

ORDINANCE NO. 2048

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING SECTION 2 OF ORDINANCE NO. 1963 TO ALLOW FOR THE ADDITIONAL USE OF BARBER SHOP/BEAUTY PARLOR AND TEMPORARY FENCING DURING BUILDING RESTORATION.

PURPOSE

The purpose of this Ordinance is to promote public health, safety and welfare by providing for healthful surroundings by allowing the revitalization of a historically significant building within the established Preservation Zoning District.

WHEREAS, the Zoning Commission, after considering the 12-point Lowe Test, made the following findings:

The proposed rezoning is in accordance with the Growth Policy;

The proposed rezoning is not designed to lessen street congestion;

The proposed rezoning will secure safety from fire, panic and other dangers;

The proposed rezoning will promote health and general welfare;

The proposed rezoning will provide adequate air and light;

The proposed rezoning will prevent overcrowding of the land;

The proposed rezoning will facilitate the adequate provision of transportation, water, sewage, schools, parks and other public requirements;

The proposed rezoning will avoid undue concentration of the population;

The proposed rezoning will give reasonable consideration to the low-density character of the district;

The proposed rezoning will give reasonable consideration to the suitability of the property for particular uses;

The proposed rezoning will conserve the value of the building;

The proposed rezoning will encourage the most appropriate use of land throughout the City; and

WHEREAS, based on the above findings, the Zoning Commission recommended approval of the Text Amendment modifying the Waterworks Preservation Zoning District (See Staff Report dated September 16, 2013 attached hereto as Exhibit A).

NOW, THEREFORE, BET IT ORDAINED by the City Commission of the City of Livingston, Montana that Ordinance No. 1963 is hereby, amended with additions highlighted in gray.

SECTION 2

Waterworks Preservation Zoning District Regulations:

Uses allowed: The following uses in the Waterworks Preservation Zoning District will be permitted:

- (A) Single Family Residence
- (B) Duplex
- (C) Business and Professional Offices
- (D) Barber Shop/Beauty Parlor

Set Backs: The following set backs for the Waterworks Preservation Zoning District will be allowed:

- Front Yard – 25 feet
- Side Yard – 5 feet
- Rear Yard – 15 feet

Signage: The following Signage will be allowed:

One (1) non-illuminated wall sign not to exceed twelve (12) square feet or one (1) non-illuminated monument sign not to exceed four (4) feet in height and six (6) feet in length and located at least five (5) feet from 10th Street property line.

Off Street Parking Requirements: The following off-street parking spaces are required:

Single Family Dwelling: Two (2) off-street parking spaces

Duplex: Two (2) off-street parking spaces per dwelling unit

Business and Professional Office: One (1) off-street parking space per 500 feet of gross floor area.

Building Restrictions: To maintain the park-like atmosphere of the surrounding land, no fences shall be permitted and no additions shall be made to the water works building. Temporary fences may be allowed during building restoration.

SECTION 3

Statutory interpretation and Repealer:

Any and all resolutions, ordinances and sections of the Livingston Municipal Code and parts thereof in conflict herewith are hereby repealed.

SECTION 4

Severability:

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid by a court having competent jurisdiction, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provisions or application, and to this end, the provisions of this ordinance are declared to be severable.

SECTION 5

Savings Provision:

This ordinance does not affect the rights or duties that mature, penalties and assessments that were incurred or proceedings that begun before the effective date of this ordinance.

SECTION 6


Effective Date:

This ordinance will become effective 30 days after the second and final adoption.

PASSED by the City Commission of the City of Livingston, Montana, on first reading at a regular session thereof, held on the 5th day of November, 2013.


STEVE CALDWELL - Chairman

ATTEST:


DAVID FINE
Recording Secretary


* * * * *

PASSED, ADOPTED AND APPROVED by the City Commission of the City of Livingston, Montana, on second reading at a regular session thereof held on the 3rd day of

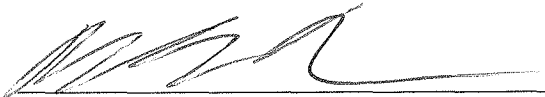
~~November~~, 2013.
December


STEVE CALDWELL - Chairman

ATTEST:


DAVID FINE
Recording Secretary

APPROVED AS TO FORM:


BRUCE E. BECKER
City Attorney

NOTICE

The public is invited to attend and comment at a public hearing to be held on December 3, 2013, at 6:30 p.m. in the Community Room of the City County Complex, 414 East Callender Street, Livingston, Montana, on the second reading of **ORDINANCE NO. 2048** entitled **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING SECTION 2 OF ORDINANCE NO. 1963 TO ALLOW FOR THE ADDITIONAL USE OF BARBER SHOP/BEAUTY PARLOR AND TEMPORARY FENCING DURING BUILDING RESTORATION.**

A copy of the ordinance is available for inspection at the City Office, 414 East Callender Street, Livingston, MT 59047. For further information call the City Attorney at (406) 823-6007.

Please publish November 21, 2013 and November 27, 2013.

Pam Payovich
Administrative/Accounting Clerk

Date: November 6, 2013

City Manager
Edwin R. Meece



Chairman
Steve Caldwell

Vice Chairman
James Bennett

Commissioners
Adam Stern
Mel Friedman
Bill Spannring

414 East Callender Street
Livingston, Montana 59047
(406) 222-2005 phone
(406) 222-6823 fax
citymanager@livingstonmontana.org
www.livingstonmontana.org

September 30, 2013

City Manager
414 East Callender Street
Livingston, MT 59047

Mr. Meece,

The City Zoning Commission makes the following recommendation to the City Commission:

Recommend **approval** of the Text Amendment modifying the Waterworks Preservation Zoning District.

The Staff Report upon which this recommendation is based is attached.

Sincerely,

Jim Woodhull
Recording Secretary

LIVINGSTON
Montana

GO BEYOND YELLOWSTONE



City Manager
Edwin R. Meece



Chairman
Steve Caldwell

Vice Chairman
James Bennett

Commissioners
Adam Stern
Mel Friedman
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414 East Callender Street
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September 16, 2013

STAFF REPORT
TEXT AMENDMENT – WATERWORKS PRESERVATION ZONING DISTRICT

Background

The current Water Works PZD allows the following uses:

- Single Family Residential
- Duplex
- Business & Professional Office

The Ordinance also states that no fences will be allowed on the property.

This amendment would add one additional use; Barber Shop/Beauty Parlor and would also add the following language to the fencing prohibition:

“Temporary fencing may be allowed during building restoration”

Findings of Fact

The proposed amendment would allow for the preservation of the Water Works Building under the current proposal before the City. The added use does not seem out of character with those already allowed as “Business & Professional Office (such as doctor and dentist offices). The temporary fencing addition is for the purpose of providing public safety and limiting liability exposure.

LIVINGSTON
Montana

GO BEYOND YELLOWSTONE



Public Hearing (9/25/13)

Lucas Shad, spoke in favor of this zoning amendment.

The following people spoke against this zoning amendment:

Kara Stermitz – mentioned legal concerns with the process, thinks the intended use is inappropriate.

Mary Murphy – stressed legal concerns, spot zoning.

Nick Richards – there are better uses for this property, the process was poor.

Dixie Lee Bullock – spot zoning, City has poor priorities.

Mike Gomez – mentioned that the old waterworks in Miles City was turned into a museum.

Staff Recommendation

The City Zoning Coordinator believes that it is appropriate for the Zoning Commission to recommend to the City Commission that this Text Amendment be approved.

Attachments

Attachment I.....Ordinance 1963
Attachment II.....Definitions, Chapter 30

TWELVE POINT “LOWE” TEST FOR ZONING OR REZONING

1. Is the proposed rezoning designed in accordance with the Growth Policy?

The Growth Policy does not directly address planned locations for PZD zones. It does, however, call for “...the utilization of available, underdeveloped lots in, or bordering the city, to increase density and reduce infrastructure and public facilities costs.” While this is not an infill project, it would allow for the re-use of an existing, historic structure. This is something that, overall, the Growth Policy supports.

2. Is the proposed rezoning designed to lessen congestion in the streets?

No. The proposed rezoning is for the purpose of re-using an existing facility. Because this building is currently vacant, the re-development of this property in any fashion will not lessen congestion.

3. Will the proposed rezoning secure safety from fire, panic, and other dangers?

Yes.

4. Will the proposed rezoning promote health and general welfare?

Yes. Health, sanitation, building and fire codes would all apply to PZD zoning.

5. Will the proposed rezoning provide adequate air and light?

Yes. Current building code requirements are assumed to provide “adequate” air and light.

6. Will the proposed rezoning prevent overcrowding of the land?

Yes. The zoning designation itself determines what is or is not “overcrowding”. The PZD zoning designation would establish the density for this particular property.

7. Will the proposed rezoning facilitate the adequate provision of transportation, water, sewage, schools, parks and other public requirements?

Yes. All of the above public requirements are available.

8. Will the proposed rezoning avoid undue concentration of population?

Yes.

9. Does the proposed rezoning give reasonable consideration to the character of the district?

Yes. This area is primarily a residential neighborhood with the vast majority of Block 35 being used as parkland. Low intensity use of this property should fit with the character of the district.

10. Does the proposed rezoning give reasonable consideration to the suitability of the property for particular uses?

Yes.

11. Will the proposed rezoning conserve the value of the buildings?

Yes. The re-use and rehabilitation of this building is the purpose of the zone change request.

12. Will the proposed rezoning encourage the most appropriate use of land throughout the City?

Yes. The City's Growth Policy encourages infill development where utilities and services already exist.

ORDINANCE NO. 1963

AN ORDINANCE OF THE LIVINGSTON CITY COMMISSION AMENDING SECTION 30.13 ENTITLED OFFICIAL ZONING MAP OF THE LIVINGSTON MUNICIPAL CODE BY REZONING PORTIONS OF LOTS 19, 20, 21, 22, 23, 24, 25, 26, AND 27 OF BLOCK 35 OF THE PARK ADDITION TO THE CITY OF LIVINGSTON, MONTANA, AS DESCRIBED BY LOT W OF AMENDED SUBDIVISION PLAT NO. 498, FROM PUBLIC ZONE (P) TO A PRESERVATION ZONING DISTRICT (PZD) AND ENACTING REGULATIONS FOR THE WATERWORKS PRESERVATION ZONING DISTRICT.

Purpose

The purpose of Zoning the area described herein is to promote public health, safety and welfare by providing for healthful surroundings and to preserve a historically significant building and park-like surroundings by designating the Waterworks Building as a Preservation Zoning District and establishing regulations..

WHEREAS, the City owns the Waterworks Building and surrounding land located on Lots 19 through 27 of Block 35 of the Park Addition to the City of Livingston, Montana, which has been zoned Public; and

WHEREAS, the Waterworks Building historically provided water for the City and the City is desirous of maintaining the exterior appearance of the building through the use of a preservation zoning district while allowing the re-use of the building under the terms and conditions of the Preservation Zoning District; and

WHEREAS, the land surrounding the Waterworks Building has been used as a city park and the City desires to maintain the park attributes of and ownership of some of the property surrounding the Waterworks Building; and

Ordinance No. 1963

Amending Official Zoning Map - Waterworks Building Preservation Zoning District

Page 1

WHEREAS, the City Commission, in preparation for the possible sale of the Waterworks Building, to provide for the preservation of the building and to maintain the park attributes of the property caused a survey of said property to be done to describe and define the boundaries of the preservation zoning district which is now described as Lot "W" of Amended Subdivision Plat No. 498 on file and of record in the office of the Clerk and Recorder of Park County, Montana, and is more particularly described as follows:

Lot W, being a resurvey and aggregation of portions of Lots 19, 20, 21, 22, 23, 24, 25, 26, and 27 of Block 35 of the Park Addition to the City of Livingston, Montana, located in a portion of the NW¼ of Section 24, Township 2 South, Range 9 East, P.M.M., City of Livingston, Park County, Montana.

WHEREAS, the Livingston Zoning Commission has recommended that the aforescribed property be re-zoned from its Public Zone to a Preservation Zoning District to preserve and protect this historic building; and

WHEREAS, the City Commission has considered the Twelve Point "Lowe" Test following a duly noticed public hearing.

NOW, THEREFORE, BE IT ORDAINED by the Livingston City Commission as follows:

SECTION 1

That Section 30.13 entitled Official Zoning Map of Chapter 30 Zoning of the Livingston Municipal Code be and the same is hereby amended by changing the zoning designation of Lot W, being a resurvey and aggregation of portions of Lots 19, 20, 21, 22, 23, 24, 25, 26, and 27 of Block 35 of the Park Addition to the City of Livingston, Montana, located in a portion of the

Ordinance No. 1963

Amending Official Zoning Map - Waterworks Building Preservation Zoning District

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NW¼ of Section 24, Township 2 South, Range 9 East, P.M.M., City of Livingston, Park County, Montana, from Public Lands to the Waterworks Preservation Zoning District (PZD).

SECTION 2

Waterworks Preservation Zoning District Regulations:

Uses Allowed: The following uses in the Waterworks Preservation Zoning District will be permitted:

- (A) Single Family Residence
- (B) Duplex
- (C) Business and Professional Offices

Set Backs: The following set backs for the Waterworks Preservation Zoning District will be allowed:

- Front Yard - 25 feet
- Side Yard - 5 Feet
- Rear Yard - 15 feet

Signage: The following Signage will be allowed:

- One (1) non-illuminated, wall sign not to exceed twelve (12) square feet or one
- (1) non-illuminated monument sign not to exceed four (4) feet in height and six
- (6) feet in length and located at least five (5) feet from 10th Street property line.

Off-Street Parking requirements: The following off-street parking spaces are required:

- Single Family Dwelling:** Two (2) off-street parking spaces
- Duplex-** Two (2) off-street parking spaces per dwelling unit.

Business and Professional Office: One (1) off-street parking space per 500 feet of gross floor area.

Building Restrictions: To maintain the park-like atmosphere of the surrounding land, no fences shall be permitted and no additions shall be made to the water works building.

SECTION 3

Statutory Interpretation and Repealer:

Any and all resolutions, ordinances and sections of the Livingston Municipal Code and parts thereof in conflict herewith are hereby repealed.

SECTION 4

Severability:

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid by a court having competent jurisdiction, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provisions or application, and to this end, the provisions of this ordinance are declared to be severable.

SECTION 5

Savings provision:

This ordinance does not affect the rights or duties that mature, penalties and assessments that were incurred or proceedings that begun before the effective date of this ordinance.

SECTION 6

Effective date:

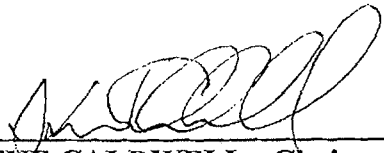
This ordinance will become effective 30 days after the second and final adoption.

Ordinance No. 1963

Amending Official Zoning Map - Waterworks Building Preservation Zoning District

Page 4

PASSED by the City Commission of the City of Livingston, Montana, on first reading at a regular session thereof held on the 6th day of February, 2006.



STEVE CALDWELL - Chairman


ATTEST:



PAM PAYOVICH - Recording Secretary

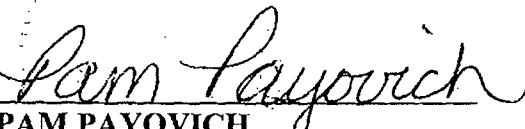
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PASSED, ADOPTED AND APPROVED by the City Commission of the City of Livingston, Montana, on second reading at a regular session thereof held on the 6th day of March, 2006.



STEVE CALDWELL - Chairman

ATTEST:



PAM PAYOVICH
Recording Secretary

APPROVED AS TO FORM:



BRUCE E. BECKER
Livingston City Attorney

Ordinance No. 1963

Amending Official Zoning Map - Waterworks Building Preservation Zoning District

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"Business and professional offices" means a structure used primarily for housing the offices of a physician, dentist, architect, engineer, attorney, musician, artist or similar professional person.

"Clinic" means a building designed and used for the medical, dental, and surgical diagnosis and treatment of patients under the care of doctors and nurses, but where no surgery other than minor emergency care is performed.

"Drive-in restaurant" means a use whose retail character is dependent upon a driveway approach and parking space for motor vehicles so as to either serve customers while in the vehicle or permit consumption of food or beverages obtained on the premises, in a vehicle.

Dwelling (types of):

a. "Dwelling, one (1) family" means a building designed for occupancy by one (1) family and containing one (1) dwelling unit.

b. "Dwelling, two (2) family (duplex)" means a building designed for occupancy by two (2) families living independently of each other, and containing two (2) dwelling units.

c. "Dwelling, multiple" means a building designed primarily for occupancy by three (3) or more families living independent of each other, and containing three (3) or more dwelling units.

"Dwelling unit" means one (1) or more rooms designed for or occupied by one (1) family for living or sleeping purposes or for use solely by one (1) family.

All rooms comprising a dwelling unit shall have access through an interior door to other parts of the dwelling unit. An efficiency apartment constitutes a dwelling unit within the meaning of this ordinance codified in this Chapter.

"Exotic entertainment" means the commercial showing or display of a living person; however, total nudity is prohibited.

"Family" means one (1) or more persons related by blood, adoption, or marriage, or not more than three (3) unrelated persons living, sleeping and usually eating on the premises as a single housekeeping unit.

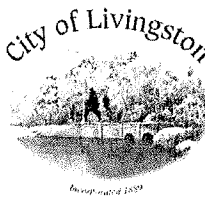
"Fence" means a barrier composed of posts connected by boards, rails, panels, or wire for the purpose of enclosing space for separating parcels of land. It may include a masonry wall.

"Grade" means the lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and the property line or, when the property line is more than five (5) feet from the building, between the building and a line five (5) feet from the building.

"Heavy manufacturing" means any manufacturing process which requires the storage of component materials within public view, is conducted partially or entirely outdoors or causes significant noise, odor, glare or vibration which is detectable beyond the parcel on which it is located.

"Hotel" means a building in which lodging is provided with or without meals, and open to transient guests.

"Light manufacturing" means any manufacturing process which requires no storage of component material within public view, is entirely contained indoors, and does not cause any significant noise, odor, glare or vibration detectable beyond the parcel on which it is located.



Livingston City Commission
LEGISLATIVE ACTION SUMMARY
Ordinance/Resolution No: **2048**

Date of First Consideration/Status: October 15, 2013

Purpose of Legislation: Approve Text Amendment modifying the Waterworks Preservation Zoning District.

Statutory Authority/Reference: N/A

Background: On September 16, 2013 the Zoning Commission provided a Staff Report regarding the Water Works Preservation Zoning District. The Commission, taking into consideration the 12 part Lowe Test, recommended a text amendment adding the additional use of Barber Shop/Beauty Parlor and adding language allowing temporary fencing during building restoration. Based on the recommendation, the City Commission discussed and approved the text amendment as an action item on October 15, 2013. The current Ordinance amends Ordinance No. 1968, which established the Waterworks Preservation Zoning District on March 6, 2006, to include the above recommended changes.

Fiscal Impact: N/A

Regulatory Impact (local): N/A

Attachments: Public Hearing Notice; Exhibit A: Zoning Commission Recommendation