



MEMO No. 2

TO: Design Review Board
DATE: February 9, 2022
FROM: Madson Matthias, Community Planning, Development & Innovation
RE: **1841 South 7th Street West – Alternative Compliance for Multi Family Activity Area**

It has come to the attention of Development Services Staff that there is an existing dispute around the property line between **1841 South 7th Street West** (hereafter referred to as the “subject property”) and **1847 South 7th Street West** (hereafter referred to as the “adjacent property”). Both properties are located in Block 28 of Daly’s Addition, located in Section 29, Township 13 North, Range 19 West P.M.M. CITY OF MISSOULA, MISSOULA COUNTY, MONTANA.

FINDINGS OF FACT

1. The subject property is located in the Block aforementioned, on the West sixteen feet of Lot 10, all of Lots 11-14 situated East of the irrigation ditch.
2. The Warranty Deed provided for the subject property does not reference Lot 15.
3. The adjacent property is located in the Block aforementioned, on Lot 16 and the parts of Lot 15 lying northwest of the irrigation ditch.
4. The Quit Claim Deed provided for the adjacent property does not reference Lot 14.
5. Ownership of Lot 14, West of the ditch is unclear.
6. Ownership of Lot 15, East of the ditch is unclear.
7. The deviations requested by Palazzo Properties for the subject property fall under Title 20, Section 20.65.020.C.1, which explicitly requires “20% of the **parcel**” to be designated as activity area.
8. Title 20, Section 20.100.010 defines **parcel** as: “A contiguous area of land that is designated by its owner, at the time of application for a zoning compliance permit, as a site to be used, developed, or built upon as a unit, under single ownership or control.”
9. Palazzo Properties LLC may not own the portion West of the ditch that covers the activity area.

Therefore, staff recommends a second condition of approval based on the findings of fact above for the requested alternative compliance proposal.

The recommended second condition is as follows:

- #2.** The applicant shall provide adequate proof of ownership or control of the parts of Lot 14 lying West of the Miller-Cave-Cannon irrigation ditch (showing ownership or control of those parts of the activity area on both sides of the ditch as shown on the submitted application), subject to review and approval by Development Services, prior to building permit submittal. Proof of ownership or control may be made by obtaining title insurance covering that area, order of a court of competent jurisdiction in a quiet title action, quit claim conveyance by the identified owner of that area, or any other means deemed sufficient by Development Services to provide adequate proof of ownership.



COMMUNITY PLANNING, DEVELOPMENT & INNOVATION

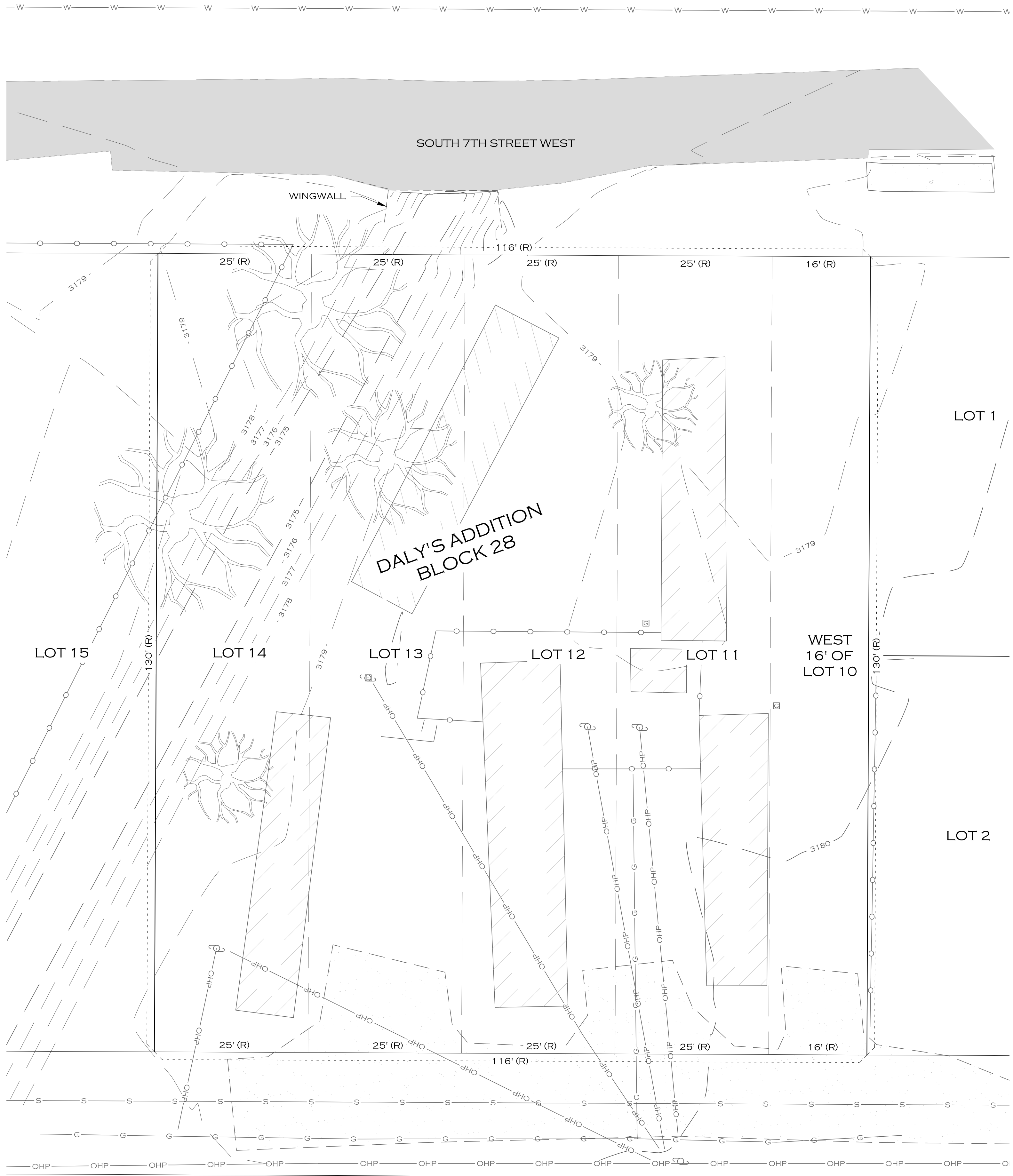
Development Services Division

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The above condition provides for Design Review and approval of the requested deviations while ensuring the applicant establishes the appropriate ownership or control of the subject site prior to submittal of the building permit for the proposed development and activity area.

Attachments

- Site plan of subject and adjacent properties



LEGEND

- EXTERIOR PARCEL BOUNDARY
- INTERIOR PARCEL BOUNDARY
- EXISTING CURB
- EXISTING CEDAR FENCE
- EXISTING ROAD CENTERLINE
- EXISTING BURIED GAS
- EXISTING OVERHEAD POWER
- EXISTING WATER MAIN
- EXISTING SEWER MAIN
- EXISTING DIRT ROAD
- EXISTING BUILDING
- EXISTING CONCRETE
- EXISTING ASPHALT ROAD
- EXISTING ELECTRIC METER
- EXISTING GAS METER
- EXISTING POWER POLE
- EXISTING SUMP
- EXISTING DECIDUOUS TREE

NOTES:

1. LOCATION OF CITY OF MISSOULA WATER MAIN IS GRAPHICAL PER GIS DATA.

JOB #:	1907	DRAWN:	MS	DESIGN:	MS	CA:	KS	DATE:	4/16/19
DESCRIPTION									
DATE									
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MISSOULA	1841 SOUTH 7TH STREET WEST		MONTANA		EXISTING SITE CONDITIONS				
C1.0									