

City of Billings Zoning Commission Meeting Minutes- February 5, 2013

The City of Billings Zoning Commission met on Wednesday, February 5, 2013 in the City Council Chambers, 2nd Floor City Hall 210 N 27th Street, Billings, Montana.

Chairman Leonard Daily called the meeting to order at 4:30 p.m. The City Council has designated **Monday, February 25, 2013**, at 6:30 p.m. in the City Council Chambers as the time and place to hear testimony for or against the zone change.

Commission and Staff		01/02/2013	02/05/2013	03/05/2013	04/02/2013	05/07/2013	06/04/2013	07/02/2013	08/06/2013	09/04/2013	10/01/2013	11/06/2013	12/03/2013
Leonard Dailey, Jr.	Chairman	1	1										
Barbara Hawkins	Commissioner	E	1										
Dan Wagner	Vice Chairman	1	1										
Bill Ryan	Commissioner	1	E										
Mike Boyett	Commissioner	1	1										
Candi Beaudry	Director, Planning & Community Services	-	-										
Nicole Cromwell	Planner II, Zoning Coordinator	1	1										
Tammy Deines	Planning Clerk	1	1										
Wyeth Friday	Planning Division Manager	-	-										
Juliet Spalding	Planner II	-	-										
Lora Mattox	Planner II	-	-										
Karen Miller	Planning Assistant	-	-										

Total Number of 2013 Applications	01/02/2013	02/05/2013	03/05/2013	04/02/2013	05/07/2013	06/04/2013	07/02/2013	08/06/2013	09/04/2013	10/01/2013	11/06/2013	12/03/2013	TOTAL
Zone Change		1											1
Special Review	1												1

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

Others in Attendance:

Industrial Planning Associates, L.P., Greg MacDonald, owners and Dowl HKM, Rick Selensky, P.E., agent.

Public Comment

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

Approval of Minutes: January 2, 2013

Leonard Dailey called for approval of the January 2, 2013 minutes.

Motion

On a motion by Commissioner Boyett seconded by Commissioner Wagner and approved with a 3-0 voice vote, the minutes of January 2, 2013.

Disclosure of Conflict of Interest

Leonard Dailey called for disclosures of conflict of interest. There was none.

Disclosure of Outside Communication

Leonard Dailey called for disclosure of ex parte communication. Nicole Cromwell noted a protest received by staff to Zone Change #907, submitted by Kenneth D. Peterson, Attorney at Law representing Jerry Thomas, Transtech Center.

Public Hearings:

Leonard 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 a short presentation of the staff report.

Zone Change #907 – 3815 Hesper Road – A zone change request from Agriculture Open-Space (A-1 County) to Controlled Industrial (CI) on C/S 2587 and C/S 3329, 97.3 acre parcel of land. A concurrent petition for annexation into the City of Billings has been submitted and a pre-application neighborhood meeting was conducted on December 19, 2012. Tax IDs: D11640 and D00609, Industrial Planning Associates, L.P., Greg MacDonald, owners and Dowl HKM, Rick Selensky, P.E., agent.

REQUEST

This is a zone change request from Agriculture Open-Space (A-1) to Controlled Industrial on 2 parcels of land described as C/S 2587, Tract 1 and C/S 3329, Tract 1, a 97.3 acre parcel of land. The property is located north west of the intersection of Gabel Road and Hesper Road at 3815 Hesper Road. The property is owned by Industrial Planning Associates, LP and Rick Selensky, P.E. of Dowl HKM is the agent. The property is intended for the future development of a FedEx Ground transportation hub on a 50-acre portion of the site. The owner conducted a pre-application neighborhood meeting on December 19, 2012. The owner has submitted a concurrent request for annexation of the property.

RECOMMENDATION

The Planning Division is recommending approval.

**Commissioner Barbara Hawkins arrived at 4:33 p.m.

Discussion

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

Leonard Daily referred to the posted zoning map and asked about the timeline for zoning activity in this area. He noted the last three requests were for special reviews which are site specific, such as Teton Steel, 2880 Gabel Road, for steel fabrication; Cretex Concrete, 1521 S 32nds St W, for an expansion; and 3205 Hesper, powder coating and sandblasting. Nicole Cromwell said there was also a zone change on 3528 Gable Road, from Controlled Industrial to Community Commercial to allow the mixed use living quarters above the business; a 2001 approval of a height variance for a wireless communication tower; and a zone change in 1989 from Agricultural Open to Controlled Industrial. Nicole Cromwell continued with the zoning history for the surrounding properties, including the 2005 Shiloh Overlay District adopted for the Shiloh Corridor. In response to further questions by Leonard Dailey, Ms. Cromwell said excluding the 1983 construction, the area has moved toward controlled industrial zoning. She pointed out the development pattern in the area and the attraction of high traffic retail oriented types of business due to the principal arterial streets. She stated there are no hours of operation limitation in controlled industrial zoning.

Public Hearing-

At 4:41 p.m. Leonard Dailey opened the public hearing and called for proponents or opponents of City Zone Change #907.

The Zoning Commission received testimony from the applicant, Greg MacDonald of Industrial Planning Associates, the agent, Rick Selensky of Dowl HKM, and the prospective buyer, Jon Phillips of SunCap Property Group. Surrounding property owner David Brown of Wyo-Ben and Ken Petersen as attorney for 9 property owners in protest of the zone change provided testimony in opposition.

John Phillips, SunCap Property Group , 6101 Carnegie Boulevard, Charlotte, NC 28209

Jon Phillips of SunCap Property Group stated they are the preferred developer for a new site for a FedEx Ground transportation hub in the Billings region. He stated they intend to purchase the entire parcel of 97.3 acres and develop the east 50 acres for this new transportation hub. Given the 50-acre size, the proposed 140,000 square foot building and parking area could be much larger but his company decided to push the building back away from the adjacent streets and property lines to provide for additional landscaping and berming.

Mr. Phillips said the amount of truck traffic, both line haul trucks and package delivery trucks, will be small in comparison to some of the surrounding uses and would be about 600 new trips per day total. He stated his company and FedEx Ground have developed similar hubs adjacent to Class A office spaces, residential neighborhoods and other sensitive land uses including two recent projects in Windsor, Connecticut and Redmond, Washington. The hubs do not have idling trucks especially line haul trucks. These trucks arrive and immediately deliver the trailer and either head out with no load or pick up another trailer and leave. The parked trailers are then moved by hub employees to the loading docks of the transfer facility. Most of the traffic will be from package delivery vans that will deliver to Billings' residents and the surrounding region. A FedEx Ground hub in Redmond, Washington is under construction and will be a 220,000 square feet building on 23 acres.

Mr. Phillips presented the Zoning Commission the approved site plan with adjacent uses that included a large Class A office park to the south west, the Microsoft Millennium Campus (a high-end technology office complex) to the north and a large residential neighborhood to the south east. He stated the Redmond, Washington building is about 150 feet from a Class A office building but the site will be extensively landscaped with berms to buffer those adjacent properties. Mr. Phillips stated the Windsor, CT facility was just completed and is a 220,000 square foot building on 62 acres.

Mr. Phillips explained Fed Ex Ground specializes in small package delivery and this proposed hub is part of FedEx Ground's nationwide expansion based on their logistics model for package delivery. Mr. Phillips stated it is their intent to develop this property with much greater separations to the Class A offices in Transtech, the County residents to the west, and to Hesper Road. The plan is to set the facility approximately 800 feet west of Transtech and 800 feet from Hesper Road. The

only entrance or exit from the property will be on Hesper Road about 1,000 feet west of the Gabel Road intersection. He said the site will be heavily landscaped and bermed along the south and east to diminish the impact of the larger transfer building a parking area. He has met and discussed site development specifics with the owners and representatives of Transtech Center. Mr. Phillips stated he understands the adjacent owners have placed covenants and restrictions on their subdivisions but these private restrictions should not encumber adjacent property. He showed graphic renderings of what the property would look like from the Transtech Center and from Hesper Road when it is built and landscaped.

Discussion

Commission member Dan Wagner asked whether the proposed building would be similar to the Windsor, CT building. Mr. Phillips stated the building would be a similar design only smaller. Chairman Leonard Dailey, Jr. asked what the proposed time line for construction is for FedEx. Mr. Phillips said SunCap would like to begin construction as soon as possible this spring. He anticipates a project completion by the end of 2013 with installation of the interior transfer equipment by FedEx in early 2014. He stated the facility would likely start operation by June 2014. Chairman Dailey asked whether SunCap would retain ownership of the property. Mr. Phillips replied they would remain the property and building owner and have a long-term lease with FedEx Ground.

Rick Selensky, 222 N 32nd Street, DOWL HKM, Billings, Montana

Rick Selensky of Dowl HKM said his firm has completed a preliminary traffic analysis for the proposed FedEx Ground facility. The analysis predicts the facility will generate about 672 new vehicle trips per day with many of those by employee trips. The facility is a 24-hour day work environment so the employees work in shifts. The line haul deliver trucks (semi-tractor trailers) would be arriving and departing mostly in the evening between 6 pm and 10 pm. The package and delivery van's departures are concentrated in the early morning with returns later in the afternoon and early evening. Mr. Selensky stated the developer plans to participate in the required signalization of Hesper and Gabel and Gabel and 32nd Street West. The developer will pay for all the improvements to Hesper Road west of Gabel Road including 1,100 linear feet of curb, gutter, sidewalk and a 39-foot wide street. The developer will also pay for an install all city utilities including water, sanitary sewer and storm sewer lines. Chairman Leonard Dailey suggested including graphics for the City Council presentation to clarify these statistics.

Proponents/Opponents:

Leonard Dailey asked if there was anyone wishing to speak in favor or against City Zone Change #907 and opened the public hearing at 5:07 p.m.

David Brown, CEO, Wyo-Ben Inc, 1345 Discovery Drive, Billings, Montana

Mr. David Brown of Wyo-Ben Incorporated located at 1345 Discovery Drive testified in opposition to the application. He pointed out his office building is located 200 feet from the property line where FedEx intends to construct its facility. He said he believes it is great FedEx is expanding in the area but he feels this is not an appropriate site for the transfer hub. Mr. Brown stated the project

will have two major impacts on his business; visual impacts and air pollution or emissions. He pointed out the size and construction style of the building is not consistent with the Transtech Center. He stated his building draws a lot of outdoor air for its HVAC system and said when someone is smoking outside the building; the HVAC will draw in that cigarette smoke. He said the FedEx trucks and fuel smells will impact the indoor air quality for his employees. Mr. Brown presented a photo of the existing FedEx transfer facility in Lockwood. He noted the picture shows many trucks idling and starting diesel tractor trailers. He stated this is what the new hub will be like. He urged the Commission to recommend denial of the zone change.

Greg MacDonald, 3200 King Avenue West, Billings, Montana

Greg MacDonald of Industrial Planning Associates testified as the owner of the property. He said the proposed zoning is consistent with all adopted City plans and is identical to the adjacent city zoning to the north, south and east. He stated the West Billings Plan, adopted in 2001, identified this 500-acre area near the Zoo Drive and Shiloh Road interchange as a regional commerce center. He pointed out most of this 500-acre area is already zoned Controlled Industrial. He stated this property is in a strategic location with ready access to arterial streets and efficient access to the interstate highway. He said there are several adjacent and nearby properties with similar or more intensive industrial uses. Mr. MacDonald urged the Commission to adopt the unbiased and considered recommendation of its Planning staff and recommend approval of the zone change. He stated the proposed zoning has several practical and positive reasons for approval.

Ken Peterson, Billings, Montana

Mr. Ken Petersen, an attorney representing nine property owners opposed to the zone change, testified in opposition to the zone change. Mr. Petersen stated the new FedEx Ground hub is a great project for Billings but should not be located on Hesper Road. He commended the owner and FedEx for being up-front about the intended use for the property. He stated his analysis of the ten criteria for zone changes indicated the zone change should be denied, and the zoning is not consistent with the Growth Policy for many reasons.

Mr. Peterson said his clients believe the City should require installation of two left turn lanes at the Gabel and Zoo Drive intersection. They own many of the properties in Transtech and will be negatively affected by the air emissions from the transfer hub. There is one hotel on Zoo Drive with plans for three more. He stated a 24-hour trucking operation will negatively affect these hotels and the zoning is not consistent with the County neighborhood to the west. He said the owner and developer should conform to the Shiloh Road Overlay District even though they intend to move the lot lines so the FedEx lot is outside the overlay district.

Mr. Petersen said Transtech is a Class A office park and this transfer hub will result in a loss of value for these owners. He stated the developer should apply the Shiloh Road Overlay District standards to all the property. He stressed the development will hurt the market value of the property to the south and east as the proposed zoning will have a large impact on the transportation network. He pointed out this network was paid for by all the existing owners and said they should not be burdened by this new development. He stated the protest petition the Commission received and the

City Council will receive outlines all the criteria that recommend denial. He said the City and economic development agencies should work together to find another site for the FedEx facility. Mr. Petersen showed the Commission a map and pointed to a property south of the interstate on South Frontage Road west of the King Avenue interchange. Mr. Petersen stated the property could easily be annexed and re-zoned for the Fed Ex project. His clients estimated the cost of extending City services to the property to be about \$ 1.7 million - a comparable cost to the Hesper Road site. This South Frontage Road site would have direct access to three interstate interchanges and not just one.

Rebuttal

At 5:38 p.m., Chairman Dailey asked the applicant and agents to provide rebuttal to the testimony in opposition.

John Phillips, SunCap Property Group , 6101 Carnegie Boulevard, Charlotte, NC 28209

Mr. Phillips stated the air quality standards adopted by the city, county, state and the federal government will be met by FedEx. He said there should be no emission impacts to adjacent properties. He re-stated the developer's intent to substantially landscape and berm the site so the visual impact is minimized to a great extent. He said the building will not be a metal sided structure but will upgraded siding that also diminish any visual impact. He is aware of and had read the covenants and restrictions on the adjacent subdivisions; but these restrictions and covenants do not apply to this property.

He stated he believed the market for land in the area will be improved by the FedEx facility. He noted they are paying a very good price for the land which can only help raise value for future land sales in the area. He commented land velocity in this area has not been very large but this sale and development should help drive demand up for new development.

Rick Selensky, 222 N 32nd Street, DOWL HKM, Billings, Montana

Mr. Selensky re-stated the developer will be shouldering all of the adjacent street and site improvements and will provide its fair share to the signalization projects for Gabel and Hesper as well as Gabel and S 32nd Street West. Mr. Selensky clarified the traffic study was based on an initial employee level of 200 and not on 400 employees.

Mr. Phillips said FedEx has very exacting standards based on its logistics model when asking for proposals on sites for new transfer hubs. He stated if the zone change is not approved, FedEx will have to re-work the logistics model to accommodate another site. He said FedEx may chose to split the transfer hub into two or more locations if it cannot build just one facility. He stated the site and development are time sensitive so another site may not accommodate those time lines.

Commission member Dan Wagner asked if any of the FedEx traffic would go west on Hesper Road and why the developer is not improving that section of Hesper Road. Mr. Selensky stated some traffic will head west on Hesper Road but not a large percentage. He said the city requires the developer to do street improvements on the immediately adjacent street but not on right-of-way that

is outside the city limits or beyond the boundaries of the development with the exception of intersection improvements to accommodate the added traffic. Member Dan Wagner asked what SunCap intends for the west forty-seven acres as he understands it is all just swamp with high ground water. Mr. Phillips said they will retain the forty seven acres and market the property appropriately. He stated the entire site has high ground water and the FedEx facility will be built on pilings to accommodate this issue. He noted this is an engineering issue on the property and a said a solution is available. Mr. Selensky reiterated that FedEx will contribute the required signals at Gabel and Hesper and Gable and S 32nd Street West.

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

Motion

Member Mike Boyett made a motion and it was seconded by member Barbara Hawkins to recommend approval of the Zone Change #907 – 3815 Hesper Road and adopt the findings of the ten criteria.

Discussion

Chairman Dailey stated the Commission should focus on the proposed zoning and not get too involved in considering the specifics of the FedEx project. Member Dan Wagner stated that he was concerned about the air quality impacts to the adjacent property and the visual impact to the area. Chairman Dailey cautioned Mr. Peterson to garner his presentation for City Council.

****The Zoning Commission voted 2-2 of the motion to recommend approval to the City Council. Chairman Dailey and member Dan Wagner voted no and members Mike Boyett and Barbara Hawkins voted in favor. There is no recommendation to the City Council for the zone change.**

Other Business

B. The next City Zoning Commission meeting will be held on Tuesday, March 5, 2013 to consider a zone change/annexation request.

Adjournment: *The meeting was adjourned at 5:42 p.m.*

ATTEST: DRAFT. TO BE APPROVED BY A MOTION ON March 5, 2013

Leonard Daily, Chairman

Tamara L. Deines, Planning Clerk