

City of Billings Zoning Commission Meeting Minutes- September 2, 2014

The City of Billings Zoning Commission met on Tuesday, September 2, 2014 in the Miller Building 1st Floor Conference Room, 2825 3rd Avenue North, Billings, Montana.

Chairman Leonard Dailey called the meeting to order at 4:30 p.m. The City Council has designated **Monday, September 22, 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	1			
Barbara Hawkins	Commissioner	1	1	1	1	1	-	1	1	1			
Dan Wagner	Vice Chairman	1	E	1	1	1	-	1	1	1			
Dennis Ulvestad	Commissioner	1	1	1	1	1	-	1	1	1			
Mike Boyett	Commissioner	1	E	1	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	1			
Tammy Deines	Planning Clerk	1	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	3				9
Special Review	1	1	-	-	-	-	-	1	1				4

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

Others in Attendance:

Applicant DJ Smith; Applicant Emily Gocke-Smith; Agent Lauren Waterton, Sanderson Stewart; Larry Karls; Mark Noennig; Mary Karls; Chuck Platt

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: August 5, 2014

Chairman Dailey called for approval of the August 5, 2014 meeting minutes.

Motion

Mike Boyett made a motion and Dennis Ulvestad seconded to approve the August 5, 2014 meeting minutes with the corrections noted by Barbara Hawkins to update the attendance table to reflect her attendance on July 5, 2014 and August 5, 2014.

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 announced staff received a revised site plan for Special Review #919 and it was distributed to members of this Commission.

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 #919 – 1530 Popelka Dr – Expansion of Veterinary Clinic with Boarding – A special review request to allow a 7,754 square foot expansion of an existing veterinary clinic with boarding facilities on Lot 3, Block 1 Popelka Heights View Subdivision, a 1.32 acre parcel of land in a Community Commercial (CC) zone. Tax ID: A29399.

REQUEST

This is a special review request to allow the expansion of the Best Friend's Animal Hospital at 1530 Popelka Drive in a Community Commercial (CC) zone. The property is legally described as Lot 3, Block 1, Popelka Heights View Subdivision near the intersection of Bench Boulevard and Wicks Lane in the Billings Heights. The proposed 7,754 square foot expansion requires a special review for the animal boarding provided by the animal hospital. The owner is Smith-Gocke Properties, LLC and the agent is Lauren Waterton of Sanderson Stewart.

RECOMMENDATION

The Planning Division recommends conditional approval.

1. The special review approval shall be limited to Lot 3, Block 1 Popelka Heights View Subdivision generally located at 1530 Popelka Drive.
2. The proposed 7,754 square foot addition shall be constructed in substantial conformance with the submitted site plan including the new parking area, landscaping and fencing as shown. Increases in the total area that exceeds 10% of the area shown on the site plan or 1,248 square feet will require additional special review approval. Increases in the number of parking stalls greater than 10% of the total number of stalls will require additional special review approval.
3. No boarding of animals shall be allowed outside the main building.
4. Any building used for animal boarding shall be constructed of permanent building materials that have been approved via a City building permit.
5. Use hours for any outdoor exercise area shall be limited to 8:00 a.m. to 6:00 p.m.
6. The exterior fencing of the exercise area shall consist of a six-(6) foot high sight-obscuring solid wood or vinyl fencing material. A fence permit shall be submitted to the Planning Division prior to the construction of such fence.
7. All new outdoor lighting, with the exception of signage, shall have full cutoff shields so no part of the fixture or lens projects below the cutoff shield. Light pole standards must be 20 feet in height or less.
8. All new mechanical equipment, including but not limited to air conditioning units, air handling units, back-up power generators, installed at ground level or on a roof must be fully screened from view. The screening shall be at least the height of the mechanical equipment. Mechanical equipment that generates or is expected to generate noise in excess of 55 decibels (DbA) within three (3) feet of the equipment location must provide sound abatement or suppression which may require the equipment to be enclosed in a structure.
9. No signs may be placed on the south elevation of the building wall that parallels the residential zone to the south.

10. 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.
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 of Billings, regulations and ordinances that apply.

Discussion

Chairman Dailey called for questions and discussion from the members of the Commission. Chairman Dailey noted the staff report and asked about the 2013 Traffic Count statistics for Wicks Lane. Nicole Cromwell said there is a high traffic volume at this point as Wicks Lane provides the primary access to Walmart. Nicole Cromwell said there is a utility easement left open for potential repairs in the informal walkway. She referred to a posted aerial map and stated the proposal is to install a removable section of fencing to prevent further unwanted pedestrian access. Per request of Leonard Dailey, Nicole Cromwell clarified the Commissions' options for recommendations. Nicole Cromwell explained that the barrier will be place the utility companies need to make repairs in the future.

Public Hearing

Chairman Dailey opened the public hearing and called for proponents of City Special Review #919.

Lauren Waterton, Sanderson Stewart, 1300 N Transtech Way, Billings, Montana

Ms. Waterton is the agent for property owner Smith-Gocke Properties, LLC. Applicant/owners DJ & Emily Smith and Contractor Dan Wells are present this evening. Ms. Waterton said the property owner to the south contacted them with concerns that the proposed expansion could enhance his son's allergies and increase noise levels. She said they submitted the revised site plan with the fencing to address these concerns. Ms. Waterton stated the Zoning Commission approved the use as an animal clinic for this property in 2002. She explained this is an expansion of this use and it is consistent with the 2008 Growth Policy and the Zoning Regulations.

Discussion

Chairman Bollman called for discussion. Dan Wagner asked about the number of animals served at this facility and Ms. Waterton deferred this question to the property owner. He also asked if there are any concerns with noise levels due to air conditioning for the facility and Ms. Waterton deferred to the contractor. Chairman Dailey asked about the composition of the proposed 6-foot fence. Ms. Waterton said this has not been decided at this time but will be of good quality.

DJ Smith, 2007 Alkali Creek, Billings, Montana

Mr. Smith stated they want to expand their business to meet the demands. He said he appreciated the Cameron's concerns and he intends to do this project in the right manner. In response to Board member Dan Wagner, Mr. Smith said the new kennel will be about twice the size of the existing facility. He said neighbors Mr. and Mrs. Cameron did not comment on air conditioning or mechanical noise but were concerned with barking dogs. They shifted the exercise area on the site plan to address

their concerns. He stated they plan to complete construction next year. Currently they are proposing white vinyl fencing that will be aesthetically pleasing.

Dan Wells, Wells Built Homes, 4241 Cedarwood Lane, Billings, Montana

Mr. Wells is the contractor for this project. He stated that “The Best Friends Animal Clinic” is a clean well maintained facility and a good community resource. He said the proposed airlock vestibule will prevent the neighbors from hearing the dogs bark. Mr. Wells said they will block the maintained natural grass area with fencing due to the request of the neighbors to the south who wish to prevent unwanted pedestrians from accessing this area. Mr. Wells said it will take about a year to build this building. In response to a question by Dennis Ulevstad, Mr. Smith replied the Clinic will be staffed 24 hours a day.

Opponents.

There was none.

At 4:59 Chairman Dailey asked if there was anyone else wishing to speak in favor or against City Special Review #919. There were none. Chairman Dailey closed the public hearing.

Motion

Dennis Ulvestad made a motion and Dan Wagner seconded to forward a recommendation to City Council of approval of City Special Review #919 with the conditions and Findings of Fact presented by Staff.

Discussion

Chairman Dailey called for discussion on the motion. Dan Wagner said he has visited this site and it is a clean well maintained facility. Leonard Dailey said he feels these applicants have gone above and beyond to be a good neighbor. Dennis Ulvestad commended the applicants for keeping a well maintained facility and property.

The motion to approve City Special Review #919 carried with a unanimous voice vote, 5-0.

Item #2: Zone Change #923 – Shiloh Conservation Area – City of Billings – A zone change request from Agriculture-Open Space (A-1) to Public (P) on a 69.665 acre parcel of land, Lot 5A, Block 1, Long Subdivision. Tax ID: A34623

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 Agriculture-Open Space (A-1), a county zoning district, to Public (P) on Lot 5A, Block 1, of Long Subdivision, a 69.655 acre parcel of land, generally located at 1190 Shiloh Road. The property is owned by the City of Billings and is under development as a storm water management facility. The City has submitted a concurrent annexation petition. A pre-application

meeting is not necessary for zone changes accompanied by annexation petitions from government entities as per BMCC Section 27-1504.

RECOMMENDATION

The Planning Division is recommending approval.

Discussion

Chairman Dailey called for questions and discussion from the members of the Commission. In response to a question by Barbara Hawkins, Nicole Cromwell said the intent is to use this property for passive recreational purposes. In response to a question by Commission member Ulvestad, Nicole Cromwell said although it was considered, dogs will not be allowed. Mike Boyett asked about needing additional car and bicycle parking in the future this is a nice amenity. Nicole Cromwell referred to a posted map and pointed out a small parking lot on the north side of the property. Leonard Dailey asked who provided the historical excerpts in the staff report. Nicole Cromwell explained this information was extracted from the West Billings Plan. Leonard Dailey commented this plan suggests that this storm water facility will alleviate flooding in the future. Nicole Cromwell said this a major piece of a master plan for storm water control which will be enacted as the west end of Billings is developed.

Tyler Westrope, City of Billings Engineering Division, 2224 Montana Avenue, Billings, Montana

Mr. Westrope stated this project is the initial piece of the West End Storm Water Management Plan. He said the Conservation Area addresses smaller storm events and there a number of wet land cells to fulfill the DEQ requirements for storm water treatment. There is room for expansion. The ponds will be stocked by Montana Fish, Wildlife, and Game and are 4.4 acres and 1.7 acres in surface area. There are walking access trails open to the public and the parking area may be expanded if needed in the future. Mike Boyett asked about mosquito and bug control. Mr. Westrope stated there will be no standing water and he pointed out the water flows on a posted map. In response to a question by Dan Wagner, Mr. Westrope said CMG Construction has started excavation and Good Earth Works has the contract for the landscaping. He said this property is a good choice for this use as it has a low elevation with two converging influxes of water; flows split evenly during a storm event between Hogan's Slough and Shiloh Drain. Mr. Westrope reiterated that this parcel is only one piece of the overall plan to address the storm water flows for a potential 100-year event.

Public Hearing

Chairman Dailey opened the public hearing and called for proponents of City Zone Change #923. There was none.

Opponents

There were no opponents.

Chairman Dailey asked if there was anyone else wishing to speak in favor or against City Zone Change #923. There was none. Chairman Dailey closed the public hearing.

Motion

Dan Wagner made a motion and Barbara seconded the motion to forward a recommendation to City Council of approval of City Zone Change #923 with the Findings of Fact presented by Staff.

Discussion

Chairman Dailey called for discussion on the motion. Barbara said this will be nice addition to the area. Leonard Dailey said this park might more than people think. He commented on the importance of having a good storm water plan in areas with new development and commended staff for their work in this direction.

The motion to approve City Zone Change #923 carried with a unanimous voice vote, 5-0.

Item #3: Zone Change #924- 2526 Shiloh Road – A zone change request from Residential 9,600 (R-96) to Residential Professional (RP) on Lot 4A1, Blue Meadows Acreage Tracts, a 1.09 acre parcel of land. A pre-application meeting was held at 1605 Shiloh Road on December 19, 2013. Tax ID: C01757A.

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 9,600 (R-96) to Residential Professional (RP) on Lot 4A1A of Blue Meadow Acreage Tracts (7th amended), a 1.09 acre parcel of land, generally located at 2526 Shiloh Road. The property is owned by BTS, Inc. and Sanderson Stewart is the agent. A pre-application meeting was held at 231 Main Street on December 19, 2013.

RECOMMENDATION

The Planning Division is recommending approval.

Discussion

Chairman Dailey called for questions and discussion from the members of the Commission. In response to a question by Barbara Hawkins, Nicole Cromwell noted the access points on Shiloh Road. Leonard Dailey said there is no egress to the north or to the south of the property. Nicole Cromwell stated typically there is a no access strip on Shiloh Road due to its designation as an arterial road. Leonard Dailey noted the traffic count on Shiloh Road has remained consistent for ten years. He said the RP zoning is compatible with residential uses and this applicant is proposing construction of office space. Nicole Cromwell said the determination for office uses is allowed in the RP zone.

Public Hearing

Chairman Dailey opened the public hearing and called for proponents of City Zone Change #924.

Lauren Waterton, Sanderson Stewart, 1300 N Transtech Way, Billings, Montana

Lauren Waterton is the agent for Doug Wilde and Mark Dawson who are attending this evening. She said the intent is to construct an office for Classic Design Homes for their business and their employees. The additional Shiloh Road Zoning District requirements for landscaping, screening of residential properties, minimal lighting, and signage requirements will be included with this development. There will be no interference with the pedestrian crosswalk as due to the placement of the median there is no opportunity for left turns. In response to a question by Barbara Hawkins, Ms. Waterton said although another drive approach could be granted, the intent is to have one access to this site.

Proponents

Mark Dawson, 1605 Shiloh Road, Billings, Montana

Mr. Dawson said the building will house Classic Design and Century 21. He said they are considering building a warming spot for school children 90-feet north of the properties egress entrance along with a designated parking spot for the crossing guard. The green space will act as a buffer to the neighbors. In response to a question by Dennis Ulvestad, Mr. Dawson stated the occupancy rate of the building requires the 43 parking spaces. The building will hold 45 agents for Century 21 and 6-7 Classic Design staff. Leonard Dailey asked about the warming hut. Mr. Dawson said Classic Design will donate the warming hut and the School District well received this proposal.

Doug Wilde, 1605 Shiloh Road, Billings, Montana

Mr. Wilde said there is a platted access easement. He stated only one access is allowed and it will be placed a good distance away from the crossing guard. He said they haven't established a time frame to break ground and there will be an eight to ten month construction period. He stated they will comply with the Shiloh District requirements by bringing forward the landscaping along Shiloh Road.

Opponents

There was none.

Chairman Dailey asked if there was anyone else wishing to speak in favor or against City Zone Change #924. There was none. Chairman Dailey closed the public hearing at 5:49 p.m.

Motion

Mike Boyett made a motion and Dennis Ulvestad seconded the motion to forward a recommendation to City Council of approval of City Zone Change #924 with the Findings of Fact presented by Staff.

Discussion

Chairman Dailey called for discussion on the motion. Barbara Hawkins voiced concern with potential vehicle versus pedestrian conflicts. Leonard Dailey said this use will not generate as much traffic as other potential uses. Dennis Ulvestad stated he likes the idea of the single access point. Leonard Dailey noted this proposed plat has not been reviewed by City Staff. Nicole Cromwell said this is a concept plan at this point and the Engineering Division will review the submittal for traffic and access needs.

In response to a question by Barbara Hawkins, Nicole Cromwell stated the access is on this property, and an easement exists for the adjacent property.

The motion to approve City Zone Change #924 carried with a unanimous voice vote, 4-1 with Barbara Hawkins voting against the motion.

Item #4: Zone Change #925- 1450 Chy Way – A zone change request from Neighborhood Commercial (NC) to Community Commercial (CC) on Lot 2, Block 1 MK Subdivision, a 2.1134 acre parcel of land. A pre-application meeting was held at the subject property on July 14, 2014. Tax ID: A31805A.

REQUEST

This is a zone change request from Neighborhood Commercial (NC) to Community Commercial (CC) on Lot 2, Block 1 MK Subdivision generally located at 1450 Chy Way north west of the intersection of Grand Avenue and 54th Street West. The property is owned by Larry and Mary Karls. A pre-application meeting was held at the subject property on July 14, 2014.

RECOMMENDATION

The Planning Division is recommending approval.

Discussion

Chairman Dailey called for questions and discussion from the members of the Commission. Per request of Mike Boyett, Nicole Cromwell clarified the allowed uses for Neighborhood Commercial and Community Commercial Zoning. She pointed out this area is more than 1,000 feet from the church property located at the southeast corner of Grand Avenue and 56th Street West. Chairman Dailey noted some clerical corrections needed in the Staff Report. Nicole Cromwell said each development will be accessed at the time of development for traffic impacts; a determination will be made if further traffic mitigation will be required.

Public Hearing

Chairman Dailey opened the public hearing and called for proponents of City Zone Change #925.

Mary Karls, 2980 Providence Place, Billings, Montana

Mr. and Mrs. Karls are the property owners. Mrs. Karls stated they are hoping to attract buyers interested in development as the property has established roads and City services are available. She said they feel that potential uses for this property may include restaurants. Ms. Karls said one neighbor voiced dissent as she did not want any further development in the area. Dennis Ulvestad asked if there were any other dissenting neighbors. Mr. Karls stated Mr. Bill Cole attended the neighborhood meeting and had some concern if the use may include a casino or bar, and he suggested drafting Covenants and Restrictions to restrict these types of uses. Dennis Ulvestad commented this zoning brings in the potential for a wider range of uses. As a point of clarification, Leonard Dailey compared the area used by the Albertsons located on 32nd Street West and Grand Avenue and the 18-28 acres for a Community Commercial development.

Larry Karls, 2980 Providence Place, Billings, Montana

Mr. Karls said they wish to make this property more marketable and may pursue building a convenience store in the future. Mr. Karls said he is in favor of drafting Covenants and Restrictions to restrict gaming uses.

Opponents.

There was none.

Chairman Dailey asked if there was anyone else wishing to speak in favor or against City Zone Change #925. There was none. Chairman Dailey closed the public hearing.

Motion

Barbara Hawkins made a motion and Dan Wagner seconded the motion to forward a recommendation to City Council of approval of City Zone Change #925 with the Findings of Fact presented by Staff.

Discussion

Chairman Dailey called for discussion on the motion. Dennis Ulvestad said he agrees with the potential use for a convenience store in this location. He asked if a deceleration lane will be needed for this development due to the high rates of speed on Grand Avenue. Nicole Cromwell said the primary access to this parcel is from internal streets. Barbara Hawkins asked about the restriction of selling alcohol near school property and Nicole Cromwell stated this location is approximately 2,000 feet away from school property.

The motion to approve City Zone Change #925 carried with a unanimous voice vote, 5-0.

Other Business:

The next City Zoning Commission meeting will be held on Tuesday, October 7, 2014

Adjournment: The meeting adjourned at 6:25 p.m.

ATTEST: DRAFT TO BE APPROVED ON OCTOBER 7, 2014

Leonard Dailey, Chairman

Tamara L. Deines, Planning Clerk