

## City of Billings Zoning Commission Meeting Minutes- November 5, 2013

**The City of Billings Zoning Commission met on Tuesday, November 5, 2013 in the Miller Building 1<sup>st</sup> Floor Conference Room, 2825 3<sup>rd</sup> Avenue North, Billings, Montana.**

Chairman Leonard Daily called the meeting to order at 4:30 p.m. The City Council has designated **Monday, Monday December 9, 2013**, at 6:30 p.m. in the City Council Chambers as the time and place to hear testimony for or against the zoning applications.

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

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	0	1	1	-	1	3	2	1	0	0	0		8
Special Review	1	0	0	-	3	1	2	2	1	1	1		10

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

**Attending:** Thomas Dennis, Diane R. Burke, Lois Morrison, Wayne Schuster

**Public Comment**

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

**Approval of Minutes: October 1, 2013**

Chairman Dailey called for approval of the October 1, 2013 meeting minutes.

**Motion**

**Mike Boyett made a motion and it was seconded by Leonard Dailey to approve the October 1, 2013 meeting minutes as submitted.**

**The motion carried with a unanimous voice vote.**

**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 reported an unidentified person called staff concerning this application and Jerry Dalton came into the office and was given information on Special Review #913.

**Public Hearings:**

Chairman 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.

**Item #1:** Special Review #913 –3010 Boulder Avenue – Two 4-plex dwellings - A special review request to allow two 4-plex multi-family dwellings in an R-60 zone on the north 150 feet of Lot 1, Wolf Subdivision, a 20,250 square foot parcel of land . Tax ID: A18637, Darryl Weber, Trustee and Jeremy Freyenhagen, agent.

### **REQUEST**

This is a request to allow the construction of two, 4-plex multi-family dwellings in a Residential 6,000 (R-60) zone on the north 150 feet of Lot 1 in Wolf Subdivision, a 20,250 square foot parcel of land. The property is owned by the Raymond Weber Trust and the agent is Jeremy Freyenhagen. The property is vacant and is generally located on the south west corner of the intersection of Boulder Avenue and Rehberg Lane.

### **RECOMMENDATION**

The Planning Division is recommending conditional approval.

### **PROPOSED CONDITIONS**

1. The special review is limited to north 150 feet of Lot 1 Wolf Subdivision generally located at 3010 Boulder Avenue.
2. The special review approval is for the construction of two, 4-plex dwellings and no other use or development configuration is intended or implied by this approval.
3. Any expansion of the proposed building or off-street parking greater than 10 percent of what is shown on the submitted site plan will require an additional special review approval.
4. All exterior lighting, including security lighting shall have full cut- off shields so no part of the fixture or lens projects below the cut-off shield. Exceptions to this requirement are allowed for porch or entry doorway lighting. The maximum height of any light pole in the outdoor areas shall be 15 feet above grade.
5. No construction or demolition activity will occur before 7 am or after 8 pm daily.
6. Any centralized solid waste storage shall be enclosed by a wall on 3 sides and a closing gate or gates. The wall and gates for the solid waste storage shall be similar or complimentary in color to the adjacent buildings and shall be sight-obscuring. The wall and gates shall be tall enough that no part of the interior dumpster(s) are visible from the outside.
7. The site will be developed in substantial conformance with the submitted site plan including landscaping, parking and building locations.
8. 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.
9. 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 Barbara Hawkins, Nicole Cromwell pointed out the curb walk along Rehberg lane and the new curb walk proposed for Boulder Avenue. Dan Wagner noted vacant land below the proposed duplexes on the site plan. Nicole Cromwell clarified and stated this is another vacant lot and not a part of this project. Mike Boyett asked about fencing between the duplexes and Nicole Cromwell stated this could be made a condition of approval. Dan Wagner asked regarding security fencing. Leonard Dailey noted this site has 20,250 square feet and asked about the maximum number of allowable units. Nicole Cromwell stated there could be up to 10 units on this site.

### **Applicant/Agent: Jeremy Freyenhagen, 1343 Broadwater, Billings, Montana**

Mr. Freyenhagen stated he is the agent and owner of this property. He stated he lives near this parcel on Roth Lane and purchased the property from trustee, Darryl Weber. His intent is to have a place where his daughter with special needs could live independently and be near his residence. He is involved with Special Olympics and is aware of the need for a community feel for residents with special needs. He said the residents for this proposed project are not mentally disturbed or dangerous to society.

### **Discussion**

In response to Dan Wagner, Mr. Freyenhagen explained the proposal is for 3-bedroom units with lighting similar to other residential spaces and exterior parking. The units will be rented with a property manager on call on site. Leonard Dailey asked regarding the contractor and the construction time frame. Mr. Freyenhagen replied he will be the general contractor and he plans for the project to be completed next spring. Dan Wagner asked about upgrades to the street. Mr. Freyenhagen stated there will be a curb cut for access and they will install the sidewalks. Leonard Dailey commented on the need for consideration of the application through a zoning perspective and noted Federal Fair Housing concerns may come into play. He asked if this will be privately paid by renters or subsidized. Mr. Freyenhagen stated there will be no federal funding and the inhabitants will not be restricted. Mike Boyett asked if he has considered a barrier on the west side of the property. Mr. Freyenhagen said his intent is to install fencing on the west side and along Rehberg Lane and he would be agreeable to this type of conditional of approval.

### **Public Hearing**

At 5:04 Chairman Dailey opened the public hearing and called for proponents or opponents of City Special Review #913.

### **Favor**

Mr. Fryenhagen submitted a letter to staff that was dropped off at his office indicating a favorable assessment of the Special Review submitted by Lee and Bell Katherine Rouche, 3014 Colton Boulevard, Billings, Montana.

## **Opposed**

### **Thomas Dennis 3220 Boulder Avenue, Billings, Montana**

Mr. Dennis is representing Judy and Allen Kirkwood, 3025 Boulder Avenue. He voiced concern with additional traffic on Boulder Avenue. He stated the garages face Boulder Avenue and would not be aesthetically pleasing. He pointed out Boulder Avenue is noisy due to existing traffic. He asked about garbage pickup, impacts to Boulder School, and commented on the crime in the area. He said there are several agencies offering independent living with protection and safety including Rimview Apartments, Aspen View, Valley Nursing Home, and St. John's Lutheran Ministries. He commented a designated amount of parking is needed for caregivers. He asked the Board to consider the math; two four-plexes on this parcel is too much for the lot. He suggested constructing a duplex instead. He reiterated no consideration has been given to the traffic, the schools, or the church. He said the ADA requirements for fire protection are not cheap.

### **Diane Burke, 3016 Boulder Avenue, Billings, Montana**

Ms. Burke said she was not in favor of the multi-family units across the street and said there have been several issues including snow removal. She voiced concern with safety issues for children and said a lady was hit by a vehicle at Colton Avenue and Rehberg Lane.

### **Lois Morrison, 3019 Colton, Unit C, Billings, Montana**

Ms. Morris stated she is opposed to this request as there are several apartment complexes in the area and there is fast moving traffic.

### **Wayne Schuster, 2306 Rehberg Lane, Billings, Montana**

Mr. Shuster's primary concern is that the four-plex will be overpowering for the size of the lot. He said parking will be an issue and he voiced concern with speeding traffic between Colton Avenue and Poly Drive. He said the City picks up garbage on Rehberg Lane. He asked regarding the proposed building style and if it will add to the overall look of the neighborhood. He commented on the traffic from the Montessori School.

## **Rebuttal**

### **Applicant/Agent: Jeremy Freyenhagen, 1343 Broadwater, Billings, Montana**

Mr. Freyenhagen said the majority of the residents would only have one car or would walk. He stated his children attend Boulder School and he is aware of the surrounding traffic. Leonard Daily asked about parking and Mr. Freyenhagen stated this proposal will meet the parking requirements. Leonard Daily pointed out the requirement to improve the curb and sidewalk along Rehberg Lane. Mr. Freyenhagen stated he will improve the 135 ft' of frontage along Boulder Avenue. Nicole Cromwell said the new curb, cutter, and sidewalk may include re-pavement of the section along Boulder Avenue. Leonard Dailey asked about more pressure on the school for enrollment. Mr. Freyenhagen said the type of residents is not a zoning issue and he referred to Mr. Dennis' comment on the ability of special needs housing in this area. Mr. Dennis retorted and Chairman Leonard Daily cautioned the Mr. Dennis and the applicant and asked them to address the

Commission with their comments. Leonard Daily asked about crime statistics and staff's consideration and recommendation for conditional approval. Nicole Cromwell explained there are eight categories for opposing a request and each category was reviewed prior to recommending conditional approval. Leonard Daily stated ADA compliance will be addressed through the Building Division review. Dan Wagner asked about trash pickup and Jeremy Freyenhagen stated he will comply with the requirements. Barbara asked about the rent and Mr. Freyenhagen said leases will run \$850.00-\$900.00 a month.

Chairman Dailey asked if there was anyone else wishing to speak in favor or against Special Review #913. There was none. The public hearing was closed at 4:46 p.m.

### **Motion**

**Dan Wagner made a motion and it was seconded by Barbara Hawkins to forward a recommendation to City Council of conditional approval of City Special Review #913 with the conditions recommended by staff and adopt the findings of the criteria.**

### **Discussion**

Mike Boyett stated discrimination is not allowed as far as the type of residents. Leonard Daily said discrimination of the ability to pay is allowed. He personally commented to a degree he feels zoning can impose on personal private property rights. He stated this property should be compatible and the orientation of the structures seems to be a good citizen move by the applicant.

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

### **Other Business**

- A. The next City Zoning Commission meeting will be held on Tuesday, December 3, 2013.
- B. Nicole Cromwell announced a vacancy on the Zoning Commission and three vacancies on the City Board of Adjustment.

*The meeting was adjourned at 5:35 p.m.*

**ATTEST: TO BE APPROVED BY A MOTION ON DECEMBER 3, 2013**

---

Leonard Dailey, Chairman

---

Tamara L. Deines, Planning Clerk