

**City of Billings Zoning Commission Meeting
July 5, 2011-Approved by a motion on August 2, 2011**

The City of Billings Zoning Commission met on Tuesday, July 5, 2011 in the City Hall Conference Room at 210 N. 27th Street, 1st Floor.

Chairman Leonard Dailey called the meeting to order at 4:35 p.m. These items will be heard by City Council on Monday, July 25, 2011.

Commission and Staff		01/04/2011	02/01/2011	03/01/2011	04/05/2011	05/03/2011	06/07/2011	07/05/2011	08/02/2011	09/05/2011	10/04/2011	11/01/2011	12/06/2011
Leonard Dailey, Jr.	Chairman	1	E	1	1	-	1	1					
Matt Krivonen	Commissioner	1	1	1	A	-	1	1					
Barbara Hawkins	Commissioner	1	1	1	1	-	1	1					
Dan Wagner	Commissioner	1	E	1	E	-	1	-					
Edward Workman	Commissioner	1	1	1	1	-	1	1					
Candi Beaudry	Director, Planning & Community Services	-	-	-	-	-	-	-					
Nicole Cromwell	Planner II, Zoning Coordinator	1	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	-	-	-	-	-		-					
Karen Miller	Planning Assistant							1					

Total Number of 2009 Applications	01/04/2011	02/01/2011	03/01/2011	04/05/2011	05/03/2011	06/07/2011	07/05/2011	08/02/2011	09/05/2011	10/04/2011	11/01/2011	12/06/2011	TOTAL
Zone Change	2	1	1	1	0	2	1						8
Special Review	0	0	1	1	0	0	1						3

Chairman Leonard Dailey introduced the Planning Department Staff and Commission: Nicole Cromwell, Zoning Coordinator; and Karen Miller, Planning Assistant.

Public Comments:

Chairman Leonard Dailey called for public comment at 4:38 p.m. There was none. Chairman Leonard Dailey closed the public comment portion of the meeting.

Approval of Minutes: June 7, 2011

Motion

On a motion by Commissioner Workman, seconded by Commissioner Krivonen and approved with a 3-0 voice vote, the minutes of June 7, 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.

Public Hearings:

At 4:38 p.m. Chairman Leonard Dailey reviewed the rules and the procedures by which the City Zoning Commission public hearings are conducted.

Item #1: City Zoning Change #877 – 3210 Henesta Drive – PD Zone Change - Siam Thai– A zone change from Planned Development (PD) with underlying zoning of Neighborhood Commercial (NC) to PD-NC with an allowance for the on-premise consumption of beer and wine without gaming and with provision of catering services on a parcel of land described as Lot 3, Block 40, Harvest Subdivision, 4th Filing, a 37,739 square foot parcel of land, Tax ID C09848; Steel Properties, owner and Siam Thai Restaurant and Andrew Billstein, Billstein Law Firm, agents.

REQUEST

This is a zone change request from Planned Development – Neighborhood Commercial to Planned Development – Neighborhood Commercial with an allowance for the on-premise sale of beer and wine without gaming and the provision of catering services. The application is for a 37,739 square foot parcel of land described as Lot 3, Block 40, Harvest Subdivision, 4th Filing located generally at 3210 Henesta Drive. The property is owned by Steel Properties, Ronald Steel, President and is represented by Siam Thai, LLC and Andrew Billstein, Billstein Law Firm. The agents and owner conducted a pre-application neighborhood meeting on May 31, 2011 and a preliminary review meeting was held by city staff on June 23, 2011.

RECOMMENDATION

The Planning Division is recommending approval to the Planned Development agreement.

Nicole Cromwell gave a short presentation of the staff report. She explained the meeting room location change would limit the presentation to verbal with no overhead viewing presentation. Nicole explained the reason for the zone change was to allow the sale of beer and wine without gaming. The request was triggered by an application from the state for their beer and wine license, and with the PD agreement and underlying zoning of Neighborhood Commercial, sale of alcoholic beverages is not allowed in the NC zoning district.

Chairman Dailey asked how it was determined there had been an error in distributing information to the applicant.

Nicole clarified an error had been made in February when staff had completed a zoning clarification that is indicated the underlying zoning in the Planned Development would allow the sale of beer and wine. This error was discovered when another staff member received the application for the sale of beer and wine from the State of Montana for this location. It is typical that liquor licenses are reviewed by staff to ensure the location will allow such use. As soon as Staff discovered the error the applicant and the State office were contacted in an attempt to resolve the problem.

Commissioner Workman asked if the applicant had to incur additional costs because of the error.

Nicole said the fee has been waived for the application.

Barbara Hawkins arrived at 4:46 p.m.

Discussion:

At 4:47 p.m., Chairman Leonard Dailey asked the members of the Commission for questions and discussion.

Applicant

Chairman Leonard Dailey called for presentation by the applicant.

Andrew Billstein, Billstein Law Firm, Billings, Montana

Mr. Billstein is the agent for Steet Properties and Siam Thai Restaurant said he concurred with staff's recommendation. Mr. Billstein said they were appreciative of staff for helping them work thru the error that came up. Mr. Billstein asked for approval of the zone change application so the restaurant can remain in the same location.

Chairman Dailey asked if the license would be approved with this zone change.

Mr. Billstein said the application is proceeding and the state has been waiting for the zone change approval in order to issue the permit. The City Building Division indicated they will have no problem meeting the building code requirements as well.

Chairman Leonard Dailey called for discussion and questions by the members of the Board.

Public Hearing

Chairman Leonard Dailey opened the public hearing and called for proponents or opponents of City Zone Change #877. At 4:49 p.m., Chairman Dailey closed the public hearing and asked for a motion.

Motion

Commissioner Workman made a motion and it was seconded by Commissioner Krivonen to forward a recommendation of approval to City Council of City Zone Change #877-3210 Henesta Drive, Billings, Montana as presented by staff.

Discussion

Chairman Leonard Dailey called for discussion on the motion.

Motion carried unanimously, 4-0.

Item #2. City Special Review #890 – 1403 – 1423 Grand and 1404 Avenue B – A special review request to allow a drive through service in a Community Commercial (CC) zone across the alley from a residential zone and to allow the use of property zoned Residential 6,000 (R-60) to be used for public parking on a parcels of land described at Lots 1-12, 47 and 48, Block 2, Evergreen Subdivision, a 49,000 square foot parcel of land, Tax IDs: A06648, A06649, A06650, A06666, A06667. Stockman Bank, owner and Sanderson Stewart, agent.

Chairman Dailey asked Nicole Cromwell to open the next agenda item.

Nicole Cromwell explained the application for public hearing Item #2. She reviewed information and said there is one correction for this application that it does not include 1406 Avenue B. Nicole reviewed the proposal itemizing the changes and ideas and reviewed the proposed conditions. The proposed conditions are designed to buffer and protect the adjacent property owners and residential property. The applicant had already done a traffic accessibility study, to ensure the access was accurate and would not interfere with the traffic flow.

REQUEST

This is a request for a special review to allow a drive-through service in a Community Commercial (CC) zone across the alley from a residential zone and to allow the use of property zoned Residential 6,000 (R-60) for public parking on property generally located on the northwest corner of the intersection of Grand Avenue and 14th Street West. The property with frontage on Grand Avenue is zoned Community Commercial (CC) and the property on Avenue B is zoned Residential 6,000 (R-60). The total area for the development is 49,000 square feet and is legally described as Lots 1 through 12 and 47 and 48, Block 2, Evergreen Subdivision.

RECOMMENDATION

The Planning Division is recommending conditional approval.

PROPOSED CONDITIONS

1. The special review approval shall be limited to Lots 1-12, 47 and 48, Block 2, Evergreen Subdivision, generally located at 1403 – 1423 Grand Avenue and 1404 Avenue B.
2. Any expansion of the proposed building, building occupancy or parking lot greater than 10 percent of what is shown on the submitted site plan will require an additional special review approval.
3. The development of the property shall be in substantial conformance with the submitted site plan.
4. All site lighting on the buildings and in parking areas shall have full cut-off shields so lighting is projected to the ground or onto the building façade and not on to adjacent properties.
5. All outdoor mechanical equipment shall be screened including but not limited to air-conditioning units.
6. The directional signs shown at the drive approaches shall be non-illuminated. The directional signs shall be 30 inches in height or less. The new freestanding sign on Grand Avenue will require a sign permit.
7. The new 3-foot fence shown on the west property line of Lot 12, Block 2 will be matte or flat finish materials. (non-reflective)
8. The applicant will install and continuously maintain a 6 foot sight-obscuring fence along the north side of the alley along Lots 37 through 46 of Block 2, Evergreen Subdivision. The applicant will work with the adjacent residential property owners to accommodate gates and desired materials. Matte or flat finished materials are required.

9. The applicant will install and continuously maintain a 6-foot sight-obscuring fence along the west property line of 1404 Avenue B (staff parking lot). Matte or flat finished materials are required. The fence will drop from 6 feet to 30 inches 15 feet behind the sidewalk on Avenue B.
10. All deciduous trees shown on the site plan shall be large enough at the time of planting to have all lower branches trimmed up to 8 feet above finished grade.
11. The applicant or agent(s) shall secure a demolition permit from the Building Division prior to starting demolition of the existing structures.
12. Construction or demolition activities shall not start prior to 8 am or continue after 8 pm.
13. The applicant will post "Right Turn Only" signs and pavement markings at the drive approaches exits on to Grand Avenue.
14. The applicant will install a "Do Not Enter" sign at the alley approach from the staff parking lot on Avenue B. Any lighting installed in the staff parking lot on Avenue B shall be bollard style lighting of a maximum 44 inches in height.
15. All landscaping shall be a minimum of 75% living materials and continuously maintained. Dead plant materials shall be replaced in kind within the same growing season.
16. The applicant will pave and provide drainage for the entire width of the alley from 14th Street West to the west property lines of Lot 12 and Lot 37, Block 2 Evergreen Subdivision.
17. 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.
18. 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:

At 5:03 p.m., Chairman Leonard Dailey asked the members of the Commission for questions and discussion.

There was discussion confirming the hours of operation, building height and square footage. They reviewed the conditions and requirements for fencing along the alley. The discussion included provisions for engineering for the drainage and storm water retention. The applicant would be working with the neighboring property owners to accommodate desired gates and fences in specific locations.

Commissioner Workman questioned the safety of the 44 inch max height of the lights. He was concerned the 44 inches may not be enough to provide safe lighting for the parking area.

Nicole Cromwell explained the street lighting should be sufficient to provide adequate safety in the evening hours. She explained the 44 inch lighting bollards are designed more for walking.

Chairman Leonard Dailey called for presentation by the applicant.

Pat Davies, Sanderson Stewart, Billings, Montana and Mike Tuss, CTA Architects said he was available to answer any questions.

Mr. Davies said he is acting as the agent for the applicant, Stockman Bank. He said he concurred with the staff recommendation and would be glad to answer any questions. He said they planned to begin construction in the spring of 2012, tentative completion time in the fall of 2013.

Chairman Daily asked who determined the number of drive lanes were, and if the 6 were required or necessary.

Mr. Davies justified the number of drive up lanes by explaining the 6 lanes would eliminate stacking of vehicles that may accumulate and back up traffic onto Grand Avenue.

Chairman Daily asked how the alley improvements would affect the storm water runoff.

Mr. Davies said the alleys paved convex and will drain from the alley, the water will not drain to adjacent property. A storm water retention plan will be submitted to the Engineering division for review.

Mike Tuss, CTA Architects , Billings, Montana

Mr. Tuss, explained the color rendition provided with the application was not the exact design of the proposed building, however it would look similar to the drawing provided.

Chairman Dailey asked if the structure would be the smallest of the Stockman Bank branches in Billings.

Mr. Tuss said it will be comparable in size to the Main St. branch and the King Ave. branch before they built the recent additions to those branches.

Trisha Hansen, Marketing agent for Stockman Bank, said they had sent out information to the surrounding property residents asking for their input, or if they had any questions and explaining the facility plan. She stated that Grand Avenue is a good location for the new bank.

Opposition

Ida Gurney, 1428 Avenue B, asked if it was going to be 2-story building. She was concerned the second story offices could look right into her back yard.

Mr. Tuss said there would be only one window per office and about 4 offices on the second floor. The office hours would be 8am to 5pm Monday through Friday.

Rich Miller, 1410 Avenue B. was concerned that the power poles would be moved to the north side of the alley.

Mr. Tuss said the poles would be moved to the same side that the garbage receptacle would be. They would be on the same side of the alley for ease of movement thru the ally.

Mr. Miller said he concerned that the gates to his property to be blocked.

Mr. Tuss that the bank would be willing to work with the residents to replace or relocate gates that are needed, working with the residents to ensure their needs are met.

Susan Peteresn 1406 Avenue B, asked if they would be replacing the sidewalk. She said if they were to replace the sidewalk they should put a handicapped access ramp in for residents at the same time.

Mr. Davies said they would be required to provide all current specifications with the site development improvements for the project.

Questions:

Commissioner Workman asked if the building could be moved to the front of the property to solve the problem of shading properties from the sun.

Mr. Tuss said they have tried different scenarios including placement of the building toward the front of the lot, but they would not be able to meet the requirements for parking and traffic flow.

Closed public testimony at 5:39 p.m.

Motion

Commissioner Workman made a motion and it was seconded by Commissioner Hawkins to forward a recommendation of conditional approval of Special Review #890 with the conditions recommended by staff.

Discussion

Chairman Leonard Dailey called for discussion on the motion.

Commissioner Workman stated that Grand Avenue would be benefited from the beautiful building they present.

Motion carries unanimously.

Other Business/Announcements:

- The next City Zoning Commission meeting will be held on Tuesday, August 2, 2011.

Adjournment:

The meeting was adjourned at 6:05 p.m.

ATTEST:

APPROVED BY A MOTION ON AUGUST 2, 2011

Leonard Dailey, Chairman

Karen Miller, Planning Assistant