

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

**The City of Billings Zoning Commission met on Tuesday, January 6, 2015 in the Miller Building 1<sup>st</sup> Floor Conference Room, 2825 3<sup>rd</sup> Avenue North, Billings, Montana.**

Chairman Leonard Daily called the meeting to order at 4:30 p.m. The City Council has designated **Monday, January 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.

<b>Commission and Staff</b>		<b>01/06/2015</b>	<b>02/03/2015</b>	<b>03/03/2015</b>	<b>04/07/2015</b>	<b>05/05/2015</b>	<b>06/02/2015</b>	<b>07/07/2015</b>	<b>08/04/2015</b>	<b>09/08/2015</b>	<b>10/06/2015</b>	<b>11/10/2015</b>	<b>12/01/2015</b>
Leonard Dailey, Jr.	Chairman	1											
Barbara Hawkins	Commissioner	1											
Dan Wagner	Vice Chairman	1											
Dennis Ulvestad	Commissioner	1											
Mike Boyett	Commissioner	1											
Candi Millar	Director, Planning & Community Services	-	-	-	1	-	-	-	-	-	-	-	-
Nicole Cromwell	Planner II, Zoning Coordinator	1	1	1	1	1	1	1	1	1	1	-	-
Tammy Deines	Planning Clerk	1	1	1	1	-	1	1	-	1	1	-	-
Wyeth Friday	Planning Division Manager	-	-	-	-	-	-	-	-	-	-	-	-
Juliet Spalding	Planner II	-	-	-	-	-	-	-	-	-	-	-	-
Lora Mattox	Planner II	-	-	-	-	-	-	-	-	-	-	-	-
Karen Husman	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	09/08/2015	10/06/2015	11/10/2015	12/01/2015	TOTAL
Zone Change	2												2
Special Review	1												1

Chairman Dailey introduced the Planning Department Staff and Commission: Nicole Cromwell, Zoning Coordinator; and Tammy Deines, Planning Clerk

**Others in Attendance:**

Pat Davies, Sanderson Stewart; Mary Dyre, KD Law Firm; Oscar Heinrich, citizen; Mitch Goplin, Billings, Clinic; Les & Mary Nagrodski; Julie Burton, Billings Clinic; Ed Jorden, applicant.

**Public Comment**

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

**Approval of Minutes: December 2, 2014**

Chairman Dailey called for approval of the December 2, 2014 meeting minutes.

**Motion**

**Dan Wagner made a motion and Mike Boyett seconded the motion to approve the December 2, 2014 meeting minutes as submitted.**

**The motion carried with a unanimous voice vote.**

**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. There was none.

**Public Hearings:**

Chairman Dailey reviewed the rules and the procedures by which the City Zoning Commission public hearings are conducted and asked Ms. Cromwell to open the next agenda item. Ms. Cromwell read aloud the legal notice and gave an overview of the application and staff's recommendation.

**Item #1: Special Review #921 – Memory Care Assisted Living – S 44<sup>th</sup> St West** – A special review request to allow a 120-unit memory care assisted living facility on Lot 1, Block 1 Lenhardt Square Subdivision 1<sup>st</sup> Filing in a Planned Development zone (PD) with underlying zoning of MF-R (multi-family) a 8.327 acre parcel of land. Tax ID: A34361.

### **REQUEST**

This is a special review request to allow the location of a 120-unit assisted living and memory care facility at the southeast corner of S 44th Street West and Monad Road in the Lenhardt Square Planned Development. The property is zoned MF-R that allows multi-family developments but requires special review for any assisted living facility for more than 8 residents. The property received a previous special review approval (SR #917) to allow a 100-unit facility but since that approval on July 28, 2014, the plan has been amended to increase the number of units and re-arrange the approved site. These changes trigger a new special review application. The property is legally described as Lot 1, Block 1, Lenhardt Square Subdivision, 1st Filing. The lot is a total of 8.327 acres and includes the assisted living facility, parking areas, internal access roads and landscaping area detailed on the site plan. The owner is Stock-Naughton, LLP and the agent is Sanderson Stewart.

### **RECOMMENDATION**

The Planning Division recommends approval, subject to the following conditions:

1. The special review approval is for the construction of an assisted living and memory care facility with 120 units.
2. The approval is limited to Lot 1, Block 1 of Lenhardt Square Subdivision, 1st Filing, generally located on S 44th Street West.
3. Increases in the number of units or the number of off-street parking spaces greater than 10% of the numbers shown on the site plan will require additional special review approval.
3. The site will be developed in substantial conformance with the submitted site plan dated 12-08-14. Minor modifications to the site plan are acceptable.
4. 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.
5. 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.

### **Discussion**

Chairman Dailey called for questions and discussion from the members of the Commission.

Dan Wagner asked if the basement will be used for storage. Leonard Dailey pointed out the August 2014 submittal was for 100 units. Nicole Cromwell said the building may have been re-designed from the August submittal as well.

### **Public Hearing**

Chairman Dailey opened the public hearing and called for proponents or opponents of City Special Review #921.

## **Proponents**

### **Pat Davies, Sanderson Stewart, 1300 North Transtech Way, Billings, Montana**

Mr. Davies is the agent for Stock Development. He thanked Nicole Cromwell for her presentation. He said the difference from the previous application is this plan has 120 units without plans for a future expansion.

## **Discussion**

Commissioner Dan Wagner asked about the construction timeframe. Mr. Davies said they plan to start this spring and there will be at least a 12-month construction period. Commissioner Ulevestad asked plans for the surrounding parcels and Mr. Davies stated an apartment complex is planned for the larger middle tract.

## **Opponents**

There was none. Chairman Dailey closed the public hearing.

## **Motion**

**Commissioner Barbara Hawkins made a motion and Commissioner Ulevestad seconded the motion to forward a recommendation to City Council of approval of City Special Review #921 with the and Findings of Fact presented by Staff.**

## **Discussion**

Chairman Dailey called for discussion on the motion. Mike Boyett pointed out this Commission reviewed this application last year and there is no change to the Conditions of Approval with this submittal.

**The motion to approve City Special Review #921 carried with a unanimous voice vote, 4-0.**

**Item #2: Zone Change #929 – Broadwater and Shiloh Road – Billings Clinic** – A zone change from Agriculture Open-Space (A-1) to Planned Development (PD) for a new medical campus for Billings Clinic on an unplatted parcel known as the N1/2SE1/4 of Section 3, T1S, R25E, an 80 acre parcel of land. A pre-application neighborhood meeting was held at Faith Chapel 517 Shiloh Road on July 22, 2014. Tax ID: D00348. A concurrent annexation request has been submitted.

## **REQUEST**

This is a zone change request from Agriculture Open-Space (A-1) to Planned Development (PD) with an underlying zoning of Community Commercial (CC) with special provisions for medical services, complementary uses and residential development. The location is on the south west corner of the intersection of Broadwater Avenue and Shiloh Road and is an unplatted 80-acre parcel of land. The property is currently owned by Billings Clinic and is leased for agricultural production. The property is outside the city limits, but a concurrent annexation petition has been submitted. The agent for the application is Pat Davies, P.E. of Sanderson Stewart. A pre-application neighborhood

meeting was held at Faith Chapel on July 22, 2014, and a Preliminary Review meeting with surrounding owners, the applicant and city staff on December 16, 2014.

## **RECOMMENDATION**

The Planning Division is recommending approval.

### **Discussion**

Chairman Dailey called for questions and discussion from the members of the Commission. Commissioner Wagner asked about the plans for the Shiloh Drain, and Nicole Cromwell replied the drain will be left open. She stated the SIA requirements will include consideration for the drain, and the landscaping on the property side of the drain would be the property owner's responsibility. She pointed out the Yegen family has master planned their property from Grand Avenue and Zimmerman Trail to Shiloh Road. In response to a question by Leonard Dailey, she said there will be an access to the property at midpoint with a right turn in and right turn out; and Howard Avenue will be a  $\frac{3}{4}$  intersection with no left turn onto Shiloh Road. There is no indication of a time frame for construction. She said the property owner chose to have the Shiloh Overlay District encompass the tract; the concept and building plans will be reviewed with the Planned Development and Shiloh overlay requirements. Commissioner Ulvestad asked about opening the parcel on the north side to Broadwater Avenue. Nicole Cromwell said this would be part of the SIA and would be constructed in phases, and the Cardwell Ranch will be responsible for their half of the right-of-way to meet the engineering standards.

### **Public Hearing**

At 5:59 p.m., Chairman Dailey opened the public hearing and called for proponents or opponents of City Zone Change #929.

### **Pat Davies, Sanderson Stewart, 1300 North Transtech Way, Billings, Montana**

Mr. Davis is the agent for Billings Clinic. He said there is an easement to the City of Billings for the Shiloh Drain, as it is operated as a stormwater facility. The Clinic will provide their portions of street frontage, sidewalks, and utilities. The Shiloh Overlay District will bring consistency with lighting requirements. Mr. Davies stated Mitch Goplin, Billings Clinic and Mary Dyer, the author of the planned development is in attendance this evening. There are no time frames or intimate projects at this point.

### **Mitch Goplin, 2243 St. Andrews Drive, Billings, Montana**

Mr. Goplin is the Vice President of Facility Services for Billings Clinic. Chairman Dailey asked about the timing to move forward. Mr. Goplin said they have owned the land since 2004, and they wish to have the Planned Development and annexation completed so they can plan for the future.

In response to a question by Commissioner Boyett, Mr. Goplin said the general feeling of the neighborhood meeting attendees is that there is a plan in place and but the Clinic was not sharing the details. He said the Planned Development will give them parameters for development. Commissioner Boyett commented on the hospital capacity and Mitch Goplin commented on bed capacity issues and clinic services. He said he doesn't see beds moving to the west end of Billings.

He said they have tested some concepts but have not started the planning process. Chairman Dailey commented this would be Billings Clinic's first move out of the Medical Corridor to property they own instead of lease.

**Mary Dyre, 235 Clark Ave. Billings, Montana**

Ms. Dyre said the process of creating a planned development was started two years ago; and they see the completion of the annexation and zoning as a preliminary matter. The planned development language is broad and includes mixed use design to give flexibility with a "township" feeling so the uses will flow. Ms. Dyre stated there are clear cut prohibited uses and she will adjust the agreement to keep up with the times and stay responsive. She said there has been some exploration of other communities and other models to come to this point.

In response to a question by Chairman Dailey, Ms. Dyre said they have been in close communication with those involved with the Billings West end Plan. Nicole Cromwell said staff is planning an update for the Billings West end Plan as it is thirteen years old. She said this agreement follows the goals for properties that have one arterial street front and it embodies the goals of the West end Plan.

**Kathy Teal, 3019 Golden Acres, Billings, Montana**

Ms. Teal stated she owns 15 acres west of this property and said she feels Billings Clinic will be a good neighbor. She noted 44<sup>th</sup> Street West has a ditch that encroaches on the land, and their land runs along this ditch. She said she contacted staff who told her the City would not force them to give land to build the road south of Broadwater Avenue.

Chairman Dailey asked if there was anyone else wishing to speak in favor or against City Zone Change #929. There was none. Chairman Dailey closed the public hearing at 5:15 p.m.

**Motion**

**Commissioner Boyett made a motion and Commissioner Wagner seconded the motion to forward a recommendation to City Council of approval of City Zone Change #929 with the Findings of Fact presented by Staff.**

**Discussion**

Chairman Dailey called for discussion on the motion. Commissioner Boyett stated Billings Clinic has been a good steward and followed through with the requirements of all their developments. Commissioner Ulvestad commended Billings Clinic for their service and will vote in favor. Commissioner Hawkins said the applicant's request to institute the Shiloh Overlay District for the entire property speaks highly of their intent. Commissioner Wagner said this application is a great concentration of what future needs will be down the road.

**The motion to approve City Zone Change #929 carried with a unanimous voice vote, 4-0.**

**Item #3 Zone Change #930 – Council Initiated text amendment – Dog Grooming in NC zones** – A zone change to Section 27-306 – Commercial and Industrial Uses – to allow dog grooming with no outdoor kennels or exercise yards in all Neighborhood Commercial (NC) zones. The City Council initiated the amendment on November 24, 2014.

**REQUEST**

This is a zone change that will amend Section 27-306 of the Billings, Montana, City Code (BMCC) to allow Dog Grooming in Neighborhood Commercial (NC) zoning districts. In 1997, when the City and County unified the zoning regulations, dog grooming was designated as an allowed use in only 4 zoning districts – Community Commercial (CC), Highway Commercial (HC), Controlled Industrial (CI) and Heavy Industrial (HI). Prior to 1997, the City Zoning Regulations did not allow dog grooming or other Animal Services (SIC 075) in the CC zone.

The City Council initiated the zoning text amendment on November 24, 2014.

**Proposed Amendment Section 27-306**

**Sec. 27-306. District Regulations: Commercial and Industrial Uses.**

TITLES AND DESCRIPTION OF INDUSTRIES	Residential Professional	Neighborhood Commercial	Community Commercial	Highway Commercial	Central Business District	Controlled Industrial	Heavy Industrial	Public	South 27th Street Corridor
<b>SR - SPECIAL REVIEW</b>									
<b>A - ALLOWED</b>									

<b>07 AGRICULTURAL SERVICES (EXCEPT BELOW):</b>				A		A	A		
– Offices only	A	A	A	A	A	A	A		A
0741 Veterinary services for livestock:									
– Boarding						A	A		
– Outpatient only				SR		A	A		
0742 Veterinary services for animal specialties:									
– Boarding			SR	A		A	A		SR
– Outpatient only		SR	A	A		A	A		A
075 Animal services, except veterinary (except below):									
– Dog grooming*		<u>A*</u>	A	A		A	A		
– Public animal shelters						A	A	A	
<u>* In NC zones no outdoor exercise areas or kennels allowed</u>									

## **RECOMMENDATION**

The Planning Division is recommending approval.

The Planning Division considered the amendment and attached one criteria for this use within the NC zoning districts. The criteria is meant to prevent potential impacts to surrounding residences. The criteria prohibits any outdoor kennels or exercise areas associated with dog grooming in NC zoning districts.

## **Discussion**

Chairman Dailey called for questions and discussion from the members of the Commission. Commissioner Boyett asked about the zoning on a property on 29<sup>th</sup> Street West and Grand Avenue, and Nicole Cromwell stated the property has Community Commercial zoning. He voiced concern with access to the property. Nicole Cromwell said the proposal has two entrances one off of Central Avenue and another off of 32<sup>nd</sup> Street West. Commissioner Dailey pointed out the code limitation of outdoor kennels or exercise areas. Nicole Cromwell explained this property owner has an existing business; and the request doesn't seem like a "far reach" as a veterinary clinic would be allowed. She said staff received no negative comments from neighborhood commercial property owners.

## **Public Hearing**

At 5:30 p.m., Chairman Dailey opened the public hearing and called for proponents or opponents of City Zone Change #930.

## **Ed Jorden, 5233 Blue Herron, Billings, Montana**

Mr. Jorden stated they have petitioned for this change as they have outgrown their space at the Shiloh Vet Hospital and are unable to expand at their location. He said they decided to limit the parcel to Neighborhood Commercial zoning in response to the neighbors' concerns and limit alcoholic use. Mr. Jorden compared this use to a human salon and stated pet grooming has grown more popular. He pointed out the property across the street has Community Commercial zoning which would allow for dog grooming. He said this will be a neighborhood type of business. In response to a question by Chairman Dailey, Mr. Jorden stated he is the owner of three veterinary hospitals but he is not a veterinarian.

Chairman Dailey asked if there was anyone else wishing to speak in favor or against City Zone Change #930. There was none. Chairman Dailey closed the public hearing at 5:30 p.m.

## **Motion**

**Commissioner Wagner made a motion and Commissioner Boyett seconded the motion to forward a recommendation to City Council of approval of City Zone Change #930-Council Initiated text amendment-Dog Grooming in Neighborhood Commercial Zones.**

## **Discussion**

Chairman Dailey called for discussion on the motion. Commissioner Ulvestad commended the applicant as he feels Billings Clinic is a pillar of the community. Commissioner Hawkins stated she

feels this is a great idea. Chairman Dailey said this makes a lot of sense as it opens up for a lot of other properties.

**The motion to approve City Zone Change #930 carried with a unanimous voice vote, 4-0.**

**Other Business:**

**--The next meeting will be held on February 3, 2015**

**Adjournment: The meeting adjourned at 5:34 p.m.**

**ATTEST: APPROVED ON FEBRUARY 3, 2015**

  
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Leonard Dailey, Chairman

  
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Tamara L Deines, Planning Clerk