

**City of Billings Zoning Commission Meeting
August 3, 2010**

The City of Billings Zoning Commission met on Tuesday, August 3, 2010, 2010 in the City Council Chambers, 2nd Floor City Hall located at 220 N 27th Street, Billings, Montana.

Chairman Leonard Dailey, Jr. called the meeting to order at 4:30 p.m. Chairman Dailey said the recommendations of the Zoning Commission on the items heard tonight will be forwarded to the City Council to be heard at their meeting during a public hearing scheduled for **August 23, 2010**, at 6:30 p.m. in the City Council Chambers.

Commission and Staff		01/05/2010	02/02/2010	03/02/2010	04/06/2010	05/04/2010	06/01/2010	07/06/2010	08/03/2010	09/07/2010	10/05/2010	11/02/2010	12/07/2011
Leonard Dailey, Jr.	Chairman	1	1	1	-	1	1	1	1				
Matt Krivonen	Commissioner	1	1	1	-	A	A	1	1				
Barbara Hawkins	Commissioner	1	E	E	-	1	1	E	1				
Dan Wagner	Commissioner	-	-	1	-	A	1	1	1				
Edward Workman	Commissioner	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				
Tammy Deines	Planning Clerk	1	1	1	-	1	1	1	1				
Wyeth Friday	Planning Division Manager	-	-	1	-	-	-	-	-				
Juliet Spalding	Planner II	-	-	-	-	-	-	-	-				
Lora Mattox	Planner II	1	-	-	-	-	-	-	-				

Total Number of 2009 Applications	01/05/2010	02/02/2010	03/02/2010	04/06/2010	05/04/2010	06/01/2010	07/06/2010	08/03/2010	09/07/2010	10/05/2010	11/02/2010	12/07/2010	Total
Zone Change	1	2	4 (2-return items)	0	0	3	0	0					8
Special Review	1	0	0	0	1	0	2	2					5

Chairperson Dailey introduced the Planning Department Staff and Commission:
 Nicole Cromwell, Planner II/Zoning Coordinator
 Tammy Deines, Planning Clerk

Public Comments:

Chairman Dailey called for public comment at 4:31 p.m. There was none. Chairman Dailey closed the public comment portion of the meeting.

Approval of Minutes July 6, 2010

On a motion by Commissioner Krivonen, seconded by Commissioner Workman and approved with a 5-0 voice vote, the minutes of July 6, 2010 are approved as submitted.

Disclosure of Conflict of Interest

There was no disclosure of any conflict of interest by the members of the Commission. Nicole Cromwell stated that Planning Clerk Tammy Deines has a relative who is a resident of the Tender Nest Assisted Living Facility.

Disclosure of Outside Communication

There was no one on the Commission wishing to disclose any outside communication.

Public Hearings:

At 4:33 p.m. Chairman Dailey reviewed the rules and the procedures by which the City Zoning Commission public hearings are conducted.

Chairman Dailey called for the staff report. Ms. Cromwell read the legal description for this property.

Item #1: City Special Review #884 – 501 Hilltop Road – King’s Corner Casino - A special review request to allow the addition of an outdoor patio of 1,450 square feet for an existing beer & wine license with gaming (SR #611 approved 8/25/1997) in a Highway Commercial (HC) zone on Lots 2B & 2C, Block 1, Dicono Subdivision, a 37,750 square foot parcel of land. The location will need a waiver of the 600 foot separation distance required from a school (Bench Elementary School) at 505 Milton Road. Tax ID #A28736A & A28736B; Jimmy & D’Arlyne Dorman, owners

and Michael Schmechel, agent.

Ms. Cromwell opened her presentation with a review of the staff report as the projector failed. She noted the zoning of the surrounding properties which are primarily commercial with the exception of the northwest corner of the parking lot which is a mobile home court. Ms. Cromwell stated that Bench Elementary is approximately 500 feet away from the property.

REQUEST

This is a request for a special review for the addition of an outdoor patio to an existing location approved for a beer and wine license with gaming at 501 Hilltop Road on a 37,750 square foot parcel of land in a Highway Commercial (HC) zone. The subject property is legally described as Lots 2B and 2C, Block 1, Dicono Subdivision. The existing gross floor area of the King's Korner Casino is 4,146 square feet. The location will require a waiver of the 600 foot separation from this location and the Bench Elementary School at 505 Milton Road.

RECOMMENDATION

The Planning Division is recommending conditional approval.

Nicole Cromwell read aloud the proposed conditions below:

PROPOSED CONDITIONS

1. The special review approval shall be limited to Lots 2B and 2C, Block 1, Dicono Subdivision generally located at 501 Hilltop Road.
2. Any expansion of the proposed patio, 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 outdoor patio shall be in substantial conformance with the submitted site plan.
4. All new site lighting on the building, in parking areas or outdoor patio shall have full cut-off shields so lighting is projected to the ground and not on to adjacent properties.
5. The owner shall provide a fence of at least 4 feet in height around the outdoor patio lounge. The fence shall have at least one exit-only gate to provide an emergency exit. Access to the outdoor patio lounge area shall be through the main indoor area of the business.
6. The owner is allowed to have background music and un-amplified live outdoor entertainment on the outdoor patio lounge. Background music is amplified music not audible beyond the outdoor patio lounge.
7. There shall be no outdoor public address system or outside announcement system of any kind.
8. A solid waste storage area shall be enclosed on three (3) sides by a sight-obscuring fence or wall and by a sight-obscuring gate on the remaining side. This enclosure shall be constructed of normal fencing materials. No chain link or wire fencing will be used for sight-obscuring enclosure.

9. The owner will install 6 (six) trees as required for the 63 provided parking spaces. The trees may be installed within the existing landscaped area. Trees must be installed so they do not block the clear vision areas at the private drive and Hilltop Road.

10. 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.

11. 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 4:55 p.m., Chairman Dailey asked the members of the Commission for questions and discussion. Commissioner Wagner commented that light intensity is always an issue in these cases. Nicole Cromwell said that it is not anticipated that there will be a significant change in lighting. She noted the proposed full cut off shielding condition and said that she doesn't expect the applicant will do much to change to these lighting standards. In response to a question by Dan Wagner, Nicole Cromwell stated that six trees are required and will probably be installed in the existing landscaped areas. Commissioner Workman asked for clarification on the location of the patio; and Nicole Cromwell stated that it will be located on the east side of the property on the right side of the building. Chairman Dailey pointed out that there is no vehicular access to the mobile home park. Nicole Cromwell said that access can be made from Hilltop Road, and the access road on the north side of the property is gated and is used as an access to the storage units. Commissioner Dailey commented on the history of this property and noted Special Review #611. Nicole Cromwell said that she is unsure why the parking lot parcel was not included in the 1997 request. Commissioner Dailey asked if the waiver meets the substantial barrier requirement and Nicole Cromwell stated that it does.

Proponents:

At 5:00 p.m., Chairman Dailey called for proponents for City Special Review #884.

Applicant

Michael Schmechel, 5546 Billy Casper Drive.

Mr. Schmechel is the agent for owners Jimmy & D'Arlyne Dorman. He said that he is doing an extensive renovation to this property. He stated he has had some experience in doing outdoor patios and said that this is a good project for Billings. Commissioner Workman asked for the definition of "The Vig", and Mr. Schmechel said that this refers to a bookie's cut. In response to a question by Commissioner Dailey, Mr. Schmechel said the planned hours of business are from 12:00 p.m.-10:00 p.m. He said that they are targeting customers in the 25-50 year old age group, and they are hoping to draw customers and consumer dollars from the Heights. In response to a question by Commissioner Workman, Mr. Schmechel stated they will have a casual dining concept.

Chairman Dailey asked if there was anyone else wishing to speak in favor of City Special Review #884. There was none. Chairman Dailey asked if there was anyone else wishing to speak against City Special Review #884. There was none. Chairman Dailey closed the public hearing at 4:57 p.m. and called for a motion.

Motion

Commissioner Wagner made a motion and it was seconded by Commissioner Workman to forward a recommendation to City Council of conditional approval of City Special Review #884 with the conditions presented by staff.

Discussion

Chairman Daily called for discussion on the motion. He commented on the issue of having a 600-foot waiver for the school and noted in this case there is a substantial obstruction. Nicole Cromwell clarified how distances are measured by the State and locally. She said that the City requires more separation than the State due to the measurement requirements.

Motion carries, 5-0.

The City Council has designated **Monday, August 23, 2010**, at 6:30 p.m. in the City Council Chambers as the time and place to hear testimony for or against the above-mentioned item.

Item #2: City Special Review #885 – 4040 Parkhill Drive – Tenderest Assisted Living A special review request to construct four (4) new assisted living buildings with 16 units in each building for a total of 64 new assisted living dwelling units in a Residential 7,000 (R-70) and Residential Multi-family-Restricted (RMF-R) zone within the North Shiloh Corridor Overlay District on Tract 2 of Rush Acreage Tracts Subdivision and Lots 5 & 6, Block 6, Rush Subdivision, 2nd Filing, a 2.388 acre parcel of land.

Nicole Cromwell opened her staff presentation and read the request below. She reviewed the zoning of the surrounding properties. She commented that there are several structures of the same type use in this neighborhood. Nicole Cromwell said the existing development and the proposed development will be similar and she pointed out the property will be subject to the requirements of the Shiloh Corridor Overlay District.

REQUEST

This is a request for a special review to allow four (4) new assisted living buildings with 16 dwelling units in each building for a total of 64 units in a Residential 7,000 (R-70) and Residential Multi-family-Restricted (RMF-R) zone within the Shiloh Corridor Overlay District on a 2.388 acre parcel. The subject property is legally described as Tract 2 of Rush Acreage Tracts Subdivision and Lots 5 and 6 of Block 6 Rush Subdivision, 2nd Filings. The property is generally located at 4040 Parkhill Drive on the southwest corner of the intersection of Shiloh Road and Parkhill Drive.

RECOMMENDATION

The Planning Division is recommending conditional approval.

Nicole Cromwell read aloud the conditions of approval below:

PROPOSED CONDITIONS

1. The special review approval shall be limited to Tract 2, Rush Acreage Tracts and Lots 5 and 6, Block 6, Rush Subdivision, 2nd Filing generally located at 4040 Parkhill Drive.
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 addition shall be in substantial conformance with the submitted site plan.
4. All site lighting on the building, in parking areas and under the covered porches shall have full cut-off shields so lighting is projected to the ground and not on to adjacent properties.
5. The west façade of the buildings in Phases 1, 2 and 3 and the east façade of the building in Phase 4 shall provide an architectural relief as required in Section 27-1407(d) of the Unified Zoning Regulations.
6. Pedestrian crossing signs shall be posted at the drive approach entrance on Parkhill Drive. These signs will alert drivers entering and existing to watch for pedestrians on the public sidewalks.
7. The applicant will comply with all absolute criteria and achieve the minimum number of points for relative criteria in the Shiloh Corridor Overlay District as outlined in Section 27-1401 through 27-1423 of the Unified Zoning Regulations.
8. The applicant will apply for a Master Site Plan Approval as required by Section 27-622 of the Unified Zoning Regulations.
9. 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.
10. 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 5:04 p.m., Chairman Dailey asked the members of the Commission for questions and discussion. Commissioner Wagner asked whether residents will be displaced when the existing homes are demolished. Nicole Cromwell said these properties are used for rentals and they will follow requirements for notification. Regarding access to the property, Nicole Cromwell clarified and said there is provision for physical access to this property from Parkhill Drive. Commissioner Dailey asked if traffic count has been considered. Nicole Cromwell said due to the construction on Shiloh Road, the traffic count numbers on Shiloh Road are not meaningful for the past few years. She stated that Shiloh Road has been constructed to handle large amounts of traffic.

Proponents:

Chairman Dailey called for proponents for City Special Review #885.

Quentin Eggart, EEC, 6809 King Avenue West, Billings, Montana

Mr. Eggart, agent for applicant, stated they are in agreement with the proposed conditions of approval. He pointed out the architectural break that has been included in the new site plan. Commissioner Dailey noted the staff report and asked about the fencing. Quentin Eggart stated there will be fencing in between the units to keep the front and rear of the buildings secure for the residents. He explained the two houses will be demolished in phase four of construction, which will give ample time for the current residents to relocate. Commissioner Krivonen asked about the second access road. Mr. Eggart explained they are working with the County regarding the utility easement to possibly change it to an access easement. He said if it is not changed, a hammerhead turnaround would have to be created and traffic would go to the south and then turn back north.

Randy Swenson, 4510 Highline Drive, Billings, Montana

Mr. Swenson stated he is the owner and developer of this project. He said they spoke with neighbors located on Crystal Drive yesterday regarding this proposal. He said they received positive comments as they were familiar with the existing Tender Nest Assisted Living facility. He stated most of the residents no longer drive and the majority of the traffic will be created by employees and visiting family members. Commissioner Wagner asked how many employees this new facility will entail. Mr. Swenson stated there will be 60 additional employees, with 6-14 on site at any given time. Chairman Dailey noted the letter of application states there will be a total of 109 residents. Mr. Swenson explained this number would be for both campuses. Commissioner Workman asked if the facility has rooms to accommodate couples and what the current rate is for assisted living services. Mr. Swenson said they are only licensed for 16 residents per building but accommodations for couples can be made by leaving some units un-occupied. He said their current rate for services depends on the level of care, and ranges from \$3,100-\$3,800 per month.

Chairman Dailey called for anyone else in favor of City Special Review #885. There was none. Chairman Dailey asked if there was anyone wishing to speak against City Special Review #885. There was none. Chairman Dailey closed the public hearing at 5:18 p.m.

Chairman Dailey commented this public hearing is required by State Law. He announced this application will be heard by City Council at 6:30 p.m. in the City Council Chambers on August 23, 2010.

Motion

Commissioner Workman made a motion and it was seconded by Commissioner Krivonen to forward a recommendation to City Council of conditional approval of City Special Review #885 with conditions recommended and presented by staff.

Discussion

Chairman Dailey called for discussion on the motion. Commissioner Hawkins stated this is a good use for the neighborhood. Mr. Swenson stated they met with the Board of County Commissioners three weeks ago and the BOCC agreed to work with them on the exit. He said the BOCC may consider this BUFSA land excess property and will put it out to auction. Mr. Swenson said they will be an interested party and hope to have this addressed by this fall.

Motion carried unanimously, 5-0.

Other Business:

There was no other business.

Announcements:

- The next City Zoning Commission meeting will be held on Tuesday, September 7, 2010, at 4:30 p.m. on the 3rd Floor of the Parmlly Billings Library at 510 N Broadway.
- Nicole Cromwell commented on a potential upcoming joint City and County Zoning Commission special meeting that may be held in September 2010 for the Medical Marijuana City Zoning Code amendment. She would inform the commission if the BOCC is interested in adopting the same code as the city.

Adjournment:

The meeting was adjourned at 5:41 p.m.

ATTEST:

Chairman Dailey, Chairman

Tamara L. Deines, Planning Clerk