

**MINUTES
CITY OF LAUREL
CITY COUNCIL WORKSHOP
TUESDAY, JANUARY 21, 2020**

A Council Workshop was held in the Council Chambers and called to order by Mayor Tom Nelson at 6:31 p.m. on January 21, 2020.

COUNCIL MEMBERS PRESENT:

☒ Emelie Eaton	☒ Heidi Sparks
☒ Bruce McGee	☒ Richard Herr
☒ Scot Stokes	☒ Irv Wilke
☒ Richard Klose	☐ Don Nelson

OTHERS PRESENT:

Stan Langve, Chief of Police
Nick Altonaga, Planning Director
Bethany Langve, Clerk/Treasurer
Kurt Markegard, Public Works Director
Julie Wotring, Montana Department of Transportation
Stan Brelin, Montana Department of Transportation

Public Input:

There were none.

General Items

1. Laurel Signals Presentation
Julie Wotring and Stan Brelin, with the Montana Department of Transportation, presented the attached PowerPoint in detail.

It was stated people turning left onto East Railroad are causing a back up of traffic. This Council Member had called Helena and asked that a no left turn sign be installed. They were told that if Laurel did not enforce it, it would not be put in. That ended it right there. They found out from the Chief at the time that they would not enforce it. There are times when two or three people are trying to turn left to go to Walmart. If it is slick, it can cause issues for people to get up the hill. It is causing a lot of traffic delays. They questioned if they had observed this during the traffic study. This Council Member stated that if there is traffic, he goes through to the light to get to Walmart. They stated they would take this back to their sign folks. It does hold true that there is a behavioral element. They work with their law enforcement partners; otherwise, it is just another sign. This Council Member stated that the current Chief is always about education. People have to learn that that is a no left-hand turn. They may not be writing tickets

right away. It was clarified that they could say no left turn during the peak hours of the day.

It was questioned if the State has any pull in regard to widening the underpass under the railroad. It was clarified that yes and no. It is a partnership with the railroad. The State has to work with them. They have their needs and restraints. It is something that can be done. Mr. Brelin stated in his career, they had only seen the replacement of bridges, but those were State-owned, not the railroad's bridge. He stated that he would differ to the district folks in Billings.

It was questioned if more traffic used the East Laurel exit would it eliminate issues off the main Laurel exit. It was further stated that the East Laurel exit is not user-friendly either. It was clarified that the main exit has all the desirables, such as gas and Walmart. When Walmart went in, there were not a lot of businesses on that road. It is a very different road now. The new interchange may affect traffic flow.

A Council Member stated that there is talk about another big hotel going in by Walmart. It was suggested that the Planner follow up with the systems impact folks.

A Council Member stated in Mandan North Dakota; they had an underpass similar to what we have. They were able to put in a five or six-lane underpass. When the railroad wants to rebuild the bridge, will that be discussed? It was stated that the bridge has exposed rebar and is in disrepair. That the City will ask for the underpass to be wider but may take work from all parties. As the City grows, it gets tougher. It is an expensive endeavor.

It was questioned if the West Laurel Interchange could have an overpass to get to West Railroad Street. It could help eliminate a lot of traffic problems. It was clarified that there were conversations about three years ago when they were planning on the west side connection, and they had not heard anything since. It was further stated that people have talked about building warehouses but don't have a place for their traffic to go.

It was stated that Emergency services cannot get to the Southside of town if a train is blocking. This is a safety issue. Mr. Brelin suggested we forward this to the Billings District Administrator as they are the ones who come up with the projects.

Council thanked Miss Wotring and Mr. Brelin for the time for gathering and putting together this information. They are excited for the new signal times.

Miss Wotring and Mr. Brelin wrapped up by letting Council know that they will come back and do follow-ups on any issues sent their way.

Mayor Nelson stated if it's not traffic its parking in this town. He thanked them for their time giving their presentation this evening.

2. Appointment of Karl Dan Koch to the City/County Planning Board for a two-year term ending June 30, 2021.
Karl Dan Koch, 320 Colorado Avenue, introduced himself to Council. He stated that he has served on this board before and would like to serve on this board again.
3. Mayor's Appointment Memo
Mayor Nelson stated this memo is to appoint Council Members to various boards. Council will be voting next week to approve these appointments.

Executive Review

4. Resolution - Resolution Calling A Public Hearing To Approve Certain Public Infrastructure Improvements In The Laurel Urban Renewal District As An Urban Renewal Project And To Finance The Project Through The Issuance Of Tax Increment Urban Renewal Bonds; And Making A Reimbursement Declaration In The Event That Tax-Exempt Bond Proceeds Reimburse Original Expenditures Of The City

Bethany Langve, Clerk/Treasurer, stated this is the first time the City is looking at selling a TIF bond. This bond is for the East Downtown Infrastructure Improvement (EDII) project. This resolution is to call a public hearing. If these resolutions pass, the public hearing will be scheduled for February 11, 2020. There will be a terms sheet that will list all the maximums. This term sheet will be given to the four local banks. The bid opening is scheduled for February 13, 2020. By the time the bids come back, the Clerk/Treasurer will know what the financing will look like. The TIF District will put in between 1 million and 1.5 million cash to this project. The bond will be approximately 3 million.

It was questioned if this process is similar to a SID where the Clerk/Treasurer comes and asks the Council's permission to do this. It was clarified that this is asking for permission, the term sheet will outline the maximums for the Clerk/Treasurer and Mayor to enter into an agreement up to a certain amount and accept the best quote. Traditionally the City has gone with the four local banks, Yellowstone, Altana, SEG, and Western Security Bank. The Clerk/Treasurer asked if Council would like to consider any other banks.

It was questioned if Council will get a report back of who was selected and at what terms. Council will see everything like always. The City is still waiting to hear back on the status of the \$750k grant. The grant awards should be out soon. The Clerk/Treasurer spoke with Bond Counsel about the best way to proceed. This process was recommended. The City has never issued a bond like this before. This public hearing would see what the public has to say about it before any money is spent.

A Council Member stated it is a good idea to always send out information to the public as it is always better in the end anyway.

It was clarified that these bonds should be desirable as they are large, but also tax-exempt. Which means the City should get a good interest rate. The Clerk/Treasurer needs to know if the Council would like to expand the banks listed to solicit quotes.

A Council Member questioned the banking institution by CVS. It was clarified that is First Interstate Bank. It was asked they be included in the quote process.

It was questioned if the City would want to go with a credit union. It was clarified that both Altana and SEG are credit unions.

It was clarified that the TIF would expire at the end of this year. This project will extend the TIF up to 25 years. The max term for the bond is 25 years. The district will be able to take care of the project and continue to save. Currently, the TIF district has 1.9 million and has a very healthy budget moving forward. At the next Workshop Council will see a sample amortization schedule. This bond will be similar to a SID except instead of reimbursing the contract, the TIF will be paying all feeds and the bond will reimburse the TIF.

5. Resolution - A Resolution Of The City Council Accepting An Easement From George M. Fox For The Purpose Of Constructing, Operating, Maintaining, Replacing And Repairing A Sewer Line For Village Subdivision Within The Described Easement.

Kurt Markegard, Public Works Director, stated he and the City Planner had been doing homework on a subdivision that wants to come into the City and started looking at existing easements in the area. They looked at the easement for a water line by the cabins and the sewer easement for the Village Lift Station. The easement for the Village Lift Station did not have a recording number on it. The note said to file in the vault, not file at the courthouse. He stated he reached out to the City Attorney and Clerk and Recorder both stated this document needed to be recorded and the Council needs to accept the easement. He stated he did try and find when this easement was discussed or accepted by Council and was unable to find anything. This resolution is permission to file this easement with the County.

It was questioned if the Village Subdivision is the trailer courts. It was clarified that was correct.

6. Ordinance No. O20-01: An Ordinance Amending Certain Chapters Of Title 14 Of The Laurel Municipal Code Relating To The Adoption And Enforcement Of Building Codes For The City Of Laurel As Required By The State Of Montana.

Mayor Nelson stated the Planning Director is present if there are any questions on this ordinance. The State requires an update to the building codes.

Council Issues

7. West Railroad Update

Kurt Markegard, Public Works Director, stated they have been working with KLJ Engineering to get a scope on a task order and what it will entail. He stated for the past five to six months; he has been trying to get an understanding of the task order. The \$85k is for them to come in and study how to get West Railroad Street built. They wanted to look at the right of way and ownership survey, a topographic map, utility mapping, prepare base drawings, water and sanitary sewer review, storm drainage analysis, bridge replacement analysis, neighborhood intersection analysis, railroad crossing analysis, and prepare a final report for the City. With that, the cost will be \$85k with that staff asked what does each part of that phase entail. So, they brought back a task order that broke it out by cost.

• Right of way survey	\$17,500
• Topographic map	\$6,500
• Utility mapping	\$5,000
• Prepare base drawings	\$5,500
• Water and sanitary sewer review	\$5,500
• Storm drainage analysis	\$15,000
• Bridge replacement analysis	\$13,000
• Neighborhood intersection analysis	\$11,000
• Railroad crossing analysis	\$5,000
• Prepare final report	\$1,000

There are no storm drains in the area over there, so it is a really difficult analysis trying to get storm drains over there. There is a small bridge over there. It is a concrete decking bridge. He stated from the records he found it is a City bridge that was put in in the '30s. Those bridges were originally for railroad cars for the railroad. Trying to figure out who actually owns those because if its not a State bridge usually most bridges revert over to County ownership and maintenance takes over that. Having a bridge that is not on the State list and not on the County list we are left with a bridge that is with the City and if we are not in bridge-building as a municipality as per State code. It is either the State or the County governments that have the authority to deal with the bridges in the Communities. Woodland comes up and intersects with a railroad crossing. Then there is Cedar, is another one, that is a block off right now with big concrete blocks right now because you are entering the railroad right of way. He stated he looked at that and helped KLJ come to some kind of understanding of what we are going to do there. The subdivisions on the Southside predated the City and were recorded in 1907. The City became a City in August of 1908. Those subdivisions down there predate the City. The streets actually go into railroad right of way. Typically, you don't allow streets to do that anymore; you can't just go into a railroad right of way and think you can travel that way. So there might be some discussions with MRL on how those intersections are going to work so they wanted \$11,000 for that. The railroad crossing analysis will be how to make the grades work and what we can do there. The Public Works Director stated he would love to have a quiet zone there, at those two crossings if we can make it happen. He stated he is not sure if anyone else in Laurel doesn't like that beep. KLJ wants \$5k for that. We got all that information back from KLJ; the next question is what if we do a project with the State Department of Transportation, how much of this stuff would we have to pay for is going to get

reduplicated. Is the State going to come in and do all this over again? So they brought it down and we just got the report back last Wednesday. They have not had a chance to... He stated himself, the Mayor and Nick have not had a chance to sit down and go over that report yet. They will be doing that next Tuesday when they have their bi-monthly meeting so they will be going over that detail of what would be duplicated and hope to bring this up to Public Works Committee tomorrow evening and discuss this a little bit under that committee as well and get more information out what the report states. When we were looking at additional funds for West Railroad Street we were looking at, the first five blocks from 1st Avenue to 5th Avenue are in the TIF District, but with this other project going forward with the bond you heard tonight until we get what it's going to cost and how much it's going to be, how much we are extending ourselves out and what's leftover in the TIF District. Once this is extended, you could get another bond project as long as it doesn't exceed passed the original bond that you may pass here shortly. So if there is funds to still be able to do the grants and other infrastructure projects that might free up some revenue to help with the West Railroad Street project and get that rebuilt as well. It's kind of a dynamic situation right now not knowing exactly what the annual payments will be for that bond. We should know more in the next few weeks. So that's what we are trying to get close too, once we get this finalized with KLJ would like to get another crack at the Department of Transportation and see what they think and get their feelings on what will have to be duplicated. To get a better understanding if they will bring this to Council for a task order for \$85k what you are getting your money for. And if it has to be duplicated and be done all over again, want to be upfront with you, to spend the money now and that the State will have to do this again. We know that's going to happen on some items, but sitting here waiting for the State to come up with extra money is really not an option if we want to move forward. Trying to do everything we can to keep moving this forward and engage the State and make a project where there might be local match funds through the TIF District or any other kind of bonds we would be able to do or Special Improvement District. If we do our water and sewer, if the project would go, we would have to put away money for water and sewer. If we need to extend the water and sewer, currently the Southside water is not great. It is pretty good up to 5th Avenue. It is coming along the tracks and hits the tracks, that is fairly new waterline its 1998. But from 5th over to 8th, that line is old and would need to be replaced. If we are going to rebuild the street, we would want to lay new water line out and potentially new sewer line out to Lion's Family Park or South Pond, so if there is any growth going on south of the railroad tracks and south of the interstate they can possibly tie into that sewer main. He stated he would hate to sit here and have this project done and then go oh we need to get to that sewer line and dig up that street. So would like to look at extending that out. Those funds would need to either come from the enterprise funds because a lot of that is outside the TIF District. That's the only funds we could look at is the water and sewer. Things are still progressing; he stated he knows it is not as fast as everyone would like but keep plugging away at it.

Mayor Nelson stated plus there is the truck traffic that chooses not to go under the underpass because of the 13 feet 3-inch height restriction. That hangs a left westbound on West Railroad and crosses the railroad tracks onto West Main. Trying to see since

that is a designated truck route gets funding from the State as well, of course, that usually comes in the form a long time before we need it as they move very slow. There is a possibility of getting a commitment even would be helpful if we had something we knew would pay something back. Investigating that as well.

Council President Eaton stated that she is a little bit confused. This started out with \$85k that KLJ was requesting for a 10 step process. This 10 step ... it was requested of KLJ that they itemize that 10 step process. They itemized the 10 step process, and now instead of KLJ working on it, the City Planner is working on some of it and there are all of these objections that are coming up to moving forward with it. She stated she would like to know is there a definite date with regard to when this project is to go forward and come out of the researching stage.

Mayor Nelson stated that as we currently identified the project with the Urban Route Funds with the State. The State and the way they take a look at the project and estimate its cost. The State estimated that we were...Mayor Nelson asked the Public Works Director how much short. The Public Works Director clarified that we were anywhere from 2mil-3mil short. Mayor Nelson clarified that we would have to come up with. So we are struggling to find a way to come up with that shortfall. Doing that and what can we do and is there any way we can modify what we are looking at. The KLJ's survey to identify costs, or what they believe the costs are going to be in this project, some of those would also be repeated again by the State if we went forward with them and the Urban Route Funds. They would repeat some of that because they have to do that. I guess the concern was that we scrape together \$85k, up to \$85k. It's up to it is not an \$85k. They don't see it being more than \$85k. To scrape that money together and spend it and then, in the case of the Gateway Plan, not do anything because you can't afford to do anything. So we are trying to make sure that we can get to where we know we can afford the project before we spend the funds that we need to with KLJ to get that groundwork done and then move forward with it.

Council Member Klose questioned the 2mil-3mil shortfall within, do we expect any money from the County to help us out with that?

Mayor Nelson stated that one would like to think so, but that is probably not going to happen that discussion has been raised in many meetings we have had on this every other week. One of that was that we have a tremendous amount of pressure on that street as well from the refinery and the refinery is in the County and the County gets money from the refinery we don't get that money directly from the refinery. It is much that the County should bear some responsibility but obviously, they have a budget and I think they have their funds allocated where they think they have to have them. There is no guarantee that we can get money from them; it would be a struggle. To answer your question, we probably should, but are we, can we, can we force them to, no we can't force them to. But we can sweet talk them and try to get them to pitch something in or can we leverage something else to try to convince them that would be a good idea, maybe. We are looking at everything we can.

Council President Eaton asked is there a timeframe for the 10-step plan that KLJ came up with, what is the status of that?

Kurt Markegard, Public Works Director, clarified that they just got it Wednesday. Mayor Nelson continued by stating not so much that that expires but more important if we go through that process, and we determine we have to wait another year and a half or maybe two years to get the funding in place. We may be required to go through this again and spend another up to \$85k or \$90k because the State will say this is outdated; you need to provide us with new engineering again. We have discussed that at one of our meetings. If we wait too long, we may have to go through the process again.

Council President Eaton stated she is experiencing some frustration with this because she was the first on Council in January of 2007. She stated she started bringing this issue up somewhere in 2008. A resident of her ward asked her a year ago and a half ago to please summarize why it was that nothing was being done with West Railroad. So she went back through her records that she keeps at home and in 2013, she stated she had written up a rather lengthy document then of every time she had brought up at Public Works Committee or the Council as a whole discussion about West Railroad Street. She stated that she ended up giving that particular constituent a document that was 3 inches thick of all of the times and all of the ways that this had been brought up and dropped. She stated it seems to her now that there are more objections and problems that are being dug up that have never been considered before because this project had never been considered. She stated that she is very worried that this balls going to get dropped again. Given the fact that the east end project, which was scheduled to take two years suddenly got combined into a one year project and we are now looking at the funding for it. That went through very very easily and very very quickly and there are no more constraints to that. I would think an engineering firm could come up within a 10-step program. She stated she would like to see something a little bit more precise and concise rather than an engineering firm coming up with a project and everyone taking potshots at it and saying they are charging too much. She stated that she understands that we are trying to save money and that she understands that it is a fight be the City trying to save their dollars and the State seeming to think we have endless funds. This is a project that needs to be done. She stated that she doesn't know how many times all of us around here have said that. She stated that she is amazed at how many times a 10-step program supposedly can be finished and brought to the Council and then it doesn't get brought to the Council. Then the Public Works Director is working on phases of it to try and save the City money, etc. etc. It looks already as if it its infancy stage that we are just treading water already again on this project. She stated that she wants to express the fact that this is not going to go away. And if she has to haul her wheelchair in here at age 105, she is going to make life difficult for all concerned. She stated that is her two cents and they can put that towards the funding to improve West Railroad Street.

Mayor Nelson stated that they have talked about; there are other options too. There is Gas Tax; there is the Street Maintenance levy. He stated he thinks if they through everything they can find and pick up at that project it can probably be accomplished.

But it would be at the expense of not doing other things because of the finite amount of funding. And there again the State may have grossly overestimated it as well. Our engineering firm does seem to think that the State does overestimate because obviously, that would be to their benefit to overestimate vs. underestimate a project's costs. When we meet next week can take a look at that and bring that proposal on the engineering task order to the Council and let you decide.

Council Member Wilke stated that he is curious, we spend this \$85k to have this report done, then we got all this information and then the State comes in and says we need to redo this. At some point in time in the future are we going to have to spend more money to help pay for some of these things we have already paid for? Or will they except some of this information, it is coming from an engineering firm for crying out loud. Does it all have to come from their dudes up there in Helena? He stated it is his fear that we pay \$85k and they come back that we need to pay \$45k more because you didn't do this right or you didn't get enough information. We pay \$85k for the future to hear, oh you got to pay for this too. He stated this is what he is worried about.

Mayor Nelson stated that the state will do their own topo; we will do a topo with a drone, a drone is the least expensive way to do a topo survey. But we need the topo survey for our stormwater and other considerations. So we have to have that. That is something the State's going to do anyway but we are better off having our own done. Is what we determined. There are a few things that they have to do. The other thing is if we go and spend the money on this task order, we want to continue with the project because if we stall and think we have to wait a year or two, then we will have to spend that money again on a new task order. The State won't accept some of those things that the State will accept from the engineering firm that they won't duplicate.

Council Member Herr stated he fully agrees with Council President. Railroad Street is definitely a shot in the arm to get going on. On the same sort of token, but we are going to need money again if the City chooses to put water and sewer out to the West Exchange. That is going to be a big chunk of money. He stated he would rather see it on West Railroad Street because right now, that's a big point. But how do we get money for the west end and the new interchange the businesses and whatever is going in out there. Maybe the business places will kick in, but it is still going to be quite a large expense to get water and sewer out to the West exchange. Will, that interfere with this or is that water and sewer money and this is road money?

Kurt Markegard stated that any time so the last time we did anything with Urban Funds and the State was 8th Avenue. The previous Clerk/Treasurer had put away 1 million in the water and sewer funds to do that project. To redo the water and sewer mains for 7 blocks. So we had the money in the bank when the American Recovery and Reinvestment Act came through. And all of a sudden our project that was still in the design phase; they were still doing it. But it was close enough design, the final design, that we were eligible to be a shovel ready project. That project going forward, the City had our match from the water and sewer funds that we had to pay the State to install the water and sewer lines. Then we had to deal with the stormwater. That plan took 10

years for the plans to be drawn up and the environmental assessments to go on. They looked at wetlands; they looked at stormwater. They even bought land next to the church to deal with stormwater then gifted that over to the City of Laurel that now we have to maintain to retain Cherry Hill stormwater so that the stormwater coming down 8th Avenue didn't have to be such a large size so that we would save cost. The same thing is happening on West Railroad Street; the problem is the State's not moving forward towards plans. This is different because they looked at it and did their numbers, the rough estimate and said we are not even going to move forward with plans until the gap funding is closed. So they are doing nothing, that is what they came and told the Council, they are not going to do nothing. So the State Department of Transportation is doing nothing, absolutely nothing. So the only ones working on this project is the City. We are trying to get you guys a number where your comfortable, then understand all the things that are going to happen. We don't have stormwater, so right now, that street is just shedding water off onto the railroad and into the neighborhood properties. It's running across the berm; sometimes, it's not even doing that because the dirt has built up so high along railroad street that water is just sitting out on the street creating puddles which creates the potholes which deteriorates the street even more. So they are looking at bringing a storm drain all the way from the underpass to the railroad spur at Fox Lumber, hooking onto that and coming under 1st Avenue and going underneath two railroad crossings and extending it all the way out to 8th Avenue. We have the other option of dumping stormwater maybe into the pond. Do we really want stormwater going into a pond where theirs fishery? We don't want that to happen either. So this project is not simple. With the railroad and railroad property, if we went through and did a Special Improvement District, we are probably not going to get the railroad to participate in that because they have no beneficial frontage. It's not going to benefit them to have curb, gutter, and sidewalks. So a Special Improvement District probably isn't going to fly and if it did it would go on all property owners that would benefit it can't be shared in the whole community on that whole Southside so your just looking at property owners along Railroad Street to raise funds for a Special Improvement District. Well, that's not going to work. It is just too much. So back to the gap funding. The States is not working on it. The City Council and this Mayor and previous administration want us to keep working on it. What we are trying is to get you a number that we can. And that you understand if it goes forward our Urban Funds that are sitting at the State are not just the City's it's the Counties too. So when we talk about it, that district encompasses County properties and City properties. The County has already said, the County Commissioners have said yes, you get to use that money just for the street. They agreed to that. He stated that he went and asked the Public Works Director for Yellowstone County if they have any money to contribute. The answer was no. He stated he has already done the asking. What he is trying to do is to the best that he can to make sure if they spend \$85k, that is \$85k that we don't get to go pothole patch or crack seal any other project. It is going to go to this and then it might sit and we may have a plan and the State comes in and says not sufficient. So we got to have the funding and we got to have an understanding of what the costs are going to be, how much it is going to cost to put in a storm drain per lineal foot, water line per lineal foot, sewer line per lineal foot. Get all that done; how much curb is going to be required. Are we going to do a three-lane or a two lane? We are trying to convince the

State that we only need two-lane until we get to the residential neighborhood and then we can possibly go to three-lane. So you turn left to go in the South Side and keep traffic flowing into the county. Urban standards is a three lane; we don't feel between 1st and Woodland that you need a three-lane. That is KLJ's and his opinion. The urban design requires that they are three-lane. So we have to convince the Department of Transportation by data that we don't need three lanes to go over railroad crossings. Why would you need it, if you turn North and nothing that turns South, we don't need three lanes there? We are trying to get it all put together as one scope and have an understanding that all the things that would go into design so we can get the cost estimates. If we do everything and research everything, then we can't come to a realistic cost estimate number to present to the State. That is what we are trying to get down to. Yes, it is taking some time to get it all done; that is why he is asking all the questions. So we are prepared to go forward and it doesn't take 10 years to do a design and have 10 years of looking at something. If we can compress that down to be able to do it in a two-year design, that means the project can go forward faster. Know that every year we are getting about \$260k added to that account. When we did 8th Avenue, 8th Avenue wasn't even projected to start construction until 2023 at the earliest. He stated when he started here 2023 was the earliest it would ever go, then along came the shovel ready project. So now West Railroad Street because that got done we had a balance left and now that's where we are at. He stated he is hoping to have something in the next couple of weeks to the Council so they have something to consider. Then it would be up to you [Council] if you want to spend the \$85k or not. He stated they have a meeting next Tuesday and then he thinks if the Mayor feels comfortable putting it on the agenda, we will bring a task order soon.

Mayor Nelson stated he doesn't know how much work is ever gone on with this project in the past, but he does know in the last year, in the last 8 months have really focused on this trying to get to where we can make this a reality and move the project forward. It needs to be done obviously, that a major arterial into Southside. It's a major arterial for transportation in and out of the refinery, especially during the turnaround. And at some point in time, it's going to be a major arterial into a more development south of the highway where eventually he would assume we will have the State putting something over those railroad tracks and with a loop connector that connects into West Railroad because it's going to be traffic that's coming in over there and eventually probably something with the widening of 4th and getting traffic back out onto the highway south from there. Then onto 90 again from there. We will continue to work on that so in the next couple of weeks; we can bring that to the Council, and then you can make that decision and give you the best... what we think can do if we go ahead with that — exploring other options with some variables. We talk about it every two weeks. We have been moving forward on it as well on identifying things on it that question or funding avenues or different options. We have moved through the identification of the streets that Kurt had mentioned to you. We have streets terminating into railroad right of way; they have to be terminated and have to interconnect, brought down then come over. He stated they are all very committed in making this thing work and getting it off the ground this time. We give you that commitment here in a couple of weeks and get you.

8. Discussion on National Historic Places Registry Designation.

Nick Altonaga, Planning Director, read the attached recommendation letter to Council. He stated that Park Board met last spring with a member of the Yellowstone Historic Preservation Board and discussed what it would like to be on the registry. Historic designation opens the City to more funding and exemptions from certain regulations.

It was questioned if the Care Takers building would be torn down. It was clarified that the City could demo buildings if documented properly.

Mayor Nelson stated a few years ago, this topic was brought to Council and he had come to the same conclusion that the Planning Director had. This will open grant funding opportunities to maintain and improve those buildings.

It was questioned how the Council moves forward with this item. It was clarified that this item would be brought back as a resolution at the next Workshop.

Other Items

There were none.

Review of Draft Council Agendas

9. Draft City Council Agenda of January 28, 2020.
There were none.

Attendance at Upcoming Council Meeting

All in attendance will be at next week's meeting.

Announcements

Public Works Committee's next meeting is tomorrow, January 22, 2020, at 6:00 P.M. in the Council Conference Room.

Emergency Service's next meeting is January 27, 2020, at 6:00 P.M. in Council Chambers.

Mayor Nelson reminded citizens that ice is jamming up on the river. Areas near the river may have flooding and to be safe.

The council workshop adjourned at 8:26 p.m.

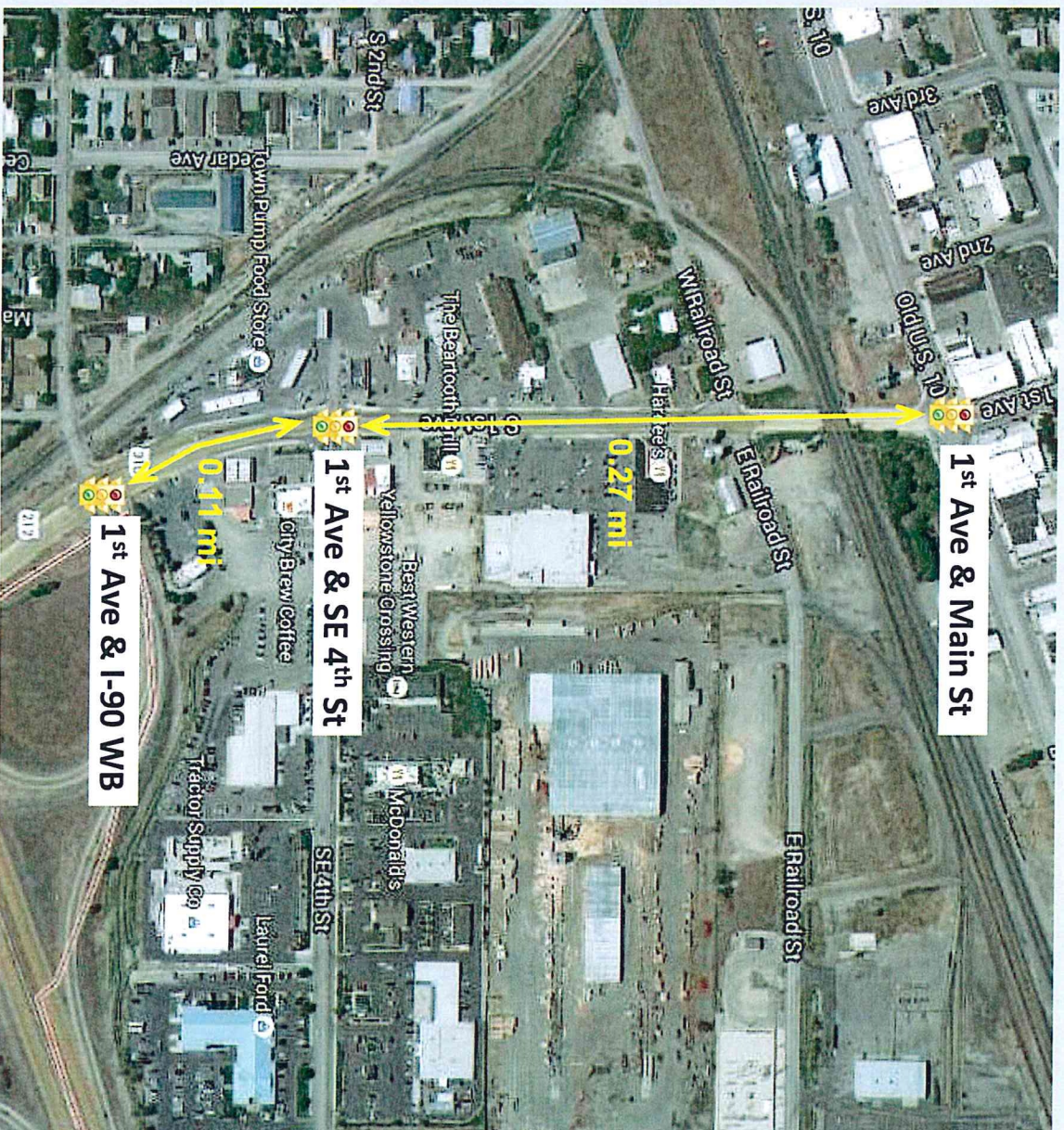
Respectfully submitted,



Brittney Moorman
Administrative Assistant

NOTE: This meeting is open to the public. This meeting is for information and discussion of the Council for the listed workshop agenda items.

1ST AVENUE SIGNALS - LAUREL CMDP-G 4-2(47)54; UPN 9264



OVERVIEW

- Existing Conditions Summary
- Identified Issues
- Intersection Analysis
- Crash Analysis
- Clearance and Pedestrian Times
- Proposed Timing Plans
- Next Steps

EXISTING CONDITIONS

- 3 State Owned Signals
 - No coordination
 - No detection at Main/1st (pre-timed)
 - Nighttime flash at Main only
- Hardware
 - Traconex Controllers
 - Controllers upgrades included with this project

IDENTIFIED ISSUES

- 2010 complaint about lack of pedestrian crosswalks at Main & 1st
- 2013 complaint regarding the time for the NB LT arrow at Main
 - Added 5s of green time to the NB LT noting that the lane configuration may limit the benefit
- 2016 complaint regarding back up onto the interstate at the WB ramp (≈1600' ramp)
 - Added to the HSIP 2016 review site list
 - During field review, no back-ups noted
 - No trains noted either
 - Site dropped – no further info
- June 2018 complaint letter
 - NB backup from Main to I90 - problem for businesses access

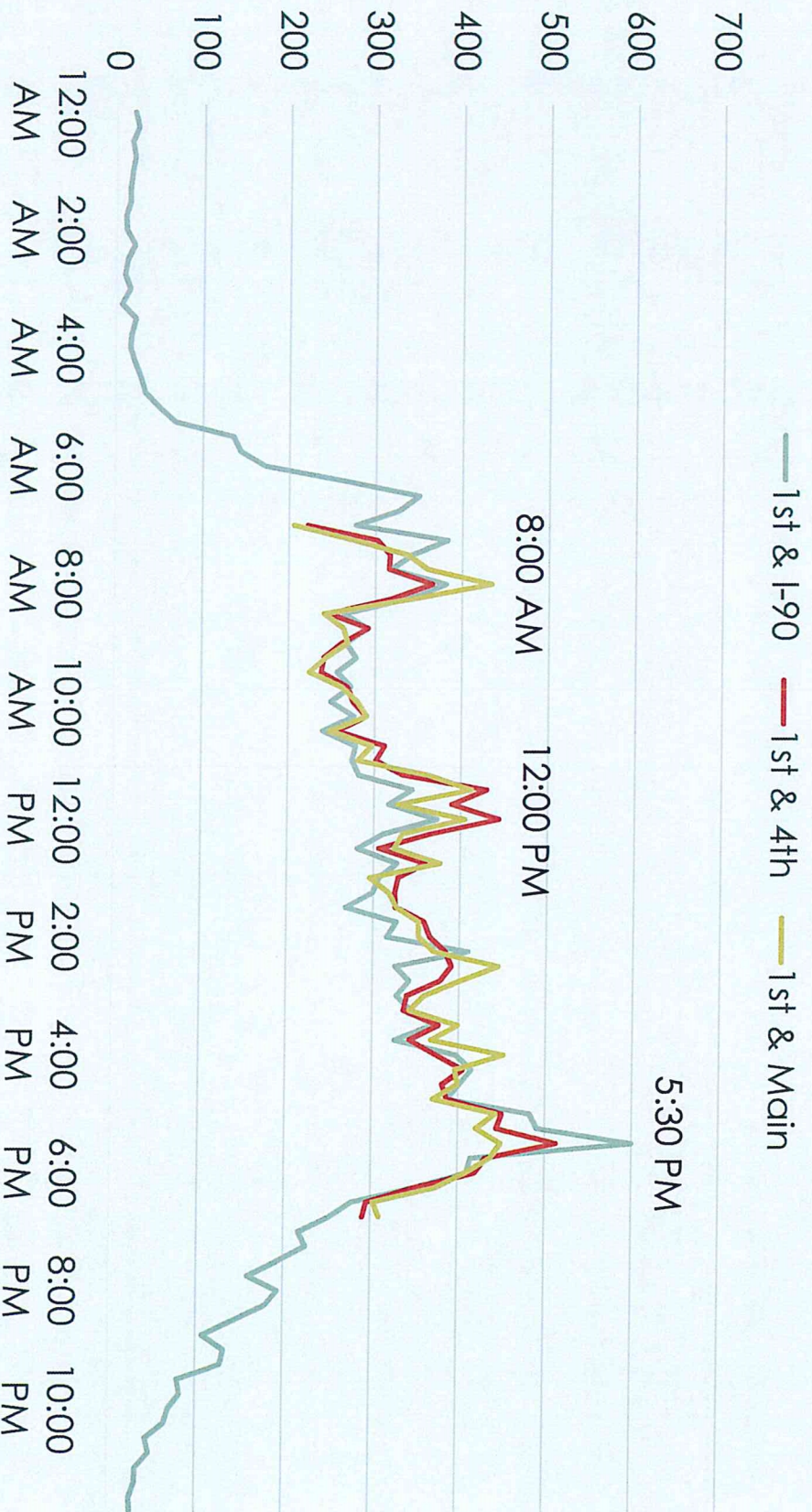
NOTED FIELD ISSUES - MAY 2019

- Backup from Main to the I90 WB ramp in the NB direction during the PM peak
- Intermittent cycle failures for following movements
 - Main
 - NB primarily during PM peak, WB LT all peaks, infrequent SB AM/PM peak
 - 4th
 - SB LT during midday, WB LT midday and PM peak
 - I90WB Ramp
 - EB only after train preempt
- Two trains observed at the I90WB Ramp
 - Long and slow trains, but no risk of backing onto interstate even though one occurred at 5:20pm
 - Clearing EB traffic after preempt can be challenging due to heavy WB right from the ramp, and the NB lane drop at 4th

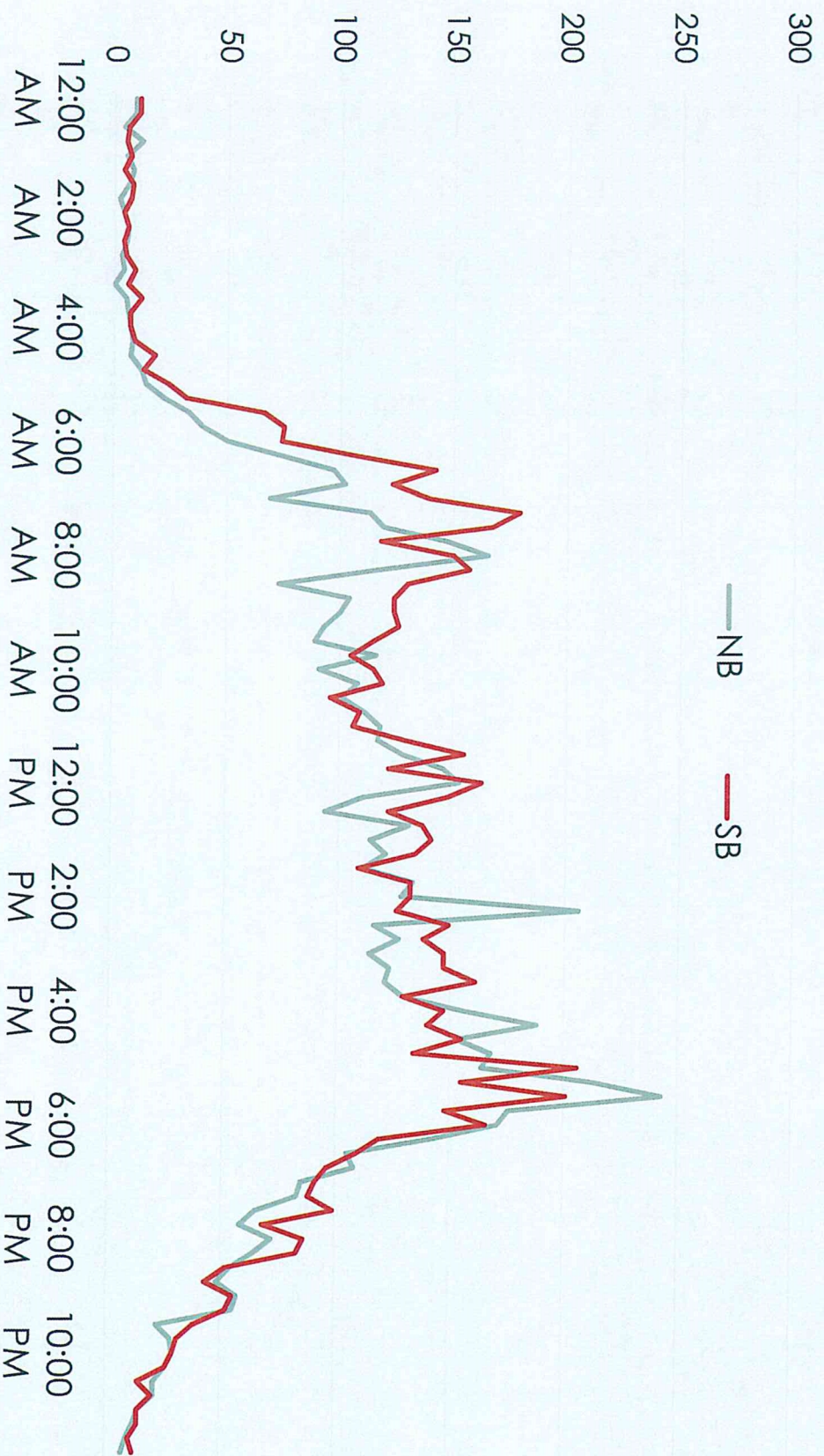


WEEKDAY TOTAL VOLUME

APRIL 2017 DATA



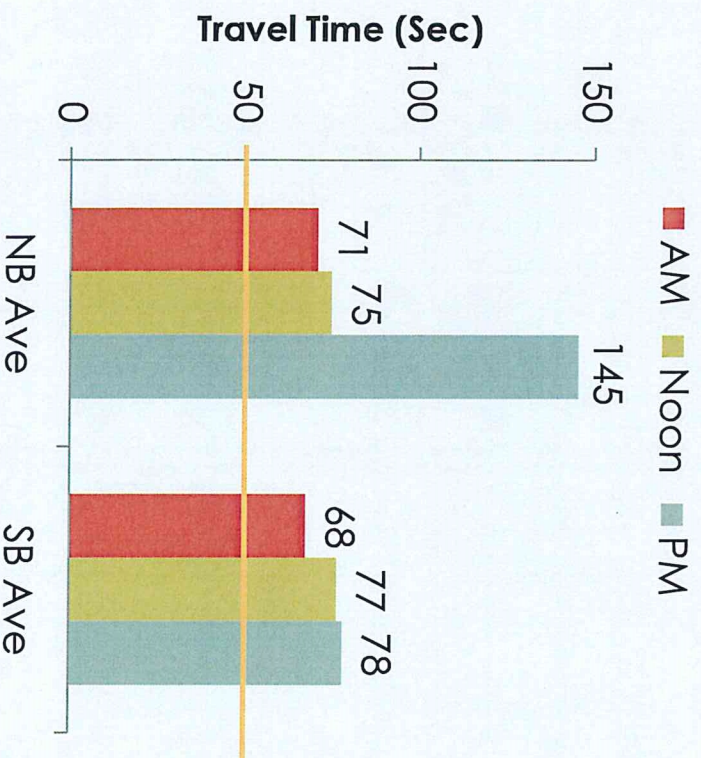
DIRECTIONAL DISTRIBUTION ON 1ST BETWEEN I-90 AND 4TH



TRAVEL TIME RUNS

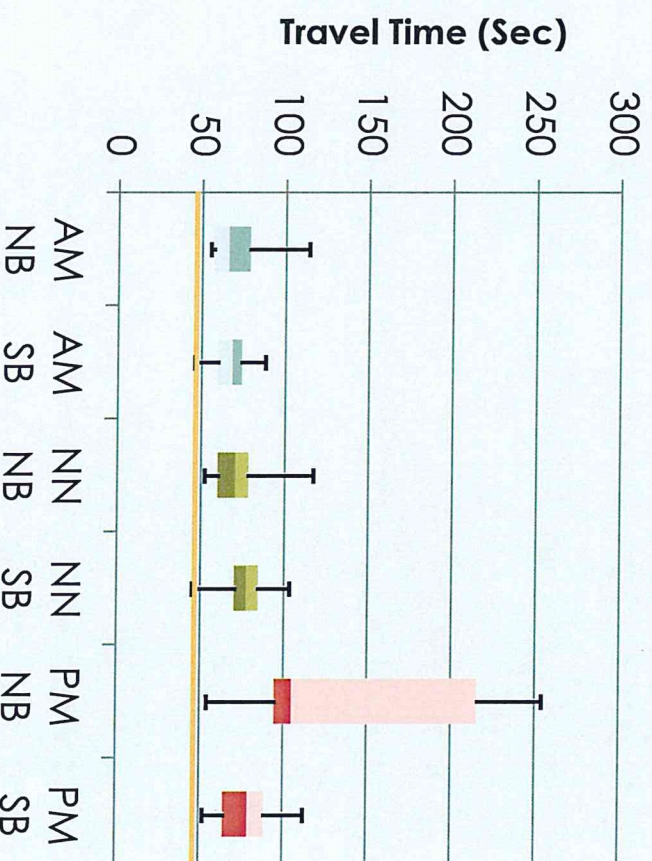
APRIL 2017

Average Travel Time (sec)

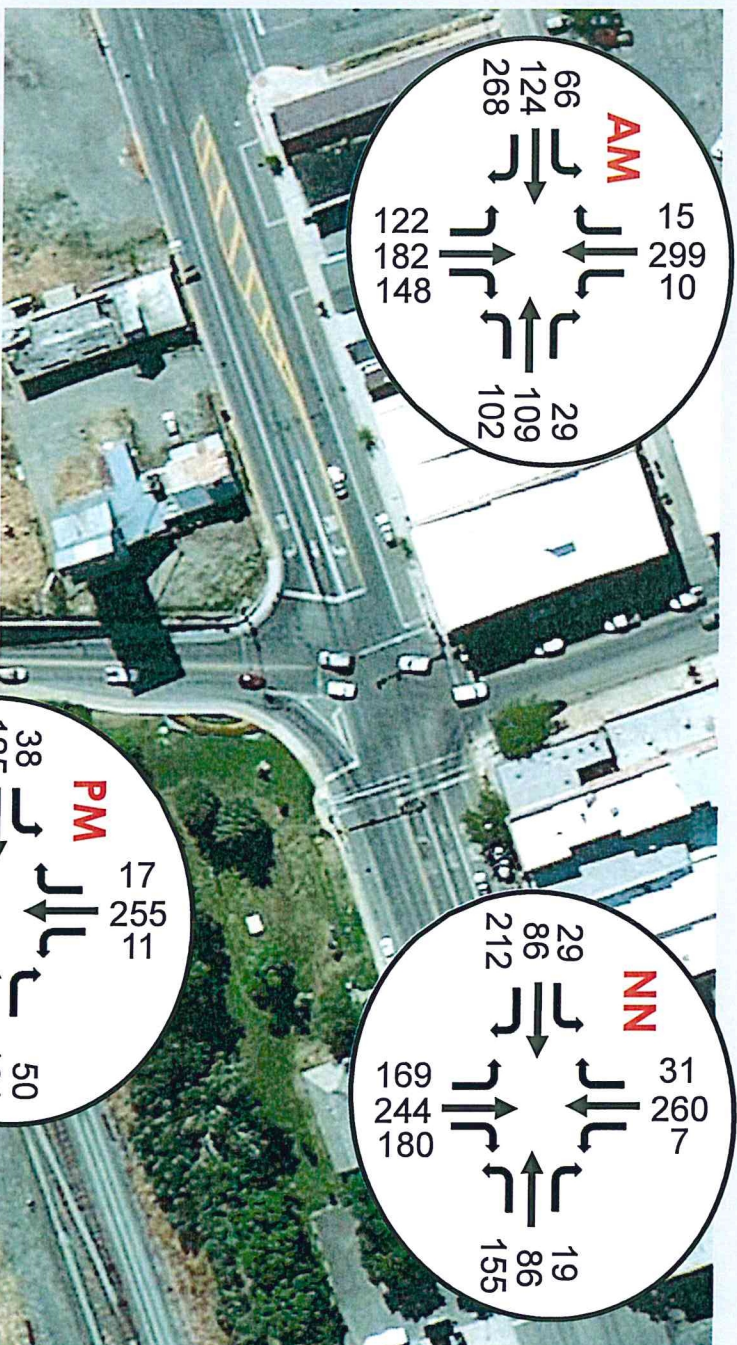


- Zero delay travel time = 50 sec
- Max TT in the PM peak in 2019 was 354s headed NB

Travel Time Variability (Min, Max, Median, 1st & 3rd Quartiles)



1ST & MAIN

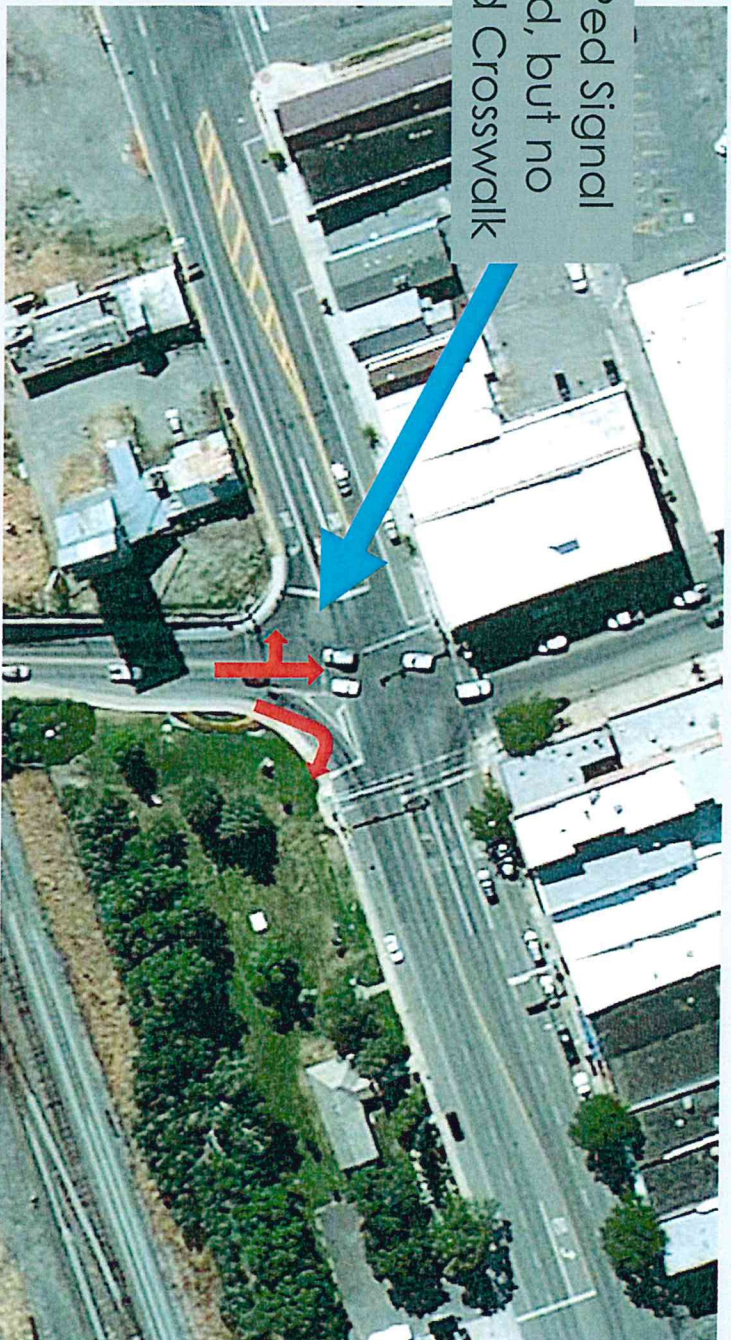


700+ veh NB in PM peak
in essentially a single lane

1ST & MAIN

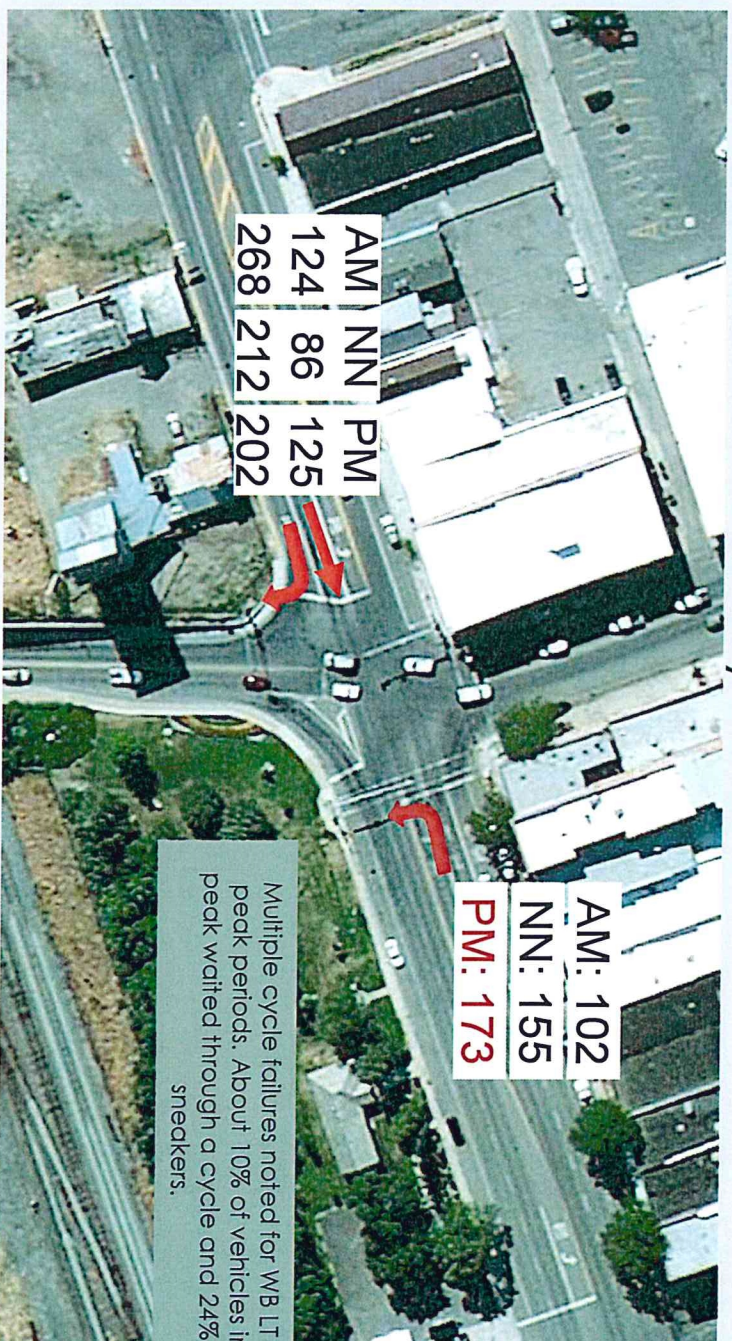
- Prot/Perm NBL (shared thru-left lane)
- Pre-timed Operations (Overnight flash 11pm-7am)
- 75 sec cycle in AM, 80 sec in Noon/PM

Has Ped Signal
Head, but no
Striped Crosswalk

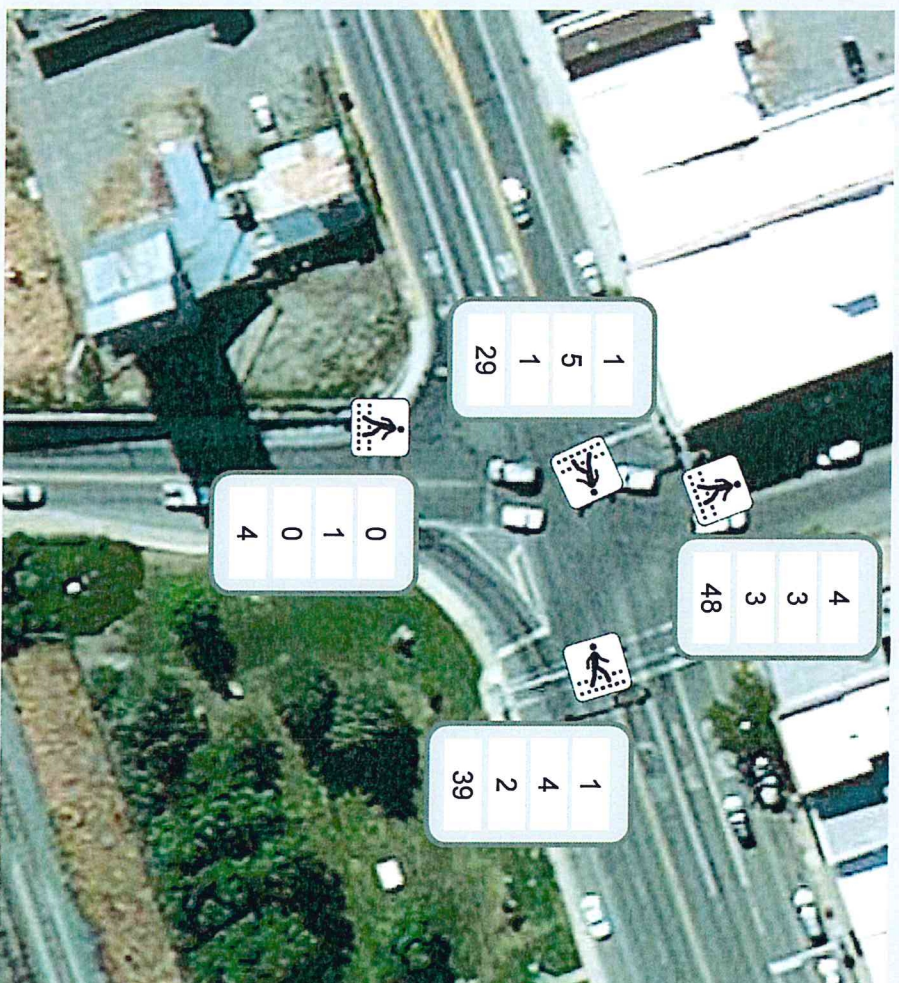


1ST & MAIN

- WBLT vs EB TH/RT volume meets recommendations for a left turn phase in the PM peak
- No WBLT crashes in 5 years



1ST & MAIN PEDESTRIANS



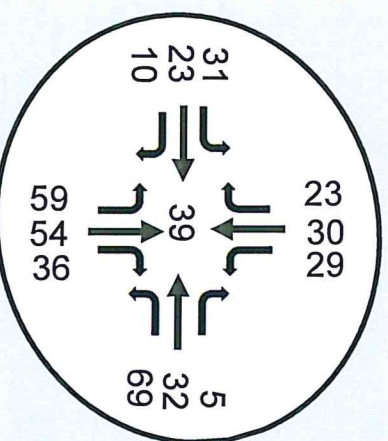
AM
NN
PM
7a-7p

120 total peds counted with about 1/2 of them counted between 2p-4p

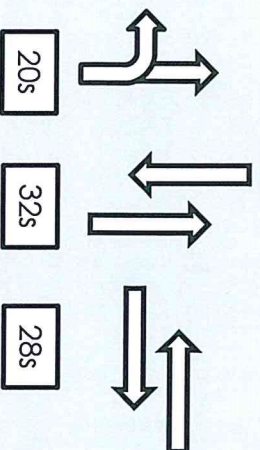
1ST & MAIN

- This project
 - Optimize signal within the existing geometric and signal hardware constraints
 - Unlikely to “fix” queuing issues that exist
- Future recommendations
 - Possible interim project – MACI potentially?
 - Add detection and upgrade signal (FYA, backplates, APS)
 - Detection will be most useful outside of peak hours, may help limit congested periods but will likely have little effect in peaks
 - Add WB left turn phase
 - Will need to be short to limit further exacerbating NB queues within the existing NB lane configuration
- Major reconstruction of the intersection
 - Possible roundabout? October meeting - NO
 - Reconstruction of the NB leg to include LT/TH/RT lanes?
 - Long term project and long term plans for Laurel?

1ST & MAIN - PM DELAYS 2017 VOLUMES

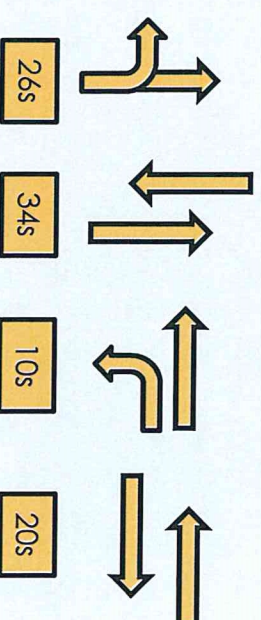
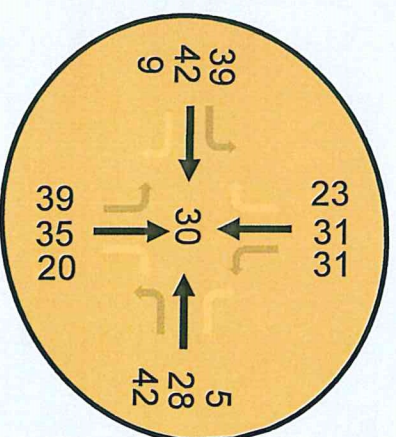
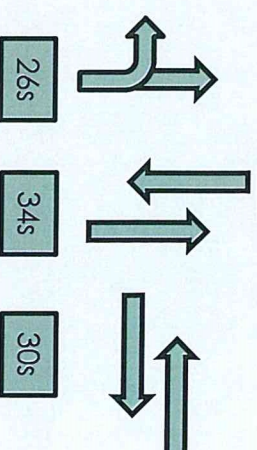
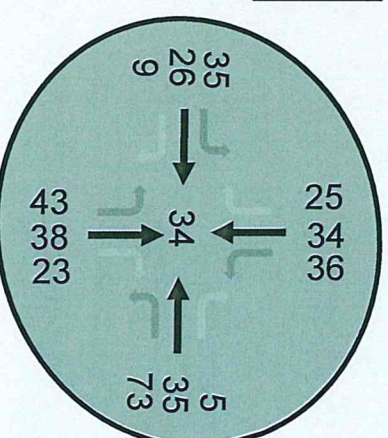


Existing
80s Cycle

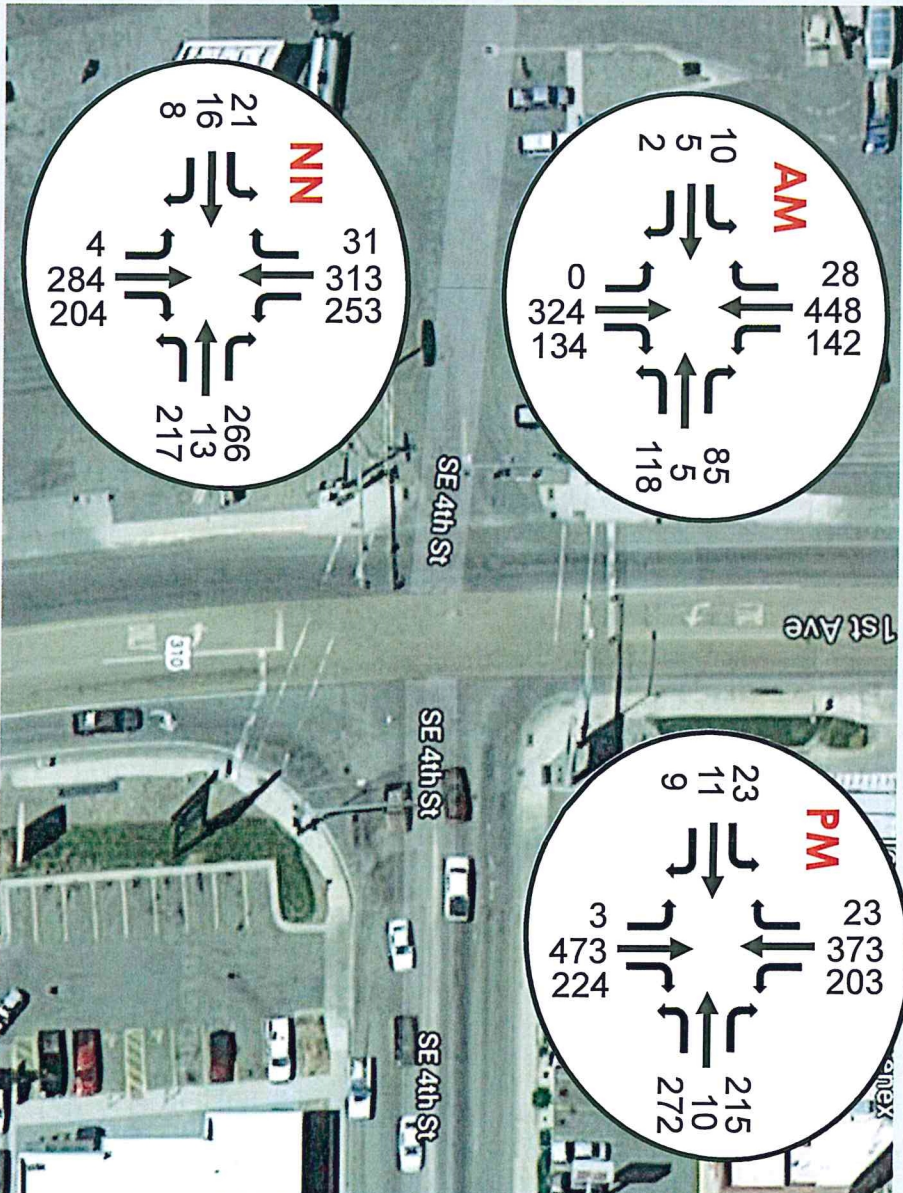


Add Detection and
WB Left Turn Phase
90s Max Cycle

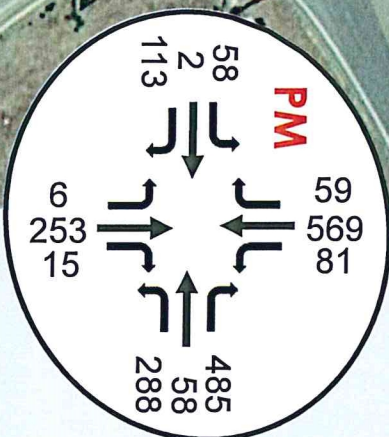
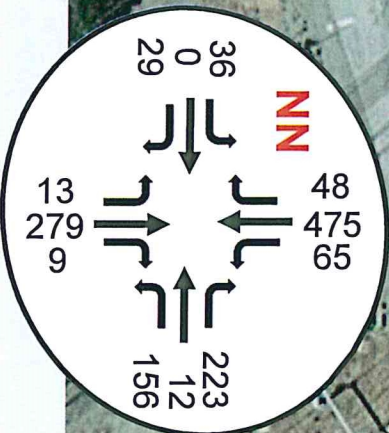
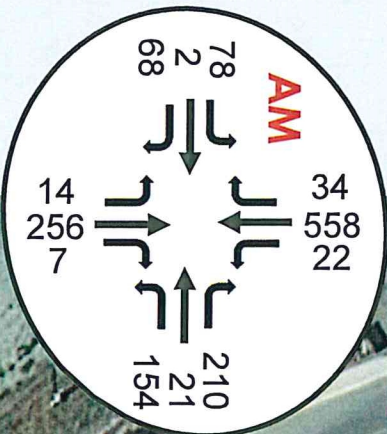
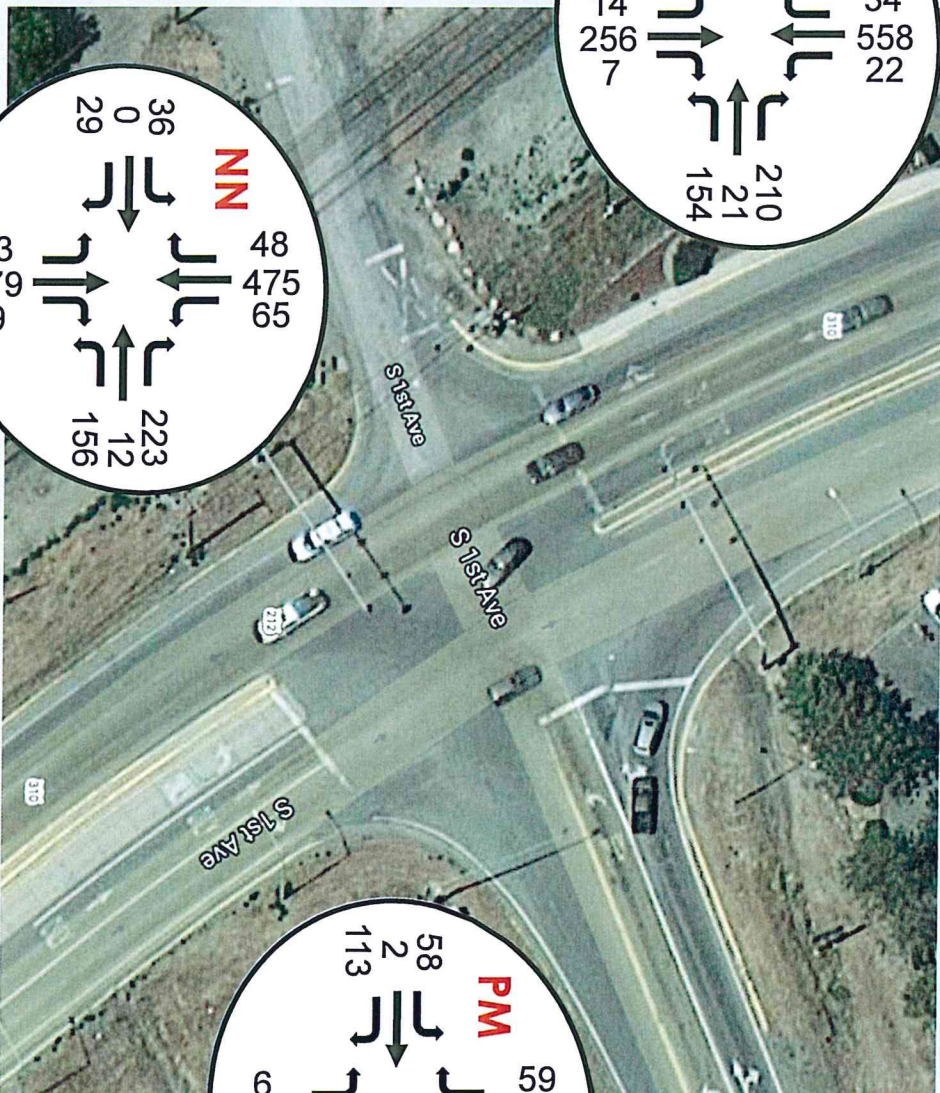
Proposed Timings
90s Cycle



1ST & 4TH

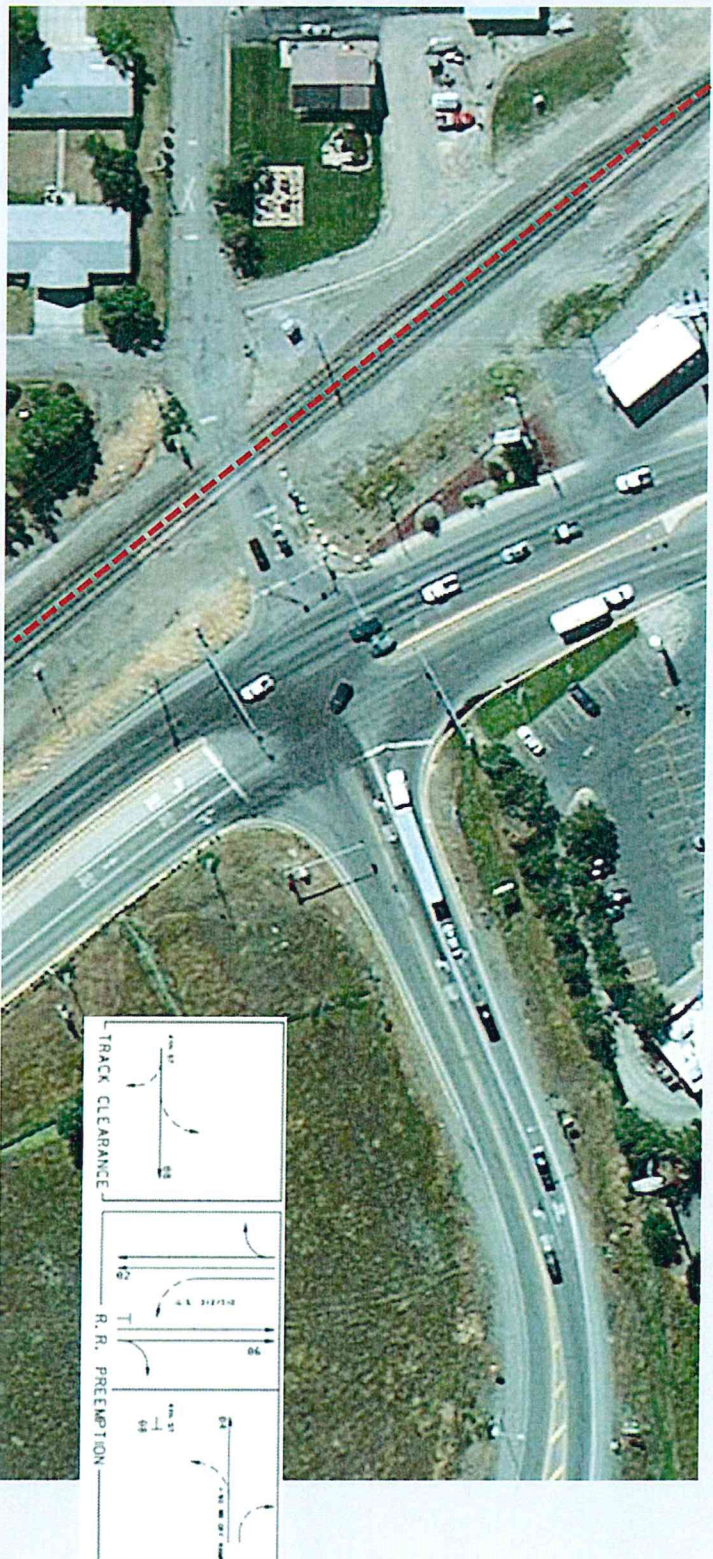


1st & I90 WB



RAILROAD PREEMPTION (1ST & I-90)

- Tracks 70 feet west of stop bar
- Railroad advanced preemption
- 20 Preemption activations per 24 hour period
 - Will interfere regularly with any proposed coordination



I90 WB RAMP

- Back up onto interstate reported
 - Possibly related to train operations and preemption?
 - Train schedule – 20 preempts a day
- Lane configuration
 - Heavy right turn volumes in all periods
 - Interim – possibly look at changing lane configuration - NO
- Long term – possibly consider
 - Adding a lane for exclusive lanes for all movements to prevent through vehicles from blocking heavy movement turning vehicles during preemption
 - Adding a dual right turn lane
 - Possible queue detector on ramp – won't override a train though and if through vehicles are waiting for a train causing back up, it may not help
 - Effects of West Laurel Interchange opening on traffic patterns

CRASH ANALYSIS

- 5 Year Crash Analysis (2014-2018)
- Crash Severity:

Intersection	Fatal	Injury	PDO	Total
I-90 / 1 st	0	4	13	17
4 th / 1 st	0	2	18	20
Main / 1 st	0	9	21	30
Total	0%	22%	78%	100%

CRASH TYPES - 5 YEAR HISTORY

Intx	Rear End				Left-turning/Thru				Side	Right	Ped	Fixed	Roll-	Tot
	NB	EB	SB	WB	NBL	EBL	SBL	WBL	Swipe	Angle	Bike	Obj	over	
I-90	0	0	0	4	1	0	5*	0	2	4	0	0	1	17
4 th	5	0	4	5	0	0	2	0	3	1	0	0	0	20
Main	11	0	2	3	4 ⁱ	0	0	0	3	3**	3 [^]	1	0	30
Total	51%				18%				12%	12%	4%	1%	1%	-

*Does not exceed FHWA crash threshold (4 crashes in 1 year) for P/P phasing

!Does not exceed FHWA crash threshold (6 crashes in 1 year) for protected only phasing

**One right angle crash during nighttime flash

[^]Ped/bike at Main

NB LT vs ped in west xwalk

SB bike FTY to WB vehicle

NB RT vs bike in east xwalk

YELLOW + ALL RED TIMES

Intx	Speed mph	φ	DIR	Exist Y	Prop Y	Exist Red	Prop Red	Change Y+AR
I-90	35	2/6	NB/SB	3.6	3.6	2	2.2	0.2
	25/35	4/8	EB/WB	3	3.6	3	3	0.6
4th	25	1	SBL	3	3	1	1	-
	35	2	NB/SB	3.6	3.6	2.4	2.7	0.3
	25	4	EB/WB	3	3	2	2.6	0.6
Main	25	1	NBL	3	3	1	1	-
	25	2	NB/SB	3	3	2	3	1.0
	25	4	EB/WB	3	3	2	2.6	0.6

$$\text{All Red} = \frac{w+20ft}{v}$$

PEAK HOUR PED VOLUMES



PEDESTRIAN TIMES

Intx	φ	DIR	Exist W	Prop W	Exist FDW	Prop FDW	Change W+FDW
I-90	-	-	-	-	-	-	-
	2	NB/SB	7	7	18	15	-3
4 th	4	EB/WB	7	7	20	17	-3
	2	NB/SB	7	7	20	21	1
Main	4	WB	10	7	13	12	-4



$$\text{Flash Don't Walk} = (\text{Distance}/3.5) - (Y + AR)$$

PM ANALYSIS

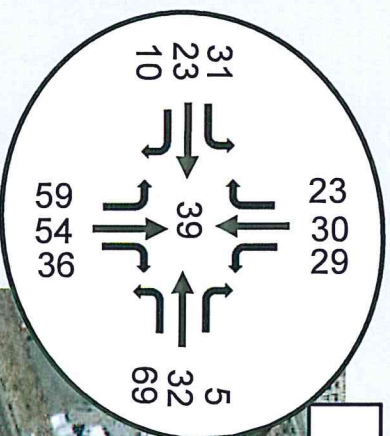
SIM TRAFFIC

Network	Existing	90s All Coord	90s Main Only
Total Delay (hr)	46.9	59.5	44.7
Total Stops	4277	4559	4144
190 Total Delay (hr)	12.0	22.1	12.9
4 th Total Delay (hr)	14.7	16.6	13.9
Main Total Delay (hr)	19.0	19.5	16.7
NB Arterial Travel Time (s)	144	141	124
SB Arterial Travel Time (s)	77	74	77
95 th % Queue NB @ Main (ft)	983	971	697

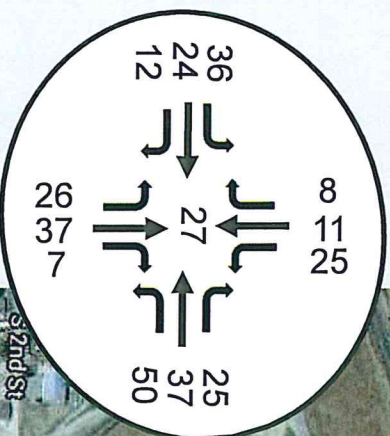
PM PEAK HOUR DELAYS

Existing

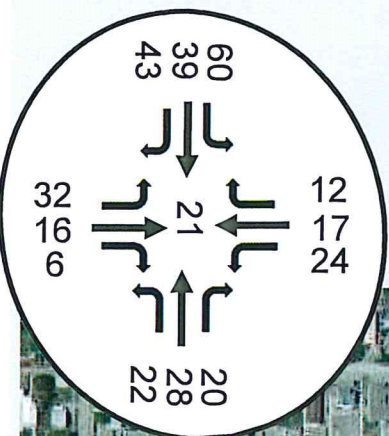
1st Ave & Main St



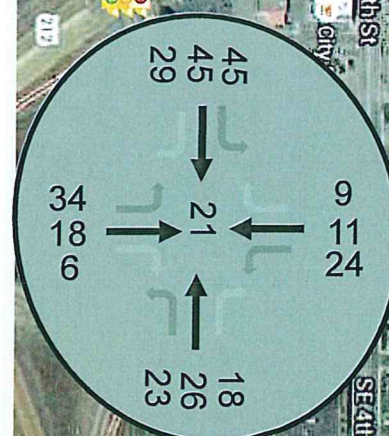
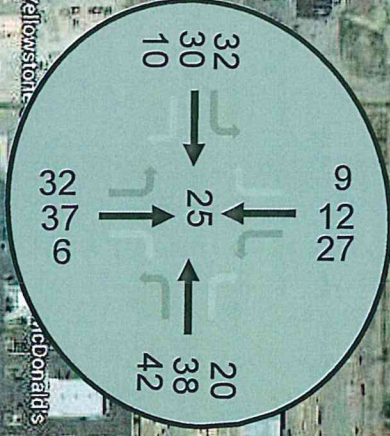
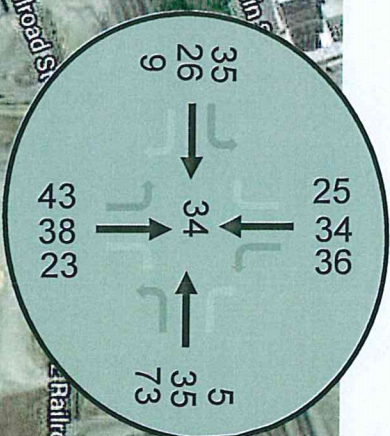
1st Ave & SE 4th St



1st Ave & I-90 WB



Proposed 90s at Main with 4th and I90 Free



NOON ANALYSIS

Mainline	Existing	90s All Coord	90s Main Only
Total Delay (hr)	11	11	11
Total Stops	1422	1391	1433
Performance Index	15.2	14.6	15.2

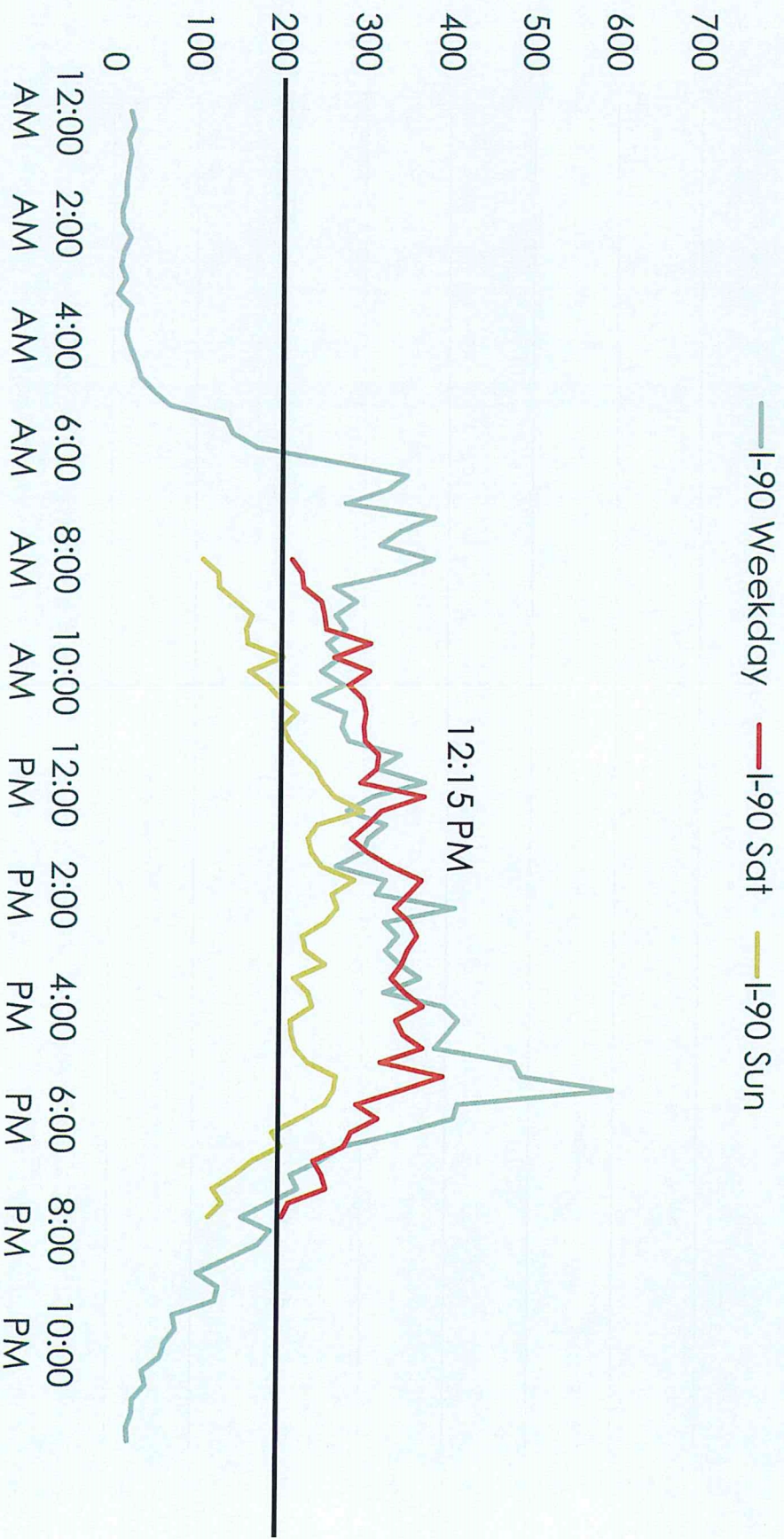
Network	Existing	90s All Coord	90s Main Only
Total Delay (hr)	21	21	21
Total Stops	2192	2165	2200
Performance Index	27.2	27.0	27.2

AM ANALYSIS

Mainline	Existing	90s All Coord	90s Main Only
Total Delay (hr)	10	9	9
Total Stops	1385	1150	1341
Performance Index	14.3	11.7	12.8

Network	Existing	90s All Coord	90s Main Only
Total Delay (hr)	18	19	18
Total Stops	2110	1912	2084
Performance Index	24.1	24.0	23.7

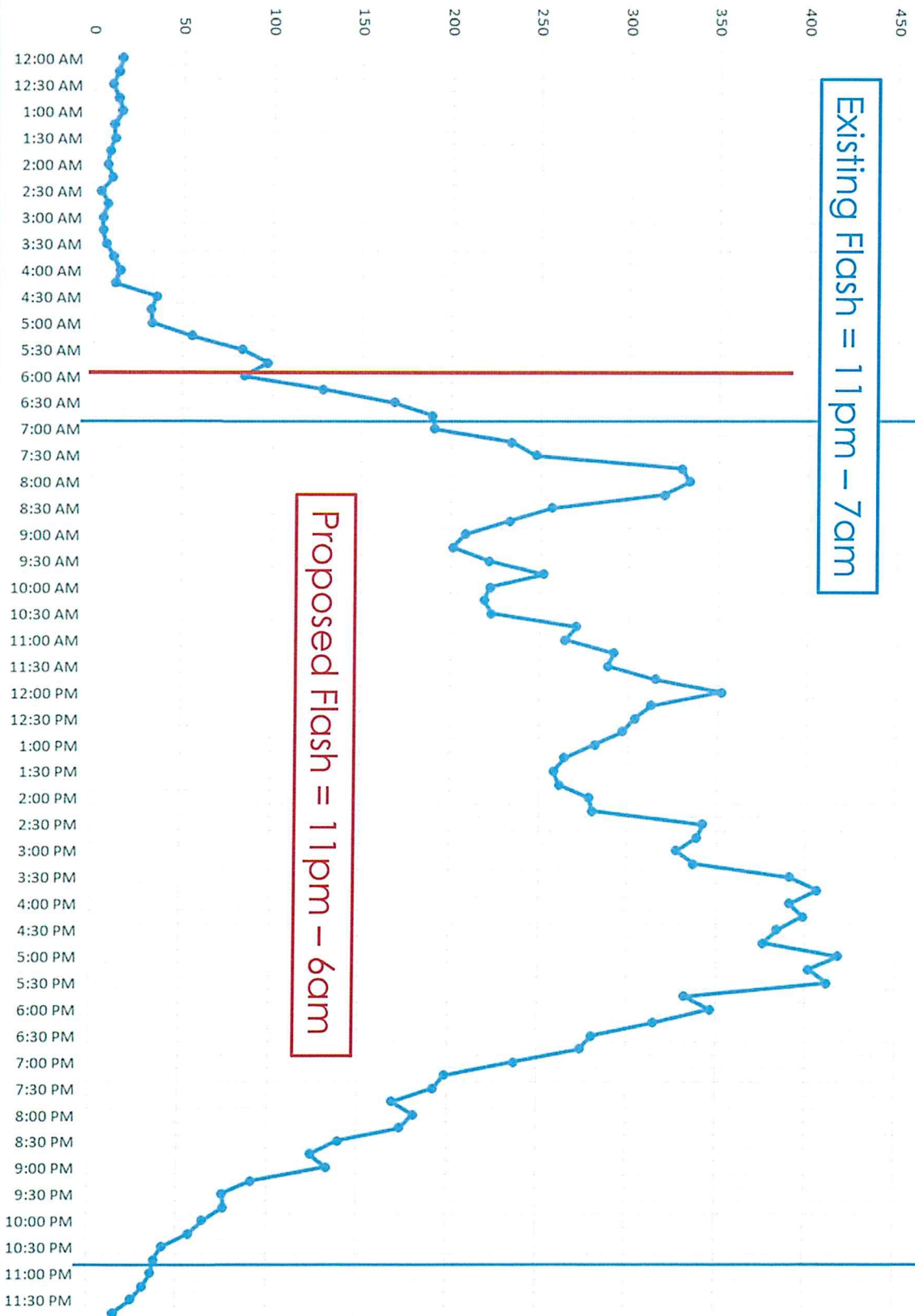
WEEKDAY VS. WEEKEND



NIGHTTIME FLASH

- One right angle PDO crash during nighttime flash in 5 years
- No detection at 1st & Main
 - Minimum overnight cycle that can be run is 59s if we omit NB LT
- Moving away from nighttime flash due to safety concerns including pedestrians
- No nighttime flash at other two signals – consistency?
- Keep flash until possible signal upgrade with detection
 - Recommend changing hours

Main & 1st TEV - May 2014



NEXT STEPS

- Implement Timings in January 2020 with new controllers
- Signal upgrades in Laurel to be evaluated as a potential MACI project
 - Timeline dependent on prioritization and funding

CITY HALL
115 W. 1ST ST.
PLANNING: 628-4796
WATER OFC.: 628-7431
COURT: 628-1964
FAX 628-2241

City Of Laurel

P.O. Box 10
Laurel, Montana 59044



Office of the City Planner

January 17, 2020

Regarding the Recommendation of Riverside Park for Inclusion on the National Registry of Historic Places

Mr. Mayor,

After reviewing the federal guidelines, resources, and information available regarding inclusion on the National Registry of Historic Places I am in support of placing Riverside Park on the National Registry of Historic Places (NRHP). There have been many concerns about the NRHP designation previously raised regarding:

- Floodplain regulations,
- Design and improvement constraints, and
- Federal oversight of local efforts.

The National Floodplain Insurance Program (NFIP) has specific regulations for structures regarding substantial improvement for both upgrades and repairing damage. Historic structures do not have to meet floodplain management requirements so long as they maintain their historic structure designation (44 CFR 49.1). The NFIP provides exemptions and variances for historic structures that localities can implement for their jurisdictions. The NFIP recommends considering improved construction and mitigation measures during rehabilitation despite their exemption from floodplain management requirements. The Laurel Floodplain Hazard Management Regulations updated in 2018 presents a basic variance process for historically designated structures which matches the NFIP program. This is described in Section 12.4.2.2.

Inclusion on the National Register of Historic Places does not overlay restrictions on a property owner nor does it mandate the preservation of that property in the future. Activities such as demolition, structural upgrades, replacement of features, and rehabilitation are all allowable by the building or site owner.

Communities have the option of choosing to adopt provisions for addressing the unique needs of "historic structures" and their improvement and alternation. Unless Federal funding is secured to improve/upgrade the site, direct oversight of activities will remain low. Inclusion of a site in the NHRP does not place undue burdens upon the owner in regards to color, removal and replacement of features, and site improvements unless federal licenses, funding, and permits are involved which would elicit review and compliance through Section 106 of the National Historic Preservation Act.

I support the inclusion of Riverside Park on the National Register of Historic Places. I have provided some documentation that supports my position on the matter. Please review the attached and annotated FEMA and Code of Federal Regulations documents for further information. Please let me know if you have any questions or comments on this item. Thank you for your time and consideration.

Respectfully,

A handwritten signature in black ink, appearing to read 'Nick Altonaga', with a long horizontal flourish extending to the right.

Nick Altonaga
Planning Director



National Flood Insurance Program (NFIP)

Floodplain Management Bulletin **Historic Structures**

FEMA P-467-2

May 2008



FEMA

Floodplain Management Bulletin

Historic Structures

This Floodplain Management Bulletin addresses how the National Flood Insurance Program (NFIP) treats historic structures. This bulletin also identifies mitigation measures that can be taken to protect historic structures from floods. The bulletin addresses the following topics:

Introduction	2
Background on the NFIP	2
The NFIP and Historic Structures	3
Definition of “Historic Structures”	3
Floodplain Management Requirements that Provide Relief for Historic Structures	4
Historic Structures in the Floodway	5
New Construction and Non-contributing Structures in Historic Districts.....	6
Substantial Improvements to Existing Structures in Historic Districts	7
Flood Insurance for Historic Structures	8
Minimizing the Impacts of Flooding on Historic Structures	9
Protection Measures for Historic Structures	9
Hazard Mitigation Planning Can Benefit Historic Structures.....	19
Further Information	20
State and Local Mitigation Planning “How-To” Guides	20
Other Mitigation Documents	21
Comments.....	22
Ordering Information	22

Introduction

The National Flood Insurance Program (NFIP) gives special consideration to the unique value of one of our Nation's most significant resources – its historic buildings, landmarks, and sites. It does so in two ways.

First, the NFIP floodplain management regulations provide significant relief to historic structures. Historic structures do not have to meet the floodplain management requirements of the program as long as they maintain their historic structure designation. They do not have to meet the new construction, substantial improvement, or substantial damage requirements of the program. This exclusion from these requirements serves as an incentive for property owners to maintain the historic character of the designated structure (44 CFR §60.3). It may also serve as an incentive for an owner to obtain historic designation of a structure.

Secondly, a designated historic structure can obtain the benefit of subsidized flood insurance through the NFIP even if it has been substantially improved or substantially damaged so long as the building maintains its historic designation. The amount of insurance premium charged the historic structure may be considerably less than what the NFIP would charge a new non-elevated structure built at the same level. Congress requires that the NFIP charge actuarial rates for all new construction and substantially improved structures (National Flood Insurance Act of 1968, 42 U.S.C. 4015).

Although the NFIP provides relief to historic structures from having to comply with NFIP floodplain management requirements for new construction, communities and owners of historic structures should give consideration to mitigation measures that can reduce the impacts of flooding on historic structures located in Special Flood Hazard Areas (44 CFR §60.3). Mitigation measures to minimize future flood damages should be considered when historic structures are rehabilitated or are repaired following a flood or other hazard event. Qualified professionals such as architects, historic architects, and engineers who have experience in flood mitigation techniques can help identify measures that can be taken to minimize the impacts of flooding on a historic structure while maintaining the structure's historic designation.

The purpose of this floodplain management bulletin is to explain how the NFIP defines historic structure and how it gives relief to historic structures from NFIP floodplain management requirements (44 CFR §60.3). This bulletin also provides guidance on mitigation measures that can be taken to minimize the devastating effects of flooding to historic structures.

Background on the NFIP

Congress created the NFIP in 1968 to provide federally supported flood insurance coverage, which generally was not available from private companies. The NFIP is based on a mutual agreement with communities that have been identified as having Special Flood Hazard Areas. The Federal Emergency Management Agency (FEMA) will make flood insurance coverage available in a

community provided that it adopts and enforces floodplain management regulations that meet or exceed the minimum requirements of the NFIP (44 CFR §60.3). This is accomplished through local floodplain management regulations.

The NFIP minimum building and development regulations that communities must adopt require that new and substantially improved and substantially damaged residential buildings be elevated so that the lowest floor is at or above the Base Flood Elevation (BFE) determined for the site. Non-residential buildings have the option of elevation or dry floodproofing to the BFE [44 CFR §60.3(c)(2), (c)(3), and (e)(4)]. Dry floodproofing means making a building watertight, substantially impermeable to floodwaters to the BFE.

Substantial improvement means “any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred substantial damage regardless of the actual repair work performed.”

Substantial improvement also includes the repair of buildings that have been substantially damaged. Substantial damage means *“damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.”*

In summary, structures that are “substantially improved” and “substantially damaged” must be brought into compliance with the community’s floodplain management requirements [44 CFR §60.3(c)(2), (c)(3), and (e)(4)].

The NFIP and Historic Structures

This section provides information on the NFIP definition of “historic structure” and the floodplain management requirements that will be included in community floodplain management ordinances.

Definition of “Historic Structures”

The definition section of the NFIP [Code of Federal Regulations (CFR) 44 Part 59], defines “historic structure” as *“any structure that is:*

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (This includes structures that are determined to be eligible for listing by the Secretary of the Interior as a historic structure. A determination of “eligibility” is a decision by the Department of the Interior that a district, site, building, structure or object meets the National Register criteria for evaluation although the property is not formally listed in the National Register.)*

- (2) *Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;*
- (3) *Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or*
- (4) *Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:*
 - (a) *By an approved state program as determined by the Secretary of the Interior or*
 - (b) *Directly by the Secretary of the Interior in States without approved programs."*

This definition was coordinated with the Department of Interior when it was added to the NFIP Regulations in 1989.

The purpose of this definition is to provide NFIP communities with criteria to distinguish between "historic structures" and the other existing buildings which remain subject to NFIP floodplain management requirements (44 CFR §60.3). While it is important to preserve historic structures and other cultural resources, it is also critical to ensure that other existing flood-prone structures are protected from flood damage when they are substantially improved or substantially damaged.

Floodplain Management Requirements that Provide Relief for Historic Structures

The NFIP floodplain management requirements contain two provisions that are intended to provide relief for "historic structures" located in Special Flood Hazard Areas:

- (1) The definition of "substantial improvement" at 44 CFR 59.1 includes the following exclusion for historic structures,
 - "Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as an "historic structure".*
 - The same exemption also applies to "historic structures" that have been "substantially damaged".

This provision exempts historic structures from the substantial improvement and substantial damage requirements of the NFIP.

- (2) The other provision of the NFIP floodplain management regulations that provides relief for "historic structures" is the variance criteria at 44 CFR 60.6(a). This provision states:
 - "Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure."*

Under the variance criteria, communities can place conditions to make the building more flood resistant and minimize flood damages, but such conditions should not affect the historic

character and design of the building. See the section on Minimizing the Impacts of Flooding on Historic Structures for ideas on conditions that could be established to make the building more flood resistant and to minimize flood damages.

Communities have the option of using either provision for addressing the unique needs of “historic structures”. Communities should adopt only one option to address “historic structures.” Some communities have chosen to adopt an ordinance that requires variances for improvements or repairs to “historic structures” and do not exclude such improvements from the substantial improvement definition in their ordinance. Other communities include the “historic structures” exemption as part of their “substantial improvement” definition. In either case, “historic structures” can be excluded from the NFIP elevation and floodproofing requirements. Whether a community exempts a “historic structure” under the substantial improvement definition or through the variance process, the exemption of the “historic structure” from the NFIP floodplain management requirements should be documented and maintained in the community permit files.

However, if plans to substantially improve a “historic structure” or repair a substantially damaged “historic structure” would result in loss of its designation as an “historic structure”, the structure no longer qualifies for the exemption and would be required to meet the NFIP floodplain management regulations (44 CFR §60.3). This determination needs to be made in advance of issuing a permit. This provides an incentive to the property owner to maintain the structure’s historic designation rather than altering the structure in such a way that it loses its designation as a “historic structure”.

Even if a “historic structure” is exempted from the substantial improvement and substantial damage requirements, consideration should be given to mitigation measures that can reduce the impacts of future flooding. There are mitigation measures that can reduce flood damages to historic structures without affecting the structure’s historic designation. See the section on Minimizing the Impacts of Flooding on Historic Structures.

Historic buildings may also be subject to the local building codes. Many States and communities use the International Codes as the basis for their buildings codes. The International Codes contain provisions for addressing historic buildings in a manner consistent with the NFIP.

Historic Structures in the Floodway

The NFIP floodplain management requirements could apply to an addition to a “historic structure”, if the structure or addition is located in a floodway. The floodway includes the channel of the river and the adjacent floodplain that must be reserved in an unobstructed condition in order to discharge the base flood without increasing flood levels by more than one foot (44 CFR § 59.1, “regulatory floodway”). All structures and improvements to structures, including additions to “historic structures”, must comply with the floodway encroachment provisions of 44 CFR § 60.3(c)(10) and (d)(3) of the NFIP Regulations.

44 CFR § 60.3(c)(10) applies to rivers and streams where FEMA has established BFEs, but has not provided the community with the data necessary to designate a floodway:

Require until a regulatory floodway is designated, that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM [Flood Insurance Rate Map], unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

§ 60.3(d)(3) applies to rivers and streams where FEMA has provided both established BFEs and provided the community with the data necessary to designate a floodway:

Prohibit encroachments, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

As an example, an addition, or any portion thereof, to a “historic structure” that expands the square footage of the structure beyond its footprint into the floodway must comply with the regulatory floodway criteria [44 CFR §60.3(c)(10) and (d)(3)]. These additions can obstruct flood flows and increase flood stages. Under 44 CFR § 60.3(d)(3), such an addition would be prohibited if any rise in the flood level would result from the addition. FEMA defines “any” as meaning a zero increase.

New Construction and Non-contributing Structures in Historic Districts

Generally, registered historic districts contain a mix of buildings. In addition to structures that contribute to the historic significance of the district, there will generally be structures in historic districts that have no historical significance and which do not contribute to the historic significance of a registered historic district (called “non-contributing” structures). In addition, there may be sites in these districts that are undeveloped or vacant land. Whole districts cannot be exempt from floodplain management regulations and a blanket variance cannot be issued for all land within these districts. The non-contributing structures and vacant lots in historic districts remain subject to all of the floodplain management requirements that apply to new construction and substantial improvements (44 CFR §60.3).

Some communities have argued that they should be allowed to grant variances for new buildings or for substantial improvements to non-contributing buildings in historic districts. They claim that requiring that the new structures or substantially improved structures be elevated to BFE could be harmful to the historic significance of the district. FEMA maintains that this would be contrary to the purposes of the NFIP and could result in greatly increased flood damages and, in some instance,

even result in loss of life. There are ways to elevate or floodproof new structures and substantially improve non-contributing structures so that they comply with the NFIP regulations, but that are still in harmony with the historic nature of the district. While the NFIP requires protection to the BFE, it does not specify the means (44 CFR §60.3). An architect should be able to design a new building that is both compliant with NFIP floodplain management requirements and compatible with the historic nature of the district. For example, the protection does not have to be achieved by unsightly mounds of dirt or bare pilings or other elevated foundations. The structure could be elevated on pilings or other foundation elements and the lower area then covered by an architecturally pleasing façade that will not impair the aesthetics of a historic district. The foundation could be camouflaged with landscaping, porches, or staircases (*See* the examples in latter sections of this bulletin).

The NFIP was specifically established by Congress to reduce threats to lives and the potential for damages to new construction in flood hazard areas in exchange for providing flood insurance. Exempting new construction from the NFIP elevation requirements in historic districts would be contrary to the National Flood Insurance Act of 1968, as amended, and it would create a significant flood risk to structures and to the health and safety of the population. Potentially thousands of buildings would be placed in harms way, if new or non-contributing structures are not protected.

Substantial Improvements to Existing Structures in Historic Districts

Some property owners have wanted to substantially improve a non-contributing structure in a historic district, so that it can become a contributing structure to the historical significance of the registered historic district. For example, this type of improvement could involve removal of modern additions to the building, replacement of modern siding or roofing materials with historic materials, and other actions to restore the historic nature of the structure. If the improvement is a substantial improvement to a non-contributing structure, the structure still could qualify for relief from the NFIP floodplain management requirements in the following ways (44 CFR §60.3):

- The property owner could apply through their State Historic Preservation Officer or Tribal Historic Preservation Officer for contributing status for the structure as is, prior to any improvements. If the building qualifies as “contributing to the historical significance of a registered historic district”, the community can grant a variance or exclude the improvements from the NFIP substantial improvement requirement depending on which provision the community has adopted [44 CFR §60.3(c)(2), (c)(3), and (e)(4)].
- The property owner could undertake the minimum work necessary to make the building a contributing structure, as long as the work is less than a substantial improvement. Once the structure is designated as “contributing”, any additional improvements including a substantial improvement could qualify for relief from the NFIP floodplain management requirements, so long as those improvements do not interfere with the designation as “contributing to the historical significance of a registered historic district” (44 CFR §60.3).
- If the property owner chooses to undertake a substantial improvement of the building all at once or the owner needs to undertake the substantial improvement in order for the building

to qualify as “contributing to the historical significance of a registered historic district”, the owner should contact the community for guidance on how they might qualify for relief from the NFIP substantial improvement requirement [44 CFR §60.3(c)(2), (c)(3), and (e)(4)]. In this situation, the community would have to issue a variance from the floodplain management ordinance. The community should obtain documentation for assurance that the improvements being proposed would qualify the building for “contributing” status before signing off on permits that would grant them relief under the NFIP. The owner should seek guidance from their State Historic Preservation Officer or Tribal Historic Preservation Officer on proposed improvements and on what documentation is needed to obtain preliminary approval. This information should be shared with the community.

In all cases, the property owner should discuss their proposed plans with the community and seek guidance from the State Historic Preservation Officer or Tribal Historic Preservation Officer before undertaking any improvements to make sure the proposed work would qualify the building for the designation as a contributing structure. For any of the options described above, the community should also encourage the property owner to undertake flood damage reduction measures as part of the improvement, as long as measures do not interfere with its designation as a “historic structure”.

Flood Insurance for Historic Structures

In addition to the relief from the NFIP floodplain management requirements described above, owners of “historic structures” can obtain and maintain flood insurance at subsidized rates. Flood insurance coverage is required for most mortgage loans and for obtaining Federal grants and other financial assistance. The ability to obtain flood insurance coverage is also important to ensuring that historic structures can be repaired and restored after a flood event.

The National Flood Insurance Act of 1968, as amended, requires that FEMA charge actuarial rates reflecting the flood risk to buildings built or substantially improved on or after the effective date of the initial Flood Insurance Rate Map (FIRM) for the community or after December 31, 1974, whichever is later. Actuarial rating assures that the risks associated with buildings in flood prone areas are borne by those located in such areas and not by the taxpayers at large. These buildings are referred to as Post-FIRM. The NFIP flood insurance rates are based on the degree of the flood risk. The flood insurance premium calculations take into account a number of factors including the flood risk zone shown on the FIRM, elevation of the lowest floor above or below the BFE, the type of building, the number of floors, and the existence of a basement or an enclosure. The NFIP floodplain management requirements not only are designed to protect buildings constructed in floodplains from flood damages; they also help keep flood insurance premiums affordable (44 CFR §60.3). Buildings not properly elevated will be charged a much higher flood insurance premium due to the increased flood risk. If substantially improved historic structures were not elevated and made subject to these rates, the annual insurance premiums could be many thousands of dollars a year. Allowing historic structures to continue to be insured at subsidized rates, even when they are substantially improved or substantially damaged, represents a significant financial benefit to these building owners.

Flood insurance at subsidized rates is available whether the “historic structure” is exempt from the NFIP substantial improvement requirement or is granted a variance under the variance provision. “Historic structures” are considered Pre-FIRM under the NFIP and are charged subsidized rates similar to existing structures. As long as a historic structure meets the definition of “historic structure” under the NFIP, it will not be actuarially rated (44 CFR §59.1).

If a “historic structure” is substantially improved such that it loses its historic designation without meeting the elevation requirements of the NFIP, it will be actuarially rated as a Post-FIRM structure. This can be significantly higher than the subsidized rate on a “historic structure.” Thus, the subsidized flood insurance rate on “historic structures” also serves as an incentive to maintain the historic designation of the structure.

Property owners of historic structures are encouraged to purchase NFIP flood insurance. Flood losses are not covered by homeowner’s insurance. Disaster assistance will not take care of all the financial needs, if the historic structure is damaged by flood. Even if disaster assistance is available, it is often in the form of a low-interest loan which has to be repaid, and it is only available if the President formally declares a disaster. Flood insurance compensates for all covered losses and is the best form of financial protection against the devastating effects of floods. Flood insurance policies purchased by individual property owners help them recover from flooding more quickly.

Increased Cost of Compliance (ICC) coverage is not available to a historic structure that is exempt from the floodplain management requirements if a historic structure is substantially damaged (44 CFR §60.3). ICC coverage provides for the payment of a claim for the cost to comply with State or community floodplain management laws or ordinances after a direct physical loss by floods. When a building covered by a State or community declares the building to be substantially or repetitively damaged, ICC will help pay up to \$30,000 for the cost to elevate, floodproof, demolish, or relocate the building. However, if an exemption is granted administratively through the community’s variance process, and conditions are placed in the variance requiring one of the mitigation measures that meet the local floodplain management criteria, ICC will be available if the structure is declared substantially damaged or repetitively damaged.

Minimizing the Impacts of Flooding on Historic Structures

Protection Measures for Historic Structures

The primary damage to historic buildings in a flood disaster is from immersion of building materials in floodwaters and the moving force of floodwaters that can cause structural collapse. Storm and sanitary sewer backup during flooding is also a major cause of flood damage to buildings. In addition, floods may cause a fire due to ruptured utility lines; result in the growth of mold and mildew; and lead to swelling, warping, and disintegration of materials due to prolonged presence of moisture.

- 12.4.1.4 Any enclosure including a crawl space must meet the requirements of Section 10.2.14, Wet Flood Proofing if the enclosure interior grade is at or below the Base Flood Elevation;
- 12.4.1.5 Granting of a variance will not result in increased flood heights to existing buildings, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with other existing local laws or ordinances;
- 12.4.1.6 The proposed use is adequately flood proofed;
- 12.4.1.7 The variance is the minimum necessary, considering the flood hazard, to afford relief;
- 12.4.1.8 Reasonable alternative locations are not available;
- 12.4.1.9 An encroachment does not cause an increase to the Base Flood Elevation that is beyond that allowed in these regulations; and
- 12.4.1.10 All other criteria for a Floodplain permit besides the specific development standard requested by variance are met.

12.4.2 An exception to the variance criteria may be allowed as follows:

- 12.4.2.1 For either new construction of a structure outside of the Floodway only or for substantial improvements or an alteration of a structure, on a lot of one-half acres or less that is contiguous to and surrounded by lots with existing structures constructed below the Base Flood Elevation; or
- 12.4.2.2 For Historic Structures – variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum relief necessary to preserve the historic character and design of the structure. The historic nature of the building must be designated as a preliminary or historic structure by U.S. Secretary of Interior or an approved state or local government historic preservation program.

12.5 **DECISION**

12.5.1 The City Council shall:

- 12.5.1.1 Evaluate the Floodplain permit application and Variance application using the criteria in Section 12.4, and the application requirements and minimum development standards in Section 9 and 10;

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be made payable to: *National Park Services*. A certification decision will not be issued on an application until the appropriate remittance is received. Fees are nonrefundable.

(c) The fee for review of proposed or ongoing rehabilitation projects for projects over \$20,000 is \$250. The fees for review of completed rehabilitation projects are based on the dollar amount of the costs attributed solely to the rehabilitation of the certified historic structure as provided by the owner in the Historic Preservation Certification Application, Request for Certification of Completed Work (NPS Form 10-168c), as follows:

Fee	Size of rehabilitation
\$500	\$20,000 to \$99,999
\$800	\$100,000 to \$499,999
\$1,500	\$500,000 to \$999,999
\$2,500	\$1,000,000 or more

If review of a proposed or ongoing rehabilitation project had been undertaken by the Secretary prior to submission of Request for Certification of Completed Work, the initial fee of \$250 will be deducted from these fees. No fee will be charged for rehabilitations under \$20,000.

(d) In general, each rehabilitation of a separate certified historic structure will be considered a separate project for purposes of computing the size of the fee.

(1) In the case of a rehabilitation project which includes more than one certified historic structure where the structures are judged by the Secretary to have been functionally related historically to serve an overall purpose, the fee for preliminary review is \$250 and the fee for final review is computed on the basis of the total rehabilitation costs.

(2) In the case of multiple building projects where there is no historic functional relationship among the structures and which are under the same ownership; are located in the same historic district; are adjacent or contiguous; are of the same architectural type (e.g., rowhouses, loft buildings, commercial buildings); and are submitted by the owner for review at the same time, the fee for preliminary review is \$250 per structure to a maximum of \$2,500 and the fee for final re-

view is computed on the basis of the total rehabilitation costs of the entire multiple building project to a maximum of \$2,500. If the \$2,500 maximum fee was paid at the time of review of the proposed or ongoing rehabilitation project, no further fee will be charged for review of a Request for Certification of Completed Work.

PART 68—THE SECRETARY OF THE INTERIOR'S STANDARDS FOR THE TREATMENT OF HISTORIC PROPERTIES

Sec.

68.1 Intent.

68.2 Definitions.

68.3 Standards.

AUTHORITY: The National Historic Preservation Act of 1966, as amended (16 U.S.C. 470 *et seq.*); sec. 2124 of the Tax Reform Act of 1976, 90 Stat. 1918; EO 11593, 3 CFR part 75 (1971); sec. 2 of Reorganization Plan No. 3 of 1950 (64 Stat. 1262).

SOURCE: 60 FR 35843, July 12, 1995, unless otherwise noted.

§ 68.1 Intent.

The intent of this part is to set forth standards for the treatment of historic properties containing standards for preservation, rehabilitation, restoration and reconstruction. These standards apply to all proposed grant-in-aid development projects assisted through the National Historic Preservation Fund. 36 CFR part 67 focuses on "certified historic structures" as defined by the IRS Code of 1986. Those regulations are used in the Preservation Tax Incentives Program. 36 CFR part 67 should continue to be used when property owners are seeking certification for Federal tax benefits.

§ 68.2 Definitions.

The standards for the treatment of historic properties will be used by the National Park Service and State historic preservation officers and their staff members in planning, undertaking and supervising grant-assisted projects for preservation, rehabilitation, restoration and reconstruction. For the purposes of this part:

(a) *Preservation* means the act or process of applying measures necessary to sustain the existing form, integrity

and materials of an historic property. Work, including preliminary measures to protect and stabilize the property, generally focuses upon the ongoing maintenance and repair of historic materials and features rather than extensive replacement and new construction. New exterior additions are not within the scope of this treatment; however, the limited and sensitive upgrading of mechanical, electrical and plumbing systems and other code-required work to make properties functional is appropriate within a preservation project.

(b) *Rehabilitation* means the act or process of making possible an efficient compatible use for a property through repair, alterations and additions while preserving those portions or features that convey its historical, cultural or architectural values.

(c) *Restoration* means the act or process of accurately depicting the form, features and character of a property as it appeared at a particular period of time by means of the removal of features from other periods in its history and reconstruction of missing features from the restoration period. The limited and sensitive upgrading of mechanical, electrical and plumbing systems and other code-required work to make properties functional is appropriate within a restoration project.

(d) *Reconstruction* means the act or process of depicting, by means of new construction, the form, features and detailing of a non-surviving site, landscape, building, structure or object for the purpose of replicating its appearance at a specific period of time and in its historic location.

§ 68.3 Standards.

One set of standards—preservation, rehabilitation, restoration or reconstruction—will apply to a property undergoing treatment, depending upon the property's significance, existing physical condition, the extent of documentation available and interpretive goals, when applicable. The standards will be applied taking into consideration the economic and technical feasibility of each project.

(a) *Preservation*. (1) A property will be used as it was historically, or be given a new use that maximizes the retention of distinctive materials, features,

spaces and spatial relationships. Where a treatment and use have not been identified, a property will be protected and, if necessary, stabilized until additional work may be undertaken.

(2) The historic character of a property will be retained and preserved. The replacement of intact or repairable historic materials or alteration of features, spaces and spatial relationships that characterize a property will be avoided.

(3) Each property will be recognized as a physical record of its time, place and use. Work needed to stabilize, consolidate and conserve existing historic materials and features will be physically and visually compatible, identifiable upon close inspection and properly documented for future research.

(4) Changes to a property that have acquired historic significance in their own right will be retained and preserved.

(5) Distinctive materials, features, finishes and construction techniques or examples of craftsmanship that characterize a property will be preserved.

(6) The existing condition of historic features will be evaluated to determine the appropriate level of intervention needed. Where the severity of deterioration requires repair or limited replacement of a distinctive feature, the new material will match the old in composition, design, color and texture.

(7) Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.

(8) Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.

(b) *Rehabilitation*. (1) A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces and spatial relationships.

(2) The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces and spatial relationships that characterize a property will be avoided.

(3) Each property will be recognized as a physical record of its time, place and use. Changes that create a false

sense of historical development, such as adding conjectural features or elements from other historic properties, will not be undertaken.

(4) Changes to a property that have acquired historic significance in their own right will be retained and preserved.

(5) Distinctive materials, features, finishes and construction techniques or examples of craftsmanship that characterize a property will be preserved.

(6) Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture and, where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.

(7) Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.

(8) Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.

(9) New additions, exterior alterations or related new construction will not destroy historic materials, features and spatial relationships that characterize the property. The new work will be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.

(10) New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

(c) *Restoration.* (1) A property will be used as it was historically or be given a new use that interprets the property and its restoration period.

(2) Materials and features from the restoration period will be retained and preserved. The removal of materials or alteration of features, spaces and spatial relationships that characterize the period will not be undertaken.

(3) Each property will be recognized as a physical record of its time, place and use. Work needed to stabilize, consolidate and conserve materials and features from the restoration period will be physically and visually compatible, identifiable upon close inspection and properly documented for future research.

(4) Materials, features, spaces and finishes that characterize other historical periods will be documented prior to their alteration or removal.

(5) Distinctive materials, features, finishes and construction techniques or examples of craftsmanship that characterize the restoration period will be preserved.

(6) Deteriorated features from the restoration period will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture and, where possible, materials.

(7) Replacement of missing features from the restoration period will be substantiated by documentary and physical evidence. A false sense of history will not be created by adding conjectural features, features from other properties, or by combining features that never existed together historically.

(8) Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.

(9) Archeological resources affected by a project will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.

(10) Designs that were never executed historically will not be constructed.

(d) *Reconstruction.* (1) Reconstruction will be used to depict vanished or non-surviving portions of a property when documentary and physical evidence is available to permit accurate reconstruction with minimal conjecture and such reconstruction is essential to the public understanding of the property.

(2) Reconstruction of a landscape, building, structure or object in its historic location will be preceded by a thorough archeological investigation

to identify and evaluate those features and artifacts that are essential to an accurate reconstruction. If such resources must be disturbed, mitigation measures will be undertaken.

(3) Reconstruction will include measures to preserve any remaining historic materials, features, and spatial relationships.

(4) Reconstruction will be based on the accurate duplication of historic features and elements substantiated by documentary or physical evidence rather than on conjectural designs or the availability of different features from other historic properties. A reconstructed property will re-create the appearance of the non-surviving historic property in materials, design, color and texture.

(5) A reconstruction will be clearly identified as a contemporary re-creation.

(6) Designs that were never executed historically will not be constructed.

PART 71—RECREATION FEES

Sec.

- 71.1 Application.
- 71.2 Types of Federal recreation fees.
- 71.3 Designation.
- 71.4 Posting.
- 71.5 Golden Eagle Passport.
- 71.6 Golden Age Passport.
- 71.7 Entrance fees for single-visit permits.
- 71.8 Validation and display of entrance permits.
- 71.9 Establishment of recreation use fees.
- 71.10 Special recreation permits and special recreation permit fees.
- 71.11 Collection of Federal recreation fees.
- 71.12 Enforcement.
- 71.13 Exceptions, exclusions, and exemptions.
- 71.14 Public notification.
- 71.15 The Golden Eagle Insignia.

AUTHORITY: Sec. 4, Land and Water Conservation Fund Act of 1965 (16 U.S.C.A. 4601-6a (Supp., 1974)), as amended by Pub. L. 93-303; and sec. 3, Act of July 11, 1972, 86 Stat. 461; sec. 2 of Reorganization Plan No. 3 of 1950 (64 Stat. 1262).

SOURCE: 39 FR 33217, Sept. 16, 1974. Redesignated at 44 FR 7143, Feb. 6, 1979, and 46 FR 34329, July 1, 1981; correctly redesignated at 46 FR 43045, Aug. 26, 1981, unless otherwise noted.

§ 71.1 Application.

This part is promulgated pursuant to section 4, Land and Water Conservation Fund Act of 1965, 16 U.S.C.A. 4601-6a (Supp., 1974), and section 3, Act of July 11, 1972, 86 Stat. 461. Any Federal recreation fee charged by any bureau of the Department of the Interior shall be charged according to criteria set forth in this part.

§ 71.2 Types of Federal recreation fees.

There shall be three types of Federal recreation fees:

(a) Entrance fees, charged either on an annual or single-visit basis, for admission to any Designated Entrance Fee Area;

(b) Daily recreation use fees for the use of specialized sites, facilities, equipment or services furnished at Federal expense; and

(c) Special recreation permit fees for specialized recreation uses, such as, but not limited to, group activities, recreation events, and the use of motorized recreation vehicles.

§ 71.3 Designation.

(a) An area or closely related group of areas shall be designated as an area at which entrance fees shall be charged (hereinafter "Designated Entrance Fee Area") if the following conditions are found to exist concurrently:

(1) The area is a unit of the National Park System administered by the Department of the Interior;

(2) The area is administered primarily for scenic, scientific, historical, cultural, or recreation purposes;

(3) The area has recreation facilities or services provided at Federal expense; and

(4) The nature of the area is such that entrance fee collection is administratively and economically practical.

(b) Any specialized site, facility, equipment or service related to outdoor recreation (hereinafter "facility") shall be designated as a facility for which a recreation use fee shall be charged (hereinafter "Designated Recreation Use Facility") if:

(1) For each Designated Recreation Use Facility, at least one of the following criteria is satisfied:

(i) A substantial Federal investment has been made in the facility,

FAQs about the National Register of Historic Places

If the following questions and answers leave you still wondering, please feel free to call us at the Montana State Historic Preservation Office. We are always glad to talk with you on the phone or in person about the National Register if there is something you'd like clarified. Please write us or give us a call: 1301 E Lockett, P.O. Box 201202, Helena, MT 59620-1202, (406) 444-7715.

1. What is the National Register of Historic Places?

The National Register is the official list of the Nation's historic buildings and archaeological sites that are considered to be worthy of preservation. The Register was established in 1966 to help property owners, communities and neighborhoods recognize their important historic properties, to offer realistic incentives for preservation, and to insure that Federal actions do not harm these properties without alternatives being considered. The National Register was not designed as a major regulatory program nor as just an honor roll. The Register was intended to be broad rather than exclusive and includes many different kinds of properties important to the Nation, the State, a region or a local community.

2. If I list my home or business in the National Register, what restrictions will be placed on my rights to modify or sell the property?

Listing in the National Register in of itself does not interfere with an owner's right to manage their property as they see fit. You may paint, remodel, administer, sell, or even demolish your property. You may alter your building at any time, unless you use Federal funds or the Federal tax incentives to rehabilitate it, in which case the alterations are reviewed by the agency in consultation with the State Historic Preservation Office (this is true not only for National Register properties but also for those eligible for listing—see Section 106 of the National Historic Preservation Act). Placing a property in the Register also does not obligate an owner to make any repairs or improvements. Moreover, the State or Federal government will not attach restrictive covenants to properties or seek to acquire them as a result of National Register-listing. Local governments may adopt, design, or review zoning ordinances affecting properties listed in the National Register of Historic Places. Please check with your local preservation office or planning office to see if your community has adopted such provisions.

3. Does Register listing mean that my property must be opened to the public on a regular basis?

As the owner of a property listed in the Register, you will not be required to open your house, place of business, or historic site for public visitation. Your private property rights are in no way changed by Register listing, unless, again, you have accepted Federal funds for rehabilitation, in which case the public must be allowed to visit the property for a few days each year.

4. Can I get money to fix up my historic building if it is listed in the Register?

National Register property owners may apply for Federal grants for buildings rehabilitation when Congress appropriates such funds. However, these funds are extremely limited and most property owners will not receive such funding. If you are a Community Cultural Organization, we encourage you to check with the Montana Arts Council (444-6430) to determine whether the project you are considering would qualify for Cultural and Aesthetic Grant monies appropriated biennially by the Montana Legislature.

5. Is there some kind of tax credit I can get if I plan to repair my historic building?

Yes. If a property is listed in the National Register, certain Federal tax provisions may apply. The Tax Reform Act of 1986 allows you to credit 20 per cent of the rehabilitation costs against your federal tax liability for the substantial rehabilitation of income-product properties such as commercial, farm, industrial, and residential rental buildings. Work must meet certain standards and be reviewed and approved by the State Historic Preservation Office and the National Park Service. Because tax provisions are complicated, individuals should consult their accountants for assistance in determining the tax consequences of the above provisions.

6. So what are the results of listing my property in the Register? Why should I consider doing so?

Recognition

Most of all, Register listing provided your property **recognition** for its historic value and rewards you for your efforts in preserving it. Listing of a building, site or district also afford it prestige that can enhance its value and raise community awareness and pride. While National Register properties do not have to be preserved, listing does insure that preservation is taken to be an important consideration whenever a building's or site's future is in question

Technical Assistance

Owners of Register properties are also able to seek advice from the Montana Historic Preservation Office on appropriate methods to maintain and rehabilitate older buildings or sites.

Signs

Owners of listed properties may apply for funds to obtain Montana's official National Register interpretive plaque to mount on a stand or hang on an outside wall of their building. The applicant pays only a \$35.00 shipping and handling fee or \$55.00, depending upon the type of sign, the balance coming from the Montana Historical Society.

Government Agency Compliance Review

The National Historic Preservation Act and the Montana State Antiquities Act require federal and state agencies to consider the impacts of all projects occurring on public lands, or with federal funding, that affect historic properties eligible for or listed in the National Register. In addition, the Surface Mining and Control Act of 1977 requires consideration of historic values in the decision to issue surface coal mining permits.

7. How do you decide whether something is significant enough to be listed in the National Register?

The National Register carefully evaluates the quality of significance of each property being considered for listing. To be eligible for the Register designation, a property must meet one of more of the following criteria:

- A. Be associated with events that have made a significant contribution to the broad patterns of our history; or
- B. Be associated with the lives of persons significant in our past; or
- C. Embody the distinctive characteristics of a type, period or method of construction, or that represent the work of a master, or that possess high artistic values or that represent a significant and distinguishable entity whose components may lack individual distinction; or
- D. Have yielded, or may likely to yield, information important in prehistory or history.

In addition, properties must possess a high degree of integrity to qualify for listing in the Register – in other words, they must be relatively unchanged in appearance from the historic period.

Generally speaking, a property must be at least 50 years old to be considered for the Register, unless it is of exceptional significance, or if it is an integral part of a historic district. Non-historic properties that are located within the boundaries of historic districts are also listed in the Register as “non-contributing” components of those historic districts.

Who can nominate properties to the Register?

Anyone can prepare a nomination for listing a historic property on the National Register -- from private owners to local historians to public lands manager to historic preservation professionals. Important properties worthy of listing are identified by people across Montana, who frequently are most familiar with their local history and properties deserving recognition. Eligible properties may also be identified by federal and state lands agencies, which must routinely consider historic resources as a part of their permitting and project activities. The owner of a private property must concur in the nomination of a private property to be listed in the National Register of Historic Places. In the case of multiple owners and historic districts, the majority of private owners must object for an approved property not to be listed.