

City of Billings Zoning Commission Meeting Minutes November 8, 2017

The City of Billings Zoning Commission met on Wednesday, November 8, 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, November 27, 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	11/08/2017	12/05/2017
Dan Wagner	Chairman	1	-	-	1	1	-	1	1	-	1	1	
Dennis Ulvestad	Commissioner	1	-	-	1	A	-	1	1	-	1	1	
Mike Boyett	Vice Chairman	1	-	-	1	1	-	1	1	-	1	1	
Michael Larson	Commissioner	1	-	-	1	1	-	E	1	-	1	1	
James Mariska	Commissioner	1	-	-	1	1	-	1	1	-	1	1	
Wyeth Friday	Director, Planning & Community Services	-	-	-	1	-	-	-	-	-	-	-	
Monica Plecker	Division Planning Manager	-	-	-	-	-	-	-	1	-	1	-	
Nicole Cromwell	Planner Zoning Coordinator	1	-	-	E	1	-	1	1	-	-	1	
Tammy Deines	Planning Clerk	-	-	-	-	-	-	-	-	-	-	1	
Dave Green	Planner II	-	-	-	1	-	-	1	-	-	-	-	
Karen Husman	Planner I	-	-	-	-	-	-	-	-	-	1	1	
Robbin Bartley	Administrative Support	1	-	-	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	11/08/2017	12/05/2017	TOTAL
Zone Change	2			2	1		1	3					9
Special Review	1			3			1			1	2		8

Chairman Wagner introduced the Planning Division Staff and Commission: Attending Staff were Nicole Cromwell, Zoning Coordinator; Karen Husman, Planner I; and Tammy Deines, Planning Clerk.

In Attendance: Rich Wrobel; Terra Pierce; Christy Fenno; Patricia Kramer; Pete Johnson, Darryl Rensmon; Michael S Phillips; Tam Savas; Dennis Randall, Sanderson Stewart; Larry Karl's; Brandon Zielinski; Mary Karl's; Patrick Klugman David Mitchell; Mike Ferguson, Billings Gazette

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: October 3, 2017

Chairman Wagner called for approval of the October 3, 2017 meeting minutes.

Motion

Commissioner Boyett made a motion and Commissioner Ulvestad seconded the motion to approve the October 3, 2017 meeting minutes as submitted.

COMMISSIONER	Yes	No	ABSTAINED	ABSENT
Dan Wagner	1			
Mike Boyett	1			
Dennis Ulvestad	1			
Mike Larson	1			
James Mariska	1			

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. There were no disclosures of conflict of interest or exparte communications.

Public Hearings:

Chairman Wagner reviewed the rules and the procedures by which the City Zoning Commission public hearings are conducted and advised the audience this item would be heard by the City Council on November 27, 2017. He then asked Nicole Cromwell to review the first agenda item.

Item #1: Zoning Coordinator Nicole Cromwell presented:

City Special Review 958 – 54th St West and Grand Avenue – A special review request to allow the location of an all-beverage liquor license with gaming in a Community Commercial (CC) zone in a 5,000 square foot portion of a proposed new multi-tenant building on Lot 2, Block 1, MK Subdivision, a 2.113-acre parcel of land. Tax ID: A31805A

RECOMMENDATION

The Planning Division recommends conditional approval and adoption of the findings of the 3 criteria for Special Review 958.

PROPOSED CONDITIONS:

1. The special review approval is limited to 1 tenant space not to exceed 5,000 square feet in a proposed new multi-tenant building on Lot 2, Block 1, of MK Subdivision. The special review approval is for an all beverage license with gaming within the 5,000 square foot tenant space. No other use is intended or implied by this approval.
2. The development and placement of the building, paved parking lot, landscaping, access and general site layout will be in general conformance with the submitted plans dated September 29, 2017. Compliance with Engineering Division requirements for off-street parking lots and solid waste storage will be required. Compliance with other commercial site development standards such as landscaping, storm water management, and building codes will be reviewed at the time of building permit submittal.
3. There will be no construction activity before 7 am or after 8 pm daily.
4. The parking lot and any outdoor seating space will not be used for live, amplified entertainment or music at any time whether on a permanent or temporary basis.
5. Parking lot lighting shall consist of fully-shielded lights so no part of the lens or light projects below the shielding. The maximum height of any pole standard is 20 feet.
6. No fascia of the building may have internal illumination.
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.

Discussion

Chairman Wagner called for discussion and questions from the members of the Commission. Commissioner Boyett asked if there is need for sidewalks as a transition from N 27th Street to the proposed building. Ms. Cromwell explained the City Engineering Division oversees sidewalk

requirements along with MDT for this particular project. In response to question by the Commissioners, Ms. Cromwell stated this subdivision was platted in 2007 and there was a zone change approved to go from Community Commercial zoning to Neighborhood Commercial zoning in 2014. Chairman Wagner noted the considerable traffic on Grand Avenue and asked if an access/turn lane is available for this business. Ms. Cromwell said there will be no direct driveway from Grand Avenue. She pointed out the potential access points including a driveway off of Hawk Creek Road.

Applicant

Chairman Wagner called for presentation by the applicant for City Special Review #958.

Terra Pierce, 3623 Quimet Circle, Billings, Montana

Ms. Pierce explained the proposed project includes construction of a 18,000 square foot building to house “The Den”. The complex will also house community friendly services needed around the residential development west of Shiloh Road, such as a coffee shop, yogurt shop, or dentist office. In response to question by Commissioner Larson, Ms. Pierce stated the plan is to close the business at West Park Plaza, and she the new facility will serve food along with serving liquor.

Public Hearing

At 4:48 p.m., Chairman Wagner opened the Public Hearing and asked if anyone would like to speak in favor or against City Special Review #958. There was none. Chairman Wagner closed the Public Hearing and called for a motion.

Motion

Commissioner Larson made a motion and Commissioner Ulvestad seconded the motion to conditionally approve City Special Review #958 as presented by Staff and the adoption of the findings of the 3 criteria.

Discussion: There was no discussion on the Motion.

Commissioner	YES	NO	ABSTAINED	ABSENT
Dan Wagner	1			
Mike Boyett	1			
Dennis Ulvestad	1			
Mike Larson	1			
James Mariska	1			

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

Item #2 Planner Karen Husman presented:

City Special Review 959 – 1025 N 27th St, 2601 10th Ave N & 1010 N 26th Street – A special review request to allow the location of two drive through services in a Community Commercial (CC) zone across an alley from a Residential zone and to allow the location of a new public parking lot in a Residential 7,000 (R-70) zone on Lot 3, Block 5, Sunnyside Subdivision, 1st Filing (CC zone - 40,732 square feet); South 100 feet of Lot 4, Block 5, Sunnyside Subdivision, 1st Filing (R-70 zone – 14,000 square feet); and the North 50 feet of the south half of Lot 4, Block 5 Sunnyside Subdivision, 1st Filing (R-70 zone – 7,000 square feet). Tax IDs: A16341; A16345 & A16346

RECOMMENDATION

Planning Staff has reviewed the application and is forwarding a recommendation of conditional approval and adoption of the findings of the three criteria.

PROPOSED CONDITIONS

1. The special review is limited Lot 3, Block 5, Sunnyside Subdivision, 1st Filing, South 100 feet of Lot 4, Block 5, Sunnyside Subdivision, 1st Filing and the North 50 feet of the south half of Lot 4, Block 5 Sunnyside Subdivision, 1st Filing.
2. This special review to allow the location of two drive through services across an alley from a residential zone and to allow the location of a new public parking lot in a Residential 7,000 zone. No other use is intended or implied.
3. The drive through service window will not be open 24-hours a day. Hours of operation will be submitted for approval at the time of building permit application. Hours of operation should not occur before 6 am or after 10 pm on a daily basis.
4. In addition to required landscaping, the landscaping along the east property line shall consist of the trees and shrubs as shown on the submitted site plan in addition to any required sight obscuring fencing.
5. Parking and drive through isles along with and existing and proposed drive approaches from N 27th Street and the alley shall be reviewed and approved by the City Public Works Division and Montana Department of Transportation.
6. **The sidewalk improvements along N. 27th Street shall comply with requirements of Montana Department of Transportation. In addition to MDT review, the required boulevard walk landscaping planting shall be reviewed and approved during building permit review by the City Planning Division.
7. **For safety purposes, bollard style lighting shall be placed intermittently along the pedestrian sidewalk in the landscaped perimeter buffer yard.
8. Accessibility ramps and appropriate signage shall be placed wherever necessary for safe pedestrian crossing of internal driveways.
9. All sidewalk improvements on the corners of N. 27th Street and 10th Avenue N. and 10th Avenue N. and N 26th Street shall be reviewed and approved by the City Engineering Division and MDT to comply with accessibility requirements.
10. No internally illuminated signage will be placed on any wall parallel to the east property lines.
11. 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.

12. 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.

Ms. Husman noted Conditions #6 and #7 above were amended and agreed upon by the applicant to read:

Condition #6 The sidewalk improvements along N. 27th Street shall comply with requirements of Montana Department of Transportation.

Condition #7 For safety purposes, lighting shall be placed along the pedestrian sidewalk in the landscaped perimeter buffer yard along 10th Avenue North and North 26th Street.

Discussion

Commissioner Larson asked for clarification on the illumination requirements and it was given by Ms. Husman. Commissioner Mariska asked if the intersection is controlled by a stop light. Ms. Husman said the intersection has a stop sign and not a stop light. It was noted that there are no painted or designated crosswalks on 10th Avenue North. Commissioners voiced concern as this project is adjacent to the ballpark, and the baseball games generate a large number of pedestrians who park in the hospital parking lot. Ms. Husman stated MDT plans in 2018 to update the lighting and sidewalks to meet ADA compliance. Discussion followed on the existing buildings which will be removed for a parking area. Ms. Husman stated the proposal is for the lighting on the newly developed property to light the sidewalk. Commissioner Mariska asked regarding pavement in the alley and who is responsible for maintenance. Ms. Cromwell stated the City does not plow alleyways and it is the adjacent property owners' responsibility to maintain the alley. Commissioner Larson concurred with this statement due his personal experience with a similar matter.

Applicant

Chairman Wagner called for presentation by the applicant for City Special Review #959.

Dennis Randall, Sanderson Stewart, 1300 N Transtech Way, Billings Montana

Mr. Randall is the engineer/agent for the applicant, Opportunity Bank. He concurred with staff's recommendation for conditional approval and agreed to the changes in the conditions presented by Ms. Husman. Sanderson Stewart has completed a traffic study for this property and will share it with MDT for permitting of a new approach. As Mr. Randall recalls, there are no specific requirements for the crosswalks. Commissioner Mariska asked about the lot designation as a public parking lot. Nicole Cromwell explained said this lot could be private parking as well as it is in a residential zone and requires special review approval. Mr. Randall testified the application was fairly straightforward and the designers were sensitive to the adjacent residences by providing the required screening wide buffer yards with trees, shrubs and grass.

David Mitchell, 1034 Moon Valley Road, Billings, Montana

Mr. Mitchell is the Coldwell Banker broker representing Opportunity Bank. He said the proposal is to house parking for Opportunity Bank and its employees. Commissioners questioned if they had considered the after-hours use would likely be parking for the stadium. He commented there has been discussion for others potentially using the lot. He clarified the sale of

the property was contingent on this special review approval. Mr. Mitchell also clarified for the Commission they had not yet confirmed the restaurant that would come in, however they had three different restaurants that were interested.

Mark Westwood, 2606 Whittier Place, Billings, Montana

Mr. Westwood stated he is also owner of several lots on the block of North 26th Street and said he is speaking in support of this application.

Public Hearing

At 4:48 p.m., Chairman Wagner opened the Public Hearing and asked if anyone would like to speak in favor or against City Special Review #959. There was none. Chairman Wagner closed the Public Hearing and called for a motion.

Motion

Commissioner Larson made a motion and Commissioner Boyett seconded the motion to recommend conditional approval to include the amended language in Condition #6 and Condition #7 presented by Ms. Husman; and adoption of the findings of the 3 criteria for Special Review #959.

Discussion: Commissioners expressed concern with pedestrian safety and supported the staff recommended conditions for lighting and safety. Commissioners encouraged the applicants to work with the staff at the ballpark with regard to use of the proposed parking lot.

Commissioner	YES	NO	ABSTAINED	ABSENT
Dan Wagner	1			
Mike Boyett	1			
Dennis Ulvestad		1		
Mike Larson	1			
James Mariska	1			

The motion is approved with a verbal vote of 4-1, with Commissioner Ulvestad voting against the motion.

Other Business:

The next Zoning Commission meeting will be held on Tuesday, December 5, 2017. Commissioner Mariska will not be able to attend.

Adjournment: The meeting adjourned at 5:20 p.m.

DRAFT: To be approved by a motion: December 5, 2017.

ATTEST: Tammy Deines, Planning Clerk