

## City of Billings Zoning Commission Meeting Minutes- February 4, 2014

**The City of Billings Zoning Commission met on Tuesday, February 4, 2014 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, February 24, 2014**, at 6:30 p.m. in the City Council Chambers as the time and place to hear testimony for or against the zoning applications.

Commission and Staff		01/02/2014	02/04/2014	03/04/2014	04/01/2014	05/06/2014	06/03/2014	07/01/2014	08/05/2014	09/02/2014	10/07/2014	11/07/2014	12/02/2014
Leonard Dailey, Jr.	Chairman	1	1										
Barbara Hawkins	Commissioner	1	1										
Dan Wagner	Vice Chairman	1	1										
Dennis Ulvestad	Commissioner	1	1										
Mike Boyett	Commissioner	1	E										
Candi Millar	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 Husman	Planning Assistant	-	-	-	-	-	-			-	-	-	-

Total Number of 2014 Applications	01/02/2014	02/04/2014	03/04/2014	04/01/2014	05/06/2014	06/03/2014	07/01/2014	08/05/2014	09/02/2014	10/07/2014	11/07/2014	12/02/2014	TOTAL
Zone Change	1	-											1
Special Review	1	1											2

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

**Attending:** Applicant Michael Schaer

**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: January 7, 2014**

Chairman Dailey called for approval of the January 7, 2014 meeting minutes.

**Motion**

**Barbara Hawkins made a motion and it was seconded by Dan Wagner to approve the January 7, 2014 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.

**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.

**Item #1: Special Review #916 – 2417 Montana Avenue – All Beverage License - A** special review request to allow the location of an All Beverage Liquor License to replace a Restaurant Beer & Wine License at the Café Italia, a 2,300 square foot restaurant, in the Central Business District (CBD) zone on Lots 9 and 10, Block 112, Billings Original Town, a 7,000 square foot parcel of land. Tax ID: A00824

## **REQUEST**

This is a special review request to allow the location of an all-beverage liquor license in an existing restaurant, Café Italia, located at 2417 Montana Avenue. The restaurant has an existing beer and wine license (without gaming). The property is zoned Central Business District (CBD) and is legally described as Lots 9 and 10, Block 112, Billings Original Town. The lot is a total of 7,000 square feet and the restaurant space is 2,300 square feet. The owner is Computers Unlimited and Michael Schaer is the agent.

## **RECOMMENDATION**

The Planning Division recommends conditional approval.

1. The special review approval shall be limited to Lots 9 and 10, Block 112, Billings Original Town generally located at 2417 Montana Avenue.
2. Increases in the area where alcohol service is provided greater than 10% of the area shown on the site plan (2,300 square feet) or the addition of an outdoor patio will require additional special review approval.
3. 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.
4. 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. He comment on the traffic counts and the notation there should be no appreciable change in traffic with this license. Nicole Cromwell stated this only a change of service and should not alter the traffic patterns. Regarding parking, she said the Central Business District does not require on street parking and the parking lot adjacent to the McCormick Café should be a benefit to this business.

## **Public Hearing**

Chairman Dailey opened the public hearing and called for proponents or opponents of City Special Review #916.

## **Michael Schaer, (no address given), Billings, Montana**

Mr. Schaer is the agent for the applicant, Computers Unlimited. He stated he is concurrence with the staff presentation. They wish to increase their selection of beverages and have the ability to serve customers an alcoholic beverage without having to make a food purchase. He stated they started this process in August 2013. Dennis Ulvestad asked if there are future plans for gaming. Mr. Shaer said there are no plans for gaming at this location as in the past it has not been successful. He said a gaming license would have to be procured from the State of Montana.

### **Discussion**

Dan Wagner asked if there will be adequate parking. Mr. Schaer said they also have access to the Depot's parking lot, on street parking on Montana Avenue, and a few spaces at the Wellness Center.

In response to a question by Leonard Dailey, Nicole Cromwell explained gaming is a right that is attached to the license and it is the applicant's choice at this time to not use the gaming attachment. Mr. Schaer said they can have twenty or less machines but gaming brings in a different clientele which may change the business concept, which is not their intent.

Leonard Daily asked about the notation in the staff report regarding the Building Division's comments requiring a building permit. Nicole Cromwell said the applicant would need to check with the Building Division as it may be considered a change in use per the building requirements. Mr. Schaer said the floor plan has not changed since the restaurant's inception five years ago. He voiced concern with the possibility the Building Department may delay his application. Nicole Cromwell said she has notified the State of the process for the Special Review. Nicole Cromwell referred to the letter from the deadline for review comments was January 14, 2014. Leonard Dailey said it has been brought to the attention of this Commission through the Special Review process there may be a Building Division concern. Mike Schaer stated he is in agreement with the staff recommendations.

### **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 #916-2417 Montana Avenue with conditions of approval recommended by Staff.**

### **Discussion**

Barbara Hawkins said she feels this will be a nice addition to this restaurant. Dennis Ulvestad said he concurs with Commissioner Hawkins and will vote in favor of this request. Leonard Dailey pointed out the stability as McCormick Café has been in business over fifteen years. Nicole Cromwell offered to forward Building Division Manager's Kim Palmieri's e-mail to Mr. Schaer for clarification purposes and suggested he contact the State agency.

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

### **Other Business :**

#### **A. Election of Officers**

### **Motion**

**Barbara Hawkins made a motion and it was seconded by Dennis Ulvestad to retain Leonard Daily as Chairman and Dan Wagner as Vice Chairman of the City Zoning Commission for 2014.**

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

B. The next City Zoning Commission meeting on Tuesday, March 4, 2014 will be cancelled due to a lack of applications.

**Adjournment: The meeting was adjourned at 5:20 p.m.**

**ATTEST: APPROVED BY A MOTION ON MARCH 4, 2014**

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Leonard Dailey, Chairman

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Tamara L. Deines, Planning Clerk