

## City of Billings Zoning Commission Meeting Minutes May 1, 2018

The City of Billings Zoning Commission met on Tuesday, May 1, 2018 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 May 29, 2018** 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		01/03/2018	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	1							
Dennis Ulvestad	Commissioner	1	1	E	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	E							
Wyeth Friday	Director, Planning & Community Services	-	-	-	-	-							
Monica Plecker	Division Planning Manager	-	-	-	1	1							
Nicole Cromwell	Planner Zoning Coordinator	1	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	-	-	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	0-R								5
Special Review	1	1	1	1	0								4

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

**In Attendance:** Chuck Henrichs, Darcy Frewin, Phil Bratton, Mary Lou Marchello, Rene Freitag, Ralph Gurney, Kim Buhman, Mike Buhman, Phil Cox, Steven Repac, Beth Connaghan, Jeff Muri, Matt Owen

**Public Comment**

Chairman Wagner called for public comments.

Chairman Wagner closed the public comment portion of the meeting.

**Approval of Minutes: April 3, 2018**

Chairman Wagner called for approval of the April 3, 2018 meeting minutes.

**Motion**

Commissioner Commissioner Boyett made a motion and Commissioner Ulvestad seconded the motion to approve the April 3, 2018 meeting minutes.

<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 for approval then carried with a unanimous voice vote 4-0.**

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

**Disclosure of Conflict of Interest**

<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>

**Disclosure of Outside Communication**

<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>

Nicole Cromwell pointed out that all emails and communications regarding this Agenda item may be found in the Ex Parte notebook, located on the table at sign in.

**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 May 29, 2018. He then asked Nicole Cromwell to review the first agenda item.

Monica Plecker presented:

**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.

**RECOMMENDATION**

Staff is recommending approval of the text amendment.

**Questions for Staff:**

Commissioner Boyett inquired as to the maximum height of a house. Staff replied a house can be 34 feet high. Is there a maximum lot size? Staff replied our Zoning Code does not identify maximum lot sizes.

**In favor**

**Jeff Muri**

Mr. Muri wishes to reiterate this is not about one parcel. It affects the entire city.

**Mike Buhman, 6033 Hazelwood Drive, Billings, MT**

Mr. Buhman stated it is compatible, is not for one parcel, it is across the city. Parking and traffic will be brought up again and again. Parking is not a relevant issue. This will not affect property values.

**Kim Buhman, 6033 Hazelwood Drive**

Ms. Buhman addresses the particular parcel that started this amendment. The building will blend, and traffic will not be impacted in a negative way.

**Steve Repac, 1533 Clark**

90 percent of the parcels in Billings zoned RP are less than ½ acre. Not passing this is discriminatory against the kids. This kind of venue would be forced in to CC areas.

**Chuck Henricks, EEC, 721 Lowest Lane**

Mr. Henricks believes this follows the Growth Policy

**Darcy Frewin, 3530 Timberline Drive**

Ms. Frewin presents a picture of a building that could allow any number of venues. It meets all the criteria. But not a gymnastics instruction venue.

**Opposed**

**Beth Tanahan, 4114 Julaura Lane**

Ms. Tanahan wishes to clarify the opposition was not against gymnastics but against the proposed zoning. She believes that those in favor of the Text Amendment have financial interests in the original Zone Change request. She would like to have these questions addressed.

What time was traffic study done? On what days? What are the peak hours of the Billings Gymnastic School? How many RP zoned properties are vacant and can accommodate a gymnastics facility? She insists that martial arts and gymnastics are very different and require different space.

**Mike Heffner, 1780 Shiloh Road**

Mr. Heffner is certain that more traffic will be generated. There are also Covenants and Restrictions that have not been addressed.

**Phil Bratten, 4131 Julaura**

Mr. Bratten is certain the traffic will peak 3-7pm. The current gymnastics facility enter and exit off of a much wider road. The traffic impact will be considerable at these hours.

**Phil Cox, 4127 Julaura Lane**

Mr. Cox distributed a hand out. He also insists that the Zone Change is for the original request. The traffic impact is unreasonable. He does not want a Gymnastics facility in his neighborhood.

**Matt Owen, 4115 Julaura Lane**

Mr. Owen does not feel the streets can handle the traffic even based on the traffic study.

**Theresa Goodwin, 4126 41<sup>st</sup> Street West**

Ms. Goodwin speaks to the Covenants and Restrictions which say the maximum height is 30 feet. Also building plans in this area must be submitted to their Architectural Review Committee. She feels there will be a negative impact. Commissioner Larson asked what is in force to enforce your Covenants. She replied that legal action would be taken to enforce the Covenants and Restrictions.

**REBUTTAL**

Monica Plecker addressed the questions.

Traffic counts: Analysis was done based on peak hours of 5:15 to 6:15pm, total of 133 trips occurred in this 1 hour. Observed in late April, exact date is available. A camera is set up to do a manual count.

Yes, 12 properties is less than 1 percent.

Vacancy rate: Staff does not have that information readily available.

Chairman Wagner questions about Covenants, the City does not enforce Covenants and Restrictions, ultimately enforcement of any Covenants and Restrictions would be the responsibility of the neighborhood.

Commissioner Larson asked if these issues are being addressed with Project Re:Code, Yes. Commissioner Larson asked if after 18 months the public will have an opportunity to comment. There is opportunity to comment throughout the 18 months. Currently we have 4 working groups and a Steering Committee meeting regularly. The meetings are posted publicly as are the agendas and meeting notes. Ordinances may not be changed without a public hearing.

A citizen inquired about the streets and how they are determined. Staff explained the City Functional Classification map.

A citizen inquired about the camera that was used during the traffic count. She asked what day of the week that was. Staff said she does have that information, but not with her. She also asked if anyone had asked the current gymnastics facility what they considered to be peak hours. Staff is not aware of the question being asked.

A citizen spoke up and stated she was there on the day the camera was used, she believes it was a Thursday. Their lowest attendance happens on a Friday. Does changing the Zoning to RP mean that anything can be built, or that City Code must still be followed? Staff stated all Codes would have to be followed.

**Public Hearing was closed at 5:31pm.**

**Discussion**

Commissioner Larson speaks to the purpose of this Text Amendment. This is a Council driven initiative that would not have occurred had it not been for this project. Which takes it out of the Zoning realm and into a political realm. We have an organized protocol that looks at the Zoning law across the City. He feels that this is stepping outside of the protocol and systematic way. He does not want to be involved in any of the traffic issues as he does know of their validity. He expects Project Re:Code to do this in a more practical, systematic way. If the City Council chooses to make different decisions than the Zoning Commission, that is their choice. The City Council are elected officials and face the scrutiny. This commission is appointed. He cannot support this.

Chairman Wagner stated that he is in full agreement and the cart is coming before the horse.

**Chairman Wagner asked for a motion.**

Commissioner Boyett made a motion and Commissioner Ulvestad seconded the motion to deny **City Zone Change 964**. This is not a city wide request. Commissioner Boyett does not see this business as meeting the criteria to be an 8-5pm business in an RP zone. Commissioner Ulvestad agrees.

<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				x

**The motion carried with a unanimous verbal vote to deny, 4-0.**

**Other Business:**

**The next meeting will be June 5, 2018. Mike Boyett will not attend.**

**Adjournment:** The meeting adjourned at **5:38p.m.**

**DRAFT: APPROVED** by a motion June 5, 2018.

**ATTEST: Robbin Bartley, Administrative Support**

