

City of Billings Zoning Commission Meeting Minutes- January 7, 2014

The City of Billings Zoning Commission met on Tuesday, January 7, 2014 in the Miller Building 1st Floor Conference Room, 2825 3rd Avenue North, Billings, Montana.

Chairman Leonard Daily called the meeting to order at 4:30 p.m. The City Council has designated **Monday, Monday, January 27, 2014**, 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		01/02/2014	02/04/2014	03/04/2014	04/01/2014	05/06/2014	06/03/2014	07/01/2014	08/05/2014	09/02/2014	10/07/2014	11/07/2014	12/02/2014
Leonard Dailey, Jr.	Chairman	1											
Barbara Hawkins	Commissioner	1											
Dan Wagner	Vice Chairman	1											
Dennis Ulvestad	Commissioner	1											
Mike Boyett	Commissioner	1											
Candi Millar	Director, Planning & Community Services	-											
Nicole Cromwell	Planner II, Zoning Coordinator	1											
Tammy Deines	Planning Clerk	1											
Wyeth Friday	Planning Division Manager	-	-	-	-	-	-	-	-	-	-	-	-
Juliet Spalding	Planner II	-	-	-	-	-	-	-	-	-	-	-	-
Lora Mattox	Planner II	-	-	-	-	-	-	-	-	-	-	-	-
Karen Husman	Planning Assistant	-	-	-	-	-	-			-	-	-	-

Total Number of 2014 Applications	01/02/2014	02/04/2014	03/04/2014	04/01/2014	05/06/2014	06/03/2014	07/01/2014	08/05/2014	09/02/2014	10/07/2014	11/07/2014	12/02/2014	TOTAL
Zone Change	1												1
Special Review	1												1

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

Attending: Troy Calhoun, Matt Mensill, Ed Waldvogel, Pat Case Threet

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: December 3, 2013

Chairman Dailey called for approval of the December 3, 2013 meeting minutes.

Motion

Dan Wagner made a motion and it was seconded by Mike Boyett to approve the December 3, 2013 meeting minutes as submitted.

The motion carried with a unanimous voice vote.

Disclosure of Conflict of Interest

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

Disclosure of Outside Communication

Chairman Dailey called for disclosure of ex parte communication. Nicole Cromwell stated citizen letters were received by staff from:

- Chris Bakwin, P.O. Box 1542, Bozeman, Montana 59771, in favor of Special Review #915
- Mavis A Schultz, 4231 Bruce Avenue, Billings, Montana 59101, opposing Zone Change #918
- Petition against Zone Change #918 with 34 citizen signatures
- Applicant Michael Burke, January 2, 2014 e-mail, requesting to withdraw Zone Change #918

****Ms. Cromwell requested a change of agenda order to hear Agenda Item #2 first.**

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.

Item #2: City Zone Change # 918 – East of 201 Orchard Lane – A zone change request from Controlled Industrial (CI) to Residential Multi-family-Restricted (RMF-R) on Tract 1, C/S 3480, a 2.575-acre parcel of land generally located west of Stephens Lane and east of 201 Orchard Lane. A pre-application neighborhood meeting was held on November 25, 2013, at the Hampton Inn, 5110 Southgate Drive. Tax ID: D01611

REQUEST

This is a zone change request from Controlled Industrial (CI) to Residential Multi-Family-Restricted (RMF-R) on a 2.57 acre parcel described as C/S 3480 Tract 1 on the west side of Stephens Lane and east of 201 Orchard Lane. The property is undeveloped and currently has legal and physical access only to Stephens Lane. The property is owned by GSB Holdings and ARB Investments and the agent is Michael Burke. The owners conducted a pre-application neighborhood meeting on November 25, 2013.

Nicole Cromwell stated staff received the e-mail below from the applicant's agent Michael Burke requesting withdrawal of City Zone Change #918.

From: Michael Burke [<mailto:mburke@hgfa.net>]
Sent: Thursday, January 02, 2014 4:20 PM
To: Cromwell, Nicole
Cc: almonblain@hotmail.com
Subject: RE: Blain Zone Change Request 918

Nicole,

Al Blain has asked that we pull our zone change request with the understanding that in 4 months we can re-evaluate the request and resubmit with either the same request or some variation if he chooses. Per our conversation, it sounded like I can. We understand that the zoning commission will have to vote to allow the request to be rescinded. Let me know if Al or I have to do anything more at this point.

Thanks for your assistance.

Mike Burke
HGFA Architects

Discussion

Chairman Dailey called for questions and discussion from the members of the Commission. Nicole Cromwell noted this application received a valid protest against the zone change. She explained the applicant now needs to wait at least 4 months before submitting a new zone change application. The applicant also may choose to move forward with a development project in conformance with the existing zoning – Controlled Industrial.

Public Hearing

Chairman Dailey opened the public hearing and called for proponents or opponents of City Zone Change #918.

Troy Calhoun, 4243 Arden Avenue, Billings, Montana

Mr. Calhoun submitted DEQ reports and asked what would take place should the zone change be moved forward. Chairman Dailey stated often times the Commission makes site visits and relies on the citizenry for input. He reminded Mr. Calhoun development is another purview. Mr. Calhoun voiced concern with Stevens as it is an 18' wide service lane and the subdivision code requires a storm drain connection. Chairman Daily said this would be reviewed by the Engineering Department and the State. Mr. Calhoun said stated he wished to bring forward this information should the applicant return with another request. He submitted a Chain of Custody and Analytical Request Record Report from Energy Laboratories for the record.

Motion

Dan Wagner made a motion and it was seconded by Mike Boyett to accept the request for withdrawal of City Zone Change #918.

Discussion

Per request of Chairman Dailey, Nicole Cromwell reiterated the applicant now needs to wait at least 4 months before submitting a new zone change application.

The motion carried with a unanimous voice vote, 5-0.

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

Item #1: Special Review #915 – 910 Grand Avenue – New Drive-Thru Café - A special review request to allow a drive through café service across an alley from a residential zone in a CC zone on Lot 15A1, Block 2, Sunset Subdivision, 2nd Filing, a .80-acre parcel of land . The new café will replace the existing structure, the former JB's Restaurant. Tax ID: A16677

REQUEST

This is a request to allow the construction of a drive-through café in a Community Commercial (CC) zone across the alley from a residential zone on Lot 15A1, Block 2 of Sunset Subdivision 2nd Filing, a 34,939 square foot parcel of land. The property is owned by Chris Bakwin and the agent is Wadsworth Acquisitions, LLC. The property is generally located at 910 Grand Avenue, the

location of the former JB's Restaurant. The applicant proposes to demolish the current building and build 2 new structures; 1 for the drive-through café and 1 additional building for another retail tenant.

RECOMMENDATION

The Planning Division is recommending conditional approval.

PROPOSED CONDITIONS

1. The special review is limited to Lot 15A1, Block 2, Sunset Subdivision 2nd Filing generally located 910 Grand Avenue.
2. The special review approval is for the construction of a 3,000 square foot building with a drive-through café service and no other use or development configuration is intended or implied by this approval. The second building shown on the site plan is not subject to this special review approval.
3. Any expansion of the proposed drive-through café building 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 entry doorway lighting.
5. No construction or demolition activity will occur before 7 am or after 8 pm daily.
6. 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. All installed 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. A sight-obscuring 6-foot fence shall be installed along the south property line with the exception of the clear vision area where the alley intersects 9th Street West. A separate fence permit is required from the Planning Division.
10. Any outdoor announcement system shall be operated so it is not audible beyond the property lines.
11. The owner is allowed to have background music and un-amplified, live entertainment on the outdoor patio. Amplified, live entertainment is not allowed at any time.
12. 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.

13. 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.

In response to a request for clarification by Dennis Ulvestad, Nicole Cromwell noted the location of the drive through on a posted site map along with the access points. Mike Boyett asked about the exit points on this property. Nicole Cromwell said Grand Avenue is a principal arterial and drive openings are limited. She commented that directional signage may be used.

Leonard Dailey asked about the traffic counts, and Nicole Cromwell noted the 2013 statistics, which is a three year average. Regarding the shared driveway approach ownership, Nicole Cromwell said there is a recorded easement running north and south which was recorded in 2005. This may have been about the same time frame when the City was acquiring right-of-way to ensure both properties had access.

Chairman Dailey asked about the fencing and any concerns with visibility in the alleyway. Nicole Cromwell stated the fence will end at the dumpster location to keep the alley access open. She pointed out there is very little traffic in the alley except for garbage services and there is no requirement for a clear vision triangle between an access and alley. Leonard Dailey said signage has been required in the past. Nicole Cromwell said the alley will not be an obvious access point due to the fencing and the available exit points on Grand Avenue.

Dennis Ulvestad asked if there will be traffic concerns during peak hours from Grand Avenue. Nicole Cromwell said a traffic accessibility study has not been conducted but it will tell the developer what type of mitigation is needed.

Applicant/Agent: Ed Waldvogel, Wasworth Development Group, 166 E 14000 S., Suite 10, Draper Utah, Billings, Montana

Mr. Waldvogel is representing Wadsworth Development Group. He opened a PowerPoint presentation. He said they have worked on several projects in Montana, and they are a preferred developer for Starbucks Coffee. He introduced Mr. Matt Merrill who is a store development manager for Starbucks. Mr. Waldvogel said they met with City representatives who noted there is more landscaping proposed than what is required. Their plan is to ensure the project is aesthetically pleasing.

Mr. Waldvogel presented a preliminary drawing of the Starbucks Coffee building. In response to a question by Leonard Dailey, he stated the building will be oriented with dining area looking out towards Grand Avenue. He discussed the benefits to the City of Billings being a ten year lease with Starbucks; new employment opportunities; property tax revenue; redevelopment of a vacant infill site; and attraction of a quality tenant for adjacent 2,000 square foot building. He said businesses

such as “Chipotle” and “5 Guys” have expressed interest. There will be a single tenant with a restaurant type of use.

Discussion

Leonard asked about construction and opening timeframes. Mr. Waldvogel stated if approved, they plan to submit the site plan during the first week of February and start construction in mid-April. Leonard Daily asked how Billings Montana was chosen for a location and Mr. Waldvogel said Starbucks communicates where they like to be. He stated they have initiated a traffic study to address any potential traffic concerns.

Public Hearing

Chairman Dailey opened the public hearing and called for proponents or opponents of City Special Review #915. There was none. The public hearing was closed at 5:15 p.m.

Motion

Barbara Hawkins made a motion and it was seconded by Mike Boyett to forward a recommendation to City Council of conditional approval of City Special Review #915-910 Grand Avenue with conditions of approval recommended by Staff.

Discussion

Barbara Hawkins said this new building will be better than the previous structure. Mike Boyett said this will be an asset to the community. Leonard Dailey commented he is happy with the proposal.

The motion carried with a unanimous voice vote, 5-0.

Other Business

- A. The next City Zoning Commission meeting will be held on Tuesday, February 4, 2014.
- B. The Board welcomed Dennis Ulvestad to the City Zoning Commission.

The meeting was adjourned at 5:20 p.m.

ATTEST: APPROVED BY A MOTION ON FEBRUARY 4, 2014

Leonard Dailey, Chairman

Tamara L. Deines, Planning Clerk