

City of Billings Zoning Commission Meeting July 6, 2010

The City of Billings Zoning Commission met on Tuesday, July 6, 2010 in the Parmly Billings Library 4th Floor Large Conference Room located at 510 North Broadway, Billings, Montana.

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 **July 26, 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	1					
Matt Krivonen	Commissioner	1	1	1	-	A	A	1					
Barbara Hawkins	Commissioner	1	E	E	-	1	1	E					
Dan Wagner	Commissioner	-	-	1	-	A	1	1					
Edward Workman	Commissioner	1	1	1	-	1	1	1					
Candi Beaudry	Director, Planning & Community Services	-	-	-	-	-	-	-					
Nicole Cromwell	Planner II, Zoning Coordinator	1	1	1	-	1	1	1					
Tammy Deines	Planning Clerk	1	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	0						8
Special Review	1	0	0	0	1	0	2						4

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 comment at 4:31 p.m. There was none. Chairman Dailey closed the public comment portion of the meeting.

Approval of Minutes June 1, 2010

On a motion by Commissioner Wagner, seconded by Commissioner Workman and approved with a 4-0 voice vote, the minutes of June 1, 2010 are approved as submitted.

Disclosure of Conflict of Interest

There was no disclosure of any conflict of interest by the members of the Commission.

Disclosure of Outside Communication

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

Public Hearings:

At 4:33 p.m. Chairman Dailey reviewed the rules and the procedures by which the City Zoning Commission public hearings are conducted. It was noted that this meeting was moved to this location due to the Independence Day Holiday and a scheduling conflict with the City Council meeting in the City Council Chambers.

*Commissioner Krivonen arrived at 4:34 p.m.

Chairman Dailey called for the staff report. Ms. Cromwell read the legal description for this property.

Item #1: City Special Review #882 – 1313 Grand Ave - Suite 11 – A special review request to allow an all beverage liquor license with gaming in a Community Commercial (CC) zone on Lots 2A, 3-23, 24A & 25-47, Block 1 Evergreen Subdivision, in Unit A, Suite 11 (2,100 sf) a 4.14 acre parcel of land. The applicant has requested a waiver of the 600 foot separation distance required from a school (Lewis & Clark Middle School) south of Grand Avenue. Tax ID #A29551 Evergreen Midtown Plaza, LLC, owner and Bob Pulley and Rob Veltkamp, agents

Ms. Cromwell opened with a PowerPoint presentation and pointed out several locations of existing casinos. She stated that the Council has expressed concern with the number of casinos in Billings. She said that the Council had initiated an amendment but was unable to act on it as a letter of advice is needed from the Attorney General's office. She stated that since that time, the City Council has expressed a policy of enforcing a 600-foot radius for the distance between casinos and churches, schools and playgrounds.

She explained that this application does not meet all the criteria for approval of the special review as it does not meet criteria #2 or #3. She explained that before a recommendation of approval or conditional approval can be made, each special review request must demonstrate conformance with three primary criteria; 1) the application complies with all parts of the Unified Zoning Regulations, 2) the application is consistent with the objectives and purposes of the Unified Zoning Regulations and the 2008 Growth Policy, and 3) the application is compatible with surrounding land uses and is otherwise screened and separated from adjacent land to minimize adverse impacts. She said that this application conforms to the first criteria in so far that it is within a zoning district where on-premise consumption of alcoholic beverages may be allowed by special review approval. She pointed out that there is no way to condition this application to protect the adjacent neighborhood.

RECOMMENDATION

The Planning Division is recommending denial.

Discussion:

At 4:55 p.m., Chairman Dailey asked the members of the Commission for questions and discussion. Commissioner Krivonen asked if there are other schools similarly surrounded by casinos. Ms. Cromwell noted that West High School has a casino nearby on 24th Street West but they have limited this use. She said that she was unable to call to mind any other campus that is surrounded by several casinos like Lewis and Clark Junior High. Commissioner Dailey asked for clarifications on the recommendation for denial. Ms. Cromwell stated that the two primary reasons for the recommendation are the 600-foot buffer area and the inability to condition the application to protect the adjacent neighborhood. In response to a question by Chairman Dailey regarding the nearby Dotty's Casino, Nicole Cromwell stated that this business would have not been allowed if it had not been built prior to the Council's initiation of the strict enforcement of the 600-foot separation. Chairman Dailey noted the liquor store located on Grand Avenue. Nicole Cromwell stated that no special review is required for this use and no separation is needed other than the state requirements. Chairman Dailey asked when the letter of advice from the Attorney General is expected and Nicole

Cromwell said that she will ask the City Attorney's office. Chairman Dailey referred to the staff report and the denotation of casinos. Nicole Cromwell presented Chairman Dailey with a listing of the gaming locations in Yellowstone County. Chairman Dailey clarified and stated that this discussion is on "gaming locations" as the term "casino" is not defined by State Law.

Proponents:

At 5:00 p.m. Chairman Dailey called for proponents for City Special Review #882.

Applicant

The applicants Rob Veltkamp and Bob Pulley are not in attendance at tonight's meeting. Nicole Cromwell stated that they were notified and that she is unsure why they are not in attendance.

Chairman Dailey asked if there was anyone else wishing to speak against City Special Review #882.

Opponents

Arnie Knight, 2122 Clark Ave, Billings, MT

Mr. Knight said that he leases the property directly south of the subject property and operates "Taco Treat", which is a family oriented business. He stated that he does not want the casino located next to his property. He expressed concern for the safety of his employees, as they are teenagers.

Linda Knight, 2122 Clark Ave, Billings, Montana

Ms. Knight asked that buffering from the residential area be required. She said that they close their business at 9:30 p.m. and the laundry mat closes earlier. She stated that the casino would be open much later and would adversely affect the residential area. Ms. Knight voiced concern with the safety of her female employees. She stated that she does not see a need for another business of this type.

Linda Zeimet, 1408 Ave. C, Billings, Montana

Ms. Zeimet said that the proposed casino would be directly located across the alley from her property. She pointed out that there are already several casinos in this location and said that she does not want to see another business of this type. She said that there is a lot of student and pedestrian traffic to Lewis and Clark School.

Chairman Dailey asked if there was anyone else wishing to speak in favor or against City Special Review #882. There was none. Chairman Dailey closed the public hearing at 4:57 p.m. and called for a motion.

Motion

Commissioner Wagner made a motion and it was seconded by Commissioner Workman to forward a recommendation to City Council of denial of City Zone Change #882 as presented by staff.

Discussion

Chairman Daily called for discussion on the motion. Commissioner Workman encouraged tonight's attendees to attend the City Council meeting to participate in the public hearing on July 26, 2010. He stated that he concurs with the motion.

Motion carries, 4-0.

The City Council has designated **Monday, July 26, 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 Special Review #883 – 40 10th St West & 1008 St John's Ave – Bethlehem Lutheran Church – A special review request to increase the floor area of an existing church more than 10% of the original floor area in a Residential 6,000 (R-60) zone on Lots 8-11, Block 1 Dahl Subdivision, a 32,810 square foot parcel of land. Bethlehem Lutheran Church, owner and Eric Thorson and Schutz Foss Architects, agents.

REQUEST

This is a request for a special review for an expansion of a church facility on a 32,810 square foot parcel in a Residential 6,000 (R-60) zone. The subject property is legally described as Lots 8-11, Block 1, Dahl Subdivision. The property is generally located at 40 10th St West and 1008 St John's Avenue. The existing gross floor area of the church is 7,183 square feet and requested addition is proposed for 1,022 square feet.

RECOMMENDATION

The Planning Division is recommending conditional approval.

1. The special review approval shall be limited to Lots 8-11, Block 1 of Dahl Subdivision generally located at 40 10th St West and 1008 St. John's Avenue.
2. Any expansion of the proposed building, building occupancy or parking lot greater than 10 percent of what is shown on the submitted site plan will require an additional special review approval.
3. The development of the addition shall be in substantial conformance with the submitted site plan.
4. All site lighting on the building, in parking areas and under the canopy shall have full cut-off shields so lighting is projected to the ground and not on to adjacent properties.
5. The relocated cross tower shall meet required building setbacks and will not be located within a clear vision area of any drive approach or the intersection of 10th St West and St John's Avenue.

6. Pedestrian crossing signs shall be posted at the new drive approach entrance on St. Johns Avenue and at the new drive approach exit on to 10th Street West. These signs will alert drivers entering and existing to watch for pedestrians on the public sidewalks.

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.

Discussion:

At 4:55 p.m., Chairman Dailey asked the members of the Commission for questions and discussion. Chairman Dailey stated that Commissioner Krivonen has worked on the structural design of this proposal. Nicole Cromwell stated that this will be disclosed in the minutes and Commissioner Krivonen will abstain from voting and discussion on this application. Commissioner Krivonen asked to be recused.

Commissioner Wagner asked for clarification on the location of the cross tower. Nicole Cromwell explained the clear vision issue and noted that there may be some soil issues in this area. In response to a question by Chairman Dailey, Nicole Cromwell stated that the application would encompass the parsonage that is located on lot 8. She said that this application has been reviewed by the City Engineering Department regarding access to the property and she has received no comments.

Opponents

Chairman Dailey called for opponents of City Zone Change #863. There was none.

Proponents:

Chairman Dailey called for proponents for City Special Review #883.

Allen Rapacz, 4148 Pecan Trail, Billings, Montana

Mr. Rapacz stated that he is the agent for the Bethlehem Lutheran Church. He stated that the applicant has discussed an agreement for parking with School District #2 and it has been executed. He said that he wished to have the comment struck from page 2 of the staff report stating that this is a request for additional worship space, and requested a typographical correction to change "Emmanuel Baptist Church" to "Bethlehem Lutheran Church". He said that he is asking for this clarification as they are only adding accessory space for handicap accessibility. He said that the building committee is discussing the location of the cross tower but it will comply with City regulations. Commissioner Dailey asked about construction time frame. Mr. Rapacz said that the plan review is complete and they are addressing the comments received from the City Building Department. They were working on a building contract and will go forward upon City Council approval.

Sue Johnson, 204 Alderson, Billings, Montana

Ms. Johnson said that this is a two-story structure and they are installing an elevator for handicap access.

Paul Hansen, 3338 Street West, Billings, Montna

Mr. Hansen voiced an "Amen". He said that he concurs with the comments and feels that the conditions of approval are within the realm of understanding.

John Freely, 621 Miles Avenue, Billings, Montana

Mr. Freely commented that the existing layout of the church entrance has a very limited access and that the new plan will provide ease of access and better flow to the church.

Connie Butcher, 1920 Howard Avenue, Billings, Montana

Mr. Butcher said that there has been a need for this for a very long time. She encouraged the Commission members to recommend approval of this application. She said that they have been discussing this proposal for a long time but funding has been an issue. She stated that this proposal will address the needs of their elderly members.

Chairman Dailey asked if there was anyone else wishing to speak in favor or against City Special Review #883. There was none. Chairman Dailey closed the public hearing at 5:18 p.m.

Chairman Dailey commented that this public hearing is required by State Law. He announced that this application will be heard by City Council at 6:30 p.m. in the City Council Chambers on July 26, 2010.

Motion

Commissioner Wagner made a motion and it was seconded by Commissioner Workman to forward a recommendation to City Council of conditional approval of City Special Review #883 with the verbiage corrections to the staff report.

Discussion

Chairman Daily called for discussion on the motion. Commissioner Workman stated that he finds this request to be "Garage Logic 101", as this will fill the need for handicap access.

Motion carried unanimously, 3-0-1.

Other Business:

There was no other business.

Announcements:

- The next City Zoning Commission meeting will be held on Tuesday, August 3, 2010, at 4:30 p.m. in the City Hall Council Chambers at 210 N. 27th Street, 2nd Floor.

- Nicole Cromwell commented on an upcoming joint City and County Zoning Commission special meeting that may be held in September 2010 to hold the public hearing on the Medical Marijuana City Zoning Code amendment.

Adjournment:

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

ATTEST:

Chairman Dailey, Chairman

Tamara L. Deines, Planning Clerk