



BOARD OF COUNTY COMMISSIONERS
YELLOWSTONE COUNTY, MONTANA
TUESDAY, AUGUST 28, 2012

SUBJECT: Zone Change #637 – 517 Lincoln Lane
THROUGH: Candi Beaudry, AICP, Planning Director
FROM: Nicole Cromwell, AICP, Zoning Coordinator, Planner II

REQUEST

The applicant is requesting a zone change from Residential 7,000 (R-70) to Residential Multi-Family-Restricted (RMF-R) on a 1.96-acre parcel of land described as the Fraction of 175 feet by 490 feet in the S1/2NWSENE1/4 of Section 27, Township 1 North, Range 26 East generally located at 517 Lincoln Lane. The Zoning Commission held a public hearing on August 13, 2012, and is forwarding a recommendation of approval on a 3-1 vote.

APPLICATION DATA

OWNER: Thomas Snyder
AGENT: Marshall Phil, P.E. Blueline Engineering
LEGAL DESCRIPTION: Fraction of 175 feet by 490 feet in the S1/2NWSENE1/4 of Section 27, Township 1 North, Range 26 East
ADDRESS: 517 Lincoln Lane
SIZE OF PARCEL: 1.96 acres
EXISTING LAND USE: Single family residence
PROPOSED LAND USE: Same with possible annexation and multi-family development by a future owner
EXISTING ZONING: R-70
PROPOSED ZONING: RMF-R

APPLICABLE ZONING HISTORY

Subject Property

Zone Change #362 (County) – 517 Lincoln Lane – A zone change from R-70 to NC was denied on July 31, 1984.

Surrounding Properties

Zone Change #82 (County) – 727 Bench Boulevard – A zone change from R-70 to RMF was approved on April 6, 1976.

Zone Change #136 (County) – 309 – 337 and 1039 Lincoln Lane; 312-346 Bench Boulevard – A zone change from R-70 to CC was approved on August 23, 1977.

Zone Change #306 (County) – 605, 621 and 637 Lincoln Lane – A zone change from R-70 to NC was approved on March 17, 1981.

Zone Change #345 (County) – 553 Lincoln Lane – A zone change from R-70 to NC was approved on September 27, 1983.

Zone Change #750 (City) – King Place Subdivision at Bench Boulevard and Wicks Lane -
A zone change from Residential-7,000 to Neighborhood Commercial and Residential Multi-family-Restricted was approved on February 28, 2005.

Zone Change #590 (County) – Southeast corner of Bench Boulevard and Hilltop Road –
A zone change from Residential Multi-family to Neighborhood Commercial was approved on April 18, 2006.

Zone Change #805 (City) – 941 Bench Boulevard –
A zone change from R-70 to RMF-R was withdrawn on May 2, 2007.

Zone Change #816 (City) – 848 Wicks Lane –
A zone change from R-70 to NC was approved on September 10, 2007.

Zone Change #833 (City) – 1442 Bench Boulevard –
A zone change from R-70 to R-60 was approved on February 25, 2008.

Zone Change #859 (City) – 2100 Main Street –
A zone change from Residential Manufactured Home (RMH) to Highway Commercial (HC) was approved on December 21, 2009.

Zone Change #862 (City) – 2414 Roundup Road and 621 Pemberton Lane –
A zone change from CC to HC was approved March 22, 2010.

Zone Change #864 (City) – 2408 Main Street –
A zone change from CC to HC was approved on June 28, 2010.

Zone Change #876 (City) – 519 Crow Lane –
A zone change from R-70 to RMF-R was approved on June 27, 2011.

CONCURRENT APPLICATIONS

None

SURROUNDING LAND USE & ZONING

NORTH: Zoning: NC (City)
Land Use: Townhomes – multi-family dwellings
SOUTH: Zoning: R-70 (County)
Land Use: Single family residence
EAST: Zoning: R-70 (County)
Land Use: Single-family residences
WEST: Zoning: HC (City)
Land Use: Vehicle service storage yard – Manufactured Home Park

REASONS

The subject property is located on the east side of Lincoln Lane in a rapidly developing area of the City of Billings. The applicant intends to eventually sell the property to a new owner that will annex and develop the property with multi-family dwellings. The applicant is choosing to submit the zone change as a County application since he does not intend to annex the property at this time. The city limits border the property on the north and west. Property south and east is still in the County and is either vacant or developed for lower density single family homes. The city and developers of other property on Lincoln Lane will be making improvements to the street and storm drainage in the near future to handle the increased traffic and chronic storm water problems. The applicant is requesting to rezone the 1.96-acre subject property from R-70 to RMF-R to offer the land for sale and development. The property is served by Billings Heights Water District but does not have public sewer service. The property is within the limits of annexation for the City of Billings for any time in the next 5 years. Any new development would have to be served by public water and public sewer.

Properties to the west and north are commercially zoned and have been developed for multi-family dwellings, vehicle services and manufactured homes. The owner has used this property for a single family residence. The Billings area has experienced an increase in market pressure for multi-family dwellings in the last 12 months. Several new units are under construction on Lincoln Lane south of the subject property and city-wide several hundred new apartments are under construction. Lincoln Lane is considered a local street and the intersection with Bench Boulevard has been re-constructed in the past year.

A neighborhood meeting was conducted by the applicant on May 29, 2012, at 517 Lincoln Lane. The minutes of meeting are included as Attachment B. The applicant shows in the meeting minutes that issues of concern are lighting, density of the development, and the difference between current density and the proposed RMF-R zoning. The Planning Division did not receive any telephone or written comments concerning the application.

Planning staff reviewed this application and recommended of approval for the proposed zone change based on the 11 criteria for zone changes. The property is adjacent to multi-family dwellings in an NC zoning district to the north and across the street from commercial uses. The proposed zoning is the most compatible with those districts and development. Any multi-family development of the property will require annexation and compliance with site development standards including off-street parking, landscaping, a new access driveway and right of way improvements for curb, gutter, sidewalks and storm drainage. A subdivision will be required for any development that is for rent or lease of the dwelling units. A condominium or unit ownership development does not require subdivision approval but does require a Master Site Plan approval.

The Zoning Commission concurred with the staff recommendation based on the testimony received and the 11 criteria for zone changes.

RECOMMENDATION

The Zoning Commission voted 3-1 to recommend approval of Zone Change #637.

ZONING COMMISSION PUBLIC HEARING AND DISCUSSION

The Zoning Commission conducted a public hearing on this application on August 13, 2012. The applicant, Tom Snyder and the agent, Marshall Phil, P.E. of Blueline Engineering, were in attendance to testify in favor of the proposed zone change. Staff forwarded a letter of comment from an adjoining owner concerned with irrigation and additional traffic on the street. (Attachment D)

Vice Chairman Al Littler called for discussion after the staff presentation and recommendation. Littler asked where the irrigation ditch exists. Nicole Cromwell located the irrigation ditch on the platted alley to the south of the subject property. Littler asked whether the ditch is owned by the Billings Heights Ditch Company and it was clarified the ditch was owned by the ditch company. Littler asked why the ditch water was flooding the subject property and not staying on the property where the irrigation is happening. Nicole Cromwell noted the land slopes to the north towards the subject property. Commission Member Dan Austin asked why the zone change was being proposed in the County while the development would have to occur with city services after annexation. Nicole Cromwell clarified the owner wished to improve the marketability of the property. Nicole Cromwell stated this has occurred in the past with other property adjacent to or

within the limits of annexation. Joan Hurdle stated she understood the owner's desire to improve the market for the sale of the property but it was the purpose of the Zoning Commission to represent all the County residents not just one property owner. Member Austin asked for clarification of the location of a new berm to keep the adjacent owner's irrigation water off the subject property. Nicole Cromwell pointed along the south property line.

Vonnie Anderson of 1093 Lincoln Lane spoke against the zone change and on behalf of her parents who own property at 549 and 1093 Lincoln Lane. She stated their property is 5 acres and they maintain horses and need to irrigate. She stated they cannot control the flood irrigation so some of the water does end up on Mr. Snyder's property. She stated in 6 years, 102 new dwellings have been constructed on Lincoln Lane but very little street improvements have occurred. She stated the traffic is becoming a problem with speeding and not watching for pedestrians on the side of the road. The street used to have just 16 houses. She stated Lincoln Lane is not drained and the pavement is breaking down. There are no stop signs from these new private roads out onto Lincoln Lane and many of the residents just zip out on to Lincoln Lane without stopping. She stated this is dangerous for pedestrians and traffic. She stated there are no speed limit signs anywhere on Lincoln Lane. She stated the new Bench Boulevard intersection is extremely hazardous with no sight distance around the curve in Bench Boulevard. She stated the Bench Boulevard traffic is going faster now - sometimes 45 mph. She stated there is dust and mud all the time from the traffic. The whole neighborhood has gone downhill in the last 6 years with all this city development.

Linda Fiene of 727 Orilla Street stated she was against the zone change since it will de-value the large lots they have available for single family homes. She stated a hi-rise apartment building would spoil the desirability of the lots she owns. She stated her properties would not be annexed and there are no plans to annex in the future. She stated she likes being in the county and does not like all the city development that has encroached on the neighborhood. She stated the neighbors were not informed of the new units developed in the recent past. She is concerned the ditch company will abandon the ditch if too much development occurs. She stated the ditch water has to come under Main Street and the company may choose to close the ditch if all these new buildings compromise the ditch.

Vonnie Anderson stated when the apartments were developed just north of Snyder's property, the builder tore out all the trees and the ditch flooded the lot before the contractor got things under controlled. She stated she has watched muddy water flowing through some of the garages for the apartments. The ditch was compromised by the builder's activity.

Mike Quinn 727 Orilla stated he was concerned that neither the city nor the county has addressed the inadequate street on Lincoln Lane. Mr. Quinn stated he also irrigates his property through another lateral of the ditch and he flood irrigates. He stated since the new apartments went in on Lincoln Lane he gets much less water from the ditch. He stated he was concerned with the property value impact on his vacant single family lots. Commission Member Dan Austin clarified the development plan for multi-family would have to go through annexation, site plan approval and subdivision. Member Austin stated the neighbors will have many opportunities to have these site development issues addressed at a future time.

Nicole Cromwell clarified the city is aware of the inadequate street development. She stated because of the checkerboard of city and county along Lincoln Lane a city SID is not possible.

She stated a new development further south on Lincoln Lane will be building the street in front of the property. She stated until the entire street is annexed, complete street improvements are unlikely.

Vonnie Anderson stated a new apartment complex across the street at 1094 Lincoln Lane is so brightly lit the east side of her horse corral has a lot of light even late in the evening. Linda Fiene stated she was concerned with the un-built portion of Griffing Drive. Nicole Cromwell clarified the zone change does not affect the status of the un-built street. The city has not required any physical access to the east of properties on Lincoln Lane and probably would not require any access to Griffing Drive.

Applicant Tom Snyder stated his east fence line is not in the un-built section of Griffing Drive and has no intent of using this street.

Marshall Phil, agent for the owner, stated the development of the property will require compliance with drainage and will have to prevent flooding by adjacent property owners with a berm and grading plan. He stated the RMF-R only allows a 2-story structure so there will be no hi-rise apartments. Joan Hurdle asked why the owner wants to do the zone change now. Marshall Phil stated this was for preparing the property for sale to a new owner. Joan asked if this would up the price of the property. Marshall Phil stated he does not know if this would increase the price.

Vonnie Anderson asked for clarification on the Skinner property development to the south. Nicole stated the developer will have to put in the street improvements and the city did not allow the owner to sign a waiver of right to protest a future SID. Vonnie asked if the city would force her to pay for street improvements and putting in sidewalks. Nicole Cromwell stated no city street improvements would be put in front of county property. Commission member Joan Hurdle asked about neighborhood planning. Nicole Cromwell stated the Billings Heights Neighborhood Plan was a city and county plan adopted in 2006. She stated the area between Main Street and Bench was designated as a mixed use zone for retail, commercial, and higher density residential uses. Member Hurdle asked if the property is served by MET Transit. Member Hurdle asked about the street improvements and whether the near future is next year. Nicole Cromwell stated the city intends to make street improvements but does not a specific timetable. Nicole Cromwell stated the MET Transit bus does not travel on Lincoln Lane but there were several bus stops within walking distance.

Vonnie Anderson asked about putting in Lincoln Lane speed limit signs. Nicole stated either the city traffic engineer or county public works can install speed limit signs.

Vice Chair Al Littler closed the public hearing. Ole Shafer made a motion to recommend approval of the zone change and it was seconded by Dan Austin. Joan Hurdle stated she does not believe the zone change is in the public interest at this time. Al Littler stated the property owners and the ditch company are responsible for the ditch water. The ditch waste water is not being properly drained and is contributing to the "Lincoln Lake" near Mr. Snyder's property. Littler stated the city and county should work together to deal with the street for now. Littler stated most of the testimony deals with issues not relevant to the zone change. Littler stated he recognizes the issues concerning street improvements and irrigation but stated the Commission should focus on the zone change criteria. Joan Hurdle stated the zoning should not lead the way for higher

density until the property and public improvements are adequate. Joan stated she thinks most of the developers in the area have been irresponsible. Littler closed the discussion and called for a vote on the motion.

The motion carried with a 3-1 vote, Joan Hurdle dissenting.

RECOMMENDATION

The Zoning Commission recommends approval of Zone Change #637 on a 3-1 vote.

PROPOSED COUNTY COMMISSION DETERMINATIONS

The Board of County Commissioners, prior to any recommendation, shall consider the following:

1. *Is the new zoning designed in accordance with the Yellowstone County and City of Billings 2008 Growth Policy?*

The proposed zoning complies with the following goals of the Yellowstone County and City of Billings 2008 Growth Policy and area plans:

- Goal: Predictable land use decisions that are consistent with neighborhood character and preferred land use patterns identified in neighborhood plans. (Land Use Element, page 6).

This zone change would allow for additional multi-family dwellings adjacent to existing uses that are similar to the surrounding development in the area.

- Goal: New developments that is sensitive to and compatible with the character of adjacent development. (Land Use Element Goal, page 6).

This property is adjacent to multi-family dwellings to the north and across the street from commercial uses.

2. *Is the new zoning designed to secure from fire and other danger?*

The subject property is currently served by the Billings Fire Department through the Billings Urban Fire Service Area. The nearest fire station is located on Wicks Lane at St. Andrews Drive, approximately 2 miles north of the subject property. Development of the property for multi-family uses will require annexation and development review by city agencies including the Fire Department.

3. *Will the new zoning facilitate the provision of transportation, water, sewerage, schools, parks and other public requirements?*

Transportation: The new zoning could increase traffic on Lincoln Lane if multi-family dwellings are constructed in the future. The increase would be addressed through traffic analysis during the subdivision or master site plan review.

Water and Sewerage: The property will be served by City Water (via Billings Heights Water District) and public sewer when it is annexed.

Schools and Parks: If, in the future, this property is subdivided, the area schools will be notified and will have input as to the impacts on the schools. It would be anticipated there might a significant impact on the school system depending on

the type of multi-family dwellings constructed. The development would not necessarily increase demand for parks. The Billings Bike Trail system is nearby and there is access to several regional and neighborhood parks in the area.

Fire and Police: The subject property is serviced by the Billings Fire Department and the Yellowstone County Sheriff's Department. Fire protection will be evaluated at the time of annexation. This is in area of the County bordering the city limits and the Police Department can serve the property after annexation.

4. *Will the new zoning promote health and general welfare?*
The new zoning will allow development of property that is adjacent to an existing and developing neighborhood between Main Street and Bench Boulevard. Property improvements will require upgrades to the streets and infrastructure that will promote health and general welfare in this area of Billings Heights.
5. *Will the new zoning provide adequate light and air?*
The proposed zoning would require minimum setbacks, maximum building heights and maximum lot coverage. These requirements should allow adequate light and air to reach the subject property and adjacent properties.
6. *Will the new zoning effect motorized and non-motorized transportation?*
The proposed zoning itself will not generate more traffic on Lincoln Lane. If the property is annexed and developed for multi-family dwellings it could generate up to 200 additional vehicle trips per day to Lincoln Lane at a development density of 14 units per acre. This amount of additional traffic should not trigger a Traffic Impact Analysis but street improvements will be required.
7. *Will the new zoning be compatible with urban growth in the vicinity?*
The proposed zoning is compatible with adjacent urban development including the two multi-family neighborhoods to the north and the commercial development to the west.
8. *Does the new zoning consider the character of the district and the suitability of the property for particular uses?*
The subject property is in an area that has existing multi-family development and is in character with those uses. The property is suitable for multi-family uses given its location in proximity to Main Street and services.
9. *Will the new zoning conserve the value of buildings?*
The new zoning allows single family and multi-family dwellings. The existing home will be conserved under the proposed RMF-R zoning since residential uses are allowed.
10. *Will the new zoning encourage the most appropriate use of land in Yellowstone County?*
The property is suitable for residential development. The property is adjacent to the city limits and must be annexed before multi-family development can occur. The location is in an area the city prefers to annex in the next five years. This is the most appropriate use of the land in this area of the County.

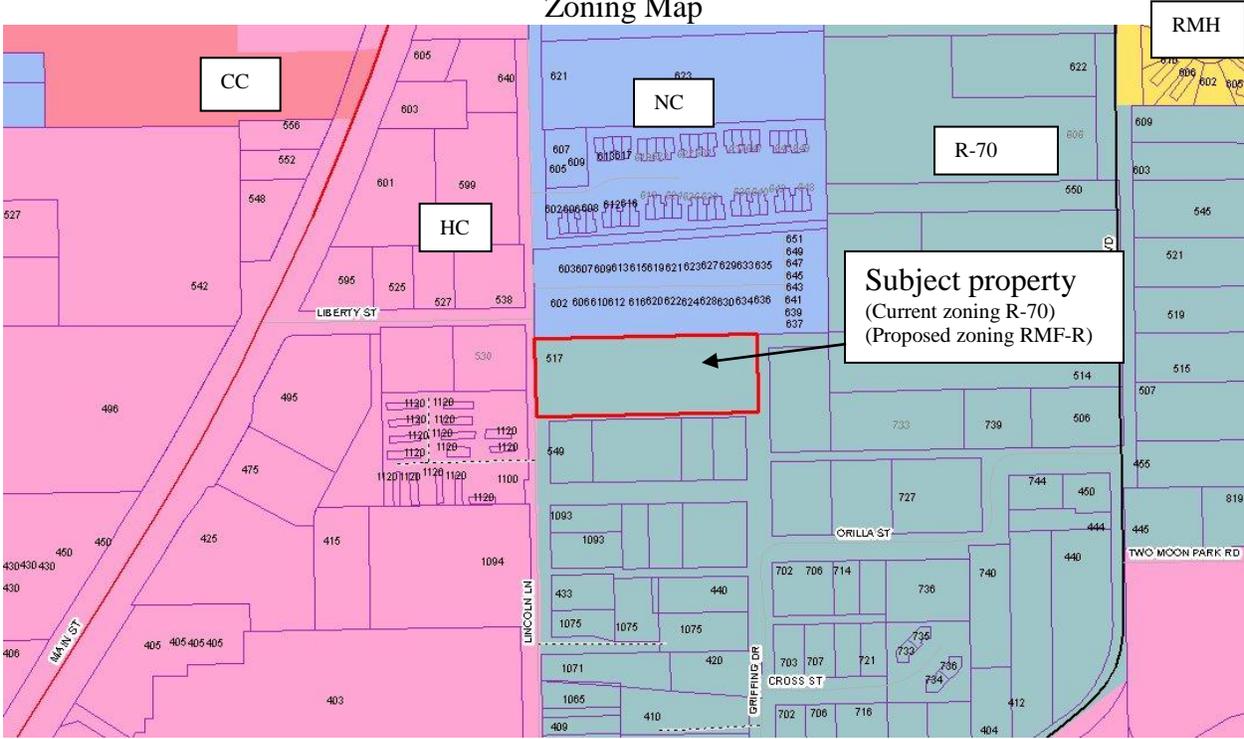
11. Will the new zoning be as compatible as possible with adjacent zoning in the City of Billings?

The proposed zoning is compatible with the adjacent City zoning of NC and HC.

ATTACHMENTS

- Attachment A: Zoning Map
Attachment B: Applicant Letter & Pre-application neighborhood meeting minutes
Attachment C: Site Photographs
Attachment D: Letter from Vonnie Anderson

**Attachment A - Zone Change #637
Zoning Map**



Attachment B - Zone Change #637

Applicant Letter & Pre-application neighborhood meeting minutes

400-294-2295

p.1

Nicole Cromwell
City County Planning
510 North Broadway
4th Floor, Pamily Library
Billings, MT 59101

June 28, 2012

RE: Zone Change Application S27, T01 N, R26 E, FRAC 175'X490' in S2NWSENE4

Nicole:

I am applying for a Zone Change from R-7000 to RFM-R for the above referenced parcel. The area of the parcel within the Zone Change is 85,750 square feet (175' Wide, 490' Long).

A mailing list was obtained from the Planning Office for the individuals within 300 feet of the referenced property. On May 17, 2012 those individuals were sent letters from the owner and engineer inviting them to the meeting which was held at 517 Lincoln Lane on Tuesday, May 29, 2012 at 6:00 PM.

A pre-application meeting was held for the neighborhood that presented these zoning changes for consideration. Four neighboring residences showed up to the meeting with concerns for the rezoning of the parcel. The major concerns involved light pollution from potential apartments, and increase of population density in the area. A list of the neighbors that attended the meeting is attached.

Attached is a letter dated May 17th, of 2012, that was sent to the individuals as listed on the attached certified mailing list asking for their comments on this proposed zone change.

Issue 1 of the Land Use Element is included in this Zone change to preserve consistent neighborhoods. Apartments tie in well with the surrounding zoning of adjacent lots and encourage a community feeling to the area. There also have been two recent zone changes to the north that are now Neighborhood Commercial. The RFM-R would be more restrictive than these adjacent lots and would ensure future developments build the community and not businesses.

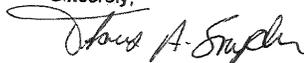
Issue 4 of the Land Use Element fits perfectly with preventing urban sprawl as a result of re-zoning. The parcel that is 517 Lincoln Lane is bordering the existing city limits of Billings. No rural character will be diminished by the change of the zoning.

Issue 5 of the Land Use Element is covered by the Zone Change to have affordable housing for low to moderate income households. By allowing this Zone Change, apartments put onto this parcel would provide a modern residence for low to moderate income families.

Issue 9 of the Economic Development Element is addressed by this re-zoning. The goal of the property owner is to construct multiple family residences on this parcel. This would not only improve the lot itself but the Heights area as well with the construction of modern housing.

Issue 3 of the Public Facilities and Services Element is immediately included with zoning and development of the lot. New construction will connect to sewer and water mains already in Lincoln Lane. Emergency service currently services the area.

Sincerely,



Thomas Snyder
517 Lincoln Lane
Billings MT 59105

Name	Address	Phone
Vonnie Anderson	1093 Lincoln Ln.	254-9689
Betty Pinnick	549 Lincoln Ln.	245-320
Linda Fiene & Michael Quinn	727 Orilla St	259-2689
Sam and Barb Sheep	518 Bench	248-5068

Lights

density

current allowed vs proposed -

**Attachment C – Zone Change #637
Site Photographs**



Subject Property

Attachment C – Zone Change #637, continued
Site Photographs



View north along Lincoln Lane



View north and west to intersection of Lincoln Lane and Liberty Street

Attachment C – Zone Change #637, continued
Site Photographs



View west across Lincoln Lane



View south and west across Lincoln Lane

Attachment D – Zone Change #637
Letter from Vonnie Anderson



Aug. 10, 2012

Dear Sir:

I am writing concerning the development of the property located at 517 Lincoln Ln. owned by Tom Snyder. This is County Zone Change #637. My parents, Roy + Betty Pinnick who live at 549 Lincoln Lane border the entire south side of Tom's property. The concern we have is regarding water irrigation. Because of the downhill slope of the land when we irrigate the pasture a large portion of Tom's property also gets irrigated. This is unavoidable. We are asking that upon development of the property a large berm is made by BlueLine Engineering company on the southern border. This will enable the five acres to be irrigated, green and lovely. This is also a fire preventative. Additionally flooding will not occur in the homes that are to be built.

In reading the 11 Criteria to be used for Review of Zone Changes, number 11 seems to apply. If there is not a berm put in place it will be impossible to irrigate the five acres bordering Mr. Snyder's land. This would mean that the zoning change would definitely not be compatible with the adjacent zoning.

Please respond regarding this issue.
Sincerely, Roy + Betty Pinnick
Vonnice Anderson

FIVE STAR
☆☆☆

FIVE
☆

Roy + Betty Pinnick
549 Lincoln Ln.
Billings, Mont 59105
phone 245-3219

FIVE STAR
☆☆☆☆

Vonnie Anderson
1093 Lincoln Ln.
Billings, Montana 59105
phone 254-9689

FIVE STAR
☆☆

Roger Pinnick
3021 12th Ave North
Billings, Mont.
phone 252-5781

FIVE STAR
☆☆☆☆

FIVE

FIVE ST
☆☆☆☆