

City of Billings Zoning Commission Meeting Minutes April 3, 2018

The City of Billings Zoning Commission met on Tuesday, April 3, 2018 in the Miller Building 1st Floor Conference Room, 2825 3rd Avenue North, Billings, Montana. Vice Chairman Boyett called the meeting to order at 4:30 p.m. The City Council has designated Monday, April 23, 2018, at 6:30 p.m. in the City Council Chambers as the time and place to hear testimony for or against the special review and zone changes.

Commission and Staff		01/03/2018	02/06/2018	03/06/2018	04/03/2018	05/01/2018	06/05/2018	07/03/2018	08/07/2018	09/04/2018	10/02/2018	11/06/2018	12/04/2018
Dan Wagner	Chairman	1	1	1	1								
Dennis Ulvestad	Commissioner	1	1	E	1								
Mike Boyett	Vice Chairman	1	1	1	1								
Michael Larson	Commissioner	1	1	1	E								
James Mariska	Commissioner	1	1	1	1								
Wyeth Friday	Director, Planning & Community Services	-	-	-	-								
Monica Plecker	Division Planning Manager	-	-	-	1								
Nicole Cromwell	Planner Zoning Coordinator	1	1	1	1								
Tammy Deines	Planning Clerk	-	-	1	1								
Dave Green	Planner II	-	-	-	-								
Karen Husman	Planner I	-	1	1	1								
Robbin Bartley	Administrative Support	1	1	-	-								

Total Number of 2016 Applications	01/03/2018	02/06/2018	03/06/2018	04/03/2018	05/01/2018	06/05/2018	07/03/2018	08/07/2018	09/04/2018	10/02/2018	11/06/2018	12/04/2018	TOTAL
Zone Change	2		1	2									5
Special Review	1	1	1	1									4

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

In Attendance: See the attached sign-in sheets.

Public Comment

Vice Chairman Boyett called for public comments. There were none.
 Vice Chairman Boyett closed the public comment portion of the meeting.

Approval of Minutes: March 6, 2018

Vice Chairman Boyett called for approval of the March 6, 2018 meeting minutes.

Motion

Commissioner Mariska made a motion and Commissioner Boyett seconded the motion to approve the March 6, 2018 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 3-0.

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

Disclosure of Conflict of Interest

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

Disclosure of Outside Communication

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

Public Hearings:

At 4:30 p.m., Vice Chairman Boyett 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 April 23, 2018. He then asked Ms. Husman to review the first agenda item.

Karen Husman presented:

Item#1: City Zone Change #965 – 109 S 35th St – CI to R-60 – A zone change request from Controlled Industrial (CI) to Residential 6,000 (R-60 on Lots 16 & 17, Block 7 of Yegen Second Addition, a 7,000 square foot parcel of land. A pre-application neighborhood meeting was held on February 13, 2018, at the offices of High Plains Architects at 2720 Minnesota Avenue. Tax ID: A18805. **The City Council** has designated **Monday, April 23, 2018**, at 6:30 p.m. in the City Council

Ms. Husman gave the staff presentation and stated The current zoning of CI is intended to allow a variety of commercial and industrial uses. Under the CI zone, the property can be used for residential purposes with a Special Review approval. This requirement limits the ability to expand or rebuild into a larger residence. The property has two residential dwelling units on it that were constructed in 1920. The applicant intends to continue the residential use, improving the property and updating the existing structures. The proposed R-60 zoning would allow the existing residential use to be conforming to zoning.

RECOMMENDATION

Planning staff recommends approval and adoption of the findings of the 10 criteria for Zone Change #965. The proposed zoning and use of the property is compatible with the adjacent and surrounding land uses. The 2016 Growth Policy supports the proposed zoning and use in this area of mixed uses and zoning.

Discussion:

Vice Chairman Boyett called for questions and discussion regarding Zone Change #964 from the Commissioners.

Public Hearing

Vice Chairman Boyett opened the public hearing asked if there is anyone wishing to speak in favor or against City Zone Change #965.

Emarie Skelton, High Plains Architects, 2720 Minnesota Ave. Billings, Montana

(Favor) Ms. Skelton represents property owner Dave Healow. They are proposing that the site be zoned R-6000 which is consistent with the other lots on the block to the south.

Vice Chairman Boyett closed the public hearing at 4:39 p.m. and asked for a motion.

Motion

Commissioner Ulvestad made a motion and Commissioner Mariska seconded the motion to approve **City Zone Change #965** as presented by staff.

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

The motion carried with a unanimous verbal vote of 3-0.

Item #2: City Zone Change #964 – Council Initiated text amendment – Gymnastics

Instruction in RP zones – A zone change to Section 27-306 – Commercial and Industrial Uses – to allow Gymnastics Instruction in all Residential Professional (RP) zones. The City Council initiated the amendment on February 26, 2018.

Ms. Plecker gave the zoning history for this text amendment and continued with maps of each City Ward and the areas wherein this amendment would apply

APPLICABLE ZONING HISTORY

Section 27-306 of the Zoning Regulations have been amended from time-to-time since 1972. The Residential Professional zone was created from the previously existing Residential Multi Family - A (RMF-A) zoning district. RMF-A encouraged multi-family housing and professional office type uses. At the time of its inception, RP excluded uses classified in Major Group 79 of the Standard Industrial Classification Manual (SIC). Uses included in this group include all types of recreational services and some entertainment uses such as theaters. In January 2000, the Planning Board initiated an amendment to the zoning regulations to allow Dance Studios and Martial Arts Instruction (2 Group 79 uses) in the RP zone. On February 28, 2000, the City Council considered this amendment following a positive recommendation from the City Zoning Commission. Information in the City Council minutes from 2000 states the amendment was brought forward as a "housekeeping item" and as a result of a number of requests for these uses. Both uses are non-retail and are mainly service-oriented uses. These are generally the type of uses found in the RP and Neighborhood Commercial (NC) zones. The City Council asked for the proposed ordinance change to be sent back to the Zoning Commission to consider size limitations or whether the use should be allowable by special review. The Zoning Commission determined a size requirement and making these uses allowable by special review was unnecessary. The City Council held a public hearing and first reading of Ordinance 00-5120 on April 24, 2000, to make martial arts instruction and dance studios allowable uses in Residential Professional (RP) and Neighborhood Commercial (NC) zones. The second reading and approval occurred May 8, 2000. There have been no changes since 2000 for uses classified in section 79 of the SIC.

RECOMMENDATION: Staff is recommending approval of the text amendment.

Discussion:

Vice Chairman Boyett called for questions and discussion regarding Zone Change #964 from the Commissioners. Commissioner Ulvestad asked when the last text amendment occurred.

Ms. Plecker clarified and said this text amendment will apply to all Residential Professional zoned properties within the City of Billings. In response to Commissioner Boyett, she said these properties are generally in close proximity to collectors and arterials. Planning staff is representing the City of Billings as the agent.

Copies of the following correspondence were received: In Opposition: March 7, 2018; March 9, 2018; and March 12, 2018, Beth Connaghan, 4114 Julaura Ln, Billings, MT;

Public Hearing

Vice Chairman Boyett opened the public hearing asked if there is anyone wishing to speak in favor or against City Zone Change #964.

Darcy Frewin, 3530 Timberline Drive, Billings, MT

(Favor) Ms. Frewin said this text amendment came about due a previous request for a gymnastic facility which was denied. She asked why discriminate against a gymnastic facility as long as the building fits the design criterion? She said the sport of gymnastics in Billings is underserved, and there are few properties suitable to fit this need. The traffic study stated a doctor's office of like size would cause more traffic than a gymnastics facility. She contended a dance studio could house more students than the gymnastic studio which has more equipment, and she stated the traffic issue is not an appropriate argument. She pointed out that Bozeman and Kalispell allow gymnastics in the same areas as dentist and law offices. Ms. Frewin stated gymnastics is the fastest growing sport in the country and the model is to bring this sport to the community. Commissioner Ulvestad asked for further clarification of her recommendation to bring more gymnastics to Billings. Ms. Frewin stated this sport is a trending nationwide in population. It is an expensive endeavor by nature of the sport and there are very few properties that allow this use. She noted that this text amendment will address the use of casinos.

Steve Repac, 1533 Clark Avenue, Billings, Montana

(Favor) Mr. Repac said he appreciates City Council's effort in bringing this text amendment forward to address something that is nonsensical in the zoning code. He said there is less density of use with a gymnastics studio than martial arts or dance studio. Mr. Repac stated the public concern was what would happen if the gymnastics studio would fail, and this will be addressed with this amendment.

Mike Buhman, 6033 Hazelwood Drive, Billings, Montana

(Favor) Mr. Buhman said he feels this initiative makes sense. The Cities of Bozeman and Kalispell include health clubs, mental and health clinics, and daycare facilities. He said this amendment is similar and a wise choice.

Rebecca Power, 4417 Pine Cove Road, Billings, Montana

(Favor). Ms. Power owns a business that is located in the area of the previous request. She commented traffic in general is busy with the new construction and development in the area. She said she understands

the concern but any development will add to existing traffic flows. Ms. Power feels this is a wise amendment.

Kim Buhman, 6033 Hazelwood Drive, Billings, Montana

(Favor) Mr. Buhman expressed her excitement about the possibility and to have a gymnastics facility more assessable.

Jeff Muri, 2492 Aspen Way, Billings, Montana

(Favor) Mr. Muri said he would like to reinforce the fact this amendment is about the entire city and there is no difference between this use and martial arts or dance studios.

Phil Bratton, 4131 Julaura, Billings, Montana

(Opposition). Mr. Bratton commented on a recent Billings Gazette article discussing rezoning proposals for the entire city and the expectation this will be a 2-year process. He thinks the zoning codes should be reviewed but it is inappropriate to make one-off changes at this time.

Paula Ketenberg, 4143 Avenue D, Billings, Montana

(Opposition) Ms. Ketenberg said dance studios are similar are a similar use and should come out of this zoning classification. She spoke of her experience with the studio's high traffic and enrollment creating congestion in the afternoons and evenings. She voiced concern with safety and said it is typical for teenage drivers to drop off of young students on residential streets. Mr. Ketenburg feels there should be a buffer between professional and residential zones.

Phil Cox, 4127 Julaura Lane, Billings, Montana

(Opposition) Mr. Cox lives in the neighborhood adjacent to the parcel previously proposed for a gymnastic facility. He distributed to the Commissioners a comparison of statistical information on pre-existing facilities and said they are aware of the RP zoning and medical facilities. He asked for consideration of the parking spaces needed for medical facilities which have less impact. He pointed out for the previous request, there was only one council person interested in having a facility in that neighborhood. Concerns at the time included the narrow street widths and student drop-offs. Mr. Cox said he contacted a gymnastics facility who told him the most dangerous place in their facility is their parking lot due to the student drop offs.

Mary Lou Marchello, 4246 Avenue D, Billings, Montana

(Opposition) Ms. Marchello commented on the text addition of gymnastics to the code and suggested the true word is "gymnasium", as that is what will be constructed on the vacant lot—a large building with a training center for a minimum of 400 students. She said the facility could potentially be a preschool while older students are in school. She voiced concern with the narrow street widths compared to the major arterials and asked if the potential for traffic congestion has been studied by the Planning Department? Ms. Marchello asked the Commissioner to consider the potential impact changing a single word will have on their neighborhood.

Mike Shaffer, 1048 Alderson Ave., Billings, Montana

(Opposition) Mr. Shaffer said the use for a dance studio is similar to a gymnastics school. He said he would not like to have either facility in his neighborhood as it could be a safety concern

resulting in a safety incident, and he does not like the proposal to have this use for all RP properties.

Kathy Shaffer, 1048 Alderson Ave, Billings Montana

(Opposition) Ms. Shaffer commented the traffic is difficult due to a nearby dance studio located on Alderson Avenue. She stated the dance studio should be taken out of RP zoning and she strongly opposes this text amendment. She asked the audience to respond with a raise of hands indicating their quality of life will change if this text amendment passes. She stated, “Not in my neighborhood”.

At 5:20 p.m., Vice Chairman Boyett closed the public hearing and called for a motion.

Discussion

Commissioner Mariska asked about the average size of businesses in Residential Professional, (RP), zones. Staff said this ranges from the professional center located at 17th and Rimrock to the larger RP zone located on 62nd street West east of Falcon Ridge Subdivision. Commissioner Mariska commented it is obvious there are concerns with the potential size of what could go in RP zones. He said he would like to defer the Commission’s decision for 30-days. Commissioner Ulvestad said he understands both sides. He said Mary Marchello’s testimony provided information crucial to this zone change.

Motion

Commissioner Ulvestad made a motion and it was seconded by Commissioner Boyett to recommend denial of City Zone Change #964 – Council Initiated text amendment – Gymnastics Instruction in RP zones.

Discussion

Vice Chairman Boyett called for discussion on the motion. Commissioner Mariska stated he doesn't feel the Commission has adequate information and he would staff to provide what types of businesses are in the RP zones. He feels the problem is he doesn’t know how many other businesses are categorized in same classification that would be affected. He said he doesn’t want to allow something too large for neighborhoods. He cautioned the Commission of making too quick of a decision. He suggested a delay for 30 days to get more information. Commissioner Ulvestad concurred and voiced concern with the allowable building size and setting a precedence.

Vice Chairman called for a vote.

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

The motion is denied.

Vice Chairman Boyett closed the public hearing and asked for a motion.

Motion

Commissioner Mariska made a motion and Commissioner Boyett seconded the motion to delay a decision on City Zone Change #964 to allow staff to bring forward more information on the types of entities, businesses, and buildings allowed in Residential Professional, (RP), zones.

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

The motion carried with a unanimous verbal vote of 2-1.

**City Council will not hold hearing until a Zoning Commission recommendation received. The City Zoning Commission decision will be continued until May 1, 2018 and the City Council public hearing will be held on May 29, 2018.

Planning Division Manager Monica Plecker presented:

Item #3: City Special Review #963- Lenhardt Square PD – Georgina Drive – Multi-family – A special review request to allow the construction of more than 4 attached dwelling units in the PD-MF-4 zone on C/S 2063, Parcel 2A in the Lenhardt Square Planned Development, a 19.13 acre parcel of land. The special review is required by Article IV.G of the PD zoning district. The proposed development will contain five (5) 5-unit buildings and two (2) 86-unit buildings. The total proposed number of dwelling units is 237 on the 19.13 acres. Tax ID: D00514A

RECOMMENDATION

Planning staff recommends conditional approval of five (5) 5-unit buildings and two (2) 86-unit buildings and adoption of the 3 criteria for Special Review 963.

PROPOSED CONDITIONS

1. The special review approval is limited to Parcel 2-A of COS 2063.
2. The special review is for the construction of two apartment buildings and five, 5-plexes with associated open space and parking for the building residents. No other use is intended or implied.
3. The developer will meet the minimum required landscaping and parking requirements as outlined in the Planned Development Agreement.
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. Regulations concerning special review uses, and all other City of Billings, regulations and ordinances that apply.

The Planned Development requires additional factors.

1. The special review approval is limited to Parcel 2-A of COS 2063.
2. The special review is for the construction of two apartment buildings and five, 5-plexes with associated open space and parking for the building residents. No other use is intended or implied.
3. The developer will meet the minimum required landscaping and parking requirements as outlined in the Planned Development Agreement.
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.

Discussion:

Vice Chairman Boyett called for questions and discussion from the Commissioners. He asked staff regarding the potential construction of a roundabout at the intersection of 48th Street West and King Avenue West. Staff responded there have been conversations focusing on the intersection movements but they are unaware of plans for a roundabout. Commissioner Mariska voiced concern with a lack of long term planning for traffic flows from the center of Billings to the west end for future development as there are very few north and south connections in this area. Commissioner Mariska commented on the heavy concentrations of multi-family housing in the west end. Staff posted the Lenhardt Square Planned Development map for the Commissioner's consideration and explained under the first consideration, this development was it was identified for single family and patio homes, and said a Special Review is required when 4 attached units are proposed. Commissioner Boyett asked about connectivity with Monad Road. Concerns were voiced with the additional traffic with each development. Zoning Coordinator Nicole Cromwell explained the Engineering Division will require a traffic study, but that process does not precede the special review request. This development will contribute to offsite improvements in the future.

Public Hearing

Vice Chairman Boyett opened the public hearing and asked for anyone wanting to speak in favor or against Special Review #963-Lenhardt Square PD-Georgina Drive.

Gary Owen, Sanderson Stewart, 1300 N Trantech Way, Billings, Montana

Mr. Owen represents the applicants, Lenhardt Farm, LLC, Lenhardt Enterprises, LLC; Lenhardt Property LP. He stated this is a request for a change in use. They have gotten the support of the founders. The overall density for the entire subdivision will remain according to the Planned Development. Zoning Coordinator Nicole Cromwell explained the number of units is based on the gross acreage, and the planned development is set at 10 units per acre. He stated the request would allow for 237 units in total. He mentioned the density with 237 units is higher than identified in the Planned Development Agreement for this parcel, but the overall development would not exceed the density limit. He believes this development is in accordance with the City of Billings Growth Policy and is a cost effective use of infrastructure. Sanderson Stewart is currently working on the traffic study and the developer will be required to mitigate findings. In response to question by Commissioner Mariska, Mr. Owen gave the building footprint sizes. The developer will construct a portion of Monad Road which transitions to Georgina.

*6:00 p.m.

Bill Hanser, 2916 Thousand Oaks, Billings, Montana

(Favor) Mr. Hanser, who is associated with the project, stood to speak regarding density. He stated the shift in density for this parcel allows parks, open space and trail connectivity. The total density for the Planned Development will not change. The impact study on King Avenue will probably trigger improvements. He feels the roundabout at Monad Road will alleviate some of the flows. He said the zoning allowed 4-plexes but the additional density is needed to construct the roadway and create more open space

Darcy Frewin, 3530 Timberline Drive, Billings, MT

(Favor) Ms. Frewin spoke to the need for planning and consideration of the greater plan and how to alleviate traffic in other ways. She believes by adding more services on the west end traffic congestion will be alleviated since residents will not have to travel downtown for services. She believes this proposal is a good idea.

Brad Hart, 4620 Central, Billings, Montana

Brad Hart spoke neither in favor nor opposition of the development. He had questions regarding the alignment of Monad Road. Staff clarified the alignment of Monad Road was determined with the originally approved Planned Development. Mr. Hart added he believes its critical for roads to be built.

Vice Chairman Boyett asked for a motion.

Motion

Commissioner Mariska made a motion and Commissioner Ulvestad seconded the motion to recommend conditional approval of five (5) 5-unit buildings and two (2) 86-unit buildings and adoption of the 3 criteria for Special Review #963.

Discussion

Vice Chairman Boyett called for discussion on the motion. Commissioner Mariska said he works with the Crime Prevention Center and is aware of the issues presented when developments are created without forward thinking and planning. He is hoping development around this property is well planned. Commissioner Ulvestad concurred and commented on the need for traffic flows east and west and north and south. He will vote in favor of the motion.

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 unanimous verbal vote of 3-0.

Other Business:

- The next City Zoning Commission meeting will be Tuesday, May 1, 2018.

ADJOURNMENT: The meeting adjourned at **6:45 p.m.**

APPROVED: by a motion: **May 1, 2018.**

ATTEST:
Tammy Deines, Planning Clerk





City-County Planning Division
Tuesday, April 3, 2018
City Zoning Commission

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**City-County Planning Division
 Tuesday, April 3, 2018
 City Zoning Commission**

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