

City of Billings Zoning Commission Meeting June 1, 2010

The City of Billings Zoning Commission met on Tuesday, June 1, 2010 in the City Hall Council Chambers at 210 N. 27th Street, 2nd Floor.

Chairman Leonard Dailey, Jr. 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 **June 28, 2010**, at 6:30 p.m. in the City Council Chambers.

Commission and Staff		01/05/2010	02/02/2010	03/02/2010	04/06/2010	05/04/2010	06/01/2010	07/06/2010	08/03/2010	09/07/2010	10/05/2010	11/02/2010	12/07/2011
Leonard Dailey, Jr.	Chairman	1	1	1	-	1	1						
Matt Krivonen	Commissioner	1	1	1	-	A	A						
Barbara Hawkins	Commissioner	1	E	E	-	1	1						
Dan Wagner	Commissioner	-	-	1	-	A	1						
Edward Workman	Commissioner	1	1	1	-	1	1						
Candi Beaudry	Director, Planning & Community Services	-	-	-	-	-	-						
Nicole Cromwell	Planner II, Zoning Coordinator	1	1	1	-	1	1						
Tammy Deines	Planning Clerk	1	1	1	-	1	1						
Wyeth Friday	Planning Division Manager	-	-	1	-	-	-						
Juliet Spalding	Planner II	-	-	-	-	-	-						
Lora Mattox	Planner II	1	-	-	-	-	-						

Total Number of 2009 Applications	01/05/2010	02/02/2010	03/02/2010	04/06/2010	05/04/2010	06/01/2010	07/06/2010	08/03/2010	09/07/2010	10/05/2010	11/02/2010	12/07/2010	Total
Zone Change	1	2	4 (2-return items)	0	0	3							7
Special Review	1	0	0	0	1	0							1

Chairperson Dailey introduced the Planning Department Staff and Commission:
 Nicole Cromwell, Planner II/Zoning Coordinator
 Tammy Deines, Planning Clerk

Public Comments:

Chairman Dailey called for public comments at 4:34 p.m. There were none. Chairman Dailey closed the public comment portion of the meeting.

Approval of Minutes May 4, 2010

On a motion by Commissioner Workman, seconded by Commissioner Hawkins and approved with a 3-0 voice vote, the minutes of May 4, 2010 are approved as submitted.

Disclosure of Conflict of Interest

Commissioner Hawkins said that she will recuse herself during the public hearing for Zone Change #866 due to a conflict of interest.

Disclosure of Outside Communication

There was no one on the Commission wishing to disclose any outside communication.

Public Hearings:

At 4:36 p.m. Chairman Dailey reviewed the rules and the procedures by which the City Zoning Commission public hearings are conducted.

Ms. Cromwell read the legal description for this property and continued with a PowerPoint presentation.

Item #1:

City Zone Change # 864 – 2408 Main Street – A zone change request from Community Commercial (CC) to Highway Commercial (HC) on Lot 1, Block 1 North Pointe Square Subdivision a 50,767 square foot parcel of land to accommodate the expansion of All American Pharmaceutical at 2376 Main Street. The applicant conducted a pre-application neighborhood meeting on April 15, 2010 at Bull Mountain Grille at 11:00 am. Tax ID #C11829 Cody Family LLC, owner and Ernie Dutton, agent.

REQUEST

This is a zone change request from Community Commercial (CC) to Highway Commercial (HC) to allow the expansion of a limited pharmaceutical manufacturing facility on Lot 1, Block 1, North Pointe Square Subdivision, First Filing located at 2408 Main Street in the Billings Heights. The property has a retail strip center located on it that is attached to the All American Pharmaceuticals building on the property directly to the south. The subject property has access to Main Street and Pemberton Lane across adjacent properties. The applicant is Cody Family, LLC. The agent is Ernie Dutton. A pre-application neighborhood meeting was held on April 15, 2010, at the Bull Mountain Grill at 2376 Main Street.

RECOMMENDATION

The Planning Division is recommending approval.

Discussion:

At 4:55 p.m., Chairman Dailey asked the members of the Commission for questions and discussion. There was none.

Proponents:

At 5:00 p.m. Chairman Dailey called for proponents for City Zone Change #864.

Applicant

Ernie Dutton, 2408 Main Street, Billings, Montana

Mr. Dutton stated that he is the agent for the Cody Family, LLC. He said that this request is due to an oversight from the last application as the area behind the strip center was not included. He said that the goals are the same, with the intension for expansion. Commissioner Workman asked if the expansion will create more jobs. Mr. Dutton said that Mr. Golini says that the business expanded 300% due to decreased competition and that they expect that 25-50 jobs may be created. In response to a question by Commissioner Workman regarding future expansion plans, Mr. Dutton stated that they plan to expand towards the northeast and southwest. He said that the northeast expansion may require a separate access point on the south end of the property. It was noted that the cell tower placement is within existing building and fire ratings. Chairman Dailey commented that this business ships worldwide and receives international competition.

Chairman Dailey asked if there was anyone else wishing to speak in favor or against City Zone Change #864. There was no one wishing to speak. Chairman Dailey closed the public hearing and called for a motion.

Motion

Commissioner Workman made a motion and it was seconded by Commissioner Wagner to forward a recommendation to City Council of approval of City Zone Change #864 as presented by staff.

Discussion

Chairman Daily called for discussion on the motion. There was none.

Motion carries, 4-0.

The City Council has designated **Monday, June 28, 2010**, at 6:30 p.m. in the City Council Chambers as the time and place to hear testimony for or against the above-mentioned item.

Item #2:

City Zone Change #865 – Text Amendment to Sec. 27-1505(f) – A text amendment requested by the City BOA and initiated by the Zoning Commission by a 3-0 vote on May 4, 2010. The amendment will delete the last phrase of the last paragraph of this section pertaining to the re-application for variance after a request has been denied by the Board of Adjustment.

REQUEST

This is a zone change that will amend Section 27-1505(f) of the Billings, Montana City Code (BMCC) regulating the procedures of the Board of Adjustment when requests for zoning variances have been denied. The current code allows an applicant to petition for a reconsideration of a denied variance if there has been “a change of circumstance”. The code does not describe what a change of circumstance might encompass and it has been a source of confusion to both staff and applicants. In 2009, the City Council amended the code for all Boards and Commissions to include parliamentary procedure that would allow the Board of Adjustment to consider a motion for re-consideration of previous decisions. The parliamentary procedure is clear, concise and is limited in its application. The Board of Adjustment has requested this amendment to the zoning code to provide applicants and staff with consistent procedure for applications that are denied.

RECOMMENDATION

The Planning Division is recommending approval.

BACKGROUND

The existing regulation at 27-1505(f) has been in place since 1972, when the original zoning code was adopted. In the past 10 years, applicants have attempted to use the “change of circumstance” rule to have denied variances reheard by the Board of Adjustment without waiting the required 12 months from the date of denial. Since the code is silent on what may or may not be a change of circumstance, the Board of Adjustment has attempted to make this determination on a case-by-case basis. In addition, the Board of Adjustment has considered adopting criteria in a by-law document to better define a change of circumstance. The Board of Adjustment believes the amendment in 2009 to the Boards and Commissions section of the city code, will provide the same type of relief currently afforded by the zoning code and will provide a clear but limited procedure for reconsideration of variance applications.

Discussion:

At 4:55 p.m., Chairman Dailey asked the members of the Commission for questions and discussion. There was none.

Proponents:

Chairman Dailey called for proponents for City Zone Change #865.

Jeff Bollman, Chairman, City Board of Adjustment, 619 Lewis Ave, Billings, Montana

Mr. Bollman explained the City Board of Adjustment’s concern with the language and the determination of what constituted a “change of circumstance”. He said that part of the concern was the potential for litigation when the City Code changed and there was not a lot of support from the City Attorney for a change in the Bylaws. He explained that the City Board of Adjustment is a quasi-judicial board and that after further discussion, the Board decided to recommend elimination of the language and to rely on 2-507(b)ii. Mr. Bollman requested that this Commission recommend initiation and support of this zone change and text amendment.

Chairman Dailey called for opponents of City Zone Change #865. There were none.

Chairman Dailey asked if there was anyone else wishing to speak in favor or against City Zone Change #865. There was no one wishing to speak. Chairman Dailey closed the public hearing.

Motion

Commissioner Wagner made a motion and it was seconded by Commissioner Workman to forward a recommendation to City Council of approval of City Zone Change #865 as presented by staff.

Discussion

Chairman Daily called for discussion on the motion. There was none.

Motion carried unanimously, 4-0.

The City Council has designated **Monday, June 28, 2010**, at 6:30 p.m. in the City Council Chambers as the time and place to hear testimony for or against the above-mentioned item.

Item #3:

City Zone Change #866 – 2320 Rosebud Drive – A zone change request from Residential 7,000 (R-70) to Residential Professional (RP) on the East 90 feet of Lot 10, Block 2, Justiss Subdivision an 11,333 square foot parcel of land to accommodate the re-development of the property for a professional office. The applicant conducted a pre-application neighborhood meeting on April 26, 2010 at the La Quinta Inn at 3040 King Avenue West at 6:30 pm. Tax ID # C01677. John & Paula Lambrecht, owners.

REQUEST

This is a zone change request from Residential 7,000 (R-70) to Residential Professional (RP) on the east 90 feet of Lot 10, Block 2 Justiss Subdivision located at 2320 Rosebud Drive. The property is owned by John & Paula Lambrecht. The owner conducted a pre-application neighborhood meeting on April 26, 2010, at La Quinta Inn at 3040 King Ave West. The pre-application meeting notes and attendance list are included as Attachment E.

RECOMMENDATION

The Planning Division is recommending approval.

Discussion:

At 4:55 p.m., Chairman Dailey asked the members of the Commission for questions and discussion. There was none. Commissioner Hawkins recused herself.

Proponents:

At 5:00 p.m. Chairman Dailey called for proponents for City Zone Change #866.

Applicant

John Lambrecht, 2320 Rosebud Drive, Billings, Montana

Mr. Lambrecht asked the Commission members for their support of this zone change request. He said that they may redevelop this parcel and the future. He said that this property is currently an eyesore and that they need to do something different. He explained that this is a rental property and his current renters are unable to take care of the property due to their health. Chairman Dailey asked if the surrounding property owners had voiced concern with the potential for increased traffic. Mr. Lambrecht said most of the attendees at the pre-application meeting lived in the condominiums and that explanation was given on the difference between professional offices versus a commercial property. He said that nothing in the zone change will change the traffic levels in this area and that most of the concern was about the walk through traffic. Commissioner Wagner asked if this zone change will displace the current residents. Mr. Lambrecht said that they don't have any rules and that medical conditions can be a deterrent to regular property

management. Chairman Dailey asked if there was anyone else wishing to speak in favor or against City Zone Change #866.

Barbara Hawkins, 2617 Westfield, Billings, Montana

Ms. Hawkins stated that she owns three properties in the Justiss Subdivision which used to be single family residences. She said that most of the homes in this area have been converted to duplexes or fourplexes. Ms. Hawkins said that rent is low due to the poor neighborhood conditions. She stated that this property was sold to the Lambrechts by LAIS Development nine years ago. Ms. Hawkins stated that she supports this zone change request. In response to a question by Commissioner Workman, Ms. Hawkins said that the allowable building size could be from 1,500-2,000 square feet. Chairman Dailey asked about the neighborhood attendance at tonight's public hearing, and Ms. Hawkins said that she did not know why they did not come in.

Motion

Commissioner Workman made a motion and it was seconded by Commissioner Dailey to forward a recommendation to City Council of approval of City Zone Change #866 as presented by staff.

Discussion

Chairman Daily called for discussion on the motion. Commissioner Workman stated that this is simple "garage logic" as it is the highest and best use for this property.

Motion carried unanimously, 3-0-1, with Commissioner Hawkins recusing from this vote.

The City Council has designated **Monday, June 28, 2010**, at 6:30 p.m. in the City Council Chambers as the time and place to hear testimony for or against the above-mentioned item.

Other Business:

There was no other business.

Announcements:

The next City Zoning Commission meeting will be held on Tuesday, July 6, 2010, at 4:30 p.m. in the City Hall Council Chambers at 210 N. 27th Street, 2nd Floor.

Adjournment:

The meeting was adjourned at 5:26 p.m.

ATTEST:

Chairman Dailey, Chairman

Tamara L. Deines, Planning Clerk