

City of Billings Zoning Commission Meeting
April 5, 2011
Approved by a Motion on June 7, 2011

The City of Billings Zoning Commission met on Tuesday, April 5, 2011 in the City Hall Council Chambers at 210 N. 27th Street, 2nd Floor.

Chairman Leonard Dailey called the meeting to order at 4:37 p.m. These items will be heard by City Council on Monday, April 25, 2010.

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

Total Number of 2009 Applications	01/04/2011	02/01/2011	03/01/2011	04/05/2011	05/03/2011	06/07/2011	07/05/2011	08/02/2011	09/05/2011	10/04/2011	11/01/2011	12/06/2011	TOTAL
Zone Change	2	1	1	1									5
Special Review	0	0	1	1									2

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

Public Comments:

Chairman Leonard Dailey called for public comment at 4:35 p.m. There was none. Chairman Leonard Dailey closed the public comment portion of the meeting.

Approval of Minutes March 1, 2011

Motion

On a motion by Commissioner Workman, seconded by Commissioner Hawkins and approved with a 3-0 voice vote, the minutes of March 1, 2011 are approved as submitted.

Disclosure of Conflict of Interest

Chairman Dailey called for disclosures of conflict of interest. There was none.

Disclosure of Outside Communication

Chairman Dailey called for disclosure of ex parte communication. Nicole Cromwell stated that she received a petition against Zone Change #875 from the owners of lots within 150 feet of Lots B & C on Greenbriar Road. Ms. Cromwell stated that she received an updated site plan for Special Review #889 this afternoon; and she distributed copies to the members of the Commission.

Public Hearings:

At 4:37 p.m. Chairman Leonard Dailey reviewed the rules and the procedures by which the City Zoning Commission public hearings are conducted. Nicole Cromwell read aloud the legal description for the proposed zone change.

Item #1: City Zone Change #874 – 327 Cook Avenue; 3919 Montana Avenue – A zone change from Community Commercial (CC) to Highway Commercial (HC) on Lots 1 through 17, Block 14, Suburban Subdivision, a 65,175 square foot parcel of land, Tax IDs A15984 & A15981; Mike D. Dimich Sons and Gene & April Staudinger, owners and Mike Dockery & Jamie Wells, Crowley Fleck PLLP, agents.

REQUEST

This is a zone change request from Community Commercial (CC) to Highway Commercial (HC) on two parcels of land described as Lot 1A and Lot 1B of Rush Acreage Tracts Subdivision located at 327 Cook Avenue and 3919 Montana Avenue. The total area of both parcels is 65,175 square feet. Both of the parcels have existing commercial development. The parcel at address 3919 Montana Avenue has a vacant welding and machine shop. The property at 327 Cook Avenue is owned by Mike D. Dimich Sons and the property at 3919 Montana Avenue is owned by Gene and April Staudinger and Mike Dimich is the contract purchaser of 3919 Montana Avenue. The owners are represented by Michael Dockery of Crowley Fleck, PLLP. The owners conducted a pre-application neighborhood meeting on February 24, 2011, at the First Interstate Bank at 401 North 31st Street.

RECOMMENDATION

The Planning Division is recommending approval.

Nicole Cromwell gave a short presentation of the staff report.

Discussion:

At 4:40 p.m., Chairman Leonard Dailey asked the members of the Commission for questions and discussion. In response to a question by Chairman Dailey, Nicole Cromwell pointed out an alley that runs east-west that separates this property.

Applicant

Chairman Leonard Dailey called for presentation by the applicant.

Mike Dockery, 490 N 31st Street, Suite 500, Crowley Fleck PLLP, Billings, Montana

Mr. Dockery is representing the property owners, Mike Dimich & Sons and Gene & April Staudinger. Mr. Dockery stated there is a pending buy-sell on this property. He gave a brief history of the property uses, and said they have recently entertained the purchase of the Staudinger property, which is currently vacant. Mr. Dockery stated the intent is to raise the existing structures, clean the lot, and integrate the properties. He said they are requesting the zone change recognizing future development will be subject to zoning and development codes. Mr. Dockery pointed out the requested change to Highway Commercial zoning is compatible with the existing uses. He said the zone change would encourage the retention and growth of the Pepsi operation. He stated this will not create any negative or adverse impacts on traffic, city services, or surrounding schools. Mr. Dockery commented that redevelopment of this property would be a benefit as it is a collection of buildings that are run down. He requested a recommendation of approval of this request.

Discussion

Chairman Leonard Dailey called for discussion and questions by the members of the Board. There was none.

Public Hearing

Chairman Leonard Dailey opened the public hearing and called for proponents or opponents of City Zone Change #874-327 Cook Avenue; 3919 Montana Avenue.

Bill Dimich, 2917 Lohof Drive, Billings, Montana

Mr. Dimich said that they plan to use this property for vehicle storage. He encouraged this Commission to forward a favorable recommendation of this request.

Chairman Leonard Dailey asked if there was anyone else wishing to speak in favor or against City Zone Change #874-237 Cook Avenue; 3919 Montana Avenue. There was none. At 4:48 p.m., Chairman Dailey closed the public hearing and asked for a motion.

Motion

Commissioner Workman made a motion and it was seconded by Commissioner Hawkins to forward a recommendation of approval to City Council of City Zone Change #874-327 Cook Avenue; 3919 Montana Avenue as presented by staff.

Discussion

Chairman Leonard Dailey called for discussion on the motion. Ed Workman said this meets the criteria for "Garage Logic 101" and commented this will enhance the property. Barbara Hawkins concurred.

Motion carried unanimously, 3-0.

Chairman Dailey asked Nicole Cromwell to open this agenda item. Nicole Cromwell followed with a PowerPoint presentation and the staff report.

Item #2: City Zone Change #875 – Lake Hills Subdivision – multiple lots – A zone change from Community Commercial (CC), Public (P), Residential 6,000 (R-60) and Residential Multi-Family (RMF) to Residential 9,600 (R-96) and Residential 6,000 Restricted (R-60-R) on Lots 10 through 12, Block 16; Lot 15, Block 17; Lots 1 through 4, Block 18; Lots 1 through 4 and 7 & 8, Block 19; Lots 25 through 27, Block 45; Lots 12A, 12B, 13A and 14 through 17, Block 46; Lots 8 through 13, Block 47; and proposed new Lots A through G to be created from golf course land, a total of 12.651 acres of land. Tax IDs A22190, A22191, A22192, A22233, A22235, A22236, A22237, A22238, A22239, A22240, A22241, A22242, A22245, A22246, A22582, A22583, A22584, A22596, A22596A, A22597, A22598, A22599, A22600, A22601, A22619, A22620, A22621, A22622, A22623, A22624 & Parts of D11957 (proposed lots in golf course); Ron Hill, owner and Marshall Phil, Blueline Engineering, agent.

REQUEST

This is a zone change from Community Commercial (CC), Public (P), Residential 6,000 (R-60) and Residential Multi-Family (RMF) to Residential 9,600 (R-96) and Residential 6,000 Restricted (R-60-R) on Lots 10 through 12, Block 16; Lot 15, Block 17; Lots 1 through 4, Block 18; Lots 1 through 4 and 7 & 8, Block 19; Lots 25 through 27, Block 45; Lots 12A, 12B, 13A and 14 through 17, Block 46; Lots 8 through 13, Block 47; and proposed new Lots A through G to be created from golf course land, a total of 12.651 acres of land. All of the lots are currently vacant. Ron Hill is the owner and is represented by Marshall Phil, P.E. of Blueline Engineering. The owners conducted a pre-application neighborhood meeting on February 28, 2011, at the Lake Hills Clubhouse at 1930 Clubhouse Way.

RECOMMENDATION

The Planning Division is recommending approval with the exception of proposed lots B & C on Green Briar Road. Nicole Cromwell explained that Staff feels that creation of these lots will create a devaluation of the existing properties as they currently have direct access to the golf course which would be eliminated with this proposal. She stated that the applicant's agent is in support of this recommendation and will ask that lot G will also be excluded which is at the end of Burning Tree Drive.

Discussion:

At 5:00 p.m., Chairman Leonard Dailey asked the members of the Commission for questions and discussion. Chairman Dailey noted the property zoned Community Commercial and asked if this action took place in 1954. Nicole Cromwell said the 1974 rezoning was based on a previous Transportation Plan that showed Annendale Road and Gleneagles Boulevard continuing onward. She stated the current Transportation Plan does not extend Gleneagles Boulevard beyond Annendale Road, and there is no driving need to have commercial development at this intersection. In response to further question by Chairman Dailey, Nicole Cromwell gave an update on the valid protest against the zone change and said it will require the City Council to vote as a super majority to approve the zone change and include lots B and C. Ed Workman asked if the property owners' objection is to the entire zone change or the exclusion of lots B, C, and G. Nicole Cromwell explained that at this point lots B, C, and, G are included in the applicant's request and the owners are primarily objecting to the inclusion of lots B & C. She further explained the options for this Commission's recommendation.

Applicant

Chairman Leonard Dailey called for presentation by the applicant.

Marshall Phil, Blueline Engineering, 2110 Overland Ave., Suite 19B, Billings, Montana

Mr. Phil commended Ms. Cromwell for her presentation. He said that the owner is wishing to change the request as to this point, the Community Commercial zoning has not worked; and the R-6,000R designation will allow for single family housing. He stated the lots in the golf course area are out of play of stray golf balls and it makes sense to use this for property for additional homes adjacent to the golf course. Mr. Phil reiterated some of the neighbors' comments, including

an owner requesting clarification of the application; another stating she was in favor so long as the development of the golf course did not delay development of her lot; and a gentleman who inquired as to the value of the land and posed general questions. Mr. Phil said the owner of Lot 1 was the primary complainant being in protest of lots B & C and is asking B & C is removed from the zone change. He stated the owner has recognized that lot G is in the golf ball range and is requesting removal from this request. He said the applicant has a subdivision plat following this request and did not want to wait another 30 days to resubmit this request with the changes.

Discussion

In response to a request by Ed Workman, Mr. Phil pointed out the four-plex property. Leonard Dailey asked regarding the development of Greenbriar Road. Marshal Phil said there is nothing moving forward at this time and this is driven by the economy. He deferred further questions to owner Ron Hill.

Public Hearing

Chairman Leonard Dailey opened the public hearing and called for opponents or proponents of City Zone Change #875-Lake Hills Subdivision-multiple lots, Billings, Montana.

Ron Hill, 2242 West Skokie, Billings, Montana

Mr. Hill stated that the further development is economy driven. He said he supports the Planning Department's recommendation of exclusion of lots B and C. He noted a correction needed on the map to be "Cypress Point" instead of "Express Point". Mr. Hill said they have received no protests on lot G, but it does get quite a few golf balls. Leonard Dailey asked if Mr. Hill owns lots B, C, and G and Ron Hill replied that he owns the golf course. Mr. Hill said their goal is to have less area to maintain and create some future lots.

Roger Dalner, 4546 Laredo Place, Billings, Montana

Mr. Dalner owns 2107 Clubhouse Way. He stated that he is primarily here to preserve his property values. He said he intends to condo this property at some point, and the value would be greatly reduced if the zone change were approved. He continued and noted ownership of the surrounding properties and pointed out those that agree to not have lots B, C, included in approval of this request. He stated that this is a unanimous decision among property owners adjacent to the two lots. Mr. Dalner explained that he is not in protest of the zone change itself. He said that this is a good community and Ron Hill has met with the property owners for discussion.

Chairman Dailey asked if there was anyone else wishing to speak in favor or against Zone Change #875-Lake Hills Subdivision-multiple lots. There was none. Chairman Dailey closed the public hearing at 5:18 p.m.

Motion

Commissioner Hawkins made a motion and it was seconded by Commissioner Workman to forward a recommendation of approval to City Council of City Zone Change #875-Lake Hills Subdivision with the exception of proposed Lots B, C, and G on Green Briar Road.

Discussion

Chairman Leonard Dailey called for discussion on the motion. Leonard Dailey commented that the preliminary work with the property owners has paid off and this is the intended process.

Motion carries unanimously, 3 -0.

Chairman Dailey asked Nicole Cromwell to open this agenda item. Nicole Cromwell followed with a PowerPoint presentation and the staff report.

Item #3: City Special Review #889 – 4040 Parkhill Drive – Tenderest Assisted Living

– A special review request to allow the modification of a previously approved site plan for Special Review #885 to allow the addition of a 2-story office building to accommodate the assisted living management and administrative offices and the re-orientation of the parking and one of the assisted living structures on the Shiloh Road frontage. The property is in a Residential Multi-Family-Restricted (RMF-R) and Residential 7,000 (R-70) zone described as Lots 5 & 6, Block 6 Rush Subdivision 2nd Filing and Tract 2 of Rush Acreage Tracts Subdivision a 1.562 acre parcel of land. Tax IDs: C02242A, C02240A, C02241, RK Development, owner and Eggart Engineering, agent.

REQUEST

This is a request for a special review to allow the modification of a previously approved site plan for Special Review #885 to allow the addition of a 2-story office building to accommodate the assisted living management and administrative offices and the re-orientation of the parking and one of the assisted living structures on the Shiloh Road frontage. The total number of assisted living dwelling units will be 64 in four (4) new assisted living buildings. The property is in a Residential 7,000 (R-70) and Residential Multi-family-Restricted (RMF-R) zone within the Shiloh Corridor Overlay District on a 2.388 acre parcel. The subject property is legally described as Tract 2 of Rush Acreage Tracts Subdivision and Lots 5 and 6 of Block 6, Rush Subdivision, 2nd Filing. The property is generally located at 4040 Parkhill Drive on the southwest corner of the intersection of Shiloh Road and Parkhill Drive.

RECOMMENDATION

The Planning Division is recommending conditional approval.

Nicole Cromwell pointed out the added details on the new site plan including parking, the reorientation of the buildings, stormwater pond, and a hammerhead exit. The primary entrances changed to the north end of the buildings for grading purposes and stormwater control.

Ms. Cromwell pointed out that the two different zoning classifications have two different lot coverage maximums. She stated that adding all of the covered structures will bring the overall site plan coverage to 30.27% and 30%-30.499% is still considered 30%. She said that in this case, this is acceptable and a variance will not be required.

PROPOSED CONDITIONS

1. The special review approval shall be limited to Tract 2, Rush Acreage Tracts and Lots 5 and 6, Block 6, Rush Subdivision, 2nd Filing generally located at 4040 Parkhill Drive.
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 property shall be in substantial conformance with the submitted site plan.
4. All site lighting on the buildings, in parking areas and under the covered porches shall have full cut-off shields so lighting is projected to the ground or onto the building façade and not on to adjacent properties.
5. The proposed use of the Phase 1 Office Building will be for administration and management of the Tenderest Assisted Living facilities. The building and the underlying property will not be sold, leased or otherwise granted to a party for conducting business not directly ancillary to the assisted living facility.
6. All outdoor mechanical equipment shall be screened including but not limited to air-conditioning units.
7. The signs shown on the Phase 1 Office Building will not be internally illuminated. A separate sign permit is required for the installation of these signs or other signs not shown on the site plan.
8. The clock shown on the Phase 1 Office Building will not be internally illuminated.
9. No portion of the gooseneck lighting fixtures shown on the Phase 1 Office Building will have lenses or light bulbs that project below the fixture shielding.
10. The applicant or agent(s) shall secure a demolition permit from the Building Division prior to starting demolition of the existing dwellings at 2004 and 2010 Shiloh Road.
11. Construction or demolition activities shall not start prior to 8 am or continue after 8 pm.
12. The vinyl fencing proposed along the Shiloh Road frontage and along the south property line of Lot 6 shall have a non-reflective surface finish (matte or satin).
13. Pedestrian crossing signs shall be posted at the drive approach entrance on Parkhill Drive and the driveway exit on Shiloh Road. These signs will alert drivers entering and existing to watch for pedestrians on the public sidewalks.
14. The applicant will comply with all absolute criteria and achieve the minimum number of points for relative criteria in the Shiloh Corridor Overlay District as outlined in Section 27-1401 through 27-1423 of the Unified Zoning Regulations.
15. The applicant will apply for a Master Site Plan Approval as required by Section 27-622 of the Unified Zoning Regulations.

16. 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.
17. 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 5:33p.m., Chairman Leonard Dailey asked the members of the Commission for questions and discussion. Leonard Dailey asked regarding condition #11; if there have been issues with construction hours. Nicole Cromwell explained that the condition was included to protect the adjacent residential properties. She said that the 8:00 a.m.-8:00 p.m. requirement exists in the City Code and there are no limitations on the days of the week. In response to further question by Chairman Dailey, Ms. Cromwell said the County will secure the easement and a land sale will be held. She said she is not sure if the post zoning appraisal has been accepted. She stated that the zoning goes into affect in a couple of weeks and they will start marketing the property after the protest period. She commented that the minimum price will be determined once an appraisal is accepted and an auction will be done over a period of time. She stated that the new zoning allows assisted living uses by right.

Applicant

Chairman Leonard Dailey called for presentation by the applicant.

Quentin Eggart, Eggart Engineering, 6809 King Avenue West, Billings, Montana

Mr. Eggart is the agent for owner RK Development. He said that the applicant has returned with a revised request due to the decision to add an office building and changes made to the site plan to meet the Shiloh Overlay requirements. Mr. Eggart stated the applicant will be an interested purchaser when the County property comes up for sale. He said the proposal currently projects several years of build-out. In response to a question by Ed Workman, Mr. Eggart stated he is assuming one structure per year will be constructed over the next three years. Chairman Dailey, asked regarding Condition #5, and Mr. Eggart explained the office building will serve the assisted living facility. He said that it will be a single use office building and if a change is need in the future the applicant will request a zone change on the lot that the office building sits on.

Public Hearing

Chairman Leonard Dailey opened the public hearing and called for opponents or proponents of City Special Review #889-4040 Parkhill Drive-Tendernest Assisted Living, Billings, Montana. There was none. Chairman Dailey closed the public hearing and asked for a motion at 5:41 p.m.

Motion

Commissioner Workman made a motion and it was seconded by Commissioner Hawkins to forward a recommendation of conditional approval to City Council of City Special Review #889 4040 Parkhill Drive-Tendernest Assisted Living as presented by staff.

Discussion

Chairman Leonard Dailey called for discussion on the motion. He stated that he foresees further development in this area if the County land is procured. Ed Workman commented that he is glad to see the applicant is building extra units to meet this need in the community.

Motion carries unanimously, 3 -0.

Other Business/Announcements:

- The May 3, 2011 City Zoning Commission meeting will be cancelled due to a lack of applications.
- Nicole Cromwell noted that two members needed for the City Board of Adjustment and encouraged Commission members to further this request.

Adjournment:

The meeting was adjourned at 6:15 p.m.

ATTEST: Approved by a motion as submitted on June 7, 2011

Leonard Dailey, Chairman

Tamara L. Deines, Planning Clerk