

## City of Billings Zoning Commission Meeting Minutes September 4, 2012

The City of Billings Zoning Commission met on Tuesday, September 4, 2012 in the 4<sup>th</sup> Floor Large Conference Room, Parnly Billings Library, 510 North Broadway, Billings, Montana

Chairman Leonard Dailey called the meeting to order at 4:34 p.m. The City Council has designated **Monday, September 24, 2012**, at 6:30 p.m. in the City Council Chambers as the time and place to hear testimony for or against this zone change application.

Commission and Staff		01/03/2012	02/07/2012	03/06/2012	04/03/2012	05/01/2012	06/05/2012	07/03/2012	08/07/2012	09/04/2012	10/09/2012	11/06/2012	12/04/2012
Leonard Dailey, Jr.	Chairman	1	1	1	1	1	E	1	1	1			
Matt Krivonen	Commissioner	A	A	E	R	-	-	-	-	-			
Barbara Hawkins	Commissioner	E	E	1	E	1	E	1	1	E			
Dan Wagner	Commissioner	1	1	1	1	1	E	E	E	1			
Bill Ryan	Commissioner	1	1	1	1	1	E	E	A	E			
Mike Boyett	Commissioner							1	1	1			
Candi Beaudry	Director, Planning & Community Services	-	-	1	-	-	--	-	-	-			
Nicole Cromwell	Planner II, Zoning Coordinator	1	1	1	1	1	1	1	1	1			
Tammy Deines	Planning Clerk	1	1	1	1	-	1	-	-	1			
Wyeth Friday	Planning Division Manager	-	-	-	-	-	-	-	-	-			
Juliet Spalding	Planner II	-	-	-	-	-	-	-	-	-			
Lora Mattox	Planner II	-	-	-	-	-	-	1	1	-			
Karen Miller	Planning Assistant	-	-	-	-	1	-	-	-	-			
Steve Zeier	TIF'D Coordinator	-	-	-	-	-	-	1	1	-			

<b>Total Number of 2012 Applications</b>	<b>01/03/2012</b>	<b>02/07/2012</b>	<b>03/06/2012</b>	<b>04/03/2012</b>	<b>05/01/2012</b>	<b>06/05/2012</b>	<b>07/03/2012</b>	<b>08/07/2012</b>	<b>09/04/2012</b>	<b>10/02/2012</b>	<b>11/06/2012</b>	<b>12/04/2012</b>	<b>TOTAL</b>
<b>Zone Change</b>	2	2	8	3	5	1	3	4	1				29
<b>Special Review</b>	1	0	1	0	2	0	0	1	1				6

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

**Others in Attendance:**

Ken Kunkel, George Warmer, Bob Pulley, Blaine Poppler, Keith James, Robert Ketner

**Public Comments:**

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

**Approval of Minutes: August 7, 2012**

Chairman Dailey called for approval of the August 7, 2012 minutes.

**Motion**

**On a motion by Commissioner Wagner seconded by Commissioner Boyett and approved with a 3-0 voice vote, the minutes of August 7, 2012.**

**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 no disclosures of outside communication.

**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 and asked Ms. Cromwell to open first agenda item.

Ms. Cromwell read aloud the legal notification for City Zone Change #903.

**Return Item #1: City Zone Change #903** — A zone change request from Entryway Light Industrial (ELI) to Highway Commercial (HC) on Lots 4, 6 and 7, Block 1, Montana Sapphire Subdivision a 10.85 acre parcel of land. Tax IDs: C13597, C13959 and C13960. Montana Sapphire LLC, owner and Keith James, Gemstar Properties, agent.

### **REQUEST**

This is a zone change request from Entryway Light Industrial (ELI) to Highway Commercial (HC) on a parcel of land described as Lots 4, 6 and 7, Block 1, Montana Sapphire Subdivision, a 10.85 acre parcel of land located in the Montana Sapphire Subdivision at 4110 and 4020 Montana Sapphire Drive (Lots 6 & 7) and 4215 King Avenue West (Lot 4). The property is owned by Montana Sapphire, LLC and Keith James of Gemstar Properties, LLC is the agent. The owner conducted a pre-application neighborhood meeting on June 25, 2012. The pre-application meeting notes are included as Attachment D. The application was originally scheduled for public hearing on August 7, 2012 and the applicant requested a 30-day delay to add Lot 4 to the zone change application. Lot 4 at 4215 King Avenue West is a larger parcel that will accommodate the agent's proposed retirement apartment complex.

### **RECOMMENDATION**

The Planning Division is recommending approval.

### **Discussion**

Chairman Dailey called for questions and discussion from the members of the Commission. There was none.

### **Public Hearing**

At 4:44 p.m. Chairman Dailey opened the public hearing and called for proponents of Zone Change #903.

### **Proponents**

#### **Keith James, Gemstar Properties, 2304 S Meadowview, Green Acres, Washington**

Mr. James said are planning to construct 154 units to meet the demand for independent living which should be at a considerable value when compared to other market rates for senior housing in the area. Agent Ken Kunkel has aided them in finding this site in the Montana Sapphire Subdivision. He commented this parcel is well suited for their use as it is close to retail and future retail services and is surrounded with a good mixture of commercial and open space parcels.

### **Discussion**

Dan Wagner asked about their procedures for handing a middle of the line customer who may need more care. Mr. James said the Fire Marshal had a similar concern. He explained a condition of the lease states that the customer must be able to live independently. This means working closely with family when it becomes clear mental or physical handicaps interfere. Mr. James said the average

resident's age in their existing communities is 67 years old with the majority ranging from 67 to 70 years old. They plan to start construction in the spring pending City Council's approval.

**Robert Ketner, 931 W 31, Spokane Washington**

In response to a question by Mike Boyett, Mr. Ketner said the average square footage of the apartment is 600-900 square feet with rents ranging from \$1200-\$1400 per month for one and two bedroom apartments.

**Opponents**

Chairman Dailey called for opponents to City Zone Change #903. There was none.

**Discussion**

Chairman Dailey closed the public hearing and called for a motion.

**Motion**

**Commissioner Boyett made a motion and it was seconded by Commissioner Boyett to recommend approval of the Zone Change #903 as presented by staff.**

**Discussion**

Commissioner Dailey said this is a reasonable request.

**The motion was approved on a 3-0 vote.**

**Item #2: City Special Review #901 City Special Review #901 – 525 24<sup>th</sup> Street West – Won 800 Casino** – A special review request to replace a beer and wine license with gaming with an all beverage license with gaming in a Community Commercial (CC) zone on Lots 1-10, Block 13 and Tract A1, B and B1 less west 10 feet for street, Gorham Park Subdivision, a 4.73 acre parcel of land. The suite will be about 3,490 square feet within an existing 58,285 square-foot multi-tenant building. Tax ID: A07997, M & K, Inc., owner and Jill Lindell, agent.

Ms. Cromwell gave a short presentation of the staff report. She noted that a special review was approved at this address last year and explained this application is to upgrade to an all beverage license.

**REQUEST**

This is a request for a special review to replace an existing beer and wine license with gaming with an all-beverage license with gaming in a Community Commercial (CC) zone on Lots 1-10, Block 13, and Tract A1, B and B1 less the west 10 feet for street, Gorham Park Subdivision, a 4.73 acre parcel of land. The suite is 3,490 square feet within an existing 58,285 square-foot multi-tenant building. The Won 800 Sports Bar and Casino was approved for this location by City Council on January 23, 2012. The owner has the opportunity to purchase an all-beverage license. The location

will not require a waiver of the 600 foot separation from this location, as there are no churches, schools or public parks with playground equipment within 600 feet of this property.

## **RECOMMENDATION**

The Planning Division is recommending conditional approval.

## **PROPOSED CONDITIONS**

1. The special review approval shall be limited to Lots 1-10, Block 13 and Tract A1, B and B1 less the west 10 feet for street, Gorham Park Subdivision.
2. The special review approval is for the location of an all-beverage license with gaming and no other use is intended or implied.
3. Any expansion of the interior space greater than 400 square feet will require an additional special review approval.
4. There shall be no outdoor public address system or outside announcement system of any kind.
5. 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.
6. 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. In response to a question by Mike Boyett, Nicole Cromwell said there are no plans for a patio. Leonard Dailey determined the southwest corner of 24<sup>th</sup> and Broadwater with Neighborhood Commercial zoning has a special review for use as a car lot. Chairman Dailey asked for an explanation of the 600-ft radius map. Nicole Cromwell said everyone is notified within 300-ft of the exterior boundaries of the parcel; a 600-ft radius is required for consideration of the need of a waiver due to locations of schools and churches. Chairman Dailey asked if the sign on the rear exterior of the building meets sign regulation requirements. Nicole Cromwell said it meets the sign regulations and it may be placed there due to the rear customer access door.

## **Public Hearing-**

Chairman Leonard Dailey opened the public hearing and called for proponents or opponents of City Special Review #901.

## **Bob Pulley, 321 Glee Place, Billings, Montana**

Mr. Pulley is the agent for the applicant, M & K, Inc. He said he lives in Gorham Park and this has never been an issue. He said although the sign is obscure, he can understand the concerns with the rear of the building. He stated the area is primarily used for employee parking and explained the business' policy regarding drinking patrons. Dan Wagner stated he doesn't see the need for the sign and it is offensive to the neighbors. Mr. Pulley commented Kons Super Store may have made

an agreement not to place a sign on the back of the building. Leonard Dailey said during his site visit he noticed on Gay Place there is a 6-foot chain link fence with obscuring material with a taller evergreen planting behind. He was barely able to see the lighted sign on the building. He pointed out the neighboring properties that may be affected by the sign; 525 Gay Place, 2311 Custer, and 2321 Hewitt. Commissioner noted the rear parking lot is lighted for security. Nicole Cromwell said there is no stipulation for shielding the lighting and most of the remodeling was on the interior of the building.

**Proponents:**

Chairman Dailey asked if there was anyone wishing to speak in favor of City Special Review #901. There was none.

**Opponents:**

Chairman Dailey asked if there was anyone wishing to speak against City Special Review #901. There was none. Mike Boyett pointed out the opponents are not in attendance to ask regarding the lighting/signage issue.

Chairman Dailey closed the public hearing and called for a motion.

**Motion**

**Commissioner Boyett made a motion and it was seconded by Commissioner Dailey to forward a recommendation of conditional approval to City Council for City Special Review #901.**

**Discussion**

Chairman Leonard Dailey called for discussion on the motion. The Commissioners are disappointed those in opposition did not attend this hearing. Leonard Dailey concurred that it seems to have minimum traffic at the rear door. Dan Wagner asked regarding handicapped parking spots and Mr. Pulley stated they are located at the front of the business. Leonard Dailey stated there are no written document with regard to an agreement, there are three curb cuts and no primary entrances at the rear of the building.

Chairman Dailey asked if there was anyone else wishing to speak in favor or against City Special Review #901. There was none. Chairman Dailey closed the public hearing at 5:13 p.m. and called for a vote on the motion.

**The motion carried with a unanimous voice vote, 3-0.**

**Other Business**

- A. The next City Zoning Commission meeting will be held on October 2, 2012, at 4:30 p.m., in the City Council Chambers.

**Adjournment: *The meeting was adjourned at 6:32 pm.***

**ATTEST: DRAFT. TO BE APPROVED BY A MOTION ON OCTOBER 2, 2012**

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**Leonard Dailey, Chairman**

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**Tammy Deines, Planning Clerk**