

**City of Billings Zoning Commission
Meeting Minutes- April 1, 2014
Approved by a motion on May 6, 2014**

The City of Billings Zoning Commission met on Tuesday, April 1, 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, April 28, 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	1	1	1								
Barbara Hawkins	Commissioner	1	1	1	1								
Dan Wagner	Vice Chairman	1	E	1	1								
Dennis Ulvestad	Commissioner	1	1	1	1								
Mike Boyett	Commissioner	1	E	1	1								
Candi Millar	Director, Planning & Community Services	-	-	-	1	-							
Nicole Cromwell	Planner II, Zoning Coordinator	1	1	1	1	1							
Tammy Deines	Planning Clerk	1	1	1	1	-							
Wyeth Friday	Planning Division Manager	-	-	-	-	-	-	-	-	-	-	-	-
Juliet Spalding	Planner II	-	-	-	-	-	-	-	-	-	-	-	-
Lora Mattox	Planner II	-	-	-	-	-	-	-	-	-	-	-	-
Karen Husman	Planning Assistant	-	-	-	-	1	-			-	-	-	-

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									2
Special Review	1	1	-	-									2

Chairman Dailey introduced the Planning Department Staff and Commission: Nicole Cromwell, Zoning Coordinator; and Tammy Deines, Planning Clerk; Tanya Punt, Code Enforcement Division; Candi Millar, Director, Planning & Community Services Department

Attending: Valorie Griffith; John Griffith; Jonathan D. Kober; William R. Saunders III; Brent Cromley; Freedus A Rice; Carol Moore, Emilio Campos; John Armstrong; Lucia Martin; Patrick Reichert; Councilman Mike Yakawich, Ward I

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: February 4, 2014 (The March 4, 2014 meeting was cancelled). Chairman Dailey called for approval of the February 4, 2014 meeting minutes.

Motion

Dan Wagner made a motion and Dennis Ulvestad seconded to approve the February 4, 2014 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. There was none.

Communications submitted at today’s meeting: Letter to Billings City Council from John E. Griffith, 809 15th Street, Billings, Montana 59101, dated March 26, 2014, regarding Zone Change #919

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 #1: Zone Change #919 – 625 N 15th Street – A zone change request from Residential 6,000 (R-60) to Residential Manufactured Home (RMH) on Lots 53 & 54, Block 2, North Park Subdivision a 7,500 square foot parcel of land. The zone change will allow an existing manufactured home to remain on the property. A pre-application neighborhood meeting was held on February 24, 2014. Tax ID: A12072.

REQUEST

This is a zone change request from Residential 6,000 (R-60) to Residential Manufactured Home (RMH) on a 7,500 square foot parcel described as Lots 53 & 54, Block 2, North Park Subdivision. The property has 1 manufactured home recently placed on the property and previously had 2 manufactured homes. The property is owned by William Saunders, III.

RECOMMENDATION

1. The Planning Division is recommending approval.
2. The special review approval shall be limited to Lots 9 and 10, Block 112, Billings Original Town generally located at 2417 Montana Avenue.
3. Increases in the area where alcohol service is provided greater than 10% of the area shown on the site plan (2,300 square feet) or the addition of an outdoor patio will require 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 that apply.

Ms. Cromwell provided background information on how this application came forward to the Zoning Commission and City Council. She explained the owner was not aware of the zoning restrictions on the property that required him to replace the removed manufactured homes within 1 year to maintain its legal nonconforming use. In December of 2013, the owner requested and received an electrical permit to re-activate a manufactured home power supply on the property. He subsequently applied for and received a permit to install a new natural gas line and street opening permit for its installation. The issuance of these permits does not require the approval of staff from the Planning Division, although it is good practice for the approving agencies for the electrical and gas permits to check on zoning compliance before permit issuance. Planning Division staff in this case was not consulted.

The proposed RMH zone requires a maximum building height of 34 feet and a front and rear property line minimum setback of 20 feet. The proposed zoning is residential and should not have an effect on the residential character of the neighborhood. The manufactured home does not currently meet the required front setback and likely does not meet the required 8 foot side setback. If the zoning is approved, the manufactured home will need to be re-set to meet these setbacks. The

current R-60 zoning allows a 15 foot front setback. The maximum lot coverage in the R-60 zone is 40% and the maximum lot coverage in the RMH zone is 30%.

Discussion

Chairman Dailey called for questions and discussion from the members of the Commission. He asked how the electrical and plumbing permits address the structure and Nicole Cromwell replied it is denoted as a mobile home. She stated due to this application, Administration accentuated to Building staff the importance of checking with the Planning Division for setback information. She reported the owner acted in good faith and was given the alternative to apply for a zone change to allow the mobile home to remain with the condition that the mobile home be reset to meet the required setbacks on the property.

Dan Wagner asked if the home is occupied and if the size of the previous mobile home is the same of the home that is currently on the lot. Nicole Cromwell said the home is occupied. She stated she had consulted with the Department of Revenue to determine when the previous homes were removed and can find the information on the home sizes.

Leonard Dailey asked when the zoning was approved for the nearby manufactured home park. Nicole Cromwell said the original zoning was adopted in 1973 and she didn't find any surrounding properties with zone changes of record. Leonard Dailey asked if the number of allowable homes in the court will have to be reduced when homes are replaced. Nicole Cromwell said the homes could be replaced within one year of removal but currently the lot is overly placed for the underlying zoning.

In response to further question by Leonard Dailey, Nicole Cromwell said the appraiser was a private appraiser. Leonard Dailey noted the staff report comments on the character of the neighborhood and said the crux is the placement of the mobile home. He asked who took the notes at the pre-application meeting, and it was determined Director Candi Millar was the note taker. Nicole Cromwell reviewed the 2008 North Park Neighborhood Plan and read allowed the top six goals of the plan including a land use goal of preserving the residential character of the area; ensuring adequate off-street parking for new development; improving pedestrian and neighborhood safety; and encouraging more affordable housing options in the area. She stated there is no indication in the plat the zoning was unacceptable or incompatible.

Leonard Dailey asked about the age of the mobile home located across the street and Nicole Cromwell said it predates 1972. Leonard Dailey pointed out the staff report states the age of homes located on North 15 range from \$112,000 down to 26,000. He asked about the value of the mobile home on the lot in question and if there are any requirements precluding the age of the home. Nicole Cromwell explained within Residential Manufactured Home, (RMH), zoning, any age of home can be used as a replacement as long as it is not substantially larger than what is removed. She stated this application is within the guidelines of the standard zoning. Leonard Dailey stated he is an appraiser by profession; these types of properties are defined as "factory built homes", being manufactured homes and modular homes. He commented there is good demand for factory built residential properties.

Public Hearing

At 5:05 p.m. Chairman Dailey opened the public hearing and called for proponents of City Zone Change #919.

William Saunders III, 7516 Burlington Avenue, Billings, Montana

Mr. Saunders is the applicant/owner. He stated he removed the previous trailers as they were in poor condition and inhabited by vagrants. Since then, his sister who is a single mother with children was in need of housing and he was trying to help her by providing the lot space. Mr. Saunders stated he was unaware of the time frame to meet the zoning guidelines for replacement, and had he known, he would not have suggested moving a home on the property. He said he has owned the property since 2001 and understands the neighbors' concerns. He stated the property will be well maintained and presented. Upon removal of this mobile home, he intends to leave the property vacant until he can build a structure on a foundation.

Discussion

Chairman Dailey called for questions and discussion. Mike Boyett asked if the applicant could reposition the home and Leonard Dailey asked what type of structure Mr. Saunders intends to build. Mr. Saunders said he has owned the property for 13 years and he feels a structure such as a single family home or duplex on a foundation would be the best investment.

Chairman Dailey opened the public hearing and called for opponents of City Zone Change #919

John Armstrong, 903 North 18th Street, Billings, Montana

Mr. Armstrong voiced objections to the proposed zone change and stated the proposal was not in character with the North Park neighborhood and plan. He noted some of the neighborhood plan goals this application does not meet including ensuring residents have an active role in land use changes; increasing pride in the neighborhood; and promoting single family home ownership.

Mr. Armstrong said this is spot zoning. He stated he obtained a valid protest with signatures from 62% of the residents within 150-feet of this property along with numerous other signatures along with a letter from the East Billings Renewal District, (EBURD). He submitted photos of the lot taken 5-6 days ago to the Commission and stated he does not consider the property as well maintained. Mr. Armstrong said Mr. Saunders had a year to comply with the zoning and when the City doesn't do their job it creates a lot of work.

Johnathan D. Kober, 721 N 16th Street, Billings, Montana

Mr. Kober owns several properties in the North Park district. He stated he is against mobile homes moving into the district and it lowers property values.

Carol Moore, 615 North 15th Street, Billings, Montana

Ms. Moore said approval of this zone change request this would set a precedent as it lacks integrity and they need to stay on track with the neighborhood.

Valerie Griffith, 809 N 15th Street, Billings, Montana

Ms. Griffith urged the Zoning Commission to vote "no", as Mr. Saunders has no regard for the neighborhood and has circumvented the laws by placing the home on the lot. She said they are trying to revitalize the neighborhood and this request does not meet the plan. She commented that in the past, similar promises were made but not kept regarding zoning for property at 717 North 15th Street.

Nicole Cromwell said the approved variance for 717 N 15th Street variance to replace the manufactured home with another manufactured home was a requirement of the code at that time. Leonard Dailey noted a comment in the staff report regarding illegal spot zoning. Nicole Cromwell said a court makes this determination with consideration of criterion that the zone change requested affects relatively small piece of property; the approved zoning is different and incompatible with surrounding zoning; and the zoning benefits one individual but is a detriment to surrounding neighborhood. She said this is a residential use and it may not meet the criterion for an illegal spot zoning determination.

Emilio Campos, 602 N 16th Street, Billings, Montana

Mr. Campos stated the applicant had a year to replace the mobile home. He said North Park is improving and mobile structures seem to take away from what the park is trying to do. Mr. Campos said he feels retaining the R-6000 zoning will promote cleaning up the neighborhood and attract homeowners that will take care of the properties. He said Mr. Saunders should have helped his sister by building a home on the property.

John Griffith, 809 N 15th Street, Billings, Montana

Mr. Griffith stated he had his home on North 15th Street appraised several years ago and the appraiser significantly reduced the appraisal value due to the mobile homes in the neighborhood.

Rebuttal

William Saunders III, 7516 Burlington Avenue, Billings, Montana

In response to further query from Mr. Kober, Mr. Saunders said he was unsure of the current home's dimensions but he removed two 14 X 70 trailers from this lot. Nicole Cromwell pointed out the allowance for a replacement up to a 50% increase of the original manufactured home in a nonconforming district does not apply in this case as it no longer has a legal nonconforming protected status.

Mr. Saunders stated he does not want to have a trailer and the lot but is trying to help his sister by providing a temporary home. He said he doesn't know what was involved in permitting as his mother obtained and paid for the permits and financed the home. He said he is not involved financially and would rather have the lot empty.

Chairman Dailey allowed questions by citizens Jonathan Kober, who stated he owns properties adjacent to this property; and John Armstrong, who asked why there are two mailboxes on the lot. Mr. Saunders said he is unsure why there are two mailboxes. Chairman Dailey stated the City Zoning Commission is an advisory board and will forward a recommendation to City Council who will hold another public hearing.

Chairman Dailey asked if there was anyone else wishing to speak in favor or against City Zone Change #919. There was none. Chairman Dailey closed the public hearing at 5:29 p.m.

Motion

Dan Wagner made a motion and Dennis Ulvestad seconded to forward a recommendation to City Council of denial of City Zone Change #919.

Discussion

Chairman Dailey called for discussion on the motion.

Zoning Coordinator Nicole Cromwell reminded the Board of the need to articulate their reasoning for denial and the criterion the request does not meet.

10 Criteria to be Used for Review of Zone Changes

In making its recommendation to the city council for an amendment to the official map or text of this chapter, the city zoning commission shall consider, among other things, the following:

- (1) Whether the new zoning is designed in accordance with the growth policy;
- (2) Whether the new zoning is designed to secure from fire and other dangers;
- (3) Whether the new zoning will promote public health, public safety and general welfare;
- (4) Whether the new zoning will facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements;
- (5) Whether the new zoning will provide adequate light and air;
- (6) Whether the new zoning will effect motorized and non-motorized transportation;
- (7) Whether the new zoning will promote compatible urban growth;
- (8) Whether the new zoning considers the character of the district and the peculiar suitability of the property for particular uses;
- (9) Whether the new zoning will conserve the value of buildings; and
- (10) Whether the new zoning will encourage the most appropriate use of land throughout the City of Billings.

Dan Wagner commented on criterion (1), and (2). He stated he is familiar with the Growth Policy and there is a need to move forward with the best growth policy to benefit the subdivision. He voiced concern with the limited distance between structures increasing the fire hazard. He stated he feels strongly that approval of this zone change this will affect the value of homes in this area and it is a move the wrong direction.

Dennis Ulvestad referred to Criterion #8. He commented on Smart Growth and said the neighborhood should move forward by keeping the R-6000 zoning. He commented the neighbors want to preserve the residential character of the neighborhood and this lot should not have a manufactured home. He said these ties in with the East Billings Renewal District and Smart Growth.

Leonard Dailey pointed out the large number of property owners that signed a valid protest. Nicole Cromwell explained that should City Council decide to override the valid protest they would have to do so with a 2/3 majority vote.

The motion to deny City Zone Change #919 carried with a unanimous voice vote, 4-0.

Other Business:

The next City Zoning Commission meeting will be held on Tuesday, May 6, 2014

Adjournment: The meeting adjourned at 5:39 p.m.

ATTEST: APPROVED BY A MOTION ON MAY 6, 2014

Leonard Dailey, Chairman

Tamara L. Deines, Planning Clerk