

## City of Billings Zoning Commission Meeting October 7, 2008

The City of Billings Zoning Commission met on October 7, 2008 in the City Council Chambers at 210 N. 27<sup>th</sup> Street, 2<sup>nd</sup> Floor.

Leonard Dailey, Jr., Chairman called the meeting to order at 4:31 p.m. Chairman Dailey said the recommendations of the Zoning Commission on the items heard tonight will be forwarded to the City Council to be heard at their meeting during a public hearing scheduled for Monday, October 27, 2008 at 6:30 p.m.

Commission and Staff		01/02/2008	02/05/2008	03/04/2008	04/01/2008	05/06/2008	06/03/2008	07/01/2008	08/05/2008	09/02/2008	10/07/2008	11/05/2008	12/02/2008
Barbara Hawkins	Commissioner	1	1	1	1	1	1	1	1	1	1		
Thomas Grimm	Commissioner	1	1	A	1	1	1	1	1	A	1		
Michael Larson	Vice-Chair	1	1	1	1	A	1	1	1	1	1		
Edward Workman	Commissioner	1	1	1	1	1	A	1	1	1	1		
Leonard Dailey, Jr.	Chairman	1	1	1	1	1	1	1	1	1	1		
Candi Beaudry	Director	-	-	-	-	-	-	-	-	-	-		
Nicole Cromwell	Planner II, Zoning Coordinator	1	1	1	1	1	1	1	1	1	1		
Elizabeth Allen	Clerk	1	1	1	1	1	1	1	1	1	1		
Wyeth Friday	Planning Division Manager	-	-	-	-	-	-	-	-	-	1		
Juliet Spalding	Planner II	-	-	-	-	-	-	-	-	-	-		
Aura Lindstrand	Planner II	-	1	-	-	-	-	-	-	-	-		
Lora Mattox	Planner II	-	-	-	-	1	-	-	-	-	-		
Dave Green	Planner I	1	-	1	1	1	1	-	-	1	1		

Total Number of 2008 Applications	01/02/2008	02/05/2008	03/04/2008	04/01/2008	05/06/2008	06/03/2008	07/01/2008	08/05/2008	09/02/2008	10/07/2008	11/05/2008	12/02/2008	Total
Zone Change	3	5	1	1	2	2	2	1	2	2			
Special Review	0	3	0	2	3	3	2	0	3	2			

**Chairperson Dailey** introduced the Planning Department Staff and Commission:

Nicole Cromwell, Planner II/Zoning Coordinator  
 Wyeth Friday, Planning Division Manager  
 Dave Green, Planner I  
 Elizabeth Allen, Planning Clerk

**Public Comments:**

There were none.

**Approval of Minutes:**

*On a motion by Commissioner Workman, seconded by Commissioner Hawkins and approved with a 3-0-1 voice vote, with Commissioner Grimm abstaining because he was absent, the minutes of September 2, 2008 were approved.*

*Commissioner Larson arrived at 4:33 p.m.*

**Public Hearings:**

**Chairman Dailey** reviewed the rules and the procedures by which the City Zoning Commission public hearings are conducted.

**Item #1: City Zone Change #849 – Text Amendment – Sections 27-201, 27-310(b) & 27-622 – New Condominiums and Multi-Unit Developments**– An amendment to the Unified Zoning Regulations to define Multi-Unit Developments and require a Master Site Plan approval prior to submittal of a building permit for development or filing of unit ownership with the Clerk & Recorder.

**Ms. Cromwell** read the legal description and **Wyeth Friday** gave a brief power point presentation to the commission. Staff recommendation is approval.

**Discussion:**

**Commissioner Dailey** asked if Planning would recommend that all developments have a master site plan review and if it will cost extra to the developer.

**Mr. Friday** stated that the Master Site plan must be approved, it can be submitted outright or the developer can have a pre-application meeting. The pre-application meeting is optional at this time.

**Commissioner Workman** feels that this will cost some money to run through all the different departments. Will the Master Site plan fee be commiserate with the size of the development or will all submittals be charged the same fee? **Mr. Friday** answered that at this time Planning is just looking at one flat fee, but the fees have not yet been decided. This proposal has been adjusted so that it catches just the type of project that they are looking for. **Commissioner Workman** asked if this proposal will add new fees. He wants to know why a developer would want something like this. It only adds cost, bureaucracy and levels of work. **Mr. Friday** clarified that this will help to streamline the process because all of the departments will be able to look at the proposal together and they will be able to make their comments at that time. This will help to expedite the approval of permits. Fire, Building, Engineering and Planning will all be able to comment at the same time and that will allow for a smoother review of projects. **Commissioner Workman** asked if this will give the Planning Department more power over development. **Mr. Friday** feels that this proposal is built on all the requirements that are all ready out there. This will not be giving new power to any of the departments, it will allow them to enforce the current rules and streamline the review process.

**Commissioner Larson** sees the logic in this process because it will help save time and money in the long run. He asked if the fee resolution would come before this Board. **Mr. Friday** stated that the resolution will go before the City Council for approval. **Commissioner Larson** would like it to be noted that some of the larger developers already know the process and will submit a clean proposal and it will be easier to review. Some of the smaller projects that are done by less experienced developers will take a lot more time for the departments to review. **Commissioner Larson** would like to see the fee schedule reflect the amount of time need to review each project.

**Commissioner Dailey** stated that there is currently an informal process through the building process. He asked if this will add a lot of new work for the Planning Department. **Mr. Friday** feels that even though the Building Division has been doing some of the work on this; Planning also does a lot of work on these types of developments. This will add some work for staff but similar to other things that the other types of applications that the Planning Department handles.

**Applicant:**

**Proponents:**

**Opponents:**

**Rebuttal:**

*Public hearing closed at 5:04 p.m.*

**Motion:**

***On a motion by Commissioner Larson, seconded by Commissioner Grimm and approved with a 5-0 voice vote a recommendation of approval of City Zone Change #849 will be forwarded to the City Council on its meeting of October 27, 2008.***

**Commissioner Larson** feels that the process does make sense and it will be a clean process. He is concerned about the fee and hopes that it will be set appropriately.

**Commissioner Dailey** asked if there has been any input from developers on this proposal. **Mr. Friday** stated that he has brought this before the Home Builders Association and the Development

Process Review Committee. He has indicated that there will be a cost but there has been no decision on the fee. **Commissioner Dailey** asked what the reaction from the HBA was to this proposal. **Mr. Friday** stated that they were not against this proposed change, they did have some questions. He has gotten mostly positive feedback from developers.

**Item #2: City Zone Change #850 – Text Amendment – Sections 27-201, 27-405(g) and 27-611 – Sexually Oriented Businesses (SOB)**– An amendment to update the regulations to include a definition of “Adult Cabaret”, regulate where SOBs may be located and provide for an amortization period for nonconforming SOB locations.

**Ms. Cromwell** read the legal description and gave a brief power point presentation to the commission. Staff recommendation is approval.

**Discussion:**

**Commissioner Dailey** asked for clarification as to whether this would also apply in the county. **Ms. Cromwell** clarified that this is only for the City. The County adopted its own regulations 2 years ago.

**Commissioner Workman** asked for clarification on the map. He asked which locations are currently ok. **Ms. Cromwell** clarified which properties are currently in conformance and which are not. **Commissioner Dailey** asked if there is a master zoning plan planned for the East End TIF. **Ms. Cromwell** stated that it is currently planned. This map can be changed if new schools, churches, trails, ect are built. **Commissioner Dailey** asked when the East End TIF plan should be finished. **Mr. Friday** stated that it should be within the year. **Commissioner Workman** asked if the 4 year amortization period can be changed or if that is firm. **Ms. Cromwell** stated that City Legal has advised that they leave the time line at 4 years because that time line has been upheld in court.

**Proponents:**

There were none.

**Opponents:**

There were none

**Rebuttal:**

*Public hearing closed at 5:22 p.m.*

**Motion:**

***On a motion by Commissioner Workman, seconded by Commissioner Larson and approved with a 5-0 voice vote a recommendation of approval of City Zone Change #850 will be forwarded to the City Council on its meeting of October 27, 2008.***

**Commissioner Dailey** feels that staff has worked very hard on this and he didn't know what to expect tonight. He feels that the Planning Department's hard work has helped keep this from being difficult.

**Item #3: City Special Review #868** – 1251 S 32<sup>nd</sup> Street West – Doc & Eddy's West - A special review request to allow the location of an All-Beverage Alcoholic Beverage License (with gaming) on a 84,806 square foot parcel of land in a Controlled Industrial (CI) zone, on Lot 4C and Lot 4D1,

Studer Acreage Tracts. Tax ID A27838 & A27839, George Frank, owner, and Design Lab Architects, agent.

**Ms. Cromwell** read the legal description and **Dave Green** gave a brief power point presentation to the commission. Staff recommendation is conditional approval.

**Discussion:**

**Commissioner Dailey** asked if **Mr. Green** has met with the applicant or agent for this project. **Mr. Green** stated that he has spoken on the phone with the agent. **Commissioner Dailey** asked what is to the north of this property. **Mr. Green** stated that there is more asphalt to the north that will also be used for parking.

**Applicant:**

Not present.

**Proponents:**

There were none.

**Opponents:**

There were none.

**Rebuttal:**

*Public hearing closed at 6:37 p.m.*

**Motion:**

***On a motion by Commissioner Hawkins, seconded by Commissioner Workman and approved with a 5-0 voice vote a recommendation of approval of City Special Review #868 will be forwarded to the City Council on its meeting of October 27, 2008 with the following conditions:***

1. The special review approval shall be limited to Lot 4C and Lot 4D1, Studer Acreage Tracts located at 1251 South 32<sup>nd</sup> Street West.
2. Development of the site shall be in substantial conformance with the site plan submitted with this application and shown in this staff report. Deviations from the approved site plan that show the addition of outdoor patio areas, parking lot access or parking areas will require additional special review approval.
3. No outdoor seating, outdoor music or outdoor public announcement systems will be allowed with this application.
4. Any lighting on the building or within the parking lot shall have full cut-off shields so light is directed to the ground and not onto adjacent property. Lighting of signs shall be as allowed within the City Sign Code (Section 27-701 BMCC).
5. The additional parking shown on the drawing submitted with this application must meet landscaping requirements of Section 27-1100 of the Unified Zoning Regulations.
6. The additional parking shown on the drawing submitted with this application must meet the current storm water management requirements of the City of Billings.
7. 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.

8. 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.

**Item # 4: City Special Review #869 – 414 Lincoln Lane** - A special review request to locate a Beer & Wine Beverage License with gaming for a new 3,039 square foot building to be constructed on a 93,494 square foot parcel of land in a Highway Commercial (HC) zone, Lot 3, Block 1 of Citizens Center Subdivision. Tax ID A29036, Kreitzberg Rentals, LLC, owner and Darrell Kreitzberg, agent.

**Ms. Cromwell** read the legal description and **Dave Green** gave a brief power point presentation to the commission. Staff recommendation is conditional approval.

**Mr. Green** told the board that he has heard from one surrounding property owner, Karl Backman, 440 Griffing, he is opposed to the proposal because he feels that Billings has too many casinos and the patrons of casinos cause trouble.

**Discussion:**

**Commissioner Workman** asked if the property planned for multi-family is already zoned correctly.

**Mr. Green** stated that it is zoned Highway Commercial which allows multi-family. **Commissioner**

**Larson** asked for clarification on the site plan. **Mr. Green** clarified the site plan and the proposed

accesses. **Commissioner Larson** confirmed that the accesses that are depicted on the site plan are

the ones that they will be held to. **Commissioner Dailey** asked if the road is public or private. **Mr.**

**Green** was unsure if this was a public or private road but this road will be for public use.

**Applicant:**

**Darrell Kreitzberg**, 3737 Grand Ave, applicant for agent, passed out some aerial photos to the Board of the area for clarification. **Commissioner Dailey** asked what type of time line they are looking at for this property. **Darrell Kreitzberg** stated that they are looking for a start time of around April. This site has some environmental cleanup that needs to be done before they can begin building. They will have on site storm water retention.

**Proponents:**

There were none.

**Opponents:**

**Jim Monnel**, 410 Griffing Dr., the intersection at Bench near McDonalds is very congested and people trying to use it will block the entire road. The traffic in this area is very bad and this intersection is very difficult to use. The light changes are very short if you are trying to turn and that makes for a lot of congestion as well. He is also not excited about having a casino that close to him. The Heights is crammed full of people and the roads are not sufficient for that. When this area was rezoned he was told that the only thing that would go in there would be a gas station.

**Rebuttal:**

**Darrell Kreitzberg** stated that this will be a Dottie's Casino, which is a little old lady casino. He doesn't feel that it will add much traffic to the area. This casino will have 20 machines. **Ms.**

**Cromwell** stated that the maximum capacity for this project would be between 30-40 people depending on how they design the building. This project will not require a TAS because of its size.

**Commissioner Workman** feels that the traffic that will come on to Lincoln Lane from the

residential development is more concerning than the traffic that will be generated by the casino. **Commissioner Workman** asked who has jurisdiction over that intersection. **Ms. Cromwell** stated that it is very complicated because City, County and State all share jurisdiction in this area.

*Public hearing closed at 5:50 p.m.*

**Motion:**

***On a motion by Commissioner Workman, seconded by Commissioner Hawkins and approved with a 5-0 voice vote a recommendation of approval of City Special Review #869 will be forwarded to the City Council on its meeting of October 27, 2008 with the following conditions:***

1. The special review approval shall be limited to Lot 3, Block 1, Citizens Center Subdivision, located at 414 Lincoln Lane.
2. Development of the site shall be in substantial conformance with the site plan submitted with this application and shown in this staff report. Deviations from the approved site plan that show additional square footage on the outdoor patio, parking lot access or parking areas will require additional special review approval.
3. As shown on the site plan submitted with the application there shall be no outdoor patio. The addition of an outdoor patio would require an additional special review.
4. The solid waste storage area shall be enclosed on three (3) sides by a sight-obscuring fence or wall and by a sight-obscuring gate on the remaining side. This enclosure shall be constructed of normal fencing materials. Chain link or wire fencing cannot be used for the sight-obscuring enclosure.
5. Landscaping shall be provided as required by Section 27-1100 of the Unified Zoning Regulations.
6. All exterior lighting with the exception of sign lighting shall have full cut-off shields so light is directed to the ground and not onto adjacent property.
7. 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.
8. 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.

**Commissioner Larson** completely agrees that there is a traffic problem in the Heights. He doesn't feel that Dottie's will add much traffic but Heights traffic is a very big problem.

**Other Business:**

**Ms. Cromwell** reminded the Board that their meeting next month will take place on Wednesday, November 5, 2008 because of Election Day on Tuesday, November 4, 2008.

**Commissioner Workman** will not be able to attend the meeting on November 5, 2008 because he will be out of the country.

**Ms. Cromwell** stated that there will be a text amendment brought to the board dealing with clear vision zones. The Engineering Department would like to remove the clear vision regulations from the zoning code and have them part of the Engineering Code. This will help to clarify the code and make it more usable.

**Adjournment:**

*The meeting was adjourned at 5:35 p.m.*

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**Leonard Dailey, Chairman**

**ATTEST:**

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**Elizabeth Allen, Planning Clerk**