



**City of Billings Zoning Commission  
Meeting Minutes December 7, 2021**

**The City of Billings Zoning Commission met on Tuesday, December 7, 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, December 7, 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, January 10, 2022, 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, January 24, 2022 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	1
Daniel J. Brooks	Commissioner	1	1	1	1	1	E	1	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	1
Trina White	Commissioner	1	1	1	A	1	1	1	1	1	1	1	1
David Goss	Commissioner	-	-	-	-	-	-	-	-	-	-	1	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	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	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	1	17
Special Review	2	0	0	0	0	0	1	0	0	0	1	1	5

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

**Attending:** Ali Mitchell, Max Griffin, Kolten Knatterud, Blain Poppler, Robbie Neihart, Anna Vickers (virtual)

**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: November 2, 2021**

Commissioner Brooks made a motion and Commissioner McCall seconded the motion to approve the November 2, 2021 meeting minutes. The motion carried with a 5-0 voice vote.

**Disclosure of Conflict of Interest**

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

Commissioner Brooks explained the applicant of Zone Change 1003 is on the Board of the Billings Chamber of Commerce and the agent is on an Advisory Board that makes recommendation as well.

Site visits were completed by Greg McCall and David Goss.

**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 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

**New Special Review Decision Criteria and Standards of Review**

- Special Review Uses are “special exceptions” in the zone district – not allowed uses**
- Proof of compatibility of the Special Review Use rests with the applicant**
- Nine Review Criteria**

1. Consistent with the City’s growth policy and applicable neighborhood plans, if any;
2. Will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare;
3. Site is adequate in size and topography to accommodate the use while meeting the other requirements of this Zoning Code.
4. 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. Will not impede the normal and orderly development and improvement of surrounding property;
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. Site has or will have adequate utilities, access roads, drainage, and/or necessary facilities;
8. Adequate measures have been or will be taken to provide ingress and egress to minimize traffic congestion; 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.

#### **Casino and Bar – Required Separations**

- ❖ Casinos (10 or more machines/gaming tables) must be separated
  - ❖ 600 feet from the building exterior to the property line containing
    - ❖ A church – as a primary use
    - ❖ A primary or secondary school
    - ❖ A public park with a playground or playing field
  - ❖ 350 feet from the building exterior to the property line zoned
    - ❖ Residential Neighborhood (N1-4, NX1-3, RMH)
- ❖ Bars must be separated
  - ❖ 600 feet from the building exterior to the property line containing
    - ❖ A church – as a primary use
    - ❖ A primary or secondary school
    - ❖ A public park with a playground or playing field
  - ❖ 150 feet from the building exterior to the property line zoned
    - ❖ Residential Neighborhood (N1-4, NX1-3, RMH)

Subject Property is more than 600 feet to a church, primary or secondary school and public parks with playgrounds or playing fields.

Residential use across Mullowney Lane is not in “residential neighborhood zone” district

#### **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. Approval is to remodel an existing building for a bar & casino at this location
2. Site improvements as shown on the site plans as submitted.
3. Improvement will include exterior lighting.
4. Two-post sign on Mullowney will remove the lower two sign cabinets to improve sight distance and safety for pedestrians.
5. Landscape improvements as shown on Performance Engineering Landscape Plan.
6. Enclose the unenclosed dumpster (south east corner)
7. Maintain all final landscaping.
8. No internally illuminated fascia on building.

9. Sign permits required for all sign updates or new signs on property.
10. Submit Building Permit within one year of Council approval, complete w/in two years.
11. 10% modifications allowed.
12. (The cessation of the special review use for more than 6 consecutive months will extinguish the conditional approval.
13. City Council reserves the right to re-open the conditional approval when one of the following issues arise: failure to respond to a notice of noncompliance with the conditions of approval; or high level of calls for public safety services verified by the Police Chief.
14. Conditions run with the land.
15. The right to building/occupancy permits are contingent on fulfilling these conditions of approval.

Commissioner Brooks asked if previously high calls for public safety automatically triggered revocation and now high calls can trigger City Council to revoke. Staff replied it was written high calls triggered a reopener, another public hearing. It was not a revocation. Now it includes a verification by the Police Chief. Commissioner Brooks asked about the condition regarding lighting. He would like to add on a full cut off to reduce glare. Staff replied there are no residences so the recommendation was not made. He would like the glare to be reduced for interstate drivers.

Commissioner McCall asked about condition #8. The ingress and egress at this location. Due to the volume of traffic, he is surprised traffic engineering did not require a right in at the south. Staff replied the rebuild of Mullowney will address this. Also, large trucks need access.

Commissioner Goss asked about the lack of public restrooms at this location. Staff deferred this question to the applicant.

**Applicant:Robbie Niehart, Performance Engineering, 2024 Cornerstone Ave**

The applicant is agreeable to all conditions. The bathrooms, assumably will be for paying customers.

**Public Hearing: 4:59PM**

Chair Larson opened the public hearing and called for anyone wishing to speak in favor or against City Special Review 991. There were none.

**Motion**

Commissioner Brooks made a motion and Commissioner White seconded the motion to approve City Special Review 991, with staff recommendations and revising condition #3 to include full cut off shields for lighting.

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 991 with a 5-0 vote.

**Public Hearings:**

**City Zone Change 1003 – The Timbers Subdivision – Planned Neighborhood Development** - 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. A pre-application neighborhood meeting was held on September 27, 2021 on a virtual meeting platform. Tax IDs: D05250 and TBD

**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)**

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.

**Staff Recommendation:**

Planning staff recommends approval of the zone change to N3, NX1, NMU and P1

- Meets the Growth Policy and Billings Heights Neighborhood Plan
- Adjacent uses and zoning compatible with proposed zoning plan
- Meets the PND zone district standards for arterial street zoning, block lengths, connectivity and zone district assembly.

**Discussion**

Commissioner Brooks asked what phases are being approved tonight. Staff replied all phases will be voted on tonight. Further hearings would be required at the City Council level only for phases after Phase I.

Commissioner McCall explained the process for annexation in phases.

Commissioner Goss asked what happens to the zoning if the next phases are not annexed. Staff explained they would remain in the County as agricultural land.

Commissioner White asked if infrastructure is close. Staff replied the City will be bringing the water and sewer AND no one will be forced to annex. The City cannot force annexation in this instance.

**Applicant: Kolten Knatterud, IMEG, 175 N 27<sup>th</sup>**

Anna Vickers, Ali Mitchell and Max Griffin are also in attendance to answer questions.

He asked the property legal description be amended, there is no Tract D, only A & B, which are owned by the Mitchell's. He discussed the change in parkland on the proposed map. Staff asked what zoning is wanted. He replied N3. The City is happy to entertain infrastructure to this area anticipating the connection to the Inner Belt Loop. Any annexation into the City over 10 acres requires multiple zoning districts. The multi-family area proposed here is in a perfect location. The Mitchell's will require high quality units as this is the entrance to the subdivision.

Commissioner White is worried about the flood plain area. Kolten explained all flood plain area has been delineated from development. The parks department will be using that area as it is native land.

Commissioner McCall asked if the parkland is being used for retention. All stormwater will be retained outside of the parkland area as required by PRPL but adjacent to it utilizing it for the outlet.

**Max Griffin, 1655 Valley Heights Road**

We have lived here for over 30 years. Most people know us and our expectations for the area. We are excited but cautious as to how we will develop it.

Commissioner Goss asked if further development will be connected by the proposed streets. Yes.

**Public Hearing: 5:25PM**

Chair Larson opened the public hearing and called for anyone wishing to speak in favor or against City Zone Change 1003. There were none.

**Motion**

**Commissioner McCall motioned to approve City Zone Change 1003 and Commissioner Brooks seconded, removing Tract D in the description and amending part of the parkland designation.**

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 Zone Change 1003 with a 5-0 vote.**

**Other Business: 1 item January 4, 2022**

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

**Adjournment: The meeting adjourned at 5:29PM.**

**ATTEST: To be Approved** by a motion January 4, 2022.

*--Robbin Bartley, Administrative Assistant*