

## **City of Bozeman - Response Letter**

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FROM: MFGR DESIGNS

RE: SIX RANGE CONDOMINIUMS SITE PLAN, APPLICATION 21235 COMMENTS

DATE: 01/10/2022

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**Project Description:** This project is a Site Plan for a multi-family development to include three apartment buildings and four three-plex buildings that will contain 182 units and approximately 7,000 square feet of commercial/retail space on 8.638 acres. The property is zoned R-O.

**Project Location:** Property is located at 4720 West Babcock Street and legally described as Lot A1 of Minor Subdivision 338, S10, T02 S, R05 E, City of Bozeman, Gallatin County, MT.

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### **Section 1 – Conditions of Approval & Advisory Comments**

Please note that these conditions are in addition to any required code provisions identified in this report. The following conditions are specific to the development:

1. The applicant is advised that unmet code provisions, or code provisions that are not specifically listed as conditions of approval, does not, in any way, create a waiver or other relaxation of the lawful requirements of the Bozeman Municipal Code or state law.
2. The Cash-in-lieu Water Rights (CILWR) contribution must be paid to the City in full prior to final plan approval.
3. Please provide proof of legal access to S Hanley and the adjacent trail to the south. This could be easements recorded on adjacent lots including S Hanley Ave access easement recorded on Lot 2B Minor Sub #365A, 30' Lineal Park/Trail Easement Per MS#295 on Lot 2B Minor SUB #365A. In addition, as builts for the adjacent Cottonwood Condominiums show an access easement from Mill Creek Ave that is not indicated on your existing conditions plat. Please either show the adjacent plat indicating the presence or lack thereof an easement, or provide the recorded easement.
  - a. Attached is a Final Plat for the adjacent Cottonwood Condominiums (See Cottonwood Condominiums Final Plan) which depicts an existing 60ft wide access and utility easement along the West side of the property which should suffice as access to Hanley Avenue and the SW entrance for this development. All use of property alongside Hanley for stormwater and landscaping has been removed from the site plan. Should the city determine this easement as insufficient, we will abandon the SW entrance for this development.
4. BMC 38.540.050.A.3.a. Landscaping in lieu of parking. **Staff does not support this reduction as it does not meet the exception criteria outlined in Section 38.540.050.A.3**

which states the appropriate situations for landscaping in lieu are “existing lots which have no landscaping, irregular lots, lots with topographic difficulties, etc.”.

- a. The parking calculation no longer incorporates the reduction based on Landscaping in lieu of parking.
5. The USPS has recently made the City of aware of their policy for Mail Carriers to not leave their vehicles to deliver mail to interior mail rooms. Contact Jenny Connelley, jconnelley@bozeman.net with any questions.
  - a. Mail delivery has been relocated. (See Site Plan - A1.01.)

## Section 2 – Required Code Corrections

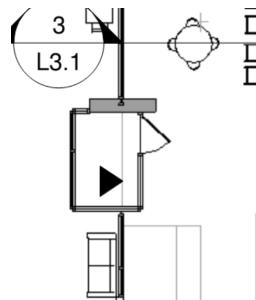
**Community Development Department, Development Division, Lynn Hyde,  
[lhyde@bozeman.net](mailto:lhyde@bozeman.net) , 406-579-1471**

1. Condominiums
  - a. BMC 38.360.100 requires condominiums to provide bylaws for the condominium association as well as covenants, conditions and restrictions. **These are required to be provided to the city for review and approval prior to final plan approval.**
    - i. Paine Group is currently drafting condominium documents and will provide for city review prior to final plan approval.
2. Townhouse and rowhouse dwellings.
  - a. BMC 38.360.250.E. requires townhomes to provide open space at least equal to ten percent of the building livable space (not counting automobile storage). **Provide livable space calculations and show how the open space is meeting the requirements here within. If you are proposing the front yard as open space, show how it's meeting the requirements of 38.360.250.E.1 which includes providing a fence spec meeting the standards of section 38.350.060.**
    - i. See fence detail on AT1.01.
3. Building Design
  - a. BMC 38.530.040.B.1. Façade articulation storefronts and other buildings with non-residential uses on the ground level must include a minimum of three of the following articulation features every 60 feet (maximum) to create a human scaled façade pattern. **Building D's northern elevation needs to provide an additional two of these items (currently only windows are provided).**
    - i. The North facade of D now includes windows, change in building materials and vertical building modulation of at least 12 inches in depth if tied to a change in building material. (See AD3.01, North Elevation)
  - b. BMC 38.530.040.E. Maximum façade width. Building facades wider than 150 feet must include at least one of the following features to break up the massing of the building and add visual interest. [refer to code] **Building A, B, and C are not meeting this requirement and need to be redesigned to break up the massing of the buildings.**
    - i. The Applicant is requesting a departure from BMC 38.530.040.E. The resubmittal provides additional rendered perspectives depicting the

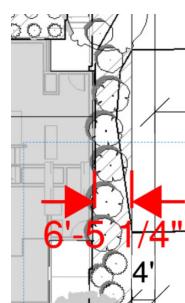
variations of the facade. The design has implemented balconies, recessed decks and recessed window openings to provide additional architectural character within the facade (See A9.01 - A9.15 )

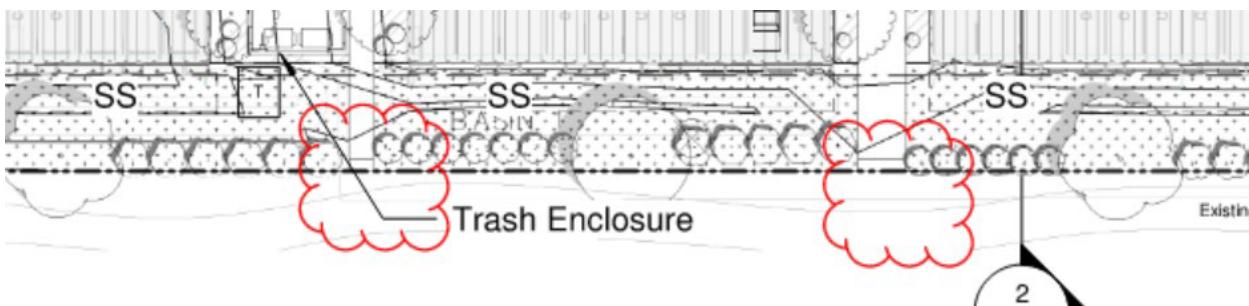
4. BMC 38.400.010A.2. Relation to developed area. The developer must arrange the streets and alleys to provide for continuation of streets and alleys between adjacent developed properties when such continuation is necessary for the convenient movement of traffic, effective provision of emergency services and efficient provision of utilities. **The original concept review submitted showed access to Mill Creek Drive. In addition, follow up correspondence between staff and design team continued to iterate the desire to have access to these roads to create a more complete street network. It appears easements were approved with the original Cottonwood Condominiums to the south. The reason and intent behind those easements remain the same which is why they were required to provide them originally.**
  - a. Following our conversation with the City of Bozeman's planning and engineering departments (on 11/17), it was determined that Mill Creek Drive should not be pursued as a vehicular traffic street. See current site plan which now includes a pedestrian pathway to the southern property boundary. Hopefully this will be able to extend to the South Cottonwood Condo development if the HOA determines favorably to approve that connection.
  - b. An opinion on Mill Creek Drive by our traffic engineer for the project is also attached. (See attached PDF "Traffic Impact Study")
5. BMC 38.400.100 – Extend street vision triangles into the right-of-way as required per City of Bozeman Site Plan checklist. If street trees are located in the triangle, ensure they are meeting the requirements of 38.400.100.D Provision for trees in street vision triangle.
  - a. Vision triangles have been remedied, and trees have been moved to no longer interfere. (See Landscape Plan, Sheet L1.01)
6. BMC 38.410.040.D. Rights-of-way for pedestrians. Rights-of-way not less than ten feet wide for pedestrian walks are required where deemed necessary to provide circulation or access to parks, open space, schools, playgrounds, shopping centers, transportation, and other community facilities. In addition, no continuous length of block may exceed 600 feet without intersecting a street or pedestrian walk. **Show where you are proposing this corridor and how it is meeting the standards found within, including setbacks adjacent to pedestrian rights-of-way less than 30 feet wide must not be less than 10', and must comply with provisions of section 38.400.080. A pedestrian easement that meets 38.410.060 will be required as well.**
  - a. Pedestrian Walkway has been delineated and revised in order to meet these standards. (See Site Plan)
7. BMC 38.510.030.C Block frontage standards
  - a. Call out block frontages on your site plan (including block frontage standards along sidewalks and internal pathways)
    - i. Block frontages are now shown on site plan.

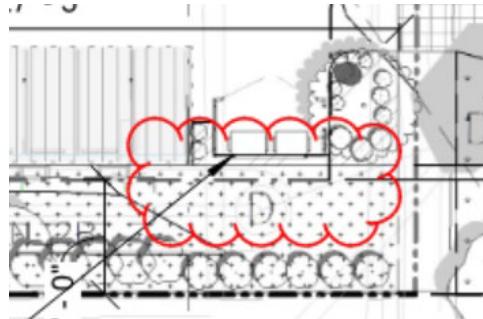
- b. Building entrances – for uses that front on multiple mixed designated block frontages, an entry along both streets is encouraged, but not required.
  - i. Although it is not required, an entrance along the northern façade of Building D.
    - 1. We are not providing an additional entrance as it is not required.
  - ii. Building A requires an entrance to be visible and directly accessible from the street. Currently all entrances are accessed from the internal parking lot. Adding an entrance on the northern façade would address this.
    - 1. Building A northern stair entrance has been moved to the northern facade. (See Sheet AA2.10)
- c. Provide weather protection at least 3' deep over primary business and residential entries. Please show your weather protection proposed and that it is meeting this standard. It does not appear that many of the entries are meeting this requirement.



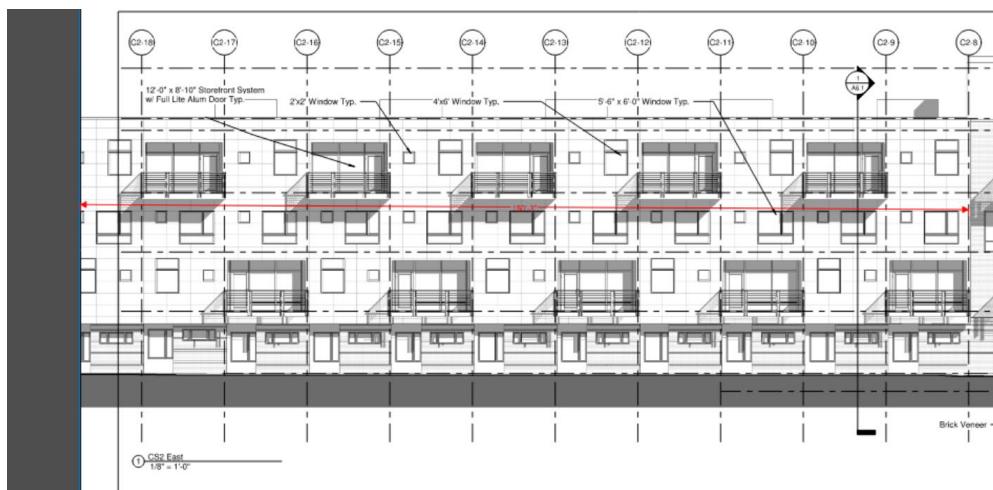
- i. All main entries to residential units have at least a 3' deep weather protection coverings. (See Site Plan) The main entrances for Building D both have a weather protective vestibule that are at least 3' deep (See AD2.01).
- d. BMC 38.510.030.J. Special residential block frontage standards along sidewalks and internal pathways. Show which treatment you are proposing for your semi private area as required herewithin. Anywhere the ground floor residential (and windows) is adjacent to a sidewalk.
  - i. As shown in the Overall site plan, the triplexes exceed the minimum setback (10') of Semi-private patio space screened by a low fence.
  - ii. The main entrances for the condominiums are using the raised deck or porch option. As shown in the site plan, the depth for the front porches of the condos are exceeding the minimum depth of 6' from the face of the building. The area of the porches range from 88 square feet to 112 square feet, exceeding the minimum of the 60 square feet required. These porches are raised at least 1' over grade.
- e. Sidewalk adjacent to townhomes needs to be at least 5' wide per BMC 38.520.040.D.1, and the landscaping needs to meet the special residential block frontage with at least 10' landscaping.



- i. Sidewalks adjacent to townhomes are now 5' wide with 10' of landscaping. (See Site Plan)
8. BMC 38.520.040.C.5 Connections to adjacent properties (including parks and trails). Provide pathways that connect to adjacent properties. **Ensure all north south pedestrian trails shown connect all the way to the adjacent east west trail to the south located off site (see image below of one of the connections that needs to be completed).**
- a. Pathways have been corrected to show a connection to the existing trail to the South.
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9. BMC 38.520.070.B.3 Service areas [trash dumpsters] must not be visible from the sidewalk and adjacent properties. Where the review authority finds that the only option for locating a service area is an area visible from a public right-of-way, internal pathway or pedestrian area, or from an adjacent property, the area must be screened with structural and landscaping screening measures provided in subsection C below and division 38.550. Service elements accessible from an alley area exempt from screening requirements. **Show additional details for your dumpster screening including the materials on the side that will be screening the dumpster from the sides. This will be particularly important as it is adjacent to pedestrian paths. The enclosure needs to meet the requirements found in 38.520.070.C. including the material matching the material used in the main building.**
- a. See Sheet A1.22
10. BMC 38.520.070.C.2 The sides and rear of service enclosures must be screened with landscaping at least five feet in locations visible from the street, parking lots, and pathways to soften views of the screening element and add visual interest. **The areas where the trash enclosures backs up to the trail and adjacent properties to the south will require this screening. The image below shows 1 of the 3 enclosures this applies to.**



- a. Plantings have been added as screening on the south faces of trash enclosures and facing pathways. (See Overall Landscape Plan)
11. **BMC 38.520.070.E.** Location and screening of roof mounted mechanical equipment.  
Please indicate if you have any rooftop mechanical equipment, and if so how is it screened? IF not, where is your mechanical equipment located?
- a. See attached mechanical roof plan(s) showing preliminary roof top equipment. Screening locations and screening details are provided on the revised architectural plans.
12. **BMC 38.530.040.C.** Façade articulation. Residential buildings must include articulation features at appropriate intervals relative to the scale of the façade in order to reduce the perceived massing of the building and add visual interest. At least three of the following features must be employed at intervals relative to the individual dwelling units or at a maximum of every 30 feet. The scale of the façade articulation should be compatible with the surrounding context. **The larger buildings have sections that require additional articulation.** Currently there is the use of windows and entries, however another articulation method is required. Refer to this code section as to which articulation method would work. This is seen on Sheet A3C2.0 (both west and east facades), A3B1.0 (north and south façade) and A3A1.0 (east and west façade).



- a. The Applicant is requesting a departure from BMC 38.530.040.E. The resubmittal have provided additional rendered perspectives depicting the

variations of the facade. The design has implemented balconies, recessed decks and recessed window openings to provide additional architectural character within the facade. (See A9.01 - A9.15)

13. BMC 38.530.040.E Maximum façade width. Building facades wider than 150 feet must include at least one of the following features to break up the massing of the building and add visual interest. **The larger buildings have sections that require additional features to break up the building mass.** Refer to this code section as to which articulation method would work. This is seen on Sheet A3C2.0 (both west and east facades), A3B1.0 (north and south façade) and A3A1.0 (east and west façade).

- a. The Applicant is requesting a departure from BMC 38.530.040.E. The resubmittal has provided additional rendered perspectives depicting the variations of the facade. The design has implemented balconies, recessed decks and recessed window openings to provide additional architectural character within the facade. (See A9.01 - A9.15)

14. BMC 38.530.050.E. Articulated building entries. Primary building entrance(s) must be clearly defined and scaled proportionally to the building. **The main entrances on the commercial buildings are significantly understated.** As previously mentioned, they also need 3' weather protection which is an opportunity to meet both of these code provisions.

- a. Comment addressed above. (See AD2.01)

15. BMC 38.530.060.C.4.b. Where cement board paneling/siding is the dominate siding material, the design must integrate a mix of colors and/or textures that are articulated consistent with windows, balconies, and modulated building surfaces and are balanced with façade details that add visual interest from the ground level and adjacent buildings. There are large expanses on many of the buildings of cement board as the dominant material. Please break up these expanses either with different material, or one of the other provided suggestions above.



- a. Cement board siding is being replaced with cementitious shingles. See elevations and renderings.

## Parking

1. The current proposal shows on street parking on S Hanley Street. S Hanley Street is a private drive thus parking is most likely not allowed by the property owners (Cottonwood Condominiums). If the Condominiums do allow it, you will need to meet the requirements for Off-site parking found in 38.540.070.
  - a. There is no longer parking on S Hanley Street. See Site Plan.
2. BMC 38.540.050A.1.b.(4). Transit availability. Show the developed service stop that is within 800 feet of the site. I see the Goldline has a stop along Ferguson and Babcock, however I do not see a developed shelter. Is there another one I'm not aware of? If the stop does not have a shelter, you will be required to install a shelter for it. If the shelter is not already in place, coordinate with Taylor Lonsdale (Transportation Engineer with Bozeman), on encroachment permit. [tlonsdale@bozeman.net](mailto:tlonsdale@bozeman.net).
  - a. Bus stop shelter has been designated by HRDC to be located on the NW corner of the Babcock and Ferguson intersection (See Site Plan). Standard transit shelter is to be coordinated with HRDC and Taylor Lonsdale, and constructed by the General Contractor for the project. (See attached documents "Transit Shelter Spec" and "Transit Shelter Solar Solution")
3. BMC Table 38.540.020 Dimension of parking spaces and modules. Parking stalls within a garage are required to be 20' x 9' with an additional one foot on all exterior sides of the stall. This is measured from the inside of the walls. The garages on the three household buildings are not sufficiently sized.
  - a. The Triplex enclosed garages have been resized to meet the required 20'x9' stall size with an additional 1' on the exterior wall of the stall. (See sheet AT2.11)
4. Required compact car sign for all compact spaces.
  - a. Compact spaces are shown on overall site plan.
5. BMC 38.540.050.A.3.a. Landscaping in lieu of parking. Check with Brian if we are okay with this? – Staff does not support this as it does not meet the exceptions found in Section 38.540.050.A.3.
  - a. Parking calculation no longer takes into account reduction from Landscaping in Lieu of Parking
6. BMC 38.540.050.A.4-5. Need additional information on your bicycle parking. Counting the symbols it does not add up to the amount stated. Are the symbols in the center of building B different (longer) for a reason? Are those different rack types? I do not see any bicycle parking provided for Building D. Also, in order to receive the reduction.
  - a. Bicycle parking has been labeled correctly on the site plan and overall floor plans for each building. There are 86 spaces for bicycle parking shown on the site plan. See Overall Site Plan

### **Landscaping**

1. BMC 38.550.050.A. Provide calculations that show you are meeting the drought tolerant species requirement of 75% or greater.
  - a. There are 31 different species of plants, 25 of them drought tolerant. 80% of selected plant materials are meeting drought tolerant requirements. See Plant schedule on Sheet L1.01.

2. BMC 38.550.050.J. Required use of trees with residential adjacency. All landscape plans must include, for each setback with a residential adjacency, at least one canopy or non-canopy tree for each 50 lineal feet of the adjacent area. **There is approximately 950' of residential adjacency to the south. This will require 19 trees. Additional trees will need to be added on the southern**
  - a. The residential adjacency on the south side now contains 21 large canopy trees. See overall Landscape Plan
3. Landscape sheet L3.0, Detail 6, Dog Park Fence. Where is the dog park, or dog park fence proposed?
  - a. There is no longer a dog park included in this project, the detail has been removed.

### Lighting

1. 38.570.040.G.5. All outdoor lighting must be designed and located such that the maximum illumination measured in footcandles at the property line may not exceed 0.3 into adjacent residential properties. **The lighting plan needs to be redesigned as it is exceeding the maximum spill over allowed onto the adjacent residential properties located to the south.**
  - a. Site lighting has been revised to meet this requirement, see attached site lighting plans

### Parks

1. Matthew Lee, [mjlee@bozeman.net](mailto:mjlee@bozeman.net) , (406) 582-2339
  - a. For the CILP proposed, please provide written justification per Resolution 4784. If CILP is approved, this will be required to be paid prior to final site plan approval.

### Engineering Division

1. Alicia Paz-Solis, [apazsolis@bozeman.net](mailto:apazsolis@bozeman.net)

### NorthWestern Energy

Jacob Farwell, [Jacob.farwell@contractor.northwestern.com](mailto:Jacob.farwell@contractor.northwestern.com)

1. Civil Site plan shows electric only to all the proposed buildings and the landscape plan shows gas and electric to some of the builds. Does the applicant want both gas and electric services for all the proposed units?
  - a. **Gas will be supplied to all building with exception to the townhouses**
2. There is an existing three phase underground electric power line and a 4" gas main along the west side of S Ferguson Ave from which utilities could be extended into the site to provide gas & electric services to the new units. There is an existing three phase junction can in the northeast corner of the site. According to NWE utility maps this would be the best location to extend NWE utilities. The NWE project engineer will need to

determine the best location for the extension of these utilities and placement of utilities and transformers.

3. Utility extension & utility easements. Any extension of gas main or electric primary will need to be installed within an easement. A minimum of a 10-foot easement is required. To establish the needed internal utility easement locations the NWE project engineer will help to establish these locations. If an easement shall need to cross property other than the applicants, negotiations and costs between other landowners for such easements is entirely the applicant's responsibility.
4. Transformer location to a structure. If the buildings will be requiring 3 phase power a transformer pad site should be planned. Typical 3-phase pad is going to be a 7'x7' pad. For oil filled transformers a 2-foot clearance is required to non-combustible walls and surfaces that do not have any openings such as doors, windows, air intake, and fire escapes routes and meets current NEC or NFPA requirements for non-combustible material. For transformers 750kVA & larger a 3-foot 6-inch clearance is required and 10-feet of clearance is required on the front side of the pad, where the transformer doors are located. For any combustible surface, not meeting current NEC or NFPA requirements for non-combustible material, a minimum of a 10-foot clearance is required between the building or any combustible surface and the transformer. As shown on the Overall Utility Plan, the transformer will meet or exceed the 10-ft requirement. All distances are referenced to the edge of the pad. For planting of bushes or shrubs a Minimum Working Space for a Pad-Mounted Transformer, is 4-feet on the sides and back portion of the concrete pad and 10-feet of clearance on the front side of the pad where the transformer doors are located. Note, all distances are referenced to the edge of the pad. Due to COVID-19 there has been an impact on receiving larger three phase and single phase transformers and a longer timeline may be needed to receive the needed equipment for such services. It is important to submit an application to NWE and provide the calculated loads as soon as possible to avoid any delays. The NWE project engineer will help to determine the appropriate location for the transformer.
5. Service & Meter Location. The electric meter & or CT cabinet will need to be installed in the same general location within 10-feet of the gas meter. NorthWestern Energy reserves the right to specify the location of our meters. All meters are to be located outdoors on the corner or in a location on the building closest to the transformer or secondary junction can serving the building unit. Meter locations will need to be approved by NWE. NWE policy is to maintain a minimum 30-inches wide by 3-feet clear zone between the front of the meter and landscape screening or wall screening for self-contained meter bases and 48-inches for installations requiring cabinets. When using a screening wall most commercial applications require the 48-inch clear zone between the front of the meter and the wall. Location of the meter(s) shall allow easy access to the meters for operation and maintenance. This can be determined through the design process after an application is submitted through NWE and the area project engineer will work through allowable shrubs and plants for screening and to determine adequate clearances for access to our meters.
6. The following applies to the gas regulator. The gas regulator cannot be placed under a window or within 3' of the operable portion of the window. It can be placed under a

window/deck on the second story, provided the “open/operable” portion has at least 6’ of clearance from the regulator. Ensure that there is 10’ of separation from any mechanical air intake, including air conditioning units. The regulator will need to be 3’ from the closest corner of any portion of the electric meter base. Submitting an application to NWE will get the NWE engineer involved and can help with this process.

#### Meter Screening Walls

1. Gas service cannot penetrate foundation walls that are attached to the building foundation per the International Fuel Code. Gas riser need to penetrate the building above ground. However, if the foundation is not attached to the building (i.e. the foundation wall is isolated from the building for just supporting the wall) this is acceptable.
2. If this is a free standing foundation wall, a knock-out must be provided that is a min of 2’x2’ but may be required that the knockout be larger on the electric service depending on the meter base amperage. Consult NWE for proper sizing of knock-out
3. Contact NWE for placement of knock-out to insure that it lines up properly with the termination location to prevent bends in the service
4. Screening must meet the clear zone requirement of NWE Electric Service Requirements which typically for commercial application is 48” from the face of the electric meter.
5. Gas meter cannot be located in recessed location where it is not open atmosphere above the meter without approval from NWE.
6. Screening cannot consist of rolling doors or other devices that are required to be open to access the meters.
7. NWE will need to review building elevation plans for the proposed buildings for the meter locations as well as final grading plans for all utility installation locations.
8. For landscaping. No large deep rooted trees or bushes will be allowed within the 10-foot utility easement. All other approved landscaping will be placed so as not to damage, prevent or hinder operation and maintenance of NWE utilities.
9. For landscaping, planting of bushes or shrubs a Minimum Working Space for a Pad-Mounted Transformer is 4-feet on the sides and back portion of the concrete pad and 10-feet of clearance on the front side of the pad where the transformer doors are located. Note, all distances are referenced to the edge of the pad.
10. Submit an application online to have the NWE project engineer work with the applicant. Go to [www.northwesternenergy.com/construction](http://www.northwesternenergy.com/construction) to apply online Montana Construction Application, and access Montana New Service Guide to provide information on electric and gas service requirements. Once an application is submitted the NWE project engineer will be in contact with the applicant. Electrical and gas loads will be required for the NWE engineer to size the services needed.

#### Solid Waste Division

Russ Ward, rward@bozeman.net, 406-582-3235

1. Need detailed plan for refuse enclosures
  - a. [See Site plan and Sheet A1.22](#)
2. Doors must swing open a minimum of 180 degrees.
  - a. [See sheet A1.22](#)

## **Building Department**

Ben Abbey, [babbey@bozeman.net](mailto:babbey@bozeman.net)

1. Covered parking is required to be permitted
2. Cover sheet calls for only 6 accessible spaces, per table 1106.1 with their total onsite parking totals of 336 space would require 8 accessible spaces. Also verify with Section 1106.2 (1) for calculating additional spaces.
  - a. (8) Accessible spaces are now shown on parking calcs/site plan.
3. Section 106.5 Van accessible spaces are required.
  - a. (2) Van accessible spaces are now shown on parking calcs/site plan.
4. Design standard for Accessibilities requirements shall comply with Chapters 11 of the 2018 IBC and ICC A117.1-2009
5. The requirement for Type A units is calculated as a site in total, or total dwelling units per Section 1107.6.2.2.1 of the 2018 IBC.
6. For building permit submittal please provide enlarged detailed drawings of Accessibilities requirements for the Type A and Type B showing, clearances, reach, height's, controls, etc...
  - a. See Sheet A0.11
7. All dwelling units are considered to be Type B on all floors with elevator service.
8. Any spray Foam products are required to be installed according to their listing and manufacturer's specifications. This can include thermal barrier requirements allowed within the IBC. Intumescent coatings or paints are require approval from Building and require special inspections from a certified third party.
9. Commercial Shell permit by its self, and TI's separately permitted.

## **Forestry Division**

Alex Nordquest, [anordquest@bozeman.net](mailto:anordquest@bozeman.net),

1. L10: The Forestry Division strongly recommends a substitution for 'Lewis & Clark' Prairie Expedition Elm. This cultivar is susceptible to European Elm Scale. Preferred substitutes include Accolade, Triumph, Commendation, and Discovery.
  - a. Lewis and Clark Elm has now been changed to the Accolade Elm.
2. L10: The Forestry Division recommends a minimum of 2 tree species per street boulevard. Greater variety increases the landscape resiliency to any one pest, disease, or weather-related issue.
  - a. Two species of trees have been chosen to meet the boulevard requirements.  
(See Landscape Plan and Plant schedule on sheet L1.01)

## **Fire Department**

Scott Mueller, [smueller@bozeman.net](mailto:smueller@bozeman.net)

1. No comments received at this time.

## **Water Conservation Division**

1. No comments received at this time.

## **Engineering Comments**

### **Easements:**

1. BMC 38.410.060 (B.2) - The applicant must provide a ten (10) foot utility easement (power, gas, communication, etc.) along the developments property frontage prior to Site Plan approval.
2. BMC 38.410.060 (C.1) - The applicant must provide a thirty (30) foot public utility easement to accommodate both water and sewer. An additional ten (10) feet of width is required for each additional main that occupies the easement.
3. BMC 38.410.060 - All public easements must be provided with respective site plan submittal in a clean draft format for review prior to individual phase's site plan approval. Easements will be deemed inadequate if they are not in a final draft format (signatures are not required for the draft review). Easements must be stamped by a licensed professional surveyor.
4. DSSP Section V.D (5.b) - Utility easements will be required for all fire hydrants maintained by the City of Bozeman.
5. BMC 38.410.060.C - The applicant will need to provide drainage easements over all detention ponds for possible future maintenance purposes by the City. Public sidewalks associated easements will need to be provided.

### **Water Rights:**

1. BMC 38.410.130 - Water Rights - The applicant must contact Griffin Nielsen with the City Engineering Department to obtain a determination of cash-in-lieu of water rights (CILWR). CILWR must be paid prior to site plan approval.
  - a. Our initial estimate of annual domestic water usage for the proposed development is 17.8 ac-ft, as detailed in the preliminary water report, which translates to \$106,800. This number will be finalized in the updated water report.(See attached document "Engineering Report - Water")

### **Water and Wastewater**

1. DSSP Section V.B Sanitary Sewer System Design Criteria - The applicant must provide an estimate of the peak-hour sanitary sewer demand for the development certified by a professional engineer prior to final plan approval. This information is used to verify downstream sewer capacity as well as keep the City's wastewater hydraulic model updated.
  - a. Peak hour estimate is provided in the preliminary sewer report. (See attached document "Engineering Report - Sewer")

2. DSSP Section V.A Main Size - A water design report must be prepared by a professional engineer for the proposed project. The water distribution system must be designed to meet the maximum day demand plus fire flow and the peak hour demand.
  - a. **The proposed water system should meet the maximum demand plus fire flow.**  
See preliminary water report for peak hour demand.(See attached document "Engineering Report - Water")
3. The applicant is advised that due to the known high groundwater and soil conditions within the proposed area of development an increased rate of corrosion has been observed with ductile iron water mains, thus decreasing the longevity of publicly owned and maintained infrastructure. The applicant must provide corrosion protection for all future water mains within the development and identify how the mains will be protected with future infrastructure submittal. Acceptable protection methods include zinc coated ductile iron or v-bio enhanced polyethylene encasement of the main. Corrosion protection can be waived, if the applicant can demonstrate that corrosion protection is not applicable for the proposed development. Typically, in order for a waiver to be granted, the applicant must consult the latest American Water Works Association and Ductile Iron Pipe Research Association (DIPRA) documentation for testing\evaluation procedures and provide an analysis demonstrating that corrosion protection is not needed throughout the entire development. If a waiver is pursued, the waiver must be requested and approved prior to infrastructure approval.
  - a. **The proposed stormwater treatments will maintain a 3-ft separation between seasonal high groundwater and the bottom of proposed facilities. A corrosion test will be performed to determine if corrosion protection will be required.**
4. DSSP Fire Service Line Standard - The applicant must prepare plans and specifications for any fire service line in accordance with the City's Fire Service Line Policy. The plans must be prepared by a Professional Engineer and be provided to and approved by the City Engineer prior to initiation of construction of the fire service or fire protection system. The applicant must also provide Professional Engineering services for construction inspection, post-construction certification and preparation of mylar record drawings. Fire service plans, and domestic services 4" or larger, must be a standalone submittal, separate from the site plan submittal. City of Bozeman applications for service must be completed by the applicant.

### Stormwater

1. BMC 38.410.060.C - The applicant is showing stormwater features on the site that are located outside their property boundary. Based upon Engineering's understanding there's no legal documentation allowing the location of these proposed features. Legal documentation (existing/future) must be provided which show the applicant has lawful authority to place these stormwater features as presently shown.
  - a. **Stormwater features off site are no longer being used.**

2. The applicant must follow and demonstrate compliance with DSSP Section V.C for culvert design standard specifications to provide continued storm drainage conveyance through the existing swale at the Ferguson Avenue access.
  - a. A 30" culvert at the Ferguson access is proposed. See sheet C1.4
3. The applicant must show storm sewer piping and connection of building roof drains on the drainage plan sheet.
4. The applicant must provide details for the proposed drywells.
5. DSSP Section II (B.1) - The applicant must delineate the drainage basins on the drainage sheet or a separate exhibit and include the identification and square foot coverage of the various ground surfaces.
  - a. The stormwater system being proposed uses a combination of detention and retention ponds, as well as infiltration basins to collect the site post run-off.
6. DSSP Section II (B.2) - The applicant must provide topographic contours (one-foot intervals) and sufficient spot elevation data on the drainage plan sheet.
7. DSSP Section II (B.3) - The applicant must provide a description of the ultimate destination of stormwater runoff from the project in an overflow event.
  - a. The proposed stormwater detention ponds will release limited to the 10-yr, 2-hr storm intensity. Retention ponds have been sized for larger events as detailed in the stormwater report. (See attached document "Engineering Report - Storm")
8. DSSP Section II (B.6) - The applicant must provide details and specifications (including invert and other pertinent elevation information) for all storm drainage improvements.
9. BMC 40.04.720 - The applicant must draft a stormwater maintenance plan which defines ownership and responsibility of stormwater facilities (on-site and off-site) and shall create and maintain records of installation and maintenance and repair for the life of the development and shall be made available to the engineering department upon request.
10. BMC 38.540.020.M - The applicant must identify snow storage areas on the Site Plan for the parking area. Snow removal storage areas must be sufficient to store snow accumulation on site. Such areas shall not cause unsafe ingress/egress to the parking areas, shall not cause snow to be deposited on public rights-of-way, shall not include areas provided for required parking access and spaces, and shall not be placed in such a manner as to damage landscaping. Confirm snow storage runoff will be retained and treated onsite.
  - a. Snow storage is shown on site plan. (See A1.01)

## Transportation

1. BMC 38.210.060 (A.12) - The Traffic Impact Study (TIS) must include discussion and analysis without traffic mitigation measures by future development in the area (i.e. single-lane modern roundabout at the intersection of South Ferguson and Fallon Street).
  - a. See attached document "Traffic Impact Study"
2. BMC 38.400.010 (A.2) - Relation to developed areas - The developer must arrange the streets and alleys to provide for the continuation of streets and alleys between adjacent developed properties when such continuation is necessary for the convenient movement

of traffic, effective provision of emergency services and efficient provision of utilities. The applicant must consider continuation of the driveway extension on Mill Creek Drive (adjacent development to the southeast). If a connection to Mill Creek Drive is not possible, the applicant must provide documentary evidence as to why this connection cannot be provided. The applicant must provide documentation regarding the public access easement shown along S. Hanley Avenue. If changes have taken place, please provide updated documentation.

- a. Attached is a Final Plat for the adjacent Cottonwood Condominiums which depicts an existing 60ft wide access and utility easement along the West side of the property which should suffice as access to Hanley Avenue and the SW entrance for this development. All use of property alongside Hanley for stormwater and landscaping has been removed from the site plan. Should the city determine this easement as insufficient, we will abandon the SW entrance for this development. (See attached document "Cottonwood Condominiums Final Plat")
3. Public sidewalks along Babcock Street and Ferguson Avenue must be located in the right-of-way with one foot of separation from the property boundary.
  - a. Public sidewalks are now at least 5' wide with a 1' separation between property boundary. (See Site Plan, Sheet A1.01)
4. Public sidewalks with associated easements must be installed along the west property line connecting the sidewalk along Babcock Street to the trail along the development's southern boundary.
  - a. See Site Plan, Sheet A1.01
5. DSSP Section IV (B.3) - All sidewalks shall have a minimum width of five (5) feet; ensure sidewalk width matches the existing sidewalk along West Babcock Street.
  - a. See Site Plan, Sheet A1.01
  - b. .

#### Lighting

1. BMC 38.400.070 Street Lighting - City standard street lights are required along the frontages of Babcock Street and Ferguson Avenue, per the collector spacing requirements. The street lighting must be shown on the site plan. Infrastructure plans for the construction for the street lights must be submitted to the City Engineering Department per the Design Standards and Specifications Policy Manual. The street lights must be part of an SILD prior to occupancy of the proposed project.
  - a. See site plan and lighting plan.

#### Conditions of Approval

City of Bozeman Resolution 5076, Policy 1 - The applicant must provide and file with the County Clerk and Recorder's office executed Waivers of Right to Protest Creation of Special Improvement Districts (SID's) on City standard form for the following:

1. Street improvements to Babcock Street between Cottonwood Road and Main Street including lighting, signalization, paving, curb/gutter, sidewalk, and storm drainage.
2. Street improvements to Ferguson Avenue between Huffine Lane and Durston Road including lighting, signalization, paving, curb/gutter, sidewalk, and storm drainage.
3. Intersection improvements at Babcock Street and Cottonwood Road Lane including lighting, signalization/channelization, paving, curb/gutter, sidewalk, and storm drainage.
4. Intersection improvements at Babcock Street and Ferguson Avenue including lighting, signalization/channelization, paving, curb/gutter, sidewalk, and storm drainage.
5. Intersection improvements at Babcock Street and Main Street including lighting, signalization/channelization, paving, curb/gutter, sidewalk, and storm drainage.
6. Intersection improvements at Ferguson Avenue and Huffine Lane including lighting, signalization/channelization, paving, curb/gutter, sidewalk, and storm drainage.
7. Intersection improvements to Ferguson Avenue and Durston Road including lighting, signalization/channelization, paving, curb/gutter, sidewalk, and storm drainage.
  - a. On November 22, 2021, we, through our attorneys (The Rabb Law Firm), sought the City's legal authority to require the signing of the Waiver of Right to Protest Creation of Special Improvement Districts ("Waiver"). However, we have not received an answer with the specific legal authority the City is relying on. As such, we are assuming that the City does not have any legal authority to require us to sign the Waiver and that the City will now be willing to drop the Waiver requirement. If the City is not willing to drop the Waiver requirement then please immediately provide us with the legal authority that the City is relying on to require us to sign the Waiver.

The document filed must specify that in the event an SID is not utilized for the completion of these improvements, the developer agrees to participate in an alternate financing method for the completion of the improvements on a fair share, proportionate basis as determined by square footage of property, taxable valuation of the property, traffic contribution from the development, or a combination thereof. The applicant must provide a copy of the filed SID waiver prior to final plan approval.