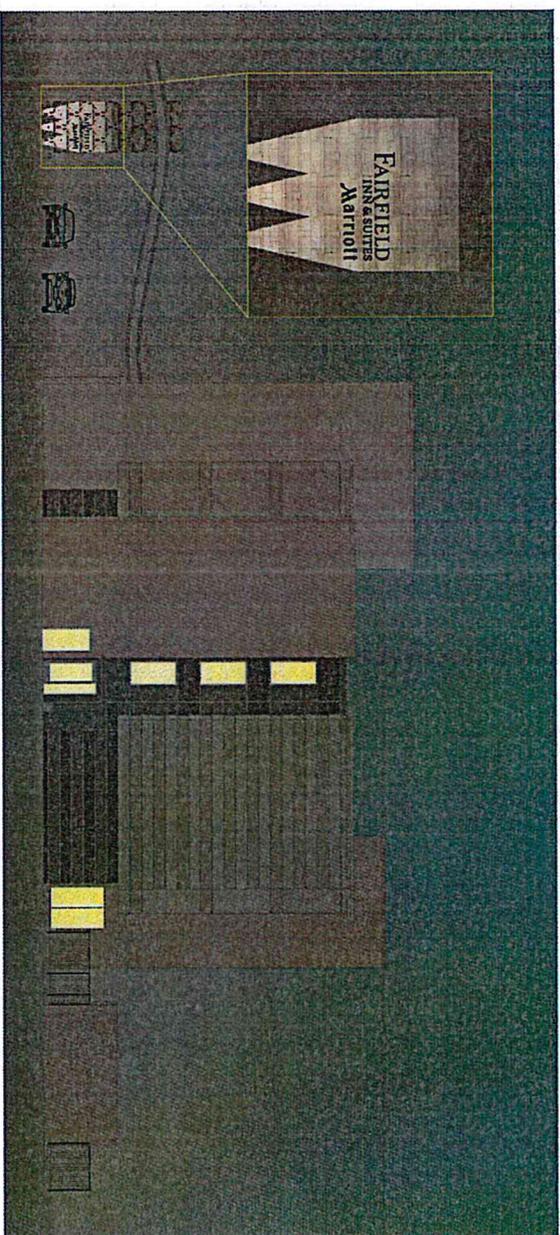
SIGNS 3 AND 4

SIGN 3 - NORTH FACE
NO VARIANCE REQUIRED

SIGN 4 - SOUTH FACE
VARIANCE REQUIRED



Daytime View



Nighttime View

2 channel letters

CHANNEL LETTER SPECIFICATIONS

Channel Letter Specifications:

Construction: .050" aluminum channel letter with .063" aluminum backs

Face Material: 3/16" 7328 white acrylic

Trim Cap: 1" black

Illumination: White LED's as required

Exterior Finish: Pre-finished black

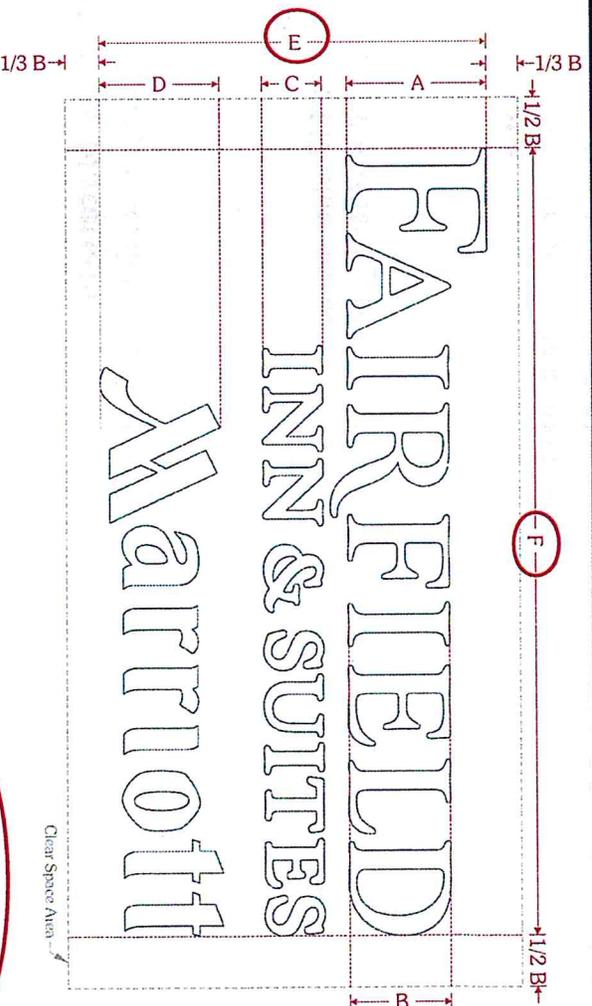
Interior Finish: Paint reflective white

Channel Letter Face Specifications:

Face Material: 3/16" 7328 white acrylic

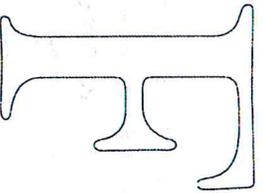
SIGN 5

**SOUTH ELEVATION
VARIANCE REQUIRED**

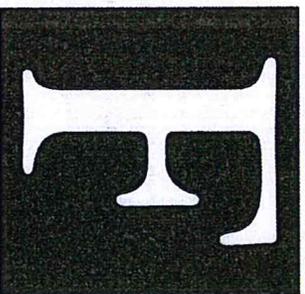


	A	B	C	D	E	F
FIS Channel 24	24"	16 15/16"	9 15/16"	20"	5-5 1/8"	10-10 1/4"
FIS Channel 30	30"	21 3/16"	12 7/16"	25"	6-9 7/16"	13-6 13/16"
FIS Channel 36	36"	25 7/16"	14 7/8"	30"	8-1 11/16"	16-3 3/8"
FIS Channel 48	48"	33 15/16"	19 7/8"	40"	10-10 1/4"	21-8 1/2"

* Letter height determined by the height of the letter "F".



Daytime Appearance



Nighttime Appearance



Side Profile

For Dark Tone Building Backgrounds | Letters to appear white during the day and illuminate white at night.

