

City of Billings Zoning Commission Meeting Minutes-February 2, 2016

The City of Billings Zoning Commission met on Tuesday, February 2, 2016 in the Miller Building 1st Floor Conference Room, 2825 3rd Avenue North, Billings, Montana
Vice Chairman Wagner called the meeting to order at 4:30 p.m. The City Council has designated **Monday February 22, 2016** 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		01/05/2016	02/02/2016	03/01/2016	04/05/2016	05/03/2016	06/07/2016	07/05/2016	08/02/2016	09/06/2016	10/04/2016	11/03/2016	12/06/2016
Dan Wagner	Chairman	1	1										
Dennis Ulvestad	Vice Chairman	1	1										
Mike Boyett	Commissioner	E	1										
Michael Larson	Commissioner	1	1										
James Mariska	Commissioner	1	1										
Candi Millar	Director, Planning & Community Services												
Wyeth Friday	Division Planning Manager												
Nicole Cromwell	Planner Zoning Coordinator	1	1										
Tammy Deines	Planning Clerk												
Dave Green	Planner II	1											
Karen Husman	Planner I	1	1										
Robbin Bartley	Administrative Support	1	1										

Total Number of 2016 Applications	01/05/2016	02/02/2016	03/01/2016	04/05/2016	05/03/2016	06/07/2016	07/05/2016	08/02/2016	09/06/2016	10/04/2016	11/03/2016	12/06/2016	TOTAL
Zone Change	1	0											1
Special Review	2	1											3

Vice Chairman Wagner introduced the Planning Division Staff and Commission: Attending Staff were Nicole Cromwell, Zoning Coordinator; Robbin Bartley, Administrative Support; Karen Husman, Planner I.

In Attendance:

Jase Norsworthy, Jr., Jase Norsworthy, Sr., Rob Morehead, Travis McDowell, Maureen Earnest, Terrald Earnest, Amy Dunphy

Public Comment

Vice Chairman Wagner called for public comments. There were no public comments. Vice Chairman Wagner closed the public comment portion of the meeting.

Approval of Minutes: January 5, 2016

Vice Chairman Wagner called for approval of the January 5, 2016 meeting minutes.

Motion

Commissioner Larson made a motion and Commissioner Mariska seconded the motion to approve the January 5, 2016 meeting minutes as submitted.

The motion for approval then carried with a unanimous voice vote 5-0.

COMMISSIONER	Yes	No	ABSTAINED	ABSENT
Dan Wagner	x			
Mike Boyett	x			
Dennis Ulvestad	x			
Mike Larson	x			
James Mariska	x			

Disclosure of Conflict of Interest

Vice Chairman Wagner called for disclosures of conflict of interest. There were none.

Disclosure of Outside Communication

Vice Chairman Wagner called for disclosure of ex parte communications. 5 Letters concerning Special Review #938 are located in the binder.

Public Hearings:

Vice Chairman Wagner reviewed the rules and the procedures by the City Zoning Commission public hearings are conducted, and asked Nicole Cromwell to review the first and only agenda item. Karen Husman presented:

City Special Review #938 – 3104 Boulder Avenue – Multi-family in R-60 zone – A special review request to construct two 4-plexes and two 3-plexes on Lot 6, Wolf Subdivision, in a Residential 6,000 (R-60) zone on a 38,379 square foot parcel of land. Tax ID: A18647

RECOMMENDATION

The Planning Division recommends conditional approval.

PROPOSED CONDITIONS

1. The special review approval is for the two triplexes and two fourplexes on Lot 6, of Wolf Subdivision, a 38,379 square foot parcel of land located at 3104 Boulder Ave. (14 dwelling units total). No other use or development is intended or implied by this approval.
2. Any expansion in gross floor area of the proposed buildings or off-street parking greater than 10 percent of what is shown on the submitted site plan will require an additional special review approval.
3. 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.
4. All proposed drive approaches will be reviewed by City Traffic Engineering for final approval and location.
5. No construction activity will occur before 7 am or after 8 pm daily.
6. Prior to Building Permits being issued, a Master Site Plan Review must be submitted to the Planning Division and approved for the project.
7. The developer will redesign the plan so there is not vehicular access between Colton Blvd. and Boulder Ave. and install 4 trees at each private street entrance on Boulder Ave. and Colton Blvd. Mature trees exists at the Boulder Ave. frontage may be preserved and counted toward the 4 tree total in this area. New trees shall not be any tree with the genus scientific name of Populus or any of its subspecies including any variety of aspens. Also no Salix (willows), Acer negundo (Box Elder) or Ulmus (Elms). The site will otherwise be developed in substantial conformance with the submitted site plan including landscaping, parking and building locations.
8. A trash receptacle must be provided with a three sided site obscuring fence and a closing gate.

9. 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.

10. 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 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 level his application is for a Special Review as noted above and no other request is being considered with this application. The Planning Division points out the use and development of the property must be in accordance with the submitted site plan.

Discussion

Vice Chairman Wagner called for questions and discussion from the members of the Commission. Commissioner Larson asked if the choice was made to deny the request would the project go forward as duplexes and would there be anything to stop the drive through between Colton and Boulder. Staff replied a Master Site Plan review is still required and it is doubtful a drive through between Colton and Boulder would be denied if the developer wanted to proceed in this manner.

Applicant/Agent

Vice Chairman Wagner asked for a presentation by the applicant.

Travis McDowell, agent for Twenty-O Five Corporation, 2029 Forest Park Drive, Billings, MT

The number of units is the consideration. Owners want a quality property with less units than the maximum allowed by special review. The drive through will be revised and trees will be added along Colton and Boulder. Garbage collection issues are being discussed with Solid Waste to see whether curb-side collection with individual cans will be allowed or whether a commercial size dumpster will be required.

Commissioner Larson spoke of another complex where he lived and asked whether 3 to 4 parking spaces could be added as an option. Mr. McDowell stated there are preliminary plans to add 8 more parking spaces but they are not approved by the owner as of today.

Commissioner Mariska asked if the units will be rentals or to be sold. McDowell stated the construction will be townhouses so they could be rented or sold. Mr. Mariska asked whether a homeowner's association would be formed and expressed concern about garages being used for storage of household items and not cars. Mr. McDowell replied the homeowner's association is a possibility and there may be lease agreements include restrictions on use of the enclosed garage spaces. Mr. McDowell again stated the owner is discussing the options for solid waste collection. Mr. Mariska asked how mail would be delivered. Mr. McDowell stated there would be group mailboxes on each street frontage but would be on the private property.

Commissioner Ulvestad asked about access from Colton and from Boulder. Mr. McDowell stated there will be no vehicle access between the two public streets but a pedestrian walkway will be provided.

Commissioner Boyett, asked what is the proposed square footage of each unit. Mr. McDowell stated the proposed square footage for the 3 bedroom unit is 1,400 and 1,600 for 4 bedroom unit. Commission Boyett stated he was concerned 4 families could share a 4 bedroom unit.

Public Hearing:

Vice Chairman Wagner opened the public hearing and called for proponents or opponents of **City Special Review #938.**

Jase Norsworthy, Sr. owner of Twenty-O Five Corporation and the subject property

Mr. Norsworthy stated this is the last piece of ground in north west Billings zoned R-60. He stated the project will be upscale and higher quality construction. He has been a resident of Billings for 63 years and cares for the community. He stated some of the adjacent buildings are not in great condition but he would not want a lower quality product for his project. He stated if he does not construct the multi-family as proposed another owner might build as nice a project with 5 duplexes.

Jase Norsworthy, Jr. Berkshire Hathaway

Mr. Norsworthy stated the project will be very attractive. He stated as a real estate professional his hope is to raise values in surrounding areas. He stated the target market for these units is young professionals or those willing to pay a higher rent for a quality product.

Rob Morehead, 1043 N 32nd Street

Mr. Morehead stated he has done a few of these projects before and he does have a financial stake in this project and will own a few of the townhouses. He stated he does not wish to create a slum or build a lower quality project. He stated a lower quality building would devalue surrounding properties. He stated the objective is to build a quality townhome with lasting value for the area and for the owners. He stated the units would be affordable quality homes.

Commissioner Boyett asked if he would build 5 duplexes if the special review is not approved. Mr. Morehead stated it would have to go back to the drawing board. He stated if they did the construction quality would have to be lower to make the project financially viable. He stated they want better quality.

Vice Chairman Wagner asked what the treatment will be for the perimeter of the property. Mr. Morehead stated it is in the budget to build some privacy fencing for the backyards.

Vice Chairman Wagner asked if anyone wanted to speak in opposition of City Special Review #938.

Maureen Earnest, 3155 Fairmeadow Drive

Mrs. Earnest stated the volume of traffic is a concern. She stated with the number of proposed units there could be 4 roommates each with their own car. She stated the on-street parking on Colton is crowded as it is now and added more would make the situation worse. She stated the proximity to Boulder Elementary School will cause problems with the on-street parking. She stated she was concerned with the snow removal from the private road being plowed across Colton and onto the their sidewalk. She stated she was concerned another ugly dumpster would be parked on the street. She stated she was concerned with the type of people renting these units creating late night noise. She stated some of the residents in the adjacent apartments come home at 2 am and make a lot of noise. She stated they no longer can leave their windows open at night because of this noise. She stated she would like to see more of a buffer between the proposed buildings and Colton. She stated she would rather have 5 duplexes. She stated the project only meets the minimum setbacks, and these units will be looking in the windows of neighbors. She stated there was no usable open space and each unit only has a small patio. She stated she had submitted a letter of opposition with 16 signatures from her neighbors.

Commissioner Ulvestad stated he agrees there should be no drive through at all to Colton and definitely less units. He stated 3-4 bedroom units will be a lot of people.

Terrald Earnest, 3155 Fairmeadow Drive

Mr. Earnest stated the school buses line up on the north side of Colton during school pickup. He stated there is a lot of illegal parking in the yellow zones around the school and visibility is poor at the intersection with 32nd St West. He stated he has many concerns about student safety. He stated the street will be more congested with additional on-street parking and school buses turning. He state his property paid to install the curb and gutter and fire hydrants on Colton. He stated many people drive 35+ mph on Colton because the speed limit is not posted. He stated there should be a speed reduction in the school zone.

Commissioner Mariska asked about the yellow zone locations. Mr. Earnest pointed these out on the overhead slide. Mr. Mariska stated the school principals control the parking and enforcement around their schools. Mr. Mariska stated the principal at this school does not allow ticketing in yellow areas. Mr. Mariska advised Mr. Earnest to speak to the School District and with the school principal about the illegal parking. .

Mr. Earnest stated he would recommend 10 units as duplexes with more yard area.

Vice Chairman Wagner asked the agent or owner to provide rebuttal.

Travis McDowell addressed the concerns of Mr. & Mrs. Earnest. He stated the owner and designer have done their best to limit access on Colton and provided a wider buffer with heavier landscaping than required. He stated the issues presented are existing and this project will not add to the existing problems. .

Motion

Commissioner Ulvestad made a motion to recommend denial. There was no second. Commissioner Larson made a motion to recommend conditional approval with the conditions as proposed by staff and adopt the findings of the 3 criteria. Commissioner Boyett seconded the motion.

Discussion

Vice Chairman Wagner called for discussion on the motion. Mr. Ulvestad stated Billings is moving too fast and he would vote no on the motion. He stated the Commission should deny the request to allow the applicant to negotiate with the surrounding owners. Mr. Ulvestad stated he thought 10 units is enough for this property. Commissioner Larson stated he is struggling with the decision. He is familiar with the area. Rent is a factor in the type of residents who could live here. He stated the concession on drive through makes a significant difference. Mr. Larson encouraged the designer to be creative before the City Council meeting. He stated he has some concern with the curb side garbage collection. He stated he thinks a covered enclosed dumpster is better than a curbside collection.

Mr. Mariska stated this project is similar to Trailhead Townhomes on Avenue B between 16th and 17th. He stated the owners had 24 units and expanded to 32 units through a special review. He stated the City Council heard objections to the project over traffic concerns, noise, lighting and garbage service. He stated the developer paved alley, put in speed bumps, built townhome units and added a lot of trees. None of the concerns of the neighbors in area were realized after the project was completed. He stated the lot has been zoned since 1973 to be multi-family. He stated to deny this multi-family project when the whole area is zoned and built for multi-family units would pull the chair out from under this owner. He stated this is like musical chairs and this is the last piece in the area. Mr. Mariska voiced concerns about the number of parking spaces provided and how many people could live in each unit. He stated a homeowner’s association could eliminate these concerns. He stated the neighbors should address yellow zone parking with the school district. Mr. Mariska stated he was concerned if it is not developed as presented, it could be much worse. Mr. Mariska stated he would vote in favor of the motion.

Vice Chairman Wagner stated a HOA can control how many people can live in each unit, parking and snow removal He stated the concerns about the school district not addressing parking issues and safety issues should be brought to the attention of the principal and the superintendent.

Vice Chairman Wagner called for a roll call vote.

Commissioner	YES	NO	ABSTAINED	ABSENT
Dan Wagner	x			
Mike Boyett	x			
Dennis Ulvestad		x		
Mike Larson	x			
James Mariska	x			

**The motion carried with a roll call vote, 4-1, Commissioner Ulvestad opposed.
Public Hearing adjourned at 5:39pm.**

**Other Business:
 Election of 2016 Officers**

Commissioner Ulvestad made a motion to elect Vice Chairman Wagner as Chairman, and Commissioner Boyett seconded. Voted as follows:

Commissioner	YES	NO	ABSTAINED	ABSENT
Dan Wagner	X			
Mike Boyett	X			
Dennis Ulvestad	X			
Mike Larson	X			
James Mariska	X			

Commissioner Ulvestad made a motion to elect Commissioner Boyett as Vice Chairman, Commissioner Mariska seconded. Voted as follows:

Commissioner	YES	NO	ABSTAINED	ABSENT
Dan Wagner	x			
Mike Boyett	x			
Dennis Ulvestad	x			
Mike Larson	x			
James Mariska	x			

The next meeting is scheduled for Tuesday, March 1, 2016 but will be cancelled due to the lack of applications to review

Adjournment: The meeting adjourned at **5:41 p.m.**

DRAFT: To be approved by a motion: **April 5, 2016**

ATTEST:

Robbin Bartley, Administrative Assistant I

Chairman, Dan Wagner