

City of Livingston
Department of Planning
220 E. Park St.
Livingston, MT 59047
(406)222-4903
planning@livingstonmontana.org

City of Livingston Special Exception Permit Instructions

A Special Exception Permit (SEP) is required for the use of any property within the City of Livingston that is shown as “S” in the List of Uses table found in Section 30.40 of the City of Livingston Zoning Ordinance for the Zoning District in which the property is located.

Special Exception Permits require a public hearing, and are approved or denied by the City Commission. All SEPs are evaluated by the Commission based upon three (3) criteria:

1. The use will not place a substantial adverse effect upon nearby properties or their occupants.
2. That the proposed use is in harmony with the general purposes and intent of the zoning ordinance.
3. If desired, the City Commission may add such requirements as it deems necessary to protect the surrounding neighborhood from the effects of the granted Special Exception.

The City Commission may impose conditions of approval on all Special Exemption Permit applications to ensure that the above criteria are met. **It is highly recommended that you meet with planning staff prior to applying for a SEP.**

Submittal Requirements:

- Completed Application Form. attached Appendix A
- Cover letter with a description of the project and how the project meets the criteria listed in Section 30.75.A of the Zoning Ordinance and included in these instructions.
- Site Plan showing locations of all structures on the property with the distances from the structures to all property lines clearly labeled and area of the lot.
- Building Elevations for all new structures with building heights and ingress and egress clearly labeled.
- Site Plan showing locations and dimensions of vehicular parking, loading areas, and bike parking dimensions and design, and locations of any refuse areas.
- Landscaping Plans with plant types and size (if required).
- Lighting plans showing compliance with the Night Sky Ordinance if outdoor lighting is proposed.
- Any other documents needed to show compliance with the City of Livingston Zoning Ordinance.
- A development schedule.
- The Special Exception Permit review fee.

All documents shall be submitted on either 8 ½” x 11” or 11” x 17” paper. Additionally, digital copies of the submittal in PDF file format are required.



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City of Livingston Special Exception Permit Application

1. **Property Owner Name:** _____

2. **Location of Property**

General Location: _____

Address: _____

Subdivision: _____ Lot: _____ Block: _____

Zoning District: _____

3. **Contact Information**

Property Owner

Home Address: _____

Phone Number: _____

Email Address: _____

Primary Contact/ Applicant

Name: _____

Address: _____

Phone Number: _____

Email Address: _____

Secondary Contact

Name: _____

Address: _____

Phone Number: _____

Email Address: _____

4. Zoning Information

Existing Structures on Property and Year Constructed: Radio Station 1947

Proposed Use: Radio Station, Amphitheater

Building Height: 14'-0"

Building Setback from Property Line:

Front Street: 55' Side: 51' Rear: 177' Side Street (if corner lot): _____

Number of Vehicular Parking Spaces: 100 Number of Bicycle Parking Spaces: 10

Exterior Lighting? Yes No

Within Historic District or Design Overlay District? Yes No

Landscaping Required? Yes No

I hereby certify that the information included in this application is true and accurate.



Applicant's Signature

7/6/23

Date

Contents:

1. Application form
2. Appendix A – Code information, Development Schedule
3. Cover Letter
4. Vicinity Map, KPRK Building Current Images, Historic Images
5. Decibel Reading Map
6. Warranty Deed, Limited Liability Company Operating Agreement for Moleo Media Group, LLC, Articles of Organization for Domestic Limited Liability Company
7. Civil Site Plan
8. FEMA Flood Hazard Map
9. Conceptual Site Plan
10. Site Plan showing vehicular parking, entrances, loading areas, bike parking, and refuse areas.
11. Traffic Count
12. Approach Permit
13. Parking Agreement Letter
14. SHPO letter, Correspondence
15. Park County Conservation Email Correspondence with DeWitt Dominic

Code Information

Parking:

- **Provided:**
- **100 spaces at adjacent property,**
- **6 spaces at Radio Station**
- **9 regular bicycle spaces +1 bicycle space for bicycle with trailer**
(Note: will add additional bike racks if needed)

References;

City of Livingston Building Code 30.51. Off Street Parking and Loading Zones

From Table 30.51

Parking space at 90° 9' x 18'-6" with 24' min two way drive aisle

F. Use Not Specified. In the case of a use not specifically mentioned in a zone, the requirements for off-street parking facilities shall be determined by the Zoning Coordinator or their authorized representative. Such determination shall be based upon the requirements for the most comparable use listed.

Table of Minimum Standards

Churches, auditoriums and similar open assemblies.	One per 5 seats or one per 100 linear inches of pew or one per 65 sq. ft. of gross floor area used for assembly purposes, whichever is greater.
Radio Stations	One per 4 employees or one per 800 sq. ft. of gross floor area, whichever is greater.

Actual factor used provided by City of Livingston Planner
Of People/ 2.5 Factor

250 max. /2.5= 100 Spaces

100 spaces at adjacent property and 6 spaces at Radio Station

Per IBC Table 1106.2 , required accessible parking > 100 = 6 accessible spaces

R. Bicycle Parking.

1. Bicycle Parking Standards and Design.

- a. In all multi-family residential, commercial, industrial and mixed-use development, the amount of provided bicycle parking shall be no less than ten (10) percent of the required automobile parking spaces. In buildings with less than twenty (20) parking spaces, two (2) bicycle parking spaces shall be required. Buildings with existing bicycle parking in the adjacent right-of-way may waive the required bicycle parking spaces if the number of bicycle parking spaces provided within the adjacent right-of-way is equal to or greater than the number of spaces required by this regulation. Where there are five (5) or more bicycle spaces required, twenty (20) percent of those spaces shall be for bicycles with trailers.
- b. A bicycle parking space shall be no less than three (3) feet wide by six (6) feet long. Bicycle with trailer spaces shall be no less than three (3) feet wide by ten (10) feet long.
- c. The preferred bike rack styles are inverted U or post and loop racks.

100 spaces X 10% = 10 bicycle spaces,

9 bicycle spaces +1 bicycle space for bicycle with trailer

Portable toilets:

- **5 unisex, 1 accessible unit**

References:

Per Montana Administrative Rules for Montana 24.301.351.

Food Courts

Male 1 per 75

Female 1 per 75

Assembly

Male= 1 per 75 125/ 75 = 1.667

Female= 1 per 40 125/ 40 = 3.125

Total required: 5 unisex w/ 1 accessible

Crowd Size

- Various crowd size ranging from small to 250 people. Attendance will be limited by the number of tickets issued and by a controlled entrance point.

Noise

- Decibel tests were performed by sound engineers Chad Franscoviak and Andrew Feltenstein. Map and sound information is provided.
- Measurements and empirical data indicate that noise will not negatively impact neighbors.
- Please note that not all performances will be musical in nature. TED talks, famous author and poetry readings, and cooking classes are envisioned.

Event Frequency

- Anticipate up to 2- 3 performances per week during the warmer months of May – September.

Development Schedule:

July 5, 2023

Special Exception Permit Application submitted

To be determined

Public Meeting

Upon approval the following is anticipated:

September 1 -Nov 15, 2023

Lift Building

September 19, 2023

Construction Documents completed

November 15, 2023

Gradework begins (weather dependent)

December 15, 2023

Interior Building Work

Dear Members of the Livingston City Commission,

My name is Andrew Feltenstein and I've been a Livingston resident for more than a decade, during which time I've admired the historic KPRK building that has been responsible for so much positive culture and connectivity in our town. I'm thrilled and humbled to share that I recently purchased the building with the intention to restore it and to reopen the business as a renewed cultural hub for our town.

The modern version of KPRK will function as a radio station, recording studio, music venue, and de facto museum, broadcasting to the entirety of Park County. We are currently in the midst of working with the State Historic Preservation Office on the painstaking process of restoring the building to be as faithful to the original design as we can.

All of the radio station programming will be Park County-centric, in other words, locals will have many opportunities to DJ and be a voice for their own community. Everyone from musicians to authors to anglers, rangers, ranchers, and local business owners will all get a chance to participate in the shows on KPRK. (And yes, Swap Shop *will* be coming back.)

I'm writing today to request your support for the application of the Special Exception for an outdoor amphitheater at the KPRK Radio Station. I have included a description of the proposed project along with its alignment with the City of Livingston's Section 30.75A

This new amphitheater will serve as a vibrant cultural hub within our community. It will provide a platform for artistic expression, entertainment, and community engagement, enriching the lives of residents and visitors alike. This modern facility will not only enhance Livingston's cultural landscape but also contribute to its economic growth and overall appeal. This venue will harmonize with the existing surroundings and view and as it sits directly on the bike route, providing an ideal access.

Description of project:

The project consists of a natural grass amphitheater on the property of the historic KPRK radio station, 1340AM on 5576 Highway 89. The amphitheater would be a backyard venue south of the radio station building with outdoor seating for up to 250 people. The backdrop is an impressive view of the Yellowstone River and Livingston Peak under the KPRK tower. The added benefit and function of the amphitheater design is that it will also function as flood protection for the historic structure, which is currently under threat of flooding as it sits in the flood plain and has had recent significant flood damage.

The amphitheater will serve as a community center for bands, authors, TED Talks, poets, painters, etc. to come and perform live and simultaneously be broadcast to the entire county along with video cast. We expect all performances to finish by 11pm to avoid any nighttime noise disturbances.

In terms of the City of Livingston's Section 30.75A, I am delighted to inform you that the proposed project aligns seamlessly with the regulations and requirements outlined therein. Here is a breakdown of how the project aligns with the designated section:

1. Land Use Compatibility: The chosen location for the amphitheater has been thoughtfully selected to ensure compatibility with the surrounding area and adjacent properties. Careful consideration has been given to minimize any potential disturbances and to

preserve the existing character of the neighborhood. There are many local examples that successfully blend outdoor performance spaces with rustic surroundings enhancing the local aesthetic while respecting the community.

2. **Traffic and Parking:** A parking concept plan has been developed adjacent to the property to address event parking needs. As part of this plan, the inclusion of bicycle parking facilities is included, and the bicycle path will be promoted as an appealing mode of access. By providing convenient and secure bicycle parking options, we can promote alternative transportation methods and support a healthier, more sustainable community. Local examples such as the Livingston Depot Center and Sacajawea Park demonstrate the successful integration of bicycle parking facilities, encouraging residents and visitors to utilize the existing bike path network. Also, there may be an opportunity to work with the Livingston Party Bus for shuttle service to some KPRK performances.
3. **Noise Control:** The project design incorporates effective noise control measures to ensure compliance with the City's regulations and maintain a peaceful environment for nearby residents. The amphitheater design is intended to contain the sound within the space and noise projecting from the stage is traveling north in the direction of the highway and away from the neighbors. The closest neighbor is 500 feet away and the grass amphitheater will absorb much of the sound. With advancements in sound engineering technology, it is possible to minimize noise disturbances. Local projects such as the Music Ranch Montana have successfully managed noise control, hosting live music events without significant impact on the surrounding area.

A series of sound tests were performed with sound engineers Chad Franscoviak and Andrew Feltenstein. A constant volume of 100 dB was amplified from the proposed stage location and decibel readings were taken around the site and specifically at 3 marked locations on the included decibel reading map provided. Decibel readings from inside the planned amphitheater area registered from 60-70 decibels. Outside the amphitheater area, readings from the amplifier were hard to detect and masked by highway sounds. All 3 marked outside locations ranged from 62-70 dB and were attributed to noise from the highway. The train measured 110 decibels and the sound of the river measured 80 decibels. Testing and observations determined that noise from the railroad, truck traffic on the highway, and sounds from the wind and river would tend to overpower any sounds migrating from the performance area. Therefore, sounds from the proposed amphitheater would not be in violation of the City's noise ordinance. The site is bounded by a major highway, away from dense residential neighborhoods and 500 feet from the closest neighboring homes. Please view the test videos via the link provided:

DIRECT LINK

<https://www.interdubs.com/r/bss/?al=rexQ1Nk&an=pq3ADd>

4. **Environmental Considerations:** The proposed amphitheater project places a strong emphasis on environmental sustainability. By utilizing eco-friendly construction materials and implementing sustainable practices, the project will align with Livingston's commitment to environmental stewardship. Reusing an existing building and site is the best way to reduce embodied carbon. Raising the historic structure and creating a bermed amphitheater will help protect the building from further flooding. The site will be used without any negative impacts to the river and surroundings and the building will have upgraded insulation, low consumption water fixtures, LED fixtures and energy efficient mechanical and electric systems, making it a high-performance building with

less operational energy use intensity. The Firefly Amphitheater, located in Bozeman, serves as a remarkable example of an outdoor music venue that incorporates sustainable features, including renewable energy sources and water conservation practices.

In conclusion, the proposed amphitheater project aligns well with the City of Livingston Section 30.75A, demonstrating a deep commitment to our community's values and goals. By granting the Special Exception, the City Commission would not only enrich Livingston's cultural offerings but reinforce our reputation as an environmentally conscious city.

I kindly urge you to carefully consider this application and recognize the significant positive impact the amphitheater will have on our community's cultural vitality, economic growth, and overall quality of life. KPRK, as a functioning station, will not be able to survive without this addition and its inclusion is essential to the viability of the overall project.

Thank you for your attention and for your continued dedication to the development and thoughtful growth of Livingston. I look forward to working with you to reinvigorate a cultural institution that has meant so much to our town and has immense potential to enrich our lives again.

Sincerely,
Your neighbor Andrew Feltenstein



1 VICINITY MAP

A1.1V

1" = 40'-0"

DRAWING: VICINITY MAP

PROJECT: KPRK LIVINGSTON REMODEL

OWNER: ANDREA FELTENSTEIN

HIGH PLAINS
ARCHITECTS

PHOTO: J. BRADY
2200 Monrovia Ave. • Bldg. #101
Provo, UT 84601
Tel: 801.733.1100
www.highplainsarchitects.com



DRAWN BY: Author
PROJECT#: 22302
DATE: 05/26/23

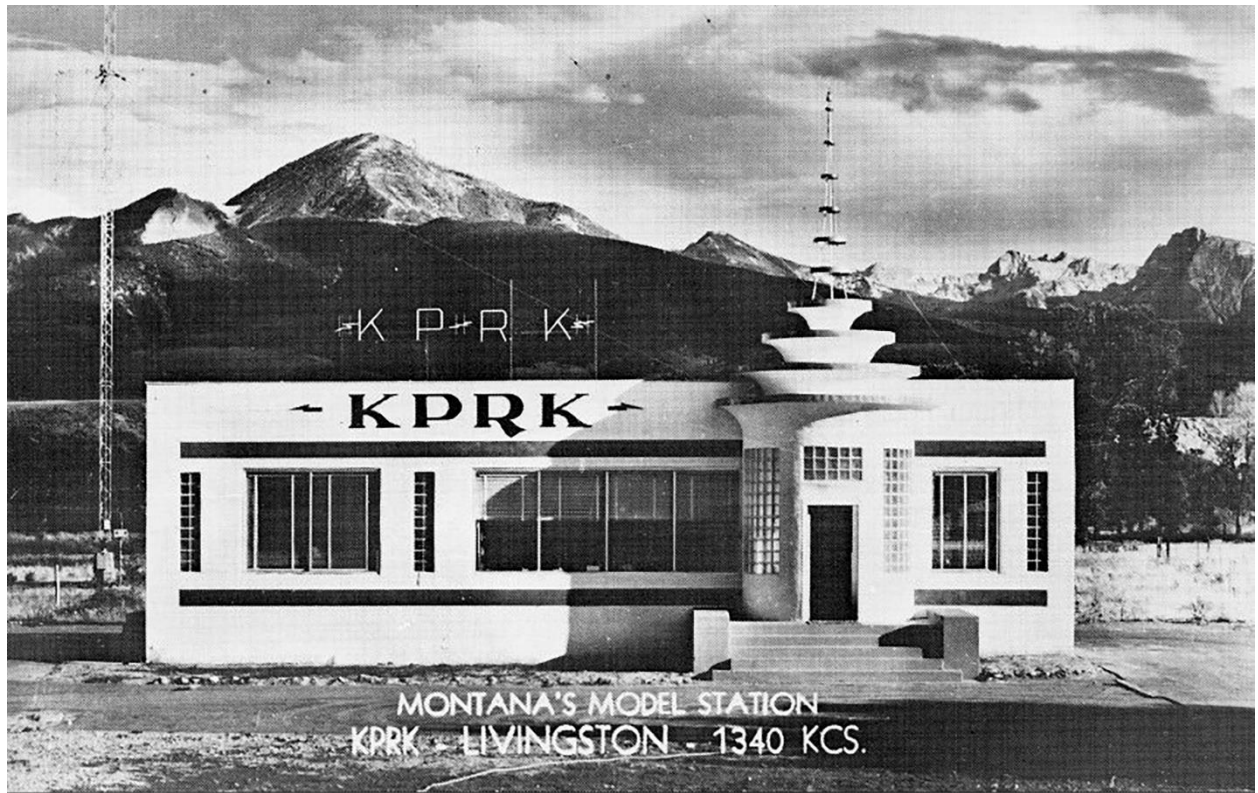
A1.1V

© 5/26/2023 11:57:17 AM

KPRK CURRENT IMAGES



KPRK HISTORIC IMAGES



DECIBEL READING

LOCATION 1(BIKE TRAIL): 64 dB

LOCATION 2: 67 dB

LOCATION 3: 63 dB

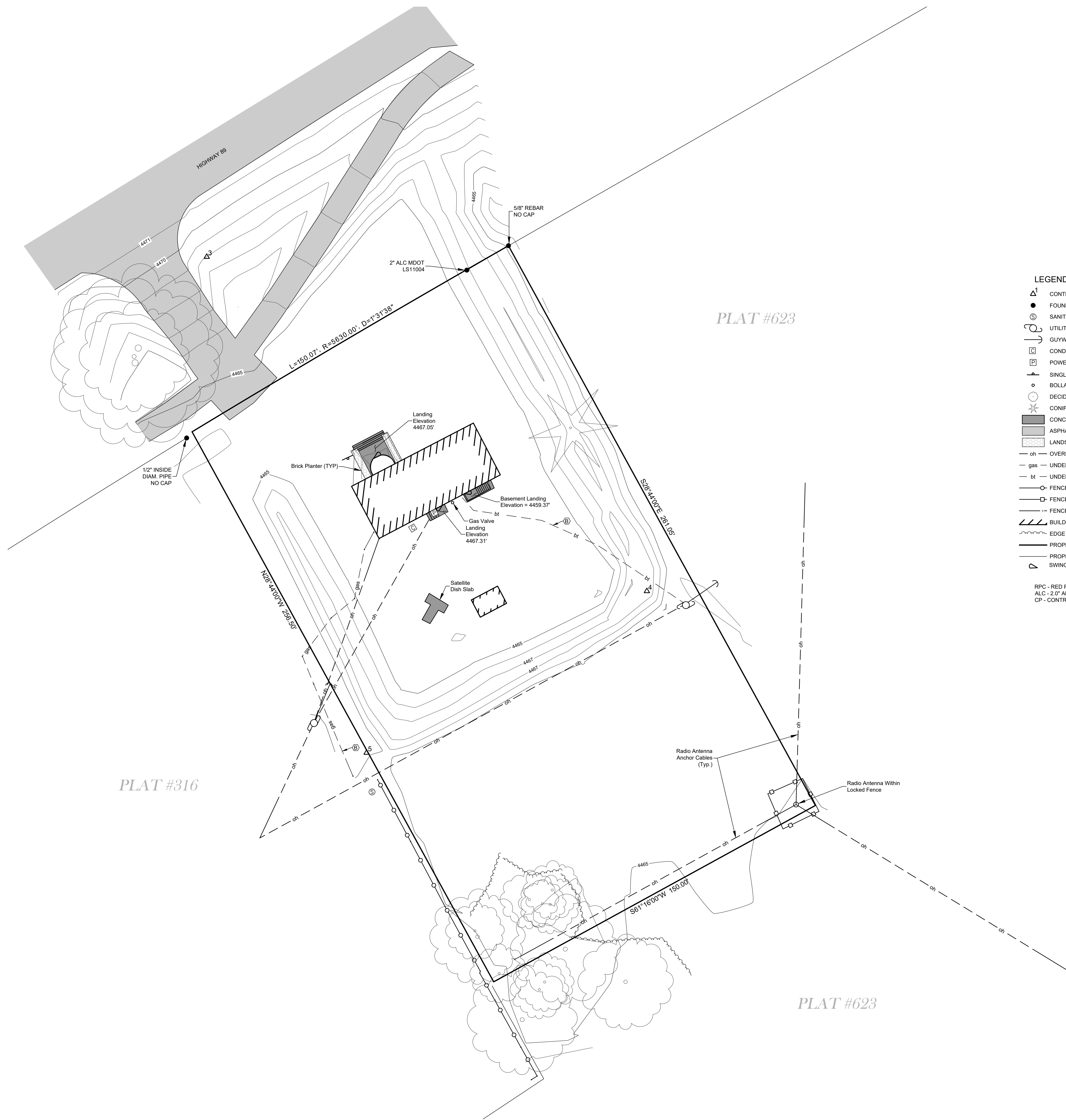
CITY OF LIVINGSTON BUILDING DEPT.

CITY OF LIVINGSTON SEWAGE TREATMENT

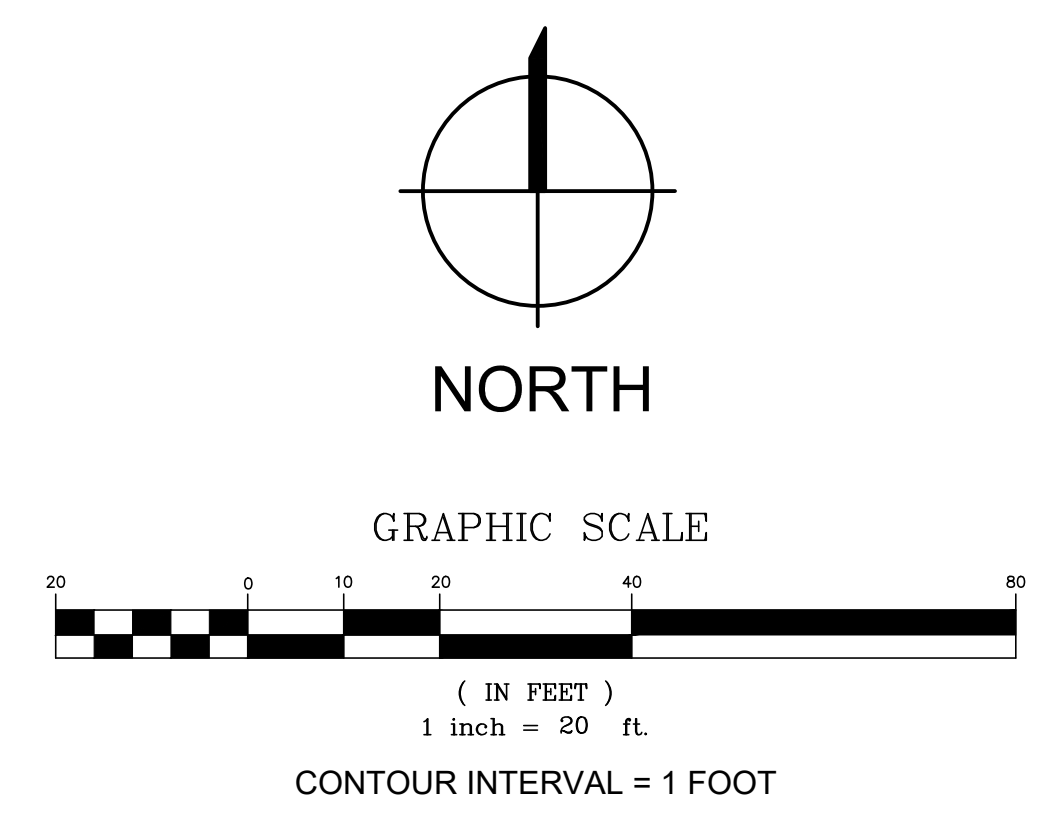
STAGE LOCATION

CLOSEST RESIDENCES





- LEGEND**
- △ CONTROL POINT
 - FOUND PROPERTY CORNER AS NOTED
 - ⊕ SANITARY SEWER MANHOLE
 - ⊕ UTILITY POLE
 - GUYWIRE
 - ⊕ CONDENSER
 - ⊕ POWER METER OR POWER HANDHOLE
 - SINGLE POLE SIGN
 - ⊕ BOLLARD OR AS NOTED
 - DECIDUOUS TREE
 - ⊕ CONIFEROUS TREE
 - CONCRETE
 - ASPHALT
 - LANDSCAPING
 - oh OVERHEAD UTILITY LINE
 - gas UNDERGROUND GAS
 - bt UNDERGROUND TELEPHONE
 - FENCELINE - CHAINLINK
 - FENCELINE - WOODEN
 - FENCELINE - BARBED WIRE
 - BUILDING
 - EDGE OF VEGETATION AT DRIPLINE
 - PROPERTY BOUNDARY - APPROXIMATE - SUBJECT
 - PROPERTY BOUNDARY - APPROXIMATE - ADJACENT
 - SWING DOOR
- RPC - RED PLASTIC CAPPED REBAR
ALC - 2" 0" ALUMINUM CAPPED REBAR
CP - CONTROL POINT



UNDERGROUND PUBLIC UTILITIES WERE LOCATED FROM MARKS FOUND ON THE GROUND IN RESPONSE TO TICKET 23008810. LOCATION OF EXISTING UTILITIES WERE DETERMINED IN ACCORDANCE WITH ASCE 38-02 'STANDARD GUIDELINE FOR THE COLLECTION AND DEPICTION OF EXISTING SUBSURFACE UTILITY DATA'. THERE MAY BE OTHER EXISTING UTILITIES NOT INDICATED ON THIS DRAWING.

UTILITY QUALITY LEVEL 'B' LOCATED FROM INFORMATION OBTAINED THROUGH THE APPLICATION OF APPROPRIATE SURFACE GEOPHYSICAL METHODS TO DETERMINE THE EXISTENCE AND APPROXIMATE HORIZONTAL POSITION OF SUBSURFACE UTILITIES.

UTILITY QUALITY LEVEL 'C' LOCATED FROM INFORMATION OBTAINED BY SURVEYING AND PLOTTING VISIBLE ABOVE-GROUND UTILITY FEATURES AND BY USING PROFESSIONAL JUDGEMENT IN CORRELATING THIS INFORMATION TO QUALITY LEVEL 'D' INFORMATION.

UTILITY QUALITY LEVEL 'D' LOCATED FROM INFORMATION DERIVED FROM EXISTING RECORDS OR ORAL RECOLLECTIONS.

CALL TWO WORKING DAYS BEFORE YOU DIG - 811

BENCHMARK:
CP2 - BMH490 - ELEVATION GENERATED BY NGS OPUS SOLUTION REPORT. ELEVATION = 4485.91 FEET (NAVD83 - COMPUTED USING GEOID19)

COORDINATE TRANSFORMATION:
FIELD WORK COMPLETED IN STATE PLANE FORMAT (MONTANA 2500). A TRANSFORMATION HAS BEEN APPLIED BASED ON THE COMBINED SCALE FACTOR (0.99945108) AND CONVERGENCE ANGLE (-0.76539167") FROM THE OPUS REPORT FOR CP1. STATE PLANE COORDINATES FOR CP2 ARE: N: 519894.170 E: 1701110.699

SURVEYOR'S NOTE:
BOUNDARY LINES SHOWN ON THIS DRAWING ARE APPROXIMATE AND BASED ON SPECIAL WARRANTY DEED, DOC. NO. 347689. IF THE ACTUAL BOUNDARY LOCATION IS NEEDED, A RETRACEMENT CERTIFICATE OF SURVEY SHOULD BE PERFORMED.

CONTROL POINT TABLE				
POINT #	DESCRIPTION	NORTHING	EASTING	ELEVATION
2	BM H490	20000.03	30000.06	4485.91'
3	CP RPC	20832.57	31354.63	4468.24'
4	CP SPIKE	20695.96	31534.58	4467.72'
5	CP SPIKE	20629.74	31419.92	4464.76'

LIVINGSTON, MONTANA
5576 US-89
KPRK

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TOPOGRAPHY SURVEY

03.21.2023
DRAWN BY | GONZALEZ
CHECKED BY | REVISIONS

PROJECT
KPRK_SURV

NOT A BOUNDARY SURVEY

SURVEY FIELD WORK COMPLETED MARCH 02, 2023

V001

National Flood Hazard Layer FIRMMette



110°32'45"W 45°40'34"N



Basemap: USGS National Map: Orthoimagery: Data refreshed October, 2020

Legend

SEE FIS REPORT FOR DETAILED LEGEND AND INDEX MAP FOR FIRM PANEL LAYOUT

SPECIAL FLOOD HAZARD AREAS		Without Base Flood Elevation (BFE) Zone A, V, A99
		With BFE or Depth Zone AE, AO, AH, VE, AR
		Regulatory Floodway
OTHER AREAS OF FLOOD HAZARD		0.2% Annual Chance Flood Hazard, Areas of 1% annual chance flood with average depth less than one foot or with drainage areas of less than one square mile Zone X
		Future Conditions 1% Annual Chance Flood Hazard Zone X
		Area with Reduced Flood Risk due to Levee. See Notes. Zone X
		Area with Flood Risk due to Levee Zone D
OTHER AREAS		NO SCREEN Area of Minimal Flood Hazard Zone X
		Effective LOMRs
		Area of Undetermined Flood Hazard Zone D
GENERAL STRUCTURES		Channel, Culvert, or Storm Sewer
		Levee, Dike, or Floodwall
OTHER FEATURES		20.2 Cross Sections with 1% Annual Chance
		17.5 Water Surface Elevation
		Coastal Transect
		Base Flood Elevation Line (BFE)
		Limit of Study
		Jurisdiction Boundary
MAP PANELS		Digital Data Available
		No Digital Data Available
		Unmapped



The pin displayed on the map is an approximate point selected by the user and does not represent an authoritative property location.

This map complies with FEMA's standards for the use of digital flood maps if it is not void as described below. The basemap shown complies with FEMA's basemap accuracy standards

The flood hazard information is derived directly from the authoritative NFHL web services provided by FEMA. This map was exported on 12/16/2022 at 4:27 PM and does not reflect changes or amendments subsequent to this date and time. The NFHL and effective information may change or become superseded by new data over time.

This map image is void if the one or more of the following map elements do not appear: basemap imagery, flood zone labels, legend, scale bar, map creation date, community identifiers, FIRM panel number, and FIRM effective date. Map images for unmapped and unmodernized areas cannot be used for regulatory purposes.

RADIO STATION ENTRANCE/
LOADING ENTRANCE



1 CONCEPTUAL SITE PLAN LAYOUT

A1.1C 1" = 40'-0"

DRAWN BY: Author
PROJECT#: 22302
DATE:
REVISED:

A1.1C



HIGH PLAINS
ARCHITECTS

Email: rhafer@highplainsarchitects.com
Phone: (406) 896-0250 • Fax: (406) 896-0255
2720 Minnesota Ave. • Billings, MT 59101
P.O. BOX 2203 • BILLINGS, MT 59103
www.highplainsarchitects.com

DRAWING: SITE CONCEPT BUILDING ELEVATED

PROJECT: KPRK LIVINGSTON REMODEL

OWNER: ANDREW FELTENSTEIN



RADIO STATION ENTRANCE/
LOADING ENTRANCE

BIKE PARKING

REGULATORY
FLOODWAY LINE

EVENT PARKING
ENTRANCE/ EXIT

BIKE INTERSECTION
PROTECTION MEASURES
AT ENTRANCE/ EXIT

BIKE PATH

SEWER EASEMENT

BIKE PARKING

KPRK BUILDING

NATURAL
AMPHITHEATER

PORTABLE TOILET
LOCATION (SCREENED)

FOOD TRUCK
LOCATION

STAGE

100 PARKING SPACES

BNSF PROPERTY
PARKING AGREEMENT
100 CARS UTILIZING EXIST.
ACCESS AND ROAD

DRAWING: SITE LAYOUT W/ PARKING
 PROJECT: KPRK LIVINGSTON REMODEL
 OWNER: ANDREW FELTENSTEIN

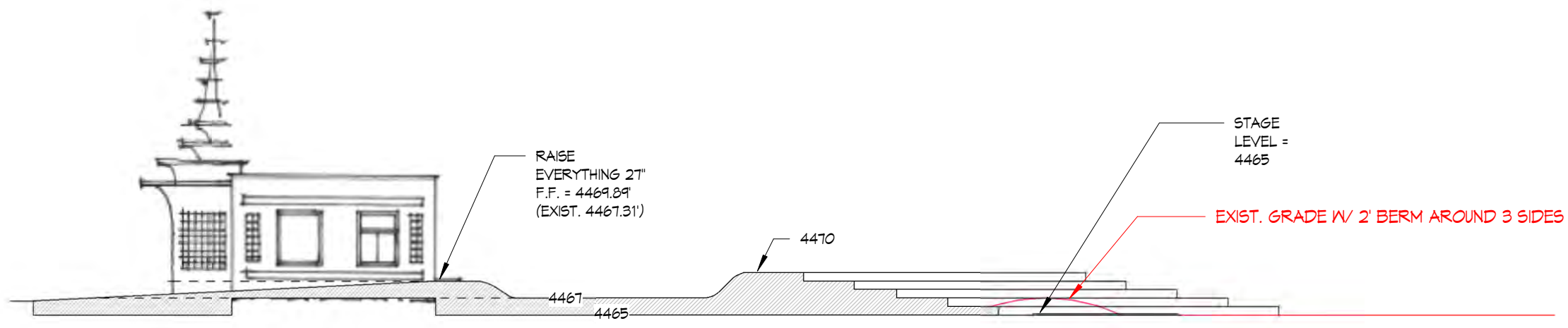
HIGH PLAINS
 ARCHITECTS

2720 Merriam Ave. • Billings, MT 59101
 Phone: (406) 838-2025 Fax: (406) 838-2025
 Email: info@highplainsarchitects.com
 www.highplainsarchitects.com

DRAWN BY: JW
 PROJECT#: 22302
 DATE: _____
 REVISED: _____

2 CONCEPTUAL SITE PLAN LAYOUT w/Parking

A1.1P 1" = 50'-0"



2 CONCEPTUAL SITE PLAN ELEVATION

A1.1E 1/16" = 1'-0"

DRAWING: CONCEPTUAL SITE ELEVATION
 PROJECT: KPRK LIVINGSTON REMODEL
 OWNER: ANDREW FELTENSTEIN

HIGH PLAINS
 ARCHITECTS
 Email: highplainsarchitects.com
 Phone: (609) 898-0255 Fax: (609) 898-0255
 2720 Monmouth Ave. • Blings, NJ 07001
 P.O. Box 2203 • Blings, NJ 07003
www.highplainsarchitects.com



DRAWN BY: JW
 PROJECT#: 22302
 DATE: 5-16-23
 REVISED:

A1.1E

Natural Amphitheater Image



July 13, 2023

Mr. Andrew Feltenstein
401 North Church Avenue
Bozeman, MT 59715

Reference: Traffic Impact Analysis – KPRK Livingston

Mr. Feltenstein:

The purpose of this letter is to provide trip generation estimates for the KPRK radio station and natural amphitheater in Livingston, Montana. The site plan proposes to resume use of the existing 1,350 square-foot KPRK building as a radio station and develop a grass amphitheater to the rear of the building. The amphitheater is proposed to accommodate up to 250 attendees and would be used only during the warm weather months. It is anticipated that land to the west of the site will be leased from BNSF to provide approximately 102 parking spaces for events at the amphitheater. The KPRK building will separately provide six parking spaces.

The trip projection analysis utilized Trip Generation, 11th Edition, published by the Institute of Transportation Engineers (ITE), which is the most widely accepted source for determining trip generation projections. Small Office Building (Land Use 712) was used to estimate trip generation for the radio station. The trip generation manual does not provide rates for a use matching the proposed amphitheater. Therefore, data from ITE's Parking Generation Manual, 5th Edition was utilized. The parking demand rate per attendees for Live Theater (LU 441) was utilized to project peak anticipated trip generation assuming that all vehicles arrive within one hour and leave within a separate hour. Data for this land use indicates that the peak parking demand for a live theater would occur between 8:00 PM and 11:00 PM. Projected trip generation values are shown in the table attached on the following page. Based on 2022 traffic volume data from the MDT count station located southwest of the site on US 89 S it is anticipated that this site will generate a 2.8% increase in average daily traffic. A portion of trips to the site will likely be made by alternate modes (walking, biking), as there is a bike path directly accessing the site, thereby reducing vehicular trips generated.

If you have any questions or concerns, please feel free to contact me at 406-922-4306 or jstaszczuk@sandersonstewart.com.

Sincerely,



Joey Staszczuk, PE, PTOE, RSPI
Associate | Community Transportation Studio Manager



Josi Wilgus

From: Andrew Feltenstein <andrew@beaconstreetstudios.com>
Sent: Thursday, June 8, 2023 8:21 AM
To: Vidal, Isis
Cc: Britten, Jack; Jones, Matthew
Subject: Re: Possible lease in Livingston, MT- 45.6732, -110.5491
Attachments: LEASE TENANT QUESTIONNAIRE.pdf; image001.jpg.mailloc; Filed Articles of Organization (00408880x9E5D1).pdf; image001.png.mailloc; KPRK_Parking_Lease_Cover Letter.pdf; APPLICATION FOR LEASE_SIGNED.pdf

Hi Vidal,

I am Andrew Feltenstein and the owner of Moleo Media Group, LLC which will run and operate KPRK Radio in Livingston, MT. We are a small community radio outfit and have purchased the land next door to BNSF' lot off of Highway 89. (please see attached picture map)

Recently, I was directed to speak with Matthew Jones, Executive Director Public Affairs at BNSF Railway, as he is the representative that knows the area locally and cc'ed on this email. I explained to Mr. Jones that we are simply looking to lease, seasonally June-September, the empty lot next door to us that BNSF owns. We are looking to use it only in the summer for additional parking, if need so be, for special events at the station. We will not be disturbing the land. We will be glad to mow it and take care of any major landscaping needs but otherwise our only use is additional parking.

Additionally, we understand that the lot has some environmental problems. We will be sure to stay clear of them.

That said, your lease terms state \$4500 annually. While we respect your wishes, that is far above market rates for abandoned land with environmental issues. Additionally, KPRK is a community radio station dedicated for Park County. We would ask that BNSF kindly allows us to do seasonally permitted parking there for \$375.00/month which is a pro rated amount of your monthly lease ask which we would be glad to pay at once. BNSFs involvement and kind gesture would be very well received by the community of Livingston, MT as KPRK is a symbol of our neighborhood and town.

I have filled out, to the best of my ability, the lease agreements. A lot of the information did not pertain to our simple use of the property, parking only. Please advise if we have forgotten any details and we will be glad to correct. Attached in this email are all pf the forms and we will Fedex hard copeis and a check for \$600.00 as well, but we wanted to make sure we filled this out.

Again, we are grateful for your help and BNSF's support would be greatly appreciated.
Thank you for your consideration.

Sincerely

Andrew Feltenstein
Moleo Media Group, LLC
310-569-2026

Additional Contacts/ Referrals:

Insurance:
Big Sky Insurance Associates, LLC
1016 West Park Street
Livingston, MT 59047
406-222-7788 Fax 406-222-7789
bigskyinsurance@msn.com

Banking:

Riley Stanke

FINANCIAL SERVICES REPRESENTATIVE III

NMLS #2302784

O: 406-222-4520

riley.stanke@fib.com



207 W Callender ST
Livingston, MT 59047

firstinterstate.com

On Feb 23, 2023, at 1:29 PM, Vidal, Isis <Isis.Vidal@jll.com> wrote:

Thank you for sending this.

Attached is the land lease application, tenant questionnaire and controlled use submittal checklist to be completed for lease consideration by BNSF Railway.

A \$600.00 (non-refundable) application administration fee will be required prior to processing. Please note, approval of the lease is not guaranteed and contingent on the decisions of BNSF stakeholders and we are unable to provide timelines for the lease administration process.

Notes for Lease Application Completion:

1. Include a detailed description of the Proposed Use and provide any support documents, aerials, site plans as necessary. For any Proposed Improvements to be constructed on the ROW, please provide available site plans, scope of work, aerials, or other applicable details. Any proposed improvements will require BNSF review and approval
2. Section 6 - Insurance must include current insurance agent information
3. Credit Information form is required in addition to Applicant financials. Financials are to include the most current period of audited balance sheet, income statement and cash flow. If there are issues providing this information, please advise so this may be conveyed to BNSF as part of the lease review.
4. Material Safety Data Sheets (MSDS) must be provided for any chemicals/products stored on the leased premises. These will be reviewed by BNSF Environmental

Standard Land Lease Provisions are as Follows:

- The lease has an indefinite term.
- There is a 30-day termination clause that allows either party to terminate.
- Land is given "as is"
- Annual Rental will never be less than the BNSF minimum of \$4,500.00 but will be adjusted upward for the final lease rental rate as fair market value dictates

If you have any questions, please let me know.

Thanks,

Isis Vidal
Office 817-230-2621
Cell 817-233-5187
isis.vidal@jll.com
isis.vidal@bnsf.com

From: Andrew Feltenstein <andrew@beaconstreetstudios.com>
Sent: Thursday, February 23, 2023 2:24 PM
To: Vidal, Isis <Isis.Vidal@jll.com>
Cc: Britten, Jack <Jack.Britten@jll.com>
Subject: [EXTERNAL] Re: Possible lease in Livingston, MT- 45.6732, -110.5491

Caution: Message from external sender

Hi isis

Please see attached
Thank you
a

<image001.jpg>

Beacon Street Studios
310-392-9535

On Feb 23, 2023, at 1:15 PM, Vidal, Isis <Isis.Vidal@jll.com> wrote:

Hi Andrew,

On the screenshot below, please highlight/mark the area are you looking to lease.

Thanks,

Isis Vidal
Office 817-230-2621
Cell 817-233-5187
isis.vidal@jll.com
isis.vidal@bnsf.com

From: Britten, Jack <Jack.Britten@jll.com>
Sent: Thursday, February 23, 2023 11:39 AM
To: Vidal, Isis <Isis.Vidal@jll.com>

Cc: andrew@beaconstreetstudios.com
Subject: Possible lease in Livingston, MT

Isis,

Please see the are below in Livingston, MT. Andrew would like to lease the area below for parking for his company that is adjacent to the property. It has environmental problems and is not for sale. Could it be leased? If so, please send Andrew (copied) an application and info.

Thanks.

<image001.png>

Jack Britten
JLL - Rail Practice Group
4200 Buckingham Road, Suite 110
Fort Worth, TX 76155
Direct 817-857-6406
Mobile 817-966-0277
Fax 312-470-2398
jack.britten@am.jll.com
www.jll.com



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<Controlled Use Submittal Checklist.pdf><BNSF Lease Tenant Questionnaire.pdf><Application for Lease Agreement w-cover 7.1 (1).doc>

BNSF RAILWAY COMPANY

APPLICATION FOR LEASE OF LAND

Complete - Land Information, Part III - Material Addendum, and Part IV - Credit Information

1. Community or station where site located:

City Livingston County Park State MT

2. Exact legal name of Applicant: Moles Media, LLC, Moles Media Group, LLC

If corporation, state in which incorporated: MT

If subsidiary, name parent company: _____

If individual, names in which business is conducted: _____

If partnership, list names of all partners: ANDREW FEATENSTEN

3. Is Applicant a BNSF Shipper? Yes _____ No

If "Yes", please include the name of Applicant's BNSF Marketing Representative: _____

4. Applicant's **Street** Address: Moles Media Group LLC
401 North Church Ave
Bozeman, MT 59715

Applicant's **Billing** Address (Notice Address):

5. Contact Information (including area code):
Home: 310-569-2026
Fax: _____

Name (Printed): Andrew
Office: _____
Email: andrew@beaconstreetstudios.com

6. Comprehensive General Liability, Automotive Liability and Worker's Compensation/Employer's Liability coverages are all required for land and track leases/licenses. Do you currently carry these coverages: Amounts per Occurrence/Aggregate:

Insurance Carrier: Big Sky Insurance Email: bigskyinsurance@msn.com
Contact Name: Rich Melin Phone: 406-222-7788

\$ _____	/	\$ _____	Comprehensive General Liability
\$ _____	/	\$ _____	Automotive Liability
\$ _____	/	\$ _____	Worker's Compensation/Employer's Liability

7. Date Applicant requests occupancy: 5/1/2024

The information in this completed application is correct and true to the best of my knowledge.

[Signature] owner _____ 6/6/2023
Signature / Title Date

LAND LEASE INFORMATION

1. Are you represented in this transaction by a broker? no
If yes, broker's name: _____
Broker phone No. _____

2. Will entity other than Applicant occupy any of the premises you propose to lease? no
If yes, occupant must also complete application.

3. Describe total area to be included and attach sketch or print outlining total *property* to be leased including dimensions: see attached

4. What use will be made of site? - Applicant's business operations/commodities handled
we will only use it for parking

5. Number of years established in business: 1

6. List all buildings or structures existing on the property indicating dimensions and construction material (steel, frame). Include wells, septic tanks, drain fields. If buildings or structures are privately-owned include bill of sale. empty lot

Check if existing on site: Concrete Slab Asphalt Paved Gravel Fencing Signboard Lighting/Poles
Roadway Storage Tanks underground/above Ground Electric Transformers HVAC Units

7. List and describe any future buildings or structures to be erected on site and estimated cost (attach building plans including dimensions): _____

8. List and describe any wastes (oils, hazardous wastes, solid wastes, water discharges, etc.) generated, stored, disposed: _____

Will your use include changing oil, washing cars or changing tires? no

9. Does applicant have other property under lease? no
If yes, specify Lease No.(s): _____

10. If this application is to cover lease of additional property or deletion of property currently held by Applicant under lease, list lease number and date of lease: _____

11. If this application is to cover transfer or assignment of an existing lease or leases from another party, list name of current lessee, lease number(s), date of lease(s). (Applicant must attach letter from current lessee authorizing transfer / assignment, or copy of bill of sale for all improvements): _____

List current utilities: N/A Parking only -- empty lot
Name utilities are under: _____
List utilities account numbers: _____
List times that business is operating and when it is expected to be closed: _____

MATERIAL ADDENDUM
(If None - Write 'NONE' and sign below)

1. List all chemicals, hazardous materials, and/or petroleum products you anticipate using or handling on the premises:

_____ *N/A* _____

2. Name/address of disposal company, if applicable

_____ *PARKING only* _____

3. Type of Storage:	Above Ground	Below Ground	Existing	Future Need
a) Number of Tank(s)	_____	_____	_____	_____
b) Capacity of Each Tank	_____	_____	_____	_____
c) Type of Tank(s)	_____	_____	_____	_____
d) Age of Tank(s)	_____	_____	_____	_____
e) Location of Tank(s). Show exact location on drawing (note if above or below ground, existing or future need).				

4. If any tanks or pipes are underground, you must complete the following:

- a) _____ Type _____ of _____ corrosion _____ resistant _____ coating:
- b) _____ Type _____ of _____ Cathodic _____ protection _____ used:
- c) _____ Type _____ of _____ material _____ of _____ piping _____ and _____ sealant:
- d) _____ Type _____ of _____ leak _____ detection _____ test _____ performed:
Date performed: _____
Certification of Testing Contractor: _____
- e) _____ Type _____ monitoring _____ devices _____ for _____ tank(s):
- f) Attach a copy of a completed Registration Underground Storage tanks form.

5. If completely above ground, you must complete the following:

- a) Containment Berm: Yes / No
- b) Securing Fence: Yes / No
- c) Night Lighting: Yes / No

6. Distance from nearest storage tank to nearest railroad track: _____

7. Has local Fire Department or other regulatory agency approved installation: Yes / No

8. Have necessary permits been obtained from local, county, state and/or Federal authorities (including fire marshals)?
Yes / No If yes, attach copy. If no, give explanation as to why: _____

9. Provide any MSDS sheets for all commodities and hazardous products on site and safety containment plans/documents

Signature of Applicant: _____ *[Signature]* _____
Title: _____ *owner* _____

The Checklist should be completed by someone knowledgeable of the proposed facility operations. Please ensure that the information is accurate.

Controlled Use Checklist

1. Lessee Name: Moleo Media Group, LLC
2. Location: Livingston, Montana
3. Form Completed By: Andrew Feltenstein
4. Name of Lease Contact: Andrew Feltenstein
5. Contact Information for questions: andrew@beaconstreetstudios.com, 310-569-2026
6. Site is within a BNSF Railyard: Yes No
7. Provide existing lease information, if any:
 - a. Has this entity been operating on the lease property? If so, for how long?
no it has been an empty lot for years
 - b. What is the annual revenue of the applicant? it is a community radio station
8. If there are any permits and plans related to activity on BNSF property, please provide:
 - a. Description of monitoring and inspection process in the form of an Environmental Management Plan.
 - b. List of permits and plans obtained or professional/legal opinion and documentation for no permits (e.g., NEPA, Air, SPCC, RCRA, Section 404, Section 106, etc.).
9. Provide a brief description of the project operation on BNSF leased property to include the following plans (Check All That Apply):
 - a. Transload? If yes, please list out:
 - Commodity(ies): _____
 - b. Activity (Car washing, Equipment Maintenance, Aerosol can usage, etc.)? If yes, please list out:
 - Commodity(ies): parking lot use only
 - c. Storage (in totes, tanks, railcars, etc.)? If yes, please complete the matrix on the following page.

The Checklist should be completed by someone knowledgeable of the proposed facility operations. Please ensure that the information is accurate.

Commodity	Storage Method (tote, tank, railcar)	Storage Volume (gallons)	If storage is in railcars, list average storage time in hours

10. Provide current (within 12-months) SDS for all Commodities and maintenance chemicals handled.

11. If the commodity is a waste material, provide the laboratory analytical and/or analytical profile for ALL materials handled.

12. If the commodity is scrap metal, provide the origin, if and how it is processed, and duration of storage, if applicable.

13. Provide transloading information:

a. Description of transloading process (i.e. top or bottom of tank car, vessels, connection control).

b. Description of packaging or containers (i.e. railcar, sealed roll-off, drums, etc.).

c. Description, drawings, or plans and pictures (if available) of containment under container:

Note, if tank car transloading is involved:

- If top of tank car unloading/ loading is planned, containment must demonstrate 10% of car volume capacity unless special circumstances do not allow and approval from BNSF Manager Environmental Leases is obtained;

- If bottom of tank car unloading/ loading is planned, containment must demonstrate 100% of car volume capacity unless special circumstances do not allow and approval from BNSF Manager Environmental Leases is obtained.

d. Description, drawings, or plans and pictures (if available) of containment under transport vehicle.

e. Description of all other engineering controls to eliminate spills or releases.

The Checklist should be completed by someone knowledgeable of the proposed facility operations. Please ensure that the information is accurate.

14. If there will be above ground storage tanks on BNSF lease property, provide the following information (**Check All That Apply**):

- a. Description of containment construction and capacity for **oils and fuels**:
- If total storage capacity of tanks/ drums is greater than 1,320 gallons, a Spill Prevention Control & Countermeasure (SPCC) Plan must be developed by a Certified Professional Engineer.
 - Tanks must either be double-walled or built upon constructed or synthetic containment; Drums must be stored upon manufactured containment and within a weather proof structure.
 - Drums of 55-gallon or greater capacity of ANY type of oil (including e.g. oilseeds and fats), solvent, fuel or other hydrocarbon mixture. BNSF requires that all product drums be stored within structures and containment and out of contact with rain or snow.

- b. Description of containment construction and capacity for **non-petroleum products (e.g., liquid fertilizer, acid, sodium hydroxide)**:
- Containment should be adequate to prevent environmental damage to sensitive areas from a large quantity release.
 - Tanks may not be placed upon natural material such as soil, stone, etc. without written approval of BNSF Railway.

- c. Description of proposed hoses, fittings, piping, and controls.

15. If there will be any activities listed below, provide a description:

- a. Hazardous Waste generation status, if applicable: (e.g., small or large quantity generator).
- b. Does the property contain a well for the use or potential use of the groundwater for irrigation, drinking water, or any other purpose?
- c. Does construction of lease improvements require excavation?
- d. Will there be fueling operations on site (storage, transfer, etc.)?

The Checklist should be completed by someone knowledgeable of the proposed facility operations. Please ensure that the information is accurate.

TO BE COMPLETED BY BNSF PERSONNEL

16. Provide:

- a. Aerial photo and BNSF GIS screen shot (showing Environmental layers "ON")
- b. Bartlett & West Exhibit
- c. Current or former agreement(s) pertaining to the property
- d. Status and documentation of termination process/completion, if applicable.
(i.e. has Doug McReynolds approved the termination of the existing/previous lease)

Josi Wilgus

From: Brown, Peter <pebrown@mt.gov>
Sent: Wednesday, March 22, 2023 3:24 PM
To: Randy Hafer; Josi Wilgus
Subject: KPRK Planter and Lilacs

Randy & Josi,

Thanks for the virtual walkthrough of the National Register listed KPRK Building. I'm writing to comment on the prospects of preserving the stair planters and lilac bush at the building's northwest corner.

The State Historic Preservation Office's belief is that both of these features could be historic in age but neither appear to be historically significant design elements. The planter's blocks appear to be "southwest rustic," which contrasts with the building's Art Moderne architectural style.

The lilac appears to be planted too close to the building and obscures the building more than something deliberately planted as a landscape design feature would have been.

Both the stair planters and lilac will likely need to be sacrificed in the larger effort to raise the building on a higher foundation to get it further out of floodwaters that could damage the building and threaten the owner's investment in it. If plants and landscape design is a priority, reconstructed concrete sidewalls could have pots or planters on top, and lilacs could be planted further away from the building, in conjunction with the newly established grade.

Sincerely,

Pete Brown
State Historic Preservation Officer
[Montana State Historic Preservation Office](#)
406-444-7718



MONTANA
HISTORICAL SOCIETY

State Historic
Preservation Office

[State Historic Preservation Plan](#) [2022 Annual Report](#) [Consulting with SHPO](#)

Josi Wilgus

From: Randy Hafer
Sent: Monday, January 23, 2023 4:22 PM
To: Josi Wilgus
Subject: FW: [EXTERNAL] Kprk

fyi

RANDY HAFER FAIA | LEED AP BD+C
PRESIDENT

2720 MINNESOTA AVENUE
BILLINGS, MT 59101
P 406.896.0250
EMAIL rhafer@highplainsarchitects.com

-----Original Message-----

From: Andrew Feltenstein <andrew@beaconstreetstudios.com>
Sent: Monday, January 23, 2023 4:06 PM
To: Brown, Peter <pebrown@mt.gov>
Cc: Randy Hafer <rhafer@highplainsarchitects.com>
Subject: Re: [EXTERNAL] Kprk

thanks pete — appreciate the help

i have cc'ed randy here too!

> On Jan 23, 2023, at 3:33 PM, Brown, Peter <pebrown@mt.gov> wrote:

>

> Thanks for calling, Andrew. Try compiling a list of headings that break down your project by architectural feature/finish, and interior spaces. What we develop you'll eventually plug into a Part 2 form.

>

> All of the forms are available at this link: <https://www.nps.gov/subjects/taxincentives/historic-preservation-certification-application.htm>

>

> Because the KPRK building is individually listed in the National Register, you need not complete a Part 1 form. I mentioned that the program has a three-part application process. Part 3 is your completion report.

>

> I'm happy to work with you on the application, please keep High Plains in the loop so they know what your committing to when they draw up plans to submit to the National Park Service with the Part 2.

>

> Sidebar: If you're interested, check out <https://www.butteamericaradio.org/> These guys rehabilitated the Carpenter's Union Hall in Butte's uptown.

>

> Pete Brown

Special Exception Review/ KPRK site Decibel Reading

