



**City of Billings Zoning Commission
Meeting Minutes October 5, 2021**

The City of Billings Zoning Commission met on Tuesday, October 5, 2021 at 4:30 p.m., 2825 3rd Avenue North in the Miller Building 1st Floor Conference Room. The public may attend in person or watch the meeting live on Facebook (see below). The Public may call in during specific Public Comment periods at **(406) 237-6165**. All callers will be in a queued system and are asked to remain on hold and be patient. Calls will be taken in the order they are received. Callers will be restricted to 3 minutes of testimony as is customary. Comments may be sent to **Board via email before 1:00 PM on Tuesday, October 5, 2021**. All e-mails received prior to this time will become part of the record for the public hearing. Live coverage can be viewed on the City of Billings Facebook page here; <https://www.facebook.com/Billings-Planning-Community-Services-Department-1738982159659260/?ref=bookmarks>

The City Council has designated Monday, October 25, 2021, at 5:30 p.m. as the date and time to receive the Zoning Commission recommendation and conduct a public hearing for the first reading of the ordinance for this zone change request. If approved on first reading, a second reading public hearing will occur on Monday, November 8, 2021 at 5:30 pm.

| Commission and Staff | | 01/05/2021 | 02/02/2021 | 03/02/2021 | 04/06/2021 | 05/04/2021 | 06/01/2021 | 07/06/2021 | 08/03/2021 | 09/07/2021 | 10/05/2021 | 11/02/2021 | 12/07/2021 |
|----------------------|---|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|
| Mike Larson | Chairman | 1 | 1 | E | 1 | 1 | 1 | 1 | 1 | 1 | E | | |
| Daniel J. Brooks | Commissioner | 1 | 1 | 1 | 1 | 1 | E | 1 | 1 | 1 | 1 | | |
| VACANT | Commissioner | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | - | - | - | - |
| Greg McCall | Vice Chairman | E | 1 | E | E | E | E | 1 | E | 1 | 1 | | |
| Trina White | Commissioner | 1 | 1 | 1 | A | 1 | 1 | 1 | 1 | 1 | 1 | | |
| Wyeth Friday | Director, Planning & Community Services | - | - | - | - | - | 1 | - | - | - | 1 | | |
| Monica Plecker | Division Planning Manager | - | - | - | - | - | - | - | - | - | - | | |
| Nicole Cromwell | Planner, Zoning Coordinator | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | | |
| Tammy Deines | Planning Clerk | - | - | - | - | - | - | 1 | - | - | - | | |
| Dave Green | Planner II | - | - | - | - | - | - | - | - | - | - | | |
| Karen Husman | Planner I | 1 | 1 | 1 | - | - | 1 | 1 | 1 | - | 1 | | |
| Robbin Bartley | Administrative Support | 1 | 1 | 1 | 1 | 1 | 1 | - | 1 | 1 | 1 | | |

| Total Number of 2021 Applications | 01/05/2021 | 02/02/2021 | 03/02/2021 | 04/06/2021 | 05/04/2021 | 06/01/2021 | 07/06/2021 | 08/03/2021 | 09/07/2021 | 10/05/2021 | 11/02/2021 | 12/07/2021 | TOTAL |
|-----------------------------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|-------|
| Zone Change | - | 2 | 1 | 1* | 1 | 2 | 0 | 4 | 1 | 3 | | | 15 |
| Special Review | 2 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | | | 3 |

Vice Chair McCall introduced the Planning Division Staff and Commission: Attending Staff were Nicole Cromwell, Zoning Coordinator, Karen Husman, Planner I and Robbin Bartley, Administrative Assistant (Virtually)

Attending: Aaron Redland, Dan Calliccoat, Greg Reid, Ming Cabrera

Public Comment

Vice Chair McCall called for public comments. There were no public comments. Vice Chair McCall closed the public comment portion of the meeting.

Approval of Minutes: September 7, 2021

Commissioner Brooks made a motion and Commissioner White seconded the motion to approve the September 7, 2021 meeting minutes. The motion carried with a unanimous voice vote.

Disclosure of Conflict of Interest

| COMMISSIONER | Yes | No | ABSTAINED | ABSENT |
|------------------|-----|----|-----------|--------|
| Mike Larson | | | | X |
| Daniel J. Brooks | | X | | |
| VACANT | | | | |
| Greg McCall | | X | | |
| Trina White | | X | | |

Disclosure of Outside Communication

| COMMISSIONER | Yes | No | ABSTAINED | ABSENT |
|---------------------|------------|-----------|------------------|---------------|
| Mike Larson | | | | X |
| Daniel J. Brooks | | X | | |
| VACANT | | | | |
| Greg McCall | | X | | |
| Trina White | | X | | |

Zoning Coordinator, Nicole Cromwell, stated an email had been received from Neil Kiner and forwarded to all Commissioners.

Public Hearings:

City Zone Change 999 – 733 S 31st Street W - CMU1 to CMU2 - A zone change request from Corridor Mixed Use 1 (CMU1) to Corridor Mixed Use 2 (CMU2) on Lot 4, Block 16A of Lampman Subdivision, an 62,464 Square foot parcel of land. A pre-application neighborhood meeting was held on August 12, 2021, at 733 S. 31st Street. Tax ID: A290320

Staff Recommendation:

Planning staff recommends approval of Zone Change 999 and adoption of the findings of the 10 review criteria.

Before making a recommendation to the City Council, the Zoning Commission shall consider the following findings of the ten review criteria for Zone Change 998:

- (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.

1) Is the new zoning designed in accordance with the Growth Policy?

The proposed zone change is consistent with the following guidelines of the 2016 Growth Policy and the West Billings Neighborhood Plan (2001): The West Billings Neighborhood Plan goals and objectives stated the need to locate compatible uses and offer a range of housing choices and development densities. The West Billings Plan adopted a number of Goals, Policies, and Implementation Strategies. The proposed MR-PND for Sweetgrass Creek is consistent with the following adopted Policies of Planned Growth Goal 1: Establish Development Patterns that Use Land More Efficiently Policy R "Encourage innovative land-use planning techniques to be used in building higher density and mixed-use developments as well as infill developments."

The proposed MR-PND is compatible with goals of the West Billings Neighborhood Plan. The proposed zone change and street layout will accommodate uses that are compatible in a mixed-residential environment. The proposed development will also have good access to outdoor activities and is in proximity to a proposed regional park - Cottonwood Park. 54th St West is an arterial street and neighborhood services are beginning to develop at the intersection of 54th St W and Grand Avenue.

Discussion

Applicant Presentation

Vice Chair McCall called for presentation by the applicant.

Greg Reid, WWC Engineering, 550 South 24th St W, Billings, MT

The intention is to expand the business and put a support facility in the rear after aggregating the properties. The neighborhood meeting had a large attendance of interested parties. The attendees are happy to see something happening with the vacant lot. They expressed a desire for fencing, not chain link and how the lighting would affect adjacent properties. There are general concerns about traffic impacts.

Commissioner White asked if the alley is going away. Staff replied no.

Dan Callicoa, agent

The dealership is not going away, the service is being expanded for sprinter vans. We are willing to meet any and all zoning requirements necessary. The last 2 months at this location have resulted in large sales.

Public Hearing: 4:42PM

Vice Chair McCall opened the public hearing and called for anyone wishing to speak in favor or against City Zone Change #999. There were none.

Motion

Commissioner White made a motion and Commissioner Brooks seconded the motion to approve City Zone Change #999.

| COMMISSIONER | Yes | No | ABSTAINED | ABSENT |
|------------------|-----|----|-----------|--------|
| Mike Larson | | | | X |
| Daniel J. Brooks | X | | | |
| VACANT | | | | |
| Greg McCall | X | | | |
| Trina White | X | | | |

The Motion carried to approve City Zone Change #999 with a 3-0 vote.

Public Hearings:

City Zone Change 1000 – 436 Wicks Lane - From N2 to NO - A zone change request from Mid-Century Neighborhood (N-2) to Neighborhood Office (NO), on Lot 10, Block 1 of Arrowhead Subdivision, a .288 acre parcel of land. A pre-application neighborhood meeting was held on August 25, 2021, via Zoom virtual meeting. Tax ID: A02533A

Staff Recommendation:

Planning staff recommends approval of Zone Change 1000 and adoption of the findings of the 10 review criteria.

Applicant Presentation

Vice Chair McCall called for presentation by the applicant.

Scott Aspenlieder, Performance Engineering, 608 North 29th, Billings, MT

Demolition of the existing dental practice and home, removing a couple of drive approaches. Parking is needed. There were no comments in opposition from adjacent property owners.

Public Hearing: 4:48Pm

Vice Chair McCall opened the public hearing and called for anyone wishing to speak in favor or against City Zone Change #1000. There were none.

Motion

Commissioner White made a motion and Commissioner Brooks seconded the motion to approve City Zone Change #1000 with staff recommendations.

| COMMISSIONER | Yes | No | ABSTAINED | ABSENT |
|------------------|-----|----|-----------|--------|
| Mike Larson | | | | X |
| Daniel J. Brooks | X | | | |
| VACANT | | | | |
| Greg McCall | X | | | |
| Trina White | X | | | |

The Motion carried to approve City Zone Change #1000 with a 3-0 vote.

Public Hearings:

City Zone Change 1001 – Text Amendment for Marijuana Business Regulations – a zoning text amendment initiated by the City Council on September 13, 2021, to allow marijuana businesses within the city limits in certain zone districts, and to establish use standards that include separation distances from parks, churches, schools, day care centers, youth centers and residential zones.

Staff Recommendation:

The Planning Division recommends the Zoning Commission conduct a public hearing and make a recommendation to the City Council for approval of the text amendment for marijuana businesses, based on the proposed findings of the 10 review criteria.

The Zoning Commission may:

Adopt the findings of the 10 review criteria and recommend approval to the City Council; or,
Adopt the findings of the 10 review criteria and recommend approval with changes to the draft to the City Council; or adopt different findings of the 10 review criteria and recommend denial of the proposed regulation to the City Council.

Staff Presentation

Vice Chair McCall called for presentation.

Nicole Cromwell, City Zoning Coordinator



ZC Presentation Oct
5 2021 - Text Amend

BACKGROUND (Consistency with Adopted Plans and Policies, if applicable)

In November 2020, the ballot issue (I-190) was approved by the voters to allow "adult use" of marijuana on a state-wide basis. During the 2021 legislative session, the state adopted a bill - HB 701 - that amended the existing laws to accommodate this new marijuana use approved by the voters. The law explicitly allowed local jurisdictions to adopt more stringent local controls, including the allowance for counties where the ballot initiative did not pass, to adopt local prohibitions. Yellowstone County and the City of Billings both passed the 2020 ballot initiative.

Prior to November 2020, medical use marijuana was allowed by the state. This was approved by another ballot initiative in November 2004. Billings did not adopt any local land use controls for medical use marijuana businesses after the passage of the 2004 initiative. The number of registered patients and caregivers was low until late 2009 when the U.S. Justice Dept. issued a directive to US Marshals and US Attorneys that marijuana possession and use should not be prosecuted in states permit the use of medical marijuana and as long as individuals comply with those laws. Soon thereafter, Council members began receiving constituent contacts, expressing concerns about medical marijuana businesses being established across the city. The Medical Marijuana Act did not specify if or how cities could regulate these businesses but the most common approach taken by other Montana cities at the time was to establish zoning rules that limited the impacts these businesses may have had on their surroundings.

In February 2010, the Council created the Medical Marijuana Ad-Hoc Committee to develop proposals for how the City should zone for these businesses. Subsequently, more than 100 new medical use marijuana dispensaries opened within the city limits. Locations included commercial areas as well as temporary buildings in parking lots and home occupations. The city adopted an emergency moratorium in May 2010 to stop the rush by medical use providers to continue opening businesses within the city limits. At the same time, the state legislature was considering regulations and laws to better guide the medical use marijuana industry. The Ad Hoc Committee reviewed and considered several iterations of zoning regulations for medical use marijuana dispensaries. These draft regulations are very similar to the proposed zoning regulations for this text amendment and included required separation distances, limitation on zone districts where the businesses could location and considerations for sign code regulations. Ultimately, the state legislature took up the issue, and passed a new law in 2011 (SB 423) that limited medical marijuana dispensaries and providers in a strict manner. In

Billings, this resulted in dropping zoning regulations and adopting two sections on Medical Marijuana for business regulations - Section 7-1700, Medical Marijuana Storefronts and Section 13-432, Business Licensing. These two ordinances are still active in the city codes.

Medical Marijuana providers and dispensary owners sued the state over certain provisions in the 2011 law and prevailed on most issues in late 2015 and early 2016. These court decisions set in motion additional activity on the local level to ensure the previously adopted business licensing ordinances that were in compliance as well as refining and adopting zoning regulations for medical marijuana dispensaries. In 2017, the City Council initiated these amendments to the city code. Prior

to first reading by the City Council in September 2017, Montana Advanced Caregivers (M.A.C.) filed suit and was granted a restraining order by the District Court to halt the adoption of those regulations and to stop any enforcement of the existing city regulations against M.A.C. This lawsuit is on-going. The passage of I-190 and the adoption of HB 701, has prompted the City to again examine and propose regulations that will now apply to both Adult Use and Medical Use marijuana businesses. The zoning regulations proposed are similar to the regulations proposed in 2010 and 2011 but were not adopted. The proposed regulations address concerns with public health, safety and welfare as a primary basis for the regulations. The regulations separate the different types of marijuana businesses and allow them in particular zone districts. These are generally zones that are not close to neighborhoods such as Heavy Commercial (CX), Light Industrial (I1) and Heavy Industrial (I2). In addition, staff has drafted a minimum separation distance to residential zones, schools, public parks with playgrounds, religious institutions, day care centers and youth centers of at least 1,000 feet. One thousand feet will be protective of those uses that are closer to the three zone districts.

The separation requirement will apply to dispensaries, cultivators, processors and manufacturers but not from testing laboratories or transporters. Currently, the marijuana businesses throughout Montana are "vertically" integrated so most dispensaries are also cultivation, processing and manufacturing marijuana edibles. Currently, transportation of marijuana is generally limited by dispensaries that provide delivery to cardholders for medical use. In the future, transportation may become a viable "stand alone" service business for marijuana businesses.

The proposed draft also requires a minimum setback of 150 feet from an arterial street for any new dispensary - Adult Use or Combined Use. This setback would not apply to Medical Use only. There was a concern the zone districts and the required separation distance could concentrate these businesses along major transportation corridors that serve as entryways to the city. Requiring a minimum setback from these entryways will diminish the concentration effect of these separation distances.

City legal staff is assisting the Marijuana Regulation Committee (includes the Mayor, City Council Members, and City staff) to draft new business license regulations for marijuana dispensaries and related businesses. Part of this discussion includes

research into the experience of similar communities in other states with similar marijuana laws and peer-reviewed journals and professional articles on the effect of marijuana businesses in the community and in law enforcement. This background and basis information is attached to this report. The City Council is considering a lottery system to award business licenses for marijuana dispensaries and a cap on the number of dispensaries within the city limits.

The state of Montana currently lists 29 licensed dispensaries within Yellowstone County and two of those are within the city limits. Only one of those two locations is in "good standing" with the city - M.A.C. The other location on Grand Avenue does not have a city business license and is not considered in good standing with the city at this time. On January 1, 2022, the state will allow any existing medical use dispensary in good standing with the local government to start selling adult use marijuana to consumers 21 years of age and over.

Planning staff has received some comment from city agencies in particular the Fire Department. There is a concern that manufacturing - distilling, and extraction - of oils and other botanical but volatile elements from marijuana is not adequately regulated by the adopted 2012 Fire Code (IFC) in Montana or in the city. The Fire Marshal would like to insert language that ensures any manufacturing that involves distillation of cannabis oil to comply with Chapter 39 of the 2021 IFC (or later edition) as the case may be. The city must wait for the state to adopt a new Fire Code to adopt the entire new IFC for the city. This reference to the 2021 IFC Chapter 39 would pre-date the formal adoption by the state and city, but the Fire Marshal believes it is essential to protection of public health and safety. The

extraction process for cannabis oil is hazardous and the newer Fire Codes will help minimize these hazards for this new business type. Inclusion of this language is being considered for the City's marijuana business licensing process and may also be helpful to reference in the new zoning code as we do for other codes that must be followed when developing property in the City.

Planning staff is working with city Geographic Information Systems (GIS) staff to provide maps that depict generally where marijuana dispensaries, cultivators and processing facilities might locate based on the proposed regulations. These maps are only general and cannot with absolute certainty show whether a particular property will or will not meet the proposed regulations for separations or setbacks. Most of the area that will be open for these businesses will be along the I-90 interstate corridor where most of the CX, I1 and I2 zoning is located. The separation distances will be measured in the same way we measure separations for bars and casinos - from the exterior of the building where the marijuana business is located to the property line of the protected use. Since we don't know where new businesses will locate yet, the maps show a property line to zone district buffer. The maps are attached to this report.

The draft regulations also prohibit marijuana businesses of any type as a Home Occupation and require the business to provide documentation a proposed sign meets the state regulations when submitted for city permitting.

STAKEHOLDERS

The Planning staff sent the draft regulations out to Neil Kiner, owner of the Green Bee and medical use dispensary outside the city limits. In addition, Planning staff sent the draft regulations to the Montana Cannabis Guild, published the draft on the City Webpage (<https://www.billingsmt.gov/2361/Current-Zoning-Applications>) and published a legal advertisement as required by Section 27-1628 of the BMCC.

Text amendments are processed in a similar manner to zoning map amendments, require legal notification and a review of the 10 criteria for zone changes. As of the completion of this report, we have not received any comments back from the public on the draft regulations. The Billings Industrial Revitalization District (B.I.R.D.) board may provide information to the Commission on what zone districts in the East Billings Urban Renewal District they would like to include for consideration of marijuana dispensaries or other marijuana businesses. Several marijuana business owners have been attending the City Council work sessions on this topic, but none have provided comment to the Planning staff on these draft regulations.

FISCAL EFFECTS

A recommendation of approval or denial will not have any appreciable effect on the Planning Division budget.

SUMMARY

Prior to making a recommendation to the City Council on the draft regulations, the Zoning Commission shall consider, among other things, the following findings recommended by the Planning staff:

1. *Is the new zoning designed in accordance with the Growth Policy?*

The proposed amendment is consistent with 2016 Growth Policy.

Essential Investments:

Infill development and development near existing City infrastructure may be the most cost-effective. Neighborhoods that are safe and attractive and provide essential services are much desired.

Strong Neighborhoods:

Neighborhoods that are safe and attractive and provide essential services are much desired.

Zoning and subdivision regulations that utilize Crime Prevention Through Environmental Design (CPTED) strategies result in safer neighborhoods.

Community Fabric:

Attractive street scapes provide a pleasant and calming travel experience in urban and suburban neighborhoods.

Home Base:

Common to all types of housing choices is the desire to live in surroundings that are affordable, healthy and safe.

Prosperity:

A diversity of available jobs can ensure a strong Billings' economy.

Successful businesses that provide local jobs benefit the community.

Community investments that attract and retain a strong, skilled and diverse workforce also attracts businesses.

The proposed amendment allows a new type of business within the city limits. New businesses can create unpredictable effects within an existing community. The proposed regulations are intended to prevent some predictable consequences of allowing a business that is still considered illegal in many states. It is likely there will be a high demand for this product due to the regional nature of the Billings retail market and due to the fact the states adjacent to eastern Montana have not legalized marijuana. Colorado is the closest state to Montana where both medical use and adult use marijuana is legal. Expansion from medical use to adult use marijuana will increase demand generally. Allowing these businesses in areas where similar types of business already exist - processing, manufacturing, cultivation, warehousing, transportation terminals - will make this use predictable in those areas.

Expanding the types of districts to Mixed Use districts would bring these businesses too close to neighborhoods, schools, public parks and other sensitive land uses where protection from odors and noise is a primary concern and businesses with high security demands are not compatible. The regulations require an arterial setback for adult use or combined use dispensaries so the separation requirements and the district limitations do not combine to create a cannabis corridor along entryways to the city.

2. Is the new zoning designed to secure from fire and other dangers?

The new zoning may increase the danger from fire for new manufacturing and processing facilities that extract cannabis oil. The Fire Marshal has suggested insertion of language to require compliance with Chapter 39 of the 2021 IFC that is not yet in effect in Montana. In general, the proposed zone districts for this use is in proximity to similar uses and will not be close to neighborhoods, public parks or schools where danger from fire or explosion is a higher risk.

3. Whether the new zoning will promote public health, public safety and general welfare?

The proposed regulations limit the effect of locating these businesses within the city limits by providing separation distances from sensitive uses and limiting the businesses to compatible zone districts such as CX, I1 and I2.

4. Will the new zoning facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements?

Transportation: It is not known whether the number of businesses within the proposed three zone districts will affect the overall transportation system. In some jurisdictions, high security transportation of marijuana was required. If Billings becomes a regional cultivation, processing or manufacturing center for Montana,

evaluation of local transportation will be needed on a site by site basis through a Traffic Impact Analysis by the proposed business.

Water and Sewer: This text amendment affects properties within the City of Billings that are served by city water and sewer. Cultivation and processing will increase demand on water and waste water services, but the system is expected to provide those services.

Schools and Parks: Schools should not be significantly affected by the proposed zoning. The draft regulations propose a 1,000-foot separation to schools (primary and secondary, public or private) and public parks with playgrounds or playing fields. This should help protect these two sensitive land uses.

Fire and Police: The CX, I1 and I2 zones within the City of Billings will be served by City Fire and Police Departments. The Fire Marshal's concern with cannabis oil production is noted above in criteria 2. It is likely dispensaries will employ complicated security systems for their locations. The Police and Fire Departments will be involved in reviewing licenses and building permits for any new locations.

5. Will the new zoning provide adequate light and air?

Not applicable.

6. Will the new zoning effect motorized and non-motorized transportation?

The proposed zoning may have unknown impacts on the transportation network. Individual business may need to provide traffic impact reports when establishing a new location.

7. Will the new zoning will promote compatible urban growth?

The zoning amendment promotes compatible urban growth in the areas of the City that are zoned CX, I1 and I2. The intended use is not an intrusion to these zone districts and the proposed separation requirements will provide buffering to any sensitive land uses.

8. Does the new zoning consider the character of the district and the peculiar suitability of the property for particular uses?

The zoning amendment considers the character of the CX, I1 and I2 districts and the suitability of the property for the proposed uses. Testing Laboratories will be allowed in additional zone districts - Downtown Support (DX) and Central Business District (CBD) since no sales or production of marijuana would occur at these facilities. DX and CBD allow all other research and testing laboratories.

9. Will the new zoning conserve the value of buildings?

Not applicable

10. Will the new zoning encourage the most appropriate use of land throughout the City of Billings?

The proposed zoning may encourage the most appropriate use of some CX, I1 and I2 zoned land in Billings.

Discussion

Commissioner White stated she does not think this is enough zoning areas for this business nor does she like there is only a very small area in the Heights allowing this business. The zoning should be closer to the related zoning of casinos.

Staff stated casinos are a different animal and are treated differently. Explanations to where they are allowed were given.

Commissioner Brooks is concerned this business is being pushed to low income neighborhoods.

Public Comment

Neil Kiner, 1432 Teton Ave, Billings, MT

Mr. Kiner reiterated his email submitted earlier. Believes there is a happy medium and many retail opportunities.

Commissioner White asked about the Colorado zoning. Mr. Kiner does not know about Colorado zoning. Commissioner White expressed concern about tourists and signage for those visiting and how that might look. Mr. Kiner said the state is working on sign restrictions and has heard they are to be strict.

Ming Cabrera, 1734 Poly Drive, Billings, MT

He is concerned there is only one small area in the Heights for this business. He has retail space in the Heights that would be ideal for Main Street dispensaries. Please do not eliminate Main Street as an approved area for the thirty thousand people in the Heights. One of his buildings in the Heights sells pipes and it is a very lucrative business. Why should patrols have to be sent to the extreme north for safety purposes.

NO CALLERS

Discussion

Commissioner Brooks voiced his concerns again regarding this business and potential negative impacts being restricted to low income areas. He referred to studies indicating increased usage and likely addiction between .4-.8 miles from dispensaries. He feels it needs to be spread out throughout the City. This does not promote strong neighborhoods as directed by the Growth Policy.

Commissioner White does not think pushing all this to the outside is the answer.

Staff explained the Corridor Mixed Use zones would be the next step down. Main Street was eliminated by the footage requirements recommended by the Steering committee. The dials are in front of you. Separation requirements and separation from what. Commission recommendations must move forward tonight because of the timeline of events leading up to January 1, 2022 state implementation.

Wyeth Friday talked about the residential separation requirements and is significant because it removes availability. The low-income point is interesting in they are within a half mile radius.

Staff asked protected uses be addressed first.

Vice chair McCall feels frustrated because the commission is just now receiving the information and it seems as if the business is being pigeon holed to certain areas. The largest available areas

are right in his neighborhood. The pressure of having to make a recommendation tonight is daunting.

Commissioner Brooks feels the City is considering capping the number of allowed businesses. He feels the zoning should be expanded and limited by the potential caps.

Motion

Commissioner White made a motion and Commissioner Brooks seconded the motion to amend the dispensary separation requirement to 600 feet from parks, schools and churches only and amend the separation requirement to 350 feet from residential zoning.

| COMMISSIONER | Yes | No | ABSTAINED | ABSENT |
|------------------|-----|----|-----------|--------|
| Mike Larson | | | | X |
| Daniel J. Brooks | X | | | |
| VACANT | | | | |
| Greg McCall | X | | | |
| Trina White | X | | | |

The Motion to amend separation language on City Zone Change 1001 was approved with a 3-0 vote.

Motion

Commissioner White made a motion and Commissioner Brooks seconded the motion to add the “no waiver” language to City Zone Change #1001.

Discussion

| COMMISSIONER | Yes | No | ABSTAINED | ABSENT |
|------------------|-----|----|-----------|--------|
| Mike Larson | | | | X |
| Daniel J. Brooks | X | | | |
| VACANT | | | | |
| Greg McCall | X | | | |
| Trina White | X | | | |

The Motion carried to add language to City Zone Change #1001 with a 3-0 vote.

Motion

Commissioner Brooks made a motion and Commissioner White seconded the motion to add CMU2 and CMU1 zoning City Zone Change #1001.

Discussion

Vice Chair McCall thinks adding these zoning areas is opening it up to broad.

| COMMISSIONER | Yes | No | ABSTAINED | ABSENT |
|------------------|-----|----|-----------|--------|
| Mike Larson | | | | X |
| Daniel J. Brooks | X | | | |
| VACANT | | | | |
| Greg McCall | | X | | |
| Trina White | X | | | |

The Motion carried to add CMU2 and CMU1 City Zone Change #1001 with a 2-1 vote.

Motion

Commissioner Brooks made a motion and Commissioner White seconded the motion to approve City Zone Change #1001 with all amendments as previously voted.

| COMMISSIONER | Yes | No | ABSTAINED | ABSENT |
|------------------|-----|----|-----------|--------|
| Mike Larson | | | | X |
| Daniel J. Brooks | X | | | |
| VACANT | | | | |
| Greg McCall | X | | | |
| Trina White | X | | | |

The Motion carried to approve City Zone Change #1001, with amendments with a 3-0 vote.

Other Business:

Adjournment: The meeting adjourned at 6:28PM.

ATTEST: Approved by a motion November 2, 2021
--Robbin Bartley, Administrative Assistant

Add the following on Page 5

Add new subsection (b) to 27-1005.R.1

(b) Required separations are not subject to reduction, adjustment, or variance and dispensaries shall not be approved within the distances specified.

Add the following on Page 6

Add new subsection (b) to 27-1006.F.1

(b) Required separations are not subject to reduction, adjustment, or variance and marijuana cultivation, processing or manufacturing shall not be approved within the distances specified.

October 5, 2021

Dear Zoning Commissioners,

Thank you for the commitment you've made to our community by serving on this board. It's not lost on me how much of a time and energy commitment it takes to serve the public on a commission like this. I have served on various boards for the city in the past and am a current member of the Energy and Conservation Commission. Additionally, I was a member of one of the subcommittees that helped craft the new zoning regulations, project Re-Code.

I'm writing to you all to encourage you to provide more flexibility in the zoning regulations that are before you regarding cannabis businesses. I have been an interested member of the public in this process and have offered consultation to the city staff and council throughout this process. The mayor, several council members, and the city administrator, have been provided a behind the scenes tour of a dispensary and cannabis farm that I own, The Green Bee. I have been as transparent and forthcoming as possible in an effort to educate and provide knowledge of the industry.

The state has categorized the industry into seven 'types' of business, depending on what the business performs. In a letter I wrote to council, I suggested that zoning regulations reflect these business types, as they are different and require different space, access, etc... I am encouraged to see that planning staff has taken that direction and has begun to implement different zoning regulations based on these business types. However, I would like to see more flexibility built into the regulations. Retail services, as currently written, would be required to be located in hard to find industrial areas. That approach does not encourage retail services, and in fact discourages businesses from locating in our community. Maybe that's the point, I don't know. I do know there are many empty retail spaces available throughout Billings. I encourage you to consider the addition of zoning districts to the retail business types.

I encourage regulate all retail cannabis businesses with the same setback requirements as bars/casinos. The current draft regulation is much more stringent with setbacks from arterial streets and existing land uses. Again, this effectively bans businesses from locating in Billings.

I will attend this meeting and will be available to answer any questions. I look forward to hearing discussion on this issue.

Sincerely,

Neil R. Kiner
Landscape Architect



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