

# City of Billings Zoning Commission Meeting Minutes December 5, 2017

The City of Billings Zoning Commission met on Wednesday, December 5, 2017 in the Miller Building 1<sup>st</sup> Floor Conference Room, 2825 3<sup>rd</sup> Avenue North, Billings, Montana.

Chairman Wagner called the meeting to order at 4:30 p.m. The City Council has designated Monday, January 8, 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	1
Dennis Ulvestad	Commissioner	1	-	-	1	A	-	1	1	-	1	1	1
Mike Boyett	Vice Chairman	1	-	-	1	1	-	1	1	-	1	1	1
Michael Larson	Commissioner	1	-	-	1	1	-	E	1	-	1	1	1
James Mariska	Commissioner	1	-	-	1	1	-	1	1	-	1	1	E
Wyeth Friday	Director, Planning & Community Services	-	-	-	1	-	-	-	-	-	-	-	-
Monica Plecker	Division Planning Manager	-	-	-	-	-	-	-	1	-	1	-	1
Nicole Cromwell	Planner Zoning Coordinator	1	-	-	E	1	-	1	1	-	-	1	1
Tammy Deines	Planning Clerk	-	-	-	-	-	-	-	-	-	-	1	-
Dave Green	Planner II	-	-	-	1	-	-	1	-	-	-	-	-
Karen Husman	Planner I	-	-	-	-	-	-	-	-	-	1	1	1
Robbin Bartley	Administrative Support	1	-	-	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				2	11
Special Review	1			3			1			1	2	1	9

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

**In Attendance:** John Enright, Roy Ishkavian, Jack Raty, Tom Emerling, Phil Cox, Jeff Bollman, Phil Bratton

**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: November 8, 2017**

Chairman Wagner called for approval of the November 8, 2017 meeting minutes.

**Motion**

Commissioner Ulvestad made a motion and Commissioner Boyett seconded the motion to approve the November 8, 2017 meeting minutes as submitted.

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 4-0.**

**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 January 8, 2017. He then asked Nicole Cromwell to review the first agenda item.

**Item #1:** Planner Karen Husman presented:

**City Special Review 960 – 1150 West Wicks Lane – Northwestern Energy Communications Tower** – A special review request to allow the location of a 60-foot wireless communications facility with microwave dishes and a future 16-foot Omni antennae in a Public (P) zone on C/S 1904, a 5.74 acre parcel of land. This 60-foot wireless facility is within 1 mile of 4 other wireless facilities over 50 feet in height. A waiver is required from the 1-mile separation requirement. Tax ID: D13138G

### **RECOMMENDATION**

The Planning Division staff has reviewed the proposed location for the wireless facility and is recommending conditional approval and granting the waiver of the 1-mile separation from other wireless facilities that greater than 50-feet in height.

### **PROPOSED CONDITIONS:**

1. The special review is limited to installation a 60-foot wireless communications facility with microwave dishes and a future 16-foot Omni antennae in a Public (P) zone on C/S 1904, a 5.74-acre parcel of land. No other use is intended or implied.
2. Any back-up generator on site will use "whisper quiet" technology so adjacent land uses are not disturbed.
3. 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.
4. 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 level. This application is for a Special Review as noted above and no other request is being considered with this application. The Planning Division points out that the use and development of the property must be in accordance with the submitted site plan.

### **Discussion**

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

Commissioner Boyett asked staff why a separation is required. Staff replied a 1 mile separation requirement was put in place in 2001 by the City and County when wireless technology started. The purpose was to limit tall towers within the community and requiring wireless providers to share towers. This tower is specific for Northwestern Energy, they will not be selling tower

space. Our code does not differentiate between a dedicated tower and a shared facility. The City Council will need to waive this 1 mile requirement.

Chairman Wagner- This will be a Northwestern Energy antenna, is this an omni antenna?  
Staff deferred to the applicant.

**Applicant**

Chairman Wagner called for presentation by the applicant for City Special Review #960.

**John J. Enright, Northwestern Energy**

This is a microwave dish at the top, an omni antenna is proposed for Northwestern Energy use only, now and ongoing and is for intercompany radio use.

**Jack Raty, Northwestern Energy**

There are other Northwestern Energy towers in the area that are similar. One north and one on Monad. If the Special Review is not approved we will have to come up with a new protective relay.

**Public Hearing**

At 4:44 p.m., Chairman Wagner opened the Public Hearing and asked if anyone would like to speak in favor or against City Special Review #960. 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 conditionally approve City Special Review #960 as presented by Staff and the adoption of the findings of the 3 criteria.**

**Discussion:** There was no discussion on the Motion.

<b>Commissioner</b>	<b>YES</b>	<b>NO</b>	<b>ABSTAINED</b>	<b>ABSENT</b>
Dan Wagner	<b>x</b>			
Mike Boyett	<b>x</b>			
Dennis Ulvestad	<b>x</b>			
Mike Larson	<b>x</b>			
James Mariska				<b>x</b>

**The motion is approved with a verbal vote of 4-0.**

**Item #2** Planning Division Manager, Monica Plecker presented:

**City Zone Change 961 – Rimrock Road and 62<sup>nd</sup> St West** – A zone change request from Residential Professional (RP) to Community Commercial (CC) on a 1.42-acre portion of C/S 2465, Parcel 6A, a 39.38-acre parcel of land. A pre-application neighborhood meeting was held on October 25, 2017 at Yellowstone Country Club at 3200 Paul Allen Way. Tax ID: D12648

**RECOMMENDATION**

Planning staff recommends approval and adoption of the findings of the 10 criteria for **Zone Change 961**.

**Questions for staff:**

Chairman Wagner asked how large this area is. Staff replied CC zoned area is 12.59 acres with this boundary adjustment it would be just over 14 acres. The current Residential Professional zoning is 5.13 acres and would be reduced to 3.71 acres.

Commissioner Boyett asked what are they going to do with the curve on the road. Staff indicated it is going away, possibly signalized, Molt road will become 62<sup>nd</sup>, the right of way is owned by Yellowstone Country Club. It will be a 4 way intersection. It may be a roundabout.

**NO APPLICANT APPEARING.**

**Public Hearing**

At 4:53p.m., Chairman Wagner opened the Public Hearing and asked if anyone would like to speak in favor or against **City Zone Change 961**. 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 approve City Zone Change 961.**

**Discussion:** The Commission feels it is disrespectful that the applicant or a representative did not appear and should be urged to appear at the City Council meeting.

<b>Commissioner</b>	<b>YES</b>	<b>NO</b>	<b>ABSTAINED</b>	<b>ABSENT</b>
Dan Wagner	<b>x</b>			
Mike Boyett	<b>x</b>			
Dennis Ulvestad	<b>x</b>			
Mike Larson	<b>x</b>			
James Mariska				<b>x</b>

**The motion is approved with a verbal vote of 4-0.**

**Item #3** Planning Division Manager, Monica Plecker presented:

**City Zone Change 962 – 4046 Avenue C** – A zone change request from Residential Professional (RP) to Community Commercial (CC) on Lot 4A, Block 2, Goodman Subdivision, 4<sup>th</sup> Filing Amended a 1.54-acre parcel of land. A pre-application neighborhood meeting was held on October 30, 2017, at TenderNest Offices at 4040 Parkhill Drive. Tax ID: A31454

Additionally, Staff described the outside of the building and parking as proposed by the Zone Change applicant. It appears to be a good use of infill development. The empty lot, undeveloped, has neighborhood concerns including weeds, nuisance teenagers and traffic.

### **RECOMMENDATION**

Planning staff recommends approval and adoption of the findings of the 10 criteria for **Zone Change 962**.

### **Questions for staff:**

**Commissioner Ulvestad** asked if photos of the proposed building were available. No elevations were included with the application.

**Chairman Wagner** asked if the building will be metal? Some metal, residential lap siding and stone were described at the neighborhood meeting.

**NO APPLICANT APPEARING.** Staff advised that the applicant had been notified.

### **Public Hearing**

At 5:05p.m., Chairman Wagner opened the Public Hearing and asked if anyone would like to speak in favor or against **City Zone Change 962**

### **Opposed:**

#### **Phil Bratton, 4131 Julaura Lane**

He is a homeowner in the Silver Leaf 2 Subdivision. He is unsure if he can speak as he is outside 150 foot surrounding area. Staff replied that anyone is allowed to speak regardless of where they live. The primary concern is what the outside of the building will look like. He is also very concerned about the traffic. The Billings Gymnastic facility has a lot of traffic. 50 students per hour. The volume of traffic will vastly increase on Grand and Avenue C.

#### **Phil Cox, 4127 Jalaura Lane**

There is an 88 unit apartment complex just across from this proposed facility. He asked if there has been any traffic studies done on existing gymnastic facilities. It is likely that the apartment developer had to do a traffic impact analysis and provide it to engineering. Traffic engineering could be asked for traffic updates in the area. He asks what can be done to influence a traffic study?

**Commissioner Larson** indicated that by his speaking to the Commission now, he is having an influence. He also indicated that the Commission can recommend denial of this application which alerts the City Council that there are issues to be addressed. With no applicant present to address these concerns, the Commission does not have to approve this.

**Nicole Cromwell**, pointed out that any recommendation different from Staff recommendation would have to be based on one of the findings listed. It needs to be specific as to why a recommendation changes from approval to denial.

Mr. Cox then inquired to Monica Plecker as to what a “lean to” structure meant. Ms. Plecker described the “lean to” as a lower ceiling building coming off one side of the structure. Mr. Cox is also concerned about the apparent lack of sign posting of this application.

**Chairman Wagner** asked if there are laws governing when traffic studies are done. Staff replied that they are based on anticipated use at the time of subdivision. Then when a proposed development comes in, the study will be reviewed. The number of units are then reviewed. Engineering may then implement requirements of the contractor to improve or pay for street/intersection improvements. It generally does not stop a subdivision. It may make that developer pay for proportionate improvements to the area.

**Tom Emerling, 4132 Jalaura Lane**

He is a neighbor to the previous speakers and has been a commercial real estate broker for the past 38 years. He agrees with the previous comments and does not believe Community Commercial on a residential street is good land use. He also believes the posting sign was just recently put up. He has not seen “teenage nuisance” problems in the 11 years he has lived there.

Chairman Wagner closed the Public Hearing and called for a motion.

**Motion**

**Commissioner Ulvestad** made a motion to deny, stating there was no traffic study done. **Monica Plecker** advised that Zone Changes do not require a traffic study and although that information may be helpful, it is not a required document to be submitted with the application. This language is not recommended as a part of the motion, but rather criteria should be considered as it related to the earlier stated traffic and pedestrian concerns. **Commissioner Boyett** amended the motion, stating that the recommendation to deny be based on findings #1, #8 and #10. **Commissioner Larson** stated his concerns, Residential Professional is to create a buffer. The types of businesses that have occupied this area fit the definition. There are medical and dental offices.

**Commissioner Ulvestad** withdrew his motion. **Commissioner Boyett then made a motion to deny based on criteria #1, #8 and #10. Commissioner Ulvestad seconded the motion.**

**Discussion: Commissioner Larson** is not happy with the no appearance of the applicant to address the concerns. He does feel it is appropriate to deny this request. **Commissioner Boyett** stated that it is disrespectful for a Zone Change to be presented and no applicant to appear. **Chairman Wagner** affirmed #1, #8 and #10 as being legitimate reasons to recommend denial.

<b>Commissioner</b>	<b>YES</b>	<b>NO</b>	<b>ABSTAINED</b>	<b>ABSENT</b>
Dan Wagner	x			
Mike Boyett	x			
Dennis Ulvestad	x			
Mike Larson	x			
James Mariska				<b>x</b>

**The motion to deny passes with a verbal vote of 4-0.**

**Other Business:**

**The next Zoning Commission meeting scheduled to be held on Tuesday, January 2, 2018 is CANCELLED, no applications received.**

**Adjournment:** The meeting adjourned at 5:31 p.m.

**DRAFT: To be approved by a motion: At the next City Zoning meeting.**

**ATTEST: Robbin Bartley, Administrative Support**