

**City of Billings Zoning Commission Meeting  
June 7, 2011**

**The City of Billings Zoning Commission met on Tuesday, June 7, 2011 in the City Hall Council Chambers at 210 N. 27<sup>th</sup> Street, 2<sup>nd</sup> Floor.**

Chairman Leonard Dailey called the meeting to order at 4:32 p.m. These items will be heard by City Council on Monday, June 27, 2010.

<b>Commission and Staff</b>		<b>01/04/2011</b>	<b>02/01/2011</b>	<b>03/01/2011</b>	<b>04/05/2011</b>	<b>05/03/2011</b>	<b>06/07/2011</b>	<b>07/05/2011</b>	<b>08/02/2011</b>	<b>09/05/2011</b>	<b>10/04/2011</b>	<b>11/01/2011</b>	<b>12/06/2011</b>
Leonard Dailey, Jr.	Chairman	1	E	1	1	-	1						
Matt Krivonen	Commissioner	1	1	1	A	-	1						
Barbara Hawkins	Commissioner	1	1	1	1	-	1						
Dan Wagner	Commissioner	1	E	1	E	-	1						
Edward Workman	Commissioner	1	1	1	1	-	1						
Candi Beaudry	Director, Planning & Community Services	-	-	-	-	-	-						
Nicole Cromwell	Planner II, Zoning Coordinator	1	1	1	1	-	1						
Tammy Deines	Planning Clerk	-	-	1	1	-	1						
Wyeth Friday	Planning Division Manager	1	1	-	-	-	1						
Juliet Spalding	Planner II	-	-	-	-	-							
Lora Mattox	Planner II	-	-	-	-	-							

<b>Total Number of 2009 Applications</b>	<b>01/04/2011</b>	<b>02/01/2011</b>	<b>03/01/2011</b>	<b>04/05/2011</b>	<b>05/03/2011</b>	<b>06/07/2011</b>	<b>07/05/2011</b>	<b>08/02/2011</b>	<b>09/05/2011</b>	<b>10/04/2011</b>	<b>11/01/2011</b>	<b>12/06/2011</b>	<b>TOTAL</b>
<b>Zone Change</b>	2	1	1	1	0	2							7
<b>Special Review</b>	0	0	1	1	0	0							2

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

**Public Comments:**

Chairman Leonard Dailey called for public comment at 4:33 p.m. There was none. Chairman Leonard Dailey closed the public comment portion of the meeting.

**Approval of Minutes April 5, 2011 (The May 3, 2011 meeting was cancelled).**

**Motion**

**On a motion by Commissioner Workman, seconded by Commissioner Wagner and approved with a 5-0 voice vote, the minutes of April 5, 2011 are approved as submitted.**

**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. Nicole Cromwell stated the following was received by the Planning Division

May 8, 2011 e-mail TJ Wierenga regarding request for Urban Chicken Ordinance

May 20, 2011 e-mail TJ Wierenga regarding request for Urban Chicken Ordinance

May 31, 2011 packet Doug Ruebke, P.O. Box 30834, Billings, Montana

June 2, 2011 e-mail Councilmember Angela Cimmino regarding request for Urban Chicken Ordinance

April 27, 2011 e-mail Citizen Wynette Maddox-rooster complaint

May 23, 2011 Councilperson Angela Cimmino/Emily Gocke-Smith regarding Urban Chicken Issue

**Public Hearings:**

At 4:37 p.m. Chairman Leonard Dailey reviewed the rules and the procedures by which the City Zoning Commission public hearings are conducted. Nicole Cromwell read aloud the legal description for the proposed zone change.

**Item #1: City Zoning Change #876 – 519 Crow Lane** – A zone change request from Residential 7,000 (R-70) to Residential Multi-Family-Restricted (RMF-R) on Lot 25 and the West 14 feet of Lot 26, Block 1, Arrowhead Subdivision a 20,235 square foot parcel of land with an existing 4-plex multi-family building. A pre-application neighborhood meeting was held on March 11, 2011. Tax ID: A 02547, Trenton and Jayson Parks, owners

**REQUEST**

The applicant is requesting a zone change from Residential 7,000 (R-70) to Residential Multi-family-Restricted (RMF-R) on a 20,235 square foot parcel of land containing an existing 4-plex multi-family dwelling originally constructed in 1955. The subject property is legally described as Lot 25 and the west 14 feet of Lot 26, Block 1, Arrowhead Subdivision and is located at 519 Crow Lane in Billings Heights. The applicant is proposing the zone change in order to bring the property development into conformance with the zoning and to facilitate property improvements.

**RECOMMENDATION**

The Planning Department is recommending approval.

Nicole Cromwell gave a short presentation of the staff report.

**Discussion:**

At 4:40 p.m., Chairman Leonard Dailey asked the members of the Commission for questions and discussion. In response to a question by Dan Wagner, Nicole Cromwell stated this property was annexed in 1984 and has city water and sewer. She clarified the lot coverage options for structures and access points for an additional structure. She said one option is to have the structure be addressed on Crow Lane but the primary access and parking could be off of the alley. She stated the financial obligations would have to be considered.

**Applicant**

Chairman Leonard Dailey called for presentation by the applicant.

**Trenton Parks, 519 Crow Lane, Billings, Montana**

Mr. Parks thanked Ms. Cromwell for her presentation. He said that major issue is that the structure would not be allowed to be rebuilt should it be damaged by more than fifty percent. In response to a question by Ed Workman, Mr. Parks explained that his request for the zone change is to protect the ability to rebuild. He said that another four-plex could be constructed but this would be far in the future. Leonard Daily clarified and said the existing footprint could be built as it exists under the current zoning.

Chairman Leonard Dailey called for discussion and questions by the members of the Board. There was none.

### **Public Hearing**

Chairman Leonard Dailey opened the public hearing and called for proponents or opponents of City Zone Change #876. At 4:47 p.m., Chairman Dailey closed the public hearing and asked for a motion.

### **Motion**

**Commissioner Hawkins made a motion and it was seconded by Commissioner Wagner to forward a recommendation of approval to City Council of City Zone Change #876-519 Crow Lane, Billings, Montana as presented by staff.**

### **Discussion**

Chairman Leonard Dailey called for discussion on the motion. Barbara Hawkins said approval of the zone changes will protect the owner. Ed Workman stated this is a private property issue and makes good sense.

**Motion carried unanimously, 5-0.**

Chairman Dailey asked Nicole Cromwell to open this agenda item. Nicole Cromwell explained that this is a public hearing. She followed with a PowerPoint presentation and the staff report.

#### **Item #2: Request to Initiate a City Text Amendment** – Request to Zoning

Commission to initiate an amendment to the zoning regulations to allow raising a limited number of chickens in residential zoning districts. Requested by TJ Wierenga, Hens In The Backyard Group. If the City Zoning Commission agrees to initiate the amendment, revisions to the regulations will be drafted and forwarded to the Zoning Commission for further public hearing(s) prior to a recommendation to the City Council.

Zoning Text Amendments may be initiated by the Board of County Commissioners, the City Council, the Planning Board, the County Zoning Commission, or the City Zoning Commission. The proposed amendments would only affect City property and therefore the Planning Division staff is requesting the City Zoning Commission initiate the proposed amendments. The Planning Division has not investigated the rules and regulations to allow chickens within city limits. IF initiated, the Planning Division staff would start drafting a code for the City of Billings based on research and will likely include citizens and staff from the Animal Control Board and from the Animal Control Division. Changes needed within the Zoning Regulations to allow this use would be relatively small while licensing or permitting rules would be placed under Animal Control authority.

Initiation of a Text Amendment requires no recommendation by the Board on the merits of the proposed amendments, but the Board must decide to approve or deny this request. If approved, the Zoning Commission will hold a public hearing on the text amendment when it is finalized and forward recommendations to the City Council for another public hearing and action on this item.

## **RECOMMENDATION**

None

### **Discussion:**

At 5:00 p.m., Chairman Leonard Dailey asked the members of the Commission for questions and discussion. He asked how much staff time will be expended for a text amendment. Nicole Cromwell explained that three to four drafts would be needed prior to being satisfied for an amendment; with each draft taking approximately 30-40 hours of staff time and may be returning to the Zoning Commission in the late fall. Chairman Dailey asked about the pot bellied pig variance that was previously reviewed. Nicole Cromwell said that the decision was appealed but the Board of Appeals upheld the staff decision. She said that Code Enforcement staff has received twenty complaints from citizens regarding chickens. In response to a question by Ed Workman, Nicole Cromwell noted the photos of chicken coops and asked if the criteria for the coops will be applied. Ms. Cromwell said a building permit is not required but the drafted code can be very specific about the aesthetics of the enclosures. Barbara Hawkins asked what action could be taken should they decide not to initiate the text amendment. Nicole Cromwell said a City focused regulation could be initiated by City Council or the City/County Planning Board. Ed Workman pointed out that there is no mention of a maximum allowable square footage per hen. Nicole Cromwell said this language could be built into a local regulation.

Chairman Leonard Dailey called for presentation by the applicant.

### **TJ Wierenga, 2215 Beloit, Hens In The Backyard Group, Billings, Montana**

Ms Wierenga stated it is the right and responsibility of property owners to use their land to a benefit to everyone concerned. She said chickens are an ecosystem unto themselves. She noted some logistics of food residuals being recycled and said this reduces greenhouse gas pollution. She stressed that more sustainable methods of food production is in order. Ms Wierenga noted urban chickens are allowed in several large cities including, New York City, Dallas, Los Angeles, Seattle, Portland, Seattle, and Nashville. She said that chickens are productive pets. She asked the members of the Commission for their consideration of this request. In response to a question by the Leonard Dailey, she said she will only have her chickens for a few more days due to a Code Enforcement violation issue.

### **Sarah Hobert, 4134 Blackpool Trail, Billings, Montana**

Ms. Hobert spoke about the abundance of natural resources and the connection to the land here in Billings, Montana. She said this pushes us to reinvent terms that are progressive, modern, and urban. She said she is committed to fighting for causes that would restore the urban fabric of Billings and sustaining causes that are enduring and renewable. She said she is supporting the chicken initiative, as it is the first step in a larger context in designing enduring communities. In response to a question by Ed Workman, Ms. Hobert said she was raised in the city and does not have backyard hens.

**Emily Gocke-Smith, 2520 Lake Heights Drive, Billings, Montana**

Ms. Gocke Smith is a small animal veterinarian who works in Billings, Montana; and has spent time in the Army working with food safety and health. She stated she would like to address some of the public health issues that have been brought up as concerns. Regarding salmonella development, she stated chickens can have this in their gastrointestinal tract, pass it through the feces, and contaminate the eggs. She said the only additional risk is to those that are taking care of the chickens; this can be easily prevented with good hygiene. She said chickens can have Avian Influenza. Ms. Gocke-Smith stated this may be transmitted to people but there is not any highly pathogenic Avian Influenza in this country and it can be addressed with basic bio-security for any flock. She said chickens can be infected with West Nile Virus and do not carry this or rabies. She said that lice only infect chickens. She stated they need to be kept in a predator proof enclosure to be kept from predators. Ms. Gocke-Smith commented there are a lot of misnomers and concerns on this issue and offered a handout to Staff and the members of the Zoning Commission. She noted some helpful websites and asked what better way to protect ourselves than by being self sufficient. She said approval of this request is a good step forward.

**Helen Hampton, Billings Heights, Billings, Montana**

Ms. Hampton stated she is interested in the Backyard Hen Initiative as hens are easily kept and require a small enclosure, water, and food. She said they are quiet, eat table scraps which now go to the landfill, and produce fertilizer to aid her garden. Ms. Hampton said three or four hens would provide superior tasting eggs and meat. Ms. Hampton stated she would like to control some of her food supply.

**Jason Jam, 402 Yellowstone Ave., Billings, Montana**

Mr. Jam said he totally supports the Backyard Hen Initiative. He said chickens productive, wonderful creatures that can be owned. Mr. Jam said that without the initiative, we are denying people a great pleasure.

**Roy Zimmerman, 934 Poly Drive, Billings, Montana**

Mr. Zimmerman stated he is a homeowner that saw the Billings Gazette article and would like the opportunity to have chickens. He said he feels it would be a plus for the community.

**Jackie Vestal, 2622 Glenwood Lane, Billings, Montana**

Ms. Vestal stated she moved here from Spokane Washington. She said she was allowed to have six chickens per yard and enjoyed them there. She stated she would make sure her chickens are well taken care of and look forward to taking her grandchildren to the backyard to pick eggs.

**Karen Thunderland, 529 Ave. B, Billings, Montana**

Ms. Thunderland said she has several friends that have chickens and has been blessed by the eggs she receives. Ms. Thunderland stated she would like to have the opportunity to have her own chickens should she decide to do so.

**Susan Jordan, 2108 Yellowstone, Billings, Montana**

Ms. Jordan stated she is here this evening as she read the article in the Billings Gazette. She said she does not want to have chickens herself but enjoys chickens. She stated they are fun to feed and one of the best times in her day was to feed her neighbor's chickens. She commented that there was no noise or smell due to the chickens.

**Annie Fisher, 2010 Woody Drive, Apartment 16, Billings, Montana**

Ms. Fisher said she was raised in suburb of Los Angeles and had chickens. She said was delighted to find fresh eggs in her present area, as they are "eggier" than the eggs purchased from the store. She said the group is asking for six hens per back yard. Ms. Fisher said hens cluck but are not as noisy as a dog or a cat could be. She said store bought eggs are bought from "chicken mills", which is not responsible chicken ownership. Ms. Fisher spoke about the natural resources and the independent nature of Billings' citizens and said responsible chicken ownership is needed.

**Melissa Zimmerman, 934 Poly Drive, Billings, Montana**

Ms. Zimmerman stated she was attracted to Billings due to its sense of "ruralness". Ms Zimmerman said she supports responsible care of chickens and aesthetically pleasing coops. She said she has ducks, bunnies, turkey, and deer in her backyard and the chickens will not add that much more waste.

**Opposition**

**Dennis Ulvestad, 3040 Central Ave., Billings, Montana**

Mr. Ulvestad said that although he is the co-chair of the Animal Control Board, he is representing himself as a citizen. He asked if the house next door's property values would be affected or if a potential buyer could be scared off by a neighbor who has chickens. He said that this initiative may set precedence for geese, ducks, goats, and sheep. He noted that some properties have smaller yards and boundaries. He voiced concern with chickens out of the coop, and potential additional work for dog catchers to responsibly check on chickens and dogs.

**Doug Rubke, 110 S. 31<sup>st</sup> Street, Billings, Montana**

Mr. Rubke stated is a member of the Animal Control Board but is representing himself this evening. He noted that his neighbor's house is 1.3 feet from property line and asked how far a coop can be placed from his house. He distributed a copy of the City Code to the members of the Commission and referred to the section which speaks to building farm and ranch related accessory structures located a minimum of 20 feet from property lines and 20 feet from other structures on the lots. Mr. Rubke stated that this type of ordinance was not adopted by the City of Great Falls and the City of Bozeman has a requirement that all of the neighbors in the surrounding area have to approve ownership. He said he has lived in a subdivision 20 miles out of town and chickens were not allowed. He spoke to the potential attraction of skunks and raccoons and potential rabid animals to chicken coops. Mr. Rubke voiced concern with the smell and presented a chicken dropping. He said the droppings leach into the soil, washes out, ferments and carry the smell into

his yard. He submitted an exhibit of his backyard and the neighbor's boundary and noted a Great Falls committee's report why they voted against this. Mr. Rubke stated there are a lot of negative reasons. He said he visited chicken facilities and the smell carried after he left. He pointed out that free ranged eggs can be purchased for \$2.50 dozen.

Mr. Chairman Dailey asked if there was anyone else wishing to speak in favor or against the request to initiate a Text Amendment to Request to Zoning Commission to initiate an amendment to the zoning regulations to allow raising a limited number of chickens in residential zoning districts. There was none. Chairman Dailey closed the public hearing at 5:32 p.m. and called for a motion.

### **Motion**

**Commissioner Workman made a motion and it was seconded by Commissioner Wagner to forward a recommendation of denial of the request to initiate a Text Amendment to Request to Zoning Commission to initiate an amendment to the zoning regulations to allow raising a limited number of chickens in residential zoning districts.**

### **Discussion**

Chairman Leonard Dailey called for discussion on the motion. Ed Workman stated he has read all of the requests along with literature which solidified his thinking on this request. He stated he grew up on a farm, and six chickens in a backyard there will leave nothing but dirt. He said the droppings will wash out and eventually end up in the sewer system. He voiced concern with the smell and the additional need for Code Enforcement and Animal Control staff when they are already worked to the maximum limit. He said this will add a tremendous load to the number of complaints. Mr. Workman said the chickens will attract skunks, coyotes, and field mice. He stated the fences put up to protect the chickens will affect the ability for children to move about in the neighborhood. He thanked the citizens for their input, and said he feels chickens belong outside of the City, ("Garage Logic 102"). Dan Wagner said there will be an additional work load placed on enforcement staff and it is not fair to citizens that do not want this. He said the chickens will attract predators. Mr. Wagner said he grew up on farm and this is a problem that should not be expanded in the community. He stated it will affect property values and does not want them in his yard or neighborhood. Barbara Hawkins voiced concern with the sale ability of a house located to a neighbor with chickens. She said it may down value the property of those that don't want chickens but have no control over this. Leonard Daily said he appreciates all of the discussion. He said he feels there are other avenues to pursue.

**Motion carries unanimously, 5 -0 to deny the request.**

### **Other Business/Announcements:**

- The next City Zoning Commission meeting will be held on Tuesday, July 5, 2011.
- Nicole Cromwell noted that two members are needed for the City Board of Adjustment and encouraged Commission members to further this request.

- Nicole Cromwell informed the members of the Commission the East Billings Urban Renewal District are working with a steering committee to work to develop a form based code. She said this is a first in Montana, and explained the code reduces the emphasis on uses and increases the emphasis on form development. There is a Community meeting on Wednesday, July 20<sup>th</sup>, 2011, 11:00 a.m.-1:00 p.m., at the First Interstate Bank Operations Center, 6<sup>th</sup> Avenue North. The consultant will be making a presentation and three new districts may be established. She said a map and text amendments will be coming before the Commission in January 2012.

**Adjournment:**

*The meeting was adjourned at 6:15 p.m.*

**ATTEST:**

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**Leonard Dailey, Chairman**

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**Tamara L. Deines, Planning Clerk**