

**City of Billings Zoning Commission
Meeting Minutes- August 6, 2013
Approved by a motion on October 1, 2013**

The City of Billings Zoning Commission met on Tuesday, August 6, 2013 in the City Council Chambers, 2nd Floor City Hall 210 N 27th Street, Billings, Montana.

Chairman Leonard Daily called the meeting to order at 4:30 p.m. The City Council has designated **Monday, August 26, 2013**, at 6:30 p.m. in the City Council Chambers as the time and place to hear testimony for or against the zoning applications.

Commission and Staff		01/02/2013	02/05/2013	03/05/2013	04/02/2013	05/07/2013	06/04/2013	07/02/2013	08/06/2013	09/04/2013	10/01/2013	11/06/2013	12/03/2013
Leonard Dailey, Jr.	Chairman	1	1	1	-	1	E	1	1				
Barbara Hawkins	Commissioner	E	1	1	-	1	1	1	E				
Dan Wagner	Vice Chairman	1	1	E	-	1	1	1	1				
Bill Ryan	Commissioner	1	E	E	-	1	E	E	1				
Mike Boyett	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	1	-	-				
Wyeth Friday	Planning Division Manager	-	-	-	-	-	-	-	-				
Juliet Spalding	Planner II	-	-	-	-	-	-	-	-				
Lora Mattox	Planner II	-	-	-	-	-	-	-	-				
Karen Miller	Planning Assistant	-	-	-	-	-	-	1	1				

Total Number of 2013 Applications	01/02/2013	02/05/2013	03/05/2013	04/02/2013	05/07/2013	06/04/2013	07/02/2013	08/06/2013	09/04/2013	10/01/2013	11/06/2013	12/03/2013	TOTAL

Zone Change	0	1	1	-	1	3	2	1					8
Special Review	1	0	0	-	3	1	2	2					7

Chairman Dailey introduced the Planning Department Staff and Commission: Nicole Cromwell, Zoning Coordinator; and Karen Miller, Planning Assistant.

Public Comment

Chairman Dailey called for public comments. There were no public comments. Chairman Dailey closed the public comment portion of the meeting.

Approval of Minutes: July 2, 2013

Chairman Dailey called for approval of the July 2, 2013 minutes.

Motion

On a motion by Commissioner Wagner seconded by Commissioner Boyett and approved with a 3-0 voice vote, the minutes of July 2, 2013.

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.

One email forwarded from Mayor Hanel was received from Merry Lee Olson, CEO YWCA, expressing concerns regarding Special Review #909 was distributed to the board and made available to the public.

Public Hearings:

Chairman Dailey reviewed the rules and the procedures by which the City Zoning Commission public hearings are conducted and asked Ms. Cromwell to open the next agenda item.

Ms. Cromwell read aloud the legal notice and gave a short presentation of the staff report.

Item #1: Special Review #909– 3 Jefferson Street – 3-plex Dwelling – A special review request to allow the construction of a 3-plex multi-family dwelling in a Residential 6,000 (R-60) zone on Lots 25-27, Block 3, State Realty Subdivision, a 9,375 square foot parcel of land. Tax ID: A14651. Dave Hagstrom, owner.

REQUEST

This is a request to allow the construction of a 3-plex multi-family dwelling in a Residential 6,000 (R-60) zone on Lots 25-27, Block 3, State Realty Subdivision, a 9,375 square foot parcel of land. The property is owned by Dave Hagstrom. The applicant proposes to construct one 3-plex on the property at the intersection of Jefferson Street and State Avenue.

RECOMMENDATION

The Planning Division is recommending conditional approval.

PROPOSED CONDITIONS

1. The special review approval is for Lots 25-27, Block 3, State Realty Subdivision generally located at 3 Jefferson Street.
2. The special review approval is for the construction of 1, 3-plex dwelling and no other use or development configuration is intended or implied by this approval.
3. Any expansion of the proposed building or off-street parking greater than 10 percent of what is shown on the submitted site plan will require an additional special review approval.
4. All exterior lighting, including security lighting shall have full cut-off shields so no part of the fixture or lens projects below the cut-off shield. The maximum height of any light pole in the outdoor areas shall be 15 feet above grade. Exceptions to this requirement are allowed for porch or entry doorway lighting.
5. No construction or demolition activity will occur before 7 am or after 8 pm daily.
6. The applicant/owner will remove the shrub/tree on the northwest corner of the property and properly maintain and trim the existing trees in the boulevard on Jefferson Street. Any new trees planted shall not be any of the following species: Carolina poplar, other populus subspecies including any variety of aspens, elms, lombardy poplar, silver leaf poplar, weeping willow, or box elder. The trees will be continuously maintained and replaced as necessary by the owner.
7. Any centralized solid waste storage shall be enclosed by a wall on 3 sides and a closing gate or gates. The wall and gates for the solid waste storage shall be similar or complimentary in color to the adjacent buildings and shall be sight-obscuring. The wall and gates shall be tall enough that no part of the interior dumpster(s) are visible from the outside.
8. The site will be developed in substantial conformance with the submitted site plan including landscaping, parking and building locations.
9. 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.
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 of Billings regulations and ordinances that apply.

Discussion

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

Chairman Dailey asked for clarification on Condition #6 regarding the species of trees and why certain types were restricted in the boulevard. He asked if this was a new restriction.

Ms. Cromwell said the clarification was added to the condition to emphasize the types of trees that can be invasive to water and sewer lines. Although there are restrictions for new trees planted in the boulevard, this condition will allow easier enforcement of those restrictions.

Chairman Daily asked who owns the boulevard.

Ms. Cromwell said the City owns the boulevard, however, it is the responsibility of the adjacent property owners to maintain any landscaping, keeping it free of weeds, keeping grasses mowed and maintaining any trees. Future property owners shall be responsible for the maintenance as well.

Chairman Daily stated he had driven by the property that day and the existing structure shown in the photo has already been removed.

Public Hearing

Chairman Dailey opened the public hearing and called for proponents or opponents of City Special Review #909. There was none. Chairman Dailey closed the public hearing and called for a motion.

Applicant:

Dave Hagestrom, 324 S. 31st Street, commented on the importance of this proposals consistency with the City's Growth Policy. He presented a letter of support from the Southside Neighborhood Task Force. He said he felt this proposal would preserve the integrity of the neighborhood. He indicated the triplex would also promote affordable housing. He explained that he had done a number of projects in this area. He did not feel the proposal reduce the property value of adjacent properties or surrounding properties on the street.

Dan Wagner asked when they anticipated construction would begin.

Mr. Hagestrom said as soon as they got City approval for the Special Review, Variance and Building Permits granted. He said they hope to have the project completion hopefully within a year depending on the weather.

Discussion

Chairman Dailey called for questions and discussion from the Commission.

Member Boyett asked for clarification on the parking spaces.

Mr. Hagestrom said they would be putting 6 parking spaces accessible from the alley. They would be totally on the subject property.

Chairman Daily asked if the front entrance would face State Avenue.

Mr. Hagestrom said the structure would be facing State Avenue.

Proponents

There were none.

Opponents

Linda Woods, 9 Jefferson Street, neighboring property owner, is opposed to the property being a triplex. She said there are many non-conforming property in the area, as this is an older neighborhood. She said this is a high density area and there is limited parking because most of the properties do not have off street parking. She indicated there is already a problem with parking availability on the street and the number of units proposed would increase the problem. She said the addition of 3 units and additional vehicles would increase the demand for parking and negatively impact the properties to the south. She said that the project would also impact the resale value of the homes in the area. She presented a map and a petition from the surrounding property owners and tenants noting the property owners that were opposed as well as renters. Of the 28 homes visited, 21 were homeowners, 7 were renters in the neighborhood. She said the petition was signed by property owners or tenants that were opposed to the triplex and said they would be less likely to oppose "in kind" structures such as a single family home or a duplex. She said as homeowners they have invested substantial time and money in their homes and asked the Commission consider opposition to a commercial triplex in the neighborhood.

There was discussion regarding parking off the alley and access to garbage dumpsters.

Doug Beringer, 2 Jefferson, said he had worked for City solid waste for 36 years and had had lots of experience with alley parking. He said he has lived in his home for 25 years and spent his time and money to improve it. He appreciated Mr. Hagstrom's work in the neighborhoods, but felt the triplex would not be a good fit for the neighborhood. He concurred with Ms. Woods and encouraged the Commission to deny the request.

Randy Lafrance, address said he concurred with all concerns regarding parking and increased garbage. He concurred with Ms. Woods and Mr. Beringer.

Rebuttal

Mr. Hagestrom said the parking would be on the property and off the alley. He agreed that Jefferson has limited parking and had hoped off street parking from the alley would help to make the parking less of an impact. He said garbage would be addressed when the units are signed up for the garbage service and felt one large 300 gallon barrel would service that property possibly two them would fit.

Chairman Daily asked what his experience was with the number of vehicles per dwelling unit.

Mr. Hagestrom said they were typically 2 cars per dwelling unit on average. He explained they would be providing 2 spaces allowed for each unit and stipulating to tenants they would only be allowed 2 vehicles. He also clarified the spaces would be about 9 feet to allow for larger vehicles.

Motion

Member Wagner made a motion to deny SR 909 because it does not meet the parking and garbage for 3 units and it was seconded by Member Boyett to deny Special Review #908.

Discussion

Boardmember Boyett pointed out none of the area property owners notified staff of their concerns prior to the meeting.

Boardmember Wagner said this would be an improvement to the neighborhood and would be good infill. He did not feel that 3 units would be a good idea for the neighborhood that is already congested with parking issues.

There was general discussion regarding parking.

Chairman Daily asked for verification for standard procedure for the petition.

Ms. Cromwell said there is no valid protest provision for special review applications, there are only opposition and support. There are 3 criteria staff must review the application for and it was determined this would conform to those criteria. If the Board does not feel those determination are adequate they must explain their reasons for the denial.

Motion

Member Boyett made a motion and it was seconded by Member Wagner to approve Special Review #909 with the conditions recommended by staff and adopt the findings of the criteria.

Vote.

The motion carried with a 2-1 voice vote.

Boardmember Wagner was opposed.

Item #2: Special Review #910 – Special Review #910 – Wyoming Ave and 10th St West – 4-plex Dwellings – A special review request to allow the construction of three 4-plex dwellings in an R-60 zone on Lots 16-18, Block 2, Broadacre Subdivision, a 27,950 square foot parcel of land. The applicant is requesting a concurrent lot area variance from the Board of Adjustment. Tax IDs: A03227, A03228, A03229, Bonini Enterprises, LLC, owner and Eggart Engineering, agent.

REQUEST

This is a request to allow the construction of three, 4-plex multi-family dwellings in a Residential 6,000 (R-60) zone on Lots 16-18, Block 2, Broadacre Subdivision, a 27,950 square foot parcel of land. The property is owned by Bonini Enterprises, LLC and the agent is EEC, LLC. The applicant has submitted a concurrent lot area variance to the Board of Adjustment and staff is recommending approval of the variance. The applicant proposes to construct three 4-plex dwellings on the property at the intersection west of the intersection of 10th Street West and Wyoming Avenue.

RECOMMENDATION

The Planning Division is recommending conditional approval.

PROPOSED CONDITIONS

1. The special review is limited to Lots 16-18, Block 2, Broadacre Subdivision generally located at the intersection of Wyoming Avenue and 10th Street West.
2. The special review approval is for the construction of three, 4-plex dwellings and no other use or development configuration is intended or implied by this approval.
3. Any expansion of the proposed building or off-street parking greater than 10 percent of what is shown on the submitted site plan will require an additional special review approval.
4. All exterior lighting, including security lighting shall have full cut-off shields so no part of the fixture or lens projects below the cut-off shield. The maximum height of any light pole in the outdoor areas shall be 15 feet above grade. Exceptions to this requirement are allowed for porch or entry doorway lighting.
5. No construction or demolition activity will occur before 7 am or after 8 pm daily.
6. The applicant/owner properly maintain and trim any new trees planted on the property. New trees shall not be any of the following species: Carolina poplar, other populus subspecies including any variety of aspens, elms, lombardy poplar, silver leaf poplar, weeping willow, or box elder. The trees will be continuously maintained and replaced as necessary by the owner.
7. Any centralized solid waste storage shall be enclosed by a wall on 3 sides and a closing gate or gates. The wall and gates for the solid waste storage shall be similar or complimentary in color to the adjacent buildings and shall be sight-obscuring. The wall and gates shall be tall enough that no part of the interior dumpster(s) are visible from the outside.
8. The site will be developed in substantial conformance with the submitted site plan – Option A - including landscaping, parking and building locations.
9. 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.
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 of Billings regulations and ordinances that apply.

Discussion

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

Ms. Cromwell noted that the City Board of Adjustment will review this projects application for a lot size variance on Wednesday, August 7, 2013.

Member Daily asked where the sewer and water connections were located.

Ms. Cromwell said they were located at the street.

Public Hearing

Chairman Dailey opened the public hearing and called for proponents or opponents of City Special Review #910.

Applicant:

Quentin Eggart, Eggart Engineering, 2 South 7th Street West, said Joe Bonini is the developer on the property. He explained they would be completing the alley the width of the 3 properties as well as the curb gutter and sidewalk all the way around the perimeter of the property along the two streets. He said they would be providing stormwater retention onsite, so there would be minimal to no runoff onto the street to the stormwater system on Broadwater. He said the preferred plan was off street parking access that would provide green space at the rear of the property with family area. The second option was less attractive with no safe space for families to enjoy the outside. He said they are proposing 41 off street parking spaces and there are 31 bedrooms for this project. He did not feel they would be encroaching on any parking for the YWCA.

Mr. Bonini, 8470 Long Meadow Drive, applicant, said he will be addressing all of the concerns of the neighboring property owners. He said this was to be an infill project with multifamily development.

Chairman Daily asked if they had project timing and when they would start construction.

Mr. Bonini said they plan to start as soon as they have all of the approvals they need, and would prefer to get started by October, 2013. The anticipated completion would be approximately 18 months depending on the weather.

Chairman Daily asked if they would be rental or owner occupied.

Mr. Bonini said this would be a rental complex with 2 and 3 bedroom units renting in the \$1200 to-\$1300 range.

Proponents:

None.

Opponents:

None

Discussion

Chairman Dailey called for questions and discussion from the Commission. There was none. Chairman Dailey closed the public hearing and called for a motion.

Motion

Member Boyett made a motion and it was seconded by member Wagner to recommend conditional approval of City Special Review #910 and adopt the findings as recommended by staff.

Discussion

Chairman Dailey called for discussion.

There was discussion regarding the positive effects of this type of infill development.

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

Item #3: Zone Change #915 –727 Bench Boulevard – A zone change request from Neighborhood Commercial (NC) to Community Commercial (CC) on Tract 1, C/S 1706, a 1.6 acre parcel of land. A pre-application neighborhood meeting was conducted on June 24, 2013, at the Country Inn and Suites at 231 Main Street. D05510, Ryan and Jodi Rookhuizen, owners and Sanderson Stewart, agent.

REQUEST

This is a zone change request from Neighborhood Commercial (NC) to Community Commercial (CC) on a 1.6 acre parcel described as C/S 1706 Tract 1 on the south east corner of the intersection of Hilltop Road and Bench Boulevard. The property is owned by Ryan and Jodi Rookhuizen and Sanderson Stewart is the agent. The owners conducted a pre-application neighborhood meeting on June 24, 2013. The pre-application meeting notes are included as Attachment D.

RECOMMENDATION

The Planning Division is recommending approval.

Discussion

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

Member Wagner asked where the drive approaches would be and if there were any already existing.

Ms. Cromwell pointed out the existing approaches on the property.

There was a discussion regarding the roundabout under construction and a clarification of the actual size of the lot and the width of the right of way.

Chairman Daily asked for clarification on how 18,000 vehicle trips per day was determined.

Ms. Cromwell said a combined number trips per day for Hilltop Road and Bench Boulevard.

Chairman Daily asked if the park is within the 600 feet separation restriction for alcoholic beverage license.

Ms. Cromwell said it appears to be within the 600 feet.

Member Boyett asked if staff had any idea what the proposed use was and if they were improving the lot as a gas station convenience store.

Ms. Cromwell said the market for this parcel will likely change when bench is completed. The applicant has not stated any specific use plan at this time.

There was discussion on future improvements for the site and what type of use would be allowed under the existing zoning as well as the proposed zoning.

Public Hearing

Leonard Dailey opened the public hearing and called for proponents or opponents of City Zone Change #915. Chairman Dailey called for presentation by the applicant.

Applicant:

Lauren Waterton, (Sanderson Stewart), representing the applicant, said Ryan Rookhuizen, the owner is also present. She said staff summarized the request for the change in detail and added there is no specific development proposed for the property at this time. The applicant is seeking to change the zoning to increase possibilities for the future of this intersection and make it a desirable zoning for development at this location. She concurred with staff recommendation.

Proponents

There were none.

Opponents

Kirk Hansen 740 Conway, said he was opposed to the change. He pointed out that Guinanes had previously changed the zoning to create a nursery not to make it into a commercial zoning. He read a statement indicating that zoning was not to promote commercial development but the protect the land and property values and home security. His statement indicated the change in zoning would deteriorate the safety and integrity of the neighborhood they live in. He stated the improvement of the road and roundabout were a benefit to the neighborhood. He pointed out that the previous property owner had a proposal in 2006 for zoning the property using it for office uses. The new ownership of this property has prompted this change that may negatively impact the neighborhood. He thanked the board for their time and requested a recommendation of denial.

Jim Welzenbach, 2211 Boyd Dr., 510 8th St. West, concurred with the improvements of the road. He felt the proposed zoning would negatively impact the neighborhood. He said it may bring in a

mini storage and would wreck the neighborhood. He is opposed and hoped the board would recommend denial.

Jeff Miller, 741 Conway, asked for clarification of off premise consumption.

Ms. Cromwell said they could not sell alcohol for on premise consumption under the current zoning. She said the only way to have a casino is with on premise consumption.

Mr. Miller was concerned with the commercial type use that may be a use that is detrimental to the neighborhood. He felt that alcohol sales and a gas station convenience store would not be appropriate for that location. He said the neighborhood commercial zoning is sufficient for the property.

Noah Foley, 745 Conway, opposed to the possibility of increased traffic and type of business that may promote more crime etc. He concurred with Mr. Miller.

Rebuttal:

Ms. Waterton said she did not feel that development of the property would decrease the surrounding property value. She said she was not a property value expert that is her opinion. She said the use of the property may be what determines what is compatible. She said the increase in traffic was likely going to occur whether or not this site was developed. She said there was not a way to determine at this time what the actual use would be, and the owner was trying to increase the uses allowed on the property. She said the property owners do not want to degrade the neighborhood integrity but promote it and the value of the lands surrounding it including their own.

Chairman Dailey asked if there was anyone else wishing to speak in favor or against City Zone Change #915. There was none.

Motion

Member Wagner made a motion and it was seconded by Member Boyett to recommend approval of City Zone Change #915 and adopt the findings of the ten criteria.

Discussion

Chairman Dailey called for discussion on the motion.

Member Boyett said there is no proposal for development of the project or a specific use and he didn't see a good reason for approving a zone change without any development use proposed.

There was discussion regarding other zone changes approved in the area and the proposals that were suggested with them.

Chairman Daily said just because they propose a development for the property does not indicate the development is going to be certain. He said Staff has provided the legal review based on the criteria

required to approve the zone change, this doesn't require a development proposal in order to be approved.

Member Wagner stated if they have a developer that wishes to propose a use that includes alcoholic beverage sales they will have to meet the special review requirements at that time.

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

Other Business

A. The next City Zoning Commission meeting will be held on Tuesday, August 6, 2013

B. Notice: The Planning and Community Services Department will be moving from August 19-23, 2013 and will have limited services during this time. Our new physical address is 2825 3rd Avenue North, 4th Floor, Billings, MT 59101.

The meeting was adjourned at 6:40 p.m.

ATTEST: APPROVED BY A MOTION ON OCTOBER 1, 2013

Leonard Dailey, Chairman

Karen Miller, Planning Assistant