

## City of Billings Zoning Commission Meeting Minutes August 2, 2016

The City of Billings Zoning Commission met on Tuesday, August 2, 2016 in the Miller Building 1<sup>st</sup> Floor Conference Room, 2825 3<sup>rd</sup> Avenue North, Billings, Montana  
Chairman Wagner called the meeting to order at 4:30 p.m. The City Council has designated **Monday August 22, 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	Chairman	1	1	-	1	1	1	1	1				
Dennis Ulvestad	Commissioner	1	1	-	1	1	1	1	1				
Mike Boyett	Vice Chairman	E	1	-	1	1	E	E	1				
Michael Larson	Commissioner	1	1	-	1	1	1	1	A				
James Mariska	Commissioner	1	1	-	1	1	1	1	1				
Candi Millar	Director, Planning & Community Services	-	-	-	-	-	-	-	-	-	-	-	-
Wyeth Friday	Division Planning Manager	-	-	-	-	-	-	-	-				
Nicole Cromwell	Planner Zoning Coordinator	1	1	-	1	1	1	1	1				
Tammy Deines	Planning Clerk	-	-	-	-	-	-	-	-				
Dave Green	Planner II	1	-	-	-	-	-	-	1				
Karen Husman	Planner I	1	1	-	-	-	-	-	-				
Robbin Bartley	Administrative Support	1	1	-	1	1	1	1	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	0	-	1	0	0	1	0					3
Special Review	2	1	-	4	1	1	1	2					12

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

**In Attendance:** Drew Smith, Dave Pfohl, Dennis Badger, Nikki Angell, Aaron Angell, Joe Woslager, Greg Post, Jerry Jones, Joel Kittelson, Travis Dimond, Adam Dice, Pryor Jourdan, Gordon Vandiviere, Pete Barnard, Gregory Jacobs

**Public Comment**

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

**Approval of Minutes: July 5, 2016**

Chairman Wagner called for approval of the July 5, 2016 meeting minutes.

**Motion**

Commissioner Ulvestad made a motion and Commissioner Boyett seconded the motion to approve the July 5, 2016 meeting minutes.

COMMISSIONER	Yes	No	ABSTAINED	ABSENT
Dan Wagner	x			
Mike Boyett	x			
Dennis Ulvestad	x			
Mike Larson				x
James Mariska	x			

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

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

**Disclosure of Conflict of Interest**

<b>COMMISSIONER</b>	<b>Yes</b>	<b>No</b>	<b>ABSTAINED</b>	<b>ABSENT</b>
Dan Wagner		x		
Mike Boyett		x		
Dennis Ulvestad		x		
Mike Larson				x
James Mariska		x		

**Disclosure of Outside Communication**

<b>COMMISSIONER</b>	<b>Yes</b>	<b>No</b>	<b>ABSTAINED</b>	<b>ABSENT</b>
Dan Wagner		x		
Mike Boyett		x		
Dennis Ulvestad		x		
Mike Larson				x
James Mariska		x		

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

**Public Hearings:**

Chairman Wagner reviewed the rules and the procedures by which the City Zoning Commission public hearings are conducted and advised the audience that this would be heard by the City Council on August 22, 2016. He then asked Nicole Cromwell to review the first agenda item. Dave Green presented:

**City Special Review 945 – 545 S 18<sup>th</sup> St West** – A special review request to locate an all beverage license with gaming in a new 3,500 square foot building in a Controlled Industrial (CI) zone, on Lot 3B, Block 2 of Trillium Sub Amended, a 1.431-acre parcel of land generally located at 545 S 18<sup>th</sup> St West. Tax ID: A28494

**RECOMMENDATION**

Planning staff recommends conditional approval based on the 3 criteria for review of **City Special Review 945**.

**Discussion**

Commissioner Boyett confirmed that the church has been 5 years and then asked if Staff has heard of any issues. Staff replied that there have been no issues and no interest was generated with the Surrounding Properties outreach. They currently have a full Liquor license.

Chairman Wagner asked for the applicant of **City Special Review 945**.

**Jerry Jones, 123 Regal Street, owner**

Mr. Jones has owned this property for 16 years. It will eventually be sold. The church is the landlord to the casino and has asked the casino to leave at the end of the lease because the church needs the space. The casino currently only has a beer and wine license. Mr. Jones took issue with the 600 foot rule stating that he did not believe that a church moving in to a casino area was required to have a Special Review but a casino does.

Commissioner Mariska asked who will own the back part of the lot. It is zoned Controlled Industrial suitable for offices and warehouses. The only access is thru the parking lot.

**Greg Post, Glendive, Mt**

Mr. Post is the owner of Little Big Man, Inc. He owns Copper Creek Casino and has a good relationship with the church. The church needs space and is not renewing the lease as of 2017. Commissioner Mariska asked if this space is bigger or smaller than the one occupied now. The space is a little larger with a beer and wine license and some food is served in order to be in compliance with the beer and wine license. A health department permit is needed for the food permit.

Commissioner Ulvestad asked if Mr. Post is seeking an all beverage license. The response was no.

**Opposed**

None

Chairman Wagner asked for a motion.

Commissioner Boyett made a motion and Commissioner Mariska seconded the motion to conditionally approve **City Special Review 945**.

**Discussion**

Commissioner Ulvestad stated that this is a good use of the space.

<b>Commissioner</b>	<b>YES</b>	<b>NO</b>	<b>ABSTAINED</b>	<b>ABSENT</b>
Dan Wagner	x			
Mike Boyett	x			
Dennis Ulvestad	x			
Mike Larson				x
James Mariska	x			

**The motion carried with a unanimous verbal vote of 4-0.**

Nicole Cromwell read the legal description, Dave Green presented:

**City Special Review 946 – 1100 Block of 16<sup>th</sup> St West** – A special review request to construct a new 43-space parking lot with alley access and landscaping in a Residential 7,000 (R-70) zone, on the North 130 feet of Lot 8 and the North 140 feet of Lot 7, Block 3 of West View Subdivision, a 20,250 square foot parcel of land generally located on the east side of 16<sup>th</sup> St West just north of the intersection of Lewis Avenue. Tax ID: A18300

### **RECOMMENDATION**

Planning staff recommends conditional approval based on the 3 criteria for review of **City Special Review 946**.

### **Discussion**

Chairman Wagner asked if the alley will be paved. Usually Engineering will require paving for the length of their parcel.

Commissioner Ulvestad asked about the present parking of a trailer on the lot and will it remain.

Staff stated a change of ownership will address anything that is there and needs to be removed.

Commissioner Boyett asked if the new owner will be fencing between the residential area and proposed lot. Staff replied this is a requirement of 27-613. Generally wood or vinyl is used and it is coordinated amongst the property owners.

Chairman Wagner asked for the applicant of **City Special Review 946**.

### **Dave Pfohl, owner of 1601 Lewis Ave, applicant**

Mr. Pfohl is the owner of the commercial building across the street from this property. He explained the current lot owner of the property also owns the rental house next door and these vehicles parked on the lot belong to him. He then stated he needs more parking for the employees in his commercial buildings and therefore is hoping to buy this lot and put in a parking lot. The property was purchased 60 years ago and is non usable for residential development. It is not able to be developed for residential use because it is difficult to attach to the sewer line and there are drainage ditches beneath the lot. A parking lot would be a great asset to the businesses and a good use for the property.

Commissioner Mariska stated the land is downslope and are you going to raise it up. Mr. Pfohl replied the lot will be level with the landscaping when complete. The lot is bigger than the parking lot. Commissioner Mariska said it will be an incline to Lewis Ave and how will snow and ice be maintained for the safety of the user. The parking and sidewalks will be maintained.

There are curb cuts but the walk signs and controls are not installed at the intersection at the intersection.

**Drew Smith, 435 Clark Ave, leasing agent**

Mr. Smith stated parking is needed for the businesses in the area and agreed this is a good use of the land. He believes this is a positive addition for the neighborhood.

Commissioner Boyett inquired about the square footage of the lot. It is less than 20,000 sq. ft.

Chairman Wagner asked how many parking spaces there will be at completion. It is designed for 43 spaces.

Commissioner Mariska asked about drainage that will come off of this lot. Mr. Smith replied that the City will engineer that and issue permits.

**Adam Dice, 1601 Lewis Ave**

Mr. Dice works at 1601 Lewis Ave and has the largest firm in the building. They are looking at possible expansion and therefore realizes the need for more employee parking.

Commissioner Mariska again asked where snow would be piled. Snow would be piled in the 4 corners and hauled out if necessary.

**OPPOSED**

**Nikki Angell, 1543 Lewis Ave**

Ms. Angell is concerned for her children playing in the yard. She is worried about persons using the parking lot peering into her back yard at her children and private family functions. She reads in the conceptual site plan that screened fencing will be used and contends that type of fencing is not private. Additionally she does not want the parking lot lights interfering with the dark hours in their home. The storm water is an issue, it needs to be retained and then released. The engineering is based on a one hundred year storm. What happens if the plan does not work, how will the water affect her property and her basement. Melted snow pile up and run off will also affect her yard. Chairman Wagner confirmed which house she lives in and how the snow melt would not drain into her yard.

Commissioner Mariska asked what type of fence is there now. It is a chain link fence.

**Joe Woslager, 1525 Lewis Ave**

Mr. Woslager explained his concerns with the run off and erosion as well as trash piling up. He lives where Spring Creek appears out of the ground. He has been in a dispute with the City of Billings for many years over the erosion from drainage and Spring Creek. It is eroding the alley away. Each time it storms he gets piles of leaves in the creek. The City will not do anything about it. If more water comes off this lot it also will drain into Spring Creek. All the trash blows into his yard. There is currently excessive traffic up and down the alley at speeds of 35-40 mph creating dust and rocks flying everywhere. Mr. Woslager requests that the commissioners view the site. No City officials seem to have an answer regarding who is responsible for Spring Creek.

Commissioner Ulvestad asked if he has talked to the developer and shared his concerns. Mr. Woslager has not yet had the opportunity to speak with the developer.

**Gregory Jacobs, 1520 Burlington Ave**

Mr. Jacobs also shared his concerns about Spring Creek is getting wider and wider with erosion. He agreed that the alley traffic is excessive and it is not local residents using the alley. He does not know why there is so much alley traffic and the concern about increase due to the alley access of the proposed parking lot was expressed.

Commissioner Ulvestad supposed the alley is being used to go from 15<sup>th</sup> to 16<sup>th</sup>.

The alley is not maintained and he feels the issues need to be addressed before approval.

**Gordon Vandiviere, owner of adjacent property**

Mr. Vandiviere shared his concerns about traffic and a bottleneck. He would prefer the access be moved. He, also, is concerned about the water drainage as the lot is sloped right toward his property. He is not convinced these issues have been addressed. He does not want the water or trash in his yard or garages.

**Pete Barnard, 1526 Burlington Ave**

Mr. Barnard agrees the drainage is already a problem. There will be a J-walking problem to the business across the street. A boulder pit may alleviate the problem with run off. He does not understand the traffic issue in the alley, there is no rhyme or reason for the amount of traffic that uses this alley.

**Rebuttal**

Mr. Pfohl believes all the issues have been taken into account except the traffic stating they really have no control over it. The drainage is being addressed with city and private engineering and should actually improve the present situation. A boulder pit may be necessary. A privacy fence can be installed. Traffic concerns have not been addressed. He feels access thru the alley is safer however this can be researched and discussed. The property will be kept up and the snow plowed and removed as necessary.

Chairman Noennig reiterated the need for a “good neighbor policy” and said he would take Mr. Pfohl at his word that these concerns would be addressed with the neighbors.

The alley access is a downhill slope and any ice there is going to be a slippery problem.

Commissioner Mariska advised all to go look at Ave E and Ave F off 17<sup>th</sup>. Look at what was done there, behind West Park Plaza to alleviate similar concerns.

Who is responsible for Spring Creek, the City is claiming it is a storm drain not a creek.

Commissioner Ulvestad asked Dave Green how many SPO letters went out. 37 letters went out and 4 property owners responded.

Mr. Pfohl also stated that the parking lot is an 8-5pm lot.

**Discussion**

Chairman Wagner asked for a motion.

Commissioner Ulvestad made a motion to delay the action for not more than 30 days, stating that more communication is needed between the property owners, developer and City engineers. There was no second and the Motion failed. Commissioner Boyett made a motion and Commissioner Mariska seconded the motion to conditionally approve **City Special Review 946**.

<b>Commissioner</b>	<b>YES</b>	<b>NO</b>	<b>ABSTAINED</b>	<b>ABSENT</b>
Dan Wagner	x			
Mike Boyett	x			
Dennis Ulvestad		x		
Mike Larson				x
James Mariska	x			

The motion carried with a verbal vote of 3-0.

**Other Business:**

Next meeting will be September 6, 2016.

**Adjournment:** The meeting adjourned at 6:05 p.m.

**DRAFT:** Approved by a motion: September 6, 2016.

**ATTEST:**

**Robbin Bartley, Administrative Assistant I**

