

City of Billings Zoning Commission Meeting Minutes July 3, 2012

The City of Billings Zoning Commission met on Tuesday, July 3, 2012 in the City Council Chamber, 2nd Floor City Hall 210 N 27th Street, Billings, Montana.

Chairman Leonard Dailey called the meeting to order at 4:32 p.m. The City Council has designated **Monday, June 25, 2012**, at 6:30 p.m. in the City Council Chambers as the time and place to hear testimony for or against this zone change application.

Commission and Staff		01/03/2012	02/07/2012	03/06/2012	04/03/2012	05/01/2012	06/05/2012	07/03/2012	08/07/2012	09/04/2012	10/09/2012	11/06/2012	12/04/2012
Leonard Dailey, Jr.	Chairman	1	1	1	1	1	E	1					
Matt Krivonen	Commissioner	A	A	E	R	-	-	-					
Barbara Hawkins	Commissioner	E	E	1	E	1	E	1					
Dan Wagner	Commissioner	1	1	1	1	1	E	E					
Bill Ryan	Commissioner	1	1	1	1	1	E	E					
Mike Boyett	Commissioner							1					
Candi Beaudry	Director, Planning & Community Services	-	-	1	-	-	--	-					
Nicole Cromwell	Planner II, Zoning Coordinator	1	1	1	1	1	1	1					
Tammy Deines	Planning Clerk	1	1	1	1	-	1	-					
Wyeth Friday	Planning Division Manager	-	-	-	-	-	-	-					
Juliet Spalding	Planner II	-	-	-	-	-	-	-					
Lora Mattox	Planner II	-	-	-	-	-	-	1					
Karen Miller	Planning Assistant	-	-	-	-	1	-	-					
Steve Zeier	TIF'D Coordinator	-	-	-	-	-	-	1					

Total Number of 2012 Applications	01/03/2012	02/07/2012	03/06/2012	04/03/2012	05/01/2012	06/05/2012	07/03/2012	08/07/2012	09/04/2012	10/02/2012	11/06/2012	12/04/2012	TOTAL
Zone Change	2	2	8	3	5	1	3						24
Special Review	1	0	1	0	2	0	0						4

Chairman Leonard Dailey introduced the Planning Department Staff and Commission: Nicole Cromwell, Zoning Coordinator; Lora Mattox, Planner II, Steve Zeier, TIFD Coordinator.

Public Comments:

Chairman Leonard Dailey called for public comment at 4:33 p.m. There were no public comments. Chairman Leonard Dailey closed the public comment portion of the meeting.

Approval of Minutes: May 1, 2012

Chairman Dailey called for approval of the May 1, 2012 minutes.

Motion

On a motion by Commissioner Hawkins seconded by Commissioner Dailey and approved with a 3-0 voice vote, the minutes of May 1, 2012.

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. Commissioner Hawkins received a phone call from Doug Ruebke in regards to City Zone Change #899.

The following communications were received and included in the packets:

Public Hearings:

At 4:35 p.m. Chairman Leonard Dailey reviewed the rules and the procedures by which the City Zoning Commission public hearings are conducted and asked Ms. Cromwell to open first agenda item.

Ms. Cromwell read aloud the legal notification for City Zone Change #899.

Item#1: City Zone Change #899 – Text Amendment – Allowing Poultry – Section 27-305, 27-306 and 27-607 – A zone change to allow keeping of poultry in residential zoning districts and in

commercial zoning districts developed for residential uses. The City Council initiated the amendment on May 14, 2012.

Zoning Coordinator Nicole Cromwell gave a short presentation of the staff report.

REQUEST

This is a zone change will amend Sections 27-305, 27-306 and 27-607 of the Billings, Montana, City Code (BMCC) to allow the keeping of chickens within the city limits. A separate ordinance will amend the Animal Control regulations to set limits on the number of chickens and how they may be kept on residential property. The Animal Control Division will handle permitting and enforcement of those provisions. The keeping of livestock and fowl, including poultry, is currently not an allowed use within the City of Billings. The current code requires consultation of 3 sections of the code to determine whether poultry is an allowed or prohibited use. The proposed amendment will allow the keeping of poultry but not allow the keeping of other fowl (ducks, geese, turkeys, etc.) or livestock. The City Council initiated this amendment on May 14, 2012. The public hearing was originally scheduled for June 5, 2012, but the Zoning Commission failed to reach a quorum to conduct a hearing.

Discussion

Chairman Dailey called for questions and discussion from the members of the Commission.

- Commissioner Boyett – are there other communities have ordinances? Bozeman, Manhattan, Great Falls working on one and others.
- Chairman Dailey – most of the enforcement through Animal Control? Yes, most calls to Animal Control. Code Enforcement would be notified if outside a single family residential zoning district. Who drafted Animal Control Ordinance? Dave Klein, Animal Control. Is a class going to be required? No. Single family districts only? Yes, if the dwelling is developed as a single family. “A” identifies which zones chicken hens are allowed.

RECOMMENDATION

The Planning Division is recommending approval.

Public Hearing

Chairman Leonard Dailey opened the public hearing and called for proponents or opponents of City Zone Change #899.

Proponents

Bill Iverson – 3115 Turnberry Circle – In strong support of allowing backyard hens. Only 2% of residents will have backyard chickens. He has not heard of any good reasons not to allow, considering the effort to encourage local healthy foods. Implore zoning commission to allow residents to feed their children.

Opponents

Doug Ruebke – 110 S 31st Street – Opposed to backyard chickens, he does sit on the Animal Control Board but does not speak for the board. He handed out a packet of information on health issues related to chickens. Houses next to daycares, hospitals, etc. could be affected. Respiratory issues. In regards to Mr. Iverson's comments, he lives in Briarwood and they have troubles with bears, FWP in Missoula requires electric fence around chicken coops. County Health Department also has submitted information regarding health concerns in relationship to chickens. Audubon Society is re-introducing Ospreys; this will put small animals in danger. Last year Animal Control had over 100 dogs at large, some are aggressive and may attempt to attack and children could be in danger. In Helena, a man shot a dog for terrorizing chickens, man was not ticketed. Last couple years, other communities in Montana voted down chickens. Laurel recently declined chickens in the city.

Chairman Dailey asked if there was anyone else wishing to speak in favor or against City Zone Change #899. There was none. Chairman Dailey closed the public hearing and called for a motion.

Chairman Dailey asked Nicole to clarify any health concerns. Nicole stated issues from Dave Klein included people who get permits will take care of their chickens. The people who do not get permits will not take the appropriate care of the chickens. Waste is also a concern, is already a concern with the already allowed domestic animals allowed. Dave Klein is willing to try Ordinance. Riverstone Health's concerns were based on not knowing details on the amount of chickens, type of enclosures, etc. Chairman Dailey asked Nicole if Animal Control has the staff to deal with complaints. Nicole stated Animal Control indicated no additional staff is needed, just staff education.

Commissioner Hawkins asked Nicole, previous meetings a resident asked how a complaint is handled. Nicole states if it is not seen from the public right of way, Code Enforcement does not have as much enforcement. Animal Control has power to enter property for inspection. Commissioner Hawkins also asked about a potential bear problem, since electric fence is not allowed in the city, how will be dealt with? Nicole stated there is not as much issue in Billings with bears, in some western city's bird seed is prohibited.

Commissioner Hawkins made a motion and it was seconded by Commissioner Boyett to forward a recommendation of denial to City Council for City Zone Change #899.

The motion carried with a 3-0 unanimous voice vote.

Chairman Daily asked Zoning Coordinator, Nicole Cromwell to review the application for City Zone Change #900.

Ms. Cromwell read aloud the legal notification for City Zone Change #900.

Item #2; City Zone Change #900 – Western Sky Subdivision, Block 1, Lots 1 and 2 – 44th Street West and King Avenue West – A zone change from Residential 5,000 (R-50) to Residential Multi-family Restricted (RMF-R) on a 22.3 acre portion of Lots 1 and 2, Block 1, Western Sky Subdivision. Tax IDs: C15618 and C15619, King Meadows LLC, owner, and Sanderson Stewart, agent.

Ms. Cromwell gave a short presentation of the staff report.

REQUEST

This is a zone change request from Residential 5,000 (R-50) to Residential Multi-family-Restricted (RMF-R) on a 22.3 acre portion of Lots 1 and 2, Block 1, Western Sky Subdivision west of the intersection of 44th Street West and King Avenue West. The property is owned by King Meadows, LLC and Sanderson Stewart is the agent. The owner conducted a pre-application neighborhood meeting on May 24, 2012.

RECOMMENDATION

The Planning Division is recommending approval.

Discussion

Chairman Dailey called for questions and discussion from the members of the Commission.

- Commissioner Boyett – In 15-20 years from now, won't this area be very congested? Nicole thinks with traffic patterns and the roundabout at Shiloh, potentially a traffic light at 44th or a roundabout may be appropriate, would be a decision by MDT. Trail system there now, MET someday.
- Chairman Dailey – How recent is the traffic data? Nicole, this are 3 year averages.
- Chairman Dailey - In regards to north/south on Shiloh, wasn't part of under construction? Yes, but even then the traffic numbers did not increase dramatically.
- Chairmen Dailey - Neighborhood meeting minutes – concerns for traffic, utilities, water supply, etc., what is staff's recommendations? The city plans to construct a new reservoir in this water zone, building capacity in current system in this end of the zone. It is not anticipated to expedite the construction of the new reservoir. When Lenhardt Square built, the city did impose a building limit until the new reservoir. Will the new units tax city resources and is the city aware of this? Nicole doesn't think it will and the city is aware of the zone change request.
- Commissioner Boyett – any concerns by police or fire? No.

Public Hearing-

Chairman Leonard Dailey opened the public hearing and called for proponents or opponents of City Zone Change #900.

Agent:

Will Ralph, Sanderson Stewart - Billings, Montana

Nothing to add but available for questions.

Commissioner Boyett – Construction timeline? 2013.

Chairman Dailey – minutes from neighborhood meeting about utility extension. Cost share discussion? Cost share actually referred to traffic improvements potentially required by MDT. King Avenue West is a MDT route therefore does not provide funds into the Arterial Fund. The various developments around this area may be a cost share. What is a roundabout corridor? Will states this is a MDT term. Similar to the area around Kohl's. Water/Water reservoir concerns – Nicole previously mentioned the development of Lenhardt Square and restrictions, the city has not stated the same restrictions would be implied on this development.

Proponents:

Chairman Dailey asked if there was anyone wishing to speak in favor of City Zone Change #900.

Gerald Krieg – Sycamore – his wife and husband own lots to the west. Not really speaking favor or opposition. His concern is the R-5000 lots in between the proposed zoning and the RMF-R to the west; it will leave a corridor by multifamily. He hopes in the future the remaining R-5000 also be changed to RMF-R.

Opponents:

Chairman Dailey asked if there was anyone wishing to speak in against City Zone Change #900. There was none.

Chairman Dailey closed the public hearing and called for a motion.

Chairman Dailey asked Nicole's opinion on changing the middle section of R-5000 to RMF-R, Nicole stated it does make sense and staff would probably support.

Motion

Commissioner Boyett made a motion and it was seconded by Commissioner Hawkins to forward a recommendation of approval to City Council for City Zone Change #900.

Discussion

Chairman Leonard Dailey called for discussion on the motion. Commissioner Boyett only concerned was the congestion of residents.

The motion carried with a 3-0 unanimous voice vote.

Ms. Cromwell read aloud the legal notification for City Zone Change #901.

Item #3: City Zone Change #901 – East Billings Urban Renewal District (EBURD) Form-Based Code – Map Amendment and Text Amendment – A zone change from Controlled Industrial (CI), Heavy Industrial (HI), Community Commercial (CC), Neighborhood Commercial (NC), Residential 6,000 (R-60) and Highway Commercial (HC) to Railspur Village (EBURD RSV); Railspur Village Main Street (EBURD RSVMS); Central Works (EBURD CW); 13th Street Main Street (EBURD 13th) and Industrial Sanctuary (EBURD IS) and add a **new Section 27-1800** to the Unified Zoning Regulations titles East Billings Urban Revitalization District (EBURD) code.

Steve Zeier gave a short presentation of the staff report.

REQUEST

This is a City initiated zone change which includes a map amendment and a text amendment for a 400-acre urban renewal area known as the East Billings Urban Renewal District (EBURD). The zoning amendment includes a change from the existing districts of Controlled Industrial (CI), Heavy Industrial (HI), Neighborhood Commercial (NC), Community Commercial (CC), Residential 6,000 (R-60) and Highway Commercial (HC) to EBURD Railspur Village (EBURD RSV), EBURD Rail Spur Village Main Street (EBURD RSVMS), EBURD Central Works (EBURD CW), EBURD 13th Main Street (EBURD 13th), and EBURD Industrial Sanctuary (EBURD IS). The amendment will add a new section to the Zoning Regulations specifies the land uses, building types, signage allowances, landscaping requirements and location specific street improvements for these new districts.

RECOMMENDATION

The Planning Division is recommending approval.

Discussion

Chairman Dailey called for questions and discussion from the members of the Commission.

- Chairman Dailey – first in Montana, where did this design idea come from? Denver, Miami are examples. This code change was customized for this area. Nicole, you wouldn't take a certain code from one of these areas and set it down somewhere else in the city.
- C. Dailey – is it user friendly? Yes, Euclidian zoning is cumbersome and not user friendly. This is an EBURD code, just for this area. True form based code does not take in account use at all; this is a hybrid of the existing code and form based.
- Commissioner Hawkins – letter from the Ayers, will this affect them if they expand their business? Their concern is the use table and the non-conformance. Only requires change if expanded by 50% in size or change in use.
- Conflict of interest by Matt McDonnell -

Public Hearing

Chairman Dailey opened the public hearing and called for proponents of Zone Change #901.

Proponents

Martin E. Connell (?) – 49 N 15th Street – President BIRD board. Gave the zoning commission more history of the BIRD and the development of the EBURD. This code allows for an annual review to address issues. Have had multiple meetings with residents of the district. 219 landowners in the BIRD to assist in the development of this code. Two feelings in the district, fear and excitement. The revitalization of the area is a long term project, 50-100 years out. Disappointed by the letter submitted, several misconceptions in the letter. The BIRD would like to change the use table to accommodate the Ayers. The only way the code affects if the property owner expands by 50% or changes the use by 50%. Encourages the zoning commission to read the whole report before voting on it. Also discussed the area east of the EBURD and the future there.

Chairman Dailey asked about the funding of the code revisions: City, TIF'D dollars. Also, what kind of timeframe there might be additional activity of redevelopment in the area? There are several projects waiting for the code to go into effect. New GSA building and others are looking to expand, there are also some small redevelopments. Included work force housing in the Rail Spur village.

Ken Kunkel – 3312 4th Avenue North – Marty covered it well, a lot of professional time spent developing this code. Lots of good development interest in the EBURD. Larger developments are interested. The City needs a good plan like this to energize the area and Billings.

Nash Emerick – 230 Avenue C – President BikeNet and local architect in training. Has been following the development of this code and supports the adoption. Will be an asset to Billings and show the rest of Montana how to assist redevelopment. There are provisions in place to review the code annually to address concerns.

Opponents

Jacquelyn Ayers – 4th Avenue North and North 20th Street - no address given – their property is scheduled for expansion, there is room. Over a 50% expansion could be done. She states no one came and spoke to anyone in corridor. Never received notification there would be a drastic change to their property. This is a taking, there long term plan to expand, or sell the property to another similar use could not expand. In the last line of the letter submitted, request a change to their property location. Still thinks there was a conflict of interest by Matt McDonnell. She states she spoke to other property owners in this area who were also unaware. She maintains her property at a very high level.

Jerry Ray – 2646 Grand Avenue - I was raised in this neighborhood and my family owns 2 blocks. The Rail Spur Village is slated to be hoity-toity and property owners in area can't afford. He is the developer and he does not want to ask the city to see how far he can set a door from the street. Too much change and restrictions.

Kevin – 2012 1st Avenue North – Another auto body repair shop. Only been there less than 5 years. Track Side Auto. Concerns with the code and just learning about this. Concerned with outside storage restrictions of only 2 days. There is more to be discussed. If we want to clean up downtown, what about the vagrants? Robberies?

Chairman called Steve back in regards to the concerns on the number of properties impacted by this zone change. Steve pointed out the Ayers property location and Track Side Auto which is in the Rail Spur Village Main Street zoning. There are five properties would be considered non-conforming in this district, all are vehicle service. Not permitted in this district, so no expansion of more than 50% or a change in use of more than 50%, grandfathered in, they can operate in perpetuity.

Commissioner Boyett- Notification – Steve stated there were no individual visits to businesses; every property owner was notified several times by mail notifying them of public meetings.

Commissioner Hawkins – When were those notices sent, one last year and April of this year.

Commissioner Boyett- How many people attended – 50-55 attended and were held at FIB.

Chairman Dailey- In addition this area has been under discussion for several years.

Nicole stated also there has been access through EBIRD.com.

Commissioner Hawkins asked Nicole if she has a conflict due to her family owns land outside the district and was notified about the zone change. Nicole after reviewing the code, there is no conflict of interest. There will not be any direct or indirect monetary benefit due to her property is not in district. She needs to disclose, which she has done.

Chairman Boyett – was there conflicts at the meetings? Lots of questions and concerns whenever you discuss zoning and land use. First meeting included a visual preference survey done by participants. There were some who opposed but mostly due to understanding. As far as the use table, the Ayers suggest changing their district or permitting auto service in the Rail Spur Village.

Chairman Dailey – Nicole, what is our charge with this zone change? Approve, deny, or recommend with changes to the city council. Can recommend change but no new language. C. Dailey, can we delay until next meeting? Yes, is an option.

Chairman Dailey asked if there was anyone else wishing to speak in favor or against City Zone Change #901.

Marty Connell – Thinks there is language Steve can add language to the use table and solve the problem. Steve states table could be changed to address. The Ayers are requesting the table be changed. Although doesn't solve the problem of the 2-day outside storage restriction. This is not

restricted to just this district. Vehicles cannot be stored for more than 2 days. Would need to confer with the Ayers to see if there is main concern.

Chairman Dailey asks the zoning commission to keep the public hearing open and called for a motion.

Motion

Commissioner Boyett made a motion and it was seconded by Commissioner Hawkins to keep the public hearing open and delay for 30 days action on forward a recommendation of approval to City Council for City Zone Change #901.

Discussion

Commissioner Hawkins feels more personal contact was needed when addressing change in people's private businesses.

The motion carried with a 3-0 unanimous voice vote.

Other Business

- A. The next City Zoning Commission meeting will be held on August 7, 2012, at 4:30 p.m., in the City Council Chambers.

Adjournment:

The meeting was adjourned at 6:36 pm.

ATTEST:

Leonard Dailey, Chairman

Lora Mattox, Transportation Planner for Tammy Deines, Planning Clerk