

MINUTES OF THE MEETING
PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE
MONTANA STATE SENATE

JANUARY 26, 1983

The meeting of the Public Health, Welfare and Safety Committee was called to order by Chairman, Tom Hager on Wednesday, January 26, 1983 at 1 p.m. in Room 410 of the State Capitol Building.

ROLL CALL: All members were present. However, Senators Marbut and Norman arrived late because of prior commitments. Woody Wright, staff attorney, was also present.

Senator Hager turned the chair over to Senator Himsl.

CONSIDERATION OF SENATE BILL 31: Senator Tom Hager, sponsor of Senate Bill 31, gave a brief summary of the bill. This bill is an act to exempt establishments located in business and commercial districts from the prohibition against issuance of retail alcoholic beverage licenses to establishments within 600 feet of a church or school. Senator Hager stated that this bill is aimed at easing certain restrictions on liquor licenses. He handed in to the Committee a list of establishments within a 600' radius of a church or school in Yellowstone County engaged in the sale and on premise consumption of beer, wine and/or liquor. (See exhibit 1) Senator Hager then presented a map of the central business district of Billings to show just how much area is being affected by the present law as it now stands. This does not allow for the best use of a piece of property in the downtown area. In order for a restaurant to be successful, it needs to be able to have a liquor license. Some businesses are side-stepping the law by the entrances into the establishments being on different streets.

Mae Nan Ellingson, Deputy City Attorney for the City of Missoula, stood in support of the bill. She stated that the cities currently have, pursuant to Section 16-3-309, the ability to enact ordinances defining certain areas in the cities where alcoholic beverages may be sold. Consequently, their first concern is that the proposed bill does not infringe upon that authority. City zoning commissions and city councils through their statutory provisions for notice, public comment, ability of property owners to protest, are in a fairly good position to determine the appropriateness of certain locations for beer, wine or all beverage sale of consumption. Consequently, the cities can still protect the public interest and particularly the concerns of schools and churches through zoning. Ms. Ellingson offered the following amendment which she felt would help the committee greatly as they work with the bill.

PUBLIC HEALTH
PAGE TWO
JANUARY 26, 1983

The amendments is as follows:

1. Page 2, line 13

Following: "(a)"

Strike: "located within a zoning district zones for business
or commercial uses;"

Insert: "zoned for that use."

The reason for this amendment is to recognize that various communities have different methods of zoning and different types of zoning districts. Ms. Ellingson stated that is SB 31 is passed as it is now proposed, it might be interpreted as automatically allowing beer, liquor, and wine to be sold in those commercial and business zones where it might not be appropriate because of proximity to day care centers, schools, or because of lack of parking.

Phil Strobe of the Montana Taverns Owners Association stood in support of the bill. He stated that his organization endorses the bill and also the amendment as it now stands.

With no further proponents, Senator Hims1 called on the opponents. Hearing none, the meeting was opened to a question and answer period from the Committee.

Senator Norman stated that he felt that "Home Rule" should prevail and that the local people should be taking care of this matter. Perhaps this bill could be passed with a clause turning it over the the proper local authorities to be sunsetted in July of 1985. That way the next legislature could review how it was being handled and to see if it was working out well with the local authorities handling the matter.

Senator Hager closed stating that in Billings there is a store selling beer and wine right across the street from one of the high schools. He felt that if this bill is passed it would be in the best interest of everyone. He asked for favorable consideration from the Committee of this bill.

A motion was made by Senator Norman that Woody Wright do some research and draft an amendment which would take care of that problems as suggested by Mae Nan Ellingson of Missoula.

PUBLIC HEALTH
PAGE THREE
JANUARY 26, 1983

CONSIDERATION OF SENATE BILL 27: Senator Tom Hager of Senate District 30 of Billings, sponsor of Senate Bill 27, gave a brief resume of the bill. This bill is an act to exempt establishments located in historical buildings from the prohibition against issuance of retail alcoholic beverages license to establishments located within 600 feet of a church or school.

Senator Hager stated that this is actually being taken care of in Senate Bill 31.

There were neither proponents nor opponents to testify on the bill.

CONSIDERATION OF SENATE BILL 32: Senator Tom Hager of Senate District 30 of Billings, sponsor of Senate Bill 32, gave a brief resume of the bill. This bill is an act to decrease the distance from a place of worship or school within which the sale of alcoholic beverages may not be licensed.

Senator Hager stated that Senate Bill 32 cuts from 600 feet to 150 feet the distance from which a liquor selling establishment must be from a place of worship or a school.

There were neither proponents nor opponents to testify on the bill.

Senator Hager closed.

Senator Hims1 instructed Woody Wright, Staff Attorney, to see if perhpas he could combine the three bills into one and report back to the Committee.

DISCUSSION OF SENATE BILL 150: This bill is an act to provide that for privately owned public swimming pools no lifeguard is required if warning is given. Senator Pete Story is the sponsor of this bill.

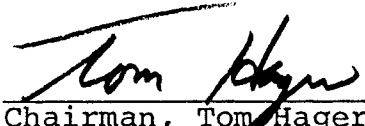
Vern Sloulin of the Department of Health presented the Committee with two amendments for the betterment of the bill. The Committee stated that they will take the amendments into consideration.

Senator Hims1 turned the chair back over to Senator Hager.

PUBLIC HEALTH
PAGE FOUR
JANUARY 26, 1983

ANNOUNCEMENTS: The next meeting of the Public Health Committee will be held on Friday, January 28, 1983 at 1 p.m. in Room 410 of the State Capitol Building to consider Senate Bills 182, and 193.

ADJOURN: With no further business the meeting was adjourned.


Chairman, Tom Hager

eg

ROLL CALL

PUBLIC HEALTH, WELFARE, SAFETY COMMITTEE

48th LEGISLATIVE SESSION -- 1983

Date 1-26-83

[illegible]

ESTABLISHMENTS WITHIN A 600' RADIUS OF A CHURCH OR SCHOOL
IN YELLOWSTONE COUNTY ENGAGED IN THE SALE AND ON PREMISE
CONSUMPTION OF BEER, WINE, OR LIQUOR.

ESTABLISHMENT

CHURCH OR SCHOOL

THE BROWN JUG TAVERN

GARFIELD GRADE SCHOOL

BRANDY'S

CENTRAL CHRISTIAN CHURCH

MR. D'S

CENTRAL CHRISTIAN CHURCH

RED DOOR TAVERN

EASTERN MONTANA COLLEGE

ARCHER'S BEER DEPOT

GRACE METHODIST CHURCH

LUCKY'S (formerly CJ'S)

GRAND AVE. GRADE SCHOOL

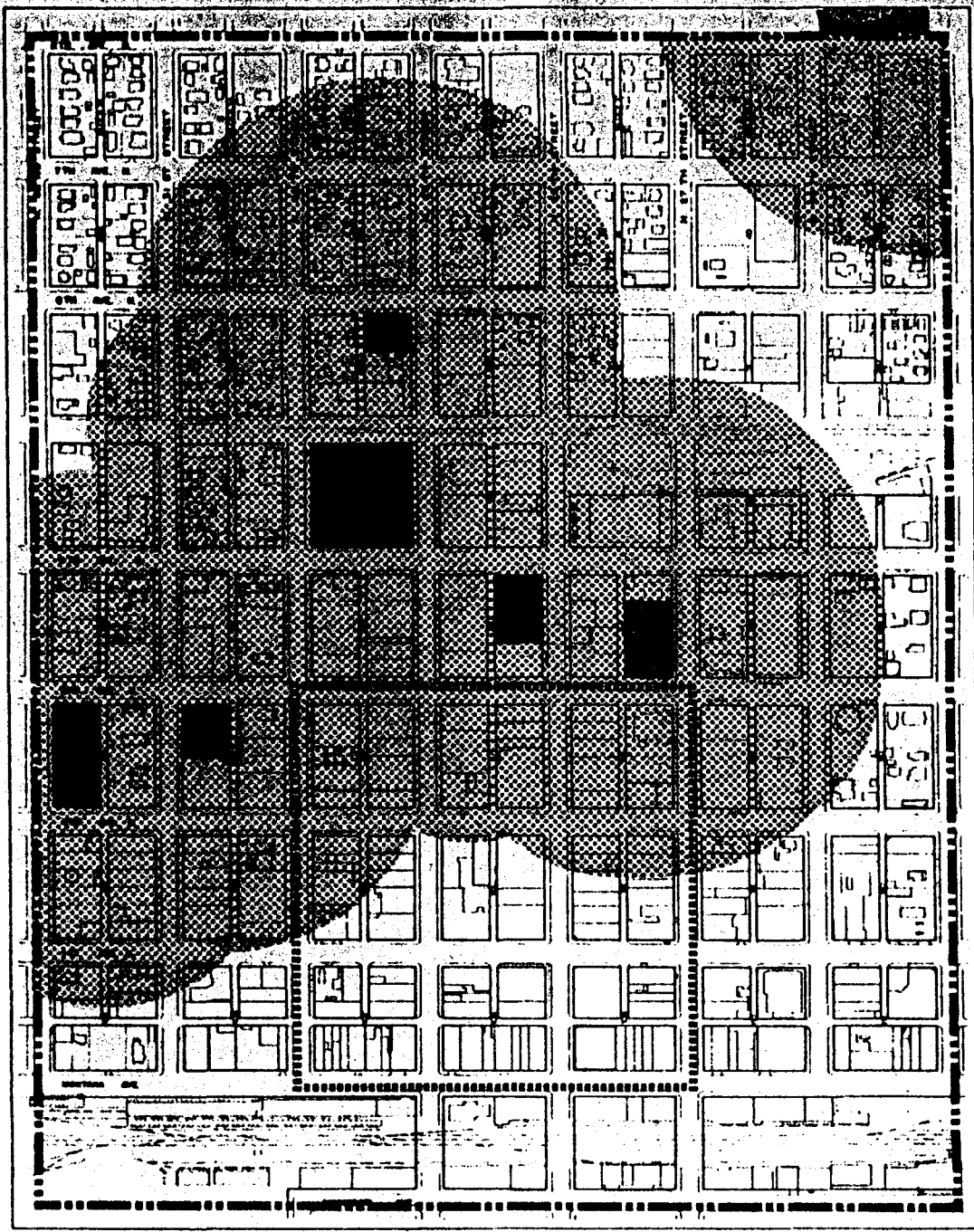
THE GRANERY RESTAURANT

1ST UNITED PRESBYTERIAN CHURCH

THE GRANERY RESTAURANT

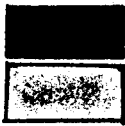
ROCKY MOUNTAIN COLLEGE

67th Street



DETAILED STUDY AREA BOUNDARIES

■■■■■ DOWNTOWN STUDY AREA (DSA)
○○○○○ CORE AREA



CHURCH OR SCHOOL
600' RADIUS

BILLINGS, MONTANA
CENTRAL BUSINESS DISTRICT

GRUEN ASSOCIATES
ARCHITECTS PLANNERS ENGINEERS

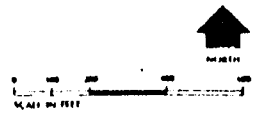
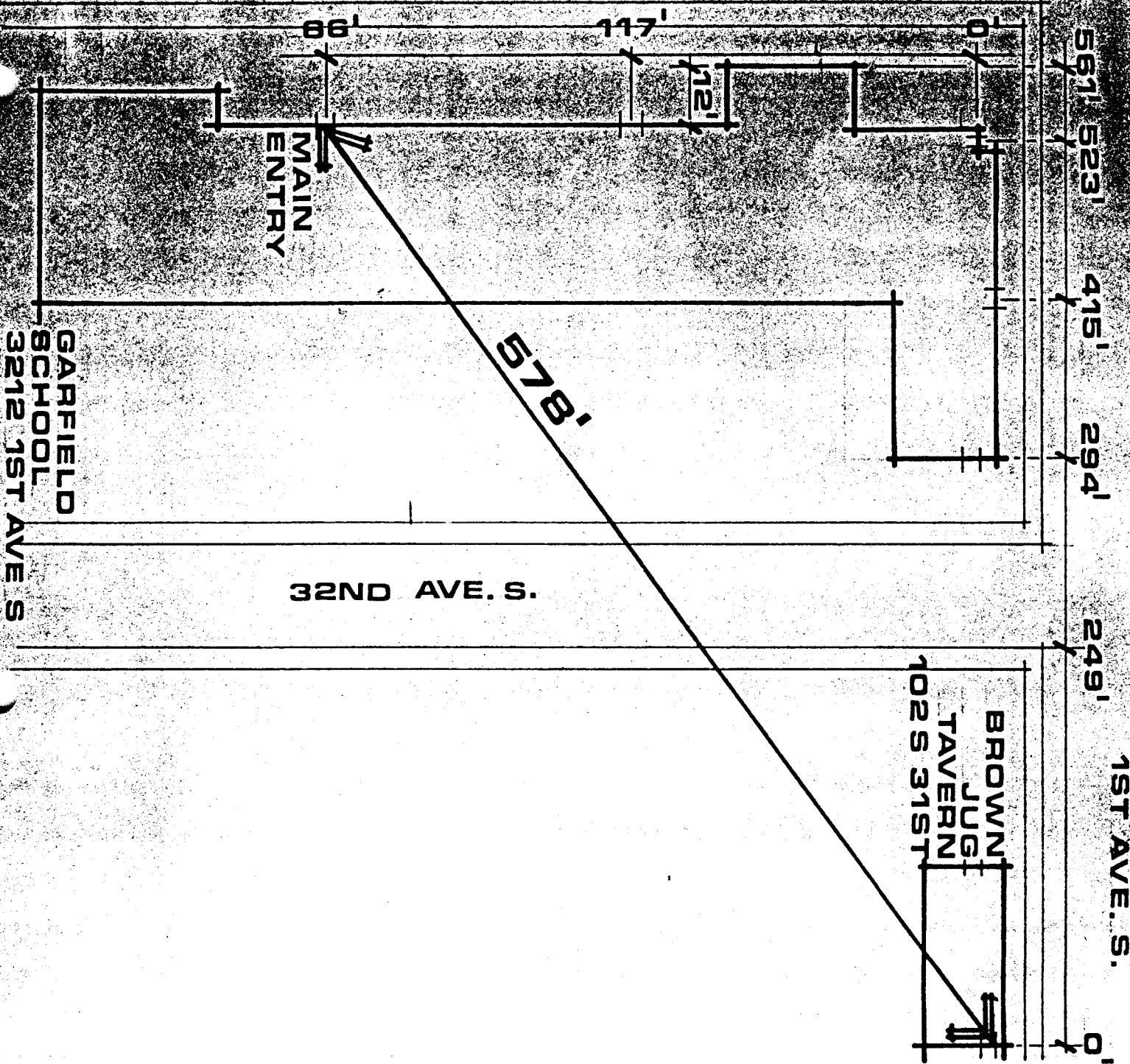


FIGURE 2

33RD AVE. S.



32ND AVE. S.

561' 523'

415'

294'

249'

1ST AVE. S.

0'

COLLABORATIVE
DESIGN
ARCHITECTS

SUITE 104, 300 NORTH 25TH ST.
BILLINGS MONTANA 59101

CENTRAL
CHRISTIAN
CHURCH
1221 16TH W

16TH ST. W.

383'

MR. D'S
ALPINE VILLAGE

NAME:

Tom Hager

DATE:

1-26-83

ADDRESS:

150 Norris Ct, Billings

PHONE:

REPRESENTING WHOM?

Senate Dist. 30

APPEARING ON WHICH PROPOSAL:

SB 27, 31, 32

DO YOU:

SUPPORT?

X

AMEND?

OPPOSE?

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME:

R. Peyton Hovey

DATE:

26 Jan 83

ADDRESS:

301 North 27th Street

Post Office Box #301 BILLINGS, MT 59103-0301

PHONE:

(406) 256-5301

REPRESENTING WHOM?

Self - Cellar 301 Postmont

APPEARING ON WHICH PROPOSAL:

SB #31

DO YOU:

SUPPORT?



AMEND?

OPPOSE?

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

To: Members of Senate Committee on
Public Health, Welfare and Safety

From: Mae Van Eelingson, Deputy City
Attorney for the City of Minnoka

Re: SB 31

Cities currently have
pursuant to Section 16-3-309
the ability to enact
ordinances defining
certain areas in the
cities where alcoholic
beverages may be sold.

Consequently our
first concern is that
~~that~~ the bills being
considered by you today
should ^{not} infringe on that
authority. City zoning
commissions and city councils
through their statutory
provisions for notice, public
comment, ability of
property owners to protest
are in a fairly good position
to determine the appropriateness
of a certain location for beer,
wine or all beverage sale or
consumption.

Consequently we feel ~~the~~ the cities
~~can still protect~~ protect the public
interest and particularly the
concerns of schools and churches

through zoning, if you decide to either modify or repeal the 600 foot limitation.

~~Also~~

In order to avoid a legal dispute between the current provisions of 16-3-309 and a provision of SB 31, I would suggest an amendment to that bill as follows:

① Page 2, line 13

~~Line a~~

Following: "(a)"

Strike: ~~"located within a zoning district zoned for business or commercial uses;"~~

Insert: "Zoned for that use."

The reason for this amendment is to recognize that various communities have different methods of zoning and different types of zoning districts. For example Missoula uses a CLB overlay zone to ~~designate~~ designate areas ~~where~~ which liquor, beer and wine can be sold.

If 31 stands as proposed it might be interpreted as automatically allowing ~~that~~ beer, liquor and wine to be sold in those ^{commercial and business} zones where it might not be appropriate because of proximity to day care centers,

schools, or because of lack of parking, etc.

I also feel that subsection (b) could be completely eliminated if (a) were so amended.

-I can also share with you our experience on this aspect of the law.

PROPOSED AMENDMENT TO SENATE BILL 150:

1. Page 1, line 19.

Following: "if"

Insert: ":(a)"

2. Page 1, line 21.

Following: "meaning"

Insert: ";and"

(b) one individual per shift is on the premises, accessible to the pool, and currently certified as competent in:

(i) basic water safety measures by the American red cross; and

(ii) cardiopulmonary resuscitation by either the American red cross or the American heart association."