

Memorandum

REPORT TO: City Commission

FROM: Erin George, Director of Community Development
Brian Krueger, Development Review Manager
Sarah Rosenberg, Associate Planner and Historic Preservation Officer
Nick Ross, Director of Transportation and Engineering
Taylor Lonsdale, Transportation Engineer
Russ Ward, Assistant Superintendent Solid Waste Division
Scott Mueller, Fire Marshal
David Fine, Economic Development Manager

SUBJECT: Decision on Appeal 25033 Regarding Conditional Approval of The Guthrie, 5th and Villard Site Plan, Certificate of Appropriateness, and Demolition Application Number 24493, Continued from April 1, 2025

MEETING DATE: April 15, 2025

AGENDA ITEM TYPE: Community Development - Quasi-Judicial

RECOMMENDATION: Uphold the Director of Community Development's conditional approval of application 24493.

STRATEGIC PLAN: 4.1 Informed Conversation on Growth: Continue developing an in-depth understanding of how Bozeman is growing and changing and proactively address change in a balanced and coordinated manner.

BACKGROUND: On April 1, 2025, the City Commission met to consider Appeal 25033. The Commission heard presentations from City staff, the Appellant, and the Developer and asked questions of each party. Each party was allowed a rebuttal. The Commission also accepted public comment. After closing the hearing on the matter and due to the late hour, the Commission voted to continue its deliberation, motions, and vote on the matter until its regular meeting on April 15, 2025. All materials provided to the Commission for the April 1, 2025 meeting are included here for convenience. No additional information from the parties or public comment will be taken at the April 15, 2025 meeting.

Original Commission memorandum:
An appeal filed by Bozeman Home Advocacy Group, LLC seeks to overturn the administrative decision conditionally approving application 24493. The underlying development application, 24493, includes a site plan, commercial certificate of approval, and demolition applications. The conditionally approved project, located on the corner of North 5th Avenue and Villard Street, is known as "The Guthrie." It proposes to demolish an existing

convalescent center and build a new four-story apartment building on the site, which includes affordable housing units. The site lies within the Midtown neighborhood. It is just inside the boundary of the Neighborhood Conservation Overlay District and just outside the boundary of the Midtown Urban Renewal District.

The appeal raises constitutional claims related to the City's process for administrative review of site plan applications and appeals. It also preserves Appellant's ability to facially challenge the constitutionality of the City's affordable housing codes, which have been repealed and replaced since their application to The Guthrie. The appeal also raises substantive issues arguing the Director of Community Development's conditional approval was in error. Appellant also asserts that a two-year stay on issuance of a demolition permit should be enforced.

The attached staff report addresses all of Appellant's claims. The City's legal department recommends preserving the City's defenses regarding all constitutional issues raised by the Appellant. The staff report explains why the Director's decision conditionally approving application 24493 should be upheld.

At the end of the hearing on the appeal, the Commission may uphold, amend, or overturn the administrative project decision for application 24493. The decision may be overturned or amended upon the finding that the final administrative decision was erroneous and making alternative findings in support.

UNRESOLVED ISSUES: None.

ALTERNATIVES: The Commission may amend or overturn the administrative decision of the Director of Community Development upon finding the final administrative decision was erroneous and making findings in support.

FISCAL EFFECTS: None.

Attachments:

[25033 The Guthrie Appeal Staff Report.pdf](#)

[2024 Version of Division 38.380.pdf](#)

[Order United Food v. City of Bozeman Cause No. DV-19-10BX 18Oct2019.pdf](#)

Report compiled on: March 26, 2025