

**City of Billings Zoning Commission Meeting  
April 1, 2008**

**The City of Billings Zoning Commission met on April 1, 2008 in the City Council Chambers at 210 N. 27<sup>th</sup> Street, 2<sup>nd</sup> Floor.**

**Leonard Dailey, Jr., Chairman** called the meeting to order at 4:28 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 **Monday, April 28, 2008** at 6:30 p.m.

<b>Commission and Staff</b>		<b>01/02/2008</b>	<b>02/05/2008</b>	<b>03/04/2008</b>	<b>04/01/2008</b>	<b>05/06/2008</b>	<b>06/03/2008</b>	<b>07/01/2008</b>	<b>08/05/2008</b>	<b>09/02/2008</b>	<b>10/07/2008</b>	<b>11/05/2008</b>	<b>12/02/2008</b>
Barbara Hawkins	Commissioner	1	1	1	1								
Thomas Grimm	Commissioner	1	1	A	1								
Michael Larson	Vice-Chair	1	1	1	1								
Edward Workman	Commissioner	1	1	1	1								
Leonard Dailey, Jr.	Chairman	1	1	1	1								
Candi Beaudry	Director	-	-	-	-								
Nicole Cromwell	Planner II, Zoning Coordinator	1	1	1	1								
Elizabeth Allen	Clerk	1	1	1	1								
Wyeth Friday	Planning Division Manager	-	-	-	-								
Juliet Spalding	Planner II	-	-	-	-								
Aura Lindstrand	Planner II	-	1	-	-								
Lora Mattox	Planner II	-	-	-	-								
Dave Green	Planner I	1	-	1	1								1

Total Number of 2008 Applications	01/02/2008	02/05/2008	03/04/2008	04/01/2008	05/06/2008	06/03/2008	07/01/2008	08/05/2008	09/02/2008	10/07/2008	11/05/2008	12/02/2008	Total
Zone Change	3	5	1	1									
Special Review	0	3	0	2									

**Chairperson Cimmino** introduced the Planning Department Staff and Commission:  
 Nicole Cromwell, Planner II/Zoning Coordinator  
 Dave Green, Planner I  
 Elizabeth Allen, Planning Clerk

**Public Comments:**  
 There were none.

**Approval of Minutes:**  
*On a motion by Commissioner Larson, seconded by Commissioner Hawkins and approved with a 5-0 voice vote the minutes of March 4, 2008 were approved.*

**Public Hearings:**

**Chairman Dailey** reviewed the rules and the procedures by which the City Zoning Commission public hearings are conducted.

**Return Item #1 - City Zone Change #836 – Northeast corner of Rosebud Drive & S 32<sup>nd</sup> Street West** – A zone change request from Residential 8,000 (R-80) to Residential Professional (RP) on Lots 4, 5 & 6 of Block 19, Lampman Subdivision a 37,500 square foot parcel of land, Tax IDs C08001, C08002 & C08003. Lais Development, Inc. is the owner and Dave Hawkins, is the agent.

**Commissioner Hawkins** recused herself from participating in the discussion of Zone Change #836 because she is involved with the zone change.

**Ms. Cromwell** read the legal description and **Dave Green** gave a brief power point presentation to the commission. Staff recommendation is approval.

**Discussion:**

**Applicant:**

Dave Hawkins, 3648 Vicory Drive, he and his wife own all of the property all along Rosebud both on the North and South. He passed around some examples of the buildings that they are thinking of placing on these properties. These buildings are all placed on lots similar to the conditions that these

lots have. At the neighborhood meetings they discussed the neighborhood and the changes that it has gone through and the changes that are proposed. The traffic in this area has greatly increased in the past few years. They have spoken to all the people living in the near by condos and they have helped to address their concerns which included additional traffic and how this office building may help to alleviate some traffic. There was some concern about building a 2 story office on this lot but the plans are to build a one story building. There was also concern about building rental properties on this property. He also addressed the concern of the neighbors to have office buildings all down Rosebud and explained that he only hoped to build on the first 3 lots. He also pointed out to the commission that the protest petition that was submitted may be invalid.

**Proponents:**

**Opponents:**

Jack Payne, 3177 Henesta, he feels that these lots are conducive to residential because all of the other lots on 32<sup>nd</sup> in the area are developed residentially. He stated that they have signatures of about 60% of the owners within 150 feet of the subject property. They are concerned that a zone change to RP would decrease the value of their property. The traffic and noise are a big concern to all the residents in the area. He has spoken to many owners in the area and they are against the zone change. He would like to have the commission deny the application.

**Commissioner Workman** asked for clarification as to where Mr. Payne lives and he asked how much the traffic on 32<sup>nd</sup> has increased since it went through.

Dollen Schleep 2131 Henesta Dr, she was wondering if when the property was purchased that it was residential. She also stated that the Hawkins' had stated that they could make more money if they sold the property as commercial.

**Rebuttal:**

Dave Hawkins explained that there was a lot of commercial in the area when the condos were built and they are partially surrounded by commercial. When he purchased the land he did know that it was zoned residentially and they had planned to develop it residentially. Now that the traffic has increased on 32<sup>nd</sup> this is a better location for commercial. The R-80 zoning would allow for duplex and this corner lot would not be conducive to selling as a single family home. He doesn't believe that residential professional would decrease the value of the surrounding homes. The R-80 would allow for group homes with less than 8 residents or rehab centers with special review approval. They could also try for multi family zoning and have condos or rentals.

*Public hearing closed at 4:59 p.m.*

**Commissioner Larson** asked for **Ms. Cromwell** to explain what a valid protest is.

**Ms. Cromwell** explained that a valid protest requires 25% of all property owners within 150 feet of the property. If there is a valid protest against the zone change the City Council must vote by super majority to approve the Zone Change. The city attorney is going over the protest that has been submitted.

**Commissioner Workman** will vote for this application because he feels that with the traffic on 32<sup>nd</sup> Street makes this a good area for a commercial node.

**Commissioner Larson** feels that staffs recommendation is valid. He doesn't feel that the traffic problems will decrease but he doesn't feel that this zone change will make the traffic in the area any worse.

**Commissioner Workman** asked if there are plans to have a roundabout at 32<sup>nd</sup> and King. **Ms. Cromwell** stated that there are no plans to change from a signal.

**Motion:**

*On a motion by Commissioner Grimm, seconded by Commissioner Workman and approved with a 4-0-1 voice vote a recommendation of approval will be forwarded to the City Council on its meeting of April 28, 2008.*

**Commissioner Hawkins** rejoined the commission.

**Item #2 - City Special Review #858 – 4125 & 4135 Grand Avenue – King of Glory Lutheran Church** – A special review request to expand an existing church on a 5.93 acre parcel of land in a Residential 9,600 (R-96) zone, on Tracts 2A-1 & 3A-1 of C/S 1876 Amended. Tax IDs D0471 & D04742, King of Glory Lutheran Church, Russell Plath, President is the owner and Engineering, Inc. is the agent.

**Ms. Cromwell** read the legal description and **Dave Green** gave a brief power point presentation to the commission. Staff recommendation is approval.

**Discussion:**

**Applicant:**

Michael Sanderson, Engineering, Inc. 1300 North Transtech Way, passed around some renderings of what they are planning to build. He feels that the staff report has explained the project very well. This project would allow them to hook up to city water and sewer and they will also be adding additional landscaping and building enhancements.

Tom Sloeterbach, 4938 Stoneridge Circle. They have expanded the congregation and they need more room. He would ask the commission to recommend approval.

**Commissioner Dailey** asked how long the church has been on this property. Tom stated that they had been at this location for 24 years.

Marsha Wellburn, 3347 Poly Dr, they have been planning this expansion for about 2 years. They can only afford to expand through Phase one as of right now. They use this property for many different community functions, including boy scout meetings and preschool groups.

**Commissioner Dailey** asked when they are planning on starting the expansion of the property. Marsha stated that they are ready to begin building as soon as they are approved.

Mike Heffner, 4209 Grand Ave, neighboring property owner. They are in favor of this expansion. The church has been a good neighbor.

Jerry Goodman, 7631 Fritz Rd, he is in favor of the remodel and expansion of this church.

**Proponents:**

**Opponents:**

**Rebuttal:**

*Public hearing closed at 5:20 p.m.*

**Motion:**

***On a motion by Commissioner Workman, seconded by Commissioner Larson and approved with a 5-0 voice vote a recommendation of approval will be forwarded to the City Council on its meeting of April 28, 2008 with the following conditions:***

1. The special review approval shall be limited to Tracts 2A-1 and 3A-1, COS 1876 addressed at 4125 and 4135 Grand Avenue, 5.939 acres on the northwest corner of the intersection of Grand Avenue and 41<sup>st</sup> Street West.
2. Any expansion of the proposed building, building occupancy or parking lot greater than 10 percent of what is shown on attachment C of this report will require an additional special review approval as per BMCC 27-613(c).
3. The development of Tracts 2A-1 and 3A-1, COS 1876 shall be in complete accordance with all provisions of Section 27-1100 Landscaping and all provisions of Section 27-308 building height and setbacks.
4. Dumpsters shall be enclosed in a three sided sight obscuring enclosure with sight obscuring gates, Section 27-1107 BMCC.
5. All exterior lighting with the exception of sign lighting shall have full cut-off shields so light is directed to the ground and not onto adjacent property.
6. 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.
7. 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.
8. The King of Glory Lutheran Church shall install a solid 6 foot site obscuring fence, chain link is not acceptable, along the property line between them and the neighboring property, Lot 3 Block 7, Goodman Subdivision, 1st Filing, that extends from the north property line of Lot 3, Block 7, Goodman Subdivision, 1st Filing, to the north property line of Tract 3A-1 Certificate of Survey 1876 Amended, when they construct Phase I of this project as shown on drawings provide to the Planning Division and dated 2-27-08.

**Item #3 - City Special Review #859 – 401 N 27<sup>th</sup> Street – Yellowstone Art Museum** – A special review request to locate an all-beverage liquor license (w/o gaming) on a 1.61 acre parcel of land in the Central Business District (CBD) zone, on Lots 7-12, 14-24, Block 9, Billings Original Town and Lot 13A, Block 58 of Foster's Addition. Tax ID A00063, Yellowstone Art Center Foundation is the owner and James P. Healow, is the agent.

**Ms. Cromwell** read the legal description and gave a brief power point presentation to the commission. Staff recommendation is approval.

**Discussion:**

**Commissioner Workman** asked if there are any playgrounds, churches or schools close to this building.

**Mr. Green** pointed out the closest church.

**Commissioner Dailey** asked for clarification of the liquor license and how they travel.

**Commissioner Dailey** asked if the catering licenses ever present problems with zoning.

**Ms. Cromwell** stated that zoning does not address traveling liquor licenses.

**Applicant:**

James Healow, 1250 15<sup>th</sup> St West, staff has covered the issue well. The Art Museum does have a liquor license lined up to purchase. The Methodist Church wrote a letter saying they have no problem with the art museum having a liquor license. They have no plans to have gaming at the museum and have asked that the condition be written into the license.

**Proponents:**

**Opponents:**

**Rebuttal:**

*Public hearing closed at 5:32 p.m.*

**Motion:**

***On a motion by Commissioner Hawkins, seconded by Commissioner Larson and approved with a 5-0 voice vote a recommendation of approval of Special Review #859 will be forwarded to the City Council at its meeting of April 28, 2008 with the following conditions:***

1. The special review approval shall be limited to Lots 7-12 and 14-24, Block 9, Billings Original Townsite and Lot 13A, Block 58, Fosters Addition Amended less 642 square feet as shown on the site plans submitted with this application. The all beverage liquor license without gaming shall be limited to the interior space and existing outdoor central patio of the existing building.
2. Any future increases of floor area for the all beverage liquor license without gaming beyond current interior space and existing outdoor central patio or the addition of a new outdoor patio will require another Special Review application (BMCC 27-613).

**Other Business:**

**Adjournment:**

***The meeting was adjourned at 4:34 p.m.***

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**Leonard Dailey, Chairman**

**ATTEST:**

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**Elizabeth Allen, Planning Clerk**

