



CITY ZONING COMMISSION
AGENDA-Tuesday, February 3, 2015, 4:30 p.m.
Miller Building, 1st Floor Conference Room
2825 3rd Avenue North, Billings, Montana

NOTICE TO THE PUBLIC

Public Comment:

There will be a Public Comment Section as noted on the agenda. This is the time members of the public may comment on any item not appearing on the agenda. Under State law, matters presented under this section cannot be discussed or acted upon by the Zoning Commission during this time. For items appearing on the agenda, the public will be invited to make comments at the appropriate time. It is very important to speak clearly, and state your name and address for the record. Please limit your comments to three (3) minutes or less.

Call the meeting to order.

Introduction of City Zoning Commission Members and Planning Department Staff.

Public Comment

Approval of Minutes:

The minutes of the Board meeting of January 6, 2015

- a. **The City of Billings Zoning Commission met on Tuesday, January 6, 2015 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 26, 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.

Disclosure of any Conflict of Interest-Members of the Commission and Staff

Disclosure of an Outside (Ex Parte Communication)-Members of the Commission and Staff

a. The Exparté Communication Binder is available at the Sign-In and Agenda Station.

Regular Business:

- A. Opening of public hearings.
- B. Reading of rules for the procedure by which the public hearings will be conducted.

- C. Reading of notices of the public hearings on the following items:

Public Hearings:

- b. **Special Review #922:** This is a special review request to allow a new 100 foot wireless communication tower and ground equipment within 1 mile of another communication tower over 50 feet and a special review to allow a new wireless communication tower over 50 feet in a Public (P) zoning district at the Billings Airport. The property is directly adjacent to an existing 100-foot wireless communication tower owned by Verizon Wireless. The tower is on a proposed lease parcel of 4,200 square feet within Tract 1 of C/S 2334 generally located at 284 Southview Drive just north of Highway 3. The intended lease holder is Network Information Systems and the agent for the City of Billings is Tom Binford, Aviation and Transit Director.
- c. **Zone Change #931:** This is a zone change from Residential 7,000 (R-70) to residential 6,000 (R-60) on Parcel A of amended Tracts A-G of C/S 87 and an unplatted portion of Section 5, T1S, R26 E, for the proposed Midway Townhomes development. The property is located on Yellowstone Avenue between 10th St West and 11th St West. The parcel is about 3 acres in area. The applicant conducted a pre-application neighborhood meeting on December 17, 2014, at the Shrine Lodge Room, 1125 Broadwater Avenue.
- d. **Zone Change #932:** This is a zone change from Residential 7,000 (R-70) to Community Commercial (CC) on the north 36,000 square feet of Lots 2 & 3, Pierce Subdivision. The total area of the property includes lots 1 and 2 of Block 2, in Robbins Subdivision and is a total of 1.72 acres. Only the northern 36,000 square feet is proposed for this zone change. The property is located at 808 Grand Avenue. A pre-application neighborhood meeting was held at 805 Alderson Avenue on December 18, 2014.

Other Business/Announcements

Adjournment

The City Council has designated Monday, February 23, 2015 at 6:30 p.m. in the City Council Chambers as the time and place to hear testimony for or against the special review use and zone changes.

Before taking any action on an application for a **special review use**, the City Council shall first consider the findings and recommendations of the City Zoning Commission. In no case shall the City Council approve a special review use other than the one advertised. The City Council shall take one of the following actions on these Special Review requests: 1) approve the application; 2) conditionally approve the application; 3) deny the application; 4) allow withdrawal of the application; or 5) delay the application for a period not to exceed thirty (30) days.

Before taking any action on an application for a **zone change**, the City Council shall first consider the findings and recommendations of the City Zoning Commission. In no case shall the City Council approve a zone change other than the one advertised. The City Council shall take one of the following actions on the zone change requests: 1) approve the application; 2) deny the application; 3) allow withdrawal of the application; or 4) delay the application for a period not to exceed thirty (30) days.

As provided in Montana Code Annotated, Section 76-2-305(2), in the event of a protest petition against such **zone change** signed by the owners of twenty-five (25) percent or more of: (1) the area of the lots

included in any proposed change; or (2) those lots or units, as defined in MCA 70-23-102, **one hundred fifty (150) feet from a lot included in a proposed change**, such proposed amendment shall not become effective except by the favorable vote of two-thirds (2/3) of the present and voting members of the city council. For purposes of this protest provision interest in the common elements of the condominium, as expressed in the declaration, included in the calculation of the protest. If the property, as defined in 70-23-102, spans more than one lot, the percentage of the unit owner's undivided interest in the common elements must be multiplied by the total number of lots upon which the property is located. The percentage of the unit owner's undivided interest must be certified as correct by the unit owner seeking to protest a change or by the presiding officer of the association of unit owners. The protest petition must be received in the Planning Division office by 5:00 p.m. on the Friday preceding the first reading of the amendment by the City Council.

The Zoning Commission and City Council will hear all persons wishing to speak relative to the proposed special review use and zone changes. Testimony regarding the above mentioned items may also be submitted in writing to the Planning Division, 2825 3rd Avenue North, 4th Floor, Miller Building, Billings, MT 59101 (247-8676) or to the Mayor and City Council, P.O. Box 1178, Billings, MT 59103. Additional information on any of these items is available in the Planning and Community Services Office. Public hearings are accessible to individuals with physical disabilities. Special arrangements for participation in the public hearings by individuals with hearing, speech, or vision impairment may be made upon request at least three days prior to the hearing. Please notify Tammy Deines, Planning Clerk, at 247-8610 or e-mail at deinest@ci.billings.mt.us

City Zoning Commission

Meeting Date: 02/03/2015

Information

Subject

The City of Billings Zoning Commission met on Tuesday, January 6, 2015 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 26, 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.

Attachments

Minutes-City Zoning Commission January 6, 2015

City of Billings Zoning Commission Meeting Minutes- January 6, 2015

The City of Billings Zoning Commission met on Tuesday, January 6, 2015 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 26, 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		01/06/2015	02/03/2015	03/03/2015	04/07/2015	05/05/2015	06/02/2015	07/07/2015	08/04/2015	09/08/2015	10/06/2015	11/10/2015	12/01/2015
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	-	-	-	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 2015 Applications	01/06/2015	02/03/2015	03/03/2015	04/07/2015	05/05/2015	06/02/2015	07/07/2015	08/04/2015	09/08/2015	10/06/2015	11/10/2015	12/01/2015	TOTAL
Zone Change	2												2
Special Review	1												1

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

Others in Attendance:

Pat Davies, Sanderson Stewart; Mary Dyre, KD Law Firm; Oscar Heinrich, citizen; Mitch Goplin, Billings, Clinic; Les & Mary Nagrodski; Julie Burton, Billings Clinic; Ed Jorden, applicant.

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 2, 2014

Chairman Dailey called for approval of the December 2, 2014 meeting minutes.

Motion

Dan Wagner made a motion and Mike Boyett seconded the motion to approve the December 2, 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 #921 – Memory Care Assisted Living – S 44th St West – A special review request to allow a 120-unit memory care assisted living facility on Lot 1, Block 1 Lenhardt Square Subdivision 1st Filing in a Planned Development zone (PD) with underlying zoning of MF-R (multi-family) a 8.327 acre parcel of land. Tax ID: A34361.

REQUEST

This is a special review request to allow the location of a 120-unit assisted living and memory care facility at the southeast corner of S 44th Street West and Monad Road in the Lenhardt Square Planned Development. The property is zoned MF-R that allows multi-family developments but requires special review for any assisted living facility for more than 8 residents. The property received a previous special review approval (SR #917) to allow a 100-unit facility but since that approval on July 28, 2014, the plan has been amended to increase the number of units and re-arrange the approved site. These changes trigger a new special review application. The property is legally described as Lot 1, Block 1, Lenhardt Square Subdivision, 1st Filing. The lot is a total of 8.327 acres and includes the assisted living facility, parking areas, internal access roads and landscaping area detailed on the site plan. The owner is Stock-Naughton, LLP and the agent is Sanderson Stewart.

RECOMMENDATION

The Planning Division recommends approval, subject to the following conditions:

1. The special review approval is for the construction of an assisted living and memory care facility with 120 units.
2. The approval is limited to Lot 1, Block 1 of Lenhardt Square Subdivision, 1st Filing, generally located on S 44th Street West.
3. Increases in the number of units or the number of off-street parking spaces greater than 10% of the numbers shown on the site plan will require additional special review approval.
3. The site will be developed in substantial conformance with the submitted site plan dated 12-08-14. Minor modifications to the site plan are acceptable.
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.

Discussion

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

Dan Wagner asked if the basement will be used for storage. Leonard Dailey pointed out the August 2014 submittal was for 100 units. Nicole Cromwell said the building may have been re-designed from the August submittal as well.

Public Hearing

Chairman Dailey opened the public hearing and called for proponents or opponents of City Special Review #921.

Proponents

Pat Davies, Sanderson Stewart, 1300 North Transtech Way, Billings, Montana

Mr. Davies is the agent for Stock Development. He thanked Nicole Cromwell for her presentation. He said the difference from the previous application is this plan has 120 units without plans for a future expansion.

Discussion

Commissioner Dan Wagner asked about the construction timeframe. Mr. Davies said they plan to start this spring and there will be at least a 12-month construction period. Commissioner Ulevestad asked plans for the surrounding parcels and Mr. Davies stated an apartment complex is planned for the larger middle tract.

Opponents

There was none. Chairman Dailey closed the public hearing.

Motion

Commissioner Barbara Hawkins made a motion and Commissioner Ulevestad seconded the motion to forward a recommendation to City Council of approval of City Special Review #921 with the and Findings of Fact presented by Staff.

Discussion

Chairman Dailey called for discussion on the motion. Mike Boyett pointed out this Commission reviewed this application last year and there is no change to the Conditions of Approval with this submittal.

The motion to approve City Special Review #921 carried with a unanimous voice vote, 4-0.

Item #2: Zone Change #929 – Broadwater and Shiloh Road – Billings Clinic – A zone change from Agriculture Open-Space (A-1) to Planned Development (PD) for a new medical campus for Billings Clinic on an unplatted parcel known as the N1/2SE1/4 of Section 3, T1S, R25E, an 80 acre parcel of land. A pre-application neighborhood meeting was held at Faith Chapel 517 Shiloh Road on July 22, 2014. Tax ID: D00348. A concurrent annexation request has been submitted.

REQUEST

This is a zone change request from Agriculture Open-Space (A-1) to Planned Development (PD) with an underlying zoning of Community Commercial (CC) with special provisions for medical services, complementary uses and residential development. The location is on the south west corner of the intersection of Broadwater Avenue and Shiloh Road and is an unplatted 80-acre parcel of land. The property is currently owned by Billings Clinic 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 Pat Davies, P.E. of Sanderson Stewart. A pre-application neighborhood

meeting was held at Faith Chapel on July 22, 2014, and a Preliminary Review meeting with surrounding owners, the applicant and city staff on December 16, 2014.

RECOMMENDATION

The Planning Division is recommending approval.

Discussion

Chairman Dailey called for questions and discussion from the members of the Commission. Commissioner Wagner asked about the plans for the Shiloh Drain, and Nicole Cromwell replied the drain will be left open. She stated the SIA requirements will include consideration for the drain, and the landscaping on the property side of the drain would be the property owner's responsibility. She pointed out the Yegen family has master planned their property from Grand Avenue and Zimmerman Trail to Shiloh Road. In response to a question by Leonard Dailey, she said there will be an access to the property at midpoint with a right turn in and right turn out; and Howard Avenue will be a $\frac{3}{4}$ intersection with no left turn onto Shiloh Road. There is no indication of a time frame for construction. She said the property owner chose to have the Shiloh Overlay District encompass the tract; the concept and building plans will be reviewed with the Planned Development and Shiloh overlay requirements. Commissioner Ulvestad asked about opening the parcel on the north side to Broadwater Avenue. Nicole Cromwell said this would be part of the SIA and would be constructed in phases, and the Cardwell Ranch will be responsible for their half of the right-of-way to meet the engineering standards.

Public Hearing

At 5:99 p.m., Chairman Dailey opened the public hearing and called for proponents or opponents of City Zone Change #929.

Pat Davies, Sanderson Stewart, 1300 North Transtech Way, Billings, Montana

Mr. Davis is the agent for Billings Clinic. He said there is an easement to the City of Billings for the Shiloh Drain, as it is operated as a stormwater facility. The Clinic will provide their portions of street frontage, sidewalks, and utilities. The Shiloh Overlay District will bring consistency with lighting requirements. Mr. Davies stated Mitch Goplin, Billings Clinic and Mary Dyer, the author of the planned development is in attendance this evening. There are no time frames or intimate projects at this point.

Mitch Goplin, 2243 St. Andrews Drive, Billings, Montana

Mr. Goplin is the Vice President of Facility Services for Billings Clinic. Chairman Dailey asked about the timing to move forward. Mr. Goplin said they have owned the land since 2004, and they wish to have the Planned Development and annexation completed so they can plan for the future.

In response to a question by Commissioner Boyett, Mr. Goplin said the general feeling of the neighborhood meeting attendees is that there is a plan in place and but the Clinic was not sharing the details. He said the Planned Development will give them parameters for development. Commissioner Boyett commented on the hospital capacity and Mitch Goplin commented on bed capacity issues and clinic services. He said he doesn't see beds moving to the west end of Billings.

He said they have tested some concepts but have not started the planning process. Chairman Dailey commented this would be Billings Clinic's first move out of the Medical Corridor to property they own instead of lease.

Mary Dyre, 235 Clark Ave. Billings, Montana

Ms. Dyre said the process of creating a planned development was started two years ago; and they see the completion of the annexation and zoning as a preliminary matter. The planned development language is broad and includes mixed use design to give flexibility with a "township" feeling so the uses will flow. Ms. Dyre stated there are clear cut prohibited uses and they will adjust the agreement to keep up with the times and stay responsive. She said there has been some exploration of other communities and other models to come to this point.

In response to a question by Chairman Dailey, Ms. Dyre said they have been in close communication with those involved with the Billings West end Plan. Nicole Cromwell said staff is planning an update for the Billings West end Plan as it is thirteen years old. She said this agreement follows the goals for properties that have one arterial street front and it embodies the goals of the West end Plan.

Kathy Teal, 3019 Golden Acres, Billings, Montana

Ms. Teal stated she owns 15 acres west of this property and said she feels Billings Clinic will be a good neighbor. She noted 44th Street West has a ditch that encroaches on the land, and their land runs along this ditch. She said she contacted staff who told her the City would not force them to give land to build the road south of Broadwater Avenue.

Chairman Dailey asked if there was anyone else wishing to speak in favor or against City Zone Change #929. There was none. Chairman Dailey closed the public hearing at 5:15 p.m.

Motion

Commissioner Boyett made a motion and Commissioner Wagner seconded the motion to forward a recommendation to City Council of approval of City Zone Change #929 with the Findings of Fact presented by Staff.

Discussion

Chairman Dailey called for discussion on the motion. Commissioner Boyett stated Billings Clinic has been a good steward and followed through with the requirements of all their developments. Commissioner Ulvestad commended Billings Clinic for their service and will vote in favor. Commissioner Hawkins said the applicant's request to institute the Shiloh Overlay District for the entire property speaks highly of their intent. Commissioner Wagner said this application is a great concentration of what future needs will be down the road.

The motion to approve City Zone Change #929 carried with a unanimous voice vote, 4-0.

Item #3 Zone Change #930 – Council Initiated text amendment – Dog Grooming in NC zones – A zone change to Section 27-306 – Commercial and Industrial Uses – to allow dog grooming with no outdoor kennels or exercise yards in all Neighborhood Commercial (NC) zones. The City Council initiated the amendment on November 24, 2014.

REQUEST

This is a zone change that will amend Section 27-306 of the Billings, Montana, City Code (BMCC) to allow Dog Grooming in Neighborhood Commercial (NC) zoning districts. In 1997, when the City and County unified the zoning regulations, dog grooming was designated as an allowed use in only 4 zoning districts – Community Commercial (CC), Highway Commercial (HC), Controlled Industrial (CI) and Heavy Industrial (HI). Prior to 1997, the City Zoning Regulations did not allow dog grooming or other Animal Services (SIC 075) in the CC zone.

The City Council initiated the zoning text amendment on November 24, 2014.

Proposed Amendment Section 27-306

Sec. 27-306. District Regulations: Commercial and Industrial Uses.

TITLES AND DESCRIPTION OF INDUSTRIES	Residential Professional	Neighborhood Commercial	Community Commercial	Highway Commercial	Central Business District	Controlled Industrial	Heavy Industrial	Public	South 27th Street Corridor
SR - SPECIAL REVIEW									
A - ALLOWED									

07 AGRICULTURAL SERVICES (EXCEPT BELOW):				A		A	A		
– Offices only	A	A	A	A	A	A	A		A
0741 Veterinary services for livestock:									
– Boarding						A	A		
– Outpatient only				SR		A	A		
0742 Veterinary services for animal specialties:									
– Boarding			SR	A		A	A		SR
– Outpatient only		SR	A	A		A	A		A
075 Animal services, except veterinary (except below):									
– Dog grooming*		<u>A*</u>	A	A		A	A		
– Public animal shelters						A	A	A	
<u>* In NC zones no outdoor exercise areas or kennels allowed</u>									

RECOMMENDATION

The Planning Division is recommending approval.

The Planning Division considered the amendment and attached one criteria for this use within the NC zoning districts. The criteria is meant to prevent potential impacts to surrounding residences. The criteria prohibits any outdoor kennels or exercise areas associated with dog grooming in NC zoning districts.

Discussion

Chairman Dailey called for questions and discussion from the members of the Commission. Commissioner Boyett asked about the zoning on a property on 29th Street West and Grand Avenue, and Nicole Cromwell stated the property has Community Commercial zoning. He voiced concern with access to the property. Nicole Cromwell said the proposal has two entrances one off of Central Avenue and another off of 32nd Street West. Commissioner Dailey pointed out the code limitation of outdoor kennels or exercise areas. Nicole Cromwell explained this property owner has an existing business; and the request doesn't seem like a "far reach" as a veterinary clinic would be allowed. She said staff received no negative comments from neighborhood commercial property owners.

Public Hearing

At 5:30 p.m., Chairman Dailey opened the public hearing and called for proponents or opponents of City Zone Change #930.

Ed Jorden, 5233 Blue Herron, Billings, Montana

Mr. Jorden stated they have petitioned for this change as they have outgrown their space at the Shiloh Vet Hospital and are unable to expand at their location. He said they decided to limit the parcel to Neighborhood Commercial zoning in response to the neighbors' concerns and limit alcoholic use. Mr. Jorden compared this use to a human salon and stated pet grooming has grown more popular. He pointed out the property across the street has Community Commercial zoning which would allow for dog grooming. He said this will be a neighborhood type of business. In response to a question by Chairman Dailey, Mr. Jorden stated he is the owner of three veterinary hospitals but he is not a veterinarian.

Chairman Dailey asked if there was anyone else wishing to speak in favor or against City Zone Change #930. There was none. Chairman Dailey closed the public hearing at 5:30 p.m.

Motion

Commissioner Wagner made a motion and Commissioner Boyett seconded the motion to forward a recommendation to City Council of approval of City Zone Change #930-Council Initiated text amendment-Dog Grooming in Neighborhood Commercial Zones.

Discussion

Chairman Dailey called for discussion on the motion. Commissioner Ulvestad commended the applicant as he feels Billings Clinic is a pillar of the community. Commissioner Hawkins stated she

feels this is a great idea. Chairman Dailey said this makes a lot of sense as it opens up for a lot of other properties.

The motion to approve City Zone Change #930 carried with a unanimous voice vote, 4-0.

Other Business:

--The next meeting will be held on February 3, 2015

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

ATTEST: DRAFT TO BE APPROVED ON FEBRUARY 3, 2015

Leonard Dailey, Chairman

Tamara L. Deines, Planning Clerk



City Zoning Commission

Meeting Date: 02/03/2015

SUBJECT: Special Review #922 - Wireless Communication Tower - Billings Airport

THROUGH: Candi Millar, Planning & Community Services Department Director

PRESENTED BY: Nicole Cromwell

Information

REQUEST

Special Review #922: This is a special review request to allow a new 100 foot wireless communication tower and ground equipment within 1 mile of another communication tower over 50 feet and a special review to allow a new wireless communication tower over 50 feet in a Public (P) zoning district at the Billings Airport. The property is directly adjacent to an existing 100-foot wireless communication tower owned by Verizon Wireless. The tower is on a proposed lease parcel of 4,200 square feet within Tract 1 of C/S 2334 generally located at 284 Southview Drive just north of Highway 3. The intended lease holder is Network Information Systems and the agent for the City of Billings is Tom Binford, Aviation and Transit Director.

RECOMMENDATION

The Planning Division is recommending conditional approval and a waiver of the 1-mile separation requirement based on the findings of the 3 review criteria for Special Review #922.

APPLICATION DATA

OWNER: City of Billings - Airport

AGENT: Tom Binford, Aviation and Transit Director; Johnathon Robison, Network Information Systems

LEGAL DESCRIPTION: a 4,200 square foot portion of Tract 1, C/S 2334

ADDRESS: generally located at 284 Southview Drive

CURRENT ZONING: Public

EXISTING LAND USE: Various aviation related buildings and 1 wireless communication tower (Verizon Wireless)

PROPOSED USE: same with 1 addition 100-foot wireless communication tower

SIZE OF PARCEL: 4,200 square feet

CONCURRENT APPLICATIONS

None.

APPLICABLE ZONING HISTORY

- Variance #796 - Use of Land Contrary to Zoning - to allow the construction of a canopy within the required setback for the Peter Yegen Museum. Public comment hearing held on April 6, 1999.
- Variance #1029 - Use of Land Contrary to Zoning - to allow the construction of a 7-foot tall security fence with barbed wire along the airport property line. Public comment hearing held on June 4, 2008.

SURROUNDING LAND USE & ZONING

NORTH: Zoning: Public
Land Use: Airport land and runways

SOUTH: Zoning: R-96
Land Use: Highway 3 and vacant land

EAST: Zoning: Public
Land Use: TSA Administration Building; Verizon Wireless tower

WEST: Zoning: Public
Land Use: Airport land

BACKGROUND

The City of Billings Airport has requested this special review on behalf of Network Information Systems, the potential lease holder of a new wireless communication tower on Southview Drive, south and west of the main airport property. The proposed location is directly adjacent to an existing 100-foot wireless tower owned by Verizon Wireless and a water reservoir owned the City of Billings. To the east is the Transportation Security Agency administration building. The property is zoned Public and is surrounded by Airport land. To the south is Highway 3 and private property that is undeveloped.

Verizon Wireless has no additional space on their facility to accommodate antennae from Network Information Systems. Network Information Systems intends to supply reliable data services to Billings businesses as an independent provider not associate with a large carrier. The proposed tower will be of heavier construction to accommodate larger antennae as well as more antennae. The proposed location has existing tall structures and the proposed additional tower should not have the same visual impact as a undeveloped location at the Airport. A special review is required for all wireless towers over 50 feet in height and a waiver of the required 1-mile separation distance to another wireless tower over 50-feet in height. The applicant is also requesting to install fencing identical to the Verizon Wireless tower, and no landscaping surrounding the fence. The proposed landscaping would appear out-of-place given the existing Verizon Wireless tower and water reservoir have no landscaping other than prairie grass and gravel.

The site plan submitted with application shows a lattice-style tower with the ability to mount several antennae. The tower will be constructed on an 18-foot by 18-foot concrete pad. The existing fence around the Verizon Wireless tower will be removed on the north and west side and moved to enclose the 4,200 square foot leased property. A new 12 foot gate will be installed to provide access to both towers and the ground equipment buildings. Access to the site from Southview Drive is a gravel road.

RECOMMENDATION

Before a recommendation of approval or conditional approval can be made, each special review request must demonstrate conformance with three primary criteria: 1) The application complies with all parts of the Unified Zoning Regulations, 2) The application is consistent with the objectives and purposes of the Unified Zoning Regulations and the 2008 Growth Policy, and 3) the application is compatible with surrounding land uses and is otherwise screened and separated from adjacent land to minimize adverse impacts.

This application conforms to the first criteria in so far that it is within a district where a wireless communication tower over 50-feet may be allowed by special review approval. The proposal appears to meet all of the zoning requirements of Section 27-620 related to wireless communication facilities and has requested a waiver of the 1-mile separation distance as well as the landscaping requirement for an evergreen hedge outside the fencing. The application also conforms to the second and third criteria. The zoning regulations adopted by the City Council have designated zoning districts and adopted standards for approving wireless communication facilities based on location, height and appearance. The purpose of these regulations is to minimize the visual impact of these facilities while providing wireless access for all customers. The proposed location is in an area where there is an existing wireless tower and a water reservoir so the visual impact of this new facility will be minimized while providing additional wireless service to the community. A lease agreement has been prepared (draft) that will specify conditions and details between the lease holder and the City of Billings. There are no surrounding sensitive land uses such as residences that would require screening and buffering. The proposal is consistent with goals of the 2008 Growth Policy specifically the goal of encouraging uses that are compatible with the character of the adjacent land use patterns. The proposed conditions of approval are similar to previous special reviews granted for wireless communication facilities.

The Planning Division recommends approval, subject to the following conditions:

1. The special review approval is for the construction of a 100-foot tall wireless communication facility and ground base equipment shelter.
2. The approval is limited to the proposed 4,200 square foot lease parcel as shown on the submitted site plan dated March 11, 2014, generally located at 284 Southview Drive in Tract 1, C/S 2334.
3. Minor modifications of the tower are allowed as follows: the addition of more antenna arrays, so long as the addition of the antenna arrays add no more than twenty (20) feet in height to the facility and the increase in height of the support structure is no greater than ten (10) percent. Placement of additional antennae, up to the number the antenna support structure was originally designed to accommodate, shall be considered a minor modification.
4. The site will be developed in substantial conformance with the submitted site plan dated March 11, 2014. Minor modification of the site plan are allowed within the proposed 4,200 square foot lease area.
5. The site is granted a waiver of the 1-mile separation distance to another wireless communication facility over 50-feet in height (BMCC 27-620(g)11) since it is technically infeasible to place the required antennae on any existing tower within 1 mile or to re-locate the facility to another location 1 mile or more from the proposed location.
6. A building permit must be applied for within six (6) months of special review approval and the project shall be completed within one (1) year from the date the special review is granted by the City Council
7. 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.
8. 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.

****NOTE**** Approval of this Special Review does not constitute approval of a building permit, sign permit or fence permit. Compliance with all applicable local codes will be reviewed at the building permit or zoning compliance permit level. This application is for a Special Review as noted above and no other request is being considered with this application. The use and development of the property must be in accordance with the submitted site plan.

Attachments

Zoning Commission Considerations

Zoning Map

Site Photos

Site Plan and Applicant Letter

Attachment A
Zoning Commission Action

The City Zoning Commission shall make a recommendation to the City Council to:

1. Deny the application for a special review use.
2. Grant the application for a special review use.
3. Conditionally grant the application for a special review use.
4. Delay action on the application for a period not to exceed thirty (30) days.
5. Give reasons for the recommendation.

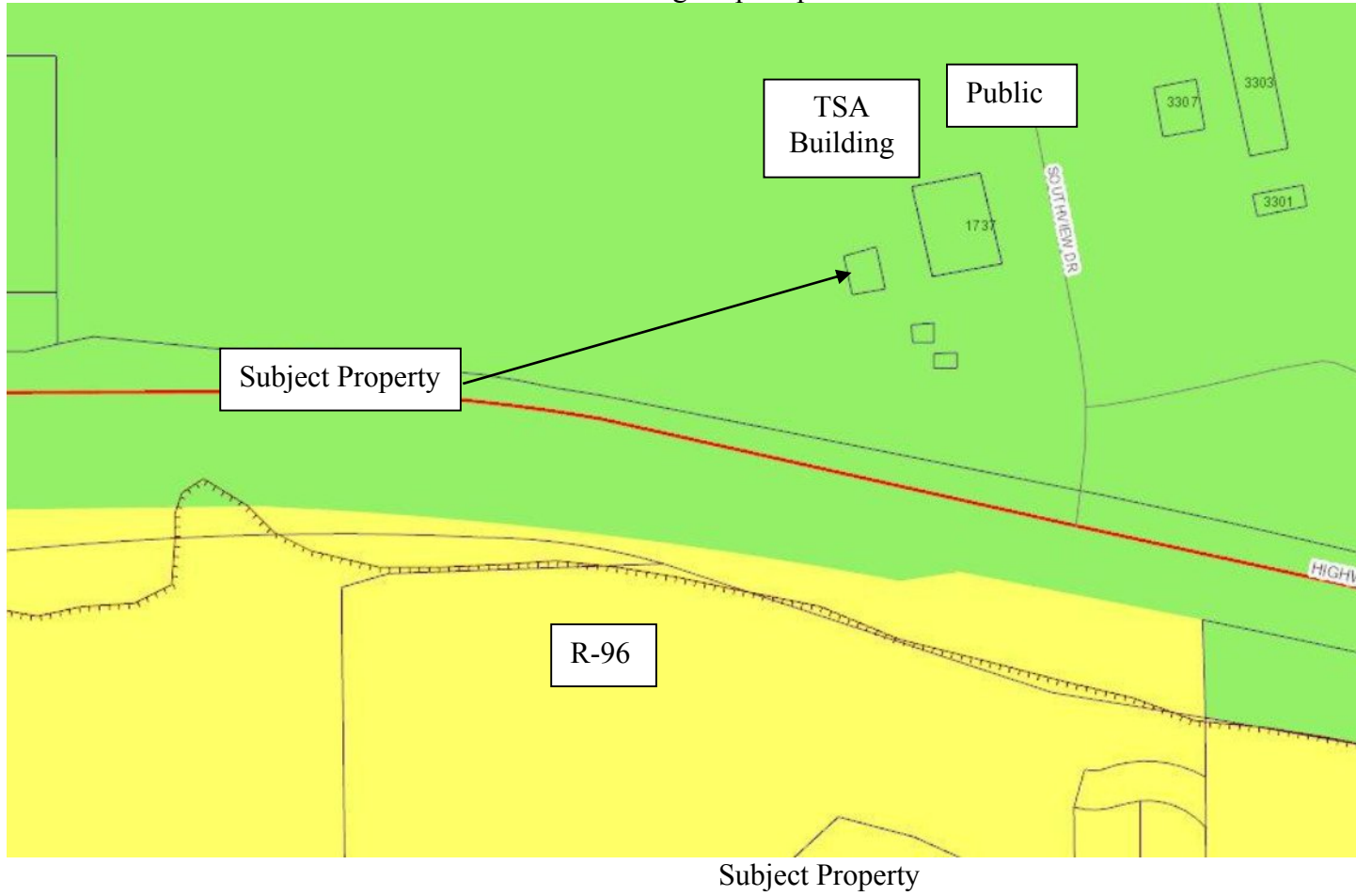
Before approving a special review use, the Zoning Commission shall find that the contemplated use:

1. Complies with all requirements of this Article (27-1500);
2. Is consistent with the objectives and purposes of Chapter 27 and the Comprehensive Plan;
3. Is compatible with surrounding land uses or is otherwise screened and separated from adjacent land in such a way as to minimize adverse effects.

Further the Zoning Commission shall consider and may impose modifications or conditions concerning, but not limited to the following:

1. Street and road capacity;
2. Ingress and egress to adjoining streets;
3. Off-street parking;
4. Fencing, screening and landscaping;
5. Building bulk and location;
6. Usable open space;
7. Signs and lighting; and/or
8. Noise, vibration, air pollution and similar environmental influences.

Attachment B
Zoning Map – Special Review #922



Attachment C
Site Photos – Special Review #922



Subject Property



View south and east across Southview Drive

Attachment C, continued
Site Photos – Special Review #922

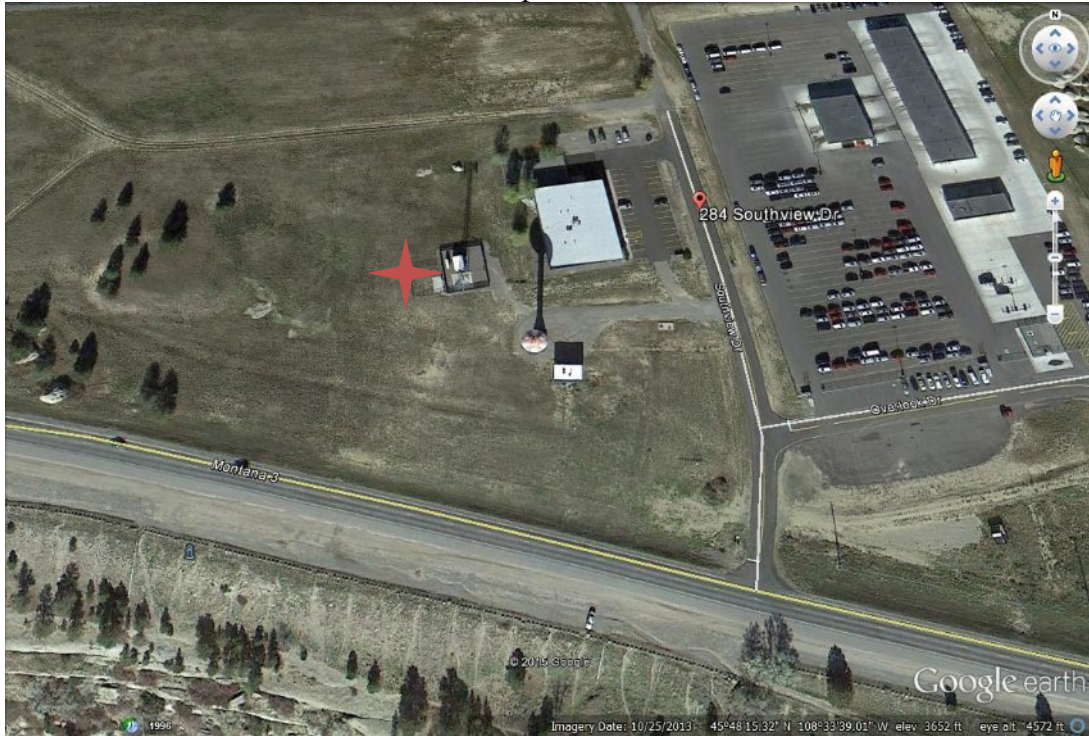


View east along Overlook Drive



Intersection of Overlook Drive and Southview Drive

Attachment C, continued
Site Photos – Special Review #922

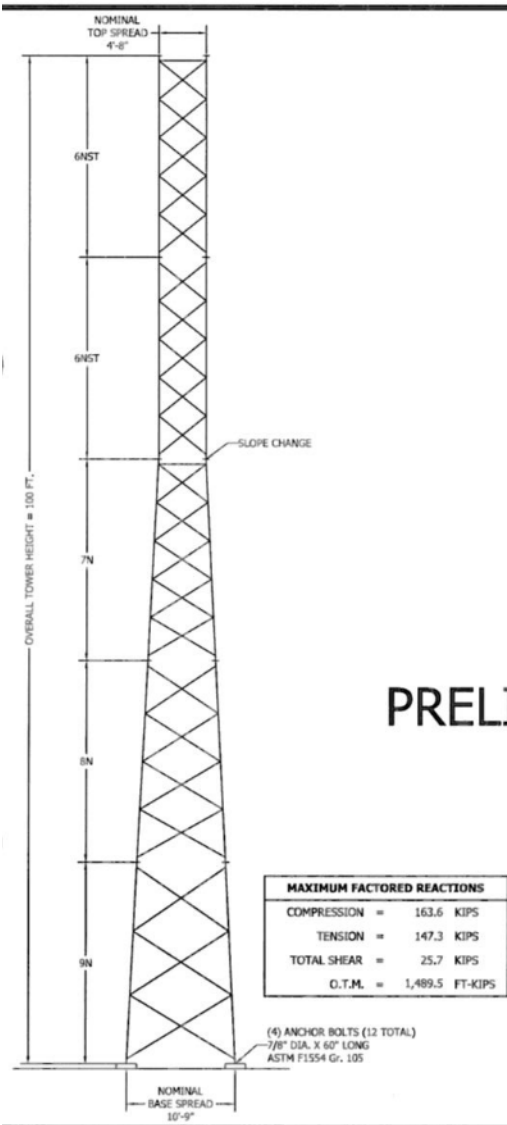


Subject Location



View north from Highway 3

Attachment D Site plan



TOWER DESIGN LOADING		
DESIGN WIND LOAD PER ANSI/TIA-222-G: ASCE 7-10 FACTORED WIND SPEED (NO ICE) = 115 MPH STRUCTURE CLASS = II EXPOSURE CATEGORY = B TOPOGRAPHIC CATEGORY = 4 (250 FT)		
THIS TOWER IS DESIGNED TO SUPPORT THE FOLLOWING LOADS:		
ELEVATION (FT)	ANTENNA TYPE	LINE SIZE (NO)
102	BEACON AND LIGHTING ROD	(1) 1 1/2", (1) 1
95	(2)SD3ft TIA w/o radome (AZ. 60 & 180 DEG)	(2) EW63
95	SD4ft TIA w/o radome (AZ. 60 DEG)	(1) EW63
95	SD2ft TIA w/o radome (AZ. 180 DEG)	(1) EW63
95	60 SQFT*	(5) 1 5/8"
80	LIGHT CARRIER(55 SQFT)	(9) 1 5/8"

LINES ARE STACKED
*60 SQFT SHOULD COVER ALL SPECIFIED PANEL ANTENNAS AND MOUNTING. IF THE MOUNTING CAUSES THE TOTAL EPA TO EXCEED 60 SQFT THEN THE TOWER WILL NEED TO BE REDESIGNED

PRELIMINARY NOT FOR CONSTRUCTION

SECTION MAIN MEMBER SCHEDULE		
SECTION	LEG	DIAGONAL
6NST	PIPE 2.875x0.203	L1 3/4x1 3/4x3/16 (
6NST	PIPE 2.875x0.276	L1 3/4x1 3/4x3/16 (
7N	PIPE 3.500x0.300	L1 3/4x1 3/4x3/16 (
8N	PIPE 4x0.318	L1 3/4x1 3/4x3/16 (
9N	PIPE 4.500x0.337	L2x2x3/16 (3)

NOTE: SECTION NUMBERS ARE FOR REFERENCE ONLY. FOR NOMINAL FACE WIDTH DIMENSIONS, REFER TO THE STRESS ANALYSIS. THE NUMBERS SHOWN IN PARENTHESES INDICATE THE NUMBER OF BAYS FROM TOP TO BOTTOM.

Answers to Special Review Application Questions

- A. Presently there is a considerable demand for data services in Billings largely due to the size of Billings in relation to the rest of Montana and the surrounding states. Other factors include the large medical community that exists here and more recently the influx of people and businesses involved in the energy field. There are multiple objectives under the Economic Development Element related to the promotion and development of businesses and my intent is to greatly increase the quality, quantity and coverage of data services not just between the Heights and the rest of the city, but to all of Billings and its surrounding areas. If Billings is going to continue to develop economically we will have to compete with other cities in states that are more closely located to technology centers such as California, Colorado and New Mexico which has allowed them to build much more advanced data infrastructure. Unfortunately there are limited data service options in Billings right now, so if you are in the right area you may have services from one or two large carriers, but for most others there will only be a single carrier available and the lack of competition has resulted in limited capabilities and high cost.
- B. The need for the use of this particular site is explained in section D-3 below.
- C. The purpose of the proposed installation is to support businesses requiring very reliable data transport services. This single site will be able to provide services to hundreds of businesses and by extension affect thousands of people. As a result it is likely that this installation will be connected to more people than the nearby Verizon tower.
- D. The property in consideration is presently unused space which for this project would be used to locate a tower on an 18 by 18 foot foundation. An existing fence would be enlarged to enclose the proposed space and provide a visual barrier. There is an existing concrete pad with an adjacent power pedestal that will be used for the new installation. The special review is required in this case for the following reasons:
1. According to the Unified Zoning Code (UCZ) antenna support structures more than 50 feet in height require special review. The height of the proposed tower was derived from a need for a clear line of site to the Heights, additional room for expansion and to provide a more balanced perspective with the existing Verizon tower and the elevated reservoir.
 2. Per article 27-620 sub-section g-5-b *General Requirements, Fencing and Buffering, Landscaping*. For the site in consideration there is an adjacent Verizon tower lease which the proposed site would share a fence with. The airport has requested that a similar type of fencing be used for the new fence which would include color coordinated slats in the chain link. There is no shrubbery or grass within the vicinity of the structures near this site including the adjacent buildings, reservoir and tower. This would make a hedge appear out of place, particularly because the soil and other conditions on the bluff would make a hedge look artificial and would make its maintenance resource intensive. A consistent ground cover of the existing prairie grass and a gravel buffer around the fence would seem more appropriate and would blend better with the existing surroundings.
 3. Per article 27-620 sub-section g-11 *Antenna support structure separation*. The site in consideration was carefully selected, is the most suitable for this installation for a variety of reasons, and is also the only option for certain other reasons. On the bluff bisecting Billings there is little space available with most of it owned by the airport and the rest either being too far west which is too far from the Heights, or being designated as park land.

This particular site has the appropriate view of the necessary locations while being as far from the road as possible. If it were even only 100 feet farther north it would interfere on airport airspace. It is also located where it can use existing utilities on a partially prepared site formerly used as a communications installation. Working with Verizon I was able to determine the minimum distance of 70 feet that would be required between the towers. This distance presents a much less obvious obstruction since the existing nearby elevated reservoir and the two towers which are almost identical in size would, from many perspectives, obscure the existence of the new tower. The airport administration also agreed that this location presents a much less obvious installation, and expressed a preference that I use the existing site next to the Verizon tower, which they indicated was one of the few sites which wouldn't interfere with airport operations or airspace. There is an existing tower farm located 1.8 miles to the west near Zimmerman Trail.

Additional Information

Per article 27-600 sub-section k-7 *Availability of suitable existing or approved antenna support structures.*

For the site in consideration there is a 100 foot Verizon tower 70 feet to the east, that after much review, I deemed unsuitable for my needs for the following reasons:

1. The existing Verizon tower is of a similar model and of similar dimension to the proposed tower except that it is of lighter duty construction. The tower was constructed in 1997 and has already been reinforced either because of its age or in order to support the new 4G antennas. The antenna load that would be placed on the proposed tower would exceed that which the existing Verizon tower could hold, thereby preventing future growth and as a result would require a new tower anyways.
2. The agent with Verizon that I contacted for information about collocation was initially amenable to the request, but provided an initial estimate which he had seen in other situations like this and which was already more than the monthly estimated cost for an entirely new heavier tower with services. The Verizon estimate did not include the ground rent and antenna fee that would be due to the airport as a landlord or the other expenses since only tower space can be leased and ground space, enclosures and utilities must be obtained separately.
3. Verizon made it clear that the purpose of their tower is to support their hardware and that they will provide collocation only as a secondary concern, partially because of wording in their land lease contract that requires them to do so. This is entirely understandable; however, it is difficult for me to provide the necessary level of reliability to my customers if I cannot ensure the highest priority for my installation.

Due to the location of this tower and at the request of the airport, authorization from the FAA was required. I filed form 7460 with the FAA and received a *Determination of No Hazard to Air Navigation* in response. The response letter from the FAA can be produced upon request.



City Zoning Commission

Meeting Date: 02/03/2015

SUBJECT: Zone Change #931 - Yellowstone Avenue

THROUGH: Candi Millar, Planning & Community Services Department Director

PRESENTED BY: Nicole Cromwell

Information

REQUEST

Zone Change #931: This is a zone change from Residential 7,000 (R-70) to residential 6,000 (R-60) on Parcel A of amended Tracts A-G of C/S 87 and an unplatted portion of Section 5, T1S, R26 E, for the proposed Midway Townhomes development. The property is located on Yellowstone Avenue between 10th St West and 11th St West. The parcel is about 3 acres in area. The applicant conducted a pre-application neighborhood meeting on December 17, 2014, at the Shrine Lodge Room, 1125 Broadwater Avenue.

RECOMMENDATION

The Planning Division is recommending approval of the zone change and adoption of the findings of the 10 criteria.

APPLICATION DATA

OWNER: Riley and Yvonne Kelly

AGENT: None

LEGAL DESCRIPTION: Parcel A of Amended C/S 87 and an unplatted portion of Section 5, T1S, R26E

ADDRESS: 1000 Block of Yellowstone Avenue

CURRENT ZONING: R-70

EXISTING LAND USE: Vacant

PROPOSED USE: Midway Townhomes (duplexes)

SIZE OF PARCEL: 3.024 acres

CONCURRENT APPLICATIONS

A Master Site Plan Review for the proposed project is pending.

APPLICABLE ZONING HISTORY

Subject Property - None

Surrounding Property - There have been 9 similar zone change requests in this area of Billings since 1976. Six of these requests have been denied primarily for reasons of incompatibility with existing neighborhoods. Prior to 1997, multi-family dwellings up to 8 attached dwelling units were allowed in the R-60 zoning districts. After 1997, multi-family dwellings (3 or more attached units), required City Council approval by special review. Five of the 6 requests were denied prior to 1997.

SURROUNDING LAND USE & ZONING

NORTH: Zoning: R-70
 Land Use: Single family and 2-family dwellings

SOUTH: Zoning: R-60
 Land Use: Single family and 2 family dwellings

EAST: Zoning: RMF-R
 Land Use: Stoneridge Apartments

WEST: Zoning: R-70 and CC
 Land Use: London Patio Homes and the Shrine Auditorium

BACKGROUND

The applicant is proposing to rezone about 3 acres of land from R-70 to R-60 for the purpose of developing a townhome project as an infill of vacant land in an existing Billings neighborhood near 10th St West and Yellowstone Avenue. The applicant is proposing to construct 2-family townhomes (duplexes) that will share common private facilities. The existing zoning allows duplexes but the applicant is interested in a slightly higher density than allowed in the current zone. The applicant has prepared and submitted a Master Site Plan Application for review for the townhome layout and for the private shared facilities. It was discovered during this process that the zoning would need to be changed to accommodate the proposed density and layout for lot coverage and front setbacks. The applicant is not proposing multi-family dwellings on the property.

The surrounding zoning is a mixture of low to medium density residential uses and commercial zoning to the northeast and south (Broadwater Avenue). There is an apartment complex to the east and two-family dwellings to the west. To the south is R-60 zoning with single and 2-family dwellings. One block south and east are 3, 4-plex dwellings under construction after City Council approval in 2013. This property is 2 blocks north of Broadwater Avenue, a well-developed commercial district and on a MET Transit route. The property has been used as an informal access through the Shrine property and up to Lewis Avenue. The aerial photos clearly show this informal use of the property. The proposed development may not allow through access on Yellowstone Avenue so traffic using this property now will have to use streets and sidewalks on developed streets. The City Engineering Division will determine whether Yellowstone Avenue can be closed off from through traffic or whether it should connect.

The applicants conducted a pre-application meeting and 9 surrounding property owners attended and 1 called the applicants prior to the meeting with questions. No surrounding property owners contacted the Planning staff. Several property owners asked questions regarding solid waste service, where the streets would connect and not connect, building height and style, as well as storm water treatment and retention.

RECOMMENDATION

The Planning staff has reviewed the application and is recommending approval based on the findings of the 10 criteria for this zone change. The property is adjacent to R-60 zoning to the south and the proposed development is compatible with the existing neighborhood pattern in this area. The zoning is consistent with the City's 2008 Growth Policy and Infill Policy. The surrounding neighborhood started developing in the mid-1950s and slowly filled in through the mid-1970s. This property has been vacant and was never proposed for subdivision or development by the previous owner. This is an opportunity to provide additional housing choices in this neighborhood where rental homes, apartments, townhomes and single family residences already exist. The proposed dwelling density is slightly over 9 units per acre so it will require less demand for city services than a less dense development pattern.

Attachments

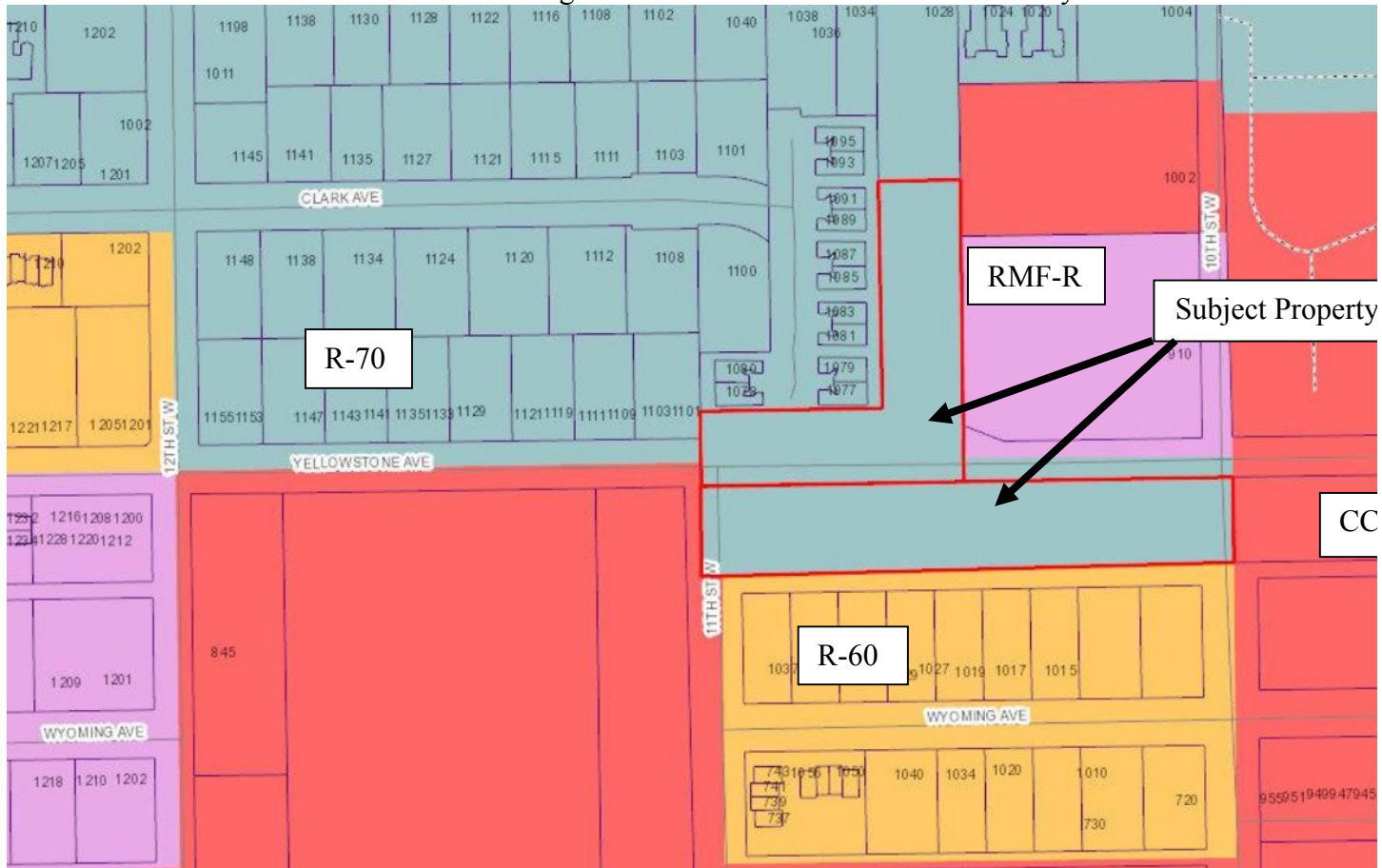
Zoning Map

Findings of the 10 Criteria

Site Photos

Pre application notes and Applicant Letter

Attachment A: Surrounding Zoning
Zone Change #931 – Yellowstone Avenue – Midway Townhomes



Attachment B

Zoning Commission Determinations

Zone Change #931 – Yellowstone Avenue – Midway Townhomes

Prior to any recommendation to the City Council, the Zoning Commission shall consider the following:

1. *Is the new zoning designed in accordance with the Growth Policy?*

The proposed zone change is consistent with the following goals of the Growth Policy:

- *Predictable land use decisions that are consistent with neighborhood character and land use patterns. (Land Use Element Goal, page 6)*

The proposed zoning would allow an underutilized property within the city limits to develop in a similar pattern and density consistent with the surrounding property. The zoning district is compatible with the neighborhood character and land use patterns.

- The Infill Policy encourages development of vacant and undervalued property within the city limits with emphasis on housing choice and efficient use of existing city infrastructure and services.

2. *Is the new zoning designed to secure from fire and other dangers?*

The new zoning requires minimum setbacks, open and landscaped areas and building separations. The new zoning, as do all zoning districts, provides adequate building separations and density limits to provide security from fire and other dangers.

3. *Whether the new zoning will promote public health, public safety and general welfare?*

Public health and public safety will be promoted by the proposed zoning. Development of the vacant land in the city will promote the public health and safety of the adjacent residential neighborhood by providing full development of streets, closing informal traffic cut-through on Yellowstone Avenue and address storm water issues in the area.

4. *Will the new zoning will facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirement?*

Transportation: The proposed zoning and subsequent Master Site Plan will have an impact on the surrounding transportation systems. The City Engineering Division will work closely with the owner to ensure impacts are minimized.

Water and Sewer: The City will provide water and sewer to the property. There should be no additional impact to the system from the proposed zoning.

Schools and Parks: There may be a limited impact to schools from the proposed zone change. Residential development is an allowed use in both the current zoning and the proposed zoning. The development plan is for two-family dwellings as townhomes (each unit separately owned).

Fire and Police: The subject property will be served by city public safety services. The Police Department had no concerns with the zone change and the Fire Department will be involved in the Master Site Plan approval process. Access for emergency services will assured

through this process. Fire Station #4 is approximately $\frac{3}{4}$ of a mile to the south and east.

5. *Will the new zoning provide adequate light and air?*

The proposed zoning provides for sufficient setbacks to allow for adequate separation between structures and adequate light and air.

6. *Will the new zoning effect motorized and non-motorized transportation?*

The new zoning will have an effect on vehicle and pedestrian traffic. Yellowstone Avenue is not a dedicated right of way all the way through this property. In addition, 10th Street West to the east is also not a dedicated right-of-way although a sanitary sewer main exists under this gravel road. There is a small section of Yellowstone Avenue constructed along the south side of 910 10th Street West (apartments) but it is a dead-end. People drive around the barricades to access the Shrine Auditorium parking lot. Development of the property will remove this informal access. There is an alley to the south that will provide access to alley garbage service for some of the townhomes. 10th Street West south of Yellowstone Avenue also is an incomplete street. The city has sanitary sewer main under the dirt/gravel section of the street but no right of way has been dedicated. This sanitary sewer main was installed in 1974. The City Engineering Division will determine the required street improvements for Yellowstone Avenue and 10th Street West.

7. *Will the new zoning will promote compatible urban growth?*

The new zoning does promote compatibility with urban growth. The proposed zoning will allow residential uses with an efficient density as an infill project.

8. *Does the new zoning consider the character of the district and the peculiar suitability of the property for particular uses?*

The proposed zoning does consider the character of the district and the suitability of the property for a mix of housing types in the neighborhood.

9. *Will the new zoning conserve the value of buildings?*

The property is currently vacant. The value of existing buildings should increase when the property is developed.

10. *Will the new zoning encourage the most appropriate use of land throughout the City of Billings?*

The proposed zoning will permit residential dwellings of similar type and density as the surrounding neighborhood and is the most appropriate use of land at this location.

Attachment C

Site Photographs, Zone Change #931 – Yellowstone Avenue – Midway Townhomes



Subject Property – view west from 10th Street West



View east along Yellowstone Avenue

Attachment C, continued

Site Photographs, Zone Change #931 – Yellowstone Avenue – Midway Townhomes



View north along 10th Street West



View north west across property – existing townhomes along west property line

Attachment C, continued

Site Photographs, Zone Change #931 – Yellowstone Avenue – Midway Townhomes



View north from north end of property



Aerial View

Attachment C, continued
Site Photographs, Zone Change #931– Yellowstone Avenue – Midway Townhomes



Aerial view

**Notes from Neighborhood Meeting
December 17, 2014 – Shrine Lodge Room**

Prior to the meeting, Carol Hayes called as she currently lives in Milwaukee, WI and would not be able to attend the meeting. She did not understand the map that was provided and was questioning if there would be any affect regarding access to her rental, which there is not.

Jess Van Notten from the YWCA also called prior to the meeting. She questioned if the townhomes were going to be low income housing. She did not have any major concerns, but was excited about the project as it would provide potential housing for employees. Jess also attended the meeting in person.

Members from the Lone Pine Condos had a few questions: the direction the townhomes would face on Midway road, which the back of the Lone Pine Condos will be backed up against the back of Midway Townhomes. Another question was whether or not any of the buildings would be apartment buildings, which they will not. They also asked how tall the buildings would be, which will be two stories.

Other questions/concerns throughout the meeting were: where the trash cans would be placed, for the properties on Yellowstone, and whether the garbage would be picked up on Yellowstone or in the ally. The garbage will be picked up in the ally.

During the meeting and addressing the questions, there were several positive comments. The ladies from the Lone Pine Condos were excited that Yellowstone would be a dead-end and not allow traffic to drive through from the Shrine. They also mentioned that with the land being developed, it would stop *people from driving their ATVs and motorcycles, people driving and spinning their tires in the mud and gravel*. Attendees also inquired the price of the townhomes, which will be dependent upon the builders. It was also explained, as per the phone conversation with Carol Hayes, that typically residents on Wyoming noticed a lot of mud and gravel from the run-off during storms. The storm water retention plan will contain the run-off for this area, which is a positive, especially for existing residents in the area.

Overall the meeting was well received and appeared everyone was satisfied with the answers and overall project. The meeting lasted approximately 45 minutes.

In what ways is your proposal consistent with the goals and policies of the adopted Growth Policy?

Midway Townhomes satisfies the Growth Policy in the following areas as listed below:

Land Use Element: Midway Townhomes will be developed off Yellowstone Avenue between 10th and 11th Street West. There are existing condominium and townhome projects in the area, such as Lone Pine Condos and Elk Ridge Townhomes. Midway Townhomes will also have an HOA set up to assist in keeping the appearance of the units uniform as well as routine maintenance and upkeep for the landscaping, streets and storm water retention. The HOAs will also help reduce conflict between neighbors.

This development is centrally located which is an attractive area for builders and potential investors. These units can be sold as primary residences or investment properties targeting moderate income housing. Broadwater is located a block south, which has several business and public transportation options.

Economic Development Element: This development will provide additional opportunity for contractors and construction related businesses. Once the project is completed, the HOA will continue to employ lawn care/landscaping companies as well as snow removal businesses.

Midway townhomes will provide a safe environment for residents by requiring vinyl fencing around the perimeter. In addition, Yellowstone will be a dead end road and Midway Lane will be a private road. This will help reduce through traffic.

Aesthetics Element: Midway Townhomes will have a HOA enforced which requires the exterior to maintain a visually appealing appearance. There will be no obstructed views.

Natural Resources Element: The location of Midway Townhomes is centrally located and will not be disrupting wildlife or have a direct effect on our natural resources. The development will utilize the city services.

Open Space and Recreation Element: Although the roads will be private within the development, public access will be maintained. Non-motorized connections between residential neighborhoods and workplaces will have access and sidewalks for pedestrians and bicycles through the dead-end street on Yellowstone.

Transportation Element: With Yellowstone Avenue being a dead end as well as Midway Lane (also a private road) this will reduce and manage the through traffic, which will eliminate speeding in the subdivision. The HOA is set up to maintain the roads. In addition, with the location being centrally located, the MET Transit is an option as well as walking and riding bicycles.

Public Facilities and Services Element: Again, the subdivision will have dead-end and private streets in addition to vinyl fence around the perimeter to enhance safety. The HOA will facilitate and prioritize the needs of the subdivision.

Cultural and Historic Resources Element: With the HOA, there will be visually appealing and attractive landscaping. Owners will have the option of adding and/or enhancing their environment with art.

Community Health Element: Health care facilities including Billings Clinic, St. Vincent's and Riverstone Health Clinic are located approximately 2 to 2.5 miles from the subdivision. There are several businesses within walking or biking distance. Each unit has the option of a fenced back yard with no restrictions to gardens. There will be annual meetings to discuss ideas or other options and/or ideas for a safe neighborhood and any improvement opportunities.

The reason for the intended zone change is to combine both sections of land into R-6000 zoning. In doing so, it will allow the planned unit development to have more multi-family dwellings. The current plan will have a total of 14 ½ lots, for a total of 29 units. The new zoning will keep the expansion of Billings closer to downtown with more available housing within the city limits. The engineering is drawn to fit the layout of the land accurately and preserves many of the goals and objectives of the Growth Policy.

The current zoning does not allow as many multi-family/duplex lots, as R-7000 zoning is defined as: primarily a single-family residence district, with provisions for duplexes on lots that are served by public water and sewer services.



City Zoning Commission

Meeting Date: 02/03/2015

SUBJECT: Zone Change 932 - 808 Grand Avenue

THROUGH: Candi Millar, Planning & Community Services Department Director

PRESENTED BY: Nicole Cromwell

Information

REQUEST

Zone Change #932: This is a zone change from Residential 7,000 (R-70) to Community Commercial (CC) on the north 36,000 square feet of Lots 2 & 3, Pierce Subdivision. The total area of the property includes lots 1 and 2 of Block 2, in Robbins Subdivision and is a total of 1.72 acres. Only the northern 36,000 square feet is proposed for this zone change. The property is located at 808 Grand Avenue. A pre-application neighborhood meeting was held at 805 Alderson Avenue on December 18, 2014.

RECOMMENDATION

The Planning Division recommends approval and adoption of the findings of the 10 criteria for this zone change.

APPLICATION DATA

OWNER: 808 Grand, LLC (Max Griffin)

AGENT: David Mitchell

LEGAL DESCRIPTION: Lots 2 and 3 of Pierce Subdivision

ADDRESS: 808 Grand Avenue

CURRENT ZONING: R-70

EXISTING LAND USE: Vacant

PROPOSED USE: Commercial and retail service

SIZE OF PARCEL: 36,000 square feet

CONCURRENT APPLICATIONS

None

APPLICABLE ZONING HISTORY

The subject property has been zoned R-70 since the current city zoning was adopted in May 1972. The surrounding subdivisions and lots have submitted zone changes from residential zoning to commercial zoning several times in the past 43 years but primarily during the late 1970s when Grand Avenue was developing retail and service businesses west of 8th Street West. Five of the 6 zone changes in the area were submitted during that time. Two were approved, 2 were withdrawn and 1 was denied by the City Council. The denied zone change was for the northeast corner of Broadwater Avenue and 8th Street West from R-70 to Neighborhood Commercial (NC) for a proposed new convenience store.

SURROUNDING LAND USE & ZONING

NORTH: Zoning: CC
Land Use: Professional offices, Off the Leaf Café

SOUTH: Zoning: R-70
Land Use: Church and school

EAST: Zoning: NC
Land Use: Billboards, service businesses on Grand Avenue

WEST: Zoning: R-70
Land Use: Single family residence

BACKGROUND

The applicant is proposing to re-zone the northern 36,000 square feet of Lots 2 and 3 of Pierce Subdivision on the south west corner of the Grand Avenue and 8th Street West. The property includes additional land to the south where an existing church and school building are in the process of re-use as a Montessori School. The northern portion of the property has the vacant parsonage home that is slated for demolition. In addition, there is a private access easement from 8th Street West to Lot 4 of Pierce Subdivision (residence of Fred Pierce). The proposed zone change will not extinguish this access easement. There is commercial zoning on the north side of Grand Avenue and on the east side of 8th Street West from Grand Avenue to the alley. There is residential zoning to the west and south. If the zone change is approved, and commercial development occurs, special development criteria will apply to ensure screening, buffering and protection of those adjacent properties. These criteria and standards include lighting, signage, and screening of mechanical equipment to reduce noise.

The adjacent streets, Grand Avenue and 8th Street West, are classified as a principal arterial and collector street, respectively. Grand Avenue carries about 16,000 vehicles per day and 8th Street West carries about 6,000 vehicles (2014 Traffic Count). The traffic counts at this location have remained stable for the past 10 years. Any new access to the property other than the existing approach from 8th Street West will be controlled by the City Engineering Division. The owners do not have a proposed development or buyer for the property at this time. The proposed CC zone could allow a variety of commercial ventures such as retail services, restaurants, gas station, car wash, bar or casinos as well grocery stores and mixed residential and commercial uses. Any on-premise liquor service with gaming would require a special review approval. Any drive through food service would also require special review approval.

The applicant conducted a pre-application meeting on December 18, 2014. The meeting notes and attendance sheet are attached to this report. One of the issues discussed was the existence of an underground spring that possibly runs parallel to Grand Avenue then south and east through properties on Alderson Avenue and Burlington Avenue. The Planning staff is working to verify the location and existence of this spring. Any development of the property will need to ensure the spring or groundwater is accounted for during planning for foundations and storm water control. No surrounding property owners contacted Planning staff after the mailed notices were sent for the Zoning Commission hearing.

RECOMMENDATION

Planning staff is recommending approval of the zone change and adoption of the findings of the 10 criteria for this zone change. The property is situated at the intersection of an arterial street and a collector street where over 22,000 vehicles pass by each day. The property is primarily vacant with one unused structure and the driveway to the adjacent residence at 824 Grand Avenue. The applicant is proposing to retain the residential zoning on the south to prevent encroachment of intense commercial uses on the neighborhood on Alderson Avenue. The proposed zoning is compatible with the zoning to the north and

east. Special criteria are in place (Section 27-612.e) to ensure adjacent residential zones to the south and west are protected from noise, lighting, traffic and other typical commercial site characteristics that may infringe on the quiet enjoyment of those residential properties. The location is within the city limits and is underutilized and the proposed re-zoning supports the city's Infill Policy.

Attachments

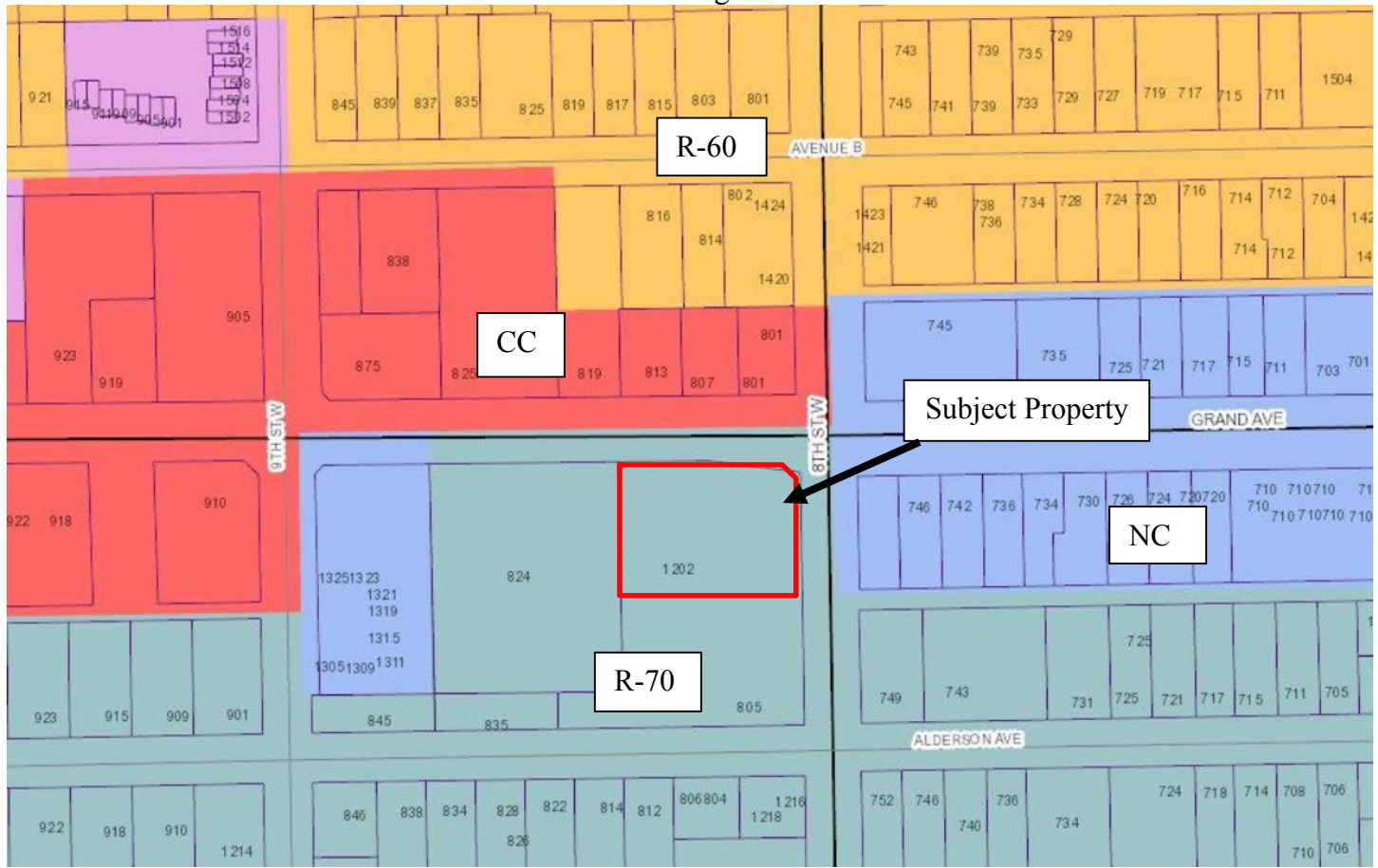
Zoning Map

Findings of the 10 criteria

Site photos

Pre-application notes and Applicant letter

Attachment A: Surrounding Zoning
Zone Change #932 – 808 Grand Avenue



Attachment B

Zoning Commission Determinations Zone Change #932 – 808 Grand Avenue

Prior to any recommendation to the City Council, the Zoning Commission shall consider the following:

1. *Is the new zoning designed in accordance with the Growth Policy?*

The proposed zone change is consistent with the following goals of the Growth Policy:

- *Predictable land use decisions that are consistent with neighborhood character and land use patterns. (Land Use Element Goal, page 6)*

The proposed zoning would allow an underutilized property within the city limits to develop in a similar pattern with the surrounding property. The zoning district is compatible with the neighborhood character and land use patterns. It is located at the intersection of 2 high traffic streets. Adjacent residential zones will be protected through application of the criteria for development in Section 27-612.e of the Unified Zoning Regulations that requires mitigation of light, noise, traffic and other typical commercial site issues.

- The Infill Policy encourages development of vacant and undervalued property within the city limits with emphasis on efficient use of existing city infrastructure and services.

2. *Is the new zoning designed to secure from fire and other dangers?*

The new zoning requires minimum setbacks, open and landscaped areas and building separations. The new zoning, as do all zoning districts, provides adequate building separations and density limits to provide security from fire and other dangers.

3. *Whether the new zoning will promote public health, public safety and general welfare?*

Public health and public safety will be promoted by the proposed zoning. Development of the vacant land in the city will promote the public health and safety as well as the general welfare by developing the final corner of this major intersection of Grand Avenue and 8th Street West. The applicant and developer is cognizant of the access easement, underground spring as well as the adjacent residential neighborhood that will need protection from intrusion of commercial activity.

4. *Will the new zoning will facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirement?*

Transportation: The proposed zoning will have an impact on the surrounding transportation systems. The City Engineering Division will work closely with the owner to ensure impacts are minimized.

Water and Sewer: The City will provide water and sewer to the property. There should be no additional impact to the system from the proposed zoning.

Schools and Parks: There may be a limited impact to schools from the proposed zone change. Residential development is an allowed use in both the current zoning and the proposed zoning. A development plan and specific use of the property is not yet finalized.

Fire and Police: The subject property will be served by city public safety services. The Police Department had no concerns with the zone change and the Fire Department will be involved in any development plan and building permit(s). Fire Station #4 is approximately 1 mile to the south and east.

5. *Will the new zoning provide adequate light and air?*
The proposed zoning provides for sufficient setbacks to allow for adequate separation between structures and adequate light and air.
6. *Will the new zoning effect motorized and non-motorized transportation?*
The new zoning will have an effect on vehicle and pedestrian traffic. Any new development will need to be evaluated for its impact on Grand Avenue and 8th Street West. Existing sidewalks may need to be repaired or replaced at the time of a building permit. Construction on the site may disrupt traffic patterns for short periods of time. Any new access will be evaluated by the City Engineering Division. The existing private access easement across the property from 8th Street West must be retained but it could be re-located by mutual agreement of the property owners.
7. *Will the new zoning will promote compatible urban growth?*
The new zoning does promote compatibility with urban growth. The proposed zoning will allow commercial and residential uses with an efficient density as an infill project.
8. *Does the new zoning consider the character of the district and the peculiar suitability of the property for particular uses?*
The proposed zoning does consider the character of the district and the suitability of the property for a mix of housing types in the neighborhood.
9. *Will the new zoning conserve the value of buildings?*
The property is currently vacant except for a vacant residential structure. The value of existing buildings should increase when the property is developed.
10. *Will the new zoning encourage the most appropriate use of land throughout the City of Billings?*
The proposed zoning will permit commercial uses and mixed uses of similar type and density as the surrounding neighborhood and is the most appropriate use of land at this location.

Attachment C
Site Photographs, Zone Change #932 – 808 Grand Avenue



Subject Property – view west from 8th Street West



View south along 8th Street West

Attachment C, continued
Site Photographs, Zone Change #932 – 808 Grand Avenue



View west along private access easement from 8th Street West

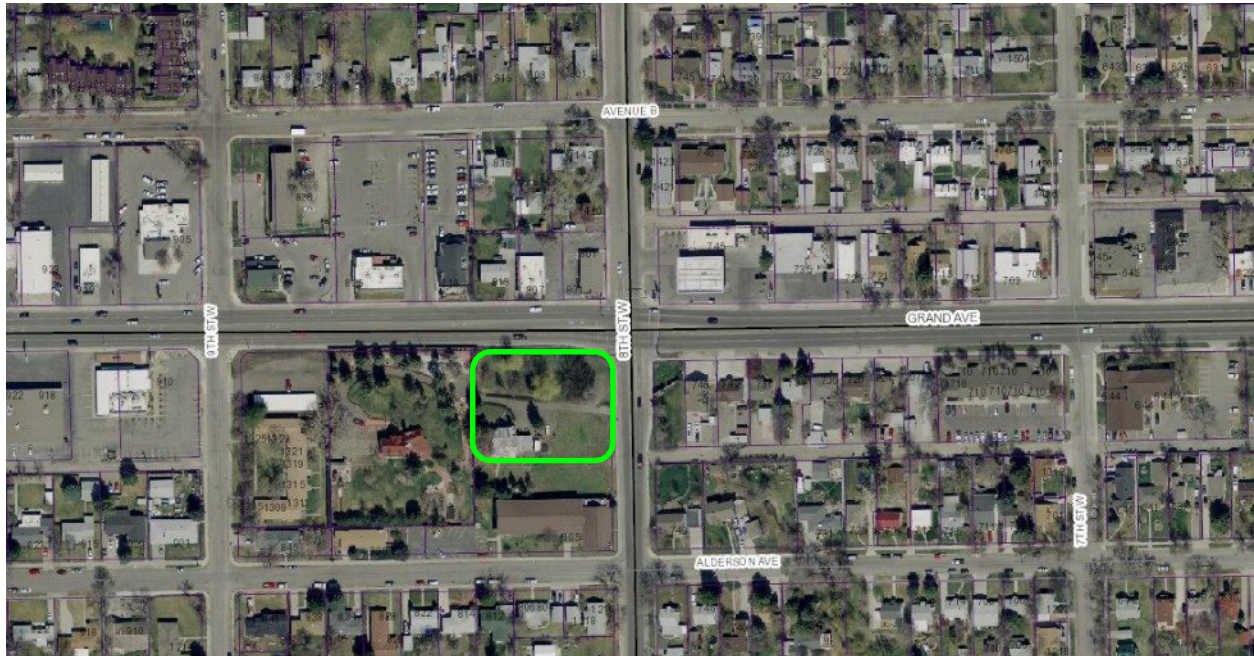


View north to intersection of Grand Avenue and 8th Street West

Attachment C, continued
Site Photographs, Zone Change #932 – 808 Grand Avenue



View east across 8th Street West



Aerial View

Attachment C, continued
Site Photographs, Zone Change #932 – 808 Grand Avenue



Aerial view

Attachment D

Pre-application Meeting notes and applicant letter

Pre-Application Neighborhood Meeting

Date: December 18, 2014

Time: 6 PM

Address: 805 Alderson Ave, Billings, MT 59101

	Name	Address
1	Steve Gardner	742 Grand.
2	SARAH JAMES	846 ALDERSON
3	Bill Cole	3860 Ave B Suite C West 59102 bcole@colefirm.com
4	Christine Sopko	746 Alderson Rent
5	Max Griffin	1010 Central Ave
6	Chandler Griffin	1010 Central Ave
7	David Mitchell	1010 Central Ave
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Synopsis of the Pre-application Neighborhood Meeting

Held December 18, 2014 at 6 PM

Topics discussed at the meeting:

1. Introduced new owners of the property
2. Informed attendees of new tenant for church building
3. Talked about north section of property being changed to community commercial
4. Shared updates that are being made to church, landscaping, and relocating the lot line
5. Discussed spring running through property, storm drainage, and clean bill of health for the soil
6. Talked about options for Fred Pierce and his easement
7. Talked about other businesses on Grand Ave, other community commercial properties nearby
8. Talked about history of church, the parcel, and the neighborhood
9. Explained what the long term goals were for the north section

Zone Change Request Application Answers

Subject property: 808 Grand Ave

Current Zoning: R-7000 - Requested Zone: Community Commercial

1. In what ways is your proposal consistent with the goals and policies of the adopted Growth Policy?
 - a. Answer:
 - i. Land Use Element Issue #1 states *"Neighborhoods are experiencing pressures from new development and land use changes"*. Our focus is to preserve the neighborhood and residential side of the subject property, which touches Alderson Ave. The southern 145 feet of the subject property will remain R-7000, to best utilize the existing structure potential. We want to conform to the consistency of Grand Ave, which the majority of parcels on Grand Ave are Community Commercial. Our goal and direction is in line with that of the City Council in making Grand Ave an economic strength of the City of Billings.
 - ii. Economic Development Element Issue #3 states *"Entryways to our communities should be attractive and not present physical barriers discouraging economic development"*. The current state of subject property is not appealing. 8th Street is a highly populated gateway to residential dwellings. We want to increase the value of that populous entryway. Modifying the north-half of subject property with community commercial zoning will allow our development group to update, improve, and create an attractive entrance and corner to the local residents.
 - iii. Aesthetic Element Issue #1 states *"There are areas in the City and County that are unattractive and present a poor image of the community"*. As previously stated, our development group has success in revitalizing corners in the City of Billings. Our development group updated and enhanced the corner of Central and Moore Lane. The Central and Moore Lane project won the 2013 Bright and Beautiful award for improving surrounding areas of Billings, awarded by Mayor Thomas Hanel.
 - b. Under the current zoning, R-7000, the subject property is limited to very little use. Putting duplexes on the property wouldn't increase the value of the neighborhood, improve the major entryway to the residential blocks, or bring any progress or improvement to Grand Ave. With a zone change, the southwest corner of 8th and Grand Ave would attract a lot of attention from local and national businesses. That attention will bring in money to enhance the local and visual appearance of that intersection. Residents and businesses would all benefit from the upgrade. As well, the city would receive additional income for taxes, businesses income, employee salaries, etc.
2. Photographs may be submitted and are often helpful. They should be of a size adequate to show the nature of the property.
 - a. See Appendix A for recent photographs of the subject property.