

**City of Billings Zoning Commission Meeting
February 5, 2008**

The City of Billings Zoning Commission met on February 5, 2008 in the City Council Chambers at 210 N. 27th Street, 2nd Floor.

Leonard Dailey, Jr., Chairman called the meeting to order at 4:33 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 **Monday, February 25, 2008** at 6:30 p.m.

Commission and Staff		01/02/2008	02/05/2008	03/04/2008	04/01/2008	05/06/2008	06/03/2008	07/01/2008	08/05/2008	09/02/2008	10/07/2008	11/05/2008	12/02/2008
Barbara Hawkins	Commissioner	1	1										
Thomas Grimm	Commissioner	1	1										
Michael Larson	Vice-Chair	1	1										
Edward Workman	Commissioner	1	1										
Leonard Dailey, Jr.	Chairman	1	1										
Candi Beaudry	Director	-	-										
Nicole Cromwell	Planner II, Zoning Coordinator	1	1										
Elizabeth Allen	Clerk	1	1										
Wyeth Friday	Planning Division Manager	-	-										
Juliet Spalding	Planner II	-	-										
Aura Lindstrand	Planner II	-	1										
Lora Mattox	Planner II	-	-										
Dave Green	Planner I	1	-										

Total Number of 2007 Applications	01/02/2008	02/05/2008	03/04/2008	04/01/2008	05/06/2008	06/03/2008	07/01/2008	08/05/2008	09/02/2008	10/07/2008	11/05/2008	12/02/2008	Total
Zone Change	3	5											
Special Review	0	3											

Chairman Dailey introduced the Planning Department Staff and Commission:
 Nicole Cromwell, Planner II/Zoning Coordinator
 Aura Lindstrand, Planner II/Subdivision Coordinator
 Elizabeth Allen, Planning Clerk

Public Comments:
 There were none.

Approval of Minutes:
*On a motion by Commissioner Grimm, seconded by Commissioner Larson and approved by a 5-0 voice vote the minutes of January 2, 2008 were approved with the following changes:
 Page 2- Change Chairperson Cimmino to Vice-Chairman Dailey*

Public Hearings:

Chairman Dailey reviewed the rules and the procedures by which the City Zoning Commission public hearings are conducted.

Return Item #1 - City Zone Change #829-4345 King Ave West, proposed Lenhardt Square Planned Development – A zone change request from Agriculture Open Space to Planned Development with multiple underlying zoning classifications on Tracts 1 through 5 of C/S 2063 a 113.29 acre parcel of land. Tax IDs D00514, D00514A, D00514B, D00514C & D00514D. Lenhardt Property LP, owner and Engineering, Inc. agent.

Ms. Cromwell read the legal description and gave a brief power point presentation to the commission. Staff recommendation is approval.

Discussion:

Commissioner Dailey asked if there are any other recommended changes to the PD Agreement. **Ms. Cromwell** stated that Fire had asked for changes to reference the International Fire Code. It is referenced in Bill Cole’s letter. The second change was requested by the Building division to explain requirements of the building code on home occupations with outside employees.

Commissioner Workman asked for clarification on what should be removed from the PD Agreement.

Ms. Cromwell feels that it would be preferable to remove footnotes 1 and 2 because this is an agreement between the City of Billings and the developer. It should not refer to outside reviewing agencies. There are only certain things that can be allowed administratively by the zoning coordinator, i.e. the 2% allowable increase in density.

Applicant:

Rick Leuthold, Engineering, Inc. 1300 North Transtech Way, there where 3 major issues at the last meeting; water availability, density and amenities. They have had numerous discussions with staff and the family to address the concerns. This is a well thought out land use plan. They are looking at phased in development to follow with the additional water that will be available as the new water tanks are built. The densities have been brought into line with the projected and desired densities in this area. This is just a land use consideration, not a subdivision. They will address road issues during the subdivision platting. He would be happy to answer any questions.

Commissioner Dailey asked about the neighborhood meeting that was held by Engineering, Inc. He asked for the reaction from neighbors.

Rick stated that there were similar concerns; water, density and roads at that meeting. **Ms. Cromwell** stated that the main concern was density but that was under the previous PD agreement.

Proponents:

Danny McElmurray, 555 Ellen Way Las Vegas NV, he made a power point presentation showing the architectural features that they are planning for this development including outdoor porches and patios, mixed use developments with residential apartments above commercial/retail, a traditional square, streetscape with several walkable community features including bikeway connections.

Alan Lenhardt, 240 East Drive Baton Rouge LU, Lenhardt LLC, introduced his sisters Jan Rehberg and Lorraine Newman and thanked the board for their time in considering this matter.

Bill Cole, 3733 Tommy Armour, he would like to address footnote #1 and #2. The reviewer would be given the ability to change setbacks although the zoning coordinator would not be able to. He has been actively involved with the development of the West End Billings Plan. This was a very large process. He feels that this development is very exciting because it really takes the West End Billings Plan seriously and tries to implement the recommendations of that plan. This will be a high density, mixed use, walkable and bikeable community that will be an urban landscape. They hope this will be the first of many developments using this type of theory of development.

Bruce McIntyer 1209 28th St West, Billings Chamber of Commerce. Shiloh has been the focus of the Chamber and a key to the development of this area is commercial and residential development in this area. It will help economic development in this area.

Opponents:

Leo Barsanti, 3316 Pipestone, President of the West End Billings Task Force, they are very concerned with the development of Monad and they would like to be sure they don't end up with another dead end arterial. They were concerned with the density but they have seen the density reduced with this new plan so they are happy with that although density in this area is still very high and so it is still a concern, especially regarding school capacity. Their main concern however is keeping Monad moving.

Rebuttal:

Rock Leuthold restated that this is not a subdivision platting that is before the board, it is a land use decision. There has been concerted effort by the City to keep Monad from becoming a principle arterial. The major arterials in the area are King and Central. The plan does call for some discontinuity of Monad. They will work through these issues during the subdivision process.

Commissioner Workman stated that he doesn't see any buildings in the examples of 80 foot buildings. He wonders if they are planning to build anything that tall.

Rick stated that at this time they don't have any developer interested in building that tall. Eighty feet would be the maximum but what they would really like is to be able to build commercial with residential on top. Multistory buildings will allow that type of development, similar to what can be seen with the redevelopment of the down town loft apartments.

Public hearing closed at 5:24 p.m.

Motion:

On a motion by Commissioner Larson, seconded by Commissioner Hawkins and approved with a 5-0 voice vote a recommendation of approval of Zone Change #829 will be forwarded to the City Council on its meeting of February 25, 2008 with the following caveats: leaving in footnotes #1 and #2, leaving in the language in livestock, delete footnote #7, change the language to reference the International Fire Code and the language referencing the Building Code in regards to the Home Occupations with outside employees, modify exhibit A to remove the acreage from ROW and add that acreage to the total developable acreage.

Commissioner Workman will vote for this motion. He feels that this plan is well thought out, it is the highest and best use of land and it will dovetail with the hospital development to the east. This is garage logic 101. **Commissioner Hawkins** feels that this is a good land use and she will vote for approval.

Item #2 - City Zone Change #832- 206/208 Hilltop Road – A zone change request from Residential 9,600 (R-96) to Residential 7,000 (R-70) on Lot 15, Block 3 of Hilltop Subdivision, 1st Filing a 14,000 square foot parcel of land with an existing two-family residence. Tax ID A09107G, Steve Zimmerer is the owner.

Ms. Cromwell read the legal description and **Ms. Lindstrand** gave a brief power point presentation to the commission. Staff recommendation is approval.

Discussion:

Commissioner Dailey asked if any neighbors expressed concern on this application. **Ms. Lindstrand** has spoken with one neighbor and explained that this will bring the property into conformance.

Applicant:

Zanya Zimmerer, they are just proposing this zone change to bring the duplex into conformance. They are within the setback, lot coverage and height requirements of zoning.

Proponents:

There were none.

Opponents:

There were none.

Motion:

On a motion by Commissioner Hawkins, seconded by Commissioner Workman and approved with a 5-0 voice vote a recommendation of approval of Zone Change #832 will be forwarded to the City Council on its meeting of February 25, 2008.

Item #3 – City Special Review #854- 3178 Gabel Road – A special review request to locate an all-beverage liquor license with gaming on a 1.92 acre parcel of land in a Controlled Industrial (CI) zone, on Lot 1, Block 1A, Tierra Yellowstone Industrial Subdivision. Tax ID C11801, Copper King Resources, Inc. is the owner and Darrell Kreitzberg is the agent.

Ms. Cromwell read the legal description. **Ms. Lindstrand** gave a brief power point presentation to the commission. Staff recommendation is approval.

Discussion:

Applicant:

Darrell Kreitzberg, 3737 Grand Ave, passed out some pictures to the zoning commission. They have a Dottie's Casino interested in one side of the proposed building and a health club interested in the other side. They will have 3 additional tenant spaces.

Proponents:

There were none.

Opponents:

There were none.

Discussion:

Motion:

On a motion by Commissioner Larson, seconded by Commissioner Hawkins and approved with a 5-0 voice vote a recommendation of approval of Special Review #854 will be forwarded to the City Council on its meeting of February 25, 2008 with the following conditions:

1. The special review approval shall be limited to Lot 1, Block 1A, Tierra Yellowstone Industrial Subdivision located at 3178 Gabel Road.
2. Development of the site shall be in substantial conformance with the site plan submitted with this application and shown in this staff report. Deviations from the approved site plan that change the location of buildings, addition of outdoor patio areas, parking lot access or parking areas will require additional special review approval.
3. There shall be no background music or amplified announcement system outside the building.
4. The solid waste storage area shall be enclosed on three (3) sides by a sight-obscuring fence or wall and by a sight-obscuring gate on the remaining side. This enclosure shall be constructed of normal fencing materials. Chain link or wire fencing cannot be used for sight-obscuring enclosure.
5. All exterior lighting with the exception of sign lighting shall have full cut-off shields so light is directed to the ground and not onto adjacent property.
6. Landscaping shall be provided as required by Section 27-1100 of the Unified Zoning Regulations.
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.

Item #4 - City Zone Change #833 – 927 Bench Boulevard - A zone change request from Residential 7,000 (R-70) to Residential 6,000 (R-60) on the south half of Tract 2 C/S 3303 a 3.978 acre parcel of land with an existing single family residence. Tax ID D05384, Gene Culver is the owner and Engineering, Inc. is the agent.

AND

Item #5 City Special Review #855 – 927 Bench Boulevard – A special review request to construct ten (10) fourplex multi-family dwellings on a 3.978 acre parcel of land in an existing and proposed Residential 6,000 (R-60) zone, on Tract 2 of C/S 3303. Tax ID D05384, Gene Culver is the owner and Engineering, Inc. is the agent.

Ms. Cromwell read the legal description and gave a brief power point presentation to the commission. **Ms. Cromwell** asked that the commission consider Items #4 and #5 together because they are on the same property. Staff recommendation is denial.

Discussion:

Commissioner Workman stated that they would be looking at a density of 10 units per acre. He would like to know what staff feels a good density per acre for this property would be. **Ms. Cromwell** feels that it is the housing type not the density that is problematic. She feels that duplex development would be better on this property and the density could be even higher.

Applicant:

Rick Leuthold, Engineering, Inc. feels that denial is not the right recommendation for this project. This is an infill project. Bench Blvd will be reconstructed and become a primary arterial for this area. Many of the lots in the heights have very narrow frontages but this will basically be along a principle arterial. There are a lot of amenities in this area and a huge amount of diversity in this area with a mobile home park, single family homes and a vehicle wrecking facility. They had a neighborhood meeting and the largest question was the privacy of those living on South Heights Lane. They have moved the units on the North side farther away from the property line to facilitate the concerns of the neighbors. They would ask for a recommendation of approval.

Commissioner Hawkins asked if the owners are interested in the R-60 zoning with out the special review. **Rick** stated that they would be limited to duplexes in R-60. They would like to build to a 4-plex density.

Commissioner Larson stated that the staff report addresses the issue of the private road. **Rick** stated that this will be owned and taken care of by the condo association. This will be better cared for than the large vacant piece of land currently is. He doesn't believe that this road will affect the surrounding property values.

Commissioner Larson wants to clarify that any development of this property will require a road. **Rick** stated that is correct.

Commissioner Dailey asked about the topography of this area. **Rick** stated that it is fairly flat with a 6' bermed ditch along the east property line.

Proponents:

Steve Long, 5008 Creek More Rd, owns two homes to the south of this property. He sees that Bench will become a more major development. The older homes in this area must make way for future development. This will improve the property and be an asset to the City.

Commissioner Dailey asked if the current properties will be viable after the expansion of Bench. Steve stated that they will be. The current properties are set back far enough to accommodate the expansion of Bench Blvd.

Opponents:

John McCray, 3943 Pioneer Rd, his sister lives on C/S 4. She will have a road next to her property.

Rebuttal:

Rick stated that the City will be able to obtain road right of way for Bench Blvd without having to demolish many homes. This will be an amenity for the neighborhood.

Motion:

On a motion by Commissioner Workman, seconded by Commissioner Larson and approved with a 5-0 voice vote a recommendation of approval of Zone Change #833 will be forwarded to the City Council on its meeting of February 25, 2008.

Commissioner Grimm asked for clarification on the surrounding properties. **Ms. Cromwell** clarified.

Ms. Cromwell stated her recommendation for denial is based on the 12 criteria and so in the motion she needs to know why the zoning commission is going against her recommendation.

Commissioner Dailey is not certain adding one more unit per acre will increase the traffic. He feels that Bench is a principle arterial and this type of development is appropriate for this area.

Commissioner Larson addressed the 12 criteria- #1 he feels that this area does not have an established character because of the mix of uses. #2 if the two frontage properties were removed, this property would front a major arterial. This may allow for the two frontage properties to redevelop. #3 the traffic issues will be addressed when Bench is improved. #4 there is a need for additional housing in the city and this will address that need and it will be beneficial to the cities welfare.

On a motion by Commissioner Larson, seconded by Commissioner Hawkins and approved with a 5-0 voice vote a recommendation of approval of Special Review #855 will be forwarded to the City Council on its meeting of February 25, 2008 with the following conditions:

1. The developer will submit a C/S to reflect donation of ROW on Bench Blvd to the City of Billings.
2. This special review approval is for the construction of 10 4-plex multifamily dwellings and no other use or expansion of this use is approved or implied with this conditional approval.
3. Development of the site shall be in substantial conformance with the site plan dated December 18, 2007, unless specifically modified by these conditions. Deviations from the approved site plan that change the location of buildings or increase the number of dwelling units will require additional special review approval
4. This approval shall be limited to 40 dwelling units in 10 structures as shown on the site plan dated December 18, 2007.
5. Any expansion of the gross floor area of the building(s) or number of parking stalls greater than 10 percent will require an additional special review approval as required by Section 27-613(c) of the Unified Zoning Regulations.
6. Access roads and width that enter off of Bench Blvd will be approved by City Engineering and the City Fire Department
7. Landscaping shall be provided as shown on the site plan dated December 18, 2007, and as required by Section 27-1100, of the Unified Zoning Regulations.
8. A 6' high site obscuring fence shall be constructed along all property lines with the exception of the East property lines excluding clear vision zones A 6-foot high sight-obscuring fence shall be constructed along the entire length of all property line excluding any required clear vision area and excluding any area already surrounded by a 6-foot high sight-obscuring fence. The fence shall be constructed of standard fencing materials. No chain link or wire fencing will be used for a sight-obscuring fence.
9. These conditions of special review approval shall run with the land described in this special review approval and shall apply to all current and subsequent owners, operators, managers, lease holders, heirs and assigns.

10. 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 regulations that apply

Item #6 City Zone Change #834 – 1442 Bench Boulevard – A zone change request from Residential 7,000 (R-70) to Residential 6,000 (R-60) on Tract 1 of C/S 1531 a 2.11 acre parcel of land with an existing single family residence. Tax ID D05264, Gene Culver is the owner and Engineering, Inc. is the agent.

AND

Item #7 City Special Review #856 – 1442 & 1432 Bench Boulevard – A special review request to construct seven (7) fourplex multi-family dwellings on a 3.055 acre parcel of land in an existing and proposed Residential 6,000 (R-60) zone, on Tract 1 of C/S 1531 and Tract 2 of C/S 193. Tax IDs D05264 and D05269, Gene Culver is the owner and Engineering, Inc. is the agent.

Ms. Cromwell read the legal description and gave a brief power point presentation to the commission. **Ms. Cromwell** asked that the commission consider Items #6 and #7 together because they are on the same property. Staff recommendation is approval and conditional approval.

Discussion:

Applicant:

Rick Leuthold has nothing further to add on this project. He would ask for a recommendation of approval.

Proponents:

There were none.

Opponents:

There were none.

Discussion:

Motion:

On a motion by Commissioner Workman, seconded by Commissioner Hawkins and approved with a 5-0 voice a recommendation of approval of Zone Change #834 will be forwarded to the City Council on its meeting of February 25, 2008.

On a motion by Commissioner Grimm, seconded by Commissioner Workman and approved by a 5-0 voice vote a recommendation of approval of Special Review #856 will be forwarded to the City Council with the following conditions:

1. The special review approval shall be limited to Tract 2, C/S 193 and Tract 1, C/S 1531 as shown on the site plan dated December 18, 2007.
2. This special review approval is for the construction of 7 4-plex multifamily dwellings and no other use or expansion of this use is approved or implied with this conditional approval.
3. Development of the site shall be in substantial conformance with the site plan dated December 18, 2007, unless specifically modified by these conditions. Deviations from the approved site plan that change the location of buildings or increase the number of dwelling units will require additional special review approval.
4. This approval shall be limited to 28 dwelling units in 7 structures as shown on the site plan dated December 18, 2007.
5. Any expansion of the gross floor area of the building(s) or number of parking stalls greater than 10 percent will require an additional special review approval as required by Section 27-613(c) of the Unified Zoning Regulations.
6. The north access road shall be re-aligned to coincide with Kingston Avenue that enters Bench Boulevard opposite the subject property. Any new alignment will be approved by the City Engineer.
7. The proposed 28-foot wide access road will be widened to 34 feet and be designed and constructed in accordance to city standards for a new residential street. The street design will be approved by the City Engineer.
8. Landscaping shall be provided as shown on the site plan dated December 18, 2007, and as required by Section 27-1100, of the Unified Zoning Regulations.
9. A 6-foot high sight-obscuring fence shall be constructed along the entire length of the north and south property lines excluding any required clear vision area. The fence shall be constructed of standard fencing materials. No chain link or wire fencing will be used for a sight-obscuring fence. The fence will shield the development from the commercial development to the north and the single family developments to the south.
10. These conditions of special review approval shall run with the land described in this special review approval and shall apply to all current and subsequent owners, operators, managers, lease holders, heirs and assigns.
11. 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 regulations that apply

Item #8 City Zone Change #835 – Southeast corner of Shiloh Road & King Avenue West – A zone change request from Entryway Light Industrial (ELI) to Controlled Industrial (CI) on Tract 1 of

C/S 2560 a 74.342 acre parcel of land, the proposed Shiloh Crossing Subdivision. Tax ID D00574, Shiloh Crossing, LLC is the owner and Collaborative Design Architects is the agent.

Ms. Cromwell read the legal description. **Ms. Lindstrand** gave a brief power point presentation to the commission. Staff recommendation is approval.

Discussion:

Applicant:

Jeff Kanning, 2280 Grant, Collaborative Design Architects, they would like to have side set backs of 0 feet so they can have common property lines and have attached buildings. They will be under the Shiloh Corridor Overlay District which is very restrictive in regards to landscaping and signage.

Commissioner Workman asked if they are still planning to follow the master plan that the commission received in the packet. Jeff stated that they are.

Proponents:

Steve Corning, 315 Wyeth Circle, they had originally wanted CI zoning on this property when it was first annexed. Now that the Shiloh Corridor is in place CI zoning is possible.

Commissioner Dailey felt that the letter from Mr. Corning in the staff report was very helpful.

Opponents:

Rebuttal:

Discussion:

Motion:

On a motion by Commissioner Workman, seconded by Commissioner Larson and approved with a 5-0 voice vote a recommendation of approval of Zone Change #835 will be forwarded to the City Council on its meeting of February 25, 2008.

Other Business:

Adjournment:

The meeting was adjourned at 6:59 p.m.

Leonard Dailey, Chairman

ATTEST:

Elizabeth Allen, Planning Clerk