

June 9, 2016

**Butte-Silver Bow
Zoning Board of Adjustment
Council Chambers**

MEMBERS PRESENT: John Habeger, Tyler Shaffer, Les Taylor
and Rocko Mulcahy

ABSENT: Dolores Cooney, Julie Jaksha and
David Wing

STAFF: Lori Casey, Assistant Planning Director
Rebecca Farren, Land Use Planner
Carol Laird, Secretary

M I N U T E S

- I. The meeting was called to order at 5:35 P.M.
- II. The Minutes of the meeting of May 19, 2016, were approved and passed.
- III. Hearing of Cases, Appeals and Reports:

The legal ad was published in the Montana Standard on June 2, 2016.

Mr. Habeger stated the procedures that pertained to the meeting and said since there were only four members present that evening, they would need four positive affirmative votes for their variance to move forward. He further stated that they could choose to wait until the next meeting where there could potentially be more of the seven members present and that the risk was on them. He said they would be asked before they

went forward, if they wanted to go ahead that night. He asked if Colin Higgins wanted to go ahead and he said yes. It was then asked if the representative for Fairfield was okay with going ahead with four. It was stated that the next meeting would be June 23rd. Mrs. Casey said just for their information, should they not get four positive votes that night, they couldn't come back before the Board for six months and there had to be a significant change to their application. She said she just wanted everyone to be aware of that.

Mr. Habeger then said the following cases listed on the attached Agenda would be heard that evening.

Variance Application #15100 – Colin Higgins, owner and operator of McKenzie River Pizza and Pub for GMR Holdings, LLC of 3200 S. Colorado Street, Butte, was present at this meeting. He chose to go with four members.

Rebecca Farren summarized the staff analysis that is attached and made a part of these Minutes during the viewing of the presentation pictures.

Mr. Habeger asked if the Board had any questions of the staff. There was no response.

Mr. Habeger asked Mr. Higgins if he was okay with the conditions as written and he said yes, he was. Mr. Habeger said he guessed he could understand on a project of that scale that he might have overlooked it being a right-of-way. Mr. Higgins said right and said they were unaware that their sign installer, who was actually out of Spokane – they had talked permitting with him and assumed he had pulled those. He said it was their fault that they didn't do their due diligence to make sure he did that.

Mr. Habeger then said if there was anyone present who cared to speak as a proponent for this variance to come forward and identify themselves.

Bill Markovich said he was the contractor who built this job. He said they apologized for the oversight of the sign company who did the corporate signs for MacKenzie.

Mr. Markovich said as far as the property to the east of this, it would not be used residentially and they did a residential study recently on that. He said it was controlled by the Butte Motel Group and there would be a motel built out there. He said they were diligently working on that for a 2017 project and it would be a commercial application and he said there would be no residential that would be built on that street.

Mr. Habeger then asked if there was anyone present who cared to speak against this variance. There was no response.

Mr. Habeger then closed the public hearing and opened it up for Board discussion.

Mr. Mulcahy moved to conditionally approve Variance Application #15100 with Mr. Shaffer seconding the motion.

The conditions are as follows:

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.

At this point the Board voted on the motion.

Variance Application #15100 – Conditionally Approved

John Habeger For
Rocko Mulcahy For

Les Taylor For
Tyler Shaffer For

John Habeger, Les Taylor, Rocko Mulcahy and Tyler Shaffer voted "For" the motion to approve the application.

Mr. Habeger said the application had been approved 4-0 and he would be receiving a letter from Planning staff indicating that and asked him to please not forget to pay his sign permit fee before 5:00. Mr. Higgins asked how much that would be and Mrs. Casey said they would let him know the following morning.

Mr. Habeger said that Special Use Permit Application #15111 for Leland Sampson and Gold Creek Cellular of Montana Limited Partnership, d/b/a Verizon Wireless, c/o Paul Slotemaker, AICP, agent, was withdrawn.

Variance Application #15113 – Rusty Landon of Hotel Developers-Butte, LLC, 3640 South Yellowstone Highway, Idaho, was present at this meeting. He chose to go with the four members.

Rebecca Farren summarized the staff analysis that is attached and made a part of these Minutes during the viewing of the presentation pictures.

Mrs. Farren added that there had been some public comment since they had submitted their staff analysis. She said in that regard it was from the Park View Apartments that this would negatively affect their residents. She said they had a letter along with a number of pictures that were presented to the Board. She said she thought they were present at the meeting to speak on behalf of the Park View Apartments' residents. The e-mails from Nick Kujawa and Bill Markovich are attached and made a part of these Minutes.

Mr. Habeger asked if the Board had any questions of the staff.

Mr. Habeger asked if Ms. Farren could summarize those comments or whether he should read them or just have them written into the meeting notes as an exhibit. Mr. Habeger said he saw one from Bill Markovich and he would have an

opportunity to speak. He said it didn't seem like it was a supporting document and Mrs. Casey and Mrs. Farren said no. Mrs. Casey said she thought Mr. Markovich would probably speak to this but one of the other partners in it, Nick Kujawa, did call them and their biggest concern was the sign and the lighting and was more the lighting than the illumination of the sign having an impact on those apartments that they saw in the photos from their bedroom views. She said they had submitted photos to try and show it from those apartments and expressed their concern within the e-mail. She pointed out in the pictures the apartments that would have the view of the sign that they were mostly concerned with.

Mr. Habeger said he could summarize too that Mr. Kujawa had entered in there where it said, "they had reviewed the staff analysis in depth, including the attached plans, as well as the photometric plans you also supplied us. We support the variance application for the south facing signage on the port cochere wall (sign #4 on the site plan), as it will help the hotel visibility from the highway and will be blocked from view by the hotel building itself. However, we are strongly opposed to granting a variance for the south facing signage on the wall of the hotel building (sign #5)." Mr. Habeger said he thought that was basically what was at issue and they would let Mr. Markovich explain that.

Mr. Habeger asked if the Board had any additional questions for the Planning staff.

Mr. Habeger said he had a question but he thought it had been answered. He was going to say that it seemed that view was mostly to the south and away from that but he could understand and would review any comments.

Mr. Habeger then asked if the applicant cared to come forward and talk about the application and the variance. Rusty Landon said first of all, they wanted to thank the City of Butte-Silver Bow for all the work they had done so far in getting this hotel built. He said he appreciated all they had done for them. He said the thing he wanted to make sure they understood and he

wasn't very good at this but said these would be LED lights and the lights that were the big discussion were on the south end. He thought they needed to understand and said they could look at the photometrics also, that it was a light such as the one he turned on but would be more of a glow stick with the glow inside and what he had with him wasn't a glow stick but was something he grabbed from the grandkids but it would be glowing and not having light coming down. He then referred to the picture showing the photometrics and said the bottom on the corner showed 0.1 footcandle lights and 0.2 and before it ever left their property, it would be down to 0.

Mr. Landon then pointed out the sign on the end of the building in the picture and where it said 0.0 and 0.0, so the sign had no light coming up there. He said 0.1 footcandle, which was very, very, very, very low and at the very most 0.2. He said as it left the property, there was no footcandle light measurement of light coming off of their property there.

Mr. Landon said the big thing for them was this was the south end that was facing the freeway and that was a huge thing for them. He said a couple things to know was the sign location he pointed out in the picture would be smaller than the sign they would put at the front of the building. He said it definitely was a small one.

Mr. Landon said they also had a sign in the plans and he pointed out where it would have went right next to the apartments and there was also a sign on the north end to be done and they got rid of that because they wouldn't have the freeway visibility, so the only sign they had for the freeway was where he pointed out in the picture and they also had one on the very front of the building that would be visible from Cornell.

Mr. Landon further said the port cochere sign they referred to was only twelve inches tall and did illuminate with a light shining up on it. He said the port cochere came out and had two columns and were very small signs that he pointed out.

Mr. Landon said they were very concerned about the sign because they felt it would impede business. He said they didn't have visibility from the freeway for people coming down the freeway to see that to know where to get off.

Mr. Landon again said they illuminated the sign that was directly on the property and didn't have it on the north, so they felt they had done a very good job in keeping it away from all residential, even though those apartments were residential and they tried to get it out on that end, so they would have visibility from the freeway on that.

Mr. Landon said he understood why those people might be concerned there on the apartments but according to their sign manufacturer, there should be no light going off of their property and the sign would be up high and he thought the bottom of the sign would be twenty feet, so it was even higher than that. He said it was more like a glow sign because it was all LED lighting and was not a direct light. He said parking lot lights shine down, so it was nothing like that. He said this showed very minimal light that would impede over on the apartments.

Mr. Landon further said the Holiday Inn Express had the signs showing out on the freeway, the same thing, and LaQuinta shined towards those apartments and was up high too. He didn't think they were asking for something out of the normal, as far as running a hotel. He said they could see the LaQuinta was right there by the apartments. He said in his opinion, this was less encumbering light and he didn't think those were LED lights, so this was a lot more modern light and about half a footcandle would come down to their property line.

Mr. Habeger asked if he was okay with the conditions as provided and Mr. Landon said yes.

Mr. Habeger then asked if there was anybody who cared to come forward and speak for the proposal for the variance. There was no response.

Mr. Habeger then asked if there was anybody who cared to come forward and speak against the variance.

Bill Markovich said he was one of two owners of the adjacent apartment complex. He said on the original application for this project, he spoke personally in favor of it and thought it would be a good thing for the community. He said at no time in that application did anyone mention there was going to be a sign against the apartments or against the residential end of the street. He said that was never part of that application nor would it have been permitted then, as it would not be permitted that day.

Mr. Markovich said the sign on the south would impact in his opinion and the opinion of his partner and the opinion of his tenants – it violated the spirit of the Ordinance. He said they had a quality of life issue for the tenants. He said this was their home and was where they came to every day and went to every night. He said it was their living room and bedroom. He said the entire apartment building will have bedroom and living room windows open to the sign.

Mr. Markovich further said it was mentioned that the sign had no lighting once it hit the property line – that was true but it would be big enough, bold enough and broad enough to be seen from I-90, so there was the other side of that.

Mr. Markovich said they supported this thing and they lost a lot of view – they lost their favorite building and gave it up and supported this very very bold structure (couldn't hear). He said he was dead set against the sign on this end of this building. He said every one of those people, this was their home and where they lived and they would have to face this sign every night of their life, lit up, bright enough, bold enough, large enough to be seen from I-90. He said he was totally in favor of all of the other signs and had no problem with any other sign but just thought this sign was inappropriate. He said you couldn't compare this sign to any of the other motels because the distance was not even remotely the same from the old War Bonnet Inn, whatever it was called now, or the LaQuinta, the

distance was extensionally further away than it was away from this building and the Park View Apartments.

Mr. Markovich said in closing, he was not in favor of that sign but was in support of all of the other signs. He said he thought if it was big enough and bright enough to be seen from I-90, that it had an impact. He said no matter what they said, the illuminants were at the property line and it would be a visual impact to the people living there.

Mrs. Casey said the applicant had a chance to rebut or offer mitigation.

Mr. Habeger asked Mr. Landon if he cared to step forward and provide comments to rebut Mr. Markovich's comments. Mr. Landon said the thing he would disagree with was if anybody who lived in those apartments could see lights from far away on there, they had already proven and he had admitted, that the photometrics showed there wouldn't be any light going on Mr. Markovich's property and it would stay contained within their property. He said it was different and the LED lighting was totally different than fluorescent lighting and that kind of thing that did penetrate out the lighting.

Mr. Landon said there was no difference being in that apartment and looking across town and seeing other lights in town versus just because this was closer, didn't mean it was going to impact them and he thought they had proven with photometrics that the lighting was not going to leave their property and it was imperative to their business to have that sign shine and yeah, they would be able to see it from I-90 but you could see lights on the hill from I-90 and you could see lights all over the City from I-90. He said the same lights that you could see from I-90 that he was talking about, you could see from the apartments. He said these were not bright lights and he could say they were similar to a glow – were contained within the letters and the photometrics proved that the light was not going to leave their property. He said it would be detrimental to their business, if they didn't have the visibility from the freeway to let people know where they were at and he

didn't think it was fair if other hotels had the same advantage of lighting towards the freeway and they wouldn't.

Mr. Habeger asked if this lighting in sign number five, which seemed to be at issue, was that just basically a box with a plexi-lens on it that the light would illuminate through. Mr. Landon said yeah, they were individual letters that were contained inside. Mr. Habeger said it wasn't like back lighting bouncing off the wall that was illuminated. Mr. Landon said no, the LED light was contained inside each letter.

Mr. Landon then asked to go back to the picture of the photometrics. He said he thought that was the real issue and said sure, you could see the light just like you would be able to see any other light in town but it wouldn't impede on the other property and was staying on site.

Mr. Landon further said they owned the property adjacent to it to the south. He said that was their property and the hotel was on the north end. It didn't even show it impeding on the property line of their own property and it wouldn't be going on anybody else's property, so he didn't know how – the photometrics showed that no light would be going or infringing on anybody else's property -- how that could affect them and sure, you would be able to see the light just like you would see any other light in Butte at night. He thought there was a huge difference in traditional lighting and LED lighting and how far it had come in the last years too.

Mr. Habeger then closed the public hearing and opened it up for Board discussion.

Mr. Habeger felt the Fairfield was probably entitled to a sign facing the interstate. He didn't know a better option for it and thought he had addressed those issues. He thought personally, they would probably get more glare from the parking of the cars coming back and forth to the parking lot than they would from that sign.

Mr. Taylor said he guessed the pool would be lit up at night that would be the same elevation as the apartments (couldn't hear). Mr. Taylor said he looked at the pictures and said it would appear that the pool enclosure with some very tall windows -- he suspected it probably would be lighted at night and also suspected that it would be more noticeable for the apartments than the elevated sign.

Mr. Mulcahy moved to conditionally approve Variance Application #15113 with Mr. Taylor seconding the motion.

The conditions are as follows:

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.

At this point the Board voted on the motion.

Variance Application #15113 – Conditionally Approved

John Habeger	For	Les Taylor	For
Rocko Mulcahy	For	Tyler Shaffer	For

John Habeger, Les Taylor, Rocko Mulcahy and Tyler Shaffer voted "For" the motion to approve the application.

Mr. Habeger said all four votes were in favor of the application and he would be getting a letter from the Planning staff and he needed to get a permit prior to putting the signs up.

- IV. A motion was made to adjourn. Seconded and passed. The meeting adjourned at 6:20 P.M.

BY: David J. Wing, Chairman
John Habeger, Vice-Chairman

Lori Casey
Lori Casey, Assistant Planning Director

Farren, Rebecca

From: Bill Markovich <bmarkovich@markovichinc.com>
Sent: Thursday, June 09, 2016 10:04 AM
To: Farren, Rebecca
Cc: 'Nick Kujawa'; Sidni Markovich; Bill Markovich
Subject: Fairfield Case

Rebecca,

I will be attending the Variance Hearing at 5:30 to speak against the Variance for Fairfield Inn signage and the negative impacts on the quality of life issue for my tenants that call Park View Apartment home. I am objecting to the signage across from the living room and bedroom windows of my tenants at the apartments. I have no objection to the signage that does not face residential living.

Was the Park View Apartments given formal notice of this Variance Hearing or is the only notice the on street reader board? Please advise.

Thank you for your consideration on this most important matter. If you have any question please contact my office at 494-3901.

Bill Markovich, Jr.
President

827 Lexington Avenue
Butte, MT 59701
Office: 406-494-3901
Fax: 406-494-1989



Messages and attachments sent to or from this email account pertaining to the City-County of Butte-Silver Bow business may be considered public or private records depending on the message content (Article II Section 9, Montana Constitution; 2-6 MCA).

Farren, Rebecca

From: Nick Kujawa <nick@kujawadevelopment.com>
Sent: Thursday, June 09, 2016 10:24 AM
To: Farren, Rebecca
Cc: Bill Markovich; Sidni Markovich; Terasa Swartz; Nick Kujawa
Subject: Fwd: Park View Apartments - D Building views from units at Fairfield Inn
Attachments: D107 #1 bdrm.jpg; D107 LVRM.jpg; D108 LVRM.jpg; D207 LVRM.jpg; D208 Bdrm.jpg; D208 LVRM.jpg

Hi Becky,

I write regarding sign variance application #15113. We own Park View Apartments, which is immediately adjacent to the Fairfield site. As an initial matter, we wish to make it known on the record that when the original variance was requested for the construction of this property, we did not object to it as we knew it would be good for the community. This despite the fact that it has been built very close to our lot line and at 4 stories high takes up most of the old viewshed our residents enjoyed (before this building our residents had a clear view of uptown Butte and the big M; now all they see is the side of the hotel). However, with respect to this new variance request, Butte Silver Bow code prohibits wall signs from being located on a building facade that is not adjacent to a public street, in order to eliminate the potential for signs to have a negative impact on adjacent building owners. We appreciate your note in the staff review that "great care should be taken to ensure that the proposed signage does not negatively affect this [Park View] apartment complex and its residents."

We have reviewed the Staff Analysis in depth, including the attached plans, as well as the photometric plans you also supplied us. We support the variance application for the south facing signage on the port cochere wall (Sign #4 on the site plan) as it will help the hotel with visibility from the highway and will be blocked from view from our property by the hotel building itself. However we are strongly opposed to granting a variance for the south facing signage on the wall of the hotel building (Sign #5 on the site plan). Sign #5 is on a side of the building that does not contain any street frontage, and in fact faces directly toward several units in our "D" building at Park View Apartments (as shown in the vicinity map). Sign #5 is scheduled to be 13.5' wide by 7' tall, encompassing 92 square feet of brightly lit white LED letters.

The staff report notes that the "most significant concern would be disruption of the residential character of the Park View Apartments...home to multiple residents who would be considerably affected by the proliferation of signage, especially illuminated signage, directed towards their homes." The staff report then draws the conclusion that the signage would be pointing away from the complex and would thus not have any impact. This conclusion is incorrect. As shown on the vicinity map, our existing "D" building extends in a southwesterly direction towards Father Sheehan Park well beyond the edge of the new hotel. As shown in the attached photos, taken from the living rooms and bedrooms of some of the affected residences, proposed wall sign #5 will be highly visible to at least 6 residences from both their living rooms and bedrooms. The staff analysis notes there will be no unnecessary hardship if the variance is not approved. The applicant already has several signs on the project that are permitted as of right. In contrast, the nightly illumination of a 92 square foot sign that takes up a huge amount of the viewshed from our residents' living room and bedroom windows will have a significant adverse effect on our residents. Even if the signage does not shine like a flashlight into our residents homes (as suggested by the photometric plan you sent - although I note that it does not show the effect on our property, it being limited to their property line), it will still be a glow that is bright enough to be seen from the highway. To be bright enough to serve its purpose of being seen by the highway, it will necessarily be bright enough to disturb the residential character of our units - which are mere yards from the sign, not miles.

In addition to this letter, which we hope you will incorporate into your staff analysis as regards sign #5 and recommend denial of that variance, our partner Bill Markovich will be appearing in person tonight to formally speak against the requested variance on sign #5

Thank you for your time.

Nick Kujawa

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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.

Withdrawn

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

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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
Lori Casey, Assistant Planning Director

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

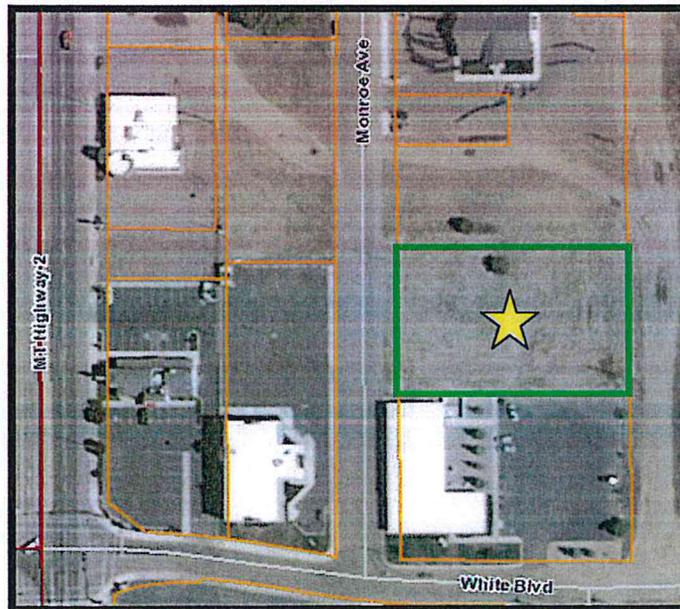
ITEM: Variance Application #15100 - An application for a variance to locate wall signs on the north elevation of a building that does not contain any northern street frontage, varying from Section 17.42.050(C-7), On-Premise Signs, of the BSBMC.

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.

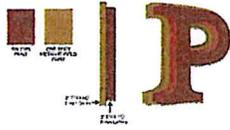
However, it must be noted that the signs were installed prior to obtaining the necessary permits. As per Section 17.56.040, Permit fees, of the BSBMC, "Where work for which a permit is required by this title is started or proceeded with prior to obtaining said permit, the fees established by the council 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.

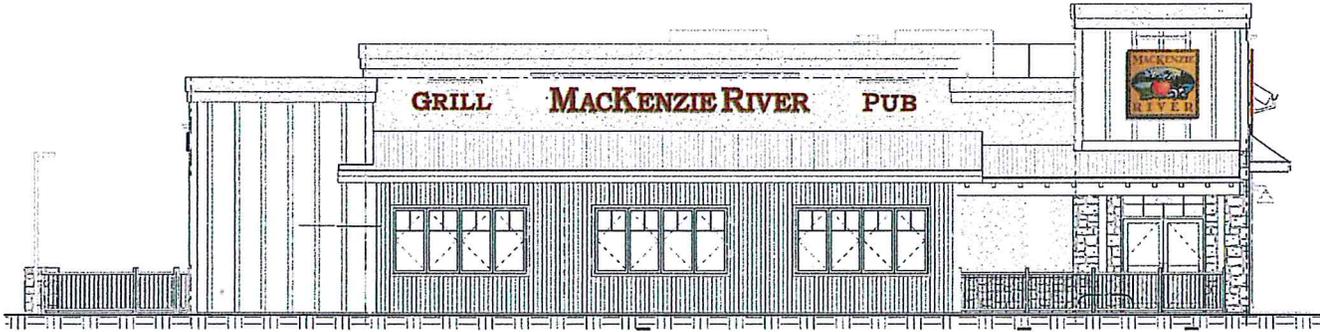
5'0" PIZZA 7'1" PASTA 19'6" MACKENZIE RIVER 5'0" GRILL 4'0" PUB



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, CLEAR MOUNT



1 NORTH ELEVATION
A201

Scale 1/8"=1'-0"



Artwork Property of Walls That Talk, Inc.
All Rights Reserved ©2015

Mackenzie River Pizza
Butte, Montana

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

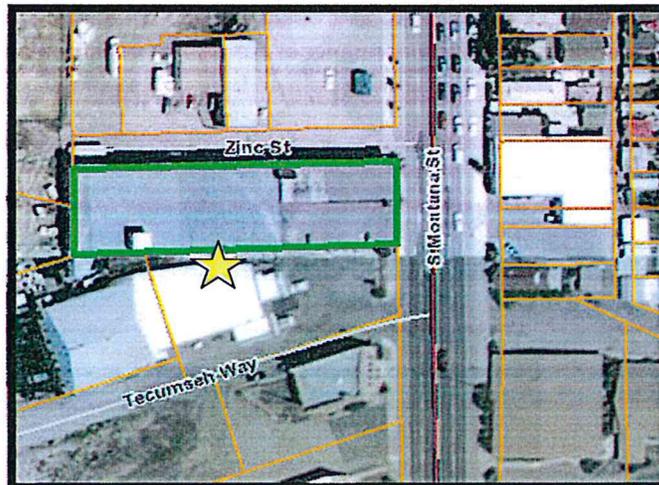
ITEM: **Special Use Permit Application #15111** - An application for a special use permit to install a new concealed rooftop wireless communication facility on the top of an existing building in a commercial zone, per the requirements of Section 17.38.180, Special Use Permit – Uses Allowed, of the BSBMC.

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.

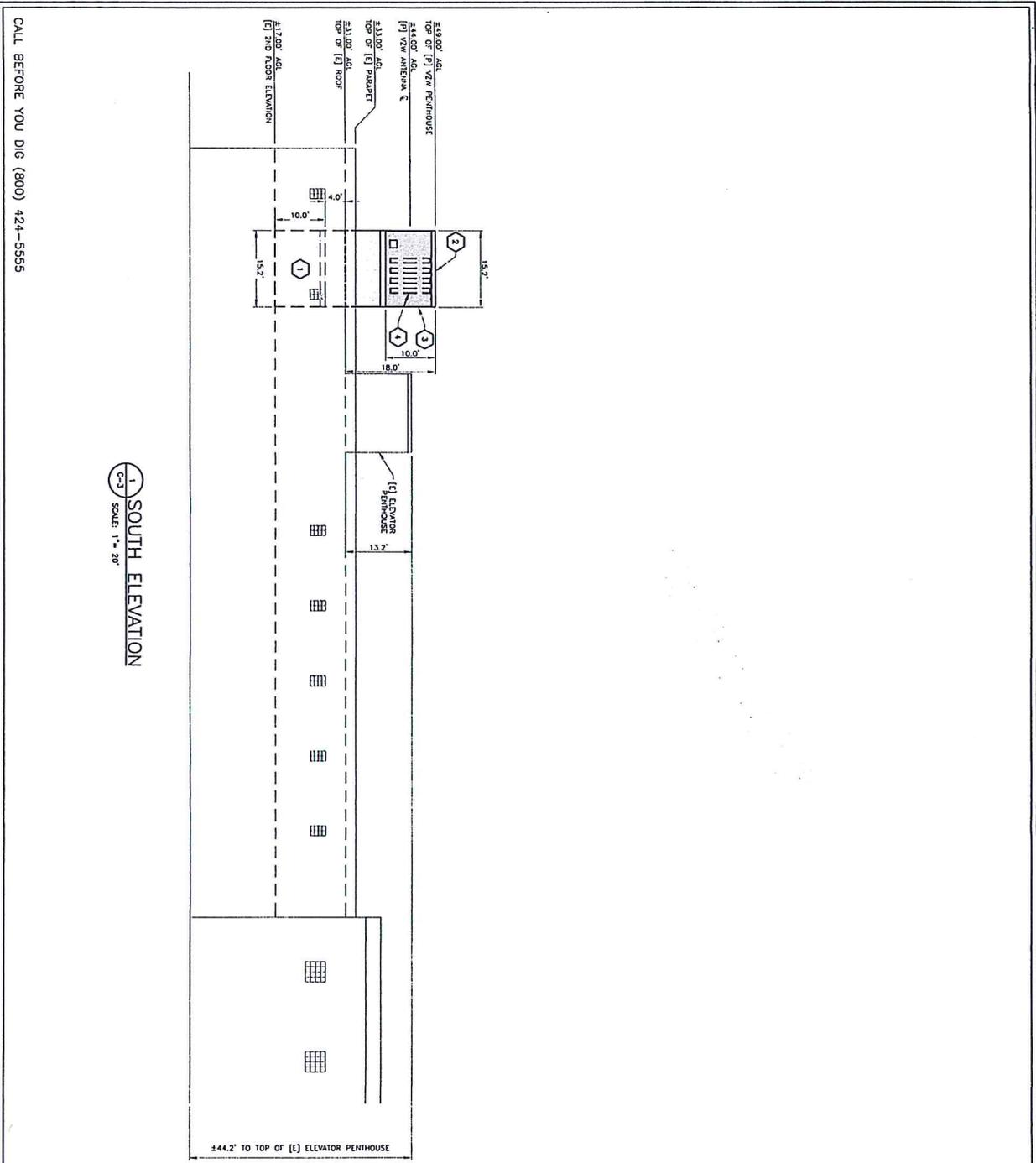
20. Expressed public opinion relating to the criteria enumerated above, including the views of Neighborhood Associations.

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.



PROPOSED CONSTRUCTION KEYED NOTES

- 1 VERION WIRELESS EQUIPMENT ROOM INSIDE NEW ROOM (15'-2" x 15'-2") ON 2ND FLOOR OF BUILDING
- 2 15'-2" x 15'-2" x 18'-0" PENHOUSE ON ROOF OF BUILDING. PENHOUSE SHALL BE CONCRETE ARCHITECTURE.
- 3 CONCEALED PANELS ON SIDES OF TOP 10' OF [P] PENHOUSE. PANNING TO MATCH [E] ARCHITECTURE.
- 4 VERION WIRELESS ANTENNAS INSIDE [P] PENHOUSE.

SYMBOLS AND ABBREVIATIONS

- POWER LINE
- TELEPHONE LINE
- OPENED UTILITY LINE
- UNDERGROUND GAS LINE
- UNDERGROUND WATER LINE
- X—X—X— PROPOSED FENCE LINE
- [E] EXISTING FENCE LINE
- [P] PROPOSED SELF-SUPPORTING TOWER
- UTILITY POLE
- CUR ANCHOR
- LUMBER
- ASPHALT
- CONCRETE
- BUILDING
- DECIMAL NUMBER
- SHEET NUMBER

SITE NOTES

1 SOUTH ELEVATION
C-3 SCALE: 1" = 20'

ADAMS & CLARK INC.
1720 W. ROUTE 140E
PO BOX 140
MONTICELLO, VA 22861
PH: 800.933.4663 FAX: 540.747.8913

AAC PROJECT # 2014-01-144

PRELIMINARY DRAWING

APPROVALS

FINE ENGINEER _____
RF ENGINEER _____
REAL ESTATE _____
AREA MANAGER _____
PROPERTY OWNER _____

ZONING _____
CONSTRUCTION DIRECTOR _____

REVISIONS

NO.	DATE	DESCRIPTION
1	05/23/16	PRELIMINARY CD

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SITE ALT #2
MT6 PATTY
BUTTE, MT

SHEET TITLE
SOUTH ELEVATION

C-3

CALL BEFORE YOU DIG (800) 424-5555

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

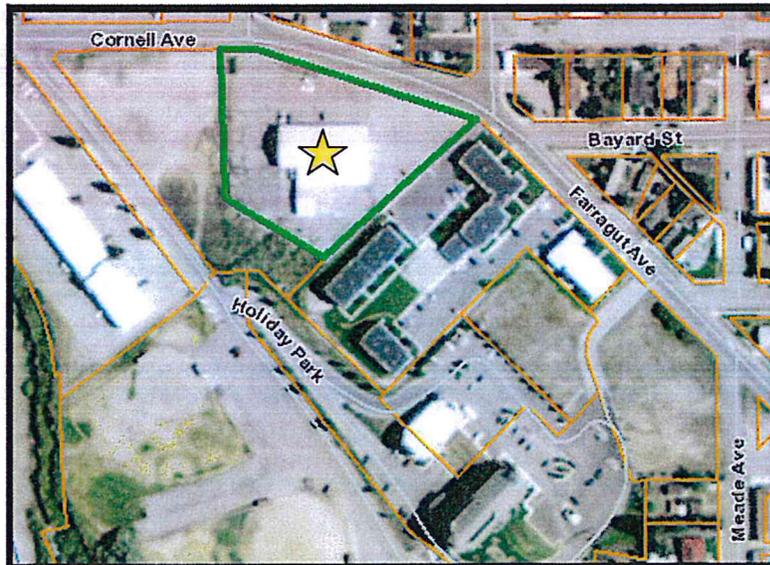
ITEM: **Variance Application #15113** - An application for a variance to locate two wall signs, one on the southern elevation and one on the south-facing porte cochere wall, of a building that does not contain any southern street frontage, varying from Section 17.42.050(C-7), On-Premise Signs, of the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

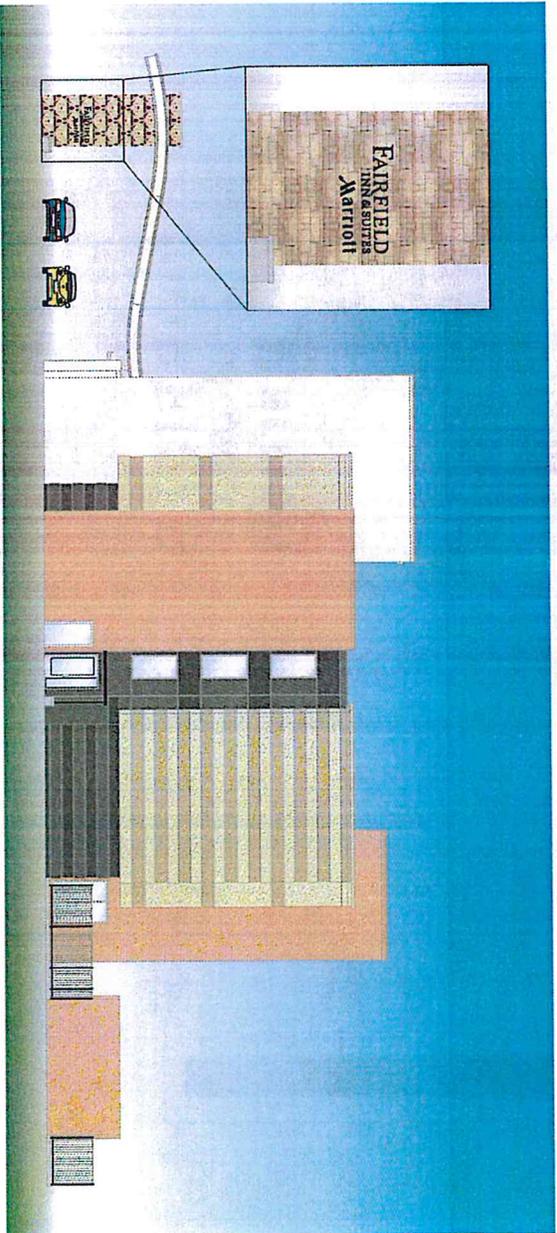
2 channel letters

PORTE COCHERE LETTER
APPLICATIONS

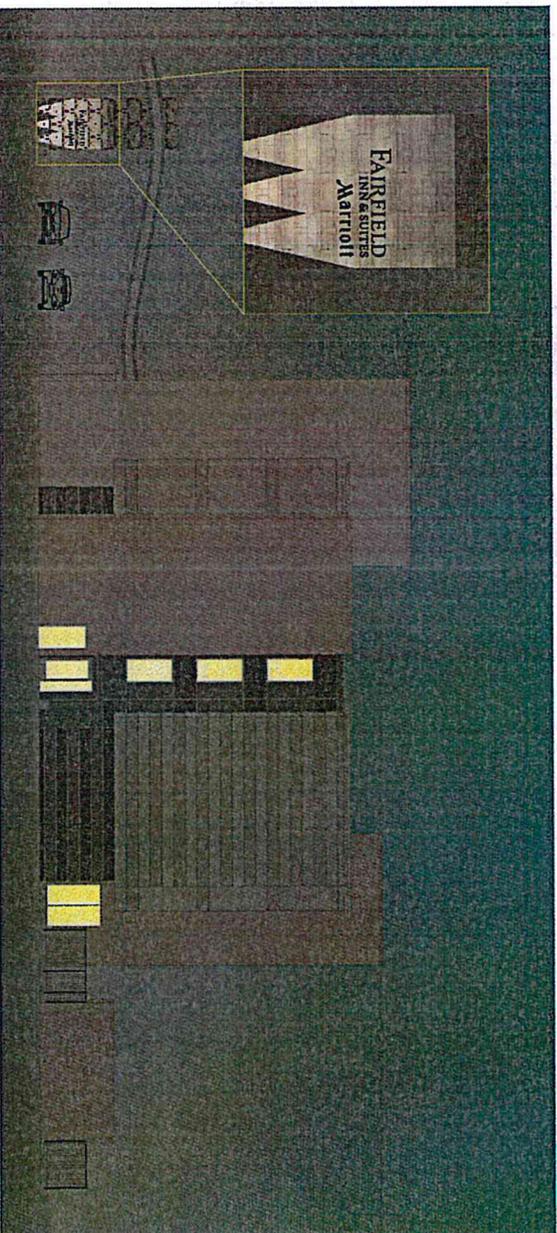
SIGNS 3 AND 4

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:

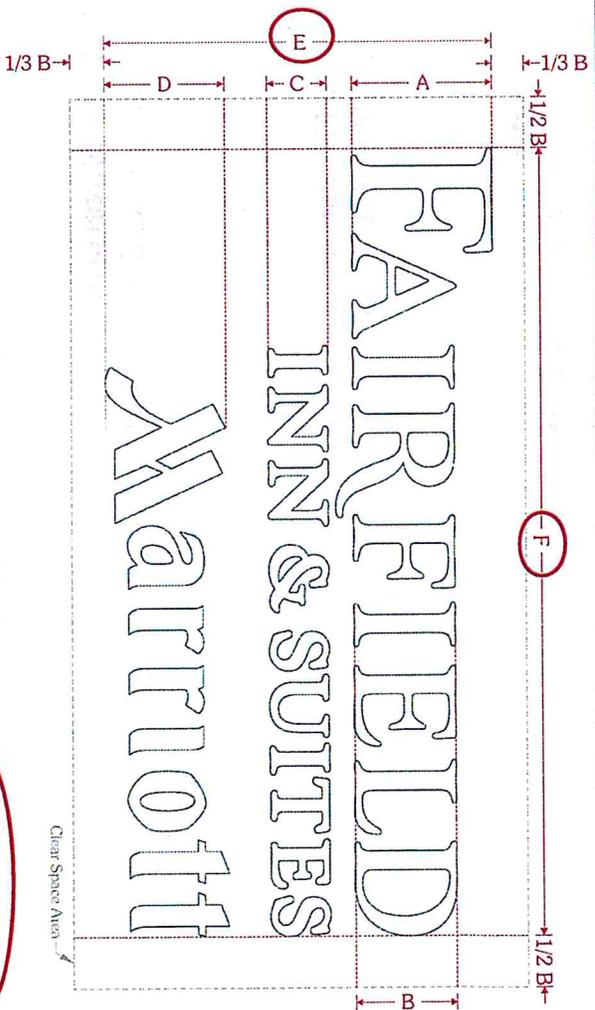
- Construction: .050" aluminum channel letter with .063" aluminum backs
- Face Material: 3/16" 7328 white acrylic
- Trim Cap: 1" black
- Illumination: White LED's as required
- Exterior Finish: Pre-finished black
- Interior Finish: Paint reflective white

Channel Letter Face Specifications:

- Face Material: 3/16" 7328 white acrylic

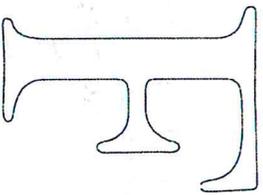
SIGN 5

**SOUTH ELEVATION
VARIANCE REQUIRED**

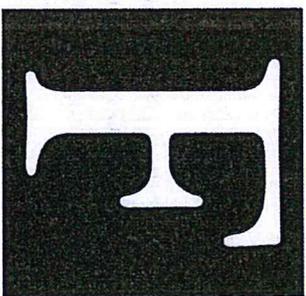


	A	B	C	D	E	F
FIS Channel 24	24"	16 15/16"	9 15/16"	20"	5-5 1/8"	10'-10 1/4"
FIS Channel 30	30"	21 3/16"	12 7/16"	25"	6-9 7/16"	13'-6 13/16"
FIS Channel 36	36"	25 7/16"	14 7/8"	30"	8-1 11/16"	16'-3 3/8"
FIS Channel 48	48"	33 15/16"	19 7/8"	40"	10'-10 1/4"	21'-8 1/2"

* 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.

