

City of Billings Zoning Commission Meeting Minutes September 1, 2020

The City of Billings Zoning Commission met on Tuesday, September 1, 2020 in the Virtual Zoom meeting,

Chairman Larson called the meeting to order at 4:30 p.m. The City Council has designated **Monday, September 28, 2020 at 5:30** p.m. in the City Council Chambers as the time and place to hear testimony for or against the zoning applications.

Commission and Staff		0	0	0	0	0	0	0	0	0	0	1	1	1
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Mike Larson	Chairman	1	1	-	-	-	1	1	1	1				
Daniel J. Brooks	Commissioner	E	1	-	-	-	1	1	1	1				
Jack King	Commissioner	1	1	-	-	-	1	1	1	1				
Greg McCall	Vice Chairman	1	E	-	-	-	1	1	1	1				
Trina White	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	1	1				
Tammy Deines	Planning Clerk	-	-	-	-	-	-	-	-	-	-	-	-	
Dave Green	Planner II	-	-	-	-	-	-	-	-	-	-	-	-	
Karen Husman	Planner I	1	1	-	-	-	1	-	1	1				
Robbin Bartley	Administrative Support	1	1	-	-	-	1	1	1	1				

Total Number of 2019 Applications	0	0	0	0	0	0	0	0	0	1	1	1	T O T A L
	1	2	3	4	5	6	7	8	9	0	1	2	
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	7	4	3	7	5	2	7	4	1	6	4	1	
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	2	2	2	2	2	2	2	2	2	2	2	2	
	0	0	0	0	0	0	0	0	0	0	0	0	
	2	2	2	2	2	2	2	2	2	2	2	2	
	0	0	0	0	0	0	0	0	0	0	0	0	
Zone Change	2	0	-	-	-	1	2	1	2				8
Special Review	0	1	-	-	-	0	2	2	0				5

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

In Attendance : Jason McGimpsey, Cherry Island Group, Michael Burke

Public Comment

Chairman Larson called for public comments. There were no public comments. **Chairman Larson** closed the public comment portion of the meeting.

Approval of Minutes:

Chairman Larson called for approval of the August 4, 2020 meeting minutes.

Motion

Commissioner King made a motion and Commissioner Brooks seconded the motion to approve the August 4, 2020 meeting minutes.

COMMISSIONER	Yes	No	ABSTAINED	ABSENT
Mike Larson	X			
Daniel J. Brooks	X			
Jack King	X			
Greg McCall	X			
Trina White	X			

The motion for approval then carried with a unanimous voice vote 5-0.

Disclosure of Conflict of Interest

COMMISSIONER	Yes	No	ABSTAINED	ABSENT
Mike Larson		X		
Daniel J. Brooks		X		
Jack King		X		
Greg McCall		X		
Trina White		X		

Disclosure of Outside Communication

COMMISSIONER	Yes	No	ABSTAINED	ABSENT
Mike Larson		X		
Daniel J. Brooks		X		
Jack King		X		
Greg McCall		X		
Trina White		X		

Public Hearings:

Chairman Larson reviewed the rules and the procedures by which the City Zoning Commission public hearings are conducted and advised the audience this would be heard by the City Council on September 28, 2020.

Item #1

Nicole Cromwell read aloud the legal notice for this application:

City Zone Change 982 – 1127 Alderson Ave - RP to RMF - A zone change request from Residential Professional (RP) to Residential Multi-Family (RMF) on Block 4, Lot 4-8, Sunset Subdivision, a 39,793 square foot parcel of land. A pre-application neighborhood meeting was held on July 23, 2020, at 1127 Alderson Ave. Tax ID: A16641

Recommendation

Planning staff recommends approval of the zone change based on the findings of the 10 review criteria.

- ✓ The proposed zone change is compatible with existing development in the immediate neighborhood.
- ✓ Is Consistent with 2016 Growth Policy
 - Essential Investments: Upgrade of site, infill development, near existing infrastructure
 - Community Fabric: New development on the site with new landscaping will be more visually appealing

Staff received 3 letters and 1 email in opposition. Also submitted was a protest. However, the protest could not be validated because it did not contain the requirement of 25 percent of the landowners in a 150 foot radius. A new protest was received today, but has not been validated as yet.

Questions for staff:

Commissioner Brooks asked about the parking lot lighting improvements. Staff deferred to the applicant for explanation. The idea is to make a secure parking area for dark times.

Commissioner White asked about the building changes both interior and exterior.

Chairman Larson asked for explanation of a “valid protest”. Staff explained the protocol. Upon validation it will be submitted to City Council and would require a 2/3 vote for approval.

Public Hearing Chairman Larson opened the public hearing at 4:49PM and asked for anyone wishing to speak in favor or against **City Zone Change 982**.

Applicant: Jeff Winkler, HGA Architects

The existing landscaping will remain. Site lighting will include pole lighting for security and convenience. 44-45 parking spots will be provided for tenants, the Code only requires 30. The exterior will not change, clean it up. Plans are available for viewing.

Max Griffin, 1655, Valley Heights

We have met with the neighbors and recognize their issues and concerns. The alley will be fenced off and the entire building will be fenced for children’s safety. Overflow parking will be provided in the property to the north that closes at 5pm. There will be 13 studio apartments, 14 one bedroom apartments and 2, 2 bedroom apartments. Affordable with access to the bus, shopping center very walkable. Currently there are no new apartments available for rent in the mid town area. There have never been problems with the neighbors.

Commissioner Brooks asked if the 6 foot site obscuring fence is standard or if something like McKinley school could be used. The applicants replied saying the obscuring fence will be along

the alley and a 4 foot fence would be used for the childrens area. There will also be a full security system installed around the building.

Commissioner White asked what the building to the north, also owned by the applicant, is. The applicant replied it is multi tenant and was once the Cornerstone Church.

Favor: None

Opposed:

A zoom participant spoke up, he indicated there are 6 property owners present.

Jane Henman, 1120 Alderson

She is absolutely opposed to the new zoning. Her mother has lived there 40 years. They have experienced the parking issues and traffic problems first hand. People deposited their garbage every where. Too many people. The JanMar Apartment building is very close and creates its own parking issues. She is concerned about public safety and property values.

Brandon Jasper, 1126 Alderson

He is opposed for the same reasons mentioned.

Tim Gulbranson, 1130 Alderson

He is opposed for the same reasons mentioned.

Larry Green, 1140 Alderson

In the last 5 years there have been many incidences that were dangerous. He has a wife 3 daughters and 13 grandchildren that play in the backyard. Too many scary people are lurking around.

He is opposed to the new zoning.

Inaudible name and address

He is opposed to the zone change, the parking is a true issue. Other concerns are noise and safety in the the neighborhood. There is no elementary school in the neighborhood making it a problem for new residences with children. Motorcycle speeding has become an issue as well as break ins and homeless persons hanging about.

Kelly Sanders, 5088 Dovetail Ave, 1307 12th Street West

The neighborhood cannot deal with the traffic that will this will bring.

Kathy Schaefer, 1048 Alderson

She is opposed to this zone change, there will not be adequate parking. She is concerned about her property value.

A caller

Michael Schaefer, 1048 Alderson

He is opposed to the zone change. He has specific responses to the criteria stated in the staff report. Specifically #3, regarding health and safety. The staff comments only reference benefits to the City and property owner including utility increases, tax increases and subsequent property value increases. It does not address a potential increase in crime and safety of the neighborhood and a significant increase in traffic on Alderson Ave. These risks have been realized with the similar zone change regarding the JanMar Apartments. My family have been residents of this area since 1956. Criteria #4 recognizes the increase in traffic which supports the issue of safety in the neighborhood. While the property owner at 1127 Alderson has stated he is addressing the safety of the residents there, he has not considered the safety of the neighbors. Criteria #6 regarding vehicle traffic, supports his argument regarding increased traffic. Criteria #9, staff comments on the increase of the property value, but ignores the decrease in the neighboring properties.

Rebuttal, Max Griffin

Michael and Kathy Schaefer of 1048 Alderson are competitors in the same neighborhood. They have a complex that has no parking lot. It is ironic they are disputing my proposal when they have a multiplex in the same area. He really tried to be a good neighbor. This entire area is rentals with only 31 percent being owner occupied.

Public Hearing CLOSED at 5:26PM

Discussion

Chairman Larson called for questions and discussion from the Board.

Motion

Commissioner Brooks made a motion and Commissioner White seconded the motion to approve City Zone Change 982 with staff recommendations & findings of fact.

COMMISSIONER	Yes	No	ABSTAINED	ABSENT
Mike Larson	X			
Daniel J. Brooks	X			
Jack King		X		
Greg McCall	X			
Trina White	X			

The Motion to approve of City Zone Change 982 carried with a 4-1 vote.

Item #2

Nicole Cromwell read aloud the legal notice for this application:

City Zone Change 983 – Cherry Creek Loop - Public to R-80 - A zone change request from Public (P) to Residential- 8000 (R-80), on the southern 3.42 acres of Lot 2, Block 1, Cherry Creek Estates Sub., a 20.196 acre parcel of land. A pre-application neighborhood meeting was held on July 27, 2020, at the subject property on Cherry Creek Loop. Tax ID: A31450

Recommendation

Planning staff recommends approval and adoption of the findings of the ten criteria for Zone Change 983.

- ✓ The proposed zoning is conforming to the 2016 Growth Policy and the 2006 Billings Heights Neighborhood Plan
- ✓ Development of infill is encouraged
- ✓ The proposed two-family dwellings will fill a housing need in the area
- ✓ Will provide a reasonable transition from a manufactured home park to the low density County lots on Bitterroot Drive
- ✓ City infrastructure exists and has capacity to serve the property

Questions for staff:

Commissioner White asked about the north area is in the county. Staff confirmed it is in the county.

Public Hearing Chairman Larson opened the public hearing at 5:49PM and asked for anyone wishing to speak in favor or against **City Zone Change 983**.

Applicant:

Marshall Phil, Blueline Engineering, 724 1st Ave North

A transitional zoning is being proposed, townhomes for individual ownership. This proposal is being submitted after careful review with staff of past zone changes and property information. The issues of concern are being addressed with the lowest density of zoning for townhomes. These are not to be rentals. The HOA will provide property maintenance, and snow removal. The HOA document was submitted today. There is a 20 foot no build zone on the west end. 1 tree for each home will be planted to provide buffer. A traffic study has been reviewed. The increase is relatively insignificant.

Jeff Engle, contractor

33 duplex townhomes

66 residences, 1 level with no basement

A vinyl perimeter fence

The target price will be in the range of 240 to 250,000

2 and 3 bedroom units

The HOA fees will be \$175.00 monthly

Exterior colors will be earth tones

Commissioner King asked about rentals in the area. Mr. Engle replied there is not law dictating how many rentals are allowed. This will be addressed in the HOA requirements.

Staff presented citizen correspondence received from area residences. She named the submitters.

Favor:

Miles Egan, 2690 Southridge Drive

He has been involved in New Home development since 1975. 51 percent must be owner occupied to obtain FHA financing. The intent here is to have 100 percent owner occupied dwellings.

Opposed:

Jason McGimpsey, 1327 Bitterroot Drive

He is opposed to this zone change. Cherry Creek was to have a maximum occupancy of 300 units. Currently there are 370 units. He does not understand why a R-8000 zoning would be necessary to transition. This development is not a good idea, in his opinion. He has submitted documents to support his opinion regarding property overcrowding and land use. He asks the Commission to take into consideration the crime and aesthetics of the current Cherry Creek development when making their decision.

Pam Ellis, 2000 Outlook Drive

She sent in 2 letters, not referenced by staff, apparently not received. 500 neighbors opposed the Cherry Creek development initially, water installation was fraudulently done as well. They did not honor the promises made when developing the area. There have been many issues in this court. There is no space for children or recreation. The schools will be over populated. This density will put a lot of pressure on the police and fire. There is a lot of suspicious activity in the court. Too much density creates problems.

Staff encouraged resubmittal of the documents.

Ming Cabrera, 1734 Poly Drive

He is a member of the Heights Task Force. The crime is a concern. How is the HOA going to manage rental verses home owner ship. This will cause degradation of the area. The past history of ownership does not show much hope of decent development. The HOA will not be able to control this ownership. This zone change needs to be rejected. The schools are at 92 percent now.

Lindsay McGimpsey, 1327 Bitterroot Drive

This area is riddled with problems. It does not take a lot of investigation to realize what a poor idea this zone change and development is. The current condition of Cherry Creek does not speak well of the direction the city should go. While it is not an expansion of the Mobile Home park, this new development is owned by the same persons who developed the Cherry Creek Mobile Home Court. The PSML is laughable because most of our services are dedicated to this area. The schools are overcrowded. Code compliance is always an issue in the court. A buffer zone was promised between the court and existing residences. They have not held true to their promises. This will be rentals again, no one would build a single family home here. She begs the commission to reject this zone change.

Rebuttal Marshall Phil

The 300 unit agreement included language defining the City's ability to restrict to 300 units. However the allowable number of units is currently 363. The new ownership of Cherry Creek is enforcing evictions and restrictions, addressing storm drains and asphalt improvements. The parcels will be sold off, a small percentage will be retained by the developer. The national average is being met regarding schools. The traffic intersections function well. The buffer zone was a planned Golf Course that never happened. This was never intended to be a vacant piece of land.

Public Hearing CLOSED at 6:15PM

Discussion

Chairman Larson called for questions and discussion from the Board.

Commissioner Brooks asked about the proposed HOA document, he was not able to review it.

Commissioner McCall replied he had reviewed everything submitted. He also drove the sites under review. There have been some very nice properties built in transitional areas by the same builders. He does not understand how it would be possible for anyone to hold someones property and make it unusable. Trying to seam this together is very challenging. The duplex idea is a good choice with large back yards.

Chairman Larson requested a motion before discussion. He also stated the City has no ability to enforce any HOA. It would be up to the homeowners to enforce the agreement.

Commissioner White has concerns about the traffic. She drove the entire loop. Children were walking down the street and missing sidewalks.

Commissioner McCall also saw activity in the area. He has not been out there for a couple years. It was in better condition than 2 years ago. He sees no other way to develop the area.

Staff offered the development would be required to go thru a master site plan review, including sidewalks. Install them or fund the City install them.

Chairman Larson was on the City Council when the Cherry Creek development was implemented. He has confidence in the people involved in this proposal. Anytime there is an interface between the City and the County there are going to be issues.

Motion

Commissioner McCall made a motion and Commissioner Brooks seconded the motion to approve City Zone Change 983 with Staff recommendations and 10 criteria.

COMMISSIONER	Yes	No	ABSTAINED	ABSENT
Mike Larson	X			
Daniel J. Brooks	X			
Jack King		X		
Greg McCall	X			
Trina White	X			

The Motion carried to approve City Zone Change 983 with a 4-1 vote.

Other Business: Joint commission public hearings for Project RE:Code will be September 15 and 16, 2020 @ 4:30pm.

Adjournment: The meeting adjourned at 6:25PM.

ATTEST: To be Approved by a motion at the next scheduled meeting.