



**City of Billings Zoning Commission  
Meeting Minutes January 4, 2022**

**The City of Billings Zoning Commission met on Tuesday, January 4, 2022 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, January 4, 2022**. 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, January 24, 2022, at 5:30 p.m. as the date and time to receive the Zoning Commission recommendation for the zone change and hold their public hearing. The City Council meets on the 2<sup>nd</sup> Floor of City Hall at 210 N 27<sup>th</sup> St. For zone change requests the Council will conduct a public hearing for the first reading of the ordinance on January 24, 2022. If approved on first reading, a second reading public hearing will occur on Monday, February 14, 2022 at 5:30 pm.**

<b>Commission and Staff</b>		<b>01/04/2022</b>	<b>02/01/2022</b>	<b>03/01/2022</b>	<b>04/05/2022</b>	<b>05/03/2022</b>	<b>06/07/2022</b>	<b>07/05/2022</b>	<b>08/02/2022</b>	<b>09/06/2022</b>	<b>10/04/2022</b>	<b>11/01/2022</b>	<b>12/06/2022</b>
Mike Larson	Chairman	1											
Daniel J. Brooks	Commissioner	E											
Greg McCall	Vice Chairman	1											
Trina White	Commissioner	1											
David Goss	Commissioner	1											
Wyeth Friday	Director, PCSD	-											
Monica Plecker	Division Planning Manager	-											
Nicole Cromwell	Zoning Coordinator	1											
Tammy Deines	Planning Clerk	-											
Dave Green	Planner II	-											
Karen Husman	Planner I	-											
Robbin Bartley	Administrative Support	1											

Total Number of 2022 Applications	01/04/2022	02/01/2022	03/01/2022	04/05/2022	05/03/2022	06/07/2022	07/05/2022	08/02/2022	09/06/2022	10/04/2022	11/01/2022	12/06/2022	TOTAL
Zone Change	1												1
Special Review	-												

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

**Attending:** Rick Leuthold, Phil Johnson, Dave Nerdil, Ed Hoffman, Scott Taylor, Cinda & Greg Biggs, Michael Henthorn, Roger Fuhrman, Scott Bell, Vicki Dunaway, Lincoln Powers, Judi Powers, Ron Johnson, Denise Johnson

**Public Comment**

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

**Approval of Minutes: December 7, 2021**

Commissioner White made a motion and Commissioner Goss seconded the motion to approve the December 7, 2021 meeting minutes. The motion carried with a 4-0 voice vote.

**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		

Several emails of opposition are in the Exparte notebook.

Site visits were completed by \*\*\*

**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:**

**City Zone Change 1004 – Bell Avenue - from A to PND (N2, NX1, NX3, P1) -** A zone change request from Agriculture (A) to a Mixed Residential - Planned Neighborhood Development to include N2, NX1, NX3, P1 (PND) , on Certificate of Survey 2828, Tracts 1 & 2 & the 55-foot strip of land adjoining the south of Tracts 1 & 2, a 27.7-acre parcel of land. A pre-application neighborhood meeting was held on November 23, 2021 at 5:00 p.m. at 1300 N Transtech Way. Tax ID: D00503, D00503A & D00486A

**New Zoning Tool to allow more efficient land use decisions**

- **Concurrent with annexation**
- **Applies to all requests of >= 10 acres**
- **Helps build new neighborhoods that are walkable, sociable and resilient (BMCC 27-801.A)**
- **Allows phasing of annexation but adoption of full zoning plan in advance**
- **Provides more detail on new neighborhood infrastructure (streets/roads)**

**Staff Recommendation:**

Planning staff recommends approval of the zone change to N2, NX1, NX3 and P1

- Meets the Growth Policy and West Billings Neighborhood Plan
- Adjacent uses and zoning compatible with proposed zoning plan
- Meets the PND zone district standards for zoning district assembly, connectivity and compatibility with existing zoning

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

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

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

**Questions for staff:**

Commissioner White asked if this presentation is set in stone. Staff replied this is a preliminary draft of the proposed project.

**Applicant:** Rick Leuthold, Agent, Sanderson Stewart, 1300 Transtech

Some of the information he presented this evening is in response to the questions raised at the neighborhood meeting. Some of this information will be new to the audience members as well as the zoning commission, we wanted to be able to address those questions and concerns and so did our due diligence in getting the information together. Close attention is being paid to how development occurs and the improvements that accompany development in the peripheral areas of the community. The Bell Estates subdivision development is an excellent example of when an urban development can be approved by the county commissioners with out the necessary urban improvements. Concerns expressed in emails and at the meeting include traffic, widths of streets and density. A lot of thought went into how this area will be developed. You must meet City code requirements for parking. This project will go through a Traffic Impact Study (TIS) and issues will be addressed by the developer. Emergency Services has strict requirements for street width to get their trucks down, a minimum of 20 feet. The street width currently meets the requirement. It is a tradeoff, increased speed (another concern) comes with increased street width. There were concerns about the total number of units in this project asked at the neighborhood meeting. At that time, we **speculated** about 700 potential units. It is stated, this is conceptual, for analysis only. We did not want garages interfering with traffic on Bell Avenue. Based on further calculation, it is just over 408 units in the apartment complex and 26 twinhomes. Currently Shiloh Road and Monad are carrying less than half of their designed volume. Twin Pines and Legends are private roads and should be signed as such. Sanderson Stewart has a history of planning and building places where people want to live. Pedestrian access issues need to be addressed. The Banister Drain pipe will need to be widened. We are trying to development a better quality of place, promoting walkability. We are not being intentionally vague or misleading. This proposal fits the fabric of the neighborhood.

**Discussion:**

Rick addressed the twinhomes and conceptual drawings. Commissioner McCall asked about the same names on the streets. Rick stated the City requires the streets to line up or be off set by a minimum of 125 feet. The Twin Pines on the south will also be a private road, it will be 34 feet wide as required. Commissioner McCall asked about the maintenance of the Twin Pines private road to the north which is currently maintained by their HOA. What if it is being used for access to Central Avenue? Rick stated State Legislature allows for gating or speed bumps to deter this if necessary. Signs indicating “no through traffic” are also a possible recommendation. Commissioner Goss asked about traffic from the proposed NX3 area wanting to travel north. Rick explained that traffic could go north on Big Pine Court. A lengthy discussion of traffic, turning lanes and peak traffic times was discussed. Commissioner McCall then asked if tract 3 of C/S 2828 part of the same ownership as 1 & 2? Rick replied no. Commissioner McCall stated then no partial access is being implied. Rick explained the road will be built to specifications with 20 feet of asphalt, boulevard, curb and gutter.

**Public Hearing: 5:30PM**

Chair Larson opened the public hearing and called for anyone wishing to speak in favor or against City Zone Change 1004.

**In Favor:** NONE

**Opposed:**

**Ed Hofmann, 4246 Central Ave**

He owns 15 acres directly northwest of this development. A lot has changed in the last 30 years. He has witnessed many new developments in the area. Our current neighborhood are all permanent residents, not transient renters. He was discouraged at the neighborhood meeting feeling the presenters were not transparent in the intentions and wanted a “blank check” to do whatever they wanted. 408 dwelling units would be an extreme drain on the Police and Fire protection. This kind of population density brings crime and is a drain on the school system. Additionally, there are no parks in the area for children living in the apartments. All stormwater would be running directly into the Banister Drain which flows directly into our Yellowstone River.

**Judi and Lincoln Powers, 4185 Obie Lane**

We do not want more apartment buildings. Our neighborhood should be a place people want to live in with parks and trails. This will decrease our property values. Please continue with existing growth patterns, residential, parks and places where people live long term. This kind of density will bring traffic and safety concerns.

**, 20 Twin Pines Lane**

He is 1 of 3 HOA members. Unable to transcribe. Inaudible.

**Toby Erickson, 4142 Banbury Place**

The back of his house faces Bell Ave. Therefore, he is well aware of the traffic on Bell Ave, he insists there is far more traffic on Bell Ave than has been stated. He repeatedly states this project is a square peg being shoved into a round hole. This project is not a continuation of the existing neighborhoods. Apartments will not transition into the harmonious conditions existing. He disagrees with the planning recommendations and insists the 10 criteria are not being met.

Chairman Larson had conversation with the attendees about 3 minute timing and remaining quiet while waiting to speak. An audience member suggested there be a show of hands regarding how many were opposed, instead of speaking. Chairman Larson chuckled and stated he assumed all present were opposed and shared the same concerns and all persons wanting to speak would be given the opportunity, particularly if there was a concern not yet heard.

**Mike Henthorn, 4160 Bell Ave**

7 years ago a similar situation was heard and opposed. This is a place for families. Safety issues are a concern. Persons who can afford \$1800.00 for apartment rent can afford a house.

**Roger Fuhrman, 191 Legends Way**

He has been at this address about 1 year. He states there is already very high density surrounding him including the size of the medical facility and the traffic impact of it. He also states Staff did not take pictures correctly reflecting Bell Ave and how parking and traffic would not have adequate space. While there may be some walking, he contends we live in a cold and wintery Montana and most people will drive. He has no objection to growth and development and Monad is the better access.

**Vicki Dunaway, 112 Legends Way**

She has much concern about the traffic impact this will have on Legends Way. Legends Way is the most direct route north and was never intended to be a thoroughfare.

**Rebuttal**

**Rick Leuthold, Agent, Sanderson Stewart, 1300 Transtech Way**

Developments have requirements by the City for Park ground. This particular project does not require a park. He recommends contacting the Parks Department. Access ways were developed for interconnectivity, it can be revised. Stormwater control is the Banister Drain. There are many chemicals and debris going there. Stormwater requirements will be met as required by the DEQ. Permanent residents and transient/rental properties demographics are changing. These persons want to rent and change later. These are rentals with upstanding citizens choosing to live in high-end rentals. Who cares for the maintenance for Bell Ave? A good question. People go the most convenient route not the most direct. Persons in the Twin Pines could make it less convenient.

**Public Hearing closed at 6:07pm**

Chairman Larson asked Staff to post the 10 criteria for review on the viewing screen and asked for a motion.

Commissioner McCall made comment to all regarding the caring of your neighbors, traffic and safety around you. He stated this is a tricky place to be and he is speaking as a land developer and homebuilder. Many times surrounding neighbors were unsure if they were going to like what is being built next door. When you live out on the fringe there is nothing for sure about what will be built “next door”. Change is scary. At the end of the day, when a landowner and developer is legally doing all that is required to make use of the land, it is within their right to develop their land. Property rights in the United States of America are pretty darn strong. The only way you can control what happens to the land next door is if you own it. So, if you want the control it, you’d better buy it. Hard medicine to hear. You can not ever make everyone happy. Stormwater and traffic impact studies will happen. The process is good.

Chairman Larson stated to fellow commissioners to please identify which items you are in opposition to if it applies to you. He explained motions should be made in the affirmative. A second puts it on the table for discussion.

Commissioner Goss is the new kid on the block and has been in real estate for 30 years. Zoning is put into affect to protect existing homeowners. It is not the intent of the developer that is in question but the allowable uses in the zoning area. Traffic is a concern. Normally he agrees higher density is agreeable but where should it be put.

Commissioner White is called 3-4 times a day looking for rentals. People who want nice rentals in a nice neighborhood. The price is not an object. She would like to see more twinhomes.

Commissioner McCall talked about PNDs, annexation requires more than one zoning. The new code is addressing sprawling.

Commissioner Larson explained he heard objections or concerns with most of the 10 criteria at this meeting.

**Motion**

**Commissioner White made a motion and Commissioner McCall seconded the motion to approve City Zone Change 1004, with staff recommendations, based on the Traffic Impact Study**

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

**The Motion tied to Approve City Zone Change 1004 with a 2-2 vote. No recommendation to City Council.**

**Other Business:**

**Adjournment:** The meeting adjourned at 6:15PM.

**ATTEST:** Approved by a motion February 1, 2022.

--Robbin Bartley, Administrative Assistant

