

**City of Billings Zoning Commission
Meeting Minutes- October 6, 2015**

The City of Billings Zoning Commission met on Tuesday, October 6, 2015 in the Miller Building 1st Floor Conference Room, 2825 3rd Avenue North, Billings, Montana
Chairman Leonard Daily called the meeting to order at 4:30 p.m. The City Council has designated **Monday, October 26, 2015**, 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		01/06/2015	02/03/2015	03/03/2015	04/07/2015	05/05/2015	06/02/2015	07/07/2015	08/04/2015	09/01/2015	10/06/2015	11/10/2015	12/01/2015
Leonard Dailey, Jr.	Chairman	1	1	1		1	1		1	1	1		
Barbara Hawkins	Commissioner	1	1	1		1	1		1	1	1		
Dan Wagner	Vice Chairman	1	1	1		E	1		1	1	1		
Dennis Ulvestad	Commissioner	1	E	1		1	1		1	1	1		
Mike Boyett	Commissioner	1	1	1		1	E		1	1	1		
Candi Millar	Director, Planning & Community Services	-	-	-		--	-	-	-	--	-	-	-
Nicole Cromwell	Planner II, Zoning Coordinator	1	1	1		1	1		1	1	-	-	-
Tammy Deines	Planning Clerk	1	1	1		-	1			1	1	-	-
Wyeth Friday	Planning Division Manager	-	-	-		-	-	-	1	--	1	-	-
Dave Green	Planner II	-	-	-		-	-	-	-	-	1	-	-
Karen Husman	Planner I	-	-	-		-	-	1	-	-			
Jeannette Vieg	Planning Assistant					1			1	-			

Total Number of 2015 Applications	01/06/2015	02/03/2015	03/03/2015	04/07/2015	05/05/2015	06/02/2015	07/07/2015	08/04/2015	09/01/2015	10/06/2015	11/10/2015	12/01/2015	TOTAL
Zone Change	2	2	2	0	0	0		2	0	0			8
Special Review	1	1	3	0	3	2		1	1	2			14

Chairman Dailey introduced the Planning Division Staff and Commission: Dave Green, Planner II; and Tammy Deines, Planning Clerk

In Attendance:

Randy & Cindy Krieger, Pam Christianson, Shaun Harrington, Joyce Haider, Steve Corning, Ryan Nordlund, Shane Swandal, Charlie Yegen, Peter Yegen III, James Kordony, Ric Heldt

Public Comment

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

Disclosure of Conflict of Interest

Chairman Dailey called for disclosures of conflict of interest. There was none.

Disclosure of Outside Communication

Chairman Dailey called for disclosure of ex parte communication.

Commissioner Boyett disclosed he received a packet in the mail from the school but only briefly looked at it and set it aside. *Commissioner Hawkins recused herself from Special Review #932.

Approval of Minutes: September 1, 2015

Chairman Dailey called for approval of the September 1, 2015 meeting minutes.

Motion

Commissioner Wagner made a motion and Commissioner Boyett seconded the motion to approve the September 1, 2015 meeting minutes as submitted.

The motion carried with a unanimous voice vote.

Public Hearings:

Chairman Dailey reviewed the rules and the procedures by which the City Zoning Commission public hearings are conducted, and asked Mr. Green to review the first agenda item.

Item #1: City Special Review #932 – 1335 Golden Valley Circle – City Vineyard, City Brew, Dave Green, Planner II - A special review request to locate a beer & wine license without gaming for City Vineyard and for a drive through service window for City Brew in a 12,000 square foot proposed building with an 85-stall parking lot and landscaping in a Planned Development zone with underlying Community Commercial (PD-CC) zoning, on Lot 9, Block 2 of Cardwell Ranch Subdivision, 1st Filing, a 2.22 acre parcel of land. Tax ID: A34332

REQUEST

This is a special review request to locate a beer & wine license without gaming for City Vineyard and for a drive through service window for City Brew in a 12,000 square foot proposed building with an 85-stall parking lot and landscaping in a Planned Development zone with underlying Community Commercial (PD-CC) zoning, on Lot 9, Block 2 of Cardwell Ranch Subdivision, 1st Filing, a 2.22 acre parcel of land. Tax ID: A34332.

RECOMMENDATION

The Planning Division is recommending conditional approval.

PROPOSED CONDITIONS

1. The special review is limited to Lot 9, Block 2 of Cardwell Ranch Subdivision, 1st Filing generally located at 1335 Golden Valley Circle.
2. The special review approval is for the construction of a 12,000 square foot building of which 2,160 square feet is City Brew and 3,200 square feet is City Vineyard with a drive-through service and a beer & wine license without gaming license no other use or development configuration is intended or implied by this approval.
3. Any expansion of the proposed drive-through café or the alcohol sales building greater than 10 percent of what is shown on the submitted site plan will require an additional special review approval.
4. All exterior lighting, including security lighting shall have full cut-off shields so no part of the fixture or lens projects below the cut-off shield. The maximum height of any light pole in the outdoor areas shall be 20 feet above grade. Exceptions to this requirement are allowed for entry doorway lighting.
5. No construction or demolition activity will occur before 7 am or after 8 pm daily.
6. New trees shall not be any of the following species: Carolina poplar, other populous subspecies including any variety of aspens, elms, Lombardy poplar, silver leaf poplar, weeping willow, or box elder. All installed trees will be continuously maintained and replaced as necessary by the owner.
7. Any centralized solid waste storage shall be enclosed by a wall on 3 sides and a closing gate or gates. The wall and gates for the solid waste storage shall be similar or complimentary in color to the adjacent buildings and shall be sight-obscuring. The wall and gates shall be tall enough that no part of the interior dumpster(s) are visible from the outside.
8. The site will be developed in substantial conformance with the submitted site plan including landscaping, parking and building locations.

9. Any outdoor announcement system shall be operated so it is not audible beyond the property lines.
10. The owner is allowed to have background music and un-amplified, live entertainment on the outdoor patio. Amplified, live entertainment is not allowed at any time.
11. 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.
12. 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.

Planner Dave Green stated this special review is for the drive up service window and for a beer and wine license without gaming. The drive up service portion of the review is required because part of this property is across the street from residential zoning. He also explained that one of the requirements is a 600-foot separation between property lines from a use that serves alcoholic beverages and any building that is predominantly used as a church or school or from a public park that contains a children's play area. The southern tip of this property is across a private street from the northwest corner of the property that belongs to School District #2 and is the location of Will James Middle School.

He stated that in Section 27-612 (a) (1) there are some exceptions that may be considered and will allow waiving the 600-foot separation requirement if they are met. One is that an Arterial Street separates the properties. Another one is if a building or buildings obstruct the view between the separate uses, or there is no direct physical access that exists between the two uses. He stated this proposal meets two of the requirements for provisions of a waiver of the 600-foot separation distance to be granted. The proposed structure sits to the north of the lot and it will not be possible to see the proposed City Brew/City Vineyard from the vast majority of Will James Middle School because of the Frontier Cancer Center. Another factor is Will James Middle School is a closed campus and has a fence enclosing the grounds completely except for on the street frontage of 30th Street West.

Dave Green suggested amending and clarifying Condition of Approval #2 to clarify that the proposed development is for the City Brew and City Vineyard uses only and the condition should read:

The special review approval is for the construction of a 12,000 square foot building of which 2,160 square feet is City Brew, ~~3200 square feet~~ *with the remainder of the building for* City Vineyard with a drive-through service and a beer & wine license without gaming license no other use or development configuration is intended or implied by this approval.

Discussion

Chairman Dailey called for questions and discussion from the members of the Commission. Commissioner Wagner asked for a reiteration of the changes to Condition #2. Chairman Dailey suggested an amendment to Condition of Approval #3 to read:

Any expansion of the proposed drive-through café or the remainder of the building use *greater than 10% alcohol sales building greater than 10 percent* of what is shown on the submitted site plan will require an additional special review.

Per the request of Commissioner Ulvestad, Dave Green reviewed a plat map and pointed out the areas proposed for multi-family uses on nearby property and noted that although the 600-foot separation requirement applies to churches and schools; it does not apply to multi-family residential uses. A comment was made

Commissioner Boyett asked if alcohol will be served on the outdoor patio and if there are other instances of the waiver of the separation distance in the community. Dave Green replied the design depicts an enclosed structure for the patio area and there have been other instances of waivers being granted in the city that are separated by an arterial street, fencing, or physical barriers.

Commissioner Dailey asked about the height of the Cancer Center building. Dave Green said the Cancer Center is considered a visual obstruction as it is a 2-story building of 28-30 feet in height. He said the continuous fencing around the school site, (except across the face of the property), acts as a physical barrier. Commissioner Dailey asked if the golf course serves beer and wine and it was pointed out this use it is an adjacent property line and the building is located across Zimmerman which is an arterial.

Discussion followed on traffic flows and Dave Green commented he is unsure of the impacts but he would think there would be an increase in the morning. **Commissioner Hawkins asked if there have been any traffic studies have been conducted at the intersection of 32nd Street West and Grand Avenue. She stated she owns a building directly across from 1335 Golden Valley Circle and has developed subdivisions to the north. She said these people have complained for years about how busy this intersection is and the difficulty in making left turns onto Grand Avenue. Dave Green said this question should be referred to the City Engineering Division. Commissioner Hawkins recused herself from participating in the hearing for Special Review #932.

Applicant/Agent

Chairman Dailey asked for presentation by the applicant.

Steve Corning, 2939 Gregory Drive, Billings, Montana 59102

Mr. Corning stated he is developing this building on the behalf of Becky Reno, owner of City Brew. Mr. Corning said City Brew employs more than 400 people, and he feels that Becky Reno is one of the best independent retailers in the area.

Mr. Corning explained that “The Vineyard” concept is creating a "laboratory store" to develop retail service lines that can be expanded off of the wine sales. The owners wish to have as much flexibility as possible to offer a new market to Billings and allow development of an environment with a broad set of offerings. This is not intended to be a bar setting and there is no gaming.

Mr. Corning thanked the Yegens for their help with this development and said he feels it is a nice step forward with the Cardwell Ranch Master Plan. He stated they have met with the Will James Middle School principal and Pat Cobb, the owner of the Cancer Center, and neither had concerns. Commissioner Ulvestad asked if bottled liquor could be sold in the future. Mr. Corning reiterated that this is not the intent; the thrust of the business is serving wine and gourmet foods. Commissioner Dailey asked how much information was provided to the middle school. Mr. Corning stated the school is on the list of affected parties and received a notice letter. He said during their meeting with Will James' principal they outlined the 600-foot separation distance and the impacted area and he had no issue with this. Commissioner Daily asked if the School Board will have an issue with this request. It was pointed out the notice would have been sent to the School District instead of the School Board. Commissioner Dailey stressed the need for full disclosure. Mr. Corning stated he will commit to contacting Superintendent Terry Bouck, and School District #2 Facility Coordinator Lou Anderson.

Public Hearing:

Chairman Dailey opened the public hearing and called for proponents or opponents of City Special Review #932.

Pam Christianson, 3916 Bushwood Drive, Billings, Montana

Ms. Christianson stated she is not speaking as a proponent or an opponent of this special review request but wished to bring forward a caution. She said she is married to one of the owners of the Cancer Center and not here to represent them, and is a customer of City Brew and City Vineyard. Ms. Christianson commented on the instance of the 600-ft rule that was used to preclude the use for a medical marijuana business proposed to be located near Will James Middle School. She voiced concern that a precedent will be set if this request is approved with the waiver. She said she there are 26 schools (in Billings) with nothing similar to this business nearby. She said the Will James' track and field are in near proximity to this location. She said she took photos of a 4-ft farm fence and said there is not a 6-ft fence. She said she personally has contacted the Yegens to request fencing with a gate on the Cancer Center's property to access the school property. Ms. Christianson said she feels the argument for the visual view obstruction is questionable. She voiced concern with the potential for increased traffic. She commented the intersection of 32nd Street West and Grand Avenue is very busy which makes it difficult to make left turns onto Grand Avenue. Ms. Christianson said she has partnered with Cathy Aaragon to advocate for a sidewalk with a crosswalk built between the field and the Cancer Center to allow students to cross from the neighborhoods on the north. They were told there will not be a stop light at this intersection. She asked the Commissioners to be cautious with their decision and that they ensure the information is correct and neutral.

Ryan Nordlund, 2722 Highwood Drive, Billings, Montana 59102

Mr. Nordlund is the agent for City Brew. He said anyone coming and going will be blocked by the view shed of business itself and the Cancer Center; and the only outdoor seating will be on the second level. The south side of the building will have no outdoor seating on the ground level for alcohol. The chain link fence separates the property and the school. He referred to the site plan. He pointed out there is no direct way for students to walk back and forth from the school to this

property. He said this operation has no plans for liquor or gaming and serving beer and wine would be the limit.

Commissioner Wagner asked what will happen if the farm fencing is removed. Ryan Nordlund said the school fence is continuous. He pointed out there are surrounding uses that serve alcohol including Albertsons and the Enzo Bistro, which are in close proximity to the school. In response to a question by Leonard Dailey, Dave Green said the middle school is a closed campus; children are not to leave campus even for lunch unless parents are there to pick them up.

Ryan Nordlund said City Brew's hours of operation are 5:30 a.m.-9:00 p.m. and City Vineyard may be open as late as midnight on a weekend. Steve Corning said they plan to start in the spring with a completion time in the fall.

Charlie Yegen, chas@pyegen.com, Billings, Montana

Mr. Yegen said his great grandfather purchased this property in 1889, and he was the first class president at Will James Middle School. He stated they have worked to keep perspective with the area and the community. He said the covenants and restrictions on the property are more restrictive than the city requirements. Mr. Yegen said he is speaking in approval of this application. He stated this is not an onerous situation and they feel comfortable in welcoming this business into the subdivision. He said the intersection of 32nd Street West and Grand Avenue is plumbed for a street light and will be installed when the properties are developed and meet merit.

Chairman Dailey asked if anyone else wanting to speak in opposition of City Special Review #932. There was none. Chairman Dailey called for rebuttal.

Rebuttal

Steve Corning, 2939 Gregory Drive, Billings, Montana

Mr. Corning spoke regarding setting a precedence for a waiver of the 600-ft separation distance. He stated the City Code has stipulated items that allow conditional approval of this request. He said the Cancer Center is 38-40 feet tall and he presented a visual diagram to the members of the Commission. Mr. Corning said the City Vineyard and City Brew on Grand Avenue coexist in the same building, and there has never been an incident with minors as the owners conduct business at the highest level. He pointed out that Enzo's and McKenzie River Pizza both serve beer and wine and are in the near vicinity of the school.

Chairman Dailey asked how this endeavor will deal with traffic. Steve Corning said a traffic study relative to coffee businesses on this site was previously conducted. He said he feels this is a good location due to the traffic mitigation and the need to exit off of Grand Avenue to get onto the site. He commented that the owners are very sensitive to this as a large percentage of the business is drive through purchases.

Charlie Yegen said the traffic study and planned development was done in about 2010. He commented on the need for pedestrian safety and said the development of the site will be a benefit as it will become more formalized with drive accesses and sidewalks.

Chairman Dailey allowed Ms. Christianson to speak again during this rebuttal period.

Pam Christianson, 3916 Bushwood Drive, Billings, Montana

Ms. Christianson clarified her previous statement and said there is 4-ft chain link fence located in front of Will James Middle School. She voiced concern with safety for students when walking as they are forced down the street to Grand Avenue and are supposed to use the crosswalk on Rehberg Lane. She had contacted the Yegens to try to get a crosswalk built. She said there have been student versus vehicle accidents at this location as they were crossing where there were not supposed to cross.

Commissioner Ulvestad asked if discussions regarding the street light have been held with Interstate Bank. Ryan Nordlund said this is a complicated issue due to the SIA agreements that exist on the north side of Grand Avenue but they are aware the signal has been plumbed. He pointed out the sidewalk on the south side of Grand Avenue on a posted map. He said the reason a signal has not been installed at 32nd Street West and Grand Avenue is that traffic merits have not come to the point of increase to make a signal required.

Chairman Dailey closed the public hearing at 5:39 p.m. and called for a motion.

Motion

Commissioner Boyett made a motion and Commissioner Wagner seconded the motion to forward a recommendation to City Council of conditional approval of Special Review #932 with the conditions recommended by staff and the verbiage modifications for Condition of Approval #2 and Condition of Approval #3.

Discussion

Chairman Dailey called for discussion on the motion. Commissioner Ulvestad stated he will vote for approval of this request. He is impressed with business owner Becky Reno, and developers Steve Corning and the Yegens. He said he likes this location and he feels that this will be a good investment for the City. Commissioner Boyett said he will vote for approval. He said he does not think kids will be walking over and buying booze and there will be traffic issues as this area develops. His concern is with potentially setting a precedent with the separation distance. Commissioner Hawkins said her granddaughter attends Will James Middle School and walks with friends to get to Starbucks/Albertsons. She jested and said this location may prevent accidents as they will not have to cross the street. Commissioner Dailey commented this may be ultimately better for all as the parties involved have good character and this aspect of development will bring the traffic issues to the forefront to the City and City engineers.

The motion carried with a unanimous voice vote, 4-0, with Commissioner Hawkins abstaining from the vote.

Item #2. City Special Review #933 – Billings Catholic Schools – New K-8 School, Wyeth Friday, Planning Division Manager– A special review request to locate a new

elementary/secondary school (K-8) in a 87,000 square foot proposed building with 36 classroom, a library, multi-function rooms, music rooms, gymnasium, a kitchen and dining area, commons area, administration and utility support spaces, new drive approaches off Colton Boulevard and Woody Drive, drop-off & pick-up areas, new entry plazas, 126 parking spaces and landscaping in a Residential 9,600 (R-96) zone, on Lot 2, Block 1 of St Thomas Subdivision, a 26.089 acre parcel of land. Tax ID: A33734.

REQUEST

This is a special review request to locate a new elementary/secondary school (K-8) in a 87,000 square foot proposed building with 36 classroom, a library, multi-function rooms, music rooms, gymnasium, a kitchen and dining area, commons area, administration and utility support spaces, new drive approaches off Colton Boulevard and Woody Drive, drop-off & pick-up areas, new entry plazas, 126 parking spaces and landscaping in a Residential 9,600 (R-96) zone, on Lot 2, Block 1 of St Thomas Subdivision, a 26.089 acre parcel of land. Tax ID: A33734.

RECOMMENDATION

The Planning Division is recommending conditional approval

PROPOSED CONDITIONS

1. The special review is limited to Lot 2, Block 1 of St Thomas Subdivision generally located on the lot immediately east of the St. Thomas Church on Colton Boulevard between Woody Drive and 21st Street West.
2. The special review approval is for the construction of a new 87,000 square foot building for Billings Catholic School, K-8, no other use or development configuration is intended or implied by this approval.
3. Any expansion of the proposed building or parking greater than 10 percent of what is shown on the submitted site plan will require an additional special review approval
4. All exterior lighting, including security lighting shall have full cut-off shields so no part of the fixture or lens projects below the cut-off shield. The maximum height of any light pole in the outdoor areas shall be 20 feet above grade. Exceptions to this requirement are allowed for entry doorway lighting.
5. All proposed drive approaches will be reviewed by City Traffic Engineering for final approval and location.
6. No construction or demolition activity will occur before 7 am or after 8 pm daily.

7. New trees shall not be any of the following species: Carolina poplar, other populus subspecies including any variety of aspens, elms, Lombardy poplar, silver leaf poplar, weeping willow, or box elder. All installed trees will be continuously maintained and replaced as necessary by the owner.
8. Any centralized solid waste storage shall be enclosed by a wall on 3 sides and a closing gate or gates. The wall and gates for the solid waste storage shall be similar or complimentary in color to the adjacent buildings and shall be sight-obscuring. The wall and gates shall be tall enough that no part of the interior dumpster(s) are visible from the outside.
9. The site will be developed in substantial conformance with the submitted site plan including landscaping, parking and building locations with the exception of condition 5.
10. Any new sign will require a sign permit approval from the Planning Division. The school will be allowed on (1) monument sign not larger than 32 square feet and may have external illumination.
11. 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.
12. 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.

Following his presentation, Wyeth Friday stated staff received requests for a larger format site plan but no negative input.

Discussion

Commissioner Dailey called for questions and discussion from the Commission. In response to a question by Commissioner Ulvestad, staff said the the closest elementary schools to this location may be Rose Park Elementary or Poly Drive Elementary. Commissioner Dailey asked about traffic counts on Colton Boulevard. Wyeth Friday explained counts have been done within the last year. He noted the site plan and said the current parking area in the front will be eliminated. The bulb out will isolate the parking area and keep traffic on the drive lane to allow for student drop off. . Commisioner Wagner asked about school capacity and the applicant responded there will be an estimated enrollment of 560 students.

Public Hearing

Chairman Dailey opening the public hearing at 6:00 p.m. and asked if there is anyone wishing to speak in favor or against City Special Review #933.

Rick Heldt, A & E Architects, 814 N 29th Street, Billings, Montana

Mr. Heldt is the principle project manager. He said this plan is well thought out. The property was identified for this use due to the consolidation of the schools. He stated they have been in close contact with the City Engineering Department to discuss the bulb-out curb extensions, which are a good safety feature for traffic calming. The offset is to allow students to cross the intersection at 22nd Street West and the Woody Drive access point will alleviate congestion on the front end of the property. He said their students are dispersed through the City. The student count for this facility will be at 560 with a maximum building capacity at 720. Construction is projected for March 2016 with opening for the 2016-2017 school year. Commissioner Boyett voiced concern with student safety if parents drop off children on the wrong side of the street. Mr. Heldt suggested traffic guards may be necessary in this instance.

Cindy Krieger, 2105 Sunnyview Lane, Billings, Montana

Ms. Krieger said the north side of Colton Boulevard does not have sidewalks and she asked if this developer will they be mandated to have sidewalks. She asked if the speed limit will be reduced during school drop off times or there will be a flashing light in the school zone and if there will parking during the weekends on Colton Boulevard?

Shaun Harrington, 250 Wind Cave Circle, Billings, Montana

Mr. Harrington is the President of Billings Catholic Schools. He pointed out the safety features of having the bulb-outs and separate entrances for older students and K-4 students. He stated a lot of design consideration was made for on parking and exiting the property. He said their students are spread throughout the community with no specific area concentration. Janyce Haider, Executive Director, Billings Catholic Schools Foundation, said they started planning for this project in earnest about 10 years ago.

Rebuttal

Rick Heldt, A & E Architects, 814 N 29th Street, Billings, Montana

Mr. Heldt said he will confirm with the City Traffic Engineering Division but he thinks the speed limit in front of the school will be 15 mph during prime loading and drop off times. He said City Engineer Chris Hertz told him an SID would be needed to construct sidewalks on the north side of Colton. There will be a crosswalk at 22nd Street West along with the bulb-outs. He said the points are valid but this will be dictated by the City Engineering Division.

Chairman Dailey asked if there was anyone else wanting to speak in favor or against City Special Review #933. There was none. Chairman Dailey closed the public hearing at 6:19 p.m. and called for a motion.

Motion

Commissioner Hawkins made a motion and Commissioner Dailey seconded the motion to forward a recommendation to City Council of conditional approval of City Special Review #933 with the conditions recommended and presented by staff.

Discussion

Commissioner Boyett commented it is time for this project, and hopefully having a school will slow traffic down on Colton Boulevard. Commissioner Ulvestad stated he is in favor of this application. He said this is a good location for the school and it will improve the quality of life. Commissioner Wagner stated the school will be a wonderful improvement to this area.

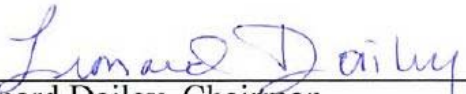
Motion carried with a unanimous voice vote, 5-0.

Other Business:

Dave Green announced the next meeting is scheduled for November 3, 2015.

Adjournment: The meeting adjourned at 6:30 p.m.

Approved by a motion: November 3, 2015



Leonard Dailey, Chairman



Tamara L Deines, Planning Clerk