

**City of Billings Zoning Commission
Meeting Minutes- August 5, 2014**

The City of Billings Zoning Commission met on Tuesday, August 5, 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, August 25, 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	1	-	1	1				
Barbara Hawkins	Commissioner	1	1	1	1	1	-	1	1				
Dan Wagner	Vice Chairman	1	E	1	1	1	-	1	1				
Dennis Ulvestad	Commissioner	1	1	1	1	1	-	1	1				
Mike Boyett	Commissioner	1	E	1	1	1	-	1	1				
Candi Millar	Director, Planning & Community Services	-	-	-	1	-	-	-	-				
Nicole Cromwell	Planner II, Zoning Coordinator	1	1	1	1	1	1	1	1				
Tammy Deines	Planning Clerk	1	1	1	1	-	1	1	-				
Wyeth Friday	Planning Division Manager	-	-	-	-	-	-	-	-	-	-	-	-
Juliet Spalding	Planner II	-	-	-	-	-	-	-	-	-	-	-	-
Lora Mattox	Planner II	-	-	-	-	-	-	-	-	-	-	-	-
Karen Husman	Planning Assistant	-	-	-	-	1	-	-	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	1	-	1	2					6
Special Review	1	1	-	-	-	-	-	1					3

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

Chairman Dailey called for approval of the July 1, 2014 meeting minutes.

Motion

Mike Boyett made a motion and Vice Chair Wagner seconded to approve the July 1, 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.

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 an overview of the application and staff's recommendation.

Item #1: Special Review #918 – 116 N Broadway – All-Beverage License w/o gaming – A special review request to allow a the location of an All Beverage License without gaming on Lots 7-12, Fraction of Lot 6, Block 93, Billings Original Town, in the Central Business District (CBD) zone. The proposed location is known as Unit 2 in the Babcock Building for a total of 1,500 square feet in area. Tax ID: A00642B

REQUEST

This is a special review request to allow the location of an all-beverage liquor license in a vacant tenant space in the Babcock Building located just south of Sky Point at 116 N Broadway. This is the former location of Z Pizza. The proposed location is zoned Central Business District (CBD) and is legally described as Lots 7-12 and a fraction of Lot 6, Block 93, Billings Original Town. The floor area for the proposed location includes 1,200 square feet on the ground floor and 300 square feet on a mezzanine level for a total of 1,500 square feet. The owner is the Babcock, LLC and Bruce Harper is the agent.

RECOMMENDATION

The Planning Division is recommending conditional approval.

1. The special review approval shall be limited to Unit 2 of the Babcock Building located on Lots 7 through 12 and a fraction of Lot 6, Block 93, Billings Original Town generally located at 116 North Broadway.
2. Increases in the area where alcohol service is provided greater than 10% of the area shown on the site plan (1,500 square feet) or the addition of an outdoor patio will require additional special review approval.
3. 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.
4. 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.

Vice Chair Wagner asked if there would be any chance the patrons would be outside the building. Ms. Cromwell said there would not be an outside seating area at this time. If they chose to add an outside seating area it would require a special review approval, this Special Review is only for the license. The license holder would be responsible for keeping the patrons from exiting with a beverage.

Dennis Ulvestad asked if this could be approved for gaming in the future. Ms. Cromwell said this license is for liquor license only with no gaming. They would have to apply for another type of license, and another special review to include gaming.

There was discussion regarding the required separation of 600 feet. Chairman Daily asked for clarification that the Central Business District is exempt from the required 600 foot separation from churches, schools and public parks with playgrounds. Ms. Cromwell said the city local requirement does not apply in the district, however the state regulation is still in effect. The State of Montana regulation is different than the local regulation in that it requires a 600 foot separation from schools or churches located on the same street, measured from the front door to the primary public entrance to the church or school addressed on the same street.

Chairman Daily asked about the 2nd floor and the possibility of this business expanding to the 2nd floor area if it is addressed the same as the floor below. Ms. Cromwell said they would have difficulty with fire and building code approval to allow them to use the 2nd floor in that structure for this business. She said currently the 2nd floor are residential apartments.

Public Hearing

Chairman Dailey opened the public hearing and called for proponents of City Special Review #918.

Bruce Harper, 3206 East McDonald, Billings, Montana

Mr. Harper represents Babcock, LLC agent for the applicant. He said he is also an attorney in the Billings, he is also the applicant for the liquor license. He concurred with staff recommendation and added they would not be having gaming at this time, if they chose to in the future it would be addressed at that time. He said most of the bars in the area have gaming or a restaurant, and want to focus on an upper scale cocktail lounge. Their aim is for the tourist area targeting the down town area.

Vice Chair Wagner asked how long after approval would they open the business. Mr. Harper the target date for opening is between October 5 and the 20th of this year.

There was discussion regarding the use of the shared restroom facility. Mr. Harper said they have a shared restroom facility and explained on the site plan where it was located and how it would be accessed. He the traffic of patrons would be generally from the Broadway entrance, and the use of the rear exit would be primarily for the access to the restrooms. Ms. Cromwell stated the Fire and Building departments did not express any concern with these issues.

Mr. Harper explained they were relocating their liquor license from the Depot. He said the hours of operation would change some for the winter months and the spring and summer months. They will likely start with hours being open from 4pm Monday through Friday and Saturdays 8am closing at no later than 12 midnight.

Kay Foster, 105 North Broadway

Ms. Foster said she is one of 4 owners of the Babcock building. She said they are very excited to have this new facility coming into the building.

Chairman Dailey asked about the 2nd floor use. Ms. Foster said the 2nd floor are 14 residential apartments. She clarified the addresses for those 2nd floor units are actually 2812 2nd Avenue North. The units will not be used for commercial businesses.

Opponents.

There were none.

Chairman Dailey asked if there was anyone else wishing to speak in favor or against City Special Review #918. There were none. Chairman Dailey closed the public hearing.

Motion

Vice Chair Wagner made a motion and Dennis Ulvestad seconded to forward a recommendation to City Council of approval of City Special Review #918 with the conditions and Findings of Fact presented by Staff.

Discussion

Chairman Dailey called for discussion on the motion. There was none.

The motion to approve City Special Review #918 carried with a unanimous voice vote, 5-0.

Item #2: Zone Change #921 – Josephine Crossing – Addition to PD – A zone change request from Public (P) to Planned Development – Josephine Crossing – Residential Neighborhood on an unplatted 12.26 acre parcel of land directly west of the existing Josephine Crossing PD. Tax ID: D01936A

Ms. Cromwell read aloud the legal notice and gave an overview of the application and staff's recommendation.

REQUEST

This is a zone change request from Public (P) to Planned Development (PD) Josephine Crossing – Residential Neighborhood on an un-platted 12.263 acre parcel of land directly west of the existing Josephine Crossing PD. The property is currently owned by the Roman Catholic Church and is leased for agricultural production. The property is outside the city limits, but a concurrent annexation petition has been submitted. The agent for the application is McCall Development. A pre-application neighborhood meeting was held on May 27, 2014, and a Preliminary Review meeting was held June 11, 2014.

RECOMMENDATION

The Planning Division is recommending approval.

Discussion

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

Vice Chair Wagner asked if there were the same setback restrictions in the new portion of the development. Ms. Cromwell explained the type of development and what zoning allows within the PD, flow and street frontage as well as the setback distance for the buildings. She said the amendments were generally to include the new portion of the development and modify the restrictions and allowances for height of buildings.

Chairman Daily asked when McCall Development first proposed the planned development to the city with this type of zoning restricted development. Ms. Cromwell explained the type of development and how the development intended to create a neighborhood friendly environment that would encourage neighbors to congregate. She said the original subdivision and PD was approved in 2006. Chairman Daily indicated the development had been very successful so far and complimented McCall Development for maintaining a high standard in their subdivision.

Vice Chair Wagner asked if the ditch would be enclosed. Ms. Cromwell said she had no knowledge of it being enclosed in the near future. He asked if the intersection on Muldowney Lane and Midland Road had a Traffic Study on record. Ms. Cromwell reviewed the traffic count information that was relevant to the subdivision.

Public Hearing

Chairman Dailey opened the public hearing and called for proponents of City Zone Change #921.

Brad McCall, McCall Development, 1621 front street, Billings, Montana

Mr. McCall, is acting as agent (soon to be owner). He said they are currently selling out of the last phase of the existing lots in the development. They had been negotiating with the church to acquire the land, recently finalized the deal for purchase. In addition to the Zone Change application they also have a subdivision (along with annexation) concurrently pending for the land. He said some of the residents along the edge of the church property. He said they held their neighborhood meeting and there was concern with the view from their homes. He said they believe those concerns have been addressed with the recent design modification.

Chairman Daily asked for clarification in the changes for height from the existing PD to the amendment requested. Ms. Cromwell said the maximum of 4 story buildings was primarily for the commercially designated area. He asked for clarification of the difference between stories and actual height. Mr. McCall clarified the number of stories verses height and the area of the subdivision that would be allowed 2, 3 or 4 stories. He also clarified the measurement for the height of a structure versus the number of stories. He said they have mostly been 2 story or 1 or 2 story with a loft area. Very few 3 story houses exist, the new PD is primarily to allow for the possibility of a 4 story building in the commercial area of the subdivision, however recent proposed building at 4 stories was over budget and will be modified, reducing the size and height.

Mr. McCall explained the traffic study that was completed for the subdivision. He said they are seeing an increase of traffic at the Midland Road intersection, likely due to increase in commercial development as well as the residential development. Vice Chair Wagner asked if there was any way to

widen the edge of Mullowney Lane entering the subdivision. Mr. McCall said they are proposing the traffic study to determine how the new portion of the subdivision would impact the intersection. They would be able to determine the need for an additional turn lane or improvements that would help traffic flow with the completion of the study. He said Elysian Road would not be widened primarily due to the restrictions of the location of the ditch and the cemetery. When the study is complete it should determine development impacts and what may be the best options.

Opponents.

Gus Gustafson, 8410 Sacajawea, said he was opposed to the zone change because when he purchased his property he was under the impression the public land was for a cemetery and would not be developed as a subdivision. He said when he purchased his property he was looking for a unique property with a more private area and no rear neighbors. He was concerned with the number of proposed units and increase traffic flow as well as noise and privacy. He asked if they could reduce the height of the closest units on the lots adjacent to the street and possibly limit the height of homes to single story on those lots.

Mr. McCall said he couldn't commit to the reduction of height for those lots at this time. he explained they would be proposing some other improvements including landscaping along the ditch that would improve the immediate view and possibly buffer with trees as well. There is about 20 feet from the rear property line and fences to the edge of the street at Elysian Road and 30 more feet to the first lot proposed. Ms. Cromwell added there is a preliminary design of the lots, and they are about 5 to 18 feet from property line on that edge to the front porch of those proposed homes. Mr. McCall explained the porch is usually about 3 to 5 feet from the property line. There was discussion about the position of the houses and the proposal for the lots designated for townhomes that are 1 and 2 story for 3 to 4 units in each townhome.

Chairman Daily addressed a letter from a property owner on Sacagawea. He felt they had addressed most of those issues. Mr. McCall added the property in Josephine Crossing Subdivision had been increasing in value and was comfortable saying he did not anticipate decrease in property value for surrounding residential property.

Chairman Dailey asked if there was anyone else wishing to speak in favor or against City Zone Change #921. There was none. Chairman Dailey closed the public hearing.

Motion

Mike Boyett made a motion and Vice Chair Wagner seconded to forward a recommendation to City Council of approval of City Zone Change #921 with the Findings of Fact presented by Staff.

Discussion

Chairman Dailey called for discussion on the motion.

Dennis Ulvestad stated he felt Mr. McCall had done an excellent job explaining the proposed expansion and changes to the PD. Mike Boyett said he didn't feel there would be any negative impact on the neighbors with regard to the noise and density that wasn't already existing.

The motion to approve City Zone Change #921 carried with a unanimous voice vote, 5-0.

Item #3: Zone Change #922- 1125 Lake Elmo Drive – A zone change request from Residential Multi-family-Restricted (RMF-R) to Community Commercial (CC) on Tract 1, Certificate of Survey 979, a 2.5 acre parcel of land. A pre-application meeting was held at 231 Main Street on June 30, 2014. Tax ID: D05318.

Ms. Cromwell read aloud the legal notice and gave an overview of the application and staff's recommendation. She explained the application for the change would allow the applicant to develop a small public storage facility on the lot.

REQUEST

This is a zone change request from Residential Multi-family-Restricted (RMF-R) to Community Commercial (CC) on Tract 1, Certificate of Survey 979, a 2.5 acre parcel of land, generally located at 1125 Lake Elmo Drive. The property is owned by Harvey Capital, LLC and Sanderson Stewart is the agent. A pre-application meeting was held at 231 Main Street on June 30, 2014.

RECOMMENDATION

The Planning Division is recommending approval.

Discussion

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

Mike Boyett asked what type of fence they would use to buffer the surrounding residential properties. Ms. Cromwell said they would be required to provide a sight obscuring fence along with their minimum landscaping requirements when it is reviewed for the approval of the building permit.

Vice Chair Wagner asked if CC zoning district would allow a bar or gas station. Ms. Cromwell said they are allowed uses in the district, however they are not typically placed except on the arterial streets.

There was discussion regarding the flow of traffic and alternative routes available as well as the impact of those routes.

Public Hearing

Chairman Dailey opened the public hearing and called for proponents of City Zone Change #922.

Lauren Waterton, 1300 Transtech Way, Billings, Montana

Lauren Waterton, agent for Sanderson Stewart; explained the type of facility they are proposing is a storage facility of about 300 units. The fencing will be provided for security but would comply with the Zoning restrictions around the entire perimeter. She said they know that storage facilities are the least generating of vehicular traffic.

Chairman Dailey asked if the proposed fence would also be for a privacy fence. He also asked how they would provide 24 hour surveillance. He asked for clarification that the lighting would also not have any impact on the neighbors. Ms. Waterton said the security lighting would be for security also and would not be directed to shine on the neighboring properties. She said they would provide perimeter fencing that would provide security as well as sight obscuring to the neighbors.

Proponents

Mr. Harvey 3110 Cel Ave., Billings, MT. said this property works well for this type of development. He explained the buildings would be set north/south and would not be facing the residential areas. He said this will be a satellite store and there would not be an office on site. It will be maintained daily for security, weeds and other maintenance. This facility would be run by their Wicks Lane office.

Dennis Ulvestad asked when they would start construction. Mr. Harvey said they hope to begin construction in the spring of 2015.

Opponents.

There were none.

Chairman Dailey asked if there was anyone else wishing to speak in favor or against City Zone Change #921. There was none. Chairman Dailey closed the public hearing.

Motion

Dennis Ulvestad made a motion and Vice Chair Wagner seconded to forward a recommendation to City Council of approval of City Zone Change #922 with the Findings of Fact presented by Staff.

Discussion

Chairman Dailey called for discussion on the motion.

The motion to approve City Zone Change #922 carried with a unanimous voice vote, 5-0.

Other Business:

The next City Zoning Commission meeting will be held on Tuesday, September 2, 2014

Adjournment: The meeting adjourned at 6:08 p.m.

ATTEST: Approved by a motion on September 2, 2014

Leonard Dailey, Chairman

Karen Husman, Planning Assistant