

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

The City of Billings Zoning Commission met on Tuesday, December 2, 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, January 12, 2015**, 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	1	-	1
Barbara Hawkins	Commissioner	1	1	1	1	1	-	1	1	1	1	-	E
Dan Wagner	Vice Chairman	1	E	1	1	1	-	1	1	1	1	-	E
Dennis Ulvestad	Commissioner	1	1	1	1	1	-	1	1	1	1	-	1
Mike Boyett	Commissioner	1	E	1	1	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	1	-	-
Tammy Deines	Planning Clerk	1	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	1	-	1	11
Special Review	1	1	-	-	-	-	-	1	1	-	-	1	5

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

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: October 7, 2014

Chairman Dailey called for approval of the October 7, 2014 meeting minutes.

Motion

Mike Boyett made a motion and Dennis Ulvestad seconded the motion to approve the October 7, 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. Nicole Cromwell noted a letter of comment received on December 1, 2014 from Jim Nyman, 803 Avenue B, Billings, Montana regarding Special Review #920.

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: City Special Review #920 – 819 Grand Avenue & 816 Avenue B – A special review request to allow a parking lot in a Residential 6,000 (R-60) zone on Lot 2, Block 1 Algeo Subdivision a 10,650 square foot parcel of land (816 Avenue B) and a special review to allow a drive through coffee service in a Community Commercial (CC) zone adjacent to a residential zone on Lot 1, Block 1 Algeo Subdivision, a 19,890 square foot parcel of land. Tax IDs: A02163 and A02165

REQUEST

This is a request to allow the construction of a new parking lot (22 spaces) in a Residential 6,000 (R-60) zone (816 Avenue B) and the addition of a drive through service window adjacent to a residential zone in a Community Commercial (CC) zone (819 Grand Ave). 816 Avenue B is legally described as the East 75 feet of the West 150 feet of Lot 2, Block 1, Algeo Subdivision, and 819 Grand Avenue is described as Lot 1, Block 1 of Algeo Subdivision. Off the Leaf is currently located at 819 Avenue B and has recently purchased the 2 properties to the east. One property, 813 Grand Avenue, is zoned CC and the other property, 816 Avenue B is zoned R-60. The property is owned by Michael D. Stock and the agent is Jeff Kanning of Collaborative Design Architects. The applicant proposes to demolish the current dwelling at 816 Avenue B for the new parking lot and demolish the dwelling at 813 Grand Avenue to provide a new entrance to Off the Leaf.

RECOMMENDATION

The Planning Division is recommending conditional approval.

PROPOSED CONDITIONS

1. The special review is limited to the East 75 feet of the West 150 feet of Lot 2, Block 1 (parking lot) and Lot 1, Block 1 of Algeo Subdivision (drive through service).
2. The special review approval is for the construction of a new 22 space parking lot and the installation of a new drive through service window and no other use or development configuration is intended or implied by this approval. The 2,240 square foot tenant space 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 (3,660 square feet) or expansion of the parking lot greater than 10 percent 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 east property line that adjoins 814 Avenue B and along the north property line that adjoins Avenue B. 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. Commissioner Boyett pointed out an existing walkway used to access Avenue B and asked if another opening will be provided in the new section of fencing. He asked staff regarding complaints about littering or noise. Nicole Cromwell said she is unaware of complaints except lack of parking, as “Off the Leaf” is a popular facility. Per Chairman Dailey’s request, Nicole Cromwell gave the allowed uses for the acquired property and surrounding properties. In response to a question by Commissioner Ulvestad, Nicole Cromwell stated the adjacent properties are zoned Community Commercial.

Public Hearing

At 5:00 p.m., Chairman Dailey opened the public hearing and called for proponents or opponents of City Special Review #920.

Proponents

Jeff Kanning, Collaborative Design, 108 Poly Drive, Billings, Montana

Mr. Kanning said the proposed uses are consistent with those approved in the past and along the properties on Grand Avenue. He said offices for a chiropractor and a CPA are located nearby. Mr. Kanning stated this proposal will provide a cleaner access and traffic flow and there will be ample room for vehicle stacking. He said this project will allow the opening in the existing fence to remain and new fencing will be installed as required. Mr. Kanning explained “Off the Leaf” is under new management and they are interested in the neighbors’ concerns.

Discussion

Commissioner Ulvestad asked for clarification on the location of the proposed expansion and drive through. Mr. Kanning explained the drive through will be located on the west side of the building and

there will a two way full access to the parking lot on the east side of the building. He introduced Ethan Kanning as the new manager.

Nicole Cromwell stated she was unaware of the plans to have a basement with day lighted windows. She pointed out Condition of Approval #3 which states that any expansion of the proposed drive-through café building greater than 10 percent of what is shown on the submitted site plan (3,660 square feet) or expansion of the parking lot greater than 10 percent will require an additional special review approval.

Mr. Kanning stated the intent is that the main floor will have areas for cooking, baking, and roasting; there will be no customers in these spaces. The administrative offices will be moved into the basement. Commissioner Boyett asked if the language in Condition #3 carries the appropriate language to address this proposal. In response to a question by Commissioner Ulvestad, Mr. Kanning stated this is considered a kitchen area, and there is ample parking to meet the requirements. He pointed out there is separate ownership for each company.

Chairman Dailey asked if the driveway will be a right turn only specification onto Grand Avenue. Mr. Kanning said they have submitted a request to Sanderson Stewart for a traffic impact study. Chairman Dailey asked about the concrete curbing and Mr. Kanning explained the City Engineering standards. He said depending on weather conditions, they plan to start construction on March 15, 2015. In response to a question by Commissioner Ulvestad, Mr. Kanning stated there are no designated parking areas for the administrative staff.

Opponents

There was none. Chairman Dailey closed the public hearing.

Motion

Commissioner Boyett made a motion and Commissioner Hawkins seconded the motion to forward a recommendation to City Council of approval of City Special Review #920 with the and Findings of Fact presented by Staff.

Discussion

Chairman Dailey called for discussion on the motion. Commissioner Boyett commented on similar operations at nearby “Star Bucks” and “City Brew”. He said he can see benefits to having a right-hand-turn only exit to Grand Avenue. Commissioner Ulvestad asked about the timeline for the traffic study and Mr. Kanning replied they are trying to address this as quickly as possible. Chairman Dailey commended the applicant for their planning and forethought for this project.

The motion to approve City Special Review #920 carried with a unanimous voice vote, 4-0.

Item #2: Zone Change #928 – 2313 & 2321 Henesta Drive – A zone change from Residential Professional (RP) to Residential 7,000 (R-70) on Lots 4 & 5, Block 2 Justiss Subdivision, a 21,250 square foot parcel of land. Each property is currently developed with a duplex dwelling, a use not allowed in the RP zone. A pre-application neighborhood meeting was held at Coldwell Banker at 1215 24th Street West on June 27, 2014. Tax IDs: C01673 and C01672.

REQUEST

This is a zone change request from Residential Professional (RP) to Residential 7,000 (R-70) on Lots 4 and 5 of Block 2, Justiss Subdivision. Each parcel is 10,625 square feet in area and the lots each have a 2-family dwelling. The property is generally located at 2313 and 2321 Henesta Drive north east of the intersection of S 24th St West and King Avenue West. The current zoning does not allow duplex dwellings. The properties are owned by the Dean Hardin Trust (Lot 5 – 2321 Henesta) and Boris Krizek (Lot 4 – 2313 Henesta). Lowell Cooke is the agent for the owners. A pre-application meeting was held at 1215 24th Street West on June 27, 2014. 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. Nicole Cromwell said Commissioner Hawkins will recuse herself from this vote as she owns property in this neighborhood and may have a financial interest. Per request of Chairman Dailey, Nicole Cromwell explained the term “down zoning”. Commissioner Ulvestad asked for the differences between the two types of zoning. Nicole Cromwell said it was thought that the lots would have be developed within the Residential Professional zoning and the structures are currently duplexes. She stated the current owners intend to continue this use and wish to sell the properties without difficulties.

Public Hearing

At 5:18 p.m., Chairman Dailey opened the public hearing and called for proponents or opponents of City Zone Change #928.

Lowell Cooke, Coldwell Bankers, 1215 25th Street West, Billings, Montana

Mr. Cooke is a listing agent for 2321 Henesta Drive. He stated he requested Mr. Krizek, who is the property owner of 2313 Henesta Drive to join with him in this request. He referred to the letter included in the packet from the loan agency, and said all of the houses across from this property are zoned R-7000. Mr. Cooke stated they are not changing anything as far as traffic patterns. He said they would put people out of the house if they employed the Residential Professional zoning.

In response to a question by Commissioner Ulvestad, Nicole Cromwell said this zoning is not perpetual forever, and there is required waiting period if a proposed zone change is denied by City Council. Per Chairman Dailey’s request, Nicole Cromwell explained the need for a “rebuild letter”.

Boris Krizek, 1530 Westlake Drive, Billings, Montana

Mr. Krizek is the owner of 2313 Henesta Drive. He said is part of this request as this is an opportunity to ensure he is able to sell this property if he wishes and protect his investment.

Gordon Vandiviere, 2314 Rosebud Lane, Billings, Montana

Mr. Vandiviere asked why a “down zoning” is needed if the same thing can be accomplished with an “up zone” as duplexes are allowed in Neighborhood Commercial zoning. He said this would open up additional commercial uses.

Chairman Daily asked if this would be considered “spot zoning”. Nicole Cromwell said she does not feel this is a case of “spot zoning” as there are other uses that are materially the same.

Chairman Dailey asked if there was anyone else wishing to speak in favor or against City Zone Change #928. There was none. Chairman Dailey closed the public hearing at 5:30 p.m.

Motion

Commissioner Ulvestad made a motion and Commissioner Boyett seconded the motion to forward a recommendation to City Council of approval of City Zone Change #928 with the Findings of Fact presented by Staff.

Discussion

Chairman Dailey called for discussion on the motion

The motion to approve City Zone Change #928 carried with a unanimous voice vote, 4-0.

Other Business:

--The next meeting will be held on January 6, 2015 to consider one item.

Adjournment: The meeting adjourned at 5:34 p.m.

ATTEST: APPROVED BY A MOTION ON JANUARY 6, 2015

Leonard Dailey, Chairman

Tamara L. Deines, Planning Clerk