

## City of Billings Zoning Commission Meeting Minutes August 7, 2018

The City of Billings Zoning Commission met on Tuesday, August 7, 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 4:00 p.m. The City Council has designated **Monday August 27, 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	07/10/2018	08/07/2018	09/04/2018	10/02/2018	11/06/2018	12/04/2018
Dan Wagner	Chairman	1	1	1	1	1	1	1	1				
Dennis Ulvestad	Commissioner	1	1	E	1	1	1	A	1				
Mike Boyett	Vice Chairman	1	1	1	1	1	E	1	1				
Michael Larson	Commissioner	1	1	1	E	1	1	1	E				
James Mariska	Commissioner	1	1	1	1	E	1	1	1				
Wyeth Friday	Director, Planning & Community Services	-	-	-	-	-	-	-	-				
Monica Plecker	Division Planning Manager	-	-	-	1	1	-	-	-				
Nicole Cromwell	Planner Zoning Coordinator	1	1	1	1	1	1	1	1				
Tammy Deines	Planning Clerk	-	-	1	1	-	-	-	-				
Dave Green	Planner II	-	-	-	-	-	-	-	-				
Karen Husman	Planner I	-	1	1	1	-	1	1	1				
Robbin Bartley	Administrative Support	1	1	-	-	1	1	1	1				

Total Number of 2018 Applications	01/03/2018	02/06/2018	03/06/2018	04/03/2018	05/01/2018	06/05/2018	07/10/2018	08/07/2018	09/04/2018	10/02/2018	11/06/2018	12/04/2018	TOTAL
Zone Change	2		1	2	0-R	2	2	0					9
Special Review	1	1	1	1	0	3	0	2					9

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

**In Attendance:**

**Public Comment**

Chairman Wagner called for public comments.  
Chairman Wagner closed the public comment portion of the meeting.

**Approval of Minutes July 10, 2018**

Chairman Wagner called for approval of the July 10, 2018 meeting minutes.

**Motion**

Commissioner Boyett made a motion and Commissioner Mariska seconded the motion to approve the July 10, 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 4-0.**

Chairman Wagner 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:**

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 27, 2018. He then asked Nicole Cromwell to review the first agenda item.

Nicole Cromwell presented:

**City Special Review 967 – 4007 Avenue B – Palms West Pub and Casino** - A special review request to locate an existing beer & wine license with gaming to Lot 1A, Block 2 of Goodman Subdivision , 3<sup>rd</sup> Filing, a 23,671 square foot parcel of land located in a Community Commercial (CC) zone, at 4007 Avenue B. The applicant is also requesting a waiver of the 600-foot separation distance from a church located approximately 500 feet north of the subject property. The license will be located in a 2,000 square foot area of a proposed 3,500 square foot building. Tax ID: A28526

## **RECOMMENDATION**

Planning staff is recommending conditional approval and adoption of the findings of the 3 criteria of Special Review 967.

### **Questions for Staff:**

Mb-letter says has been approved previously? Less than 10 in 10 years, Billings Heights  
MB-18th st w, staff explains  
DW-why need 1 bicycle slot/based on square footage

### **In favor**

#### **Rob Veltkamp, 4382 Huckleberry Lane South, owner**

Mr. Veltkamp, owner and applicant and Kasey Lowe of Studio 4 Architects, testified on the details of the proposed businesses and site plan. Mr. Veltkamp explained the beer and wine license with gaming was purchased from Lucky's Grand Casino at 13th and Grand Avenue. The license must be re-located in a short time period as dictated by state regulators. In response to a question from Commission member Ulvestad, Mr. Veltkamp stated the 2,000 square feet is more than enough for the beer and wine license. Lucky's Grand Casino was a little over 2,500 square feet. Mr. Veltkamp stated the former Lucky's location at Grand and 13th St West along with the former St. Vincent's Thrift Store will be demolished next year to make room for a new branch location for Yellowstone Bank.

In response to a question from Commission member Mike Boyett, Mr. Veltkamp stated the existing trees along the north property line belong to Sylvan Nursery and not the subject property.

#### **Kasey Lowe, 2075 Cook Circle, Studio 4 Architect**

She stated the property will comply with the recommended 14 conditions of approval as well as the North Shiloh Corridor Overlay District. In response to a question from Mike Boyett, Ms. Lowe stated there is no specific location on site yet for snow storage but this detail will be finalized if the special review moves forward. In response to a question from Dennis Ulvestad, Mr. Veltkamp stated the existing Palms Grand Casino at 1112 Grand is about 2,500 square feet and the proposed floor area for this location is 2,000 square feet.

Bill Warner of 3390 Canyon Drive D-16, testified in opposition. He stated he attends Shiloh United Methodist Church and believes there are enough casinos in Billings and in this area already to satisfy any need or demand for such entertainment. He stated the City should hold to the 600-foot minimum separation requirement. He stated there are plenty of other sites not within 600 feet of churches, schools or playgrounds to locate a casino.

### **Opposed**

#### **Bill Warner**

He stated he attends Shiloh United Methodist Church and believes there are enough casinos in Billings and in this area already to satisfy any need or demand for such entertainment. He stated the City should hold to the 600-foot minimum separation requirement. He stated there are plenty of other sites not within 600 feet of churches, schools or playgrounds to locate a casino.

**Mike Heffner, 4209 Hefner Lane**

Mr. & Mrs. Heffner also provided a letter of opposition. He stated if the waiver is granted it sets the stage to grant further waivers in the area of this church and other churches along this corridor. He stated the Sylvan Nursery property is a large parcel and is for sale. This parcel is also zoned Community Commercial and another bar or casino could ask for a waiver to locate on that property. Mr. Heffner stated the City would have the same conditions to consider as this property.

**Tim Morgan, 2157 Rangeview Court**

He stated the proposed casino is not in character with the area and the professional offices. He stated there are 5 casinos and food services down on Grand Avenue. He stated granting the 600 foot waiver will set a precedent for this area and more licenses could try the same thing even closer to the churches. He stated there are several reasons why Billings is not attracting larger businesses and firms to the area. First, is the lack of transportation choices, and second, is the poor quality of our school system, and third, is allowing casinos and similar lower class developments in our City.

**Cindy Morgan, 2157 Rangeview Court**

She stated she agreed with everything that was already said against the casino. She stated she was opposed to granting the waiver to the 600-foot separation. She stated there are 5 great casinos already on Grand Avenue to the south and another one is not needed. She stated her doctors tell her call 6 months in advance for an appointment because they cannot recruit enough new doctors to come to Billings.

She surmises this is because of the quality of our development and casinos all over the place.

**Darlene Newstrom, 4538 Toyon Drive**

She stated she attends Shiloh United Methodist Church and she knows the congregation does not want this casino on this property. She stated she is certain the developer will do a good job with the building and site but it is the use that is a problem. She stated this use preys on the vulnerable people in the community who are addicted to alcohol or gambling. She stated the community lives with the costs of this addiction every day. She stated the City should not grant the waiver or the proposed use.

**Connie Wardell, 514 64th St West**

Casino use is not wanted here. this is my neighborhood  
Addicts have certain behaviors that are not wanted  
Ice and Snow in Ave B is horrible, there will be no place to store accumulations  
Why was the Church not notified? It is within 600 feet

**Brad Fuller, 4045 Ave B**

Mr. Fuller owns Fuller Family Medicine at the other end of the block on Avenue B. Mr. Fuller stated his only concern is the casino and the effect it might have on his property. He stated when Happy Homes apartments went in across the street a few years ago he started having people wonder through his parking lot, leave trash on his landscaping and damaged his holiday light display. He stated he was concerned the casino would attract a rougher crowd. He stated he was worried that

someone might think of robbing his medical practice of pain killers, even though he does not have any pain killers in his offices.

**Ken Boeschen of 3741 Colin Drive**

Testified in opposition to the special review and the waiver of the 600-foot separation distance. He stated casinos take advantage of weak-minded people who are easily parted from their money. He stated casinos promote and encourage addiction to alcohol and gambling. He stated he was very much in favor of more restaurant choices in the area but no more casinos or bars. He stated the subject property is a perfect location for professional offices.

**Karen Freeman, 5120 Amherst Drive** and Secretary of the West End Task Force

Testified in opposition to the special review on behalf of the West End Task Force. She stated the proposed waiver and the special review are not supported by the goal of the 2001 West Billings Plan: *"To inspire decisions to implement the community's shared vision for the future of West Billings enabling it to thrive on growth and change through innovative, aesthetic land use, and responsible development."* She urged the commission to vote against the request.

**Theresa Goodman, 1643 41st Street West**

She stated she was the "villain" that sold the property to Mr. Veltkamp. She was under the mistaken impression the property would be used by Mr. Veltkamp's son who wanted to relocate to Billings. The son's business would build an office building at this location. She stated her family began building the Goodman Subdivision in 2004 but the 2 churches already existed by that time. She stated the intent was always to respect the church locations and never sell or build anything that would harm the churches. She stated the waiver of the separation distance was not in keeping with this development and the character of the area.

**Rev. Tyler Amundson of 2444 Miles Avenue** and pastor of the Shiloh United Methodist Church. He stated casinos do not add a positive element to neighborhoods. He stated the church is opposed to granting the waiver to the 600-foot separation distance.

**REBUTTAL**

Mr. Veltkamp provided rebuttal testimony. Mr. Veltkamp stated he understood the neighbor's concerns but the use is an allowed use within the zone and qualifies for a waiver based on the City's adopted regulations. There is no visual connection between Shiloh United Methodist Church and this property. He stated every business he runs and businesses his sons operate are legitimate, clean businesses. He stated every non-residential enterprise in the City including churches, restaurants, doctors, lawyers, real estate agents, bars and casinos are all vying for clients and consumers. Every person has a choice of how to spend their time, money and resources any way they want based on our freedom of choice. He stated each and every waiver of the separation distance should stand or fail on its own merits and not on what the City Council did in some other place or at some other time. He stated a waiver for this property would not make another waiver in the same area any easier or harder. He stated he believes developing this vacant commercial corner

will improve the area and will not have any detrimental effect on the surrounding uses. In response to a question from Mr. Ulvestad, Mr. Veltkamp stated he had not looked at other property to locate the beer and wine license. In response to questions from Chair Dan Wagner, Mr. Veltkamp stated if the trees and buildings were to go away on the parcels to the north he was certain they would be rebuilt and re-planted with new landscaping. Mr. Veltkamp stated the proposed size of the bar and casino is just right for his son's business model. He would not be increasing the area.

**Public Hearing - Closed at 5:41pm**

**Discussion**

**Chairman Wagner asked for a motion.**

Commission member Mike Boyett made a motion to recommend denial of the waiver of the 600-foot separation distance to Shiloh United Methodist Church and the special review request based on its potential detrimental effects on public safety and the character of the neighborhood. The motion was seconded by Dennis Ulvestad. Chair Dan Wagner stated he would vote in favor of the motion because granting the waiver would set a bad precedent in this area.

<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 to deny carried with a unanimous verbal vote to approve, 4-0.**

Karen Husman presented:

**City Special Review 968 – 4910 Southgate Drive – Request to increase outdoor service area** - A special review request to allow the expansion of an outdoor beverage service area for an existing all-beverage license with gaming on Lot 1A, Block 1 of Geyser Park Subdivision, a 3.215 acre parcel of land located in an Entryway General Commercial (EGC) zone at 4910 Southgate Drive. No separation distance waiver is required for this liquor license. The proposed enclosed outdoor area for service of alcohol and other activities is ~23,300 square feet in area. Tax ID: A28409

## **RECOMMENDATION**

The Planning Division recommends conditional approval and adoption of the findings of the 3 criteria for **Special Review 968**.

1. This is a special review request to allow the expansion of an outdoor beverage service area for an existing all-beverage license with gaming on Lot 1A, Block 1 of Geysers Park Subdivision, a 3.215-acre parcel of land located in an Entryway General Commercial (EGC) zone at 4910 Southgate Drive. The proposed enclosed outdoor area for service of alcohol and other activities is ~23,300 square feet in area. No other use is intended or implied by this approval.
2. Any outdoor seating space will not be used for live, amplified entertainment or music at any time whether on a permanent or temporary basis.
3. Fencing shall be in conformance with requirements of all codes that apply. A fence permit will be obtained prior to construction of the enclosure. The site will be developed in conformance with all other applicable zoning and site development regulations.
4. The proposed development shall comply with all other limitations of Section 27-613 of the Zoning Regulations concerning special review uses, and all other City of Billings, regulations and ordinances that apply.
5. 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.

## **Questions for Staff:**

Commissioner Boyett stated the actual patio is space is 1500 on one and 1300 on the other. Alcohol will be allowed in the fenced area. Chair Wagner asked about the height of the fence. Staff replied a 6 foot fence, may not be site obscuring

Commissioner Boyett asked if outdoor music is allowed. His understanding is it is not allowed following a previous Special Review. Staff acknowledged 13 conditions imposed previously. This means the music restriction would need to be adhered to.

Commissioner Mariska stated that Interstate 90 traffic was much louder than music.

## **In favor**

### **Barbara Hawkins, owner**

We would like to use this area as a safe and controlled access and a landscaped area for outdoor events.

## **Opposed**

NONE

**REBUTTAL**

NONE

**Public Hearing was closed at 6:08 pm.**

**Discussion**

**Chairman Wagner asked for a motion.**

Commissioner Ulvestad made a motion and Commissioner Boyett seconded the motion to approve **City Special Review 968** with condition #2 deleted.

<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 to approve carried with a unanimous verbal vote to approve, 4-0.**

**Other Business:**

**Reappointment of Mike Boyett, Commissioner Boyett will reapply.**

**The next meeting will be September 4, 2018.**

**Adjournment:** The meeting adjourned at **6:10 p.m.**

**DRAFT:** To be approved by a motion **September 4, 2018.**

**ATTEST: Robbin Bartley, Administrative Support**