

## City of Billings Zoning Commission Meeting Minutes-January 5, 2016

The City of Billings Zoning Commission met on Tuesday, January 5, 2016 in the Miller Building 1<sup>st</sup> Floor Conference Room, 2825 3<sup>rd</sup> Avenue North, Billings, Montana

Vice Chairman Wagner called the meeting to order at 4:30 p.m. The City Council has designated Monday January 25, 2016 at 6:30 p.m. in the City Council Chambers as the time and place to hear testimony for or against the zoning applications.

Commission and Staff		01/05/2016	02/02/2016	03/01/2016	04/05/2016	05/03/2016	06/07/2016	07/05/2016	08/02/2016	09/06/2016	10/04/2016	11/03/2016	12/06/2016
Dan Wagner	Vice Chairman	1											
Dennis Ulvestad	Commissioner	1											
Mike Boyett	Commissioner	E											
Michael Larson	Commissioner	1											
James Mariska	Commissioner	1											
Candi Millar	Director, Planning & Community Services												
Wyeth Friday	Division Planning Manager												
Nicole Cromwell	Planner Zoning Coordinator	1											
Tammy Deines	Planning Clerk												
Dave Green	Planner II	1											
Karen Husman	Planner I	1											
Robbin Bartley	Administrative Support	1											

Total Number of 2016 Applications	01/05/2016	02/02/2016	03/01/2016	04/05/2016	05/03/2016	06/07/2016	07/05/2016	08/02/2016	09/06/2016	10/04/2016	11/03/2016	12/06/2016	TOTAL
Zone Change	1												
Special Review	2												

Vice Chairman Wagner introduced the Planning Division Staff and Commission: Attending Staff were Nicole Cromwell, Zoning Coordinator; Robbin Bartley, Administrative Support; Dave Green, Planner II; Karen Husman, Planner I

**In Attendance:**

Keith Lavachek  
 Steve Zabrocki  
 Alex Tommerup  
 Karyn Haider  
 Keith Rupert, CTA  
 Bob Witham  
 Jacob Witham  
 Mike Tuss, CTA  
 Bob LaPeree  
 Megan Terry, Sanderson Stewart  
 Dan Kirkpatrick  
 Pat Davies, Sanderson Stewart  
 Gene Culver, Kincaid Land LLC

**Public Comment**

Vice Chairman Wagner called for public comments. There were no public comments. Vice Chairman Wagner closed the public comment portion of the meeting.

**Approval of Minutes: December 1, 2015**

Vice Chairman Wagner called for approval of the December 1, 2015 meeting minutes.

**Motion**

Commissioner Mike Larson made a motion and Commissioner Ulvestad seconded the motion to approve the December 1, 2015 meeting minutes as submitted.

**The motion for approval then carried with a unanimous voice vote, 4-0.**

**Disclosure of Conflict of Interest**

Vice Chairman Wagner called for disclosures of conflict of interest. There were none.

### **Disclosure of Outside Communication**

Vice Chairman Wagner called for disclosure of ex parte communications. There were none.

### **Public Hearings:**

Vice Chairman Wagner reviewed the rules and the procedures by which the City Zoning Commission public hearings are conducted, and asked Nicole Cromwell to review the first agenda item. Dave Green presented:

**Item #1. City Special Review #935 – 450 Main Street – Town Pump Casino** – A special review to allow the location of a beer & wine license with gaming at a proposed new Town Pump Casino (with gas station & convenience store) in a Highway Commercial zone on Lots 1, 2, 3A, 4A, 4B and the North 65 feet of Lot 5, Thomas Subdivision, a 2.11 acre parcel of land generally located at 450 Main Street. Tax ID: A17026

### **RECOMMENDATION**

The Planning Division is recommending conditional approval based on the findings of the 3 review criteria for **Special Review #935**.

### **PROPOSED CONDITIONS**

1. The special review is limited to Lots 1, 2, 3A, 4A, 4B and the North 65 feet of Lot 5, Thomas Subdivision generally located at 430 / 450 Main Street.
2. The special review approval is for the location of beer and wine license with gaming and no other use is intended or implied.
3. Any expansion of the interior space of the casino area of more than 10% will require an additional special review approval.
4. All exterior lighting, including security lighting shall have full cut-off shields so no part of the fixture or lens projects below the cut-off shield. The maximum height of any light pole in the outdoor areas shall be 20 feet above grade. Exceptions to this requirement are allowed for entry doorway lighting.
5. There shall be no outdoor public address system or outside announcement system, whether permanent or temporary, of any kind.
6. No construction or demolition activity will occur before 7 am or after 8 pm daily.

7. New parking lot construction will meet the Highway Commercial zoning requirements for landscaping. In addition there will be one street tree planted every 40 feet in the proposed landscape area along both frontages, Lake Elmo and Main Street. Street trees are trees that can have their lowest branches at 8 feet, without disfiguring the tree, within 4 years. New trees shall not be any tree with the genus scientific name of Populus or any of its subspecies including any variety of aspens. Also no Salix (willows), Acer negundo (Box Elder) or Ulmus (Elms). Small ornamental trees do not qualify as street trees. All installed landscape will be continuously maintained and replaced as necessary by the owner as outlined in Section 27-1110 BMCC, Installation and Maintenance .

8. Any centralized solid waste storage shall be enclosed by a wall on 3 sides and a closing gate or gates. The wall and gates for the solid waste storage shall be similar or complimentary in color to the new building and shall be sight-obscuring. The wall and gates shall be tall enough that no part of the interior dumpster(s) are visible from the outside.

9. These conditions of special review approval shall run with the land described in this authorization and shall apply to all current and subsequent owners, operators, managers, lease holders, heirs and assigns.

10. The proposed development shall comply with all other limitations of Section 27-613 of the Unified Zoning Regulations concerning special review uses, and all other City of Billings regulations and ordinances that apply.

### **Discussion**

Vice Chairman Wagner called for questions and discussion from the members of the Commission.

Commissioner Ulvestad asked Dave Green about a traffic study. Mr. Green replied he was not aware of one. Vice Chairman Wagner asked about enough parking spaces if a 10 percent expansion were to happen in the future. Mr. Green replied that those issues would be addressed in the Special Review necessary to expand. Commission Mariska asked about hazardous waste studies on the property as it has been used for engine repair. Mr. Green said he was not aware of any.

Bob Witman, owner of laundry facility across the street from the newly built Starbucks and proposed Town Pump, he expressed large concerns about traffic and safety, stating this is the most dangerous intersection in Billings and recalling the fatality accident last year. He also had special concerns regarding the entrances on Lake Elmo Drive.

### **Applicant/Agent**

Vice Chairman Wagner asked for presentation by the applicant.

### **AT Architecture, Alex Tommerup**

Mr. Tommerup represents Reiter's Marina. Offered to answer any questions possible.

**Public Hearing:**

Vice Chairman Wagner opened the public hearing and called for proponents or opponents of **City Special Review #935**.

Vice Chairman Wagner asked if anyone else wanted to speak in opposition of **City Special Review #935**.

Commissioner Ulvestad asked Mr. Tommerup about the Kawasaki shop on the property. It was explained that this was the same property, Reiters Marina. Commissioner Mariska asked Mr. Tommerup about the deceleration lane for ingress on the east side (Main Street). Vice Chairman Wagner asked Mr. Tommerup about the traffic issues. He replies. Commissioner Ulvestad expressed more concerns about the traffic flow, specifically exiting to the south on Lake Elmo Drive. Vice Chairman Wagner asked how far the entrance on the Lake Elmo side is from the Main Street intersection. Nicole Cromwell displayed the aerial view for consideration. Nicole Cromwell showed the existing approaches for both Starbucks and the property being considered. The distance to the intersection was pointed out.

**Motion**

Commissioner Larson made a motion and Commissioner Mariska seconded the motion to recommend conditional approval based on the findings of the 3 review criteria for **Special Review #935**.

**Discussion**

Vice Chairman Wagner called for discussion on the motion

**The motion carried with a voice vote, 3-1, Commissioner Ulvestad opposed.**

Vice Chairman Wagner asked Nicole Cromwell to review the second agenda item. Karen Husman presented:

**Item #2. City Special Review #937 – 2055 Woody Drive – Addition to St. Thomas the Apostle Church** – A special review request to allow the addition of 9,172 square feet to an existing church in a Residential 9,600 (R-96) zone, on Lot 1, Block 1, St. Thomas Subdivision, a 5.219 acre parcel of land generally located at 2055 Woody Drive. Tax ID: D04810

**RECOMMENDATION**

The Planning Division is recommending conditional approval of **City Special Review #937**. approval based on the findings of the 3 review criteria.

## PROPOSED CONDITIONS

1. The special review is limited to Lot 1, Block 1 of St Thomas Subdivision generally located on the corner of Colton Boulevard and Woody Drive.
2. The special review approval is for the addition of 9,172 square feet to an existing church in a Residential 9,600 (R-96) zone, on Lot 1, Block 1, St. Thomas Subdivision, a 5.219 acre parcel of land generally located at 2055 Woody Drive. No other use is intended or implied by this approval.
3. Any expansion of the proposed building or parking greater than 10 percent of what is shown on the submitted site plan will require an additional special review approval
4. All exterior lighting, including security lighting shall have full cut- off shields so no part of the fixture or lens projects below the cut-off shield. The maximum height of any light pole in the outdoor areas shall be 20 feet above grade. Exceptions to this requirement are allowed for entry doorway lighting.
5. All proposed drive approaches will be reviewed by City Traffic Engineering for final approval and location.
6. No construction activity will occur before 7 am or after 8 pm daily.
7. The site will be developed in substantial conformance with the submitted site plan including landscaping, parking and building locations with the exception of condition 5.
8. These conditions of special review approval shall run with the land described in this authorization and shall apply to all current and subsequent owners, operators, managers, lease holders, heirs and assigns.
9. The proposed development shall comply with all other limitations of Section 27-613 of the Unified Zoning Regulations concerning special review uses, and all other City of Billings regulations and ordinances that apply.

### Discussion

Vice Chairman Wagner called for questions and discussion from the members of the Commission.

Commissioner Larson asked about a proposed school on the adjacent property to the south. Nicole Cromwell advised that the City Council will be reviewing this proposal next week. Commissioner Larson asked if it is the same owner. Karen Husman advised that she did not have that information and that there is indication on the site plan that parking may be shared, she also stated that the applicant is in audience and available to answer.

**Public Hearing:**

Vice Chairman Wagner opened the public hearing and called for proponents of **City Special Review #937**.

**CTA, Inc. 13 North 23<sup>rd</sup> Billings, Mt 59102**

Mike Tuss who represents St. Thomas the Apostle Church, introduced the audience attendees from the Church. He then explained the need for increased seating in the sanctuary and an enhanced entrance and pull-out for several congregation functions, meeting ADA requirements. After describing the renovations he noted that 28 parking spaces will be added, making 47 new spaces available with the shared use agreement with Billings Catholic Middle School intended for the adjacent property. The interior seating would be increased by 110. The renovation of the gymnasium would enhance space for fellowship activities and expand the kitchen for the same purpose. The multi-use area will also include much needed staff office areas.

Commissioner Larson asks about parking coordination with the school and reducing approaches from five to one, which is positive.

One approach will be a private road on the property line for access to both the church and private Catholic school. Commissioner Larson asked about the curb bulb. Mr. Tuss explained that the church preferred enhancement of the existing pullout and not do the corner bulb.

Vice Chairman Wagner asked if anyone else wanted to speak in favor or opposition of **City Special Review #937**. There were none.

**Motion**

Commissioner Larson made a motion and Commissioner Ulvestad seconded the motion to forward a recommendation to City Council for conditional approval of **City Special Review #937** and adoption based on the approval criteria.

**Discussion**

Vice Chairman Wagner called for discussion on the motion.

**The motion carried with a unanimous voice vote, 4-0.**

Vice Chairman Wagner asked Nicole Cromwell to review the final agenda item.

**Item #3. City Zone Change #945 – 2512 Shiloh Rd – A zone change request from Residential 9,600 (R-96) to Residential Professional (RP) on Lot 4A2, Blue Meadows Acreage Tracts, Amended, a 1.06 acre parcel of land generally located at 2512 Shiloh Road. A pre-application neighborhood meeting was held on November 16, 2015, at King of Glory Church at 4125 Grand Avenue. Tax ID: C01757**

## **RECOMMENDATION**

The Planning Division recommends approval of the zone change to RP and adoption of the findings of the 10 criteria for **Zone Change 945**.

### **Discussion**

Vice Chairman Wagner called for questions and discussion from the members of the Commission.

Vice Chairman Wagner asks where the tunnel under Shiloh is in relation to subject property.

Vice Chairman Wagner asks if the duplex burns down can it be rebuilt. Nicole Cromwell explains that it would have to be rebuilt as a single family residence or mixed use structure.

Commissioner Ulvestad asks if the owner is here. Vice Chairman invites Mr. Culver, the owner, to address the board. Mr. Culver defers to his engineer, Pat Davies of Sanderson Stewart. Vice Chairman Wagner requests that the representative, Pat Davies, please come forward.

Vice Chairman Wagner opened the public hearing and called for proponents or **City Zone Change #945**.

### **Kincaid Land, LLC (Gene Culver), 3208 Rugby Drive, Billings, Mt 59102**

Mr. Culver is the property owner.

### **Pat Davies, P.E., Sanderson Stewart, 1300 Transtech Drive, Billings, MT 59102**

Mr. Davies represents Kincaid Land, LLC. He corrects the existing residence is a single family home, not a duplex and offers to answer any questions. Commissioner Ulvestad asks Mr. Culver what his intention is for this property. Mr. Culver states that he has been using it for storage and such. Commissioner Ulvestad inquires about the white building seen on the aerial. Mr. Culver explains that it is not his but his neighbors, Mark Dawson. He explains his intent to put offices in this location and that Mark Dawson supports this project.

Vice Chairman Wagner asked if anyone wanted to speak in opposition of **City Zone Change #945**. There was none.

Vice Chairman Wagner closed the public hearing at **5:27 p.m.** and called for a motion.

### **Motion**

Commissioner Ulvestad made a motion and Commissioner Larson seconded the motion to forward a recommendation to City Council for approval and adoption of the findings of the 10 criteria for **Zone Change #945**.

### **Discussion**

Vice Chairman Wagner called for discussion on the motion.

**The motion carried with a unanimous voice vote, 4-0.**



**Other Business:**

Nicole Cromwell stated that she had passed out a current roster of Commissioner information and if there are any changes to please state them. There were none.

**Election of 2016 Officers**

Having only 4 of 5 commissioners, the elections were postponed until the next meeting

**The next meeting is scheduled for Tuesday, February 2, 2016.**

**Adjournment:** The meeting adjourned at **5:29 p.m.**

Approved by a motion: **February 2, 2016.**

**ATTEST:**



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**Dan Wagner, Vice Chairman**



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**Robbin Bartley, Administrative Assistant I**