

City of Billings Zoning Commission Meeting Minutes November 5, 2019

The City of Billings Zoning Commission met on Tuesday, November 5, 2019 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.

Commission and Staff		01/03/2019	02/05/2019	03/05/2019	04/02/2019	05/07/2019	06/04/2019	07/02/2019	08/06/2019	09/03/2019	10/01/2019	11/05/2019	12/03/2019
Dan Wagner	Chairman	-	E	1	-	1	-	-	-	1	1	1	-
Dennis Ulvestad	Commissioner	-	1	1	-	1	-	-	-	1	1	1	-
Mike Boyett	Vice Chairman	-	E	1	-	1	-	-	-	E	1	E	-
Michael Larson	Commissioner	-	1	1	-	1	-	-	-	1	1	1	-
James Mariska	Commissioner	-	1	1	-	E	-	-	-	1	A	1	-
Wyeth Friday	Director, Planning & Community Services	-	-	-	-	-	-	-	-	-	-	-	-
Monica Plecker	Division Planning Manager	-	-	-	-	-	-	-	-	-	-	-	-
Nicole Cromwell	Planner Zoning Coordinator	-	1	1	-	1	-	-	-	1	1	1	-
Tammy Deines	Planning Clerk	-	1	-	-	-	-	-	-	1	1	1	-
Dave Green	Planner II	-	-	-	-	-	-	-	-	-	-	-	-
Karen Husman	Planner I	-	1	1	-	1	-	-	-	-	-	1	-
Robbin Bartley	Administrative Support	-	-	1	-	1	-	-	-	-	-	-	-

Total Number of 2019 Applications	01/03/2019	02/05/2019	03/05/2019	04/02/2019	05/07/2019	06/04/2019	07/02/2019	08/06/2019	09/03/2019	10/01/2019	11/05/2019	12/03/2019	TOTAL
Zone Change	0	-	-	-	-	0	0	0	0	1	1	-	2
Special Review	0	1	1	-	2	0	0	0	2	1	1	-	8

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

Attending: Linda Walters, Ed Sermon, Mike Irwin, Ed Melcher, Greg Price, James & Georgia Spomer, Ronda Carlson, Tony Neumann, Patti Stanfill, Jerome Rangitsch

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:

Chairman Wagner called for approval of the October 1, 2019 meeting minutes.

Motion

Commissioner Larson made a motion and Commissioner Boyett seconded the motion to approve the October 1, 2019 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.

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

Nicole Cromwell stated staff received an email from one of the surrounding property owners, Jason Hanson, dated November 5, 2019. It is available in the City Zoning Commission notebook and has been distributed to the Zoning Commission members.

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 November 25, 2019.

Item #1

Zoning Coordinator Nicole Cromwell read aloud the legal notice for this application:

City Special Review 980 – – 2335 Lewis Ave – To allow a car wash – A special review request to allow a car wash in a Neighborhood Commercial (NC) Zone, on Lot 7A Amended Lots 6 & 7, Arnold Sub., a 30,660 square foot parcel of land. Tax ID: A02435

Planner Husman opened with presentation of the staff report. She stated a zone change was approved by City Council for this parcel. She added that the applicant is agreeable to the addition of a boulevard sidewalk along Lewis Avenue as an addition to Condition of Approval #6.

RECOMMENDATION

The Planning Division recommends conditional approval and adoption of the findings of the three criteria for Special Review 980. This application is pending approval of Zone Change 973 to change the zoning from RP to NC. The City Council approved the zone change on first reading on Monday October 28. The second reading is scheduled for November 12.

The Planning Division recommends conditional approval and adoption of the findings of the criteria for Special Review #980.

Amended Recommended conditions:

1. The special review approval is limited to Lot 7A Amended Lots 6 & 7, Arnold Sub., a 30,660 square foot parcel of land generally located at 2335 Lewis Avenue.
2. The special review is for the construction and operation of a car wash. No other use is intended or implied.
3. The developed property will adhere to the noise ordinance in place at all times.
4. A sight-obscuring fence and landscape buffer shall be placed on the east property line to buffer the adjacent residential use.
5. There will be a minimum setback of ten (10) feet from the side (north) and rear (east) property lines.
6. In addition to the required landscaping per Section 27-1103, there will be landscaping on the corner of Lewis and 24th Street West with a sufficient "safe" area for gathering of pedestrians waiting to cross the intersection safely.
7. All outdoor lighting shall have full cutoff shields so no part of the fixture or lens projects to the neighboring property to the east.
8. With the exception of the above conditions, the site shall be developed in substantial conformance with the site plan submitted.
9. 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.
10. 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, leaseholders, heirs and assigns.

Discussion

Chairman Wagner called for questions and discussion from the Board. There was none.

Public Hearing

Chairman Wagner opened the public hearing and called for presentation by the applicant.

Scott Aspenlieder, Performance Engineering, 608 N 29th Street, Billings, Montana

Mr. Aspenlieder is the applicant's agent for the owner and developer, Rocky Mountain Car Wash. He said he wished to address some of the concerns and highlight the proposed mitigations.

Buffering: The proposed layout has been revised with the car wash located away from the property owners and there is significant landscaping for noise buffering. This layout will provide more buffering for the neighbors and should be workable for the neighborhood and the community. They will install boulevard sidewalk along Lewis Avenue and expand the landing area at the crosswalk located at Lewis Avenue and 24th Street West. He presented the proposed facility rendering and pointed out the tallest part of the building will provide a sound barrier from the facility back towards the east. He provided clarification on the location of the building and stated the proposed vegetation will be trees planted on the eastern boundary along with fencing.

Noise Concerns: Mr. Aspenlieder presented slides of existing facilities located in residential areas. He stated the owner has good relationships with the neighborhoods and has had no complaints. Mr. Aspenlieder continued and provided statistics for the decibel readings and levels of the existing ambient noise at this property. He noted the distances to the closest residents from the proposed facility. A site noise map from a similar facility in Riverton, Wyoming with two dyers running at the same time was presented. He explained that the difference in measurement is that the second dyer added between one and two decibels. He said there would be a significant reduction by flipping the building around in the layout and making mitaigational adjustments with a center building, vegetation, and buffering. Chairman Wagner commented a masonry fence should be used to fully buffer the sound. Nicole Cromwell said the Commission could amend the conditions of approval if so desired. Mr. Aspenlieder stated they are confident they will meet the noise ordinances current and future.

Traffic/Safety: A preliminary traffic study has been conducted and provided to the City Traffic Engineer. Based on the findings of the traffic study, the City has agreed to the proposed site layout. He stressed that this is a captive business and not a trip generating business in that the facility may augment traffic flows but it does not increase traffic. The boulevard walk along the frontage of the lot is included to keep pedestrians back from the roadway.

The applicant is agreeable to the amended staff recommendations including the noise compliance and construction of an active buffer and eastern fence, and boulevard sidewalk with an enlarged crossing area. Mr. Aspenlieder stated the applicant has received preliminary approval by the City Traffic Engineer, and they intend to do what they can to make this project a success.

Chairman Wagner called for those wishing to speak in favor of City Special Review #980.

Favor:

Pat Robertson, NAI Business Properties, (no address given)

Mr. Robertson stated he is in favor of this special review.

Pastor Ed Sermon, 1625 Riverstone, Billings, Montana

Pastor Sermon is the pastor of the church that owns this parcel. He said the church has to move and they have purchased a facility. In regards to children's safety, he said the church allows other folks to go through the parking lot as a "cut-through" from 24th Street West to ALTANA bank and to

Lewis Avenue. ALTANA confirmed that approximately 45 customers enter from the church parking lot a day to access the ATM. He said he feels the car wash will increase safety, as it will reduce the “cut-through traffic”. Pastor Sermon said the schools would address issues with the City regarding the traffic light. The crossing guard suggested they should be walking the students past the entrance to the proposed car wash.

Chairman Wagner asked if there is anyone wishing to speak in opposition of Special Review #980.

Opposition

Jason Hanson, 2320 Lewis, Billings, Montana

Ronda Carlson, 2320 Hanson, Billings, Montana. On behalf of Jason Hanson.

Ms. Carlson read aloud Mr. Hanson’s statement. Mr. Hanson’s concerns:

Noise and migration of noise. Can the City water system handle the car wash and will the applicant be held responsible for any damage to the water or sewer? Who will enforce violations and what will the consequences be? Based on the noise ordinance requirements, there is no distinction between the Residential Professional and residential properties.

Mr. Hanson feels this facility needs to be held accountable so they will not violate the ordinance now and in the future, and the applicant’s rush to push this project is a direct response to the upcoming noise ordinance. Ms. Carlson pointed out the letter provided by Jason P. Hanson, 2320 Lewis Avenue. Ms. Carlson protested the 3-minute period for presentation as she feels the applicant got more time to present the application.

M. Ed Melcher, 2331 Lewis Avenue, Edm@Fismt.com, Billings, Montana

Mr. Melcher thanked Mr. Ivan for changing the site plan layout. He said he likes the idea of a decorative concrete wall along the adjoining property line as it will block some of the exhaust. He asked if he will lose the parking space for his business on Lewis Avenue, and if there will be monitoring services for security as this would be a 24/7 business. He said this would become a destination point if a monthly pass were offered.

Rebuttal

Chairman Wagner called for rebuttal from the applicant.

Scott Aspenlieder, Performance Engineering, 608 N 29th Street, Billings, Montana

Mike Irwing, Rocky Mountain Car Wash, 26 Hay Meadow Drive, Pinedale, Wyoming, 82941

He stated the significant changes to the project and the data provided show that they have the means to be successful. Zoning Coordinator Nicole Cromwell clarified the minimum edge of a curb for a no parking zone is 3-feet and said there should be no limitation of parking spaces on Lewis Avenue. The curbed approach is 15-feet from the property line. Mr. Aspenlieder said the applicant is agreeable to construction of a block wall on the east end.

Chairman Wagner closed the public hearing and called for a motion.

Motion

Commissioner Larson made a motion and Commissioner Boyett seconded the motion to forward a recommendation of conditional approval and adoption of the findings of the three criteria for Special Review #980; with the condition that a site-obscuring fence has to be of stone or masonry material. Sidewalks shall be constructed as boulevard sidewalks.

Discussion

Chairman Wagner called for discussion on the motion. Commissioner Ulvestad stated he is impressed with the applicant’s agent and the amendments to the project to address concerns. He will vote in favor of the request.

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 4 - 1 vote with Commissioner Mariska voting against. A recommendation of conditional approval of Special Review #980 will be forwarded to City Council on Monday, November 25, 2019 at 5:30 p.m. in the City Council Chambers as the time and place to hear testimony for or against the zoning applications.

Item #2

Nicole Cromwell stated a neighborhood pre-application meeting was held regarding Zone Change #974 on November 25, 2019. She read aloud the legal notice for this application:

City Zone Change 974 – 1004 Lewis Ave- from R-70 to RP - A zone change request from Residential-7000 (R-70) to Residential Professional (RP), on Lot 2B – 3B Amended Lot1, VFW Subdivision, a 17,899 square foot parcel of land. A pre-application neighborhood meeting was held on September 14, 2019, at 1004 Lewis Avenue. Tax ID: A21244A.

Planner Karen Husman opened with presentation of the staff report.

RECOMMENDATION

Planning staff recommends approval and adoption of the findings of the ten criteria for Zone Change #974.

This is an application to change from Residential 7000 (R-70) to Residential Professional (RP) to build a new office building. A pre-application neighborhood meeting was held September 14, 2019

at 2:00 p.m. on the property to discuss the proposed zone change. The submitted meeting notes indicated the surrounding owners were supportive of the zone change to allow a new office space on the property.

RECOMMENDATION

The Planning staff has reviewed the application and is recommending approval based on the findings of the 10 review criteria. 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. This is an example of a good re-development project for this area.

Discussion

Chairman Wagner called for questions and discussion from the Board. There was none.

Public Hearing

Chairman Wagner opened the public hearing and called for presentation by the applicant.

Patti Stanfill, Owner, KPCS, LLC, 1437 Wyoming Avenue, Billings, Montana

Ms. Stanfill stated this is an accounting business currently located 1437 Wyoming in the same building as the former Ort & Company. She said she wants to build a professional office with a “homey-residential” feel. The exterior of the proposed building will have brown tones with rockwork and landscaping. A neighborhood meeting was held and the neighbors are excited with this proposal. KPCS LLC employees are from Montana and many live in this neighborhood. Ms. Stanfill said this location would work with their clients. The asbestos has been removed from the existing building and they plan to tear it down. They are in agreement with sharing the parking with the adjacent neighbors when the business is closed. If approved, this use will fit with the new zoning that will be coming in January. Customers will be taken by appointment only. Ms. Stanfill said currently KPCS is located five blocks away from this location and are good neighbors. Fifteen people attended the neighborhood meeting. Eleven positive comments were received along with four who are not in favor of any type of change at all. In response to question by Commissioner Ulvestad, Ms. Stanfill stated they are open all year long and offer services for payroll, consumers, and financial statements. Commissioner Mariska commented on the property to the east and possibility for major changes with the Elks Club. Ms. Stanfill responded that the proposed building would be a good buffer to the neighborhood. She said she has not talked with the Elks Club.

Tony Newman, Newman Construction, 3410 Hollowtree Road South, Billings, Montana

Mr. Newsman reiterated the need to make the building fit in the location by creating a building with a residential feel buffering to bridge the gap between the commercial location and the residential buildings. During the neighborhood meeting, they discussed moving the building to avoid lighting issues with the neighbors. Commissioner Ulvestad asked about lighting at night. Mr. Newman said there will be no spotlighting. Downward lighting will be installed for security reasons .

Opposition

Linda Walters, 1037 Lewis Avenue, Billings, Montana

Ms. Walters presented a petition to the Zoning Commission with twenty-four signatures against this proposal. Ms. Walters stated she does not feel this business will benefit the welfare of the residential feel of the neighborhood. She suggested the applicant use a parcel adjacent to the Elks Club instead. Ms. Walters is concerned with potential for additional commercial development with the sale of the Elks' building. She said those neighbors in favor of their application are operating businesses out of their home, including one resident who has a towing business. Ms. Walters emphasized this is a residential neighborhood with children. Commissioner Mariska asked how many signatories reside on Lewis Avenue. Ms. Walters said about half with the remainder obtained from residents on Burlington, and Cottage Lane. She said she would rather see a residential building, condominium or duplex to blend in with the newer housing. She would like a community garden and keep the neighborhood residential.

Rebuttal

Chairman Wagner called for rebuttal.

Patti Stanfill, Owner, KPCS, LLC, 1437 Wyoming Avenue, Billings, Montana

Ms. Stanfill spoke to address concerns. She reported this site would have parking located in the rear of the lot. The building will be west facing. The fourteen spaces are for employees that come in the morning and leave at night. There will be no generation of trips. She said they might have three clients in the office at any one time who come by appointment only to meet with two to three accountants. Operating hours are 8:00 a.m. - 5:00 pm. Monday-Friday. There are some evening appointments from 5:30 pm – 7:00 pm during the months of February through April for tax season. Employees work some Saturdays. Security lights will be installed to allow employees to go from the building to their vehicles safely. Ms. Stanfill commented this lot is two city lots and would have to be divided to build a reasonably priced home.

Chairman Wagner asked if there is anyone wishing to speak in favor of City Zone Change #974. There was none. Chairman Wagner asked if there is anyone wishing to speak in opposition of City Zone Change #974. There was none. Chairman Wagner closed the public hearing at 5:21 p.m. and called for a motion.

Motion

Commissioner Larson made a motion and it was seconded by Commissioner Ulvestad to forward a recommendation to City Council to approve the staff recommendation of approval and adoption of the findings of the ten criterion for Zone Change #974.

Discussion

Commissioner Larson stated he is sympathetic to the neighborhood objective to keep it residential and noted the options for a residential use or neighborhood garden are expensive. He stated this would be a good addition given the proposed business' low traffic volumes and hours of operation. Commissioner Larson will vote in favor of this zone change. Commissioner Mariska stated he sympathizes with Linda Walters but the problem is this may be the best option. He said he is not

happy with the City, as they have allowed commercial venues to come into residential neighborhoods. Even so, he feels this is a reasonable alternative. He pointed out there is no way to prevent future approved zone changes permitting further changes to the neighborhood.

COMMISSIONER	YES	NO	ABSTAINED	ABSENT
Dan Wagner	X			
Mike Boyett	X			
Dennis Ulvestad	X			
Mike Larson	X			
James Mariska	X			

The motion carried 5-0. This request will be heard by City Council on Monday, November 25, 2019 at 5:30 p.m. in the City Council Chambers to hear testimony for or against the zoning applications.

Other Business

- The Tuesday, December 3, 2019 meeting is canceled due to a lack of applications.

Adjournment: The meeting adjourned at 5:42 p.m.

**DRAFT: To be approved by a motion January 7, 2020
*Tamara L. Deines, Planning Clerk***