

STAFF REPORT

415 Fuller Avenue

Variance

Case# VAR2508-0012

Kyle Holland, AIA
Planner II

Community Development Department
316 North Park Avenue, Room 403
Helena, Montana 59623





City of
Helena

Table of Contents

Section 1 - Project Overview..... 2

Section 2 – Variance Request 2

Section 3 - General Information 3

Section 4 - Public Process 7

Section 5 –Evaluation..... 7

Section 6 – Department Comments 12

Section 7 – Variance Motion..... 13

Appendix A –Maps..... 15

Appendix B –Public Comment 19



Section 1 - Project Overview

The applicant, Dylan Pipinich on behalf of Anderson Development LLC, is requesting a variance to construct a mixed use development in the DT zoning district for the property addressed as 415 Fuller Avenue.

This variance is to decrease the minimum lot coverage from 50% to 40% due to the conditions of the site.

Section 2 – Variance Request

The applicant has requested the following variances:

1. A variance from section 11-9-7 to reduce the minimum lot coverage from 50% to 40%, for a property with the address of 415 Fuller Avenue, Helena, Montana, 59601, the geocode of 05188830203150000, and legally described as:

A tract of land in the SW $\frac{1}{4}$ of Section 30, Township 10 North, Range 3 West, P.M.M., comprising a portion of the Henry Thompson Placer Mining Claim in the City of Helena, Lewis and Clark County, Montana, particularly described as follows, to wit:
Beginning at the intersection of the East line of Fuller Avenue and the South Line of Placer Avenue in said City of Helena, a nail, in the concrete sidewalk; thence S. 77° 59'05" E, 174.54 feet along the South line of Placer Avenue to a point from which a cross cut in the sidewalk bears N. 5°32'58" E, 2.00 feet; thence S. 5°32'58" W, 228.89 feet along the West line of an existing private alley to a cross cut in a concrete alley; thence S. 84°13'02" E, 21.78 feet to an iron pin; thence S. 14°21'46" W, 36.53 feet to an iron pin; thence S. 89°45'16" W, 191.48 feet along the center line of an existing party wall to a point on the East line of Fuller Avenue in said City of Helena from which a cross cut in the sidewalk bears S. 89°45'16" W, 1.00 feet; thence N. 5°43'00" E, along the Was line of Fuller Avenue in said City of Helena, 304.65 feet to the point of beginning, according to a Certificate of Survey of said tract, prepared and certified by Ralph A. Knauss, Montana Registered Land Surveyor, in January, 1978, and which appears on file under Document No. 286943 in the office of the Clerk and Recorder of Lewis and Clark County, Montana. TOGETHER WITH all and singular the improvements thereof and the tenements, hereditaments and appurtenances thereunto belonging, including (without limitation) the right to the non-exclusive use of the existing private alley located as shown in said Plat of Survey.

AND

A tract of land in the SW $\frac{1}{4}$, Section 30, T10N, R3W, M.P.M., Henry Thompson Placer Mining Claim, Lewis and Clark County, Montana.
The tract is more particularly described as commencing at the intersection of the east line of Fuller Avenue and the south line of Placer Avenue, a nail in the sidewalk. Then S 5°43'00" W 304.06' along the west line of Fuller Avenue to a point from which a cross in the sidewalk bears S 89°45'16" W, 1.00'. Then N 89°45'16" E, 191.48' along the centerline of an existing party wall to an iron pin. Then S 14°21'46" W, 32.39' to an iron pin. Then S 89°57'56" W, 186.54' along the south face of an existing wall to a point of the west line of Fuller Avenue from which a nail in the sidewalk bears N 89°57'56" W 1.00'. Then N 5°43'00" E, 30.82' to the point of beginning according to a Certificate of Survey of said tract prepared and

certified by Ralph A. Knause, Montana Registered Land Surveyor in January, 1978, and which appears on file under Document No. 291781 in the office of the Clerk and Recorder of Lewis and Clark County, Montana. The tract containing 5,861 square feet and is subject to easements and encumbrances of record.

AND

The North $\frac{1}{2}$ of a twelve-foot wide alley in Tracts D and E and the south six feet of Tracts B and C, as said Tracts are described in Book 108, pages 64 through 69 of Deeds on file in the office of the Clerk and Recorder of Lewis and Clark County, Montana.

AND

All that piece of parcel of land comprising parts of Lots numbered 14 and 25 of The Henry Thompson Placer mining Claim lying within the limits of said City of Helena and being more particularly described as follows to-wit: Beginning at a point in the east margin of Fuller Avenue as now laid out and used, said point of beginning being N. $5^{\circ} 43' E.$ as distance of 6.04 feet from an iron pin which is at the intersection of the north boundary line of the Helena Townsite (according to the official or McIntire Survey) and the east margin of Fuller Avenue; thence N. $5^{\circ} 43' E.$ a distance of 27.46 feet more or less, to the south wall of the said Evans Building, and produced, a distance of 166 feet, more or less, to the west line of the tract of land which was set aside for alley purposes in that certain deed from John B. Sanford, et al. to Donald Bradford, dated October 12, 1889, and recorded October 23, 1889, in Volume 10 of Deeds at page 268, records of said County of Lewis and Clark; thence S. $14^{\circ} 34' W.$ along the west line of the alley as shown by the deed above referred to from John B. Sanford et al. to Donald Bradford, a distance of 28 feet, more or less to a point being N. $14^{\circ} 34' W.$ a distance of 6.21 feet from the North boundary line of the Helena Townsite; thence S. $89^{\circ} 34' W.$ a distance of 162.58 feet, more or less to the point of beginning. SUBJECT TO reservations contained in that certain Patent from the United States of America, recorded in Book "US" of Patents at page 242, records of said County of Lewis and Clark; AND SUBJECT ALSO TO a perpetual right and easement granted to the City of Helena for a storm sewer as disclosed by Decree recorded April 25, 1914 in Book 79 of Deeds at page 117, records of said County of Lewis and Clark.

Section 3 - General Information

Application Date: August 29, 2025

Public Hearing Dates: Board of Adjustment October 7, 2025

Applicant: Dylan Pipinich
WGM group
130 Renz Drive
Butte, MT 59701

Mark Esponda
Anderson Development LLC
3424 US Highway 12 East

Helena, MT 59601

Property Owner:

NW Bank of Montana
PO BOX 2609
Carlsbad, CA, 92018

Legal Description:

A tract of land in the SW $\frac{1}{4}$ of Section 30, Township 10 North, Range 3 West, P.M.M., comprising a portion of the Henry Thompson Placer Mining Claim in the City of Helena, Lewis and Clark County, Montana, particularly described as follows, to wit:

Beginning at the intersection of the East line of Fuller Avenue and the South Line of Placer Avenue in said City of Helena, a nail, in the concrete sidewalk; thence S. $77^{\circ} 59'05''$ E, 174.54 feet along the South line of Placer Avenue to a point from which a cross cut in the sidewalk bears N. $5^{\circ}32'58''$ E, 2.00 feet; thence S. $5^{\circ}32'58''$ W, 228.89 feet along the West line of an existing private alley to a cross cut in a concrete alley; thence S. $84^{\circ}13'02''$ E, 21.78 feet to an iron pin; thence S. $14^{\circ}21'46''$ W, 36.53 feet to an iron pin; thence S. $89^{\circ}45'16''$ W, 191.48 feet along the center line of an existing party wall to a point on the East line of Fuller Avenue in said City of Helena from which a cross cut in the sidewalk bears S. $89^{\circ}45'16''$ W, 1.00 feet; thence N. $5^{\circ}43'00''$ E, along the Was line of Fuller Avenue in said City of Helena, 304.65 feet to the point of beginning, according to a Certificate of Survey of said tract, prepared and certified by Ralph A. Knauss, Montana Registered Land Surveyor, in January, 1978, and which appears on file under Document No. 286943 in the office of the Clerk and Recorder of Lewis and Clark County, Montana. TOGETHER WITH all and singular the improvements thereof and the tenements, hereditaments and appurtenances thereunto belonging, including (without limitation) the right to the non-exclusive use of the existing private alley located as shown in said Plat of Survey.

AND

A tract of land in the SW $\frac{1}{4}$, Section 30, T10N, R3W, M.P.M., Henry Thompson Placer Mining Claim, Lewis and Clark County, Montana. The tract is more particularly described as commencing at the intersection of the east line of Fuller Avenue and the south line of Placer Avenue, a nail in the sidewalk. Then S $5^{\circ}43'00''$ W 304.06' along the west line of Fuller Avenue to a point from which a cross in the sidewalk bears S $89^{\circ}45'16''$ W, 1.00'. Then N $89^{\circ}45'16''$ E, 191.48' along the centerline of an existing party wall to an iron pin. Then S $14^{\circ}21'46''$ W, 32.39' to an iron pin. Then S $89^{\circ}57'56''$ W, 186.54' along the south face of an existing wall to a point of the west line of Fuller Avenue from which a nail in the sidewalk bears N $89^{\circ}57'56''$ W 1.00'. Then N $5^{\circ}43'00''$ E, 30.82' to the point of beginning according to a Certificate of Survey of said tract prepared and certified by Ralph A. Knause, Montana Registered Land Surveyor in January, 1978, and which appears on file under Document No. 291781 in the office of the Clerk and Recorder of Lewis and Clark County, Montana. The tract containing 5,861 square feet and is subject to easements and encumbrances of record.

AND

The North ½ of a twelve-foot wide alley in Tracts D and E and the south six feet of Tracts B and C, as said Tracts are described in Book 108, pages 64 through 69 of Deeds on file in the office of the Clerk and Recorder of Lewis and Clark County, Montana.

AND

All that piece of parcel of land comprising parts of Lots numbered 14 and 25 of The Henry Thompson Placer mining Claim lying within the limits of said City of Helena and being more particularly described as follows to-wit: Beginning at a point in the east margin of Fuller Avenue as now laid out and used, said point of beginning being N. 5° 43' E. as distance of 6.04 feet from an iron pin which is at the intersection of the north boundary line of the Helena Townsite (according to the official or McIntire Survey) and the east margin of Fuller Avenue; thence N. 5° 43'E. a distance of 27.46 feet more or less, to the south wall of the said Evans Building, and produced, a distance of 166 feet, more or less, to the west line of the tract of land which was set aside for alley purposes in that certain deed from John B. Sanford, et al. to Donald Bradford, dated October 12, 1889, and recorded October 23, 1889, in Volume 10 of Deeds at page 268, records of said County of Lewis and Clark; thence S. 14° 34' W. along the west line of the alley as shown by the deed above referred to from John B. Sanford et al. to Donald Bradford, a distance of 28 feet, more or less to a point being N. 14° 34' W. a distance of 6.21 feet from the North boundary line of the Helena Townsite; thence S. 89° 34' W. a distance of 162.58 feet, more or less to the point of beginning. SUBJECT TO reservations contained in that certain Patent from the United States of America, recorded in Book "US" of Patents at page 242, records of said County of Lewis and Clark; AND SUBJECT ALSO TO a perpetual right and easement granted to the City of Helena for a storm sewer as disclosed by Decree recorded April 25, 1914 in Book 79 of Deeds at page 117, records of said County of Lewis and Clark

General location:	This property is generally located on the southeast side of the intersection of Placer Avenue and Fuller Avenue.		
Present Land Use:	Financial Services		
Present Zoning:	DT		
Adjacent Land Uses:	North:	DT -	Construction Material Sales (Finstad's Carpet One)
	South:	DT -	General Services (AlphaGraphics)
			Professional Offices (Little Roger) (Prickly Pear Land Trust)

East: DT – General Retail Sales
 (Wild Stag)
 (Wild Child Collective)
 (Bray Gallery)
 (Funky Trunk)
 (Boxwoods)

General Services
 (Edge Professionals)

Professional Offices
 (REI Management)

Specialized Food Production
 (Firetower Coffee)

West: DT - Public Safety Facility
 (Lewis and Clark County Sheriff's Office)
 (Lewis and Clark County Coroner)
 (Helena Police Department)

Administrative Government Agency
 (Helena Municipal Court)

N.B. – The above list is comprised of ground floor uses adjacent to the subject property and is, therefore, not exhaustive and inclusive of upper floor uses in mixed use buildings

**History of Applicable
Permitting Action:**

1936 – Earliest permit on file to build a repair shop
 1978 – Site demolition
 1979 – Drive-through bank
 1987 through 2013 – Various sign and remodel permits
 2018 – Sidewalk

With the exception of the underground stormwater pipe and chimney structure, all site improvements to be removed for proposed project.

Tract/Property Size: Approximately 1.33 acres

**2019 Growth Policy
Land Use Designation(s):**

Mixed Use – Places where people can work, live, and play and learn. These areas include a variety of complementary and integrated uses such as, but not limited to, all forms of residential; office; light industrial/manufacturing; retail, entertainment or public uses. Development is usually in a denser comprehensive pattern to achieve a unified, functional, efficient, and aesthetically appealing physical setting, and provides opportunities for connectivity, public

transportation, and walkability. Mixed-use areas do not use the traditional segregation of uses.

Section 4 - Public Process

- A. Variance applications are filed with the Community Development Department and any required fees must be paid upon submission of an application. The application will then be reviewed by City staff per City Code Section 11-5-1.
- B. The Board of Adjustment shall hold a public hearing and make a determination per City Code Section 11-5-2.

This review process as defined by city code allows for public comment, staff review and vetting through city departments and appointed and elected boards or committees prior to approval. As part of this process, the Community Development Department sends the application materials to applicable departments for their review and comment. This leads to a full evaluation of potential impacts and helps determine how the proposed conditional use relates to the review criteria.

Public Comment

Two integral parts of the review process are the conducting of public hearings and the solicitation of public comment. As of September 26, 2025, **zero comments have been received regarding the variance** request. Public comment received by this date is located in Appendix B.

Section 5 –Evaluation

The property at 415 Fuller Avenue currently has the land use of Financial Services and is zoned DT. The applicant is seeking to construct a mixed use development with less than the minimum 50% lot coverage.

Evaluation by City staff is based on compliance with Helena City Code. This evaluation of the proposed variance with City Code compliance does not constitute a recommendation to the Board of Adjustment and is not based on the Board of Adjustment review criteria outlined in Helena City Code 11-5-5.

The Applicant is requesting the following variances:

1. A variance from section 11-9-7 to reduce the minimum lot coverage from 50% to 40%, for a property with the address of 415 Fuller Avenue, Helena, Montana, 59601, the geocode of 05188830203150000, and legally described as:

A tract of land in the SW $\frac{1}{4}$ of Section 30, Township 10 North, Range 3 West, P.M.M., comprising a portion of the Henry Thompson Placer Mining Claim in the City of Helena, Lewis and Clark County, Montana, particularly described as follows, to wit:
Beginning at the intersection of the East line of Fuller Avenue and the South Line of Placer Avenue in said City of Helena, a nail, in the concrete sidewalk; thence S. 77° 59'05" E, 174.54 feet along the South line of Placer Avenue to a point from which a cross cut in the sidewalk bears N. 5°32'58" E, 2.00 feet; thence S. 5°32'58" W, 228.89 feet along the West line of an existing private alley to a cross cut in a concrete alley; thence S. 84°13'02" E, 21.78 feet to an

iron pin; thence S. 14°21'46" W, 36.53 feet to an iron pin; thence S. 89°45'16" W, 191.48 feet along the center line of an existing party wall to a point on the East line of Fuller Avenue in said City of Helena from which a cross cut in the sidewalk bears S. 89°45'16" W, 1.00 feet; thence N. 5°43'00" E, along the West line of Fuller Avenue in said City of Helena, 304.65 feet to the point of beginning, according to a Certificate of Survey of said tract, prepared and certified by Ralph A. Knauss, Montana Registered Land Surveyor, in January, 1978, and which appears on file under Document No. 286943 in the office of the Clerk and Recorder of Lewis and Clark County, Montana. TOGETHER WITH all and singular the improvements thereof and the tenements, hereditaments and appurtenances thereunto belonging, including (without limitation) the right to the non-exclusive use of the existing private alley located as shown in said Plat of Survey.

AND

A tract of land in the SW ¼, Section 30, T10N, R3W, M.P.M., Henry Thompson Placer Mining Claim, Lewis and Clark County, Montana.

The tract is more particularly described as commencing at the intersection of the east line of Fuller Avenue and the south line of Placer Avenue, a nail in the sidewalk. Then S 5°43'00" W 304.06' along the west line of Fuller Avenue to a point from which a cross in the sidewalk bears S 89°45'16" W, 1.00'. Then N 89°45'16" E, 191.48' along the centerline of an existing party wall to an iron pin. Then S 14°21'46" W, 32.39' to an iron pin. Then S 89°57'56" W, 186.54' along the south face of an existing wall to a point of the west line of Fuller Avenue from which a nail in the sidewalk bears N 89°57'56" W 1.00'. Then N 5°43'00" E, 30.82' to the point of beginning according to a Certificate of Survey of said tract prepared and certified by Ralph A. Knause, Montana Registered Land Surveyor in January, 1978, and which appears on file under Document No. 291781 in the office of the Clerk and Recorder of Lewis and Clark County, Montana. The tract containing 5,861 square feet and is subject to easements and encumbrances of record.

AND

The North ½ of a twelve-foot wide alley in Tracts D and E and the south six feet of Tracts B and C, as said Tracts are described in Book 108, pages 64 through 69 of Deeds on file in the office of the Clerk and Recorder of Lewis and Clark County, Montana.

AND

All that piece of parcel of land comprising parts of Lots numbered 14 and 25 of The Henry Thompson Placer mining Claim lying within the limits of said City of Helena and being more particularly described as follows to-wit: Beginning at a point in the east margin of Fuller Avenue as now laid out and used, said point of beginning being N. 5° 43' E. as distance of 6.04 feet from an iron pin which is at the intersection of the north boundary line of the Helena Townsite (according to the official or McIntire Survey) and the east margin of Fuller Avenue; thence N. 5° 43' E. a distance of 27.46 feet more or less, to the south wall of the said Evans Building, and produced, a distance of 166 feet, more or less, to the west line of the tract of land which was set aside for alley purposes in that certain deed from John B. Sanford, et al. to Donald Bradford, dated October 12, 1889, and recorded October 23, 1889, in Volume 10 of Deeds at page 268, records of said County of Lewis and Clark; thence S. 14° 34' W. along the west line of the alley as shown by the deed above referred to from John B. Sanford et al. to Donald Bradford, a distance of 28 feet, more or less to a point being N. 14°

34' W. a distance of 6.21 feet from the North boundary line of the Helena Townsite; thence S. 89° 34' W. a distance of 162.58 feet, more or less to the point of beginning. SUBJECT TO reservations contained in that certain Patent from the United States of America, recorded in Book "US" of Patents at page 242, records of said County of Lewis and Clark; AND SUBJECT ALSO TO a perpetual right and easement granted to the City of Helena for a storm sewer as disclosed by Decree recorded April 25, 1914 in Book 79 of Deeds at page 117, records of said County of Lewis and Clark.

ZONING EVALUATION for the property legally addressed as 415 Fuller Avenue, Helena, MT, located in the DT zoning district.

ZONING REQUIREMENT	Applicable ZONING REGULATION	PRESENT CONDITION	PROPOSAL	VARIANCE REQUIRED
City Code: §11-9-7 (A) (3)	50% minimum lot coverage	Existing non-conforming bank structure to be removed.	Construct two new residential buildings with first floor commercial spaces and parking garages, along with a one-story commercial building and two tenant parking structures. Total footprint of all structures will cover 40% of parcel.	Yes

Section 11-5-5 of the Helena Zoning Ordinance includes certain criteria that must be reviewed as part of the variance procedure.

- A) *Notice of the board's hearing of each application must be published in a newspaper of general circulation within the city once, at least fifteen (15) days prior to the hearing date.*
- B) *The board of adjustment shall hold a public hearing on the application to gather facts and information. Persons interested in the requested variance and community development department staff may testify at the public hearing.*
- C) *To approve a requested variance for a new building or portion thereof, the board of adjustment shall consider the following standards and find as follows:*
 - 1) *The variance will not create a significant risk to the public health, safety, or general welfare;*
 - 2) *The variance will not significantly reduce or impair the peaceful use of existing property or improvements in the vicinity and the zoning district in which the subject property is located; and*
 - 3) *Strict compliance with the provisions of this title would create unnecessary hardship or practical difficulty.*

- D) *In evaluating the standards in subsection C of this section, the board of adjustment may consider the following factors:*
- 1) *Special conditions and circumstances that are unique to the applicant's site, including the size of the property, unusual or extreme topography, or unusual shape of the property.*
 - 2) *The height, location, or dimensions of existing structures located on the site or in the vicinity of the site.*
 - 3) *Whether there is a prevalence of nonconformities in the vicinity of the site that are similar to the variance requested.*
 - 4) *The subsequent imposition of zoning restrictions creating nonconforming lots or parcels, and governmental actions beyond the applicant's control.*
 - 5) *Whether a literal interpretation of the provisions of this title would deprive the property owner of rights commonly enjoyed by other properties similarly situated in the same district under the terms of this title.*
 - 6) *The extent to which the hardship or difficulty results from the actions of the applicant.*
 - 7) *Whether granting the variance requested will confer an unreasonable special privilege to the subject property that is not available to other properties similarly located in the same zoning district.*
- E) *A property owner who desires to reconstruct a nonconforming building or nonconforming portion of a building must apply for a variance. When reviewing the variance to reconstruct a nonconforming building, the property owner is entitled to a rebuttable presumption that the standards in subsection C of this section are met if the property owner can prove the existence of the prior nonconformity and that the nonconformity can be in compliance with building and fire codes.*
- F) *The board of adjustment may impose conditions to minimize adverse impacts that the variance may have on the public health, safety, or general welfare. Any approval that includes conditions is subject to the terms of the conditions. Conditions stated in the approval may include, but are not limited to:*
- 1) *A time period in which the proposed structure shall be completed; and*
 - 2) *Other conditions necessary to mitigate adverse effects from the variance.*
- G) *Any variance from the maximum number of off street parking spaces, as specified in section 11-22-6 of this title, must require that a minimum of twenty percent (20%) of the parking area be landscaped in accordance with the standards in chapter 22 of this title. This landscaping is in addition to the requirements of chapter 24 of this title. The board of adjustment may also place conditions, within applicable city code provisions, on the location and permissible types of surfacing materials for off street parking and loading areas.*
- H) *If a variance to the zero foot setback is requested in Downtown or Transitional Residential Districts, the maximum setback allowable along the primary and secondary lot line cannot exceed ten (10) ft.*

STAFF ANALYSIS OF EVALUATION FACTORS STATED IN HELENA CITY CODE 11-5-5

1. *Special conditions and circumstances that are unique to the applicant's site including the size of the property, unusual or extreme topography, of unusual shape of the property.*

The site has one feature that must be maintained, the underground storm sewer, and

one feature that should be maintained, the historic chimney from the heating plant. Due to these two conditions, the site becomes split into two developable portions. Additionally, the need to maintain an access to the private alley to maintain resident and emergency access during the closure of Fuller Avenue for the seasonal farmers market creates further restrictions on the location of the proposed structures while they maintain the zero setback requirement of the Downtown Code.

2. *The height, location, or dimensions of existing structures located on the site or in the vicinity of the site.*

The present use of the site will be removed with this proposal. All above surface improvements on the lot, with the exception of a historic—but non-registered—brick chimney, will be removed for this project.

The height of the 4 story structures will be slightly higher than the adjacent properties, but it is generally consistent with the overall height of the downtown area and permitted by right in the DT (Downtown) zoning district.

3. *Whether there is a prevalence of nonconformities in the vicinity of the site that are similar to the variance requested.*

Nearby properties have the following non-conforming lot coverage:

- The Montana Masonic Foundation at 425 N Park Avenue has 17.65% lot coverage.
- The Law and Justice Center at 406 Fuller Avenue has 36.33% lot coverage.
- Finstad's Carpet One/Cheddars at 501 Fuller Avenue has 38.6% lot coverage.
- The office building at 555 Fuller Avenue has 45.02% lot coverage.
- The post office at 500 North Last Chance Gulch has 28% lot coverage.
- The Budget Inn at 523 North Last Chance Gulch has 30% lot coverage.

4. *The subsequent imposition of zoning restrictions creating nonconforming lots or parcels and governmental actions beyond the applicant's control.*

As the property will be a clean slate development, the only condition beyond the applicant's control is the location of the easement for the stormwater sewer that runs from the southwest of the property to the northeast corner.

5. *Whether a literal interpretation of the provisions of this title would deprive the property owner of the rights commonly enjoyed by other properties similarly situated in the same district under the terms of this title.*

Since the implementation of the Downtown zoning code, there have been very few projects that have been constructed from a vacant site condition and subject to the minimum lot coverage. In March of 2024, a lot coverage variance was obtained by the Bell Hotel at 40 East Lyndale to reduce their maximum lot coverage to 35%.

6. *The extent to which the hardship or difficulty results from the actions of the applicant.*

While the City of Helena Downtown Zoning code does not require parking minimums, the applicant has chosen to provide a combination of garage and surface parking on the site. This is partially driven by the location of the storm sewer easement, but the

additional parking is to meet market demands and not City requirements.

7. *Whether granting the variance requested will confer an unreasonable special privilege to the subject property that is not available to the other properties similarly located in the same zoning district.*

Since the adoption of the Downtown zoning code, two new construction buildings have been permitted, one of which required a variance for a reduction to 35% lot coverage. Relief from lot coverage minimums, while partially driven by market needs for viable development, is not unprecedented in this zoning district to allow for increased parking through a lot coverage variance.

8. *Do you think a rebuttable presumption, as identified in City Code Section 11-5-5(E), should apply to your property, yes or no? For example, do you have an existing non-conforming structure that you wish to rebuild in the same location? If yes, show the original footprint of the building. Provide documentation that proves the existence of the prior nonconformity. Document that the nonconformity can be in compliance with building and fire codes.*

No, this project does not replace an existing nonconformity in a similar manner.

9. *Provide any additional information you would like the Board to Consider.*

As this is a rare new construction development in the downtown, the Board should consider the intent of the Downtown zoning code in “encourag[ing] the creation and preservation of mixed-use development opportunities, including a wide range of housing options serving a wide range of incomes and demographics; to provide for the protection and enhancement of historic and cultural resources; to establish minimum requirements and responsibilities for the installation of public improvements in support of redevelopment; and to encourage desirable site design for all development occurring in the districts.”

Section 6 – Department Comments

During the review process, relevant City departments provide comments on variance proposals. The following responses have been provided by the department’s designated representatives.

Transportation:	No Physical Access for SE Lot Per City Code, all lots must have legal and physical access to public rights-of-way (ROW). The proposed SE lot does not touch any public ROW.
Legal:	No comment.
Utility:	No comment.
Fire:	Full plans and details for site design and building construction must be submitted to the Helena Fire Department for review, approval, permits, and inspection before beginning any work. The current adopted International Fire Code, and all associated standards will be used for reviewing this project when plans are submitted.
Engineering:	No comment.

Building: Building Div. has no concerns about the variance.

Section 7 – Variance Motion

It is the recommendation of the City Attorney's Office that staff does not make a recommendation to approve or deny a variance.

If the Board of Adjustment approves the requested variances, the following conditions are recommended:

Building Permit: A building permit must be obtained within one (1) year

Variance Motions:

1. A variance from section 11-9-7 to reduce the minimum lot coverage from 50% to 40%, for a property with the address of 415 Fuller Avenue, Helena, Montana, 59601, the geocode of 05188830203150000, and legally described as:

A tract of land in the SW $\frac{1}{4}$ of Section 30, Township 10 North, Range 3 West, P.M.M., comprising a portion of the Henry Thompson Placer Mining Claim in the City of Helena, Lewis and Clark County, Montana, particularly described as follows, to wit:
Beginning at the intersection of the East line of Fuller Avenue and the South Line of Placer Avenue in said City of Helena, a nail, in the concrete sidewalk; thence S. 77° 59'05" E, 174.54 feet along the South line of Placer Avenue to a point from which a cross cut in the sidewalk bears N. 5°32'58" E, 2.00 feet; thence S. 5°32'58" W, 228.89 feet along the West line of an existing private alley to a cross cut in a concrete alley; thence S. 84°13'02" E, 21.78 feet to an iron pin; thence S. 14°21'46" W, 36.53 feet to an iron pin; thence S. 89°45'16" W, 191.48 feet along the center line of an existing party wall to a point on the East line of Fuller Avenue in said City of Helena from which a cross cut in the sidewalk bears S. 89°45'16" W, 1.00 feet; thence N. 5°43'00" E, along the Was line of Fuller Avenue in said City of Helena, 304.65 feet to the point of beginning, according to a Certificate of Survey of said tract, prepared and certified by Ralph A. Knauss, Montana Registered Land Surveyor, in January, 1978, and which appears on file under Document No. 286943 in the office of the Clerk and Recorder of Lewis and Clark County, Montana. TOGETHER WITH all and singular the improvements thereof and the tenements, hereditaments and appurtenances thereunto belonging, including (without limitation) the right to the non-exclusive use of the existing private alley located as shown in said Plat of Survey.

AND

A tract of land in the SW $\frac{1}{4}$, Section 30, T10N, R3W, M.P.M., Henry Thompson Placer Mining Claim, Lewis and Clark County, Montana.
The tract is more particularly described as commencing at the intersection of the east line of Fuller Avenue and the south line of Placer Avenue, a nail in the sidewalk. Then S 5°43'00" W 304.06' along the west line of Fuller Avenue to a point from which a cross in the sidewalk bears S 89°45'16" W, 1.00'. Then N 89°45'16" E, 191.48' along the centerline of an existing party wall to an iron pin. Then S 14°21'46" W, 32.39' to an iron pin. Then S 89°57'56" W, 186.54' along the south face of an existing wall to a point of the west line of Fuller Avenue from which a nail in the sidewalk bears N 89°57'56" W 1.00'. Then N 5°43'00" E, 30.82' to the point of beginning according to a Certificate of Survey of said tract prepared and certified by Ralph A. Knause, Montana Registered Land Surveyor in January, 1978, and

which appears on file under Document No. 291781 in the office of the Clerk and Recorder of Lewis and Clark County, Montana. The tract containing 5,861 square feet and is subject to easements and encumbrances of record.

AND

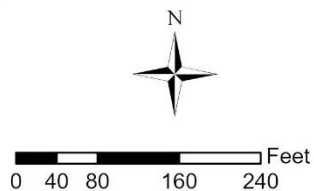
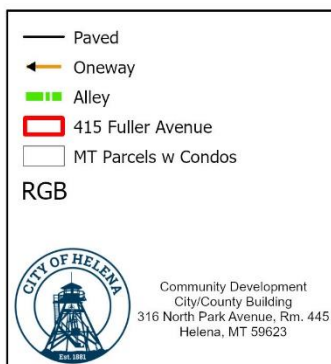
The North $\frac{1}{2}$ of a twelve-foot wide alley in Tracts D and E and the south six feet of Tracts B and C, as said Tracts are described in Book 108, pages 64 through 69 of Deeds on file in the office of the Clerk and Recorder of Lewis and Clark County, Montana.

AND

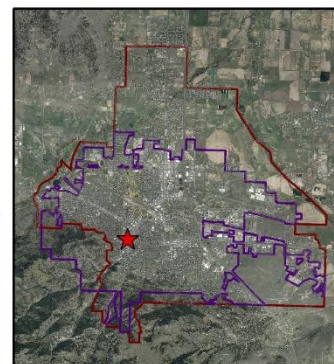
All that piece of parcel of land comprising parts of Lots numbered 14 and 25 of The Henry Thompson Placer mining Claim lying within the limits of said City of Helena and being more particularly described as follows to-wit: Beginning at a point in the east margin of Fuller Avenue as now laid out and used, said point of beginning being N. $5^{\circ} 43' E.$ as distance of 6.04 feet from an iron pin which is at the intersection of the north boundary line of the Helena Townsite (according to the official or McIntire Survey) and the east margin of Fuller Avenue; thence N. $5^{\circ} 43' E.$ a distance of 27.46 feet more or less, to the south wall of the said Evans Building, and produced, a distance of 166 feet, more or less, to the west line of the tract of land which was set aside for alley purposes in that certain deed from John B. Sanford, et al. to Donald Bradford, dated October 12, 1889, and recorded October 23, 1889, in Volume 10 of Deeds at page 268, records of said County of Lewis and Clark; thence S. $14^{\circ} 34' W.$ along the west line of the alley as shown by the deed above referred to from John B. Sanford et al. to Donald Bradford, a distance of 28 feet, more or less to a point being N. $14^{\circ} 34' W.$ a distance of 6.21 feet from the North boundary line of the Helena Townsite; thence S. $89^{\circ} 34' W.$ a distance of 162.58 feet, more or less to the point of beginning. SUBJECT TO reservations contained in that certain Patent from the United States of America, recorded in Book "US" of Patents at page 242, records of said County of Lewis and Clark; AND SUBJECT ALSO TO a perpetual right and easement granted to the City of Helena for a storm sewer as disclosed by Decree recorded April 25, 1914 in Book 79 of Deeds at page 117, records of said County of Lewis and Clark.

Appendix A – Maps

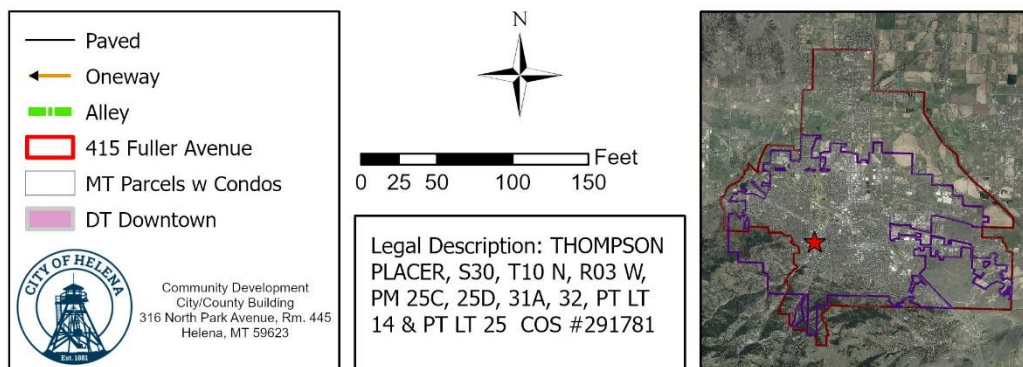
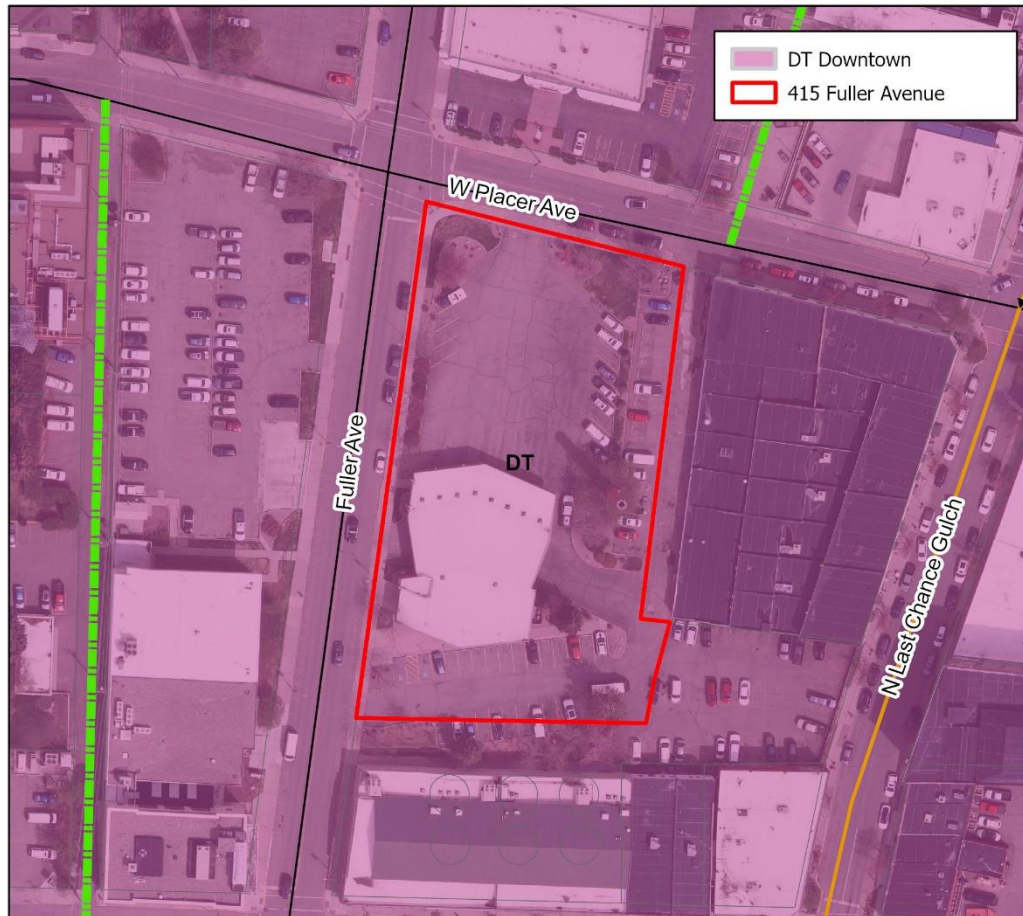
415 Fuller Avenue Vicinity Map



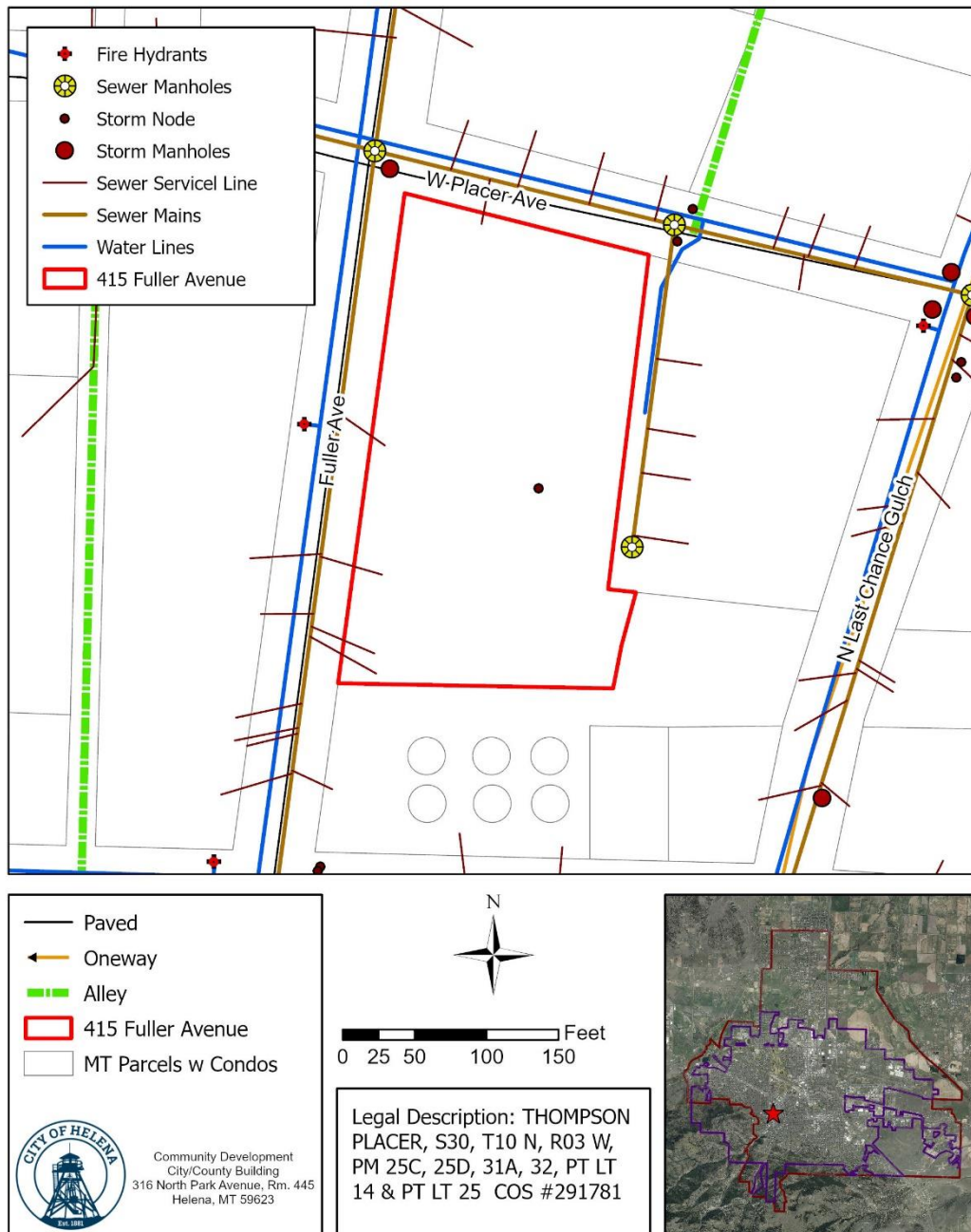
Legal Description: THOMPSON
PLACER, S30, T10 N, R03 W,
PM 25C, 25D, 31A, 32, PT LT
14 & PT LT 25 COS #291781



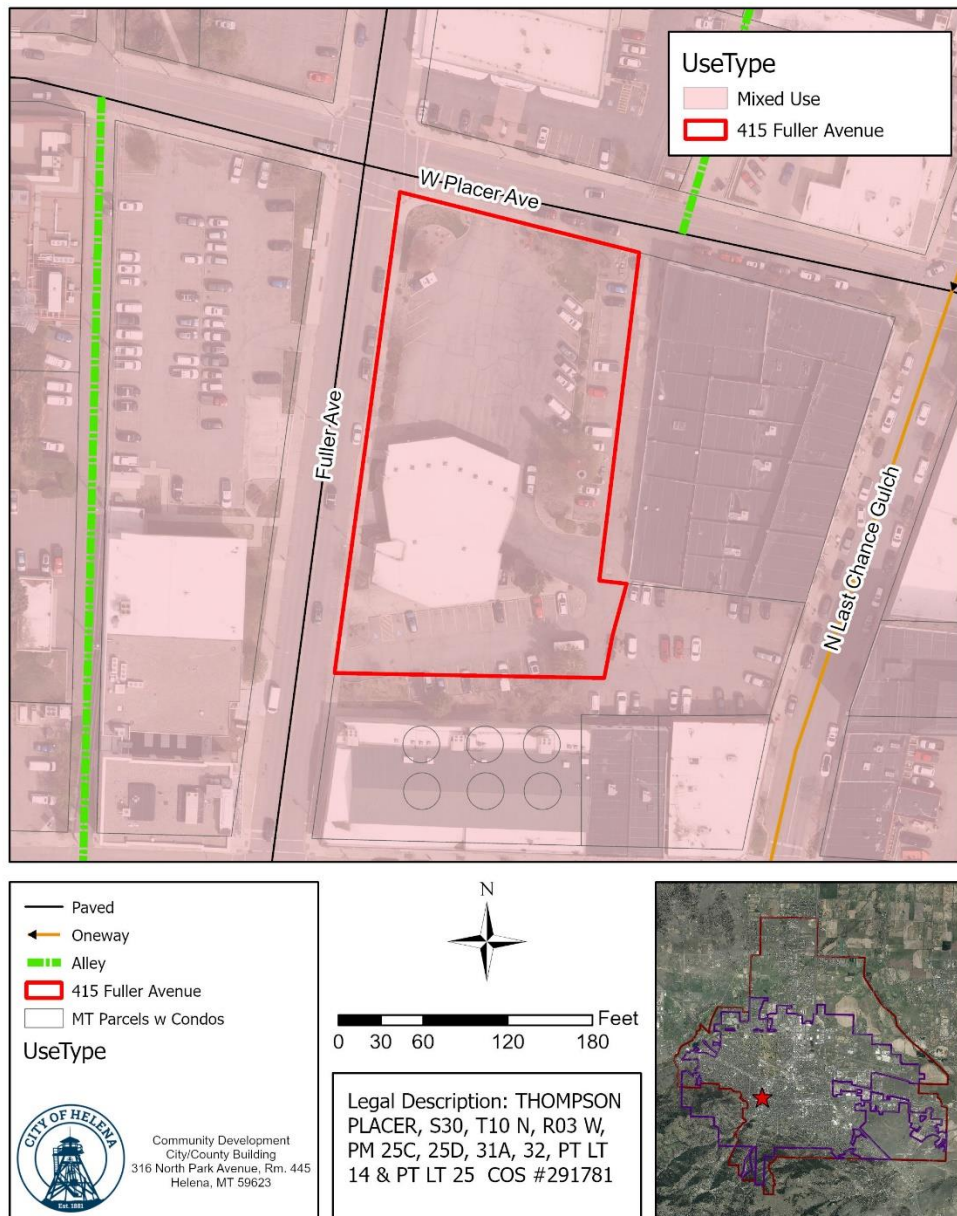
415 Fuller Avenue Zoning Map



415 Fuller Avenue Utility Map



415 Fuller Avenue Future Land Use



Appendix B –Public Comment

**City of Helena Board of Adjustment Variance
Application
415 Fuller Avenue Development
WGM Project Number: 250319
August 27, 2025**



PROJECT INTRODUCTION

The proposed project is a multi-phased redevelopment located at 415 Fuller Avenue within the DT Downtown zoning district. The property is legally described as THOMPSON PLACER, S30, T10 N, R03 W, PM 25C, 25D, 31A, 32, PT LT 14 & PT LT 25 COS #291781, however a boundary line relocation is also being processed at this time. Per the City of Helena, all four lots will be considered one development parcel for this variance request.

The project will begin with the demolition of the existing Wells Fargo building, replacing a single-use commercial structure with a mixed-use development that better supports the goals of the district and the 2019 Growth Policy. The new development will provide 19 residential units, ground-floor commercial space, and structured parking in a design that fits the scale and character of downtown.

The first phase will consist of Building 1, located on the north portion of the site off Placer Avenue, which includes ground-floor commercial space and parking, with nine condominium units above on three floors. Following completion of Building 1, a second building will be constructed along Fuller Avenue. Building 2 will be designed to closely mirror Building 1, with commercial on the ground floor and 10 condominium units on the three floors above. In addition to the two primary buildings, the project will include private garages for condominium owners, designed as 20-foot by 30-foot units separated by one-hour fire-rated construction, as well as a standalone commercial space. A conceptual development plan has been provided in **Attachment D**. Some modifications after approval may be necessary to accommodate topography, utilities, etc.

This request for variance is due to an underground public stormwater system that traverses the site from the southwest to the northeast corner, creating significant limitations on the buildable area. The underground utility not only reduces the developable square footage but also effectively divides the property into two irregularly shaped buildable areas. As a result, the project is limited to a maximum 40% lot coverage, which falls short of the DT Downtown district's 50% minimum requirement. Without this constraint, the project could likely otherwise meet the building coverage standard.

The redevelopment of this site provides a clear community benefit by transforming an underutilized commercial parcel into a mixed-use project that aligns with the City's downtown vision. Approval of the variance will allow the project to move forward while respecting the unique site conditions and ensuring a more functional and context-appropriate redevelopment.

Supporting documents for the variance application are listed below:

Attachment A – Section D Narrative Responses

Attachment B – Vicinity Map

Attachment C – Existing Conditions Exhibit

Attachment D – Proposed Development Exhibit

Attachment E – Floodplain Exhibit

Attachment F – Zoning Exhibit



Attachment G – Land Use Exhibit
Attachment H – Lot Coverage Exhibit
Attachment I – Property Deed
Attachment J – Proof of Tax Payment





BOARD OF ADJUSTMENT VARIANCE APPLICATION

Community Development Department, Planning Division

316 North Park Avenue, Room 445, Helena, MT 59623

406-447-8490; citycommunitydevelopment@helenamt.gov

Date received:

PROPERTY OWNER: *Primary Contact?* ☐

Name: _____

Primary Number: _____

Address: _____

Other Phone: _____

Email: _____

APPLICANT (If different from property owner): *Primary Contact?* ☐

Name: _____

Primary Number: _____

Address: _____

Other Phone: _____

Email: _____

Company: _____

AUTHORIZED REPRESENTATIVE: *Primary Contact?* ☐

Name: Dylan Pipinich

Primary Number: (406) 728-4611

Address: 1111 W Broadway, Missoula, MT 59802

Other Phone: _____

Email: dpipinich@wgmggroup.com

Company: WGM Group, Inc.

Section A: PLEASE PROVIDE THE INFORMATION REQUESTED BELOW.

☒ Address of Property 415 Fuller Avenue, Helena, MT 59601
Address City State Zip Code

☒ Legal Description (Block & Lots, Subdivision, COS#) _____
THOMPSON PLACER, S30, T10 N, R03 W, PM 25C, 25D, 31A, 32, PT LT 14 & PT LT 25 COS #291781

☒ Geocode 05-1888-30-2-03-15-0000

☐ The most recent deed for impacted property

☒ Lot or Parcel Size (square feet) 57,934.8 square feet

☒ Current and proposed use of structure or property: vacant property

☒ Current Zoning District DT Downtown

☐ Are there other related Land Use Applications being submitted: Yes ☐ No ☐

☐ Submit proof of current paid taxes

☒ 1 copy of a scaled site plan and supporting data/documents. The site plan must clearly show the existing standard and the proposed variance to the standard.

Section B: INDICATE WHICH VARIANCE(S) IS (ARE) BEING REQUESTED AND THE EXTENT OF THE VARIANCE.

EXAMPLE: [X] Reduce Front Lot Line Setback: *From the required 10 feet to 3 feet.*

Please provide all the information requested in the Application. An incomplete application may delay the review of your request. Please note: "N/A" is not an acceptable answer alone and requires an explanation if used.

Dimensional Criteria:

- ☐ Reduce front lot line setback: _____
- ☐ Front lot line setback #2 (corner lot): _____
- ☐ Reduce garage entrance setback: _____
- ☐ Reduce side lot line setback: _____
- ☐ Reduce rear lot line setback: _____
- ☐ Exceed building height limitation: _____

Lot Coverage/Area Criteria:

- ☒ Lot coverage percentage: Proposed development lot coverage is 40%
- ☐ Front porch lot coverage percentage: _____
- ☐ Lot area per dwelling unit: _____

Landscaping Criteria:

- ☐ Reduce or eliminate landscaping area: _____
- ☐ Reduce or eliminate screening: _____

Parking Criteria:

- ☐ Exceed the maximum parking spaces allowed: _____
- ☐ Reduce the amount of required on-site parking spaces: _____
- ☐ Reduce or eliminate loading berths: _____
- ☐ Reduce or eliminate required bicycle spaces: _____
- ☐ Reduce size of parking space: _____

Sign Criteria:

- ☐ Sign area (square footage): _____
- ☐ Sign height: _____
- ☐ Sign location: _____
- ☐ Number of signs: _____

☐

Other:

Section C: BOARD OF ADJUSTMENTS VARIANCE REVIEW CRITERIA.

To approve a requested variance for a new building or portion thereof, the Board of Adjustment shall consider the following standards in section 11-5-5 of the Helena City Code and find as follows:

1. The variance will not create a significant risk to the public health, safety, or general welfare;
2. The variance will not significantly reduce or impair the peaceful use of existing property or improvements in the vicinity and the zoning district in which the subject property is located; and
3. Excluding monetary hardship, strict compliance with the provisions of this title would create unnecessary hardship or practical difficulty.

These are the standards your application for variance will be judged on. Your answers in section D should speak to the review criteria.

It is the applicant's burden of proof to show that a variance should be granted. As part of your application, you are required to provide information for each of the following factors including all alternatives considered. Failure to provide adequate responses or requested documentation may result in a returned application.

Section D: EVALUATION FACTORS

1. **Special conditions and circumstances that are unique to the applicant's site, including the size of the property, unusual or extreme topography, or unusual shape of the property.**

If the above condition applies, state the specific factors and provide supporting documentation. For example, if the variance request is due to an abnormal lot configuration, provide a survey of the lot that specifically demonstrates the issue.

Please see Attachment A for narrative response

2. **The height, location, or dimensions of existing structures located on the site or in the vicinity of the site.**

Ex: How is the proposed variance compatible with the other structures located on the site or in the vicinity of the site? On the site plan you provide, please represent accurately and to scale the height, location, and dimensions of existing structures.

Please see Attachment A for narrative response

3. **Whether there is a prevalence of nonconformities in the vicinity of the site that are similar to the variance requested.**

If so, what are those nonconformities and provide supporting documentation.

Please see Attachment A for narrative response

4. **The subsequent imposition of zoning restrictions creating nonconforming lots or parcels, and governmental actions beyond the applicant's control.**

Is the need for a variance request a result of government action? For example, the front yard setbacks were increased after construction of the structure, thereby creating the non-conformity. Explain.

Please see Attachment A for narrative response

5. **Whether a literal interpretation of the provisions of this title would deprive the property owner of rights commonly enjoyed by other properties similarly situated in the same district under the terms of this title.**

For example, would the denial of the variance deny the property owner the right to safe placement of a garage where garages are typical? If so, explain.

Please see Attachment A for narrative response

6. The extent to which the hardship or difficulty results from the actions of the applicant.

Explain the extent of the circumstances that are creating hardship or difficulty in compliance with the City Code and list alternatives and options considered by the applicant. Provide supporting documentation.

Please see Attachment A for narrative response

7. Whether granting the variance requested will confer an unreasonable special privilege to the subject property that is not available to other properties similarly located in the same zoning district.

Please see Attachment A for narrative response

8. Do you think a rebuttable presumption, as identified in City Code Section 11-5-5(E), should apply to your property, yes or no? For example, do you have an existing non-conforming structure that you wish to rebuild in the same location? If yes, show the original footprint of the building. Provide documentation that proves the existence of the prior nonconformity. Document that the nonconformity can be in compliance with building and fire codes.

Please see Attachment A for narrative response

9. Provide any additional information you would like the Board to consider.

IT IS THE POLICY OF THE CITY OF HELENA'S BOARD OF ADJUSTMENT TO NOT ACT ON A PROPOSAL IF THE APPLICANT/PROPERTY OWNER OR REPRESENTATIVE IS NOT PRESENT AT THE BOARD OF ADJUSTMENTS HEARING. CITY STAFF REPRESENT THE CITY AND CANNOT ANSWER QUESTIONS ON BEHALF OF THE APPLICANT AT THE BOARD OF ADJUSTMENT HEARINGS.

I HEREBY CERTIFY AND ACKNOWLEDGE THE STATEMENTS IN THIS APPLICATION AND ANY ATTACHED INFORMATION ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

Signed: _____ Date: _____
Property Owner

Applicant: _____ Date: _____
(If different from Owner)

(Property owner must sign application)

It is recommended that the applicant contact neighbors to inform them of proposal and identify any concerns that the applicant may be able to address.

City Planning Staff represents the City; staff cannot answer questions for the applicant.

ATTACHMENT A

SECTION D NARRATIVE RESPONSES



**City of Helena Board of Adjustment Variance
Application
415 Fuller Avenue Development
WGM Project Number: 250319
August 27, 2025**



VARIANCE APPLICATION SECTION D: EVALUATION FACTORS

- 1. Special conditions and circumstances that are unique to the applicant's site, including the size of the property, unusual or extreme topography, or unusual shape of the property.**

If the above condition applies, state the specific factors and provide supporting documentation. For example, if the variance request is due to an abnormal lot configuration, provide a survey of the lot that specifically demonstrates the issue.

Response: The subject property is encumbered by an underground stormwater system that crosses the site and significantly limits the buildable area. This existing public utility easement reduces the portion of the lot available for development and prevents the project from meeting the minimum 50 percent building coverage requirement in the DT Downtown zoning district. The restriction is unique to this property, as the location and alignment of the stormwater infrastructure are site-specific and not typical of other parcels in the district.

Supporting documentation, including a site plan and utility information, is provided and illustrates the location of the stormwater system and the resulting reduction in buildable area. The site plan also includes a calculation of gross lot square footage compared to net lot square footage (minus non-buildable area which includes the stormwater easement area, other utility easement areas that are not being relocated, and irregularly shaped remainder areas, near the existing historic brick chimney), which demonstrates a building coverage of 48 percent. The developer acknowledges that this remains below the 50 percent minimum; however, because the stormwater system runs from the southwest to the northeast corner of the property, the placement of the public utility further compounds the non-buildable area by dividing the site into two irregularly shaped areas of buildable land. Without this constraint, the project could otherwise meet the building coverage requirements of the district. Some modifications to the site plan after approval may be necessary to accommodate topography, utilities, etc.

- 2. The height, location, or dimensions of existing structures located on the site or in the vicinity of the site.**

Ex: How is the proposed variance compatible with the other structures located on the site or in the vicinity of the site? On the site plan you provide, please represent accurately and to scale the height, location, and dimensions of existing structures.

Response: While a number of the buildings in this area (including the existing Wells Fargo building) appear to have built over the existing stormwater system and easement, this is not ideal, nor should it be perpetuated. Given this, the proposed development is designed to be consistent with the scale, character, and function of nearby downtown buildings. Building 1 will front Placer Avenue with a first-floor commercial space and parking, topped by three stories of residential condominiums. This mixed-use format reflects the goals for development in the DT Downtown zoning district, where ground-floor commercial uses are complimented by upper-



story residential. The planned height is compatible with other multi-story buildings in the vicinity, and the commercial space supports the walkable, pedestrian-oriented character of the district.

The second phase, Building 2, will be constructed along Fuller Avenue and designed to closely mirror the scale and appearance of Building 1. Together, the two buildings will provide approximately 19 condominium units, private garages for residents, and dedicated commercial space, all of which integrate well with the surrounding mixed-use character of downtown Helena.

3. Whether there is a prevalence of nonconformities in the vicinity of the site that are similar to the variance requested.

If so, what are those nonconformities and provide supporting documentation.

Response: The minimum lot coverage requirement is 50 percent. The subject property currently has a lot coverage of 16 percent and will increase to a maximum 40 percent with the proposed development. While this remains below the minimum standard, the surrounding neighborhood demonstrates a prevalence of similar nonconformities.

As shown in the attached lot coverage exhibit (**Attachment H**), more than half of the adjacent properties fall below the 50 percent minimum lot coverage requirement showing that nonconforming lot coverage is common in the vicinity. Additionally, the subject property's proposed maximum 40 percent coverage would be within the existing range of neighboring development patterns and more consistent with adjacent lots than its current 16 percent.

4. The subsequent imposition of zoning restrictions creating nonconforming lots or parcels, and governmental actions beyond the applicant's control.

Is the need for a variance request a result of government action? For example, the front yard setbacks were increased after construction of the structure, thereby creating the nonconformity. Explain.

Response: The need for this variance results from circumstances beyond the applicant's control. The stormwater system crossing the property is a pre-existing public utility that predates this development proposal. While the system itself is not new, the subsequent imposition of zoning regulations, specifically the 50 percent minimum lot coverage standard in the DT Downtown zoning district, creates a hardship situation for this parcel. Because of the stormwater system, the property cannot physically achieve the required coverage while still providing essential components of downtown development, such as commercial space, residential units, and parking for residents.

In this case, it is the combination of governmental actions: the placement of critical public infrastructure on the property and the later adoption of a coverage requirement that has created the need for a variance. The applicant is not responsible for these conditions and fully supports the goals of the DT zoning district but without a variance the site would be restricted in its ability to contribute to the creation and preservation of mixed-use development opportunities.

5. Whether a literal interpretation of the provisions of this title would deprive the property owner of rights commonly enjoyed by other properties similarly situated in the same district under the terms of this title.

For example, would the denial of the variance deny the property owner the right to safe placement of a garage where garages are typical? If so, explain.



Response: A literal interpretation of the 50 percent minimum lot coverage requirement would deprive the property owner of rights commonly enjoyed by others in the DT Downtown zoning district. While it might be technically possible to design a building that meets the minimum coverage, doing so on this site would eliminate necessary features and amenities such as on-site parking for residents and the commercial space, two access points off Fuller Avenue, and access to the private alley and through access from Fuller Avenue to the “Full Lot” to the east as required by the Fire Department.

Additionally, during the pre-application meeting the Client and the City of Helena discussed the presence of the historic heating plant chimney on the east side of the property and the desire to leave it in place. Maintaining the chimney will add character to the site and support the 2019 Growth Policy by integrating Helena’s rich history with the amenities of a mixed-use development in an active downtown.

The proposed design will provide an active ground-floor commercial space, three stories of residential condominiums above, and private parking garages for residents which are consistent with the goals of the Downtown district. Other properties in the district either do not meet the 50 percent lot coverage minimum or are not encumbered by public infrastructure are able to meet the coverage standard. Without the variance, this property would be limited and unable to contribute the same mix of housing and commercial activity.

- 6. The extent to which the hardship or difficulty results from the actions of the applicant.** Explain the extent of the circumstances that are creating hardship or difficulty in compliance with the City Code and list alternatives and options considered by the applicant. Provide supporting documentation.

Response: The hardship in meeting the minimum 50 percent lot coverage requirement does not result from the actions of the applicant. The constraint is due to the existing stormwater system that runs through the property, which restricts the buildable area and prevents the site from reaching the required coverage without restricting site access and/or eliminating portions of the residential and commercial parking. This system is a pre-existing public utility that the applicant must accommodate and is not the result of any development decision made by the property owner.

Alternatives were considered, including the potential use of the alley to the east to provide access or relieve site constraints. However, this alley is a private alley with a shared easement, and reliance on it is not a feasible or reliable option for this development. As a result, the applicant cannot reasonably meet the minimum coverage requirement without creating conflicts with the stormwater infrastructure or reducing critical project components such as parking for residents.

- 7. Whether granting the variance requested will confer an unreasonable special privilege to the subject property that is not available to other properties similarly located in the same zoning district.**

Response: Granting the requested variance will not confer any unreasonable special privilege to this property that is not available to other properties in the DT Downtown zoning district. The variance request comes solely from the presence of the stormwater system running through the site, which reduces the buildable area and makes strict compliance with the minimum 50 percent lot coverage requirement infeasible. Other downtown parcels that are not encumbered



by public infrastructure are able to meet the coverage standard and develop to their full potential.

The variance will allow this property to be developed in a manner consistent with its neighbors and deliver a mixed-use commercial and residential space with on-site parking while accommodating the site-specific constraints created by existing stormwater infrastructure. The result will be a project that aligns with the intent of the Downtown zoning district without granting the applicant any benefit beyond what is already available to other properties.

8. **Do you think a rebuttable presumption, as identified in City Code Section 11-5-5(E), should apply to your property, yes or no? For example, do you have an existing non-conforming structure that you wish to rebuild in the same location? If yes, show the original footprint of the building. Provide documentation that proves the existence of the prior nonconformity. Document that the nonconformity can be in compliance with building and fire codes.**

Response: A rebuttable presumption does not apply to this project because, while the existing building does not meet the 50 percent minimum lot coverage requirement, the proposed development will not be reconstructed in the same location.



ATTACHMENT B

VICINITY MAP





WGMGROUP
WWW.WGMGROUP.COM



0 500 1,000
1 inch = 1,000 feet

VICINITY MAP EXHIBIT
415 FULLER AVENUE
HELENA, MONTANA

Disclaimer: This map is neither a legally recorded map nor a survey and is not intended to be used as such. WGM Group does not guarantee the accuracy, current status, or completeness of the material contained herein and is not responsible for any misuse or misrepresentation of this information or its derivatives. This map is a graphic representation and is to be used for general planning purposes only.

PROJECT: 25-03-19
FILE NO: 250319_vicinity.mxd
FILE PATH: W:\PROJECTS\250319\GIS\MXD
DRAFT: CEG
APPROVE: JE
DATE:

AUGUST 2025

SHEET

1 OF 1

ATTACHMENT C

EXISTING CONDITIONS EXHIBIT





WGM GROUP
WWW.WGMGROUP.COM

PRELIMINARY

PLOTTED: 8/22/25
SAVED: 8/22/25

EXISTING CONDITIONS MAP
415 FULLER AVENUE
HELENA, MONTANA

REVISIONS:		
NO.	DESCRIPTION	DATE

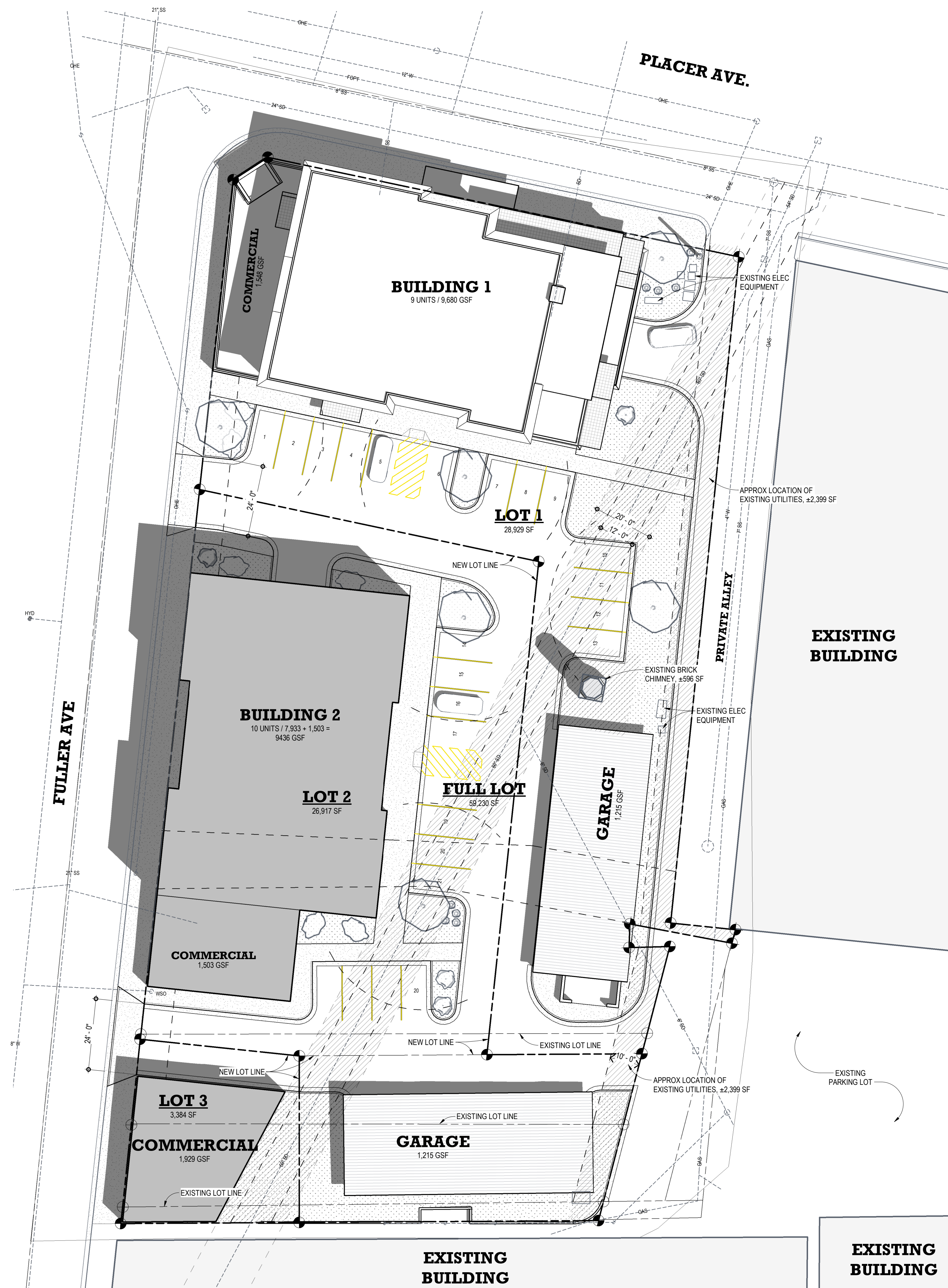
PROJECT: 25-03-19
LAYOUT: D-SIZE
SURVEYED: --
DESIGN: --
DRAFT: CEG
APPROVE: DP/JE
DATE:

AUGUST 2025

ATTACHMENT D

PROPOSED DEVELOPMENT EXHIBIT





ATTACHMENT E

FLOODPLAIN EXHIBIT





PRELIMINARY

PLOTTED: 8/22/25
SAVED: 8/22/25

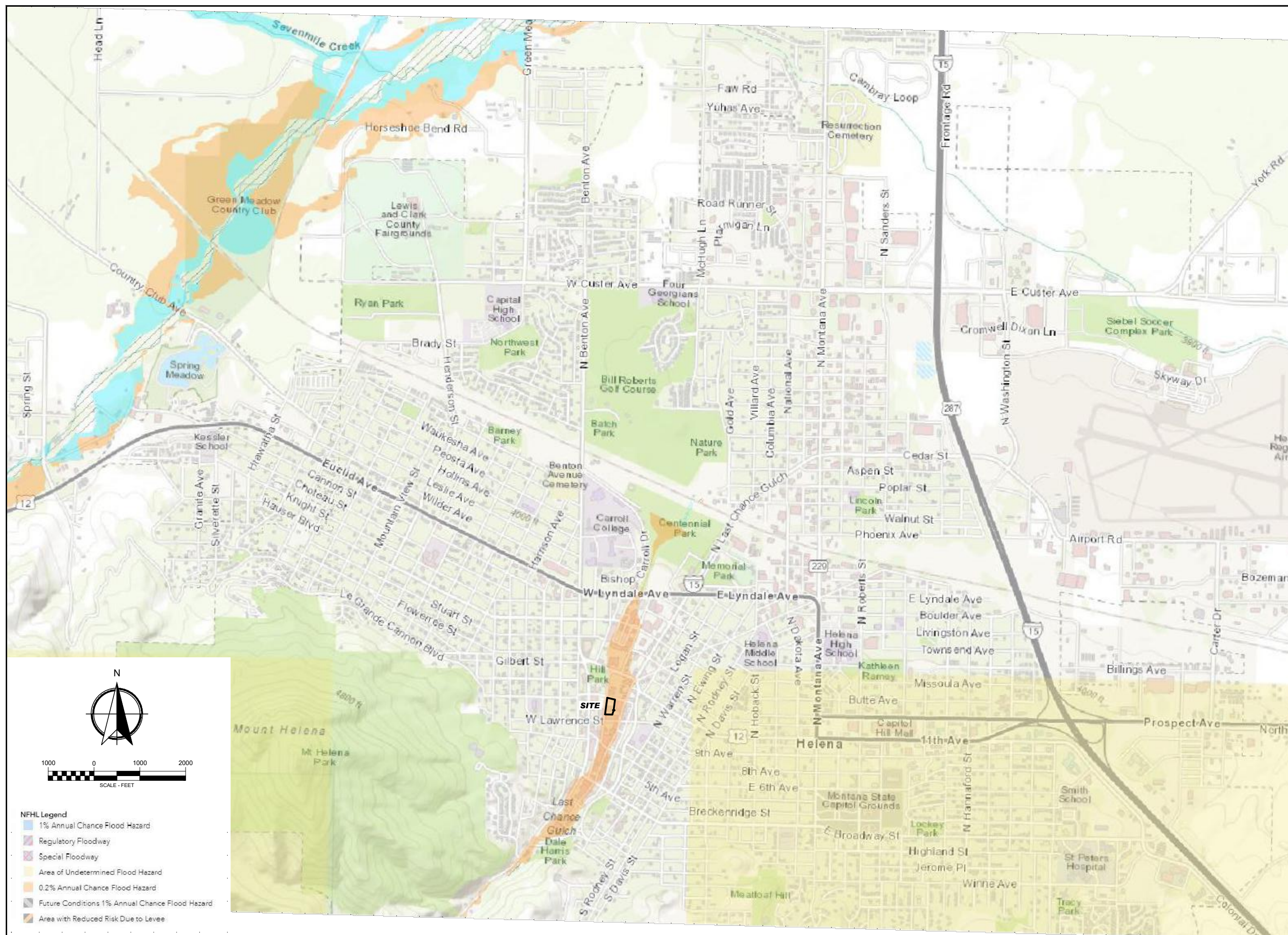
FLOODPLAIN EXHIBIT
415 FULLER AVENUE
HELENA, MONTANA

[illegible]

PROJECT: 25-03-19
LAYOUT: D-SIZE
SURVEYED: ---
DESIGN: ---
DRAFT: CEG
APPROVE: DP/JE
DATE:

AUGUST 2025

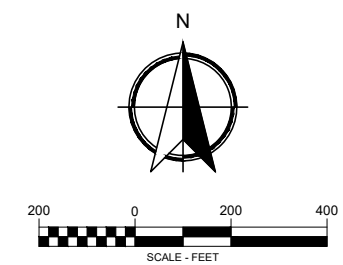
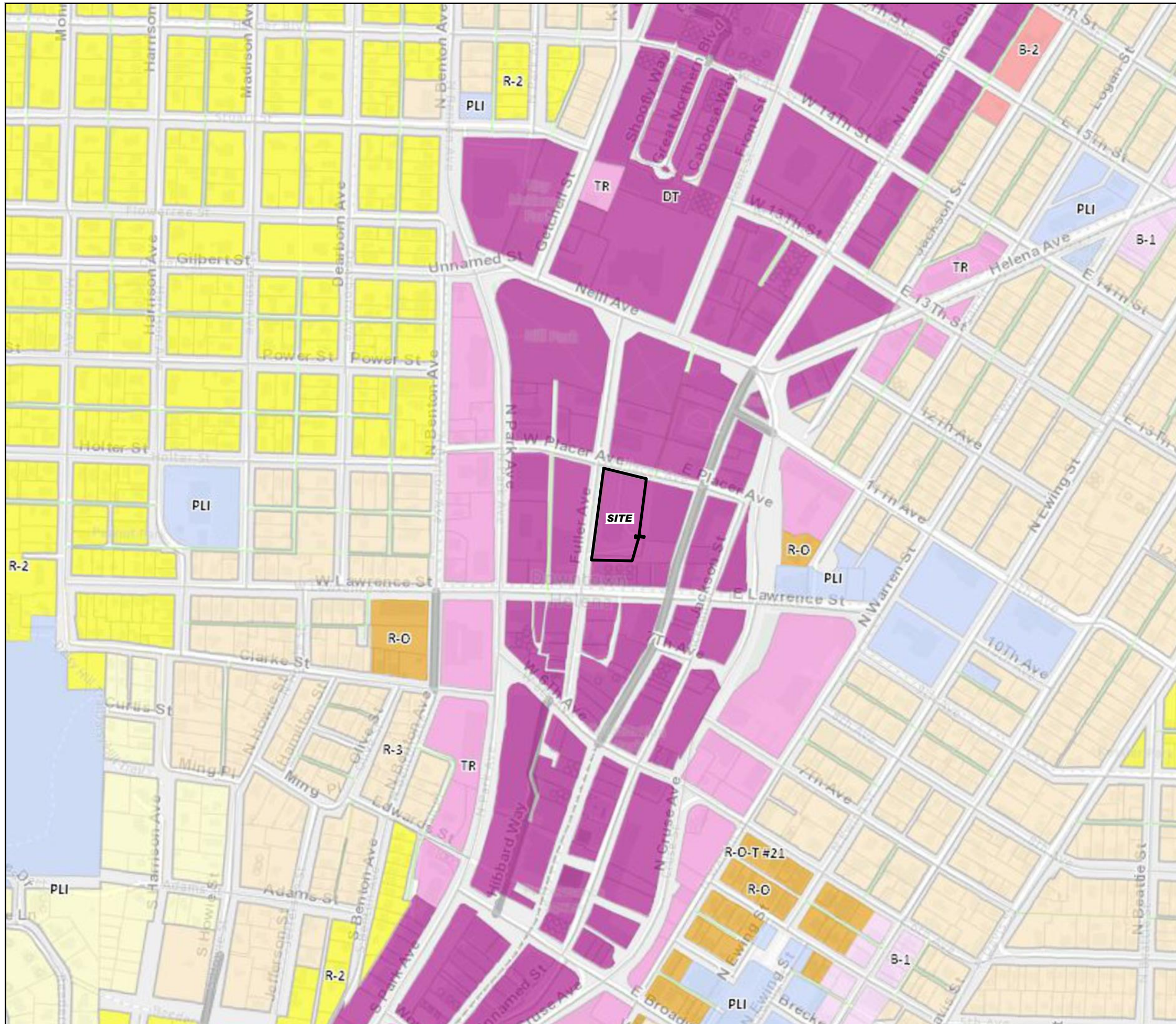
SHEET 1 OF 1



ATTACHMENT F

ZONING EXHIBIT





- ☒ Helena Zoning
- OSR Open Space - Residential District
 - R-1 Residential District - Large Lot
 - R-2 Residential District; R-2-T Transitional Residential District
 - R-3 Residential District; R-3-T Transitional Residential District
 - R-4 Residential Office District
 - R-O-T Transitional - Residential - Office District; R-O Residential Office District; Transitional - Residential - Office District
 - R-U Residential Urban District
 - TR Transitional Residential
 - DT Downtown
 - B-1 Neighborhood Business District; B-1 Neighborhood Business District
 - B-2-T Transitional - General Commercial District; B-2 General Commercial District; General Commercial District; Transitional - General Commercial District
 - B-3 Central Business District; B-3 Central Business District
 - Airport
 - PLI Public Lands & Institutions District; PLI Public Lands & Institutions District
 - CLM-T Transitional - Commercial Light Manufacturing District; CLM Commercial Light Manufacturing District; Commercial Light Manufacturing District; Transitional - Commercial Light Manufacturing District
 - MI Manufacturing & Industrial District; MI Manufacturing & Industrial District
 - PUD Planned Unit Development; PUD #5 Planned Unit Development; PUD #9 Planned Unit Development; PUD #2 Planned Unit Development; PUD #10 Planned Unit Development; PUD #10 Planned Unit Development



PRELIMINARY
PLOTTED: 8/22/25
SAVED: 8/22/25

ZONING EXHIBIT
415 FULLER AVENUE
HELENA, MONTANA

REVISIONS:		
NO.	DESCRIPTION	DATE

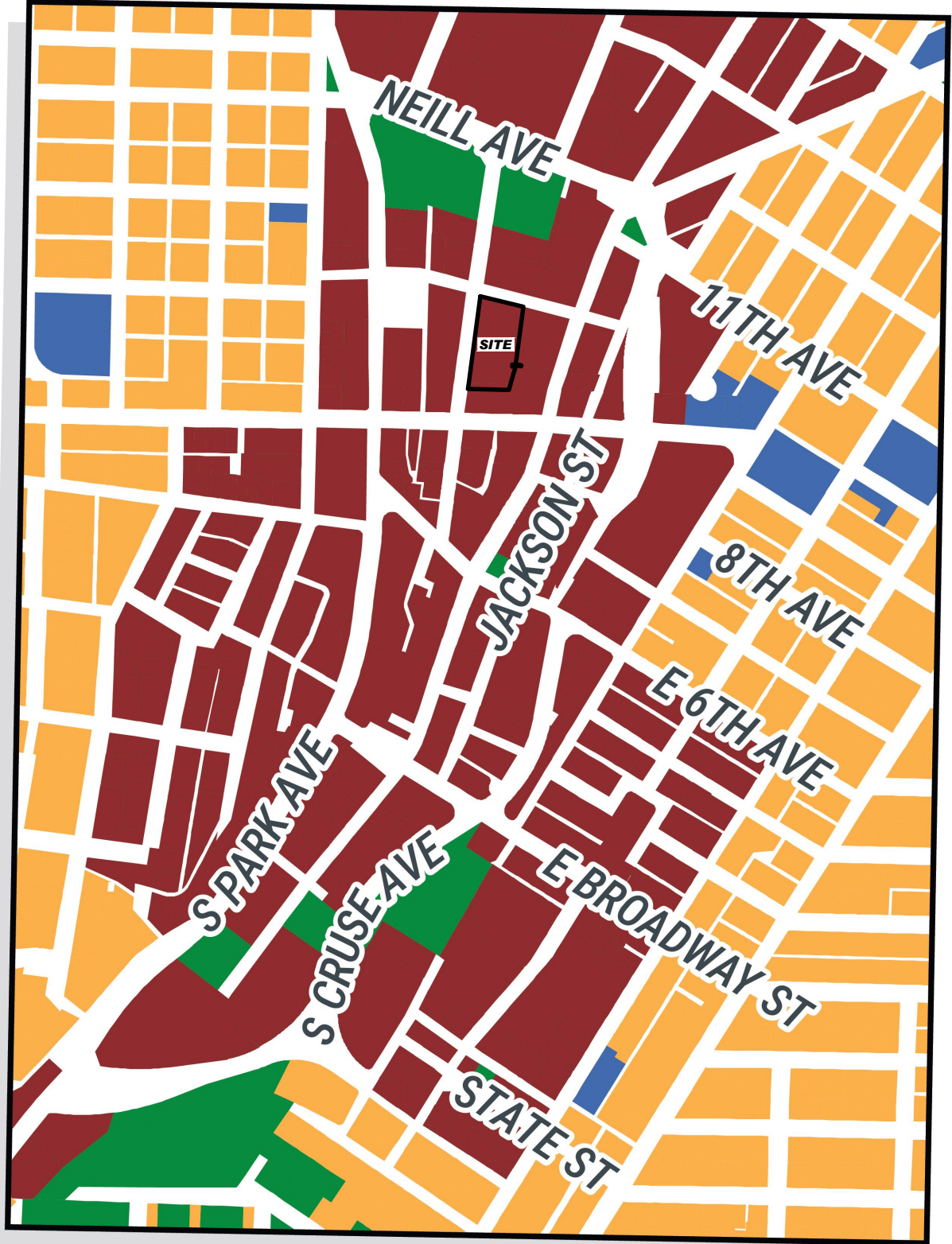
PROJECT: 25-03-19
LAYOUT: D-SIZE
SURVEYED: --
DESIGN: --
DRAFT: CEG
APPROVE: DP/JE
DATE: --

FILE: W:\Projects\25031920 Data\CAD\02 Exhibits\05019 zoning.dwg

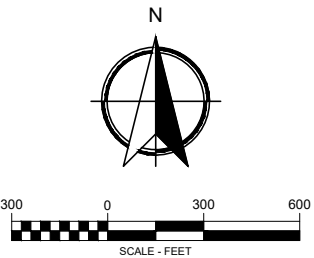
ATTACHMENT G

LAND USE EXHIBIT





Downtown Helena



- Helena Land Use Plan
Future Land Use
- Rural
 - Suburban Residential
 - Urban Residential
 - Mixed Use
 - Downtown
 - Commercial
 - Technology and Innovation
 - Medical and Healthcare
 - Industrial
 - Public/Semi-Public
 - Parks and Open Space
 - Utilities and Transportation

FUTURE LAND USE EXHIBIT
415 FULLER AVENUE
HELENA, MONTANA

REVISIONS:		
NO.	DESCRIPTION	DATE

PROJECT:	25-03-19
LAYOUT:	D-SIZE
SURVEYED:	—
DESIGN:	—
DRAFT:	CEG
APPROVE:	DP/JE
DATE:	

AUGUST 2025

ATTACHMENT H

LOT COVERAGE EXHIBIT





PRELIMINARY

PLOTTED: 8/22/25
SAVED: 8/22/25

LOT COVERAGE EXHIBIT
415 FULLER AVENUE
HELENA, MONTANA

PROJECT: 25-03-19
LAYOUT: D-SIZE
SURVEYED: ---
DESIGN: ---
DRAFT: CEG
APPROVE: DP/JE
DATE:

AUGUST 2025

SHEET 1 OF 1



ATTACHMENT I

PROPERTY DEED



ATTACHMENT J
PROOF OF TAX PAYMENT



**City of Helena Board of Adjustment Variance
Application
415 Fuller Avenue Development
WGM Project Number: 250319
August 27, 2025**



VARIANCE APPLICATION SECTION C: BOA REVIEW CRITERIA

1. The variance will not create a significant risk to the public health, safety, or general welfare;

The requested variance will not create a significant risk to the public health, safety, or general welfare. In fact, reducing the lot coverage in this instance is necessary to protect the existing public infrastructure. The intent of the minimum lot coverage requirement is to ensure that buildings contribute to a continuous, active street frontage, prevent underutilization of parcels, to support the density and intensity of land use consistent with the downtown goals, and to keep the existing urban fabric. This proposal intends to meet the intent of the zoning regulation, which is intended to protect the public health, safety, or general welfare, to the extent possible with the site constraints described below. All other requirements of the zoning regulation are met by the proposal, including use standards and setback standards, which also help achieve the goals of the minimum lot coverage standard. The project will be more conforming than what is existing, is more conforming than many of the neighboring properties, and will support and contribute to the look and feel of the downtown district. While the project cannot practically meet the defined lot coverage regulation, it still meets the intent of the regulation.

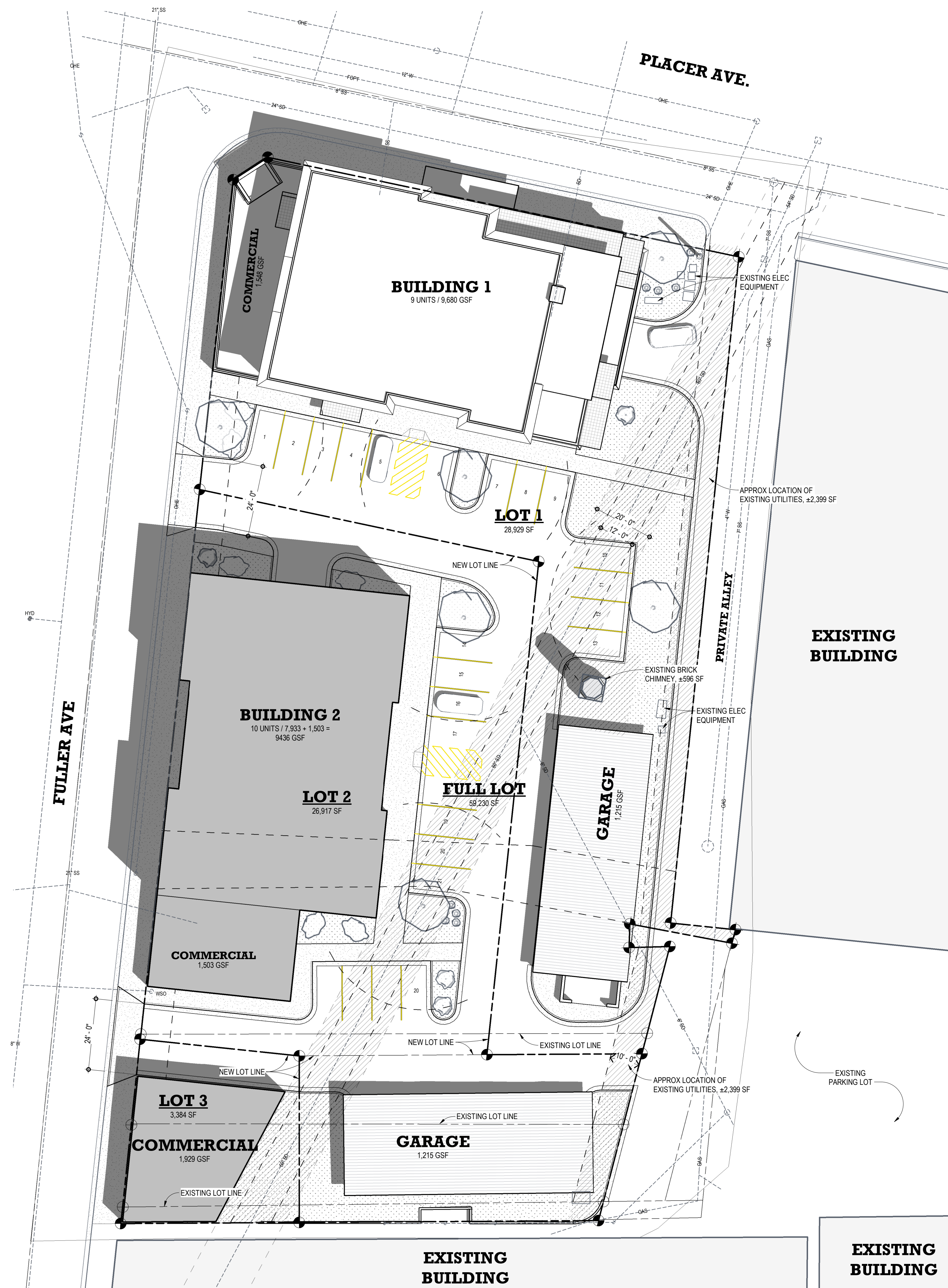
2. The variance will not significantly reduce or impair the peaceful use of existing property or improvements in the vicinity and the zoning district in which the subject property is located;

The variance will not significantly reduce or impair the peaceful use of any surrounding properties. The purpose of the minimum lot coverage requirement is to promote an urban, pedestrian-oriented downtown with active building frontages and to reduce underutilized space. Although the site cannot achieve the full 50% coverage, the proposed design maximizes the buildable area to the greatest extent possible while respecting infrastructure and site access constraints. The proposal will be considerably more conforming than the existing use, and will be designed to achieve the goals of the downtown district.


3. Excluding monetary hardship, strict compliance with the provisions of this title would create unnecessary hardship or practical difficulty.

Strict compliance with the 50% minimum lot coverage requirement creates a practical difficulty for this property. Because of the underground storm drain, the existence of onsite utilities and a historic brick structure, portions of the lot are not buildable. These site-specific conditions are unique and outside of the applicant's control. The proposed design increases the lot coverage to the extent practical and even includes parking structures for the residents instead of outdoor parking where possible. The proposal meets the intent of the regulation to the extent practical while encumbered by existing, unique property conditions that are outside of the applicant's control.







Shopping Cart: 0 items [\$0.00] 



New Search



Detail



Payoff



Help

Property Tax ID: 348

Status: Paid

Type: RE

Owner: NW BANK OF HELENA

History:

Tax Year	Statement#	Bill Date	Bill Amount	Date Paid	** Paid Amount	Notes
2024	26373	11/17/2024	\$25,934.70	12/20/2024 5/21/2025	\$12,967.39 \$12,967.31	
2023	29313	10/24/2023	\$25,617.20	11/20/2023 5/28/2024	\$12,808.63 \$12,808.57	
2023	62325	04/15/2024	\$410.33	5/28/2024	\$0.00 \$410.33	
2022	28836	10/24/2022	\$24,632.92	11/22/2022 5/22/2023	\$12,316.48 \$12,316.44	
2021	29346	10/23/2021	\$25,034.95	11/23/2021 5/19/2022	\$12,517.50 \$12,517.45	
2020	30169	10/21/2020	\$25,454.01	11/25/2020 5/17/2021	\$12,727.04 \$12,726.97	
2019	43932	05/11/2020	\$24,697.62	5/11/2020 5/19/2020	\$12,348.84 \$12,348.78	
2018	28957	10/24/2018	\$22,890.49	11/27/2018 5/20/2019	\$11,445.26 \$11,445.23	
2017	26008	10/30/2017	\$21,044.35	11/24/2017 5/21/2018	\$10,522.20 \$10,522.15	
2016	24840	11/03/2016	\$23,656.69	12/1/2016 5/12/2017	\$11,828.37 \$11,828.32	
2015	23935	10/22/2015	\$23,195.06	11/20/2015 5/19/2016	\$11,597.56 \$11,597.50	
2014	23927	10/22/2014	\$21,685.31	11/24/2014 5/26/2015	\$10,842.68 \$10,842.63	
2013	18808	10/23/2013	\$20,884.06	11/25/2013 5/12/2014	\$10,442.05 \$10,442.01	
2012	20514	10/22/2012	\$20,045.97	12/3/2012 5/13/2013	\$10,022.99 \$10,022.98	
2011	17874	10/20/2011	\$19,413.62	11/14/2011 4/27/2012	\$9,706.84 \$9,706.78	

2010	22520	10/28/2010	\$18,598.64	12/3/2010 5/9/2011	\$9,299.34 \$9,299.30
2009	17940	11/02/2009	\$22,856.50	12/1/2009 5/24/2010	\$11,428.28 \$11,428.22
2008	28156	10/24/2008	\$21,119.95	11/24/2008 5/27/2009	\$10,560.00 \$10,559.95
2007	3013555	10/25/2007	\$20,693.71	11/23/2007 6/3/2008	\$10,346.89 \$10,346.82

**** Paid Amount may include penalty & interest**

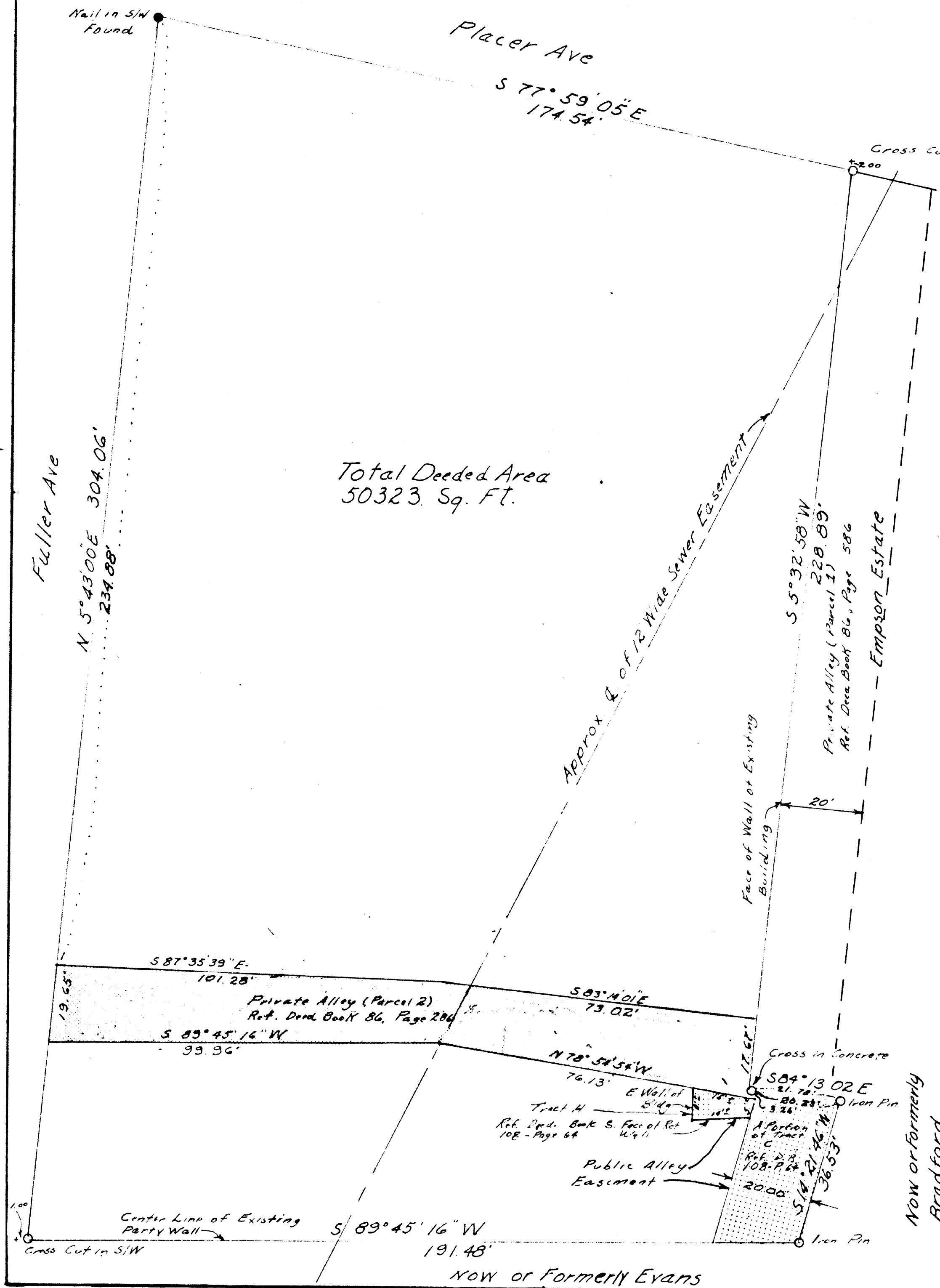
Note: The accuracy of this data is not guaranteed. Property Tax data was last updated 08/29/2025 08:00 AM.

Send Payments to:
Lewis & Clark County
316 North Park Ave; Room #113
Helena, Montana 59623

Phone: (406) 447-8329
Email: propertytax@lccountymt.gov



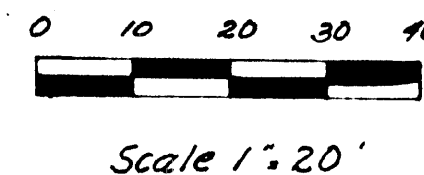
1962



LAND DESCRIPTION

A tract of land in the SW 1/4, Section 30, Township 10 North, Range 3 W, P.M.M., Henry Thompson Placer Mining Claim, City of Helena, Lewis and Clark County, Montana.

The tract is more particularly described as beginning at the intersection of the east line of Fuller Avenue and the south line of Placer Avenue, a nail found in the concrete sidewalk. Then S 77° 59' 05" E, 174.54' along the south line of Placer Avenue to a point, a cross cut in the sidewalk bears N 5° 32' 58" E, 2.00' from the point. Then S 5° 32' 58" W, 228.89' along the west side of an existing private alley to a cross cut in a concrete alley. Then S 84° 13' 02" E, 21.78' to an iron pin. Then S 14° 21' 46" W, 36.53' to an iron pin. Then S 89° 45' 16" W, 191.48' along the centerline of an existing party wall to a point on the east line of Fuller Avenue from which a cross cut in the sidewalk bears S 89° 45' 16" W, 1.00' from the point. Then N 5° 43' 00" E, 304.65' to the point of beginning.



Notes

The Purpose of This Survey is to Retrace The Boundaries of Two Existing Parcels and Consolidate Them Into One Parcel

Basis of Bearing is the East Line of Fuller Ave, A Bearing of N 5° 43' 00" E

286943

STATE OF MONTANA
COUNTY OF LEWIS & CLARK

I hereby certify that the within instrument was filed in my office on this 27th day of February, 1978, at 3:38 P.M. past 12 o'clock P.M.

Records of Lewis & Clark County, State of Montana.

Ralph A. Knauss
County Recorder
Deputy

2.00

LAND SURVEYOR'S CERTIFICATE

STATE OF MONTANA)
COUNTY OF LEWIS AND CLARK) SS

This is to certify that I, Ralph A. Knauss, a Montana Registered Land Surveyor, Registration No. 2110 ES, State of Montana, do hereby certify that during the month of January, 1978, a survey was conducted under my supervision, monuments were set as described on the attached plat and that the plat conforms with the work on the ground. This certificate conforms to 11-3393 to 11-3876 R.C.M. 1947.

Ralph A. Knauss, Montana Registration No. 2110 ES.

Dated this 2nd day of February, 1978.

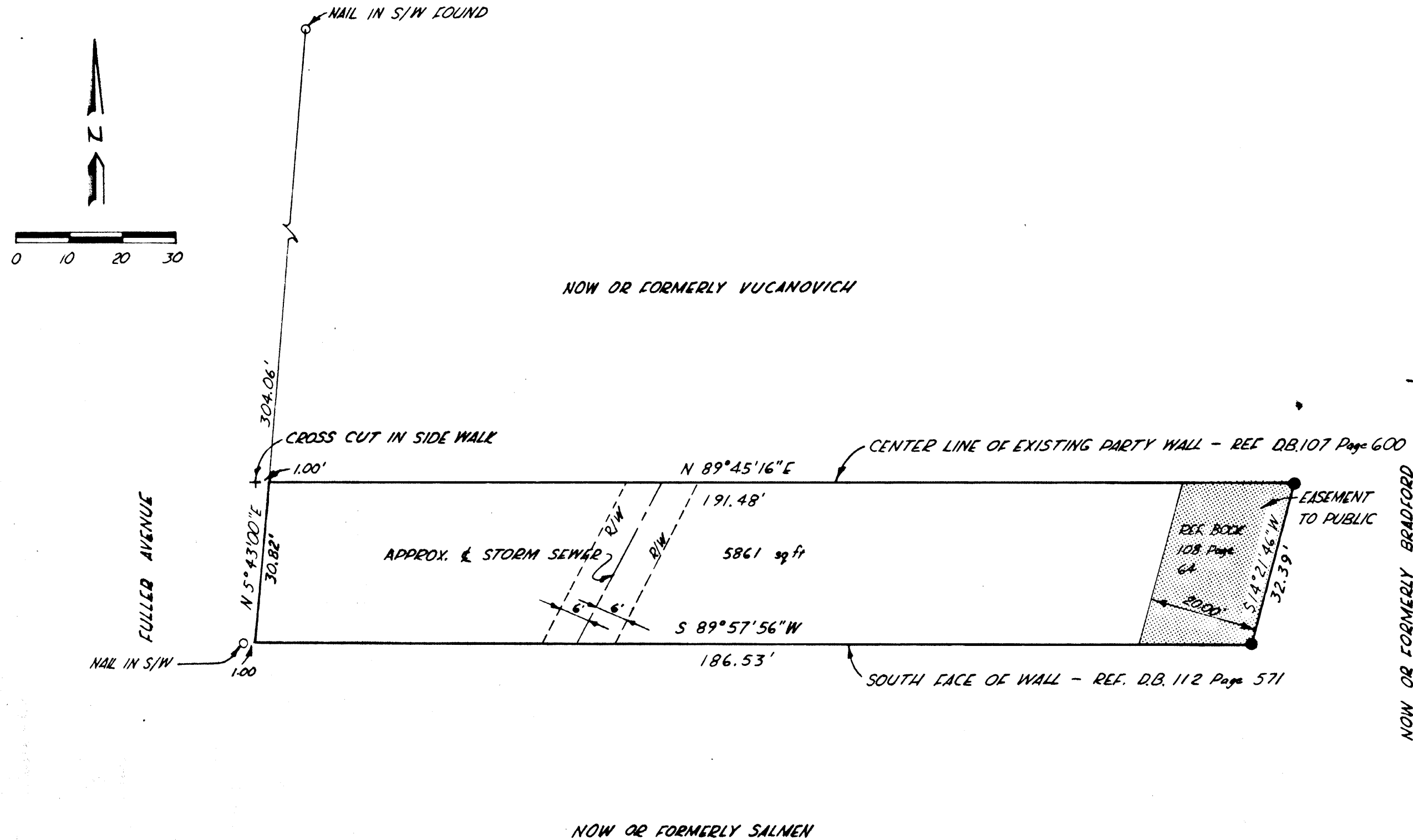
CERTIFICATE OF SURVEY
for
NORTHWESTERN BANK & TRUST Co.
of
VUCANOVICH PROPERTIES

in
SW 1/4, SECTION 30, TOWNSHIP 10 NORTH,
RANGE 3 WEST, P.M.M.
THOMPSON PLACER MINING CLAIM
CITY OF HELENA, LEWIS AND CLARK
COUNTY, MONTANA.

1/4	Sec	T	R
<input checked="" type="checkbox"/>	30	10N	3W
<input type="checkbox"/>			
<input type="checkbox"/>			
<input type="checkbox"/>			

CERTIFICATE OF SURVEY
NO

S & A ENGINEERS
HELENA, MONTANA



NOTES

BASIS OF BEARING IS THE EAST LINE OF FULLER AVE.
A BEARING OF N 5° 43' 00\" E.

PURPOSE OF SURVEY IS TO RETRACE THE BOUNDARIES
OF AN EXISTING PARCEL.

● INDICATES PIN SET

NOW OR FORMERLY BRADFORD

LAND SURVEYOR'S CERTIFICATE

STATE OF MONTANA)
COUNTY OF LEWIS AND CLARK) SS

This is to certify that I, Ralph A. Knauss, a Montana Registered Land Surveyor, Registration No. 2110 ES, State of Montana, do hereby certify that during the month of January, 1978, a survey was conducted under my supervision, monuments were set as described on the attached plat and that the plat conforms with the work on the ground.

Ralph A. Knauss, Montana Registration No. 2110 ES.

Dated this 8th day of February, 1978

LAND DESCRIPTION

A tract of land in the SW 1/4, Section 30, Township 10 North, Range 3 West, P.M.M., Henry Thompson Placer Mining Claim, City of Helena, Lewis and Clark County, Montana.

The tract is more particularly described as commencing at the intersection of the east line of Fuller Avenue and the south line of Placer Avenue, a nail in the sidewalk. Then S 5° 43' 00\" W, 304.06' along the east line of Fuller Avenue to a point from which a cross in the sidewalk bears S 89° 45' 16\" W, 1.00'. Then N 89° 45' 16\" E, 191.48' along the centerline of an existing party wall to an iron pin. Then S 14° 21' 46\" W, 32.39' to an iron pin. Then S 89° 57' 56\" W, 186.53' along the south face of an existing wall to a point on the east line of Fuller Avenue from which a nail in the sidewalk bears N 89° 57' 56\" W, 1.00'. Then N 5° 43' 00\" E, 30.32' to the point of beginning.

The tract contains 5,861 square feet.

291781
STATE OF MONTANA
COUNTY OF LEWIS & CLARK) SS
hereby certify that the within instrument was filed in my office as
this 27th day of June
1978 at Helena, Mont. per
[Signature]
Records of Lewis & Clark
County, State of Montana.

[Signature]
County Recorder
Helena, Montana
2.00

B.B.D. *Aracinda Manning*

1/4	Sec	T	R
<input checked="" type="checkbox"/>	30	10N	3W
<input type="checkbox"/>			
<input type="checkbox"/>			
<input type="checkbox"/>			

CERTIFICATE OF SURVEY
NO. _____

CERTIFICATE OF SURVEY

for
BERT MERDINK
of
EVANS ESTATE PROPERTY

SW 1/4, SECTION 30, TOWNSHIP 10 NORTH
RANGE 3 WEST, P.M.M.

THOMPSON PLACER MINING CLAIM
CITY OF HELENA, LEWIS AND CLARK
COUNTY, MONTANA.

S&A ENGINEERS
HELENA, MONTANA

WARRANTY DEED

THIS INDENTURE, made the 12 day of April, 1978, between GEORGE VUCANOVICH and EMILY F. VUCANOVICH, in her own right and as wife of said George Vucanovich, both of Helena, Montana, HARRY W. CHILD II and PATRICIA C. CHILD, husband and wife, both of Sidney, Montana, and H. JAMES CHILD and KAREN A. CHILD, husband and wife, both of Birmingham, Alabama, all as PARTIES OF THE FIRST PART, and NORTHWESTERN BANK OF HELENA, a corporation, of Helena, Montana, as PARTY OF THE SECOND PART,

WITNESSETH: That said Parties of the First Part, for and in consideration of the sum of TEN DOLLARS (\$10.00) and other good and valuable considerations to them in hand paid by the said Party of the Second Part, receipt of which is hereby acknowledged, do by these presents, grant, bargain, sell, convey, warrant and confirm unto the said Party of the Second Part, and to its successors and assigns forever, the following described real estate situated in the City of Helena, County of Lewis and Clark, State of Montana, to-wit:

A tract of land in the SW $\frac{1}{4}$ of Section 30, Township 10 North, Range 3 West, P.M.M, comprising a portion of the Henry Thompson Placer Mining Claim in the City of Helena, Lewis and Clark County, Montana, particularly described as follows, to-wit:

Beginning at the intersection of the East line of Fuller Avenue and the South line of Placer Avenue in said City of Helena, a nail, in the concrete sidewalk; thence S. 77°59'05" E, 174.54 feet along the South line of Placer Avenue to a point from which a cross cut in the sidewalk bears N. 5°32'58" E, 2.00 feet; thence S. 5°32'58" W, 228.89 feet along the West line of an existing private alley to a cross cut in a concrete alley; thence S. 84°13'02" E, 21.78 feet to an iron pin; thence S. 14°21'46" W, 36.53 feet to an iron pin; thence S. 89°45'16" W, 191.48 feet along the center line of an existing party wall to a point on the East line of Fuller Avenue in said City of Helena from which a cross cut in the sidewalk bears S. 89°45'16" W, 1.00 feet; thence N. 5°43'00" E, along the East line of Fuller Avenue in said City of Helena, 304.65 feet to the point of beginning, according to a Certificate of Survey of said tract, prepared and certified by Ralph A. Knauss, Montana Registered Land Surveyor, in January, 1978, and which appears on file under Document No. 286943 in the office of the Clerk and Recorder of Lewis and Clark County, Montana.

204 PAGE 748
TOGETHER WITH all and singular the improve-
ments thereof and the tenements, heredita-
ments and appurtenances thereunto belonging,
including (without limitation) the right to
the non-exclusive use of the existing private
alley located as shown in said Plat of Survey.

TO HAVE AND TO HOLD, all and singular the said premises,
with the appurtenances unto the said Party of the Second
Part, its successors and assigns forever.

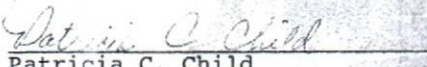
AND THE SAID PARTIES OF THE FIRST PART and their heirs,
do hereby covenant that they will forever WARRANT AND DEFEND
all right, title and interest in and to the said premises
and the quiet and peaceable possession thereof, unto the
said Party of the Second Part and its successors and assigns,
against all acts and deeds of the said Parties of the First
Part and all and every person and persons whomsoever law-
fully claiming or to claim the same.

IN WITNESS WHEREOF, the said Parties of the First Part
have hereunto set their hands and seals as of the day and
year first above written.

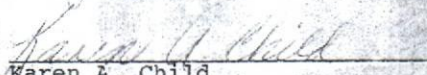

George Vucanovich


Emily F. Vucanovich


Harry W. Child II


Patricia C. Child

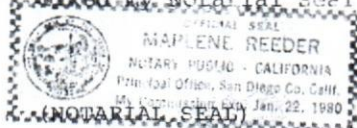

H. James Child

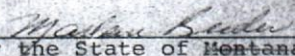

Karen A. Child

California
STATE OF MONTANA)
County of Lewis and Clark) : ss.

On this 12th day of February, 1978, before
me, a Notary Public for the State of Montana, personally
appeared GEORGE VUCANOVICH and EMILY F. VUCANOVICH, known to
me to be the persons whose names are subscribed to the
within instrument, and acknowledged to me that they executed
the same.

IN WITNESS WHEREOF, I have hereunto set my hand and af-
fixed my Notarial Seal the day and year first above written.




Notary Public for the State of Montana
Residing at Helena, Montana
My Commission expires January 22, 1980

STATE OF MONTANA

County of Richland

BOOK 294 PAGE 749

: ss.

On this 34th day of February, 1978, before me, a Notary Public for the State of Montana, personally appeared HARRY W. CHILD II and PATRICIA C. CHILD, known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.

Beatrice Luhrsman
Notary Public for the State of Montana
Residing at Sidney, Montana
My Commission expires Dec. 5, 1980

(NOTARIAL SEAL)

STATE OF ALABAMA

County of Jefferson

: ss.

On this 22nd day of February, 1978, before me, a Notary Public for the State of Alabama, personally appeared H. JAMES CHILD and KAREN A. CHILD, known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.

James W. Seibert
Notary Public for the State of Alabama
Residing at Birmingham, AL
My Commission expires _____

(NOTARIAL SEAL)

My Commission Expires October 21, 1980

288977

STATE OF MONTANA
COUNTY OF LEWIS & CLARK

I hereby certify that the within instrument was filed in my office on this _____ day of _____, A.D. 19____, at _____ o'clock _____ M., and recorded on page _____ of book _____, Records of Lewis and Clark County, State of Montana.

John J. [Signature]
County Recorder
Date: _____

STATE OF MONTANA.

County of

ss.

Filed for record this 28th day of July 1979 at 10 o'clock M. and
Recorded in Book of Deeds on Page of the Records of County of
State of Montana. Clerk and Recorder By

NO. 8 - WARRANTY DEED - SHORT FORM - PHOTO

STATE PUBLISHING CO., HELENA, MONT.

This Indenture, Made the 28th day of July
A. D. one thousand nine hundred and seventy eight
BETWEEN BERT A. MERDINK and HELEN MERDINK, husband and
wife
Helena, Montana part.ies of the FIRST PART
and NORTHWESTERN BANK OF HELENA, a corporation
Helena, Montana

WITNESSETH, that the said part.ies of the FIRST PART, for and in consideration of the
sum of Ten dollars and other valuable consideration Dollars (\$10.00 OVC)
lawful money of the United States of America to them in hand paid by said part.ies of the
SECOND PART, the receipt whereof is hereby acknowledged; do by these presents grant,
bargain, sell, convey, warrant and confirm unto the said part.ies of the SECOND PART, and to
its heirs and assigns forever, the hereinafter described real estate situated in the city or town of
Helena, County of Lewis and Clark, and State of
Montana, to-wit: (See reverse side)

TOGETHER with all and singular the hereinbefore described premises together with all tenements, heredita-
ments, and appurtenances thereto belonging or in anywise appertaining, and the reversion and reversions, re-
mainder and remainders, rents, issues, and profits thereof; and also all the estate, right, title, interest, right of
dower and right of homestead, possession, claim and demand whatsoever, as well in law as in equity, of the said
part.ies of the FIRST PART, of in or to the said premises, and every part and parcel thereof, with the appur-
tenances thereto belonging, TO HAVE AND TO HOLD, all and singular the above mentioned and described prem-
ises unto the said part.ies of the SECOND PART, and to its heirs and assigns forever.
And the said part.ies of the FIRST PART, and their heirs, do hereby covenant that they will forever WARRANT and DEFEND all right, title and interest in and to the said premises and the quiet
and peaceable possession thereof, unto the said part.ies of the SECOND PART its heirs and assigns, against
all acts and deeds of the said part.ies of the FIRST PART, and all and every person and persons whomso-
ever lawfully claiming or to claim the same.

IN WITNESS WHEREOF, the said part.ies of the FIRST PART have here-
unto set their hands and seals the day and year first hereinbefore written.

Signed, Sealed and Delivered in
the presence of

(SEAL)

(SEAL)

(SEAL)

(SEAL)

STATE OF MONTANA,

County of Lewis and Clark

ss.

On this 28th day of July in the year nineteen hundred and
seventy eight before me the undersigned a Notary Public
for the State of Montana, personally appeared BERT A. MERDINK and HELEN
MERDINK

known to me

to be the person whose names are subscribed to the within instrument and acknowledged to me
that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial
Seal the day and year first above written.

Marlene Teague
Notary Public for the State of Montana.

Residing at Helena

My Commission expires April 9, 1979

293206

WARRANTY DEED

(S.F.)

TO

Dated 19

STATE OF MONTANA.

County of LEWIS & CLARK ss.

Filed for Record this 31 day of

July, A. D. 1978

at 3:25 o'clock P. M., and

Recorded in Book of Deeds

on Page LEWIS & CLARK of the Records of

County of

State of

By County Clerk and Recorder.

Deputy.

Fees \$

Return to

A tract of land in the SW $\frac{1}{4}$, Section 30, T10N, R3W, M.P.M., Henry Thompson Placer Mining Claim, Lewis and Clark County, Montana.

The tract is more particularly described as commencing at the intersection of the east line of Fuller Avenue and the south line of Placer Avenue, a nail in the sidewalk. Then S 5°43'00" W 304.06' along the east line of Fuller Avenue to a point from which a cross in the sidewalk bears S 89°45'16" W, 1.00'. Then N 89°45'16" E, 191.48' along the centerline of an existing party wall to an iron pin. Then S 14°21'46" W, 32.39' to an iron pin. Then S 89°57'56" W, 186.54' along the south face of an existing wall to a point of the east line of Fuller Avenue from which a nail in the sidewalk bears N 89°57'56" W, 1.00'. Then N 5°43'00" E, 30.82' to the point of beginning according to a Certificate of Survey of said tract prepared and certified by Ralph A. Knause, Montana Registered Land Surveyor in JANUARY, 1978, and which appears on file under Document No. 291781 in the office of the Clerk and Recorder of Lewis and Clark County, Montana. The tract contains 5,861 square feet and is subject to easements and encumbrances of record.

Arb 13 Thompson Placer

4 3 77
1-19-84

m4-3777

QUIT CLAIM DEED

THIS INDENTURE, made this 16th day of January, 1984, between THE CITY OF HELENA, MONTANA, a municipal corporation, the Party of the First Part, and NORWEST BANK HELENA, of Helena, Montana, the Party of the Second Part.

W I T N E S S E T H:

That the said Party of the First Part, for and in consideration of the sum of One Dollar (\$1.00), to it in hand paid by the said Party of the Second Part, the receipt whereof being hereby acknowledged, does convey, remise, release and forever quitclaim unto the said Party of the Second Part, and to its successors and assigns, the following described real estate, situated in the City of Helena, County of Lewis and Clark, State of Montana, to-wit:

The North 1/2 of a twelve-foot wide alley in Tracts D and E and the south six feet of Tracts B and C, as said Tracts are described in Book 108, pages 64 through 69 of Deeds, on file in the office of the Clerk and Recorder of Lewis and Clark County, Montana

together with all the tenements, hereditaments and appurtenances thereunto belonging, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof; and also all the estate, right, title, interest, property, possession, claim, and demand whatsoever as well in law as in equity, of the said Parties of the First Part, of, in or to the said premises and every part and parcel thereof.

TO HAVE AND TO HOLD, all and singular the said premises, with the appurtenances, unto the said Party of the Second Part, its successors and assigns forever.

There is reserved from this grant and transfer all existing easements located on the subject property, which existing easements are owned and operated by public utilities.

IN WITNESS WHEREOF, the said Party of the First Part has hereunto executed the foregoing instrument the day and year first above written.

CITY OF HELENA, MONTANA

By *Russell J. Ritter*
RUSSELL J. RITTER, Mayor

ATTEST:

Barbara R. Montibeller
CLERK OF THE COMMISSION

STATE OF MONTANA)
COUNTY OF LEWIS & CLARK) ss.

On this 16th day of January, 1984, before me, the undersigned, a Notary Public for the State of Montana, personally appeared RUSSELL J. RITTER and BARBARA MONTIBELLER, known to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me that they executed the same in their capacities as Mayor and Clerk of the City of Helena.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.

SEAL

Lynn R. Moon
Notary Public for State of Montana
Residing at Helena, MT
My Commission expires 8-3-86

COUNTY OF
1984 Jan 16
3:30 PM

Sue K. [unclear]
By *Helena, Mont*
500

FILED	INDEXED
SERIALIZED	FILED

295-168

295-168

This Indenture, Made the 17th day of May
A. D. one thousand nine hundred and seventy-eight (1978)
BETWEEN DONALD E. SPERRY and MARGARET R. SPERRY, husband and wife,
of
Helena, Montana parties of the FIRST PART
and NORTHWESTERN BANK OF HELENA, a corporation
of
Helena, Montana

..... the party of the SECOND PART,
WITNESSETH, that the said parties of the FIRST PART, for and in consideration of the
sum of One and No/100 Dollars (\$1.00)
and other good and valuable considerations
lawful money of the United States of America to them in hand paid by said party of the
SECOND PART, the receipt whereof is hereby acknowledged; do by these presents grant,
bargain, sell, convey warrant and confirm unto the said party of the SECOND PART, and to
its successors
heirs and assigns forever, the hereinafter described real estate situated in the city ~~of~~ of
Helena County of Lewis and Clark and State of

Montana, to-wit: All that piece or parcel of land comprising parts of lots numbered
14 and 25 of The Henry Thompson Placer Mining Claim lying within the limits of said
City of Helena and being more particularly described as follows, to-wit: Beginning at
a point in the east margin of Fuller Avenue as now laid out and used, said point of
beginning being N. 5° 43' E., a distance of 6.04 feet from an iron pin which is at
the intersection of the north boundary line of the Helena Townsite (according to the
official or McIntire Survey) and the east margin of Fuller Avenue; thence N. 5° 43'
E. a distance of 27.46 feet, more or less, to the south wall of the new Evans building;
thence N. 89° 34' E. along the south wall of the said Evans building, and produced,
a distance of 166 feet, more or less, to the west line of the tract of land which was
set aside for alley purposes in that certain deed from John B. Sanford, et al. to
Donald Bradford, dated October 12, 1889, and recorded October 23, 1889, in Volume 10
of Deeds at page 268; records of said County of Lewis and Clark; thence S. 14° 34' W.
along the west line of the alley as shown by the deed above referred to from John B.
Sanford, et al. to Donald Bradford, a distance of 28 feet, more or less to a point
being N. 14° 34' W. a distance of 6.21 feet from the North boundary line of the
Helena Townsite; thence S. 89° 34' W. a distance of 162.58 feet, more or less to the
point of beginning.

SUBJECT TO reservations contained in that certain Patent from the United States of
America, recorded in Book "US" of Patents at page 242, records of said County of
Lewis and Clark; AND SUBJECT ALSO TO a perpetual right and easement granted to
the City of Helena for a storm sewer as disclosed by Decree recorded April 25,
1914 in Book 79, 9f Deeds at page 117, records of said County of Lewis and Clark.

79

TOGETHER with all and singular the hereinbefore described premises together with all tenements, hereditaments, and appurtenances thereto belonging or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues, and profits thereof; and also all the estate, right, title, interest, right of dower and right of homestead, possession, claim and demand whatsoever, as well in law as in equity, of the said parties of the FIRST PART, of, in or to the said premises, and every part and parcel thereof, with the appurtenances thereto belonging, TO HAVE AND TO HOLD, all and singular the above mentioned and described premises unto the said party of the SECOND PART, and to its successors, heirs and assigns forever.

And the said parties of the FIRST PART, and their heirs, do hereby covenant that they will forever WARRANT and DEFEND all right, title and interest in and to the said premises and the quiet and peaceable possession thereof, unto the said party of the SECOND PART, its heirs and assigns, against all acts and deeds of the said parties of the FIRST PART, and all and every person and persons whomsoever lawfully claiming or to claim the same, SAVE AND EXCEPT taxes for the year 1973 and thereafter.

IN WITNESS WHEREOF, the said parties of the FIRST PART have here
unto set their hands and seal the day and year first hereinbefore written.

Signed, Sealed and Delivered in
the presence of

DONALD E. SPERRY

MARGARET R. SPERRY

(SEAL)

(SEAL)

(SEAL)

(SEAL)

STATE OF MONTANA

County of Lewis and Clark } ss.

295 PAGE 166

On this 17th day of May in the year nineteen hundred and seventy-eight (1978) before me the undersigned, a Notary Public for the State of Montana, personally appeared DONALD E. SPERRY and MARGARET R. SPERRY

known to me

(as proved to me by oath of)

to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial

Seal the day and year first above written.

Chas. L. Smith
Notary Public for the State of Montana.

Residing at Helena, Montana

My Commission expires July 5, 1978

290044

WARRANTY DEED
(S. F.)

DONALD E. SPERRY and

MARGARET R. SPERRY

TO

NORTHWESTERN BANK OF HELENA,

a corporation

Dated May 17, 1978

STATE OF MONTANA, } ss.

County of LEWIS & CLARK

Filed for Record this 18 day of

May, A. D. 1978

at 9:10 o'clock A. M., and

Recorded in Book of Deeds

on Page of the Records of

County of LEWIS & CLARK

State of Montana

By [Signature] County Clerk and Recorder.

By [Signature] Deputy.

Fees \$ 4.00

Return to [Signature]

AGREEMENT

AGREEMENT, made this 17 day of August, 1978,
between COLORADO NATIONAL BANK OF DENVER, a national banking
association, of Denver, Colorado, as TRUSTEE under the last
Will and Testament of JOHN HOWARD EMPSON (sometimes written
J. H. Empson), deceased, hereinafter called "First Party",
and NORTHWESTERN BANK OF HELENA, a corporation, of Helena,
Montana, hereinafter called "Second Party",

WITNESSETH:

WHEREAS, by Agreement, dated July 2, 1917 and recorded
October 10, 1918 in Volume 86 of Deeds, page 586 of the
records in the office of the Clerk and Recorder of Lewis and
Clark County, Montana, J. H. Empson and Eva A. Sanford et al
being then the owners, respectively, of contiguous parcels
of land in Block 14 of the Thompson Placer Mining Claim in
the City of Helena, Lewis and Clark County, Montana, estab-
lished a private alley over and across their respective
ownerships commencing on Placer Avenue in said city and
running thence in a Southerly direction approximately 232
feet, thence West approximately 176 feet to Fuller Avenue
and varying in width from 15 to 20 feet;

WHEREAS, the location, course and dimensions of said
private alley more particularly appear in a Certificate of
Survey, prepared in January, 1978 by Ralph A. Knauss, Montana
Registered Land Surveyor, the same being Document No. 286943
on file and of record in the office of said Clerk and Recorder;

WHEREAS, First Party, as successor in interest to J. H.
Empson, deceased, is the owner of the lands underlying the
North-South segment or leg of said private alley and other
lands abutting the same on the East;

WHEREAS, Second Party, as successor in interest to J.
H. Empson, deceased and Eva A. Sanford et al is the owner of

the lands underlying the East-West segment or leg of said private alley and other lands abutting the same on both the North and the South;

WHEREAS, subsequent to the establishment of said private alley the North-South segment or leg thereof was extended in a Southerly direction approximately 100 feet and thence in a Westerly direction approximately 162 feet to Fuller Avenue by a public alley dedicated by, and particularly described in Deed, dated ^{January} ~~May~~ 15, 1931 and recorded ^{March 7} 1931, in Volume 108 of Deeds, page 64 of the records in the office of said Clerk and Recorder;

WHEREAS, the dedication of the public alley aforesaid has obviated all need for the East-West segment or leg of said private alley and the parties hereto, being the present owners of all of the lands affected or intended to be benefited by said private alley as originally established deem it advisable to partially vacate the same as to the East-West segment or leg thereof;

NOW, THEREFORE, it is mutually agreed between the parties hereto as follows:

1. The East-West segment or leg of said private alley, being all that portion thereof lying Westerly of the West line (extended) of the North-South segment or leg thereof, and which is designated as "Parcel 2" in the Certificate of Survey aforesaid, is hereby VACATED and First Party hereby remises, releases and forever quitclaims unto Second Party all of First Party's right, title and interest therein or thereto.
2. The establishment and existence of the North-South segment or leg of said private alley as now laid out, the same being identified as "Parcel 1" in the Certificate of Survey aforesaid, are hereby CONFIRMED and nothing in this Agreement shall be construed as impairing or abridging the

mutual right of the parties hereto, and their respective successors in interest, to the continued and continuing use and enjoyment thereof for private alley purposes.

3. This Agreement shall be binding upon and inure to the benefit of the parties hereto and the respective successors and assigns.

IN WITNESS WHEREOF, the said parties have caused these presents to be executed as of the day and year first above written.

COLORADO NATIONAL BANK OF DENVER

(CORPORATE SEAL)
ATTEST:

By John H. Empson
Its Trustee under the Last Will and Testament of John Howard Empson, Deceased

John H. Empson
Its Assistant Secretary

"FIRST PARTY"

NORTHWESTERN BANK OF HELENA,
a corporation

(CORPORATE SEAL)
ATTEST:

By J. J. Brennan
Its President

J. J. Brennan
Its Secretary

"SECOND PARTY"

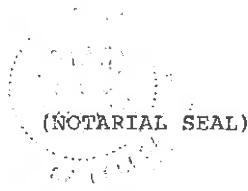
Recorded
4-19-78

115-528

STATE OF COLORADO)
County of Denver) : ss.

On this 14 day of March, 1978, before me,
a Notary Public for the State of Colorado, personally appeared
Robert L. H. [unclear], known to me to be the
1st Vice President of COLORADO NATIONAL BANK
OF DENVER, the association whose name is subscribed to the
foregoing instrument, and acknowledged to me that he exe-
cuted the same on behalf of such association.

IN WITNESS WHEREOF, I have hereunto set my hand and af-
fixed my Notarial Seal the day and year first above written.

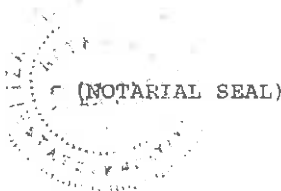


[Signature]
Notary Public for the State of Colorado
Residing at [Address]
My Commission expires 1981-03-13

STATE OF MONTANA)
County of Lewis and Clark) : ss.

On this 14 day of March, 1978, before me,
a Notary Public for the State of Montana, personally appeared
W. B. ANDREWS, known to me to be the President of NORTHWESTERN
BANK OF HELENA, the corporation whose name is subscribed to
the foregoing instrument, and acknowledged to me that he
executed the same of behalf of such corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and af-
fixed my Notarial Seal the day and year first above written.



[Signature]
Notary Public for the State of Montana
Residing at Helena, Montana
My Commission expires 1981-03-09