

City of Billings Zoning Commission Meeting
August 2, 2011

The City of Billings Zoning Commission met on Tuesday, August 2, 2011 in the City Hall Conference Room at 210 N. 27th Street, 1st Floor.

Chairman Leonard Dailey called the meeting to order at 4:35 p.m. These items will be heard by City Council on Monday, August 22, 2011.

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	-	1	1	1				
Matt Krivonen	Commissioner	1	1	1	A	-	1	1	-1				
Barbara Hawkins	Commissioner	1	1	1	1	-	1	1	E				
Dan Wagner	Commissioner	1	E	1	E	-	1	E	1				
Edward Workman	Commissioner	1	1	1	1	-	1	1	1				
Candi Beaudry	Director, Planning & Community Services	-	-	-	-	-	-	-	-				
Nicole Cromwell	Planner II, Zoning Coordinator	1	1	1	1	-	1	1	1				
Tammy Deines	Planning Clerk	-	-	1	1	-	1	-	1				
Wyeth Friday	Planning Division Manager	1	1	-	-	-	1	-	-				
Juliet Spalding	Planner II	-	-	-	-	-		-	-				
Lora Mattox	Planner II	-	-	-	-	-		-	-				
Karen Miller	Planning Assistant							1	-				

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	0	2	1	1					9
Special Review	0	0	1	1	0	0	1	2					5

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

Public Comments:

Chairman Leonard Dailey called for public comment at 4:30 p.m. There was none. Chairman Leonard Dailey closed the public comment portion of the meeting.

Approval of Minutes: July 5, 2011

Motion

On a motion by Commissioner Workman, seconded by Commissioner Wagner and approved with a 4-0 voice vote, the minutes of July 5, 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. There was none.

Public Hearings:

At 4:38 p.m. Chairman Leonard Dailey reviewed the rules and the procedures by which the City Zoning Commission public hearings are conducted.

Item #1: City Zoning Change #878 –4300 Montana Sapphire Drive –A zone change from Entryway Light Industrial (ELI) to Highway Commercial (HC) on a parcel of land described as Lots 3 and 5, Block 1, Montana Sapphire Subdivision, a 12.99 acre parcel of land, Tax IDs C13956 and C13958; Montana Sapphire LLC, owner and Sanderson Stewart, agent.

REQUEST

This is a zone change request from Entryway Light Industrial (ELI) to Highway Commercial (HC) on a parcel of land described as Lots 3 and 5, Block 1, Montana Sapphire Subdivision, a 12.99 acre parcel of land located in the Montana Sapphire Subdivision at 4300 Montana Sapphire Drive. The property is owned by Montana Sapphire, LLC and Sanderson Stewart is the agent. The owner conducted a pre-application neighborhood meeting on June 27, 2011.

RECOMMENDATION

The Planning Division is recommending approval.

Nicole Cromwell gave a short presentation of the staff report.

Discussion

Chairman Dailey called for questions and discussion from the members of the Commission. In response to a question by Dan Wagner, Nicole Cromwell stated the ditch will remain open, as it would be more integral to what is happening on the south end of the property. Leonard Dailey asked about the storm water improvements and Nicole Cromwell stated they are listed in the Capital Improvement Plan, (CIP), within the next five years. She commented on the property south of this parcel which was purchased by the City and pointed out the proposed Sharptail Park. She clarified the zoning lines and said they will match up with the street plan in the Western Sky Subdivision. Leonard Dailey asked if the vehicle trips per day are accurate for King Avenue and Shiloh Road. Nicole Cromwell said they were taken in 2010 shortly after Shiloh Road was opened and they may be higher for the current season.

Applicant

Chairman Leonard Dailey called for presentation by the applicant.

Pat Davies, 1300 North Transtech Way, Sanderson Stewart, Billings, Montana

Mr. Davies is the agent for Montana Sapphire. He thanked Ms. Cromwell for her presentation and said the applicant representatives are present this evening.

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 #878-4300 Montana Sapphire Drive.

Blaine Poppler, 5403 King Avenue West, Billings, Montana

Mr. Poppler stated he represents the Montana Sapphire Subdivision for sale. He explained one of the obstacles to this property's sale ability is the ELI zoning as it is more restrictive than the Highway Commercial zoning. If the request is approved it will allow them to entertain more of the

interests exhibited by the market place. He commented on the re-drawing of the St Vincent properties which eliminated a multi-family zone. He said the Volkswagen dealership on the corner is under construction and the apartment buildings in Lenhardt Square are at 100% capacity. He commented the stormwater pond adjacent to the southern lots will have attractive amenities. He said the trail system is fully functional along the east side of the property and along Shiloh to Grand Avenue to tie into the Yegen properties on the north. Mr. Poppler stated there is substantial interest in building of multi-family properties and this proposal and approval of the zone change will allow these types of development opportunities.

Discussion

Chairman Dailey called for discussion. Dan Wagner asked about a proposed dog park area in Sharptail Park. Blaine Poppler pointed out the significant drain ditch between the two properties and commented the park may be a great site for dog recreating. He thanked the members of the Commission and urged support of this zone change.

Chairman Dailey asked if there was anyone else wishing to speak in favor or against City Zone Change #878. There was none. At 4:51 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 Wagner to forward a recommendation of approval to City Council of City Zone Change #878-4300 Montana Sapphire Drive, Billings, Montana as presented by staff.

Discussion

Chairman Leonard Dailey called for discussion on the motion. He commented on the need to be responsive to the current market needs.

Motion carried unanimously, 4-0.

Chairman Dailey asked Nicole Cromwell to open the next agenda item. Nicole Cromwell explained the application for public hearing Item #2.

Item #2: City Special Review #891 – 3133 Central Avenue – A special review request to allow a drive through service in a Neighborhood Commercial (NC) zone across the alley from a residential zone on a parcel of land described at Lots 6 and 7, Block 9, Central Acres Subdivision 5th Filing, a 25,226 square foot parcel of land, Tax IDs: C01864A and C01864. Gerald Neumann and Edward Jorden, owners.

REQUEST

This is a request for a special review to allow a drive-through window for a new coffee or food kiosk in a new building in a Neighborhood Commercial (NC) zone adjacent to Residential 9,600 (R-96) zoning district, on Lots 6 and 7, Block 9, Central Acres Subdivision, 5th Filing.

The property is addressed as 3133 Central Avenue and consists of a vacant lot and a single family dwelling. The property is located on the north east corner of the intersection of Central Avenue and 32nd Street West.

RECOMMENDATION

The Planning Division is recommending conditional approval.

PROPOSED CONDITIONS

1. The special review approval for a drive through window shall be limited to Lots 6 and 7, Block 9, Central Acres Subdivision, 5th Filing as shown on the site plans submitted with this application.
2. Any new lighting within the parking lot or drive through areas shall have full cut-off shields so light is directed to the ground and not onto adjacent property. Lighting standards are limited to 15 feet in height from finished grade.
3. The drive through location shall be constructed as shown on the submitted site plan.
4. The landscaping, paving and storm water retention areas shall be installed as shown on the submitted site plan.
5. The applicant is required to install and continuously maintain a 6-foot sight-obscuring fence runs along the north side of the alley on the property known as 3144 Lynn Avenue, Lot 8, Block 9, Central Acres Subdivision, 5th Filing. The applicant will work with the adjacent residential property owner to accommodate gates and desired materials. Matte or flat finished fence materials are required.
6. There shall be no outdoor public address system or outside announcement system of any kind. The drive through may have an outdoor private address system as standard for all drive through services.
7. The drive through service shall not operate after midnight or before 5:00 am daily.
8. No site development or construction work will occur prior to 8 am or after 8 pm daily.
9. The proposed development shall comply with all other limitations of Section 27-613 of the Unified Zoning Regulations concerning special review uses, all landscaping requirements specified on Section 27-1101, and all other City regulations apply.

Discussion:

At 5:03 p.m., Chairman Leonard Dailey asked the members of the Commission for questions and discussion. Explanation of the City Code for lighting and hours for construction was given by Nicole Cromwell to members of the Commission. In response to a question by Ed Workman, Nicole Cromwell stated the existing house will remain. Leonard Dailey requested clarification on the hours of operation. Nicole Cromwell stated consideration was made for the exiting residential uses but allow the greatest flexibility for the drive through services. Leonard Dailey noted the City Traffic Engineer will not require a traffic accessibility study. He commented on the extensive amount of traffic on Central Avenue and on 32nd Street West and asked if the study should be done. Nicole Cromwell stated applicant Mr. Neumann was in contact with the City Engineer on this proposal and the discussion centered on the fact this would be capturing new traffic rather than

creating new trips. She stated the information gathered from the study would not change the proposed site plan. Ed Workman asked about other potential uses for this property. Nicole Cromwell explained the need for a Traffic Accessibility Study may be rethought if a larger service generating more trips was to happen. Ed Workman commented on the traffic stacking on the south moving traffic on 32nd Street West. He pointed out it may be a challenge to turn south on 32nd Street West at certain times of the day. She clarified for Dan Wagner a food service license will be required; the building permit would be required for site improvements but not the kiosk. Ed Workman pointed out the ideal access to this property is coming west on Central and north on 32nd Street West.

Chairman Leonard Dailey called for presentation by the applicant.

Gerald Neumann, 2609 Selvig Lane, Billings, Montana

Mr. Neumann said he is the joint owner of the property with Edward Jorden. He said the property was originally purchased with a strip center in mind but this proposal is more feasible with today's market. He said there has been interest from potential coffee kiosks and food services. They have submitted this request as they are trying to pay the property taxes and generate interest in this corner. He stated they are working on the plan for the southern access and the two coffee businesses talked about approximately 150 trips per day. In response to Leonard Dailey, Mr. Neumann said he feels access to this property will come from several directions. He noted the shared expenses for improvements requested by the City, including sidewalks along Central Avenue. He said they wish to be flexible; if this is approved they will approach the coffee shops to open this fall.

Dan Wagner asked if there is a way for a vehicle to go through the driveway and return to Central Avenue. Mr. Neumann said it is possible but not recommended. He said they wish to capture 150 trips a day with this temporary situation and lend the project further. He stated this parcel does not lend itself to housing any longer. He pointed out traffic has been heavier the last few years due to the 24th Street West and Shiloh Road construction.

Public Hearing: 5:21 p.m.

Chairman Dailey opened the public hearing and asked for anyone wishing to speak in favor or against City Special Review #891.

Jonathan Kober, 2213 Hyacinth Drive, Billings, Montana

Mr. Kober stated he is familiar with this corner and there is more traffic in the morning hours and the high school is a contributing factor.

Jerry Voto, 3128 Lynn Avenue, Billings, Montana

Mr. Voto stated he is representing himself and the residents of 3134 Lynn Avenue and 3144 Lynn Avenue. He said he a proponent of this application. He commented the City failed the neighborhood in several instances for improvement completion dates and not allowing ingress in egress areas. He stated the adjacent property owner Charlotte Wilson has not been notified about the condition for the fence being modified or moved and is in opposition of this proposal as she

does not want her fence angled off. Mr. Voto stated the alleyway is acting as a road as there is traffic in and out. He commented the first proposal was to widen the alley to make it accessible for east west access. He said if this is not done, people will go east in the alley in order to avoid the traffic light and the access on Central Avenue will be come a quick turnaround. He stated he is against this due to the City's planning and commented on the danger of attempting left hand turns. He said he is in favor of a strip mall and asked if a business similar to McDonalds or a liquor store will be allowed in the future. Mr. Voto said his back yard his lit at night by the bank sign and the electric company across the street. Nicole Cromwell explained the full cut-off shielding of the proposed lights. Mr. Voto asked the alley be paved completely as the corner is dangerous. He stated Mr. Neumann has been a good developer but this is the wrong spot for this proposal.

Rebuttal

Chairman Dailey called for rebuttal.

Gerald Neumann, 2609 Selvig Lane, Billings, Montana

Chairman Dailey asked Mr. Neumann if he has spoke to the property owner to the immediate north. Mr. Neumann said he visited the owner's husband prior to his decease and she said they did not wish to have a solid fence. Discussion followed on the clear vision zone to the north. Nicole Cromwell explained if the fence were reconstructed it would have to comply with the clear vision requirements being no more than 30" tall in the 12 feet along the alley and the 95 feet to the west and stated the applicant would be following code along the alley but cannot do anything with private property rights of the adjacent neighbor. Mr. Neumann relayed the information from the Traffic Engineer's recommendation. He suggested a speed bump could be installed to deter people using this site to avoid the light. Ed Workman commented on the need for clear vision access to the street and noted the existing red fence on the adjacent property. Nicole Cromwell explained the condition to modify the fence and stated if the fence was replaced the fencing along 32nd Street would have to be modified to 30" tall. She said further discussion would have to be held, as the applicant would be using the alleyway for access. Ed Workman said this may create additional traffic issues on 32nd Street West and on Central Avenue for those wishing to make left hand turns. Leonard Dailey asked if a right-turn only could be required. Nicole Cromwell said the Commission could recommend a condition of approval for installation of a right-turn only sign at the alley. Mr. Neumann acknowledged this isn't a perfect property and noted there are several properties with similar issues. In response to a question by Ed Workman, Mr. Neumann said the sign would not hurt his business, as vehicles will make a left turn regardless. Dan Wagner disagreed and asked if the alley will be paved. Mr. Neumann commented this may be considered as things changed.

Commissioner Dailey asked if there was anyone else wishing to speak in favor or against City Special Review #891. There was none. Commissioner Dailey closed the public testimony at 5:45 p.m.

Motion

Commissioner Wagner made a motion and it was seconded by Commissioner Workman to forward a recommendation of denial of Special Review #891-3133 Central Avenue due to the traffic concerns.

Discussion

Chairman Leonard Dailey called for discussion on the motion and asked how this could be mitigated. Ed Workman suggested moving the kiosk further east as there is enough area available.

Motion carries unanimously, and Special Review #891-3133 Central Avenue is denied.

Ed Workman reminded the audience this Commission is an advisory board only and the final determination for this request will be made by City Council on August 21, 2011.

Item #3: City Special Review #892 – 721 and 723 N 16th Street – A special review request to allow a 3-plex multi-family dwelling in a Residential 6,000 (R-60) zone on a parcel of land described as Lots 52 and 53, Block 1, North Park Subdivision, a 7,000 square foot parcel of land, Tax ID: A12035. Jonathan Kober, owner. A concurrent lot area variance has been filed with the Board of Adjustment.

REQUEST

This is a request for a special review to allow the addition of 1 dwelling unit within an existing duplex dwelling at 721 and 723 N 16th Street in a Residential 6,000 (R-60) on a 7,000 square foot parcel of land. The subject property is legally described as Lots 52 and 53, Block 1, North Park Subdivision. The applicant has applied for a concurrent lot area variance to the Board of Adjustment.

RECOMMENDATION

The Planning Division is recommending conditional approval.

PROPOSED CONDITIONS

1. The special review approval shall be limited to Lots 52 and 53, Block 1 of North Park Subdivision, generally located at 721 and 723 N 16th Street.
2. The special review approval is for one 3-plex multi-family dwelling in a single structure and no other use is intended or implied by this approval.
3. Any expansion of the proposed building, greater than 10 percent of what is shown on the submitted site plan will require an additional special review approval.
4. 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.

5. 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 apply.

Nicole Cromwell noted Staff received a comment from the City Building Division requiring specifications for fire rating between the dwelling units.

Discussion:

At 5:55 p.m., Chairman Leonard Dailey asked the members of the Commission for questions and discussion. Ed Workman noted this structure will be reconstructed as a triplex. Nicole Cromwell said if the applicant's request for a lot area variance fails, this will not go forward regardless of the Zoning Commission's recommendation. Leonard Dailey asked if parking is reviewed for this type of structure. Nicole Cromwell further clarified the requirements and said they have plenty of parking. Leonard Dailey asked if the RMF zoning is grandfathered. Nicole Cromwell explained this was existing zoning and the adjacent property is a legal mobile home park.

Chairman Leonard Dailey called for presentation by the applicant.

Jonathan Kober, 2213 Hyacinth Drive, Billings, Montana

Mr. Kober said the unit was designed for a 4-plex. He explained his proposal for improvements to the basement apartment access and a laundry room. He said this will provide housing for this area for low income to moderate incomes. He said this is a high efficiency type of building with newer construction. He said the unit will have 736 square feet. He referred to a posted site plan and explained the location of the basement unit and the laundry room. He said rental fees may range from \$500-\$900 month depending on the apartment. He pointed out two egress windows on the north wall of the basement site plan. He said there is ample parking and he feels this property is the "crown jewel" of the neighborhood.

Chairman Dailey asked if there was anyone else wishing to speak in favor or against City Special Review # 892. There was none. Chairman Dailey closed public testimony at 6:06 p.m.

Motion

Commissioner Workman made a motion and it was seconded by Commissioner Wagner to forward a recommendation of conditional approval of Special Review #892-721 and 723 N 16th Street as presented by staff.

Motion carried unanimously, 4-0.

Other Business

There was no other business.

Adjournment:

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

ATTEST:

Leonard Dailey, Chairman

Tamara L. Deines, Planning Clerk