



**CITY ZONING COMMISSION**  
**AGENDA-Tuesday, December 7, 2021, 4:30 p.m.**  
Miller Building, 1<sup>st</sup> Floor Conference Room  
2825 3<sup>rd</sup> Avenue North, Billings, Montana

Call the meeting to order.

Introduction of City Zoning Commission Members and Planning Department Staff.

Public Comment

Approval of Minutes:

The minutes of the Board meeting of November 2, 2021.

Disclosure of any Conflict of Interest-Members of the Commission and Staff

Disclosure of an Outside (Ex Parte Communication)-Members of the Commission and Staff

a. The Exparte Communication Binder is available at the Sign-In and Agenda Station.

Regular Business:

- A. Opening of public hearings.
- B. Reading of rules for the procedure by which the public hearings will be conducted.
- C. Reading of notices of the public hearings on the following items:

Public Hearings:

- a. **City Special Review 991 -- 1225 Mallowney Lane - Bar & Casino** -- A special review request to relocate an all beverage liquor license within the city limits of Billings to establish a new bar and casino on Parcel 1B1 and 1B2 of Certificate of Survey 1191, a .495-acre parcel of land in a CMU2 zone district. Tax ID: D01898 and D01898A
- b. **City Zone Change 1003 -- The Timbers Subdivision - a Planned Residential Neighborhood** - A zone change request from Agriculture (A) to Suburban Neighborhood Residential (N3 - 62.4 acres), Mixed Residential 1 (NX1- 4.9 acres), Neighborhood Mixed Use (NMU -9 acres) and Public 1 (P1 -- 16.4 acres), on a 84.6-acre portion of Tracts A and B of C/S 3795.

Other Business/Announcements

Adjournment

**The City Council has designated Monday, January 10, 2022, at 5:30 p.m.** as the date and time to receive the Zoning Commission recommendation for the zone change and special review and hold their public hearings. The City Council meets on the 2<sup>nd</sup> Floor of City Hall at 210 N 27<sup>th</sup> St. For the zone change request the Council will **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, January 24, 2022 at 5:30 pm.**

Before taking any action on an application for a **special review**, the City Council shall first consider the findings and recommendations of the City Zoning Commission. Those findings and recommendations will be based on **BMCC 27-1623.D (1 through 9)**. Each zoning district is primarily intended for a predominant type of use as identified in BMCC Table 27-1000.1. There are also a limited number of **specific uses subject to special review that may or may not be appropriate in a particular district**, depending upon all the circumstances of the individual use on the site and in context with surrounding development. Consideration of these uses includes examination of the location, nature of the proposed use, the character of the surrounding development, traffic capacities of adjacent streets, and potential environmental effects, and whether specific conditions can be applied to mitigate the potential negative impacts of the use. **Special review uses are special exceptions to the general terms of Billings Zoning Code.**

In no case shall the City Council approve a special review use other than the one advertised. The City Council shall take one of the following actions on the Special Review request: 1) approve the application; 2) conditionally approve the application; 3) deny the application; 4) allow withdrawal of the application; or 5) delay the application for a period not to exceed thirty (30) days.

Before taking any action on an application for a **zone change**, the City Council shall first consider the findings and recommendations of the City Zoning Commission. In no case shall the City Council approve a zone change other than the one advertised. The City Council shall take one of the following actions on the zone change requests: 1) approve the application; 2) deny the application; 3) allow withdrawal of the application; or 4) delay the application for a period not to exceed thirty (30) days.

As provided in Montana Code Annotated, Section 76-2-305(2), in the event of a protest petition against such **zone change** signed by the owners of twenty-five (25) percent or more of: (1) the area of the lots included in any proposed change; or (2) those lots or units, as defined in MCA 70-23-102, **one hundred fifty (150) feet from a lot included in a proposed change**, such proposed amendment shall not become effective except by the favorable vote of two-thirds ( 2/3) of the present and voting members of the city council. For purposes of this protest provision interest in the common elements of the condominium, as expressed in the declaration, included in the calculation of the protest. If the property, as defined in 70-23-102, spans more than one lot, the percentage of the unit owner's undivided interest in the common elements must be multiplied by the total number of lots upon which the property is located. The percentage of the unit owner's undivided interest must be certified as correct by the unit owner seeking to protest a change or by the presiding officer of the association of unit owners. The protest petition must be received in the Planning Division office **by 5:00 p.m. on the Friday preceding the first reading of the ordinance by the City Council.**

Testimony regarding the above-mentioned item may also be submitted in writing to the Planning Division, 2825 3<sup>rd</sup> Avenue North, 4<sup>th</sup> Floor, Miller Building, Billings, MT 59101 (247-8676) or to the Mayor and City Council, P.O. Box 1178, Billings, MT 59103.

Additional information on any of these items is available in the Planning and Community Services Office. Public hearings are accessible to individuals with physical disabilities. Special arrangements for participation in the public hearings by individuals with hearing, speech, or vision impairment may be made upon request at least three days prior to the hearing. Please notify Robbin Bartley, Administrative Assistant, at 247-8676 or e-mail to [bartleyr@billingsmt.gov](mailto:bartleyr@billingsmt.gov)

**City Zoning Commission**  
**Meeting Date:** 12/07/2021

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**Information**

**Subject**

The minutes of the Board meeting of November 2, 2021.

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**Attachments**

BZC\_2021\_1102

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**City of Billings Zoning Commission  
Meeting Minutes November 2, 2021**

**The City of Billings Zoning Commission met on Tuesday, November 2, 2021 at 4:30 p.m., 2825 3<sup>rd</sup> Avenue North in the Miller Building 1<sup>st</sup> 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, November 2, 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, November 22, 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, December 13, 2021 at 5:30 pm.**

<b>Commission and Staff</b>		<b>01/05/2021</b>	<b>02/02/2021</b>	<b>03/02/2021</b>	<b>04/06/2021</b>	<b>05/04/2021</b>	<b>06/01/2021</b>	<b>07/06/2021</b>	<b>08/03/2021</b>	<b>09/07/2021</b>	<b>10/05/2021</b>	<b>11/02/2021</b>	<b>12/07/2021</b>
Mike Larson	Chairman	1	1	E	1	1	1	1	1	1	E	E	
Daniel J. Brooks	Commissioner	1	1	1	1	1	E	1	1	1	1	1	
Jack King	Commissioner	1	1	1	1	1	1	1	1	-	-	-	-
Greg McCall	Vice Chairman	E	1	E	E	E	E	1	E	1	1	1	
Trina White	Commissioner	1	1	1	A	1	1	1	1	1	1	1	
David Goss	Commissioner	-	-	-	-	-	-	-	-	-	-	1	
Wyeth Friday	Director, PCSD	-	-	-	-	-	1	-	-	-	1	-	
Monica Plecker	Division Planning Manager	-	-	-	-	-	-	-	-	-	-	1	
Nicole Cromwell	Zoning Coordinator	1	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	1	
Robbin Bartley	Administrative Support	1	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	1		16
Special Review	2	0	0	0	0	0	1	0	0	0	1		4

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

**Attending: Nick Fore**

**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: October 5, 2021**

**Commissioner Brooks made a motion and Commissioner White seconded the motion to approve the October 5, 2021 meeting minutes with corrections. The motion carried with a 3-0-1 voice vote, Commissioner Goss abstaining.**

**Disclosure of Conflict of Interest**

COMMISSIONER	DISCLOSED	NONE	ABSTAINED	ABSENT
Mike Larson				X
Daniel J. Brooks		X		
David Goss		X		
Greg McCall		X		
Trina White		X		

**Disclosure of Outside Communication**

COMMISSIONER	DISCLOSED	NONE	ABSTAINED	ABSENT
Mike Larson				X
Daniel J. Brooks		X		
David Goss		X		
Greg McCall		X		
Trina White		X		

**Public Hearings:**

The applicant is requesting a continuance because an annexation petition should accompany this Zone Change and was not submitted in time.

**City Zone Change 1002 – 1938 Hawthorne – from N4 to N2 -** A zone change request from Large Lot Suburban Neighborhood (N4) to Mid-Century Neighborhood Residential (N2), on Parcel 2A and 3 of Certificate of Survey 840, a 2.725 acre parcel of land. A pre-application neighborhood meeting was held on September 16, 2021 at 6:00 pm, at 1938 Hawthorne Lane. Tax ID: D05148 & D05150

**Staff Recommendation:**

Planning staff recommends approval of City Zone Change 1002 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 1002.

- (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.

**Discussion**

Moncia Plecker explained the annexation petition was not complete as there is a lift station design issue. From a jurisdictional standpoint, the annexation petition must accompany the zone change to be recommended to City Council. This Board's position is required to delay or continue. ReCode allowed for applications to be placed in an inactive status for up to 60 days. We are unsure which meeting this will come back to you for recommendation, but it will come back.

**Public Hearing: 4:39PM**

**Motion**

**Commissioner Brooks made a motion and Commissioner White seconded the motion to grant continuance of City Zone Change #1002, for lack of a complete submittal.**

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

**The Motion carried to CONTINUE City Zone Change #1002 with a 4-0 vote.**

**Public Hearings:**

**City Special Review – 992 – 4130 Kari Lane - Auto collision repair** – A special review request to allow an automobile collision repair center greater than 5,000 square feet in a Corridor Mixed Use 2 (CMU2) zoned district, for a proposed 18,554 square foot building, on Lot 13, Block 1 Montana Sapphire Subdivision, a 2.187-acre parcel of land. Tax ID: C13966

**Staff Recommendation:**

The Planning staff recommends conditional approval, based on the proposed findings and recommended conditions of approval (BMCC 27-1623.D)

The proposed conditions are as follows:

1. The special review approval is limited to Lot 13, Block 1 Montana Sapphire Subdivision, a 2.187-acre parcel of land. Tax ID: C13966, generally located at 4130 Kari Lane.

2. The special review is for the construction and operation of an automobile collision repair center. No other use is intended or implied.
3. A minimum 6-foot high sight-obscuring fence and landscape buffer shall be placed on the south and east property lines to buffer the adjacent uses.
4. All outdoor lighting shall have a maximum height of 15' and full cutoff shields so no part of the fixture or lens projects below the cut-off shield. This is to attenuate light on the property and shield the neighboring property to the south and east.
5. With the exception of the above conditions, the site shall be developed in substantial conformance with the site plan submitted.
6. The proposed development shall comply with all other limitations of the Zoning Regulations concerning special review uses, and all other City of Billings regulations and ordinances that apply.
7. The applicant will submit a building permit application within 12 months of the City Council approval and complete construction within 3 years of City Council approval.
8. 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.

### **Discussion**

Commissioner White asked if the fence encloses all of the site. Commissioner asked about parking outside the fence. Staff referred to use standards. Staff will revisit the code.

### **Applicant Presentation**

Vice Chair McCall called for presentation by the applicant.

### **Nick Fore, CALIBER COLLISION, 9761 Kenwood Rd, Cincinnati, OH 45272**

The fence will enclose the entire operation with a gate. It is a larger collision facility in the country. Usually replacing parts, minor repairs. East side of the building is customer parking, 25 spaces. Which is more than the requirement. The parking to the rear is project parking. Employees will park in the rear as well. No vehicles will be parked on the street. Monica asked if there may be an error in the parking calculation. Staff agrees the requirement may be wrong. Typically, the fence is chainlink with white slats. A sight-obscuring fence will meet code requirements. Commissioner Brooks expressed a concern about noise. He also inquired about a lighting evaluation to insure adequate lighting. He also appreciates the landscaping and improvement to the area. No public comment was received.

### **Public Hearing: 5:08PM**

Vice Chair McCall opened the public hearing and called for anyone wishing to speak in favor or against City Special Review #992. There were none.

**Motion**

**Commissioner White made a motion and Commissioner Brooks seconded the motion to approve City Special Review #992 with staff recommendations and conditions.**

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

**The Motion carried to approve City Special Review#992 with a 4-0 vote.**

**Other Business: WELCOME DAVID GOSS.**

**There will be a December 7, 2021 meeting hearing 1 zone change and 1 special review.**

**Commissioner Brooks asked for a discussion regarding fencing and lighting requirements.**

**Adjournment: The meeting adjourned at 5:13PM.**

**ATTEST: To be Approved** by a motion December 7, 2021

*--Robbin Bartley, Administrative Assistant*

## Zoning Commission

**Date:** 12/07/2021  
**Title:** Special Review 991 - Wild Tornado Bar and Casino - 1225 Mallowney Lane  
**Presented by:** Nicole Cromwell  
**Department:** Planning & Community Services  
**Presentation:** Yes

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### Information

#### RECOMMENDATION

Planning staff is recommending conditional approval based on the findings of the nine review criteria (BMCC 27-1623.D).

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

This is a special review request to establish a bar and casino in an existing building at 1225 Mallowney Lane in a Corridor Mixed Use 2 (CMU2) zone district. The existing building was recently closed but served as a convenience store for the Conoco gas station at the intersection of Mallowney Lane and Midland Rd. The CMU2 zone district is a zone district that allows bars and casinos provided the location can meet the required separation distances to schools, parks with playgrounds or playing fields, religious institutions and residential neighborhoods. The applicant is OED, LLC (Jay Doucette, owner) and the agent is Performance Engineering. The proposed name of the new bar and casino is the "Wild Tornado".

The property was recently purchased by the owner and the property was developed in the early 1980s as a gas station and convenience store. The business was closed late last year and the new owner is in the process of renewing the Conoco gas franchise and would like to place an all beverage license at this location in the former convenience store. The all beverage license is being moved from an existing location in Billings. The City Council adopted new regulations for separation of bars and casinos from residential zone districts (350 feet) and kept the existing 600-foot separation distance to churches, parks and schools. One of the primary changes to the regulations excludes the ability to reduce, waive or vary from the required separations. Another change was made to measure those separation requirements from the exterior of the bar or casino to the property line of the separated use. The new code separations are based on zoning for residential separations and based on use for churches, public parks with playgrounds and primary/secondary schools (K through 12). The subject property and building is not within any of the required separation distances.

**The new zoning code has a variety of considerations and findings before a special review use can be considered acceptable at a particular location. The requirements are set forth in Section 27-1623.D as follows:**

1. The special review use is consistent with the City's growth policy and applicable neighborhood plans, if any;
2. The establishment, maintenance, or operation of the special review use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare;
3. The site for the proposed use is adequate in size and topography to accommodate the use while meeting the other requirements of this Zoning Code, including zone district dimensions, landscaping requirements, and parking.
4. The special review use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood;
5. The special review use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;
6. Conditions necessary to protect the public health, safety, and general welfare can be established, including but not limited to conditions on:
  - (a) Regulation of the use;
  - (b) Special setbacks, buffers, or screening;
  - (c) Surfacing of parking areas;
  - (d) Street, alley, or service road dedications, improvements, or bonds;
  - (e) Regulation of points of vehicular ingress and egress;
  - (f) Regulation of signs;
  - (g) Regulation on the performance of the site, including noise, vibration, and odors;
  - (h) Regulation of the hours of activities;
  - (i) Timeframe for development
  - (j) Duration of use; and
  - (k) Other relevant conditions that will ensure the orderly development of the site.
7. Adequate utilities, access roads, drainage, and/or necessary facilities have been or are being provided;
8. Adequate measures have been or will be taken to provide ingress and egress to minimize traffic congestion in public streets; and
9. The special review use shall, in all other respects, conform to the applicable regulations of the district in which it is

located, except as such regulations may, in each instance, be modified by the city council.

Each decision criteria must be given due consideration and a finding is proposed for each one. Planning staff is including a set of recommended conditions of approval based on submitted site plan, applicant letter, and findings of the criteria. A significant change from the previous zoning code is a special review use must not be considered an "allowed" use in the zone district. The proof of compatibility now rests with the applicant instead of the Zoning Commission and City Council to prove non-compatibility.

The applicant proposes the use is compatible by stating it will use existing infrastructure and re-vitalize an existing building that has reached its useful life span. The location is at a key intersection of commercial activity and is a primary entrance to the new subdivisions developing to the south and west in the Southwest Corridor area of Billings. There was a casino location on the west side of Mullowney Lane however this location was re-developed for a new Holiday gas station in 2019. In addition, there was a casino (the Grand Casino) within the former Holiday Inn at 5500 Midland Road, now the Trailhead Inn. This Grand Casino location has been closed for over 1 year. The High Tide Casino at 5435 Midland Road is the closest similar business and is conforming to the new zoning requirements for separation distances. The applicant is not proposing many site improvements beyond the remodel and re-signing the closed convenience store. The existing signage on the gas canopy and the building will be brought into compliance with current signage regulations. The two freestanding signs for Conoco will be updated with new Conoco signs and the free standing sign on the frontage will be reduced in sign area to meet current sign regulations. There is existing and fully mature landscaping maintained on the south and east property lines that shield the Billings Hotel and Convention Center property. The subject property shares a driveway access with the business to the north - Adam & Eve an adult novelty clothing store. The City is underway on an engineering design for a full re-build of Mullowney Lane from this intersection south to the intersection with Elysian Road. Due to the uncertainty of those development plans, a rehabilitation of the street frontage will be done at the time of the street re-construction. The street re-build will include curb, gutter and pedestrian sidewalks. There are no existing streetlights on Mullowney Lane south of the intersection with Midland Rd.

#### **PROPOSED FINDINGS:**

##### **1. The special review use is consistent with the City's growth policy and applicable neighborhood plans, if any.**

**Applicant:** The proposed special use does align with the City's Growth Policy providing needed service to the Mullowney Lane area. The proposed development is an infill/revitalization project which is specifically identified in the Growth Policy as desirable for the community. The proposed project will renovate an old dilapidated gas station that will comply with all City regulations for the area.

**Staff:** *There are nine Growth Guidelines in the 2016 City of Billings Growth Policy including Essential Investments, Placemaking, Community Fabric, Strong Neighborhoods, Home Base, Mobility & Access and Prosperity. In addition, the South Billings Boulevard Urban Renewal Plan includes goals and policies related to development in this area of Billings including encouraging re-use of vacant property and support for infrastructure improvements that will encourage new investment in private property.*

*It is desirable to renovate an existing vacant structure and the plan for this new business will not be out-of-character for this area of Billings. The site is challenging due to its limited area and building footprint. The South Billings plan acknowledged this area as a major commercial development node that would include a variety of businesses and services. Directly west across Mullowney Lane is a new Holiday gas station and convenience store and the Billings Hotel and Convention Center (BHCC - Howard Johnson) is to the south and east of the property. The property shares a driveway with the business directly north (Adam and Eve). A casino and bar are part of the proposed use and do require a special review approval. The 2016 Growth Policy Guidelines supports the proposed use in some respects.*

#### **Community Fabric:**

- *Developed landscape areas in commercial areas encourage more pedestrian activity and vibrant commercial activity.*
- *Cost-effective landscaping of public rights-of-way and entryways makes Billings more visually appealing to residents and visitors.*

Planning staff is proposing conditions and enhancement for the street frontage landscaping and signage requirements to accommodate people who are using alternate modes of travel such as the MET Transit, bicycle or on foot. Further reconstruction of Mullowney Lane by the City in the next few years also will improve the frontage and pedestrian access in this area.

#### **Strong Neighborhoods:**

- Implementation of the Infill Policy is important to encourage development of underutilized properties.

The city is preparing a re-construction plan for Mullowney Lane south from the Midland Rd intersection to the intersection with Elysian Rd. The frontage improvement will include new and safer pedestrian access across the front of the property.

Lighting will be a key factor in providing customer and public safety on the property. The last 6 months shows about 330 requests for public safety services within 1/2 mile of the subject property. The majority of those calls were for disturbing the peace (noise - 222 calls) but there were also 35 DUIs/Drug offenses, and 64 calls involving property theft. Recommended conditions should help reduce any potential new calls for service.

#### **Mobility and Access:**

- *Development oriented to transit routes will provide more transportation choices and is preferred.*

The location is on two of the fixed routes for MET Transit. The routes - Westend and Southside Loop can provide customers and employees easy access to connect to the remainder of the MET Transit system. Both routes can pick up riders at the intersection of Mullowney Lane and Midland Rd. The Westend bus routes to the Stewart Park transfer center and the Southside Loop routes to the downtown transfer center.

#### **Prosperity:**

- *Successful businesses that provide local jobs benefit the community.*
- *Retaining and supporting existing businesses helps sustain a healthy economy.*

The proposed business is owned by a local company with a proven record of providing local jobs and approving the special review would support an existing business in Billings.

#### **2. The establishment, maintenance, or operation of the special review use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare.**

**Applicant:** The proposed use is compatible with the surrounding zoning, which is all Heavy Commercial (CX) or Corridor Mixed Use 2 (CMU2). The proposed facility is an allowable use in the existing zoning. Commercial and industrial facilities wholly surround the proposed facility. This is located within one of the identified areas for liquor and gaming license on the map published by the city.

**Staff:** *Service stations, bars and casinos do experience crimes mainly of opportunity. The addition of this business to this area may increase these types of crimes at this location. The site is not large and the area has activity happening at all times of the day and night, providing better natural surveillance than a more isolated location. Vehicle access will be from Mullowney Lane. The site has two driveways and both will remain even during the re-development of Mullowney Lane. The applicant does not intend to change many of the site features due to the limited area of the site. The gas pumps will remain along with the canopy in front of the former convenience store building. The conversion of the convenience store to a bar and casino will be mostly interior remodeling with some updating of the siding and building signage. Planning is recommending conditions related to lighting, signage and landscape improvements that should improve site safety and appearance and bring the property into compliance with the current regulations.*

#### **3. The site for the proposed use is adequate in size and topography to accommodate the use while meeting the other requirements of this Zoning Code, including zone district dimensions, landscaping requirements, and parking.**

**Applicant:** The new facility fits in as a small commercial operation with the other businesses located in the vicinity. The applicant is proposing to tear out the existing vegetation and wood fence around the signage on Mullowney. That would be replaced with drought resistant shrubs on the north and south side of the sign to bracket in posts. The intent would be to match the shrubbery with that on the adjacent property. There is no room on the north or south boundary to install additional green space. In lieu of that, we'd propose to install a rectangular planter to the west side of the main door along with stand-alone planters in the center of both fueling aisles to add vegetation to the site. Planters will be manually watered by staff as there is no irrigation lines within the lot and installation of new lines would require significant demolition of concrete and asphalt which is in good condition.

**Staff:** *The proposed site is limited. The proposed interior remodel represents a 16% investment ratio in the existing building value. Proportionate compliance applies for parking and landscaping. The limited frontage combined with the planned street improvements for pedestrian and traffic safety may be able to accommodate street trees along the front of the property, but this will be evaluated further at time of the Mullowney Lane street improvements and configuration of the street frontage. The north property line is a shared driveway with the business to the north and the east and south property lines are well buffered by the adjacent hotel and convention center business. The site has adequate parking for the proposed fueling stations and the proposed bar & casino.*

#### **4. The special review use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.**

**Applicant:** The proposed project will meet the building and design standards present in the city. The developer has an outstanding record and reputation of maintaining and operating their facilities at a high level. Improvements in an existing building to re-occupy a vacant space will improve surrounding property values.

**Staff:** *The location is a high-volume traffic interchange off Interstate 90 with local arterial and collector street connections*

to region-wide shopping areas, hotel accommodations, restaurants, bars, casinos as well as heavy commercial and industrial activity to the south. Newer neighborhoods to the south and west also use Mallowney Lane as a primary connection to the rest of the city. This type of development is not out of character for this area and should not diminish or impair property values in the area.

**5. The special review use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.**

**Applicant:** The proposed facility and use will not impede the normal improvement of the surrounding properties. The new facility fits in as a small commercial operation with the other business located at the intersection of Mallowney Lane and Midland Rd. The infill project will provide a level of certainty to surrounding properties once constructed knowing the formal use of the rundown property.

**Staff:** Two years ago the Red Lion Inn (formerly the Holiday Inn) at 5500 Midland Road and the adjacent convention center building were closed due to a bankruptcy filing. The subject property closed the former fueling station and convenience store about one year ago. In the same time period, the property across Mallowney Lane was demolished (Western Emporium) and re-developed as a Holiday gas station, convenience store and car wash. Planning staff believes the remodel of this building for a new bar and casino along with the re-start of the gas station will not impede the normal and orderly development in the area.

**6. Conditions necessary to protect the public health, safety, and general welfare can be established.**

Staff recommends the following conditions of approval based on the above findings and the applicant's stated intent to bring the property into compliance with current regulations. These conditions will be related to the listed categories above, but may include other issues specific to the use for a bar and casino.

1. This special review approval is for the remodel of the existing 1,800 square foot building on the site into a bar and casino located on Lots 1B1 and 1B2 of Certificate of Survey 1191, generally located at 1225 Mallowney Lane.
2. The site improvements will be as shown on the submitted site plans and architectural drawings as prepared by Atwood Architecture and Performance Engineering and attached to these conditions of approval.
3. The building exterior renovation will include functioning wall and security lighting on all elevations of the building.
4. The two-post freestanding sign along the Mallowney Lane frontage shall be modified by removing the two lowest sign cabinets (manual reader board & ATM). This will improve the clear line of sight for drivers entering and leaving the subject property and reduce the sign area to the current maximum of 140 square feet. The sign is nonconforming for freestanding signs for setbacks from the front property line (5-foot minimum - 1-foot actual), sign height (25 feet maximum - 30 feet actual) and sign area (140 square feet maximum - 168 square feet actual).
5. The site shall be improved with the landscaping as proposed on the Performance Engineering Landscape Plan (EX 1).
6. The applicant will enclose the current or new solid waste container. The current container is located in the southeast corner of the lot adjacent to the "high-rise" Conoco sign pole. The applicant will coordinate with the Solid Waste Division on the location of the container.
7. All landscaping shall be installed and maintained free of debris and trash on a regular basis. Dead plant material will be replaced with like materials as expeditiously as possible.
8. There shall be no internally illuminated fascia on the building.
9. The applicant will submit sign permits for any sign face changes for the Conoco signs on the property and for any new signage on the building. The new signage on the building will comply with the sign standards for CMU2 zone districts.
10. The applicant will submit a Building Permit within one year of City Council conditional approval and will complete the renovations and site development within two years of the issuance of a Building Permit. Failure to submit or complete the approved project within this time frame will void the conditional approval.
11. Modification of the approved special review use is allowed with the following limitations: 10% or less expansion of the gross floor area, 10% or less increase in the number of potential building occupants, and 10% or less new parking stalls. Expansions also require conformance with all other requirements of the Zoning Regulations and other City of Billings code requirements.
12. The cessation of the special review use for more than 6 consecutive months, shall extinguish this conditional approval and the use may not be re-established except through a new special review approval of the City Council
13. The City Council reserves the right to re-open the conditional approval of this use at this location based on one or more of the following conditions: 1) failure to respond to a notice of noncompliance with the specific conditions of approval; or 2) high levels of calls for public safety services verified by the Chief of Police. The City Council will notify the owner of its intent to re-open the Special Review at least 60 calendar days ahead of any public hearing on the matter.
14. These conditions run with the land use and are binding upon and must be adhered to by the property owner and any successors, transferees or assigns.
15. The right of building and occupancy permits are contingent upon the fulfillment of all conditions imposed by this approval.

**7. Adequate utilities, access roads, drainage, and/or necessary facilities have been or are being provided.**

**Applicant:** The proposed facility will go through a full permitting review from City of Billings Public Works for site layout

and utility conformance.

**Staff:** Staff concurs with the applicant's statements and positive findings on utilities, access roads, drainage and necessary facilities. There are no site specific conditions that would hamper the applicant's ability to fulfill the local and state regulations for access, utilities, drainage or other necessary facilities.

**8. Adequate measures have been or will be taken to provide ingress and egress to minimize traffic congestion in public streets.**

**Applicant:** There are no special considerations for this lot - it has two means of access and these are adequate for the proposed use.

**Staff:** The site was developed in the early 1980s prior to the current limitation on driveway openings per lineal foot of street frontage. The city is conducting an engineering design plan for the re-construction of Mullowney Lane. It is not anticipated the number or location of the driveways will need to be moved or reduced.

**9. The special review use shall, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, be modified by the city council.**

**Applicant:** No request to modify the regulations have been made.

**Staff:** Planning staff has not identified any detail of the site plan or narrative of the project that would require modification of the requirements for this application. The site appears to meet all of the requirements for building height, setbacks, separations, lot coverage and yard treatments. Staff has recommended specific conditions related to landscaping, parking, lighting and signage to address issues not apparent on the site plan and to bring the property into compliance or close to compliance with current regulations.

## STAKEHOLDERS

Applicants for special review approval are now required to conduct a pre-application neighborhood meeting similar to zone change applicants. This notice was sent out to property owners within 600 feet of the subject property (~10 owners) for a virtual meeting on Tuesday, August 24, 2021. NO one attended the pre-application meeting. No comments were received by the Planning staff after the public hearing notices were mailed, the property was posted and the legal ad published as required. The applicant is moving an existing license already located within the City of Billings.

## ALTERNATIVES

The City Zoning Commission may recommend to the City Council:

- Approval or,
- Conditional Approval; or
- Denial

The Zoning Commission recommendation shall be based on findings of fact for each criterion and shall be transmitted to the applicant or applicant's agent as well as the City Council.

## FISCAL EFFECTS

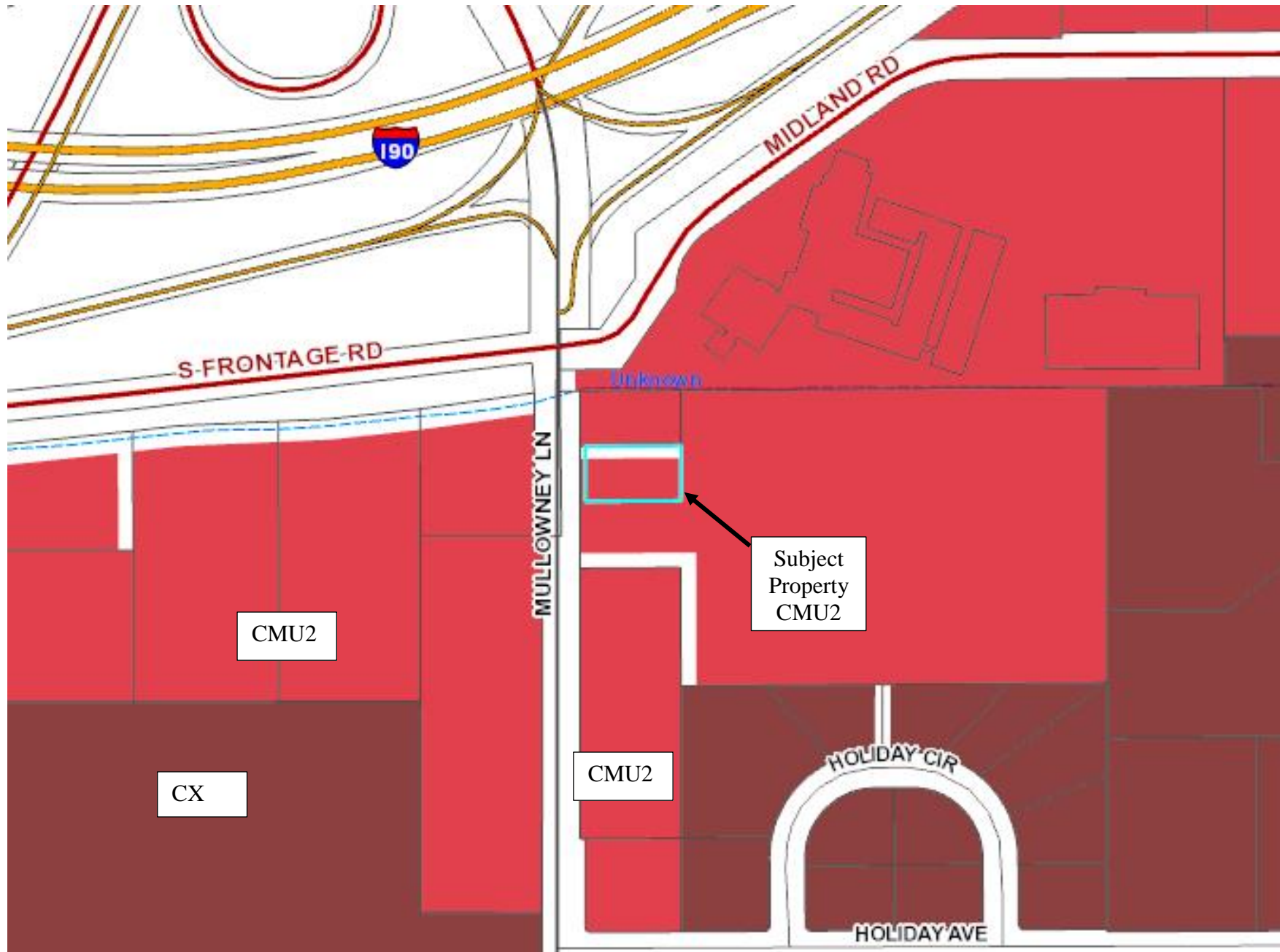
Approval or disapproval of the proposed special review use should not have an impact of the Planning Division budget.

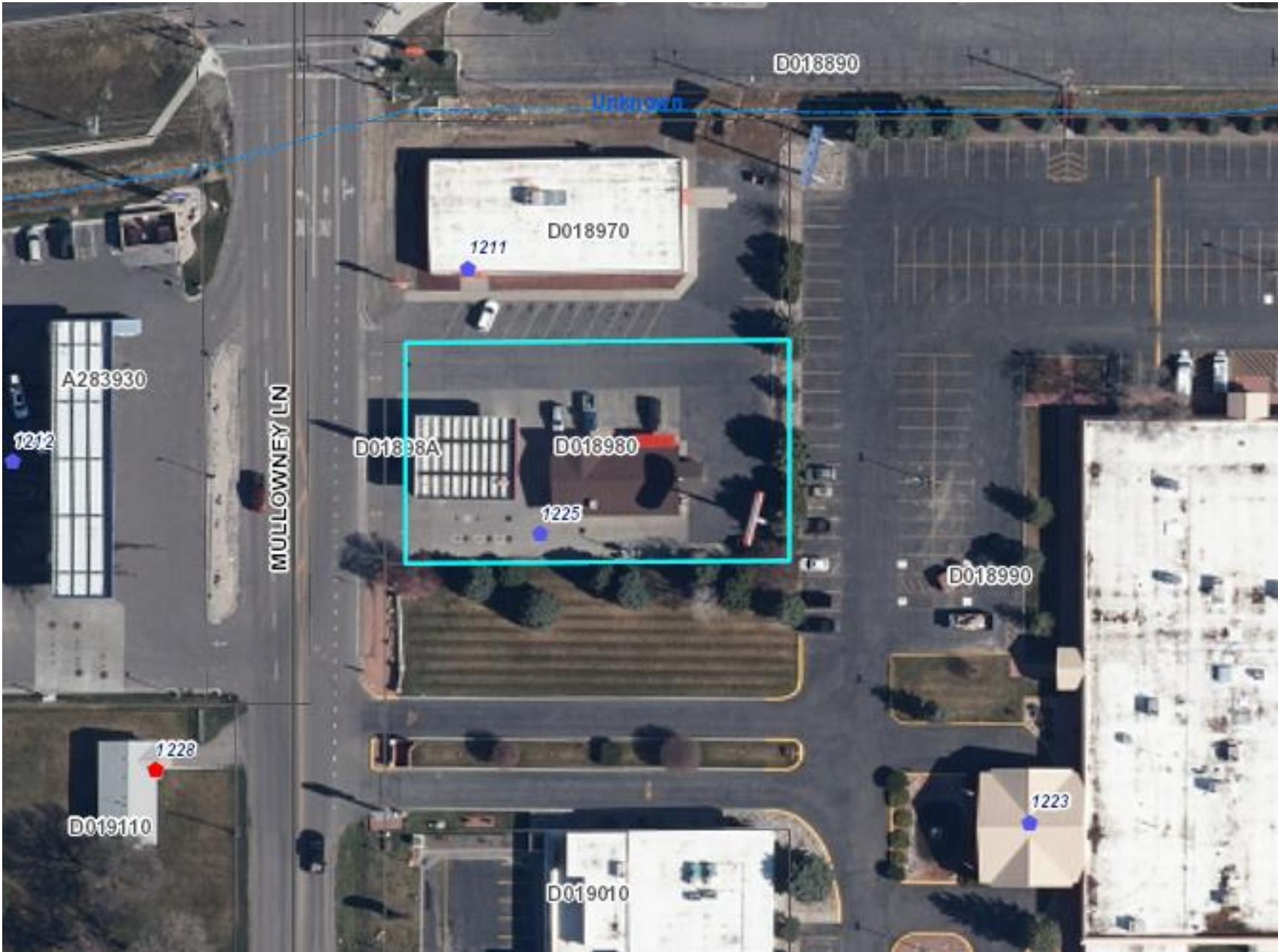
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## Attachments

Zoning Map and Site Photos  
Application and Letter  
SR 991 Zoning History  
Site and Architectural Plans

Zoning Map and Site Photos –SR 991 – Wild Tornado Bar and Casino – 1225 Mallowney Lane





Subject Property



Subject property – view from Mullowney Lane



View north along Mullowney Lane



View south along Muldowney Lane



View west across Muldowney Lane



View north and west to Midland Rd intersection



View east under fuel canopy to building to be renovated



Street View 2019



Street view August 2021

**APPLICATION FORM**

**CITY SPECIAL REVIEW** Billings Special Review# \_\_\_\_\_ - Project # \_\_\_\_\_

The undersigned as owner(s) of the following described property hereby request a Special Review as outlined in the City of Billings Zoning Regulations.

Present Zoning: CMU2 - Corridor Mixed Use & Commercial Centers

Special Review Requested: Liquor and Gaming License Relocation

TAX ID# D01898 CITY ELECTION WARD #3

Legal Description of Property: COS 1191, Parcel 1B1, Amend Tract 1B

Address or General Location (If unknown, contact City Engineering): 1225 Mallowney Lane

Size of Parcel (Area & Dimensions): 0.47 acres, see attached map for dimensions

Present Land-Use: vacant gas station

Covenants or Deed Restrictions on Property: Yes \_\_\_\_\_ No X

If yes, please attach to application

\*\*\* Additional information may be required as determined by the Zoning Coordinator in order to fully evaluate the application.

Owner(s): OED, LLC

(Recorded Owner) 2409 Nina Clare Road

(Address) 406-670-6097 doucette@bresnan.net

(Phone Number) (email)

Agent(s): Performance Engineering - Scott Aspenlieder

(Name) 608 North 29th Street, Billings, MT 59101

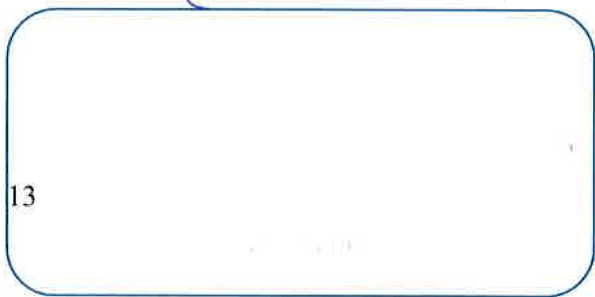
(Address) 406-384-0080 scott@performance-ec.com

(Phone Number) (Email)

I understand that the filing fee accompanying this application is not refundable, that it pays for the cost of processing, and that the fee does not constitute a payment for a Special Review. Also, I attest that all the information presented herein is factual and correct.

Signature: \_\_\_\_\_ Date: 9/1/2021

(Recorded Owner)





# MEMO

**To:** City of Billings Zoning Commission

**From:** Scott Aspenlieder, P.E.

**Date:** September 7, 2021

**Re:** Bar and Casino Facility – Special Review Statement

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On behalf of OED, LLC, Performance Engineering (PE) is submitting the special review application to allow for a liquor and gaming license to be placed at Parcel 1B1, Certificate of Survey 1191. The lot is in the southeast corner of the intersection of S. Frontage Road and Mallowney Lane. The development will contain a full bar, casino, and liquor store.

The proposed special use does align with the City's Growth Policy providing needed service and to the Mallowney Lane area. The proposed development is an infill/revitalization project which is specifically identified in the Growth Policy as desirable for the community. The proposed project that will renovate an old dilapidated gas station that will comply with all City regulations for the area. The proposed improvements will incorporate internal landscaping to visually improve the area for the traveling public. The proposed facility will offer services to high density residential developments and hotels with pedestrian interconnection to encourage and allow for walking and biking within the nearby neighborhoods and hotel facilities. With interconnection to the residential and commercial areas, the project will allow for safe travel within the area. Finally, the proposed facility is part of a successful business with multiple similar facilities in the community which provide jobs for residents and increase the tax base for the City of Billings.

The proposed use is compatible with the surrounding zoning, which is all Heavy Industrial (CX) or Corridor Mixed Use (CMU2). The proposed facility is an allowable use within the existing zoning. Commercial and industrial facilities wholly surround the proposed facility. This is located within one of the identified areas for liquor and gaming licenses on the map put out by the City of Billings Planning Department during the Re-Code process. Providing a bar and casino facility will service both the nearby neighborhoods and the traveling public which frequent this area in the City of Billings due to the hotel facilities in the immediate vicinity.

The proposed facility and use will not impede the normal improvement of the surrounding properties. The new facility fits in as a small commercial operation with the other businesses located in the vicinity. The renovation project will provide a level of certainty to surrounding properties once constructed

knowing the formal use of the run-down property. The proposed project will meet the building and design standards present in the City of Billings Building Code. Additionally, the developer has an outstanding record and reputation of maintain and operating their facilities at a high level. The developer assures that the site is clean and operates within local and state rules and regulations to maintain safety and provide consistency to the neighborhood.

The proposed special review use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare. OED, LLC takes pride in the facility design and employee training it provides to ensure a safe and responsible entertainment for its customers. All employees go through TIPS training which teaches employees responsible and safe serving practices as well as Montana laws and regulations as it relates to operating a liquor and gaming facility. The facility will be built with extensive security systems and secure entry systems at the doors. Security cameras on the outside of the building monitor exterior movement and operations while internal cameras capture customer ID upon entrance into the facility. The facility will be set up to operate at a high level of security while providing a service to the neighborhood and community.

The proposed facility will not be injurious to the use and enjoyment of other property in the immediate vicinity, nor will it substantially diminish property values within the neighborhood. PE staff held a neighborhood meeting having mailed the owners within the 600-ft buffer area regarding the project. Not one property owner or member of the public chose to log in and participate in the meeting, showing little interest or concern by the community about the project. Concerns of property values of adjacent lands is generally raised in relation to liquor and gaming facilities. In this case the property is located well away from any residentially zoned property and wholly surrounded by commercial uses with casinos also located on adjacent properties. Furthermore, no data exists to show that commercial businesses or liquor and gaming facilities located in a properly zoned district have driven down property values for neighboring properties.

The proposed facility will go through a full engineering and permitting review from City of Billings Public Works for site layout and utility conformance to City of Billings Regulations. Construction of the proposed development will meet all City of Billings and Montana DEQ rules and regulations to assure technically sound design and construction is implemented to protect the City and neighborhood.

Feel free to contact Performance Engineering Project Manager Scott Aspenlieder with any questions or concerns at (406) 384-0080 or [scott@performance-ec.com](mailto:scott@performance-ec.com). Thank you for your consideration and coordination in our project.

<b>SUBJECT PROPERTY</b>	<b>Special Review</b>	<b>DATE</b>	<b>FOR</b>	<b>APPROVED (Y/N)</b>	<b>ADDITIONAL DATA</b>
	SR 77	April 28, 1980	Gas Station	Yes	Gas station, convenience store, carwash and laundry
	SR 274	April 1986	Add Gas Island	Yes	
	Var 487	May 6, 1986	Arterial setback for fuel canopy	Yes	
<b>SURROUNDING PROPERTY</b>	<b>Special Review</b>	<b>DATE</b>	<b>FOR</b>	<b>APPROVED (Y/N)</b>	<b>ADDITIONAL DATA</b>
5435 Midland Rd – High Tide Casino	SR 552	June 12, 1995	Beer & Wine w gaming	Yes	
1212 Mullooney Lane – former Western Emporium	SR 649	Dec 14, 1998	All Beverage	Yes	
2001 Overland Ave – Outback Steakhouse	SR 216	Jan 7, 1985	Beer & Wine	Yes	
2011 Overland Ave – Fuddruckers	SR 231	May 6, 1985	Beer & Wine	Yes	
2021 Overland Ave – former Jade Palace	SR 373	Jan 9, 1989	All Beverage	Yes	
2011 Overland Ave – Fuddruckers	SR 394	Nov 27, 1989	All Beverage	Yes	
2201 Grant Rd – Olive Garden 2250 King Ave W – Red Lobster	SR 475	Nov 9, 1992	All Beverage two locations	Yes	
2300 King Ave W – Rendezvous Bar & Casino	SR 496	Aug 2, 1993	Beer & Wine	Yes	
2001 Overland Ave – Outback Steakhouse	SR 654	March 22, 1999	All Beverage & Patio	Yes	
2010 Overland Ave – Denny's	SR 776	Feb 28, 2005	All Beverage w/o gaming	Yes	
1824 King Ave W – Texas Roadhouse	SR 725 & 726	Aug 26, 2002	Beer & wine w/gaming	Yes	
1911 King Ave W – Asian Sea Grill	SR 895	Jan 9, 2012	All Beverage	Yes	
1911 King Ave W – Silver City Casino	SR 836	Feb 26, 2007	Beer & Wine w/gaming	Yes	

PROJECT TITLE  
**WILD TORNADO CASINO**  
 LANDSCAPE PLAN

DRAWN BY  
 RDN  
 DATE  
 Nov/21  
 CHECKED BY  
 SMA

CLIENT  
**OED, LLC**  
 2409 NINA CLARE ROAD  
 BILLINGS, MT 59102

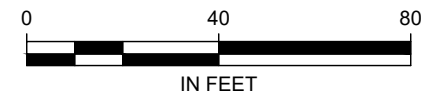
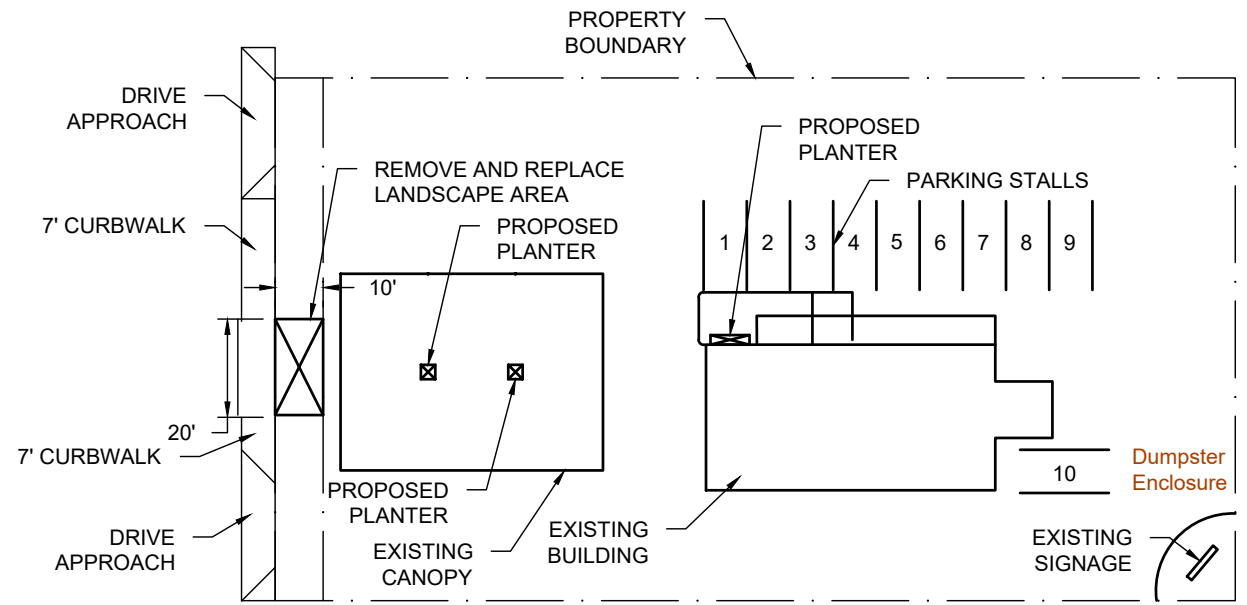
608 NORTH 29TH STREET  
 BILLINGS, MT 59101



**PERFORMANCE**  
 ENGINEERING

(406) 384-0080  
 www.performance-ec.com

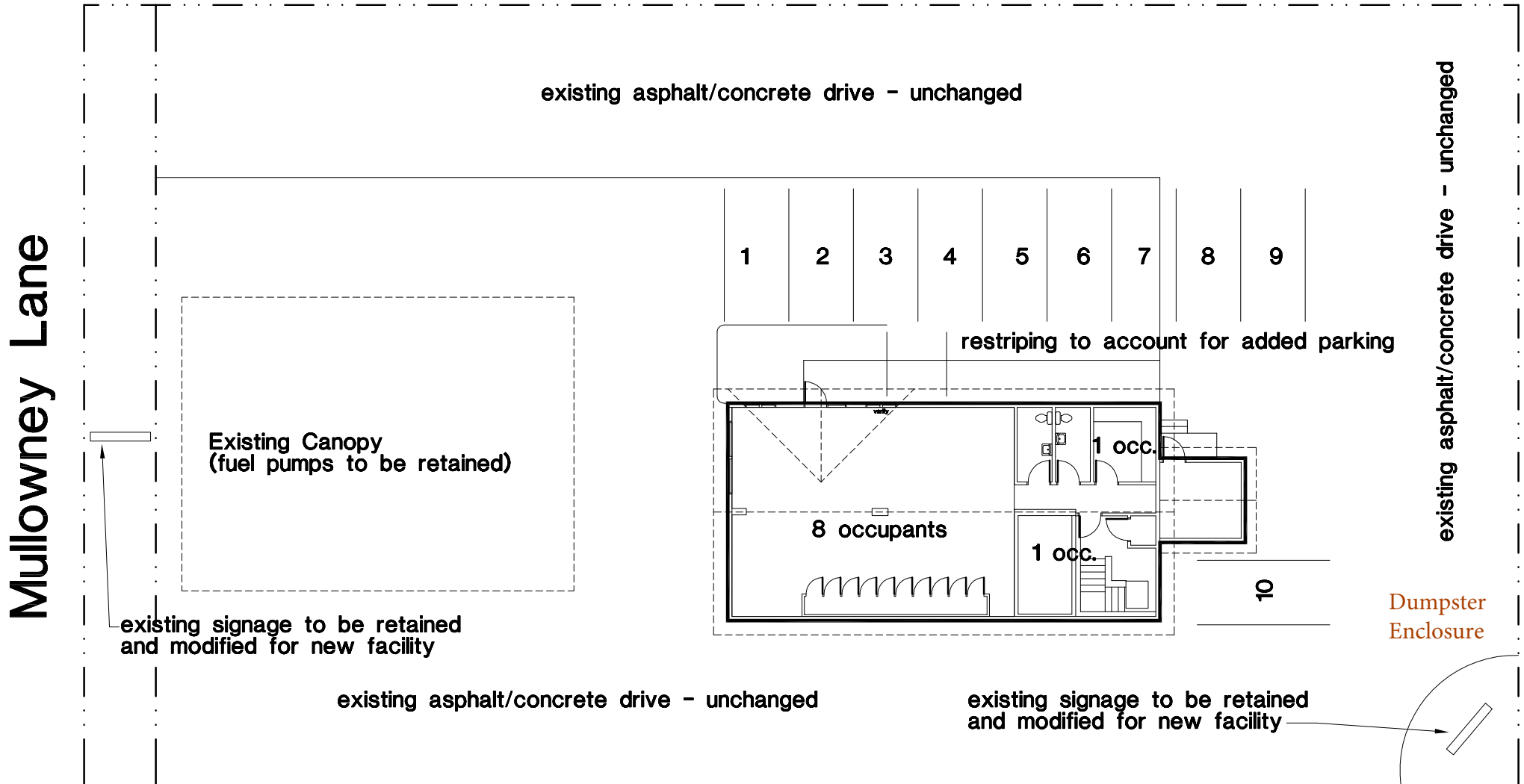
EXHIBIT  
**EX 1**  
 COPYRIGHT 2021 ©



# SITE CONCEPT PLANNING FOR: WILD TORNADO CASINO

1225 MULLOWNEY

BILLINGS, MONTANA

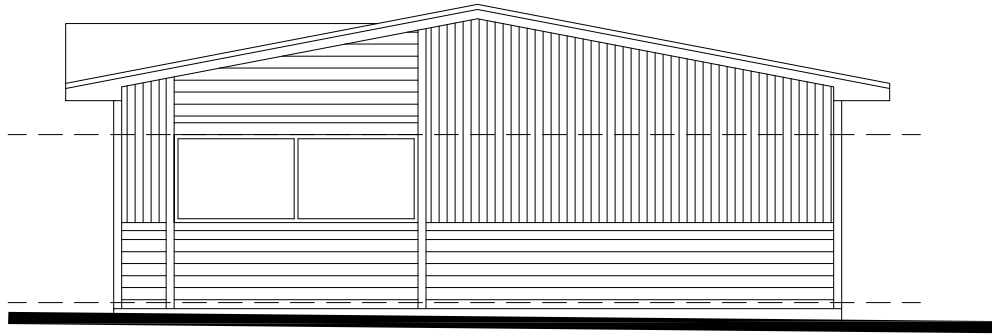


10-28-2021

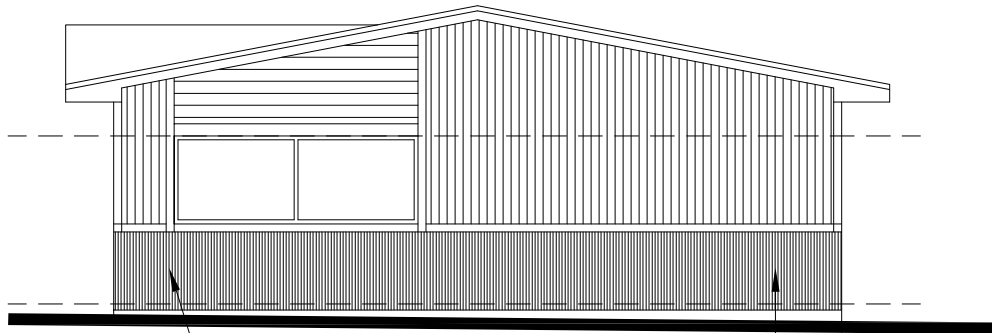
# PRELIMINARY ELEVATION STUDIES FOR: **WILD TORNADO CASINO**

1225 MULLOWNEY

BILLINGS, MONTANA



Existing Conditions



PREFINISHED METAL PANEL  
WAINSCOT

Proposed Remodeling



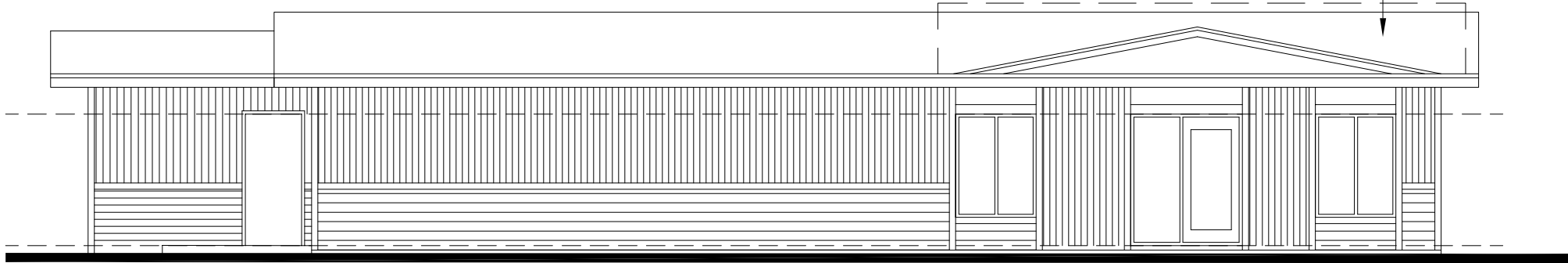
10-28-2021

# PRELIMINARY ELEVATION STUDIES FOR: WILD TORNADO CASINO

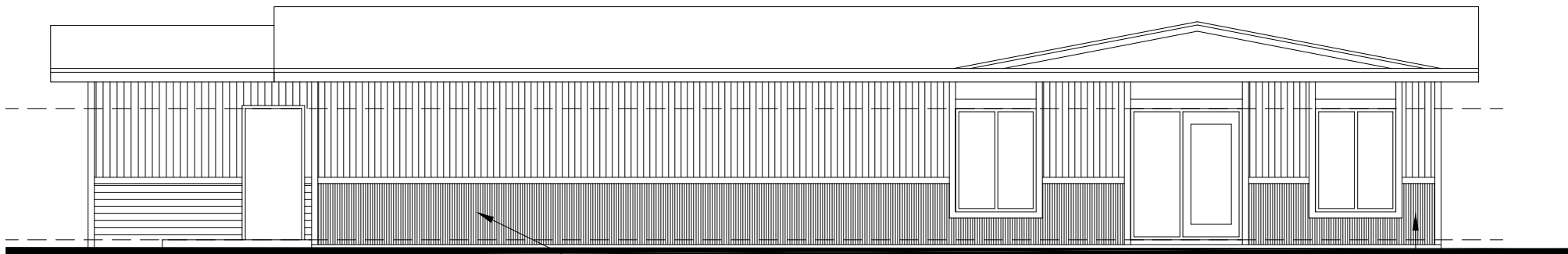
1225 MULLOWNEY

BILLINGS, MONTANA

REMOVAL OF EXISTING ATTACHED  
CANOPY



## Existing Conditions



PREFINISHED METAL PANEL  
WAINSCOT

## Proposed Remodeling

Atwood  
Architecture  
LLC

10-28-2021



Existing



Proposed

NOTES:

- Reface ID w/New Logo
- Replace "Trading Post" and Insert "Wild Tornado" Same Colors/Lettering
- New LED Pricer Upgrade (Regular/Diesel)
- Paint Poles Titanium Gray

Remove two lower sign cabinets to improve traffic safety and increase conformance with Sign Code

Project Name	SHIP TO #	Customer	Created by
CONOCO	881671	CONOCO	L. Abramov
Revision #	Date	Scale	Page #
R2	09_20_2021	NA	8 OF 9

**Brand Book**  
**BIG RED ROOSTER FLOW**  
 2 Northfield Plaza, Ste 211  
 Northfield, IL 60093  
 P: (847) 441-1818 F: (847) 592-9564

## Zoning Commission

**Date:** 12/07/2021  
**Title:** Zone Change 1003 - The Timbers Alkali Creek Rd - Mixed Residential PND - A to N3, NX1, NMU, & Public  
**Presented by:** Nicole Cromwell  
**Department:** Planning & Community Services  
**Presentation:** Yes

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### Information

#### RECOMMENDATION

Planning Staff recommends approval and adoption of the findings of the ten review criteria for Zone Change 1003, a Mixed Residential Planned Neighborhood Development zone change from Agriculture (A) to Suburban Residential Neighborhood (N3), Mixed Residential 1 (NX1), Neighborhood Mixed Use (NMU) and Public 1 (P1). This recommendation includes all Phases (1-3) although only Phase 1 will be annexed at this time.

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

This is a zone change request for a new Planned Neighborhood Development zone change for 104.42 acres of land to be annexed in three phases south of Alkali Creek Road, north and east of the Billings Airport, and west of Foothill Drive. The proposed Mixed Residential PND will include 62.4 acres of N3, 4.9 acres of NX1, .9 acres of NMU zoning, and about 16.4 acres of open space (P1). The first Phase will consist of 56.52 acres on the eastern portion of the property with N3, NX1 and Public 1 zoning districts. The PND is a new zoning tool to help guide the coordination of annexation, subdivisions, and master planning for new city neighborhoods. The previous zoning code allowed urban-type zoning districts in both the city and the county. In many cases, developers were "pre-zoning" parcels in the county prior to annexation. The new PND tool will allow developers to process all the zoning with the City Council, phase the annexation of the property (if necessary), and coordinate both of these processes with subdivision or master site plan review. The new tool applies a level of certainty to all stakeholders, including the surrounding property owners.

This zone change is for a Mixed Residential PND and includes some mixed residential zoning (NX1) in the southeast corner of the property (5%), Suburban Residential Neighborhood (N3) zoning for about 60% of the net land area and the remaining area in Neighborhood Mixed Use (NMU) and Open Space (P1 - 16%) districts. There are neighborhood scale open spaces shown on the plan as required by the PND regulations as well as an open space conservation area in Public 1 zoning for Alkali Creek. A master plan for the use and development of this open space is not yet completed. The applicant also owns another 139+ acres of land to the south and west that is remaining in the county and is zoned A - Agriculture. The owner recently sold 72.8 acres of land to the Billings Airport as an area to be protected from development due to its proximity to the main runway.

#### APPLICATION DATA

**OWNER:** Ali and David Mitchell  
**AGENT:** IMEG, Koltan Knatterud, P.E.  
**LEGAL DESCRIPTION:** Portions of C/S 3795 Tracts A, B & D  
**ADDRESS:** Generally located south of Alkali Creek Rd and northeast of Billings Airport  
**CURRENT ZONING:** Agriculture (County) - A  
**EXISTING LAND USE:** Agriculture - vacant land  
**PROPOSED USE:** New Mixed Residential Neighborhood  
**SIZE OF PARCEL:** 104.42 acres

#### CONCURRENT APPLICATIONS:

Petition for Annexation 21-14 - The Timbers Subdivision (city)

#### SURROUNDING ZONING AND LAND USE:

**NORTH:** Zoning: Agriculture (A)  
Land Use: Agriculture - vacant land  
**SOUTH:** Zoning: Agriculture (A)  
Land Use: Agriculture - vacant land  
**EAST:** Zoning: Agriculture (A)  
Land Use: Agriculture and vacant residential land  
**WEST:** Zoning: Agriculture (A)  
Land Use: Agriculture - vacant land

This area of Billings in the Heights has not experienced any new major development in several years. The High Sierra Subdivision to the north and east has been building out for about 15 years. The anticipation of the connection of the Inner Belt Loop near this area of Billings will bring additional development. Development on the west side of Main Street tends to be mostly single family and two-family dwellings with few other housing options planned or developed. There is a great demand for other housing options in Billings Heights including independent living units for aging residents who want to "downsize" from a maintenance heavy single family dwelling on a large lot to unit ownership or townhomes as well as rental apartments. The 2010 Census indicated Billings, like many other urban areas, saw a reduction in average household size to 2.3 persons. Smaller households, aging residents and the higher costs of all housing has driven the demand for apartments, townhomes, and smaller multi-family products. Housing types in the immediate area do not include many options for attached single family dwellings, smaller dwellings on small lots (less than 1/4 acre), or apartments of any kind. Many of the neighborhoods in the area were developed as County subdivisions and then annexed to the city when septic systems or on-site water supplies failed. The closest neighborhood - Sun Valley Subdivision - is still in the County and does not have access to water or sewer services. This neighborhood is zoned N4 - Large Lot Suburban Residential Neighborhood.

There are challenges to an area of urban development that is on the edge of the city limits. These challenges include ensuring the adjacent county property owners and uses are protected as much as possible from conflicts with the new urban neighborhood residents and uses. This is not meant to ensure similarity or homogenous development patterns between the city and county, but the development plan includes buffering, connectivity where and when needed, and recognition of similar goals for both types of property. The 2016 Billings Growth Policy and the 2006 Billings Heights Neighborhood Plan goals and policies support the proposed Mixed Residential PND. The Billings Heights Neighborhood Plan goals and objectives stated the need to develop housing patterns that are compatible with existing neighborhoods, encourage high density multi-family development along arterial routes and maintain similar housing in established neighborhoods. The proposed zone change supports these goals. The 2016 Billings Growth Policy included a land use planning scenario for this area of Billings Heights due to the alignment of the Inner Belt Loop and the potential of immediate development in the area. The "Public Preferred Growth Scenario" included a mix of housing types although a denser pattern than previous patterns as well as some limited commercial development. In general, the 2016 Growth Policy supports a broad range of housing choices, encourages more walkable neighborhoods with connectivity to other transportation options, and building the community fabric through urban designed public spaces. The proposed zone change supports these goals as well.

## **STAKEHOLDERS**

The applicant and agent conducted a pre-application neighborhood meeting on September 27th and September 28th, 2021 and about 27 surrounding owners attended. The meeting on September 27th was held in a virtual format and the meeting on September 28th was held in person to accommodate owners without internet formats. The surrounding owners asked questions about the proposed improvements, connections to the city water and sewer for existing homes, and the type of proposed development. Concerns ranged from noise, to crime, forced annexation, sidewalks, wildlife and protection for Alkali Creek. A summary of the meeting is included as an attachment. A PND zone change requires notification of all owners within 1/4-mile of the subject property. The list for this zone change includes over 100 owners.

As part of the PND zone change process, the applicant is also required to hold a pre-application Concept Review meeting with city staff to address any concerns with the street layout, zone districts, access, parks, utilities and similar infrastructure provisions. Staff was generally supportive of the proposed street layout and distribution of the zone districts.

Planning staff did not receive any comments prior to completing the staff report for the zone change.

## **ALTERNATIVES**

The Zoning Commission may:

- Recommend approval and adoption of the findings of the ten review criteria for Zone Change 1003; or,
- Recommend denial and adopt different findings of the ten review criteria for Zone Change 1003; or,
- Delay action on the zone change request for up to 30 days; or,
- Allow the applicant to withdraw the zone change request.

## **FISCAL EFFECTS**

Approval or denial of the proposed zone change will not have an effect on the Planning Division budget.

## **SUMMARY**

Before making a recommendation to the City Council, the Zoning Commission shall consider the following findings of the ten review criteria for Zone Change 1003:

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 Billings Heights

## Neighborhood Plan (2006):

The Billings Heights Neighborhood Plan goals and objectives stated the need to locate compatible uses and offer a range of housing choices and development densities. The Billings Heights Plan adopted a number of Goals, Policies, and Implementation Strategies. The proposed Mixed Residential PND for The Timbers subdivision is consistent with the following adopted policies in the plan including the following:

- To provide safe, good quality and affordable housing in the Heights.
- Develop housing patterns that are compatible with existing neighborhoods.
- Encourage high density multi-family development along arterial routes.
- Maintain similar housing in established neighborhoods.

The proposed PND is compatible with goals of the Billings Heights 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 natural greenway park (Pow Wow Park) Alkali Creek Road is an arterial street but there are no nearby neighborhood services or higher density housing. The proposed PND will accommodate a couple of small areas for these uses to begin to fill out these needs.

The proposed amendment is also in line with the adopted 2016 Growth Policy goals for:

### **Strong Neighborhoods:**

- Zoning regulations that allow a mixture of housing types provide housing options for all age groups and income levels
- Walkable neighborhoods that permit convenient destinations such as neighborhood services, open space, parks, schools and public gathering spaces foster health, goodwill and social interaction
- Safe and livable neighborhoods can be achieved through subdivision design that focuses on complete streets, pedestrian-scale street lights, street trees and walkable access to public spaces
- Neighborhoods that are safe and attractive and provide essential services are much desired Implementation of the Infill Policy is important to encourage development of underutilized properties

### **Home Base:**

- A mix of housing types that meet the needs of a diverse population is important
- The Housing Needs Assessment is an important tool to ensure Billings recognizes and meets the demands of future development
- Common to all types of housing choices is the desire to live in surroundings that are affordable, healthy and safe
- Planning and construction of interconnected sidewalks and trails are important to the economy and livability of Billings
- Public safety and emergency service response are critical to the well-being of Billings' residents
- Homes that are safe and sound support a healthy community

The proposed layout for the Timbers subdivision will allow the higher density housing - the NX1 - in a small 4.9-acre area on the south and east portion of the 56.52 acre Phase 1 annexed parcel. The NX1 zone allows 1-4 family dwellings and these can develop on fee simple lots or on larger lots in a common area arrangement or unit ownership. A majority of the neighborhood will be zoned for single family dwellings (N3 - 60%). The proposed Public zoned area is contiguous and surrounding Alkali Creek. There is no master plan for this 16+ acres as of this time but it will include trails and connectivity to Alkali Creek Road. These areas as shown meet the minimum requirements for the PND zone process.

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

The zoning requires minimum setbacks, open and landscaped areas and building separations. The zoning assembly and street layout is designed to secure the development from fire and other dangers. The Planning staff may recommend minor adjustments of the street layout during the subdivision review process.

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

Public health and public safety will be promoted by the proposed change. Approval of the overall zoning plan and street layout will provide certainty both for the property owner and the surrounding owners. Annexation and provision of public health and safety services from the city will promote the general welfare of the area.

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

Transportation: The applicant will prepare a traffic impact study in coordination with City Engineering and as part of the subdivision review process. This will ensure access from the full build-out of the development will be safe and have adequate traffic controls and management in place. The city and county will need to coordinate management of Alkali Creek Rd since the right of way jurisdiction will not be continuous from the existing city limits to the subject property.

Water and Sewer: The City will provide water and sewer to the property. There will be no additional impacts to the system from the proposed changes.

Schools and Parks: Schools and parks may be effected by the proposed zone change and development of a new city neighborhood. SD #2 did not provide any comments.

Fire and Police: The subject property will be served by city public safety services. The Police and Fire Departments had no concerns with the zone change.

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

The proposed zoning provides for sufficient setbacks to allow for adequate separation between structures and adequate light and air.

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

Non-motorized travel -- walking and biking -- is an essential part of the circulation plan both within the proposed development and future connections to adjacent areas including Pow Wow Park along Alkali Creek. Alkali Creek crosses Alkali Creek Rd approximately 750 feet east of the subject property. There are no pedestrian facilities along this section of Alkali Creek Road. It is a connecting road from Main Street to Highway 3 (Molt Road) to the west and has a posted speed limit of 45 mph. Alkali Creek Rd only carries about 770 vehicle trips per day in the most recent traffic counts (2020). The Inner Belt Loop Corridor Study indicated this volume is expected to increase to about 1,900 vehicles trips per day using historic growth information and up to about 3,500 vehicles trips per day under an "aggressive" growth model. The design of the intersections for the subdivision will need to accommodate the traffic in a worst case scenario.

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

The proposed increase in the overall development density is compatible with urban growth and the provision of city level services to the new residents. The proposed zone district boundaries are consistent with the urban growth in this area and will be compatible with the surrounding neighborhoods.

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

The proposed zoning does consider the character of the district and the suitability of the property for the proposed use. This area northeast of the Billings Airport and close to the Inner Belt Loop alignment will be a new growth area for Billings. There is a demand for a wide range of housing choices and the proposed zoning is suitable for this area.

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

The property is an agricultural parcel. There are no existing buildings on the property. The closest structure is the Morledge home at 1562 Alkali Creek Rd, 750 feet to the east. There should be no effect on the value of this structure from the proposed zoning. It can continue to be used for residential and agricultural purposes. Approval of the zone change will provide predictability to surrounding landowners and may help to maintain property values of adjacent buildings.

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

The proposed Mixed Residential PND will encourage the most appropriate use of this land in Billings.

---

### Attachments

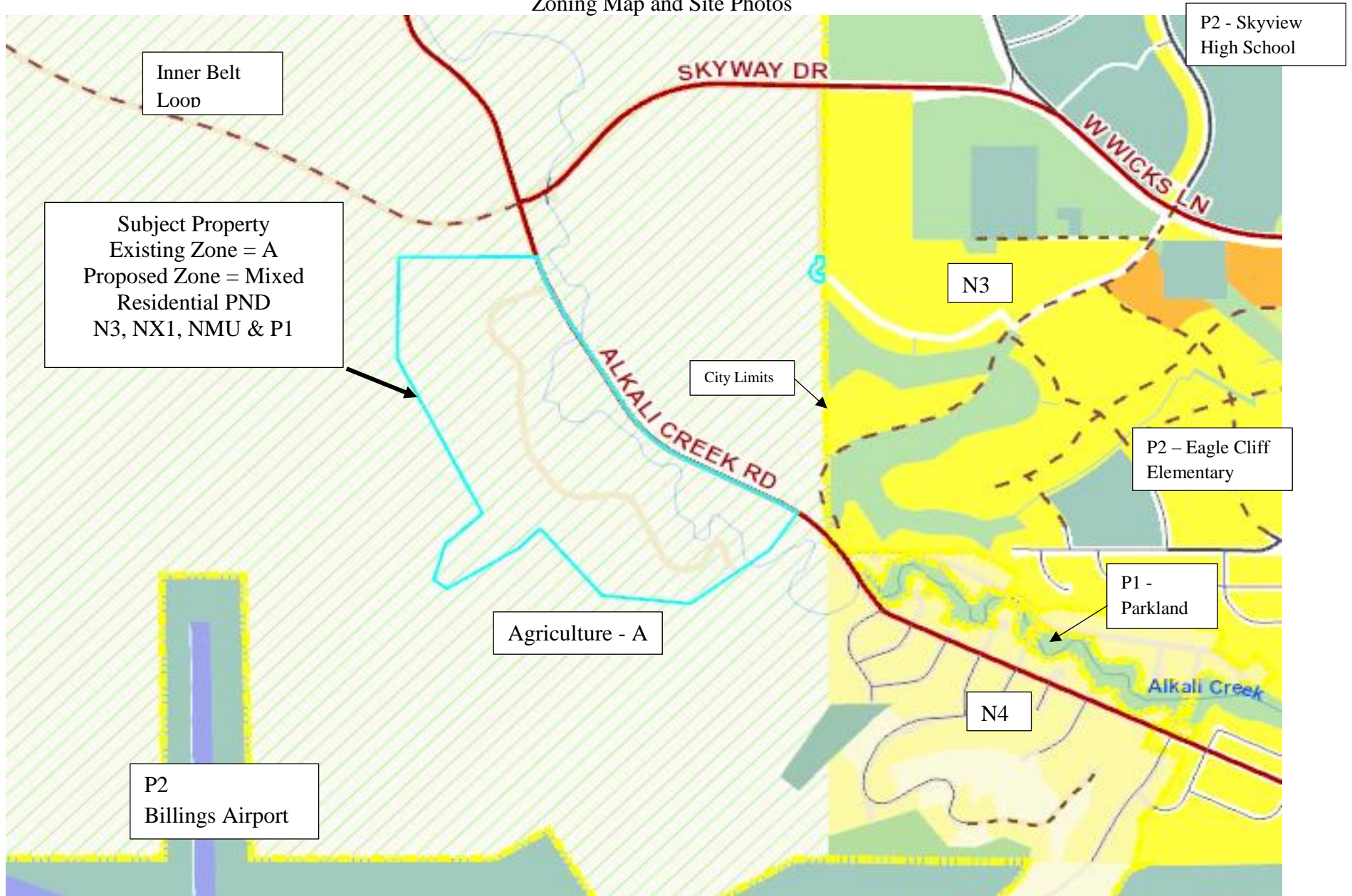
Zoning Map and Site Photos

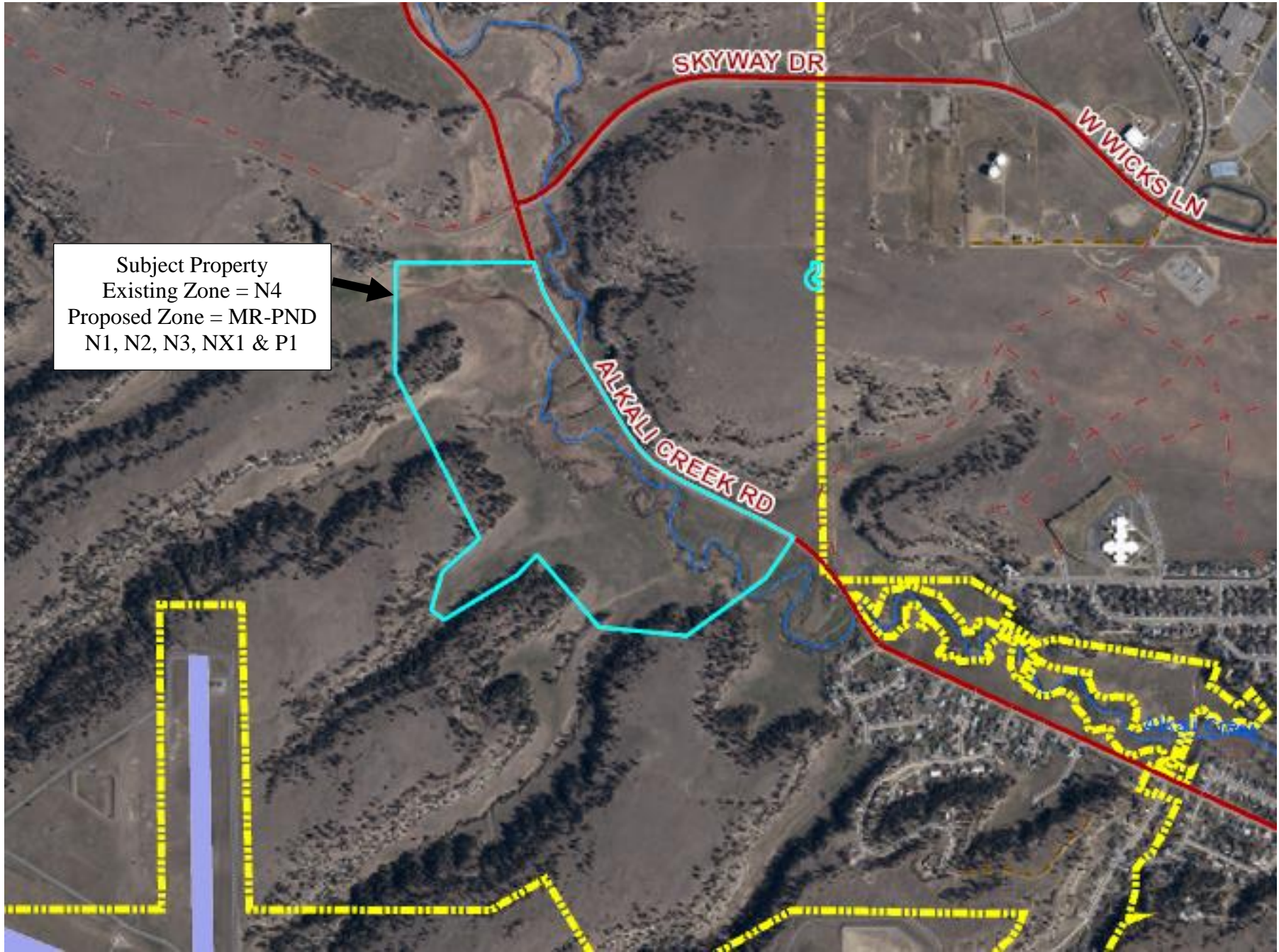
Zoning History

Zoning App and Letter








Pre app meeting notes

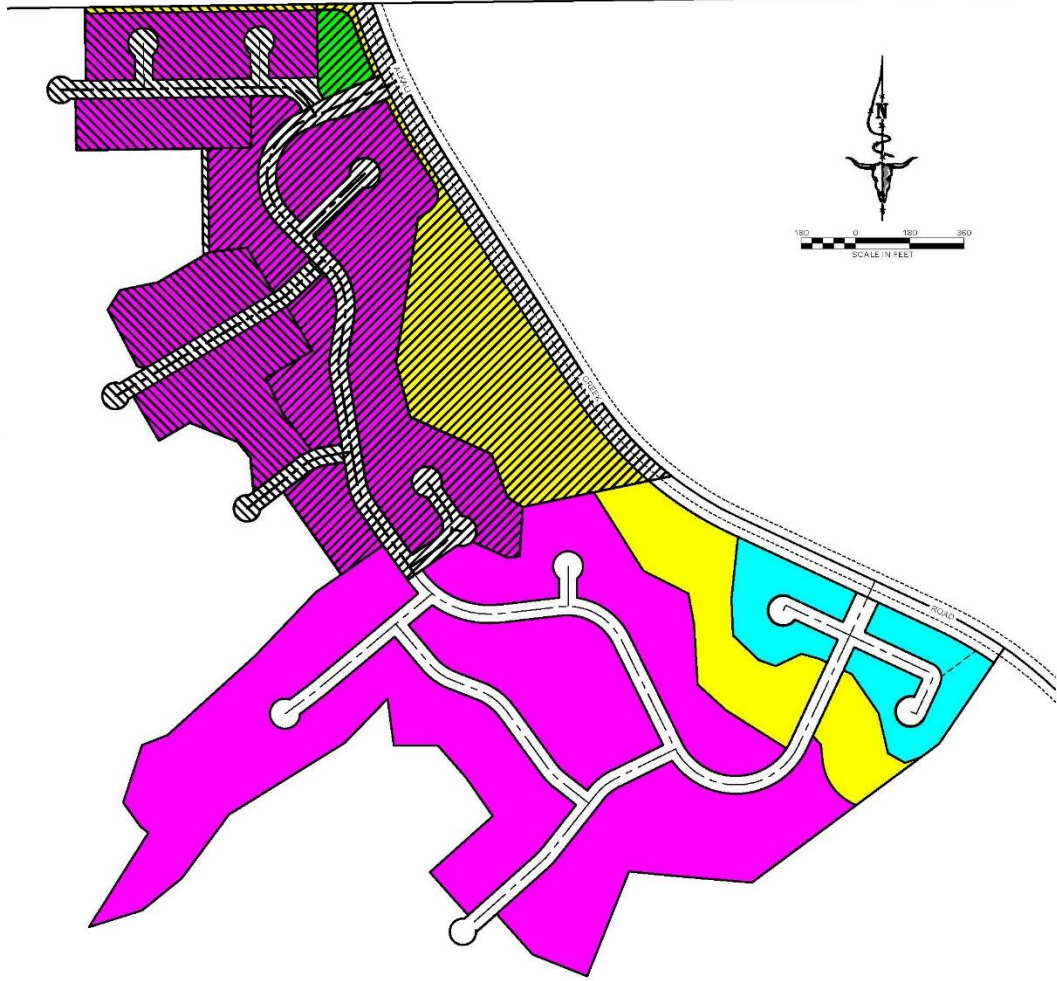
City Zone Change 1003 – The Timbers – Mixed Residential-PND  
Zoning Map and Site Photos





Subject Property  
Existing Zone = N4  
Proposed Zone = MR-PND  
N1, N2, N3, NX1 & P1

- ZONE NX1  4.9 AC / 214,100 SF TOTAL
- ZONE N3  62.4 AC / 2,717,700 SF TOTAL
- ZONE NMU  0.9 AC / 39,500 SF TOTAL
- PARK  16.4 AC / 715,200 SF TOTAL
- PHASE 1 
- PHASE 2 
- PHASE 3 



**IMEG**  
 805 SOUTH LAKE W. STE. A IN 48220-0142  
 1000 S. LAKE MEAD BLVD.  
 BENTON, ARIZONA 85710  
 www.imeg.com

REVISIONS	DATE				
DESIGNED					
DRAWN					
CHECKED					
DATE					

LOCATION CASE NO. 19-0011N-1036E-PAMM SECT. 19, 20TH, 1036E, PAMM BILLINGHAM, MONTANA YUKON-FLY COUNTRY	PREPARED BY DAVID MITCHELL
PROJECT NAME THE TIMBERS SUBDIVISION	ZONE EXHIBIT
PROJECT NO. 20006040	SHEET NO. 1 OF 1

PRELIMINARY



Subject Property from Alkali Creek Rd



View south and west from Alkali Creek Rd



View west an Alkali Creek Rd



View north and west from Alkali Creek Rd



View north across Alkali Creek Rd



View north and east across Alkali Creek Rd

<b>SUBJECT PROPERTY</b>	<b>Zone Change #</b>	<b>DATE</b>	<b>FOR</b>	<b>APPROVED (Y/N)</b>	<b>ADDITIONAL DATA</b>
None					
<b>SURROUNDING PROPERTY</b>	<b>Zone Change #</b>	<b>DATE</b>	<b>FOR</b>	<b>APPROVED (Y/N)</b>	<b>ADDITIONAL DATA</b>
High Sierra, 1 <sup>st</sup> Filing Lots 1-14, Blk 2	496	4/28/1986	R-96 to CC	N	Denied
High Sierra, 1 <sup>st</sup> Filing Lots 1-14, Blk 2	516	8/24/1987	R-96 to NC	N	Denied
High Sierra, 2 <sup>nd</sup> Filing, Lot 1, Block 4	SR 734	1/27/2003	Allow church, preschool, private elementary, Junior/high school and commercial rec uses in R9600	Y	
High Sierra 2 <sup>nd</sup> Filing, Lot 1, Block 2	712	4/14/2003	From R9600 to R- 7000	Y	
825 Wicks Ln, High Sierra 2 <sup>nd</sup> Filing, Lot 1 Blk 1	719	9/8/2003	From R9600 to R- 7000	Y	
High Sierra & Sierra Granda Blvd, High Sierra 2 <sup>nd</sup> Filing, Lot 1 Blk 3	SR 821	7/24/2006	Allow church and senior retirement complex in R9600	Y	
3144 Grand Ave, Cardwell Ranch	848	10/14/2008	From A1 to PD (CC & RMF)	Y	
N of Benjamin Blvd, Marisela Sub, Lot 2A, Block 1	822	10/27/2008	From A1 to R-70R and R96	Y	
Block 31, Lots 17-25 High Sierra 16 <sup>th</sup> filing	Variance 1314	7/1/2020	From 40% lot coverage to 50% in R50 zone to allow duplexes	Y	
Eagle Ridge Subdivision, W of St Andrews Dr	665	2/26/2001	From R96 to R70	Y	

Eagle Ridge Subdivision, W of St Andrews Dr	753	2/14/2005	From R70 & R96 to Public	Y	
Lake Hills 14 <sup>th</sup> , 15 <sup>th</sup> , 16 <sup>th</sup> , 31 <sup>st</sup> Filing and C/S 793	875	4/25/2011	From CC, P, R60, RMF to R96, R60-R on various lot	Y	
Western Sky Sub	802	5/17/2007	A1 to CC, RMF-R, R50, R70, R96 & Public	Y	Included entire NW section of 160 acres
Lenhardt Sq Sub 1 <sup>st</sup> Filing, Kind Ave W	829	4/28/2008	A1 to PD	Y	Initial denial of annexation, reversed and conditioned
Lenhardt Sq Sub, PD	909	6/11/2013	Amend PD to allow increase in the max density from 15 du/acre to 20du/acre	Y	Tract 3A of C/S 2063. With underlying zoning PD-MF-R
St Vincent Healthcare, Shiloh Rd and King Ave W	722	5/24/2004	A1 to PD	Y	PD for healthcare & Ancillary commercial uses
645 S 48 <sup>th</sup> St, COS 983	997	9/13/2021	A to MU-PUD	Y	PND incl CMU1, NX2, N2 and P1
2526 Hawthorne Ln	988	2/22/2021	A to R70	N	Did not reach super majority vote



November 1, 2021

City of Billings  
Planning and Community Services Department  
2825 3<sup>rd</sup> Ave North, 4<sup>th</sup> Floor  
Billings, MT 59101

RE: The Timbers, First Filing Zone Change Application

To Whom it May Concern,

We have included all documents necessary for a rezoning to occur at what is legally described as Tracts A and B of COS 3795 located in the Northeast Quarter, Southeast Quarter, Southwest Quarter, and Northwest Quarter of Section 19, and the Northeast Quarter of Section 30, Township 1 North, Range 26 East, Principal Meridian Montana, Yellowstone County Montana. This area contains approximately 316.71 acres of land that is currently zoned, Zone A – Agriculture 10 or more acres within Yellowstone County zoning. We are requesting to rezone this property to three different zoning districts within the City of Billings new Re:Code zoning. These zonings are N3 – Suburban Neighborhood Residential, NX1 – Mixed Residential 1, and NMU – Neighborhood Mixed-Use.

On September 17, 2021 notifications were sent to all parties that were included on the certified list. This notification was provided 10 calendar days before the rezoning meeting occurred. The rezoning meeting was held via Microsoft Teams meeting on September 27, 2021. Due to numerous public comments and concerns for elderly members of the community an additional in-person meeting was also offered. This additional mailing was sent on September 23, 2021 to all parties on the certified list informing of both meeting options. The in-person meeting was held on September 28, 2021. This mailing also included a map displaying the area to be rezoned and names of zoning districts.

This submittal contains the following information and supporting documents to facilitate your review:

- Rezoning application
- Radius map
- List of surrounding property owners certified by the Yellowstone County Clerk and Recorder
- Original List for certification submitted to Yellowstone County Clerk and Recorder
- Mailing labels for each certified property owner that received a notification letter
- Certificate of Mailing from the United States Postal Service
- Sample letter of mailing sent on September 17, 2021
- Sample letter of mailing sent on September 23, 2021
- Zone Map sent with mailing on September 23, 2021
- Meeting Notes from September 27, 2021 (contains list of attendees and minutes)
- Meeting Notes from September 28, 2021 (contains list of attendees and minutes)
- Title 10 Zone Change Criteria

Please feel free to reach out to us if you require any additional information or have any concerns.

Sincerely,  
IMEG Corp.



Kolten Knatterud, P.E.  
Client Executive

[Kolten.I.knatterud@imegcorp.com](mailto:Kolten.I.knatterud@imegcorp.com)



Anna Vickers  
Land Use Planner

[anna.m.vickers@imegcorp.com](mailto:anna.m.vickers@imegcorp.com)

hsc

G:\2020\20006040.00\Design\Civil\2\_PLANNING\Preliminary Plat Application\Rezoning\Letter to Billings Planning RE Rezone Submittal.docx



## Pre-Application Statement of Owner(s) or Agent(s)

The owner(s), contract purchasers (if any) and agents (if any) are required to submit this completed form and any attachments along with a completed zone change application packet, including any required fees, for a zone change to be processed by the Planning Division.

1. **Present Zoning:** Yellowstone County Zoning - Zone A, Agriculture 10+ Acres \_\_\_\_\_
  
2. **Written description of the Zone Change Plan** including existing and proposed new zoning:  
  
Change zoning from County Zone A to City of Billings NX1 - Mixed Residential, NMU - Neighborhood Mixed-Use and N3 - Suburban Neighborhood Residential \_\_\_\_\_
  
3. **Subject Property Map:** please attach to this form
  
4. **Legal Description of Property:**  
  
Tracts A and B of COS 3795 located in the NE1/4, SE1/4, SW 1/4 and NW1/4 of Section 19, and the NE1/4 of Section 30 Township 1 North, Range 26 East, Principal Meridian Montana, Yellowstone County Montana  
\_\_\_\_\_
  
5. **Neighborhood Task Force Area:** Yes ///  No. If Yes, Name of Task Force and mailing address of Chairperson:  
  
\_\_\_\_\_
  
6. **Roster of persons who attended the pre-application neighborhood meeting:** please attach to this form
  
7. **A copy of the meeting notice.** please attach to this form
  
8. **A brief synopsis of the meeting results including any written minutes or audio recording.** please attach to this form
  
9. **The undersigned affirm the following:**
  - 1) The pre-application neighborhood meeting was held on the 27, day of September, 2021.
  - 2) The zone change application is based on materials presented at the meeting.

**Owner (s):** Ali and David Mitchell Telephone: \_\_\_\_\_

Address: 1655 Valley Heights Road Email: d@cbcmontana.com  
Billings, MT 59105 \_\_\_\_\_

**Agent (s):** Anna Vickers and Kolten Knatterud Telephone: 406-545-6420

Address: 175 N 27th St. Ste. 1312 Email: anna.m.vickers@imegcorp.com  
Billings, MT 59101 \_\_\_\_\_

# APPLICATION FORM

CITY ZONE CHANGE      Billings Zone Change # \_\_\_\_\_ - Project # \_\_\_\_\_

The undersigned as owner(s) of the following described property hereby request a Zone Change as outlined in the City of Billings Zoning Regulations.

Present Zoning      Yellowstone County Zoning - Zone A, Agriculture 10+ Acres

Proposed Zoning:      City of Billings NX1 - Mixed Residential, N3 - Suburban Neighborhood Residential, and NMU - Neighborhood Mixed-Use

TAX ID#      000D052500      CITY ELECTION WARD      N/A

Legal Description of Property: Tracts A & B of COS 3795 Section 19 and 30, Township 1 North, Range 26 E, P.M.M.

Address or General Location (If unknown, contact City Engineering): East of Alkali Creek Rd. North of Airport

Size of Parcel (Area & Dimensions):      316.71 acres

Present Land-Use:      Agricultural

Proposed Land-Use:      Residential single family and multifamily

Covenants or Deed Restrictions on Property:    Yes \_\_\_\_\_    No X

If yes, please attach to application

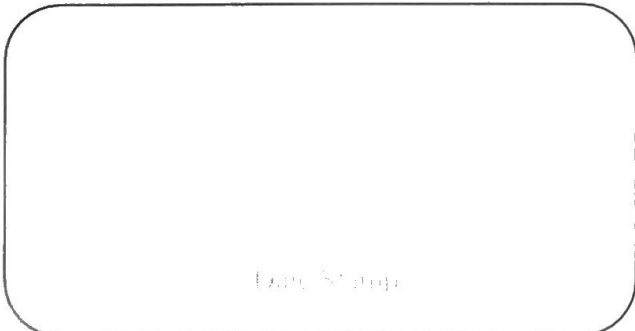
\*\*\* Additional information may be required as determined by the Zoning Coordinator in order to fully evaluate the application.

Owner(s): Ali and David Mitchell  
(Recorded Owner)  
1655 Valley Heights Road, Billings, MT 59105  
(Address)  
(Phone Number) \_\_\_\_\_ (email) d@cbcmontana.com

Agent(s): Anna Vickers and Kolten Knatterud/ IMEG Corp.  
(Name)  
175 N 27th St. Ste. 1312 Billings, MT 59101  
(Address)  
406-248-9000 (Phone Number) \_\_\_\_\_ (email) anna.m.vickers@imegcorp.com

I understand that the filing fee accompanying this application is not refundable, that it pays for the cost of processing, and that the fee does not constitute a payment for a Zone Change. Also, I attest that all the information presented herein is factual and correct.

Signature: *Aliison Mitchell*      Date: 10/31/21  
(Recorded Owner)





## Title 10 Zone Change Criteria

1. Whether the new zoning is designed in accordance with the growth policy:  
**The new zoning is designed in coordination with the growth policy. The property is close to the City of Billings (City) and being annexed into the City. The City is extending water and sewer lines to the development area. The new zoning allows for mixed residential, neighborhood mixed-use, and suburban neighborhood residential.**  
**The new zoning will allow for a strong neighborhood to be part of the City. There will be walkability throughout the neighborhood via sidewalks and a nature trail. By part of the new zoning mixed residential, this zoning promotes a mix in housing options to the community. This promotes prosperity and equal opportunity within the area. The new zoning is compliant with the growth policy and promotes most if not all goals of the growth policy.**
2. Whether the new zoning is designed to secure from fire and other dangers:  
**The new zoning will be secure from fire and other dangers. The property being zoned is currently within Yellowstone County (County) but is being annexed into the City. The City of Billings will be extending City water and sewer lines to the subdivision and the developer extending the water and sewer lines throughout the subdivision. The extension of these water lines will allow for fire hydrant installation throughout the subdivision. The fire hydrants will help City of Billings fire department respond to any fires within the neighborhood, should there be any. The annexation of the subdivision into the city means that emergency services will be provided by the City of Billings and Yellowstone County. This new zoning promotes the land to be developed with good design and safety for the public.**
3. Whether the new zoning will promote public health, public safety, and general welfare:  
**The property will be rezoned to mixed residential, NX1, neighborhood mixed use, NMU, and suburban neighborhood residential, N3. These three districts have setbacks for design. The zonings will promote sidewalks, and streets with safety standards. This new zoning will be within the City of Billings. As the property is annexed and zoned for the City of Billings there will be City water and sewer connections extended to the property. The use**

**of water and sewer promotes public health and future welfare for the community. The sidewalks also promote health and welfare for citizens. The street standards and setbacks take into visibility and open spaces to promote happiness and safety for residents.**

4. Whether the new zoning will facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements:  
**The property being zoned is currently within Yellowstone County but is being annexed into the City of Billings. The City of Billings will be extending City water and sewer lines to the subdivision and the developer extending the water and sewer lines throughout the subdivision. The new zoning does promote adequate transportation, schools, parks, public health, safety and general welfare. The property will be developed in accordance with the zoning and subdivision regulations. By having this property that is being annexed zoned into suburban neighborhood residential, N3, mixed residential, NX1, and Neighborhood Mixed-Use, NMU, this will promote development on the property to have adequate provision for transportation, water, schools, parks, and other public requirements.**
  
5. Whether the new zoning will provide adequate light and air:  
**The new zoning will provide adequate light and air. This property will have three new zonings. The first zoning is mixed residential, NX1. NX1 intends to allow single-family, two-family, and small-scale multiple-family homes with three to four units. These multiple-family homes are intended to match the scale of scale of single-family homes. This will allow for a mix in housing options within the community but the spacing to provide for adequate light and air.**  
**The second zoning is neighborhood mixed-use, NMU. This zoning is intended to accommodate mixed use that are highly walkable and include stores that are necessary for daily primary needs adjacent to neighborhood residences. Allowing for high walkability promotes public health, safety, and welfare and also allows for adequate light and air.**  
**The third zoning is suburban neighborhood residential, N3. This district promotes single-family homes and includes wide lots with attached garages. This zoning like the others has adequate setbacks and height restrictions. This will allow for adequate light and air throughout the subdivision.**
  
6. Whether the new zoning will affect motorized and nonmotorized transportation:  
**Currently the property is within Yellowstone County but will be annexed into the City of Billings. This new zoning will promote the standards of development that are applicable to the City of Billings. The new zoning will**



**require all development on this property to take into account, dependent on size, the impact on motorized and nonmotorized transportation. This property is proposed to be developed as a subdivision. This subdivision is a major subdivision and will have a traffic impact study completed. The roads in the area will have to be upgraded in accordance with the traffic impact study results, City of Billings standards, and MDT standards. So, new zoning will affect motorized and nonmotorized transportation in a positive way by promoting development standards of motorized and nonmotorized transportation.**

7. Whether the new zoning will promote compatible urban growth:  
**The new zoning will promote compatible urban growth by allowing multiple different zoning districts. The new zoning will be for the City of Billings and in accordance with the City of Billings growth policy. The property will be annexed into the City of Billings to allow for compatible urban growth within the area in accordance with City goals.**
  
8. Whether the new zoning considers the character of the district and peculiar suitability of the property for particular uses:  
**The new zoning was determined by discussions with the City of Billings. The new zoning follows the City of Billings recently implemented new zoning standards. The property will be zoned as mostly suburban neighborhood residential with a small portion of neighborhood mixed use and mixed residential. With the new zoning being mostly suburban neighborhood residential the lot width requirements being the largest of the new zoning standards. The property will be adjacent to agriculture, the airport, and existing subdivisions. The lot sizes of the new subdivision will be larger than many of the other subdivision lot sizes in the area. This larger zoning will provide a good transition between agriculture, the airport, and existing residential.**
  
9. Whether the new zoning will conserve the value of buildings; and  
**The new zoning will conserve the value of buildings due to the lot sizes the new zoning will encourage on the property. There are no existing buildings on the property. However, future development will follow setbacks, lot, sizes, and development standards offered within the new assigned zoning. These larger lot sizes with mixed residential which offers larger lots for multi-dwelling buildings, will allow for future building value to increase in a time where smaller lot sizes are normally developed.**



10. Whether the new zoning will encourage the most appropriate use of land throughout the City of Billings:

**The new zoning will encourage the most appropriate land throughout the City of Billings because this new zoning will be within the City of Billings. The property will be annexed into the City of Billings. The City of Billings needs more housing and is extending municipal facilities in the area. This new zoning encourages development near infrastructure. This new zoning will also provide for transition between agriculture, the airport, public land and existing residential within Yellowstone County.**



## MEETING NOTES

<b>Date</b>	September 27, 2021
<b>Project</b>	Alkali Creek Rezone
<b>Project Number</b>	20006040
<b>Attendees</b>	Anna Vickers, Kolten Knatterud, David Mitchell, Adam Simmons, 406-208-0362, 406-252-1761, 406252-2028, 406-661-9200, 406-671-9467, 406-861-0003, 406-861-4520

Tony Nave, Jerry Glover, Autumn Maddox, Beverly Stonemach, Gary Coch, Sharon Shannon, Shannon Bobby Triam, Henry and Peggy Hilling, Sonya and Mike, John and Barbara Tircoff, Lee Webber, Jerry Copp, Max Griffin, Melissa, Janine Griffin

Kolten: Everyone that received the first invitation, there will be a second meeting tomorrow night in the IMEG office. And you are welcome to that meeting at 5:30 tomorrow. We'll do development team introduction and summary of project. We'll open up to questions and concerns and respond as best we can. I'm Kolten and Anna will be taking minutes.

I'm Max Griffin. And I'm David Mitchell and Max is my father-in-law. My wife Ali and I and max and his wife are developing the property.

Kolten: For the folks logged in this is the property north of airport along alkali creek road. It's about 80-83 acres. The proposed development would have two accesses off of Alkali Creek Road. One being located further to east closer to light blue area on north side of creek itself and second access would be west of where Alkali Creek crosses Alkali Creek Road. With regards to the colors on the map, February went through a zoning code update. The zoning code that was previously from the 70s. So now you will hear from the city about Project ReCode. As part of new code City of Billings rewrote regulations on annexing into the City. Prior you could take the property and zone the entire area as one zoning. The rules are if you are annexing over 10 acres of property must have two zoning types. If you are annexing over 40 acres at least one of the zoning types must be a multifamily or the city calls an NX. The majority is the purple or pink which is N3 which is the largest zoning the city of billings has which is 15,000 or larger sq ft lot. We are showing one area as green which is neighborhood mixed used commercial district. This is corner stores, restaurants, small pockets that go within a subdivision. These are auxiliary residential usages. The blue area is NX1 which is not desired by the group. But this is the lowest multifamily allowed. This NX1 allows up to fourplexes. We want to clarify that neither of the bigger districts are requested. The group is asking for the least dense which is to satisfy the city. The idea is this would likely be patio homes or duplexes. But again, the district allows up to fourplexes. This meeting is the first step in the annexation in rezone process. We are having this meeting tonight, then having another tomorrow night. Then we will submit and go to the zoning board which will allow additional public comment or opportunity. We are looking

at the council decision being in the month of January. At this time, I'd like Max or David to add anything left out.

Max: We've lived out here for as long as Tony Nave maybe not. We are wanting to build a quality neighborhood. People know us and we don't build anything cheap. We are being required to put multifamily in is one we don't take lightly. We are gearing this multifamily towards patio homes. They are at the entrance we feel this is important to the neighborhood. We like being able to separate this area due to the natural creek. We thought best location, that we could put the zoning we are required to have. We widened entrance to 100' so we can buffer area and eliminate being too tight. We are going to put trees in the area to make it look nice. Make the folks in the area to have a backyard they can enjoy.

Kolten: What I would like to do now is anyone that has a comment please state your name and then you could present any questions, concerns or comments and we will try to address.

Tony Nave: I think a lot of the concerns are not with your intentions but what can be done legally. Concerns is we could see by law that fourplexes that are two and a half story in height. I understand the intent isn't to do that, but my comment would be if your intent is to keep it to duplex/patio homes would you consider adding subdivision covenants to make them enforceable by the covenants. And that would alleviate my concerns.

Max: That certainly something we would take a look at. We're really invested in that area for the last 40 years. I think that's a good suggestion we can take a look at that.

John: Max, I have a question when setting up patio homes will that be setup under HOA that you will be in charge of? Or whoever is in demise? That will be under HOA.

Max: And all common ground and preferably all ground would be commonly taken care of.

John: How is water and sewer being paid for?

David: On June 28 the city approved an allotment to our property line. That does not force anyone to be part of the water of sewer. The city is paying for that.

Melissa: Do we have to connect?

Kolten: The sewer and water would be available, but the City does not intend to force annexation upon anyone. If you have a source of water and sewer that works fine for you, you are not forced to annex unless you want to.

David: They will probably stub in something?



Kolten: In conversations with the city their plans are to have a manhole and a fire hydrant that if any of the streets did want to extend then they could. But there is no plan currently.

John: Is there any conversations about Mr. Boyer what his plans are?

David: My only conversation has been with his agent that his intent was to sell 3-4 acres parcels and keep in the county.

Melissa: I wanted to ask about the complex again. I missed the first part.

Kolten: As part of the annexation because we are annexing over 40 acres, we are required to provide multi-family and we are using NX1 which is least dense which the max unit size is a fourplex. So highest density is a fourplex and right now it's patio home or duplex. And there was even conversation into putting this in the covenants. That will be explored further.

Lee: Will the multi-family be owned by the people that live there?

David: Any multi-family there would be some renters there just as any multi-family. But our intention is not to do fourplexes.

Melissa: So, in regards you are building complex, and you are increasing traffic by a lot. My concern is that you know 2-4 kids per family and are you allowing pets. I can see a lot of issues. We already have enough wrecks. My question is there other roads put in? What are we looking at here?

David: I don't think we can put any more roads on Alkali Creek Road. As far as allowing pets, whatever is allowed per city is whatever we allowed. And as far as kids we can't prohibit kids.

Melissa: There is motorcycles going 100 mph. I'm concerned about kids and pets being hit.

Kolten: The yellow puts a path in the yellow area. (Referring to provided zoning map.)

Melissa: You are extending walkway on the bridge or what?

Kolten: This will only be in our development. I will say as part of the subdivision process, we are required to do a traffic impact study. To make sure we have met turning lanes, stop lights, etc. Schools are allowed to comment on whether they have capacity to take on the students. So, the city has those processes in place to address your concerns.

Sonya and Mike: The walkway stops at about Strawberry and ends then. This could be a way to extend the walkway and provide safer transportation.



David: We can't control the sidewalk and walk path, we can only control what's on our property. We are putting sidewalk in our property. You should bring your concerns regarding the sidewalk extension up to the city.

Adam: We have this section of county road that isn't maintained, and it bring up lowest quality from the county. It would be good to have things be all maintained. The county doesn't do any of the stuff but the city does.

Max: We are hoping that anyone that moves in the area will share the concerns that you all have a trail system in that area will be a wonderful idea. We will certainly put ours in and do the best we can.

Adam: I'm hoping it will encourage the rest of us to connect.

Kolten: I do know as part of 3000 ft extension the city is putting in, the city is not going to try and save any of the existing asphalt. The city is going to put in a new full road surface for 3000 feet they are installing. They are planning on that.

Adam: You said the traffic study has been completed and submitted. When will that be shared with you?

Kolten: When it becomes fully public available is the first public meeting that all of that will be public data. It will be available through city website in a couple months. We can discuss that internally if there is any interest in seeing that. The interesting part of that area is the inner belt loop is not numbers as of today plus what city says will be added with inner belt loop project plus what the city says will be added with this project.

Tony: I would like to comment that as one of the residents that has been out here longest. I'm very pleased with what I see on the majority of this subdivision. I think this will be a real asset to the community. It's a beautiful add to the community. Some of the road issues are not your concerns. I like everything except the multi-family.

Max: Thank you Tony; and Ali and David will live there so they'll be very conscience.

Dan: I had a couple of comments. We talked to one of the people from the survey companies that they said one of the 5000 cars per day from inner belt loop. And that will put a lot of pressure on alkali creek road. I'm interested on the rental thing, are you selling the lots to individual people and other contractors to build whatever they want? Is there possibility you could have 29 different contractors? Are you just selling lots over where your big lots are at or are you doing model homes?

David: We are having a design and architecture review committee. That will have an approval of colors and pitches. As far as the smaller area. We don't think we'll have 29 different home builders.



Max: We'll have pretty strict covenants on building types, heights, sizes, and make sure this is a great representation for the neighborhood behind it.

Dan: I see you're starting one building down in the bottom there. What is your timeline to start? What is timeline to break ground?

Kolten: We will be going through the review periods and our hope is to have annexation, rezone, and preliminary plat approval in early January. At that time, it's when infrastructure can be put in the ground. The goal is early 2022 is when infrastructure is put in and allow for spring 2022 and allow final plat to be filed and building construction to be started. The one place you see is David and Ali's home that is being constructed. There will be no more houses going up until final plat is filed.

Dan: Has anyone had any concerns of the water from Alkali Creek? With the high water?

Melissa: My concern is the ground paction and the water. And my concern is when putting sheets of metal down with a hammer and you don't have to use it. It's a big concern there may be no ground under that.

Kolten: The floodplain and wetland are concerns are going through the process with county floodplain and the army core of engineers. The yellow path is within 100-year floodplain area. We cannot do anything there. If you walk the site, you will see what it is floodplain. The floodplain does align well if the bench and the survey data does corroborate that. With the regards to soils, you are correct. There is clay and gumbo soil. Rimrock Geotech has done a number of soil borings out there. They have made recommendations for structural fill, peers, etc. You're right the standard footing is not acceptable.

Melissa: The culverts are huge. And I would take that into account. And when someone's house floods? Who's responsible? Is it the city or the county?

Max: Having been out there I've seen all the floods. One of the good notes is the airport has put in some of the retention ponds. We've been through some bad floods.

Melissa: The flood rolls down the hill.

Dan: Max and David, I wanted to wish you guys and say I hope everything comes out good.

New: Is this the only NX1 development you are going to do? I know you have 3 phases.

Max: I think we've met the requirement.

Kolten: Yes, that's correct. We have met the requirement. The reason that nothing is being shown south of there we get back into the canyons and a lot of unknown as to



what should be city and what should stay in county. Not going into gullies or one of the bluffs.

New: I want to speak, and I've been down here 44 years now. Flooding is mitigated because of ponds at airport. And they built a drainage tube down from sun valley road that's 28inch pipe and a 32-inch pipe. And a lot of problems will be solved by that. I think this development will add to everyone's property value if we can maintain the looks and control that it will add to property value.

Melissa: I think it's a great plan. I'm happy for you guys and I'm excited. I think it's great that you guys are building and not someone else.

Max: We will be your neighbors there and in future.

Sonya and Mike: Question about preserving the night sky?

Kolten: As part of the initial development no streetlights are required because it is a residential development. If any streetlights were put in and probably put in on alkali creek road. There would be night sky requirements for the city street lights. As far as this development there are no streetlights proposed on those interior streets.

John: How long will it take to do first phase?

Max: I'm not planning on being around through whole project.

David: Kolten we anticipate all infrastructure done by next summer? As far as built out, 30-40 lots within the first year hopefully.

Dan: It'll take 5-10 years. I think it'll be fine.

Bobby: I just have a curious question about the Russian olive trees. They are through the area. Will they stay or not?

David: Let me ask if you like Russian olive trees? We are working with Army Corp of Engineers, and we have improve the embankments and will have to remove some of the Russian olive trees. We do plan to plant trees.

Bev: I have a question. When the city comes through with the water and sewer and we live not directly on alkali. If one or two of us wanted to take advantage of that we would have to pay to have it run up here? Have it run from alkali to our driveway and pay to have it run into our house?

Kolten: Not knowing exactly where your home is to speak generally.

Bev: We are on prickly pear.



Kolten: I guess if you and a number of your neighbors were interested in having that run is the city would have to include that as part of their project and determine value of the section and do what's called a RSID which is a residential subdivision improvement district. You can pay it one time. Or over 20 years of taxes. But it's cheaper to do it with the existing project. The city would expect the property owners to pay.

Bev: How would we find out?

Kolten: Travis Harris is running project. My recommendation would be to reach out and see the process.

Melissa: This doesn't apply to everyone?

Kolten: No, it would have to be a neighborhood lead project. If you are utilizing city services, you'll have to connect. And pay city taxes.

Bev: We would be annexed in?

Kolten: That's where it gets interesting. The city likely won't do it if it's just you. Extending water main to just one person is not feasible. There is a certain percentage of people that would need to want to annex.

Bev: Is it 75% or 50%?

Kolten: That's a city of Billings call I don't know the magic number. You'd need to find out from them.

Tony: I'm signing off.

Kolten: Before we end meeting does anyone have any additional comments? Additional meeting tomorrow at our office if you want any further comments.

Guest: That's in Wells Fargo building on 27<sup>th</sup>?

Kolten: Yes, 13<sup>th</sup> floor, suite 1312.

Question: In regard to building process, how long are you planning on living or owning out there?

David: My wife and I have our own home. And the remaining lots will be sold off and we will probably be there long term.





## MEETING NOTES

<b>Date</b>	September 28, 2021
<b>Project</b>	Alkali Creek Rezone
<b>Project Number</b>	20006040

### Sign in Sheet

Name	Phone #	Email
Bobbie & Dan Tryan	406-208-0362	<a href="mailto:dantryan@msn.com">dantryan@msn.com</a>
Lee Webber	406-861-2195	<a href="mailto:Lee.webber@DNOW.com">Lee.webber@DNOW.com</a>
Michael Glunt & Sonya Smith	406-202-1731	<a href="mailto:Mike_glunt@hotmail.com">Mike_glunt@hotmail.com</a>
Melissa	406-860-7717	<a href="mailto:melissakernie@yahoo.com">melissakernie@yahoo.com</a>

### Main Points & Concerns

- Concerns on NW1
  - Can it go somewhere else?
  - Like patio homes-no fourplexes
- Can larger lots have shop?
- How park is being maintained
- Can we be forced to annex?
- Cell & Internet reliability
- Will property taxes go up?
- Concerns about crime rate & drugs
- Nice to have Griffins doing this
- Would like noise ordinance
- Concerns about streetlamps
- Concern about sidewalk along Alkali
- Concerns about vinyl privacy fences
- Making fencing wildlife friendly



**Matt Suek-The Timbers Meeting Notes with Tony Nave-Project # 20006040-September 20, 2021**

Tony Nave-252-1761 (Home Phone)

Alkali Creek & Foothill Creek Sunvalley 3<sup>rd</sup> Filing-1518 Alkali Creek-Where he lives.

Former Clerk & Recorder, retired in 2011

Questions

- Density & Subdivision Plan-No exhibit provided
- County resident-Worried about annexation. Wants to stay
  - We will provide update on how annex. effects neighbors
- Current home building & septic situation
  - David & Ali-building currently hooked to city water & sewer
- Opposition to 5,000 SF lots
  - Tony expressed he and others will express opposition to 5,000 SF lots. Doesn't fit with what is there already. Used to be R96. Matt Suek provided subdivision phasing with ariel and zoning exhibit with descriptions of NX1, N3 NMW.

## Anna M. Vickers

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**From:** Anna M. Vickers  
**Sent:** Monday, September 27, 2021 6:45 PM  
**To:** 'gordon forster'  
**Cc:** Kolten L. Knatterud  
**Subject:** RE:  
**Attachments:** 2021-09-15.Timbers Zone Exh.pdf

Hi Gordon,

Thank you for submitting your comment. I will be sure to add this to our records for the rezoning. You may have received a second letter there will be an in person meeting held tomorrow at our office in Billings. The address is 175 N27th Suite 1312 (Wells Fargo Building). This will be held in person if you would like to attend you are welcome to attend. I have attached our zoning exhibit for you as well. Just a few quick notes, the City of Billings does require that any parcel that is annexed into the City of Billings over 40 acres in size to have some form of multifamily within. Our developers have chosen the smallest multifamily designation allowed within the City of Billings zoning code. This designation is NX1 and allows for 4plexes as the maximum density. However, it is our developer's intent to keep this area as duplexes or patio homes. You will see this small area in light blue on the attached exhibit. The remainder of the lots are intended as single family homes with the smallest lot size being 18,000 square feet. I hope this helps alleviate some of your concerns. Again, we really do appreciate your comments and intend to add them to our records and submittal to the City of Billings.

Wishing you well!

**Anna M. Vickers**  
Land Use Planner



**IMEG Corp.**  
1817 South Ave West | Suite A | Missoula, MT 59801

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**From:** gordon forster <[bearbutte1@LIVE.COM](mailto:bearbutte1@LIVE.COM)>  
**Sent:** Monday, September 27, 2021 6:36 PM  
**To:** Anna M. Vickers <[Anna.M.Vickers@imegcorp.com](mailto:Anna.M.Vickers@imegcorp.com)>  
**Subject:**

**CAUTION:** Email originated outside of the organization.

Re: zone change , The Timbers

I appreciate the opportunity to express my concern with the proposed zoning of Phase 1 of the above proposal. This area with lots sold would be fine with the exception, to me, are way too small for what one can build on it. We purchased our home on HillTop Road with 12000 sf and that is the smallest in this neighborhood. This zone q would change the complexion of this entire area. Too I am aware of other landowners that would like to zone their properties with this small area allowed.

Thank you for accepting these thoughts concerning the zone change.

Gordon Forster , 1532 FootHill Dr.

## Anna M. Vickers

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**From:** Anna M. Vickers  
**Sent:** Thursday, October 7, 2021 3:34 PM  
**To:** morscheckbonnes@gmail.com  
**Cc:** Kolten L. Knatterud  
**Subject:** Alkali Creek Zoning

Hi Bonne,

Thank you for reaching out regarding the zoning information. I'm sorry you were not available for the two meetings we held. The zoning explanations are listed out below.

- Zone NX1 (Aqua): Mixed Residential 1 – single-family, two-family, and small scale three to four unit homes. The Multi-family homes are intended to match the scale of the neighborhood single-family homes with similar characteristics such as building width, parking, and garage locations.
- Zone N3 (Magenta): Suburban Neighborhood Residential – single-family homes of the largest lot size allowed in City of Billings zoning with one primary dwelling. This includes wide lots and attached garages.
- Zone NMU (Lime): Neighborhood Mixed-Use - located primarily along neighborhood corridor this area is designed to be highly walkable and accessible to pedestrians, ground story use focuses on daily needs for the adjacent neighborhood residents such as personal services, small restaurants, or corner store.

Other important notes from the meeting were as follows.

- Your house will not be required to annex into the City of Billings just because this subdivision will be in the City of Billings.
- Traffic studies have been performed and will be made available to the public when the City of Billings reviews the subdivision and releases information.
- The yellow area is a park with a walking path. All roads within our subdivision will have walking paths. Connecting to existing City paths outside of the property will be the City's responsibility if they chose to do so.

Cordially,  
**Anna M. Vickers**  
Land Use Planner



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