

## City of Billings Zoning Commission Meeting Minutes February 2, 2021

The City of Billings Zoning Commission met on Tuesday, February 2, 2021 at 4:30 p.m. in a Virtual Zoom meeting, Chairman Larson called the meeting to order at 4:30 p.m. The City Council has designated **Monday, February 22, 2021** at 5:30 p.m. in the City Council Chambers as the time and place to hear testimony for or against the zoning applications.

Commission and Staff		0	0	0	0	0	0	0	0	0	1	1	1
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Mike Larson	Chairman	1	1										
Daniel J. Brooks	Commissioner	1	1										
Jack King	Commissioner	1	1										
Greg McCall	Vice Chairman	E	1										
Trina White	Commissioner	1	1										
Wyeth Friday	Director, Planning & Community Services	-	-										
Monica Plecker	Division Planning Manager	-	-										
Nicole Cromwell	Planner Zoning Coordinator	1	1										
Tammy Deines	Planning Clerk	-	-										
Dave Green	Planner II	-	-										
Karen Husman	Planner I	1	-										
Robbin Bartley	Administrative Support	1	1										

<b>Total Number of 2021 Applications</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>T O T A L</b>
	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>0</b>	<b>1</b>	<b>2</b>	
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	<b>1</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>1</b>	
<b>Zone Change</b>	-	2											2
<b>Special Review</b>	2	-											2

Chairman Larson introduced the Planning Division Staff and Commission: Attending Staff were Nicole Cromwell, Zoning Coordinator, Robbin Bartley, Administrative Assistant.

**In Attendance :**

**Public Comment**

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

**Approval of Minutes:**

**Chairman Larson** called for approval of the January 5, 2021 meeting minutes.

**Motion**

Commissioner White made a motion and Commissioner Brooks seconded the motion to approve the January 5, 2021 meeting minutes.

<b>COMMISSIONER</b>	<b>Yes</b>	<b>No</b>	<b>ABSTAINED</b>	<b>ABSENT</b>
Mike Larson	X			
Daniel J. Brooks	X			
Jack King	X			
Greg McCall	X			
Trina White	X			

**The motion for approval then carried with a unanimous voice vote 5-0.**

**Disclosure of Conflict of Interest**

<b>COMMISSIONER</b>	<b>Yes</b>	<b>No</b>	<b>ABSTAINED</b>	<b>ABSENT</b>
Mike Larson		X		
Daniel J. Brooks		X		
Jack King		X		
Greg McCall		X		
Trina White		X		

**Disclosure of Outside Communication**

<b>COMMISSIONER</b>	<b>Yes</b>	<b>No</b>	<b>ABSTAINED</b>	<b>ABSENT</b>
Mike Larson		X		
Daniel J. Brooks	X			
Jack King		X		
Greg McCall		X		
Trina White		X		

Commissioner Brooks was contacted by 2 citizens looking for information regarding the December neighborhood meeting held for Zone Change 988. He referred them to the City website and Administrative Assistant Robbin Bartley.

Staff consolidated all emails and sent them to the Commissioners.

**Public Hearings:**

Nicole Cromwell reviewed the rules and the procedures by the City Zoning Commission public hearings are conducted and advised the audience this would be heard by the City Council on February 22, 2021.

**Item #1**

Nicole Cromwell read aloud the legal notice for this application:

**City Zone Change 987– NW corner of intersection of Hwy 3 & Story Ridge Rd. – from A-1 to HC & CI** - A zone change request from Agricultural open space (A-1) to Highway Commercial (HC - Tracts 1A & 1B – 20 acres) & Controlled Industrial (CI – Tracts 2,3,4,5,6A & 6B – 118 acres), on Parcels 1A, 1B, 2, 3, 4, 5, 6A & 6B of Certificate of Survey 1889, a 138-acre parcel of land. A pre-application neighborhood meeting was held on December 9, 2020, at 3655 AJ Way, Billings, MT. Tax ID: D04558, D04558A, D04589, D04590, D04591, D04592, D04593, & D04593A

### **Recommendation**

Planning staff recommends approval of the zone change from A to CX based on the findings of the 10 review criteria.

- ✓ The proposed zoning is conforming to the 2016 Growth Policy – Economic Prosperity and Preferred Land Use
- ✓ Development within the city limits will ensure building code compliance for new construction
- ✓ Transportation systems will be effected and a study will be required at the time of any new development
- ✓ Area is within the Airport Influence Area (uses/height) and the Noise Overlay (65 dBa)
- ✓ Proposed zoning is compatible with existing zoning to the east and with the Billings Airport

In making its recommendation to the city council for an amendment to the official map or text of this chapter, the **City Zoning Commission shall consider**, among other things, the following:

- (1) Whether the new zoning is designed in accordance with the growth policy;
- (2) Whether the new zoning is designed to secure from fire and other dangers;
- (3) Whether the new zoning will promote public health, public safety and general welfare;
- (4) Whether the new zoning will facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements;
- (5) Whether the new zoning will provide adequate light and air;
- (6) Whether the new zoning will affect motorized and non-motorized transportation;
- (7) Whether the new zoning will promote compatible urban growth;
- (8) Whether the new zoning considers the character of the district and the peculiar suitability of the property for particular uses;
- (9) Whether the new zoning will conserve the value of buildings; and
- (10) Whether the new zoning will encourage the most appropriate use of land throughout the City of Billings.

- ✓ Letters of opposition or objection were received from:
  1. Jennifer Hansen, 109 Sky Ranch Dr
  2. James and Beckie Beley, 3382 Stoney Ridge Rd
  3. Jim Decker, Sky Ranch Dr
  4. Lyle Gabrian, Chair Rimrock Neighborhood Task Force
  5. Barbara and Donald Ramlow, 3450 Masterson Circle
  6. Brenda and Robert Dossett, 3420 Masterson Circle

7. Howard Evans, 3481 Masterson Circle
8. Dennis and Roleene Fergus, 3523 Masterson Circle
9. Alice Lahren, 108 Sky Ranch Dr
10. Dave and Elaine Kinnard, 106 Sky Ranch Dr
11. Steve and Lisha Payne, 3441 Masterson Circle
12. Paul and Jill Scarpari, 3440 Masterson Circle

**Questions for staff:**

**Commissioner White** asked if the property will be annexed and if City water and sewer exist currently along Hiway 3.

Staff replied there will be access to City water and sewer. In the annexation process these become available understanding the challenges of the topography being uphill.

**Commissioner Brooks** asked what uses would be restricted because of the height restrictions,

Staff referred to the City areas would require sound deadening if certain uses were developed. The height restrictions are based on sea level, it is doubtful it would be an issue here.

**Commissioner White** asked what sort of businesses would be allowed.

Staff replied highway commercial zoning would accommodate trucking, warehousing, hotels, restaurants and retail and other heavier uses. It is not intended to be close to residential areas.

**Public Hearing** Chairman Larson opened the public hearing at 5:02PM and asked for anyone wishing to speak in favor or against **City Zone Change 987**.

**Applicant:**

**Erin Heringer, 3655 AJ Way, Billings, MT**

**Jeff Kanning, Collaborative Design, agent**

Collaborative Design was brought in specifically for master planning. It is the owner's intent to do this in an orderly and thoughtful way. The family is fully invested in this community and wish to stay way. A lot of research went into the planning of this, including zoning, RE:Code, transportation, airport studies, highway studies and growth policy. We have worked closely with City Planning Staff, Engineering, Fire and Kevin Ploehn from the airport. Because of our communication with the neighbors we have pared our requests back. In reviewing the review criteria, the 2016 Growth Policy was reviewed. This is actually the use intended for the subject property. This zoning will provide economic growth to Billings. A traffic study has been requested for this area. Hiway 3 and the airport are transportation systems we are attempting to leverage with this development. We do not expect the property values to devalue with the developing of this property. We have the privilege of being the first development in the area and will be setting a precedent for landscaping and buffer zones for future developers.

**Favor: NONE**

**Opposed:**

**Brenda Dossett, 3420 Masterson Circle, Billings, MT**

She and her husband live immediately adjacent to this property. She feels there must be a better and different Zoning could be used. She realizes the Blain's are invested in the property, the proposed Zone Change would adversely affect the quality of life they now enjoy.

**Jim Scott, 2244 Stony Ridge Road, Billings, MT**

I wish to wish to express my objection to this Zone Change.

**Bill Cole, 3733 Tommy Armor Circle, Billings, MT – informational questions**

Can you provide conceptual drawings and what kind of previous agreements were made about the construction of the buffer yards.

**Alice Lahren, 108 Sky Ranch Drive, Billings, MT**

In 2016 when the Blains purchased the property it was zoned as Highway Commercial intended for commercial and service enterprises. It would be to primarily serve the needs of tourists, travel, recreation and the general public. Today we have Highway Commercial defined for heavy commercial, wholesale, warehouse distribution and contractor commercial uses. It allows for outdoor storage. These descriptions are very different in her opinion. She asks the Commission to consider a zoning enhancing an attractive Hiway 3. Preserving the integrity of the rims.

**Tim Blattie, 2745 Hiway 3, Billings, MT**

He is opposed to this zone change. He made a living as an aviation mechanic and pilot for 15 years. Living close to the airport is not an issue, he enjoys it. This zone change opens the door up to anything and everything. He is concerned it will resemble a junk yard. He is concerned in a drop of his property value. The zone change will benefit only the Blains.

**Paul Scarpari, 3440 Masterson Circle, Billings, MT**

He attended the neighborhood meeting. He understood there are no plans at this time for the subject property and Erin Heringer expressed the desire to be good stewards of the land. He hopes she meant it and wasn't just saying it to agree with the Blains position. He does not see Heavy Commercial zoning benefiting any of the residences in the area. Traffic is a large concern. He wishes to preserve the beauty of the rims. He asked at the meeting if FedEx or UPS would be moving their operations there. Also, how is the bike path going to be implemented, there is not enough room. He is also not wishing to see Billboards and traffic. There must be another zoning that would work.

**Howard Evans, 3481 Masterson Circle, Billings, MT**

He is concerned, not about development, but has problems with the Heavy Commercial designation. The kinds of activities allowed under zoning are numerous and very disturbing to the neighbors. He is worried for the type of development which might occur, not that it necessarily

will. Some 30 years ago, North 27<sup>th</sup> was a mess, it took many years to clean it up. Traffic is a huge concern. An adequate traffic analysis should be implemented first. Please postpone a decision.

**Steve Payne, 3441 Masterson Circle, Billings, MT**

He has submitted a letter to the Commission and asks if it had been read. Chairman Larson replied the letters have been received. He is concerned about the process. This seems to have happened very quickly and thru virtual discussions excluding some of the neighbors he has talked with about the Zone Change. The virtual format proves to be a serious challenge for some. He believes this should be handled in person. The speed of the changes which have happened and the lack of information regarding the proposed uses. Since there are no hard plans according to the applicant, this decision could be postponed 3-6 months. Holding off until it could be heard in person seems fairer. Contrary to what is being said here, adjacent properties do, definitely, affect the valuation of other properties in the area. A junk yard or prison could be constructed in the proposed zoning.

**Rebuttal:**

There have not been any conceptual drawings done for the proposed buffer yards. A development agreement is being worked thru now as part of an annexation process. There are no prior settlement agreements attached to the proposed zone change area. All the other uses are allowed in the CX zoning are also allowed in Highway Commercial. While it is true warehouse developments involving trucking are allowable as are restaurants, hotels, gas stations and retail. Typically, a traffic impact study is not done until after the use is defined, however, the Blains wish to be proactive. They are not ready to predict what the uses will be. Accident statistics have been reviewed for the area. Sanderson Stewart has the information regarding the new bike path and its location. All buildings will need to adhere to the City's codes. Landscaping, cut off lighting, height restrictions, no billboard signs are anticipated. All processes are being followed exactly as prescribed by the Planning department. The zoning does not allow for junk yards or prisons.

Public Hearing CLOSED at 5:30PM

**Discussion**

Chairman Larson called for questions and discussion from the Board. Commissioner McCall stated it isn't possible to please everyone. Is there something already planned for the area that is pushing you toward this particular zoning.

Erin Heringer replied nothing is currently planned. Under CX, trades and contractor commercial uses. We have considered building flex spaces for retailers or small contractors to store tools or products of the trade. The northern boundary is owned by the airport, this zoning would allow for expanding into airport services. We are acutely aware this is an entryway into the City and wish to keep it esthetically pleasing.

Tyler Dugger expressed this is compatible zoning to what already exists.

**Motion**

**Commissioner White made a motion and Commissioner Brooks seconded the motion to approve City Zone Change 987 with Staff recommendations.**

The Commission is sensitive to the Covid19 meeting restrictions and encourages everyone to address this with the City Council.

Commissioner McCall encourages strong communication with the neighbors to the south and states the new zoning requirements are much better than the old.

Commissioner Brooks asked if we have encountered the issue of no proposed uses in the past and how was it handled? Chairman Larson replied the vast majority of changes come with a proposed use, however, it is pointed out on a regular basis, this is not an obligation by the applicant, once the Zoning Commission approves the zoning, any allowable use can be used there. The zoning goes with the property, as long as the use is allowed there are no restrictions to what goes there. Under the zoning laws, we are approving the zoning not a particular project. Staff concurred, you cannot tie an approval or denial to a particular use.

COMMISSIONER	Yes	No	ABSTAINED	ABSENT
Mike Larson	X			
Daniel J. Brooks	X			
Jack King			X	
Greg McCall	X			
Trina White	X			

The Motion carried to approve City Zone Change 987 with a 4-0-1 vote.

**Item #2**

Nicole Cromwell read aloud the legal notice for this application:

**City Zone Change 988– 2526 Hawthorne Lane – A to R-70** - A zone change request from Agricultural to Residential-7000 (R-70), on Tract 2A-1 of Certificate of Survey 2317 2<sup>nd</sup> Amended, a 16.41-acre parcel of land. A pre-application neighborhood meeting was held on December 14, 2020, via virtual Zoom meeting. Tax ID: A30368

**Recommendation**

Planning staff recommends approval of the zone change from A to R-70 (N2) based on the findings of the 10 review criteria.

In making its recommendation to the city council for an amendment to the official map or text of this chapter, the **City Zoning Commission shall consider**, among other things, the following:

- (1) Whether the new zoning is designed in accordance with the growth policy;
- (2) Whether the new zoning is designed to secure from fire and other dangers;
- (3) Whether the new zoning will promote public health, public safety and general welfare;

- (4) Whether the new zoning will facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements;
- (5) Whether the new zoning will provide adequate light and air;
- (6) Whether the new zoning will affect motorized and non-motorized transportation;
- (7) Whether the new zoning will promote compatible urban growth;
- (8) Whether the new zoning considers the character of the district and the peculiar suitability of the property for particular uses;
- (9) Whether the new zoning will conserve the value of buildings; and
- (10) Whether the new zoning will encourage the most appropriate use of land throughout the City of Billings.

- ✓ Letters of opposition or objection were received from:
  - 1. Genevieve Wink, 2620 Bowles Way
  - 2. LuAnn Herring, 2626 Meadow Creek Loop
  - 3. Joey Kiernan, 2625 Strapper Lane
  - 4. Lindsay and Michael Richardson, 2509 Spring Gulch Way
  - 5. Elizabeth Lockwood, 1520 Mustang Valley Dr
  - 6. Marty Edwards, 2518 Bowles Way
  - 7. Dennis and Susan Dirks, 2514 Bowles Way
- ✓ Four page petition against Zone Change submitted with 87 signatures – addresses primarily within Bitterroot Heights Subdivision.

**Questions for staff:**

**Commissioner Brooks** asked about the CCR’s on the neighboring property.

**Commissioner White** asked for clarification on zoning.

**Commissioner McCall** asked how the property will be accessed. The fire department will insist on a full access.

Chairman Larson opened the Public hearing at 6:00PM

**Applicant: Rob Niehart, agent, 5424 Cornerstone Ave**

This is the next phase of building out the Bitterroot Heights subdivision. A layout is not written in stone; however, it will be a mixture of twin homes and single family residences. There will not be multi-family structures. Out of the 70 lots available, 12 of them are being considered for twin homes. Although a County parcel, we are annexing to the City. These will be quality homes.

**Favor:** None

**Opposed:**

**Lindsay Richardson, 2905 Spring Gulch Way, Billings, MT**

We have just purchased this home. She stated the maps shown are incomplete. There is an additional development already there. She is not in favor of anything but single family homes.

**Warren Schaff, 2523 Bowles Way, Billings, MT**

He sees inconsistencies. What we bought into with the masterplan and what is being proposed are different if adding twin homes.

**LuAnn Herring, 2626 Meadow Creek Loop, Billings, MT**

We built our home recently, everything was to be single family homes, no twin homes.

**Joe Kierney, 2625 Strapper Lane, Billings, MT**

3 years ago we built here assuming it will all be single family homes. She is concerned it will be a rental neighborhood if put into twin homes. Renters are not invested in the area.

**Tom Plunder, 2650 Meadow Creek Loop, Billings, MT**

Refers to the sign at the entrance to the subdivision implying it would be built out as all single family residences. We are fighting to preserve what we bought into.

**Dennis Dirks, 2514 Bowles Way, Billings, MT**

Why is this area being zoned differently than the surrounding areas. Those areas are single family residences.

**Marty Edwards, 2518 Bowles Way, Billings, MT**

The sign proposed all single family residences. Why is the developer changing it up now? We are not getting what we bought into.

Staff gives and in depth explanation of the area, if it is City or County, if it is part of the Bitterroot Heights subdivision.

**Joe Kierney, 2625 Strapper Lane, Billings, MT**

All lots are sold.

**LuAnn Herring, 2626 Meadow Creek Loop, Billings, MT**

The lots being discussed were already depicting single family residences.

**REBUTTAL:** The secondary access is being discussed with Engineering and Fire.

We will be prohibited to build multifamily homes that butt up to the ditch. The high price point these homes will bring will likely not be used for rentals.

Public Hearing CLOSED at 6:34PM

**Discussion**

Chairman Larson called for questions and discussion from the Board.

Commissioner White has heartburn with the developer not doing what they said they were going to do.

Commissioner McCall is a proponent of mixed use. Twin home developments do not instantly become rentals. He also is disappointed in the developer for doing other than the original presentation..

Chairman Larson likes the buffer between the twin homes and single family residences. The CCR's are established.

**Motion**

**Commissioner Brooks made a motion and Commissioner McCall seconded the motion to approve City Zone Change 988 with Staff recommendations.**

<b>COMMISSIONER</b>	<b>Yes</b>	<b>No</b>	<b>ABSTAINED</b>	<b>ABSENT</b>
Mike Larson	X			
Daniel J. Brooks	X			
Jack King		X		
Greg McCall	X			
Trina White	X			

**The Motion to approve of City Zone Change 988 carried with a 4-1 vote.**

**Other Business: 1 zone change for March 2, 2021 meeting.  
Commissioner McCall will not attend the next meeting.**

Commissioner White nominated Michael Larson for Chair, Commissioner McCall seconded. All were in favor.

Commissioner King nominated Greg McCall for Vice Chair, Commissioner Brooks seconded. All were in favor.

Commissioners were asked if they wished to be issued a City owned device for meeting attendance and Agenda Packet viewing. Commissioner Larson accepted, all others declined.

**Adjournment: The meeting adjourned at 6:45PM.**

**ATTEST: To be Approved** by a motion at the next scheduled meeting.

