

**City of Billings Zoning Commission Meeting  
February 3, 2009**

**The City of Billings Zoning Commission met on February 3, 2009 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 4:30 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, February 23, 2009** at 6:30 p.m.

<b>Commission and Staff</b>		<b>01/06/2009</b>	<b>02/03/2009</b>	<b>03/03/2009</b>	<b>04/07/2009</b>	<b>05/05/2009</b>	<b>06/02/2009</b>	<b>07/07/2009</b>	<b>08/04/2009</b>	<b>09/01/2009</b>	<b>10/06/2009</b>	<b>11/03/2009</b>	<b>12/01/2009</b>
Barbara Hawkins	Commissioner	1	1										
Thomas Grimm	Commissioner	1	A										
Michael Larson	Vice-Chair	1	1										
Edward Workman	Commissioner	1	1										
Leonard Dailey, Jr.	Chairman	1	1										
Candi Beaudry	Director	-	-										
Nicole Cromwell	Planner II, Zoning Coordinator	1	1										
Elizabeth Allen	Clerk	1	1										
Wyeth Friday	Planning Division Manager	-	-										
Juliet Spalding	Planner II	-	-										
Aura Lindstrand	Planner II	-	-										
Lora Mattox	Planner II	1	-										
Dave Green	Planner I	-	-										

Total Number of 2009 Applications	01/06/2009	02/03/2009	03/03/2009	04/07/2009	05/05/2009	06/02/2009	07/07/2009	08/04/2009	09/01/2009	10/06/2009	11/03/2009	12/01/2009	01/06/2009
Zone Change	0	0											
Special Review	3	1											

**Chairperson Dailey** introduced the Planning Department Staff and Commission:  
 Nicole Cromwell, Planner II/Zoning Coordinator  
 Elizabeth Allen, Planning Clerk

**Public Comments:**

There were none.

**Approval of Minutes:**

*On a motion by Commissioner Larson, seconded by Commissioner Workman and approved with a 3-0-2 voice vote the minutes of January 6, 2009 were approved.*

**Public Hearings:**

*Commissioner Hawkins arrived at 4:39 pm.*

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

**Item #1: City Special Review #874 – 307 Washington** – A special review to allow 2 nine-plex apartment buildings for a total of 18 dwelling units in a Residential 6,000 (R-60) zone on a 39,600 square foot parcel, Lot 7 and the South 10 feet of Lot 8, Willis Subdivision. Tax ID A18559. Dave Hagstrom, owner.

**Ms. Cromwell** read the legal description and presented a brief power point presentation and gave the staff recommendation. Staff is recommending conditional approval.

**Discussion:**

**Commissioner Workman** asked **Ms. Cromwell** to review the reduction of 3 units of each building. **Ms. Cromwell** stated that the reduction was based on the density of surrounding multifamily developments which average between 10-14 units per acre. **Commissioner Workman** asked if the applicant is in agreement with the proposed modifications and if this reduction will make the

property economically viable. **Ms. Cromwell** stated that the applicant has not commented on the reductions.

**Commissioner Dailey** asked if the Planning Department has any projections as to what will be developed on the surrounding properties. **Ms. Cromwell** stated that the surrounding properties are all within the 5 year annexation boundaries. She explained the potential uses for properties in the surrounding area if they were annexed. She gave the possible densities that would be allowed with the current zoning. **Commissioner Dailey** asked if staff believes that there will be more demand for land like this property due to the development of Cabela's.

**Commissioner Hawkins** asked for clarification of the placement of utilities and asked if the developer will be paying for the expansion of those properties. **Ms. Cromwell** clarified that the developer would be paying those fees.

**Applicant:**

**Dave Hagstrom**, 324 S. 31<sup>st</sup> St., he feels that staff has two problems with the development. He is not interested in doing a 12-plex at this site. He is interested in have two 9-plexes. He doesn't feel that this will not have adverse affect on the neighborhood. The petition states that the increased density will create higher crime rates, graffiti and other problems. He stated that high density doesn't create crime and filth. It is owners who do not care for their properties. This property should not be compared to the row homes on Jackson because it is a very different type of development. This is different from the row houses because there will be one owner and one manager. He has an undisputed reputation as a property owner and manager of south side homes. This will be quality high density project.

**Commissioner Workman** asked the applicant to clarify if he would like the commission to approve 18 units. **Dave Hagstrom** would like 2 9-plexes.

**Commissioner Dailey** asked what type of rent the applicant is looking at charging. **Dave Hagstrom** stated that he is looking at charging rents that would allow people below the 60% median income to rent.

**Commissioner Larson** asked if he spoke to the SW Corridor Task force. **Dave Hagstrom** stated that he was unable to meet with task force because they met on Thanksgiving, Christmas and he was out of town for the January meeting.

**Proponents:**

**Abram Hagstrom**, 324 S 31<sup>st</sup>, he would like to speak as the people who would be the future tenants of the development. He has watched the developments that his dad has created in the past and he has seen no violence or criminal activity.

**Opponents:**

**Shaun Walsh**, 609 Washington, this street is a diamond in the rough. On one end they have Riverside Middle School and on the other end they have the most beautiful gardens in town. They neighborhood is mostly single family.

**Bob Papin**, 2039 Ave B, business manager for the Plumbers and Pipe Fitters Union. They built the training center and union hall on there property. They have a lot of equipment and school supplies in their building. They are concerned that this will create more mischief over time and that this type of development will devalue their property. They are concerned that there will be more graffiti and break-ins if this property is developed as multi-family. They have had problems since the applicant took over the property with stray dogs, cars and junk.

**Marion Shop**, 145 Washington St, opposed to the application. She lives next to the other apartment complex and she has seen squad cars and heard gun shots at those apartments.

**Al Running**, 4020 Kratz Ln, he is opposed to the application. He is concerned that this might block access to the Grey Eagle Ditch if developed and that is used to irrigate the land to the east.

Steve Sullivan, 221 Washington, his main concern is who will pay for the water line. **Commissioner Larson** stated that the developer has to pay the cost to extend the water line. He has lived on Washington his whole life. It has developed with graffiti, gang activity, increased traffic and he is concerned that this will create more of those problems. The apartment to the north always has people moving in and out. The water table is very high in this area and he is concerned that the land would not be able to hold a larger building.

**Clyde Glees**, 465 Washington, opposed to the development because his window was shot out and went through his bedroom. 37 Washington is a known slum and as you go down Washington there are drug houses and garbage all over.

**Dan Gellison**, owner Danwalt Gardens, has lived on that property for 60 years. You have to be able to enjoy your property and he has seen a serious decline in the neighborhood in the past few years. People have an attitude that anything goes on the South Side but that is just not true. The people in the area are taking pride in their property. His gardens have people come from all over the world and are a positive influence in Billings and in the South Side. He would like to take a stand and say that does not believe that this is an appropriate development.

**Jeff Lessmeister**, 355 Washington, built his home about 6 years ago and is working on a place to enjoy in his retirement. He purchased the two acres across Kratz Lane to clean up the junk yard. He doesn't think that they need this many more vehicles in this area, there is no sidewalk to walk in this area. The ditch is also a big concern, it gets very full and overflows at times.

**Jaquie Shelling**, 455 Washington, has lived there for 4 years. When they purchased their property it was just pasture land. Everyone they knew told them not to build on the south side but they felt it was the right thing to do. They have a nice modular home and a nice garage and they have worked very hard to make it nice. The people in the area have worked very hard to make the neighborhood nicer. They don't need anymore traffic in the area.

**Jenelle Lessmeister**, 355 Washington, she stated that she doesn't know the applicant. They have worked very hard to build up the neighborhood. The south side has a very bad name and they are trying to make it better. There are a lot of very bad areas. The people who live at the property right now have little children that they don't watch and dogs that run into the road and there have been cop cars at the home on this property.

**Lynda Pettengail**, 134 Washington, lives across from the duplexes on Washington. She has seen the amount of traffic that goes out of that development. She doesn't want to see more traffic.

**Pam Burklose**, 132 Washington, towards State Ave there are a lot of violent and sex offenders. She is concerned that this type of development will attract more of that type of cliental.

**Dennis LaPeir**, 168 Washington, opposed to the application on the same grounds as others from the neighborhood.

**Kevin Nelson**, 4235 Bruce Ave, the property that was developed by Dave Hagestrom, Crysalis Acres, which is a very nice development. He was on the task force when the proposal to develop that property was put forward. He spoke to the Board about "Target Hardening", from the Montana Crime Prevention Council, Building Safer Communities, which means that if the wrong person

moves into a neighborhood it makes all the others feel unsafe in the neighborhood and they move out. That creates a vacuum that is filled with more of the wrong type of people and he is concerned that is what will happen with this property.

**Richard Peltier**, Franklin Lane, he oppose the application. He feels it will create problems in the neighborhood.

**Lisa Sillsbee**, 543 Washington, opposed to the proposal.

**Ron Harmin**, 441 Riverside Rd, owns a business in the area. When things happen to his property the insurance doesn't cover it but he is forced to clean it up.

**Leeann Lees**, 465 Washington, common sense says that this many people in one area will cause problems.

**Kenny Byers**, 475 Washington, agrees with those opposed. His daughter has been chased in this area.

**Kay Stein**, 433 Washington, opposed. There are already problems in this area and this type of development will just make things worse. This type of development will not succeed in this area.

**Commissioner Dailey** asked if there is neighborhood watch in this area. Kay stated that she doesn't know.

**Rebuttal:**

**Dave Hagstrom** stated that he is aware of the irrigation ditch and what will have to be done to protect it. This many units would not create enough traffic to affect the Washington. He has not seen any devaluation of property in other areas where he has developed and he believes that this will not devalue the surrounding neighborhood.

**Commissioner Larson** stated in the 10 years he has been doing this type of work and has never seen an application with this much opposition go through. **Commissioner Larson** asked if the applicant has any interest in taking an extra 30 days to try to address some of the issues that have been brought up at this hearing. He just doesn't see this application going through and the applicant is not interested in staff's recommendation of 2 6-plexes. **Commissioner Dailey** asked what the procedure is to withdraw. **Ms. Cromwell** gave the process for withdrawal of an application.

**Commissioner Workman** stated that the applicant has said that he must have two 9-plexes in order to make this economically feasible. **Commissioner Workman** asked if there is some type of reimbursement for developers. **Dave Hagstrom** stated that the water line would cost around \$100,000 to place. He has submitted to the Community Development Department for a block grant to help pay for that line. He has created other developments of this type that are good for the neighborhoods that they are in and have raised property values.

**Commissioner Hawkins** asked if he has looked at building 5 duplexes. Dave stated that he has not looked at that. It would be difficult to keep the value that he would like to have if builds duplexes.

**Commissioner Hawkins** asked if the petition constitutes a valid protest. Nicole stated that valid protests are only viable for zone changes.

*Public hearing closed at 5:57 p.m.*

**Motion:**

***On a motion by Commissioner Hawkins to conditionally approve with the removal of conditions 2 and 5, seconded by Commissioner Workman, and approved with a 3-1-1 voice vote a recommendation of approval of City Special Review #874 will be forwarded to the City Council on its meeting of February 23, 2009.***

**Discussion:**

**Commissioner Hawkins** feels that if the applicant wants to go forward all the people opposed can go to the Council meeting. The applicant is requesting 2 9-plexs because that is economically feasible. **Commissioner Workman** stated that he does support the application as submitted. **Commissioner Workman** also reminded the audience that this Board is only an advisory Board and the Council will make the final decision.

**Commissioner Larson** stated that he will be voting against this motion. He feels that the conditions should go forward to the Council because of the issues on this property. He doesn't feel that this will go through the Council.

**Commissioner Dailey** asked what would happen if there is a 2-2 vote. Nicole stated that the application would go forward as a no recommendation.

**Commissioner Hawkins** stated that she would like her motion to be for conditional approval removing conditions 2 and 5. **Commissioner Hawkins** would like to ask the audience if they would be willing to have 2 6-plexs. Nicole stated that she didn't hear that in the testimony that has been given.

**Commissioner Dailey** feels that this Special Review hit several points that all people are dealing with. The Cabela's and Sam's Club will change the look and feel of this neighborhood. There are property rights that come into play and the neighborhood and the applicant have rights. The Planning Staff has done an excellent job with this application but even they have reduced the number of units. This will have a second hearing and this hearing is a warm up. He would like the people at this hearing to take what they have learned from this hearing and take that to the Council.

**Commissioner Workman** would like to point out that this commission looks at land use and the highest and best use.

**Other Business:**

Election of Officers:

*On a motion by Commissioner Workman to nominate Commissioner Dailey as chairman and Commissioner Larson as vice-chair and affirmed by acclamation the officers were elected.*

**Adjournment:**

*The meeting was adjourned at 6:12 p.m.*

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**Leonard Dailey, Chairman**

**ATTEST:**

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**Elizabeth Allen, Planning Clerk**