

City of Billings Zoning Commission Meeting Minutes August 1, 2017

The City of Billings Zoning Commission met on Wednesday, August 1, 2017 in the Miller Building 1st Floor Conference Room, 2825 3rd Avenue North, Billings, Montana.

Chairman Wagner called the meeting to order at 4:30 p.m. The City Council has designated Monday August 28, 2017 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		01/03/2017	02/07/2017	03/07/2017	04/04/2017	05/02/2017	06/06/2017	07/05/2017	08/01/2017	09/05/2017	10/03/2017	11/07/2017	12/05/2017
Dan Wagner	Chairman	1	-	-	1	1	-	1	1				
Dennis Ulvestad	Commissioner	1	-	-	1	A	-	1	1				
Mike Boyett	Vice Chairman	1	-	-	1	1	-	1	1				
Michael Larson	Commissioner	1	-	-	1	1	-	E	1				
James Mariska	Commissioner	1	-	-	1	1	-	1	1				
Wyeth Friday	Director, Planning & Community Services	-	-	-	1	-	-	-	-				
Monica Plecker	Division Planning Manager	-	-	-	-	-	-	-	1				
Nicole Cromwell	Planner Zoning Coordinator	1	-	-	E	1	-	1	1				
Tammy Deines	Planning Clerk	-	-	-	-	-	-	-	-				
Dave Green	Planner II	-	-	-	1	-	-	1	-				
Karen Husman	Planner I	-	-	-	-	-	-	-	-				
Robbin Bartley	Administrative Support	1	-	-	1	1	-	1	1				

Total Number of 2017 Applications	01/03/2017	02/07/2017	03/07/2017	04/04/2017	05/02/2017	06/06/2017	07/05/2017	08/01/2017	09/05/2017	10/03/2017	11/07/2017	12/05/2017	TOTAL
Zone Change	2			2	1		1	3					9
Special Review	1			3			1						5

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

In Attendance: Barb & Wade Wilson, Adam Smith, Tina Walker, Gary Oakland, Jeffrey Hill, Blaine Poppler, Forrest Sanderson, Tracy Haag, Rick Dorn, Roy & Ronda Close, Red & Janice Bruins, Cary & Susan Smith, Bruce Lackman

Public Comment

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

Approval of Minutes: July 5, 2017

Chairman Wagner called for approval of the July 5, 2017 meeting minutes.

Motion

Commissioner Boyett made a motion and Commissioner Ulvestad seconded the motion to approve the July 5, 2017 meeting minutes.

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

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

Disclosure of any Conflict of Interest, Ex Parte Communications and Site Visits

A new form has been implemented for any disclosures. If any Board member circled yes to a Conflict of Interest or Ex Parte Communication, it will be explained here.

Staff informed the Commissioners of a letter received from Parks regarding City Zone Change 957, and indicated its location in the Ex Parte notebook.

Public Hearings:

Chairman Wagner reviewed the rules and the procedures by which the City Zoning Commission public hearings are conducted and advised the audience that this would be heard by the City Council on August 28, 2017. He then asked Nicole Cromwell to review the first agenda item.

Nicole Cromwell presented:

City Zone Change 957 – Western Sky Subdivision Lots 3 & 4 – A zone change from Community Commercial (CC), Residential Multi-family-Restricted (RMF-R), Residential 5,000 (R-50), Residential 7,000 (R-70), Residential 9,600 (R-96) and Public (P) on Lots 3 & 4 of Western Sky Subdivision to Planned Development (PD) for a new mixed use neighborhood with underlying zoning of PD-CC, PD-NC, PD-RMF and PD-RMH with additional area for public and private open space amenities, a 66+ acre parcel of land. A pre-application neighborhood meeting was held at the subject property on April 24, 2017. Tax IDs: C15620, D00614.

RECOMMENDATION

Planning staff recommends approval and adoption of the findings of the 10 criteria for **City Zone Change 957**.

Questions for Staff:

COMMISSIONER LARSON – asked the age of the presented aerial photo, Staff believes it to be a Google photo of 2016. He also inquired as to the shown subdivision being in its beginning stages. Staff indicted 5 homes in the area and a Parade of Homes recently.

COMMISSIONER LARSON-asked when the Parks Department comment are relevant to this process. Staff assured all present that the comments are relevant to the process and can be considered today to make recommendations.

COMMISSIONER BOYETT- asked Staff if this is to be the norm in the future. Staff replied in west Billings on arterial streets we will see this type of development either thru standard zoning or Planned Development. He then asked about more specifics regarding the storage buildings. Staff pointed out the location on the NE corner with a setback of 150 feet.

There are not an abundance of storage units in this area. The corridor and frontage needs to have its highest value.

CHAIRMAN WAGNER asked for the applicant of City Zone Change 957.

Forrest Sanderson, KLJ Engineering

He accepts the Staff report, amendments and all of the Parks changes. He is unable to answer development questions. These discussions will happen after and if Zone Change is approved.

COMMISSIONER BOYETT – asked if approved by the City Council, do you have an ETA for a start of the project. Lot 3 is starting now. More plans have been submitted for review. They hope to break ground in the spring.

OPPOSED

Roy Close, 4905 Blue Spruce Circle

The Zone change is not as much of a concern as affordable housing and manufactured housing. There is no patio housing. Please strike manufactured homes. A 150 foot setback does not seem adequate. An additional 100 feet would be more aesthetic. The parks need to be defined. Open intersections are dangerous, this needs to be addressed at the same time. Roundabouts or controlled.

Rebuttal

150 foot setback, that issue will be addressed with development. Parks will be done, dealing with a sufficiency review now. Dedicated walkways and paths. A traffic impact study is being reviewed right now. MDT is talking about a round a bout. There will be impacts of development. It is imminent.

Chairman Wagner asked for a motion.

COMMISSIONER LARSON made a motion and COMMISSIONER BOYETT seconded the motion to approve **City Zone Change 957 with the Parks and Recreation recommendations.**

DISCUSSION

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

The motion is approved with a verbal vote of 5-0.

Nicole Cromwell presented:

City Zone Change 959 – Text Amendment – An amendment to Section 27-304 to clarify that land uses contrary to local, state or federal law will not be allowed by right or by conditional approval. This zoning code amendment is a companion amendment to BMCC Section 7-1700 regarding Medical Marijuana Storefronts.

RECOMMENDATION

Planning staff recommends approval of the text amendment as proposed.

Questions for Staff:

COMMISSIONER BOYETT - what happens if we annex a county property into the city.
Provision for legal non-conforming, or a zone change, abandoned or property is sold.

COMMISSIONER LARSON-why is there a concern with conforming to federal law? The Federal law preempts state or local laws. The Control Substances Act is federally controlled. The States cannot adopt laws that alter Federal laws. Many States have adopted The Medical Marijuana Act. The feds at this time are not acting against those States.

CHAIRMAN WAGNER asked for proponents of City Zone Change 959.

Senator Cary Smith, 6133 Timbercove Drive

In 2010 there were store fronts everywhere

2011 some restrictions were imposed, Senate Bill 423

2016, I-118 some restrictions were modified, 4-5 doctors providing 1000's of medical cards

DPHHS now looks into growing operations

Pain is a reason to prescribe

Concern needs to be in place regarding zoning.

Strongly urges this amendment.

Suzanne Smith, 6133 Timbercove Drive

She agrees with Senator Smith

OPPOSED

Richard Albromeit, 1101 Maggie Lane, Billings, MT

He is a medical marijuana provider. He is the second largest provider in Montana. He has been in business 9 years. Billings Police toured the operation in 2010. He contributes to local charities.

He asks that his location be spared from the ban. Marijuana is taxed at 4 percent of sales. He believes this ordinance targets the sick and veterans of our community.

COMMISSIONER ULVESTAD asked how many patients he is serving? 450 now

Jeffery Hill, 3855 Ave D, Billings, MT

He does not use marijuana and is not a patient. There are many police calls to local bars for violent offenses. Alcohol is 100 percent legal. This is not a problem for a Medical Marijuana provider.

Not 1 death or overdose from Marijuana in all the years. There are no objections for local pharmacies in the city where opiates are obtained. There are 27 states that allow marijuana usage.

COMMISSIONER ULVESTAD -knows about opiates, do you feel that doctors are over prescribing opiates. What would you recommend as an alternate. Do you believe Marijuana is a gateway drug?

Tina Walker, 4100 Murphy Ave, Billings, MT

She is a Medical Marijuana patient. What is the purpose in bankrupting persons like Richard Albromeit? The “Wild West” as it is referred to was a lack of planning that now can be addressed properly.

Jeff Eubank, 5525 Forest Hills Drive, Billings, MT

He has a commercial business at 515 Monad. He believes that Zoning is for this purpose. Industrial areas should be allowed to have providers. Governments are taxing this now. Perhaps another option is to hold back signage.

Vicky Eubank, 5525 Forest Hills Drive, Billings, MT

We are behind the curve regarding opportunity for business in this area. Do not follow the trend of Kalispell and Great Falls. It is unfair for Billings to deny this. What will happen when it is no longer federally illegal? Control signage and areas of use with zoning.

Chairman Wagner asked for a motion.

COMMISSIONER BOYETT made a motion and COMMISSIONER ULVESTAD seconded the motion to approve **City Zone Change 959.**

DISCUSSION

COMMISSIONER LARSON- will be voting against this. With respect to all he trusts that between the entities they should be able to govern this. Should federal law supersede? He believes that the City and County should have language that agrees. If this is passed there will be a zoning discrepancy between City and County.

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

The motion is approved with a verbal vote of 4-1.

Nicole Cromwell presented:

City Zone Change 960 – 7000 Block Rimrock Road – A zone change request from un-zoned to Residential 7,000 (R-70) and Residential 5,000 (R-50) on Tract 2A of C/S 2465 (R-70) and Tract 1 of C/S 1871 (R-50) a 115.18 acre parcel of land generally located north of Rimrock Road and west of Copper Ridge Subdivision. A pre-application neighborhood meeting was held on June 26, 2017 at the Yellowstone Country Club, 3200 Paul Allen Way. A concurrent annexation petition has been submitted. Tax IDs: D04341 & D11494

RECOMMENDATION

Planning staff recommends approval and adoption of the findings of the 10 criteria for **City Zone Change 960**.

Questions for Staff:

COMMISSIONER BOYETT -Rimrock road is a state road. We have no control. What is the grand scheme to improve the transportation in this area as it grows. Last year, the west end transportation model plan addressed these issues. Now the volume is not there, but the speed is with no room for error.

COMMISSIONER MARISKA-Isn't the bypass platted to drop down in the west area?

Chairman Wagner asked for the applicant of City Zone Change 960.

Gary Oakland, 125 N 27th, Billings Mt

We have been developing this area. This is middle income housing. Not all people travel Rimrock Road to downtown. There is a large demand for additional housing. The neighboring property is R-7000. They are contributing to a development at 62nd.

Mac Folgelson, Sanderson Stewart, Billings, MT

Although he is not a traffic engineer, he is fully aware of the issues at hand. The City is looking to improve this intersection in the near future.

COMMISSIONER ULVESTAD –there is a lot of talk about infrastructure. What about water development? Mr. Folgelson replied it is in the City service area. Potentially a water tank site. The railroad is still the boundary of the studies.

Blaine Popplar, 5403 King Ave West, Billings, MT

He is a Real Estate broker. A retail grocery is looking to develop here based on the anticipated residential growth. This is a good option for the area. Right of ways are being approved. A storm water retention facility is being engineered in the area.

OPPOSED

None

Chairman Wagner asked for a motion.

COMMISSIONER ULVESTAD made a motion and COMMISSIONER BOYETT seconded the motion to approve **City Zone Change 960**.

DISCUSSION

COMMISSIONER ULVESTAD - Believes this is a good because it is a continuation of what is already there.

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

The motion is approved with a verbal vote of 5-0.

Other Business: None

Adjournment: The meeting adjourned at **6:24 p.m.**

DRAFT: To be approved by a motion: **October 3, 2017**

ATTEST:

Robbin Bartley, Administrative Support I