

City of Billings Zoning Commission Meeting January 6, 2009

The City of Billings Zoning Commission met on January 6, 2008 in the City Council Chambers at 210 N. 27th Street, 2nd Floor.

Leonard Dailey, Jr., Chairman called the meeting to order at 4:30 p.m. Chairman Dailey said the recommendations of the Zoning Commission on the items heard tonight will be forwarded to the City Council to be heard at their meeting during a public hearing scheduled for Monday, January 26, 2009 at 6:30 p.m.

Commission and Staff		01/06/2009	02/03/2009	03/03/2009	04/07/2009	05/05/2009	06/02/2009	07/07/2009	08/04/2009	09/01/2009	10/06/2009	11/03/2009	12/01/2009
Barbara Hawkins	Commissioner	1											
Thomas Grimm	Commissioner	1											
Michael Larson	Vice-Chair	1											
Edward Workman	Commissioner	1											
Leonard Dailey, Jr.	Chairman	1											
Candi Beaudry	Director	-											
Nicole Cromwell	Planner II, Zoning Coordinator	1											
Elizabeth Allen	Clerk	-											
Wyeth Friday	Planning Division Manager	-											
Juliet Spalding	Planner II	-											
Aura Lindstrand	Planner II	-											
Lora Mattox	Planner II	1											
Dave Green	Planner I	-											

Total Number of 2009 Applications	01/06/2009	02/03/2009	03/03/2009	04/07/2009	05/05/2009	06/02/2009	07/07/2009	08/04/2009	09/01/2009	10/06/2009	11/03/2009	12/01/2009	01/06/2009
Zone Change	0												
Special Review	3												

Chairperson Dailey introduced the Planning Department Staff and Commission:
 Nicole Cromwell, Planner II/Zoning Coordinator
 Lora Mattox, Planner II
 Elizabeth Allen, Planning Clerk

Public Comments:
 There were none.

Commissioner Hawkins arrived at 4:32 p.m.

Approval of Minutes:
On a motion by Commissioner Workman, seconded by Commissioner Larson, and approved with a 5-0 voice vote the minutes of December 2, 2008 were approved.

Public Hearings:

Chairman Dailey reviewed the rules and the procedures by which the City Zoning Commission public hearings are conducted.

Item #1: Request to Initiate a Text Amendment to Historic Preservation Regulations in 27-500 of the Unified Zoning Regulations – A request from the Yellowstone Historic Preservation Board to amend the language of the existing code to update terms, allow local designation of historic properties or districts, require a Certification of Appropriateness for exterior remodeling of properties on the local or National Register and allow penalties for unauthorized demolition of properties within recognized historic districts.

Ms. Cromwell read the legal description and **Ms. Mattox** presented a brief power point presentation and gave the staff recommendation. Staff is recommending that the Zoning Commission initiate the text amendment. **Ms. Mattox** stated that she hopes to present this to the Zoning Commission in March depending on how long the legal review takes.

Discussion:

Commissioner Dailey asked who makes up the Historic Preservation Board. **Ms. Mattox** explained that the Board includes members from Billings, Yellowstone County, Laurel and the Crow Reservation. **Commissioner Dailey** asked how long it takes to create a historic district. **Ms. Mattox** stated that this can be a time consuming process that includes surveying and title work as well as approval from several different agencies. The process can take from one to five years. The creation of a historic district helps to protect neighborhood integrity. They would like to have local districts so that the city has the ability to oversee demolition.

Commissioner Larson asked for clarification on the process that will take place if the board initiates the text amendment. **Ms. Mattox** clarified that after the amendment is constructed it will go before the Zoning Commission and then before the City Council. **Commissioner Dailey** asked if **Ms. Mattox** is the specialist in Historic preservation. She stated that she has done a lot of work with Historic preservation. **Commissioner Dailey** asked if there have been any comments regarding this proposal. **Ms. Mattox** stated that there has been some concern from residential property owners that they will be unable to do anything to their homes. In truth, this will just help to preserve the neighborhood and its historic character. There is a hope residential districts will petition to become a local district. Commercial districts will automatically be included as local districts. **Commissioner Dailey** asked who is crafting the language of this text amendment. **Ms. Mattox** stated that she is currently crafting the text amendment.

Public hearing closed at 4:54 p.m.

Motion:

On a motion by Commissioner Larson, seconded by Commissioner Workman and approved with a 5-0 voice vote the Board voted to initiate a text amendment to the Historic Preservation Regulations 27-500 of the Unified Zoning Code.

Item #2: City Special Review #871 – 124 N Broadway – Babcock Building – A special review to allow the location of an All-Beverage Liquor License without gaming in the Central Business District (CBD) zone in the Rock Creek Coffee Roasters, ground floor of the Babcock Building on a 21,000 square foot lot, Block 93, Lots 6-12, Billings Original Town. Tax ID A00642. The Babcock, LLC, owner and Randy Heiser is the agent.

Ms. Cromwell read the legal description and presented a brief power point presentation and gave the staff recommendation. Staff is recommending conditional approval.

Discussion:

Commissioner Dailey asked for clarification on the legal description and the map that was presented. **Ms. Cromwell** explained that the site plan will limit where the liquor license will be allowed to operate.

Applicant:

Randy Heiser, 3295 Granger Ave, he is in agreement with all the conditions that have been presented. He stated that they do currently serve food outside of the building on a patio. He wondered if the condition could be re-written to allow for food service outside of the building with no alcohol services outside. **Ms. Cromwell** stated that if they have legally served food outside then they would still be allowed to do that. If they want to serve alcohol outside they would need a second

special review. **Randy Heiser** also stated that they are in quite a hurry because of the very short time line for transferring this new liquor license.

Proponents:

There were none.

Opponents:

There were none.

Public hearing closed at 4:59 p.m.

Motion:

On a motion by Commissioner Hawkins, seconded by Commissioner Larson and approved with a 5-0 voice vote a recommendation of approval of Special Review #871 will be forwarded to the City Council on its meeting of January 26, 2009 with the following conditions:

1. The special review approval shall be limited to a fraction of Lot 6 & Lots 7-12, Block 93, Billings Original Town (BOT) generally located at 124 N Broadway.
2. Development of the site shall be in substantial conformance with the site plan submitted with this application and shown in this staff report. Deviations from the approved site plan that show additional square footage for all beverage service within the Babcock Building, the addition of an outdoor patio or the addition of another alcoholic beverage license with gaming will require additional special review approval.
3. As shown on the site plan submitted with the application there shall be no outdoor patio. The addition of an outdoor patio will require an additional special review.
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.

Item #3: City Special Review #872 – 2224 Minnesota Avenue – PowderKote Unlimited – A special review to allow sandblasting in a Controlled Industrial (CI) zone, on a 39,000 square foot lot, Block 139, Lots 7-18, Billings Original Town. Tax ID A00886. Midland West Manufacturing, owner and PowderKote Unlimited, agent.

Ms. Cromwell read the legal description and presented a brief power point presentation and gave the staff recommendation. Staff is recommending conditional approval.

Discussion:

Commissioner Dailey asked who will be responsible for the inspection of the building as set forth in condition #3. **Ms. Cromwell** stated that Nancy McCullough, Commercial Code Officer, will be responsible for making sure the conditions are complied with. **Commissioner Dailey** asked who qualifies as a complainant. Can anyone complain or do you have to live in the area? **Ms. Cromwell** stated that any resident of the City of Billings can make a complaint.

Applicant:

Eddie MacCarthy, he agrees to comply with all the conditions. He has been working with Nancy to comply with what needs to be done. **Commissioner Dailey** asked if some things have to brought

outside to transport them from the blasting area to the powder coating area. **Eddie MacCarthy** stated that they have a walk way.

Proponents:

Opponents:

Public hearing closed at 5:12 p.m.

Motion:

On a motion by Commissioner Larson, seconded by Commissioner Workman and approved with a 5-0 voice vote a recommendation of approval of Special Review #872 will be forwarded to the City Council on its meeting of January 26, 2009 with the following conditions:

1. The special review approval for sandblasting is for Lots 7-18 of Block 139 of BOT generally located at 2224 Minnesota Avenue and no other special review use is approved or implied by this application.
2. Development of the site shall be in substantial conformance with the site plan submitted with this application and shown in this staff report. Deviations from the approved site plan that show addition of floor area for sandblasting greater than 10% of the existing area or outdoor sandblasting will require additional special review approval.
3. The applicant shall comply with all requirements of state and federal regulations, codes and statutes regarding the operation of the sandblasting business including but not limited to regulations administered by the Yellowstone County Air Pollution Control Board, the Montana Department of Environmental Quality, the U.S EPA and OSHA.
4. All sandblasting conducted on the property shall be conducted within an enclosed building.
5. The applicant shall maintain the property so as to minimize fugitive dust including but not limited to spraying down exterior ground, paved or unpaved, with water or other dust control measures.
6. 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.
7. 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.

Item #4: City Special Review #873 – 1212 Grand Avenue – Albertson’s – A special review to allow the location of a drive through service across an alley from a Residential 7,000 (R-70) zone in a Community Commercial (CC) zone in the former Rite-Aid Pharmacy west of the Albertson’s on a 4.34 acre parcel, Tract A of C/S 2192. Tax ID D01299. Patrick Goggins, owner and CTA Architects and Engineers, is the agent.

Ms. Cromwell read the legal description Lora presented a brief power point presentation and gave the staff recommendation. Staff is recommending conditional approval.

Discussion:

Commissioner Larson asked for clarification on condition #4. He would like to know if the entire alley will need to be fenced or if it is limited. **Commissioner Grimm** asked if condition #3 refers to an existing storm drain. **Ms. Cromwell** stated that it does. This proposal will actually reduce the amount of impermeable surface and so there will be less need for storm drainage. **Commissioner Workman** asked about the hours of operation. **Ms. Cromwell** stated that the drive-thru is allowed to operate for the same hours as the business itself. **Commissioner Workman** asked if the drive-thru will have a covered area for cars. **Ms. Cromwell** stated that applicant is present to answer that question. The site plan doesn't show whether a covered area will be provided. **Commissioner Workman** asked if the alley is a right only or a full right and left turn. **Ms. Cromwell** stated that this is a full right and left exit. **Commissioner Dailey** asked if the fence that will be required will impede the clear vision for the alley. **Ms. Cromwell** stated that the fence currently steps down to allow for the clear vision triangle and they will check the landscaping plan to make sure that there will be no landscaping that will impede the clear vision triangle. **Commissioner Hawkins** asked if the people to the south of the alley are aware that Albertson's will be required to maintain the fence. **Ms. Cromwell** stated that often in applications like this the applicant will contact the adjacent property owners to inform them they will be taking over the maintenance of the fence along the alley.

Applicant:

Nicole Dovernore, CTA Architects agent for applicant, she has discussed the conditions with her client and they agree with all the conditions. They would like to request modification of a couple of the conditions. She asked if the applicant will have the ability to discuss the needed curb cuts with the Engineering Division once it is determined what needs to be done. The condition uses the word "may" instead of "shall" because the Engineering Division is not ready to commit to what needs to be done in regards to the curb cuts. **Nicole Dovernore** would also like to see condition #4 modified to include a certain amount of lineal footage or for a certain number (two) properties. Albertsons pharmacy is open from 9 a.m. to 9 p.m. and they will be adding a metal canopy that will match the building.

Brain Stewart, 250 Park Center Blvd, agent for Albertsons, the drive thru is a courtesy to customers. Most customers will be tuning onto 13th St. The alley will very often have large trucks in it because they take delivery during the day.

Proponents:

There were none.

Opponents:

There were none.

Public hearing closed at 5:44 p.m.

Motion:

On a motion by Commissioner Larson to approve with the following changes to the conditions (reflected in the conditions listed below): condition #3, drop #4 and #5 from and condition #4 add the words "the fence length will be limited to shielding the first two residential properties South of the Alley and East of 13th St West", seconded by Commissioner Hawkins and approved with a 5-0 voice vote a recommendation of approval of City Special Review #873 will be forwarded to the City Council on its meeting of January 26, 2009 with the following conditions:

1. The special review approval for a drive through window shall be limited to Tract A of C/S 2192 as shown on the site plans submitted with this application.
2. Any new lighting within the parking lot or drive through areas shall have full cut-off shields so light is directed to the ground and not onto adjacent property.
3. The drive through location shall be constructed as shown on the submitted site plan with the following modifications: 1) the drive through exit shall be to the existing alley south of the building - no new drive approach or exit will be allowed directly on to 13th Street West; 2) the storm water retention pond is eliminated; and 3) the queue for the drive through window shall have enough linear feet for 3 waiting vehicles without intruding on the drive lane and approach from 13th Street West.
4. The applicant is required to continuously maintain and replace as necessary the sight-obscuring fencing that runs along the south boundary of the alley adjacent to the residential properties. This requirement is limited to the first two residential properties south of the alley and east of 13th Street West.
5. There shall be no outdoor public address system or outside announcement system of any kind. The drive through may have an outdoor private address system as standard for all drive through services.
6. Demolition of the existing structure on the property will provide for site security, debris and trash containment, dust control during and after structure demolition, and no demolition work shall occur prior to 8 am or after 8 pm daily. A demolition permit from the Building Division is required.
7. The proposed development shall comply with all other limitations of Section 27-613 of the Unified Zoning Regulations concerning special review uses, all landscaping requirements specified on Section 27-1101, and all other City regulations that apply.

Other Business:

Adjournment:

The meeting was adjourned at 5:58 p.m.

Leonard Dailey, Chairman

ATTEST:

Elizabeth Allen, Planning Clerk