



CITY ZONING COMMISSION
AGENDA-Tuesday, May 3, 2022, 4:30 p.m.
Miller Building, 1st Floor Conference Room
2825 3rd Avenue North, Billings, Montana

NOTICE TO THE PUBLIC

****ATTENTION****

In the event a quorum of the Council is present, no City-related decisions will be made during this meeting or event.

Citizens are invited to:

- Review the Agenda Packet on the City's website at: <https://ci.billings.mt.us/117/Agendas-Minutes>
- View the meeting live online at Facebook: <https://www.facebook.com/Billings-Planning-Community-Services-Department-1738982159659260>

Public comment will be taken only during the Public Comment periods as indicated on the agenda and during the Public Hearings, if any are scheduled, under the Regular agenda. Comments may be sent to Board via email before 10:00 AM on the meeting date. All emails received prior to this time will be read into the record for the public hearing. Comments may be submitted by:

- Mail: City/County Planning Division, 2825 3rd Ave N 4th Floor, Billings, MT 59101
 - Email: bartleyr@billingsmt.gov
- Call in during the Public Comment periods as indicated on the agenda:
 - Citizens may call in during specific Public Comment periods at **406.237.6165**.
 - All callers will be placed in a queued system and are asked to remain on hold and be patient. Calls will be taken in the order in which they are received. Callers will be limited to 3 minutes of testimony as is customary. Future delivery methods may be explored as best practice is learned.

Please direct questions to Administrative Secretary Robbin Bartley at bartleyr@billingsmt.gov or 406-247-8676

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 April 5, 2022.

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:

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

Public Hearings:

- City Zone Change 1013 -- 527 Lake Elmo- from N2 to NMU- A zone change request from Mid-Century Neighborhood Residential (N2) to Neighborhood Mixed Use (NMU), on COS 2637, Parcel 2A a 25,918 square foot parcel of land.**
- City Zone Change 1014 -- 3038 Central Ave - from CMU1 to NX3- A zone change request from Corridor Mixed Use 1 (CMU1) to Mixed Residential 3 (NX3), on the north 4.05 acres of COS 2991, Parcel 1C, an 8.868 acre parcel of land.**
- City Zone Change 1015-- 1411 Emma Ave - from N2 to N3 - A zone change request from Mid-century Neighborhood Residential (N2) to Suburban Neighborhood Residential (N3) on Block 11, Lot 2, Emma Jean Heights Sub., a 9,575 square foot parcel of land.**

Other Business/Announcements

Adjournment

The City Council has designated Monday, May 23, 2022, at 5:30 p.m. as the date and time to receive the Zoning Commission recommendation for the zone changes and hold their public hearings. The Council will conduct a public hearing for the first reading of the ordinance on May 23, 2022. If approved on first reading, a second reading public hearing will occur on Monday, June

13, 2022 at 5:30 pm.

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 3rd Avenue North, 4th 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

City Zoning Commission
Meeting Date: 05/03/2022

Information

Subject

The minutes of the Board meeting of April 5, 2022.

Attachments

BZC_2022_0405



**City of Billings Zoning Commission
Meeting Minutes April 5, 2022**

The City of Billings Zoning Commission met on Tuesday, April 5, 2022 at 4:30 p.m., 510 North Broadway, Billings Public Library Community 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, April 5, 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, April 25, 2022, at 5:30 p.m. as the date and time to receive the Zoning Commission recommendation for the zone changes and hold their public hearing. The Council will conduct a public hearing for the first reading of the ordinance on April 25, 2022. If approved on first reading, a second reading public hearing will occur on Monday, May 9, 2022 at 5:30 pm.

Commission and Staff		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
Mike Larson	Chairman	1	1	E	1								
Daniel J. Brooks	Commissioner	E	E	1	1								
Greg McCall	Vice Chairman	1	1	1	1								
Trina White	Commissioner	1	E	1	1								
David Goss	Commissioner	1	1	1	1								
Wyeth Friday	Director, PCSD	-	-	-	-								
Monica Plecker	Division Planning Manager	-	-	-	-								
Nicole Cromwell	Zoning Coordinator	1	1	1	1								
Tammy Deines	Planning Clerk	-	1	1	-								
Dave Green	Planner II	-	-	-	-								
Karen Husman	Planner I	-	1	1	1								
Robbin Bartley	Administrative Support	1	1	1	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	4	2	2									9
Special Review	-	-	1										1

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

Attending: Scott Aspenlieder

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: February 1, 2022 & March 1, 2022

Commissioner White made a motion and Commissioner Brooks seconded the motion to approve the February 1, 2022 and March 1, 2022 meeting minutes both with corrections. 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		x		
David Goss		x		
Greg McCall		x		
Trina White		x		

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 1008** – Shiloh Farm LLC - from A to PND (N2, NO, P1) - A zone change request from Agriculture 10 acres or over (A) to Planned Neighborhood Development including N2, NO, P1 (PND), on Parcel C, COS 1100 Amended, S22, T01 S, R25 E, a 20.58-acre parcel of land, near the intersection of Shiloh Rd. and Zoo Dr. A pre-application neighborhood meeting was held on December 15th at 6:00 p.m. virtually on Zoom. A concurrent annexation is in progress. Tax ID: D00797.

Staff Recommendation:

Planning Staff recommends approval and adoption of the findings of the ten review criteria for Zone Change 1008, a Mixed Use Planned Neighborhood Development zone change from Agriculture (A) to Mid Century Neighborhood N2), Neighborhood Office (NO) and Public 1 (P1).. A concurrent annexation is in progress.

The Zoning Commission may:

- Recommend approval and adoption of the findings of the ten review criteria for Zone Change 1008;
- or,
- Recommend denial and adopt different findings of the ten review criteria for Zone Change 1008;
- or,
- Delay action on the zone change request for up to 30 days;
- or,
- Allow the applicant to withdraw the zone change request.

Questions for staff:

Commissioner Brooks inquired about the designated access to the pedestrian trail. Staff replied there is a plan for that along with the parkland strip of land.

Applicant:

Scott Aspenlieder, Agent, Performance Engineering

We have been trying to accommodate connectivity and parks needs. Also working with Engineering and Public Works to meet requirements for access points and connecting to sidewalks.

Commissioner White asked about the property to the west, who owns it and if further development will happen there. There are negotiations in progress, but no definitive plans.

Commissioner Goss asked about the Shiloh Road access. Shiloh Road has very strict regulations for access. It is far more complex than just applying for an approach permit. Both the City and MDT must approve an additional access. Currently one access is allowed with a right in and right out only.

Chairman Larson inquired about the west side of the round a bout (south side of development) and how future access would happen. Currently it is private property. It is suspected the City of Billings will require a public right of way at some point.

Commissioner Goss asked if the the proposed roads within the development are private. They are private roads.

Public Hearing: 4:45PM

Chair Larson opened the public hearing and called for anyone wishing to speak in favor or against City Zone Change 1008.

In Favor:

Opposed: None

Public Hearing closed at 4:49PM

Discussion:

Motion

Commissioner Brooks made a motion and Commissioner Goss seconded the motion to approve City Zone Change 1008, with staff recommendations.

COMMISSIONER	Yes	No	ABSTAINED	ABSENT
Mike Larson	x			
Daniel J. Brooks	x			
David Goss	x			
Greg McCall	x			

Trina White	x			
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The Motion **passed** to Approve City Zone Change 1008 with a 5-0 vote.

Public Hearings:

City Zone Change 1012 – Text Amendment – Zoning Housekeeping Update – This is the ordinance that will reflect corrections, typographical errors, cross reference errors, as part of the one-year review of the new Zoning Code. There are corrections and modifications proposed for Section 27-300, 27-400, 27-1000, 27-1200, 27-1400, 27-1600 and 27-1800.

Staff Recommendation:

Planning staff recommends the Zoning Commission forward a recommendation of approval for Zone Change 1012, the housekeeping amendments to the new zoning code.

The City Zoning Commission may:

Forward a recommendation of approval and adoption of the findings of the ten review criteria for the text amendments

as proposed; or

Forward a recommendation of approval and adoption of the findings of the ten review criteria with changes to the

proposed text amendments; or

Forward a recommendation of approval for some of the proposed text amendments; or

Forward a recommendation of denial and adopt different findings of the ten review criteria for the text amendments;

or

Delay action on the text amendments to the next Zoning Commission hearing date.

Questions for staff:

Commissioner Goss inquired about the sign measuring description for 2-3 sided signs. After a length discussion, Staff stated a review will ensue and corrections will be made if necessary.

Commissioner White asked staff if the “new code” has been well accepted by the public.

Staff indicated there are some areas where a second look has been needed and changed, but in general it is working well.

Commissioner White excused herself from the meeting at 5:24PM

Public Hearing: 5:32PM

Chair Larson opened the public hearing and called for anyone wishing to speak in favor or against City Zone Change 1012.

In Favor: NONE

Opposed: NONE

Public Hearing closed at 5:33PM

Motion

Commissioner McCall made a motion and Commissioner Brooks seconded the motion to approve City Zone Change 1012- Text Amendment, with staff findings and amendments.

Discussion

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

The Motion passed to Approve City Zone Change 1012- Text Amendment with a 4-0-1 vote.

Other Business: There are 3 applications heard May 3, 2022.

Adjournment: The meeting adjourned at 5:45PM.

ATTEST: To be Approved by a motion May 2, 2022.

--Robbin Bartley, Administrative Assistant

Zoning Commission

Date: 05/03/2022
Title: Zone change 1013 - 527 Lake Elmo Drive - N2 to NMU
Presented by: Nicole Cromwell
Department: Planning & Community Services
Presentation: Yes

Information

RECOMMENDATION

Planning staff is recommending approval and adoption of the findings of the 10 review criteria for Zone Change 1013.

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

This is a zone change request for a parcel generally located at 527 Lake Elmo Drive and legally described as Parcel 2A of C/S 2637. The current zoning is Mid-Century Neighborhood Residential (N2) and the proposed zoning is Neighborhood Mixed Use (NMU). The intent of the zone change is to allow for therapists' office space within the existing dwelling. A remodel permit will be required to update the building interior, and additional parking will be added to the east of the building (rear yard). The lot is 25,918 square feet in area.

The proposed zone change will allow one of the remaining residential parcels on the east side of Lake Elmo Drive to convert to slightly more intense use for medical professional office space. The NMU zone allows professional offices, personal and business services, some small retail business. The NMU district is intended to fit within a neighborhood as well as on the edge of neighborhoods. The 2006 Billings Heights Neighborhood Plan envisioned the property east and west of Main Street to become an area of mixed use commercial and higher density multi-family dwellings. Some of these properties are already zoned and developed for these uses, but many are still zoned for lower intensity uses such as single or two-family dwellings. Over time, additional owners will seek to incrementally re-develop these properties. There are several parcels that re-developed in the last 10 years including a new Starbucks on the intersection of Lake Elmo Dr and Main Street, a new Town Pump just to the north and the Trilogy Townhomes to the north of the subject property.

In 2010, the city re-constructed most of Lake Elmo Drive to better function as a collector street from its intersection with Main Street north to the intersection with Wicks Lane. Collector roads are intended to handle moderate volumes of traffic and to gather traffic from local streets and neighborhoods and convey that traffic to arterial streets. Lake Elmo Drive intersects with several arterial streets including Main Street, Hilltop Rd and Wicks Lane. At the north end of Lake Elmo Drive is Lake Elmo State Park and a connection to the east on Pemberton Lane. Pemberton Lane connects with Main Street to the east. Lake Elmo Drive currently handles between 9,500 and 10,500 vehicle trips per day. This is an expected volume of traffic for a collector street. Main Street in contrast, handles more than 42,000 vehicle trips per day near the intersection with Lake Elmo Drive.

Directly to the east and north of the subject property is the Builders First Choice lumberyard and warehouse in a Heavy Commercial (CX) zone and to the south is another single family dwelling in an N2 zone district. This property shares a common driveway with the home at 523 Lake Elmo Drive. There is a 17-foot wide access easement on 527 Lake Elmo Drive for this shared driveway. There will be a slight increase in daytime traffic using this driveway, but it should not be a detriment to the owners at 523 Lake Elmo Drive.

Prior to the zoning code update in 2021, these two residential parcels along with the property to the north, east and south, were all zoned Highway Commercial (HC). This zoning was adopted by the County in 1978 through a zone change request from Residential 6,000 to Highway Commercial. During the zoning update, when updating the map and zoning, a concerted effort was made to not create non-conforming land use situations. The CX zoning for the lumberyard and warehouse as well as the Tractor Supply store was a replacement for the previous Highway Commercial zone and kept these businesses in conformity with the new code. Applying the CX zone to two single family dwellings would have made these two properties non-conforming to the new code. Instead of applying the CX zone, these parcels were updated to Mid-Century Neighborhood Residential (N2), which preserved the residential uses.

Planning staff is recommending approval based on the compatibility with the adjacent residential home to the south, the conformance with the 2016 Growth Policy guidelines, and the Billings Heights Neighborhood Plan. The proposed use and zoning will benefit the orderly transition of this property to the next increment of development intensity on Lake Elmo Drive.

STAKEHOLDERS

The applicant held a pre-application neighborhood meeting on March 1, 2022, via virtual meeting. No one from the public

attended the virtual meeting. Planning staff sent the required mailed notices, posted the property and published the legal for the Zoning Commission hearing. No public comments were received by the Planning staff prior to this report.

ALTERNATIVES

The City Zoning Commission may:

- Recommend approval and adoption of the findings of the ten review criteria for Zone Change 1013; or,
- Recommend denial and adopt different findings of the ten review criteria for Zone Change 1013; or,
- Delay action on the zone change request for up to 30 days; or,
- Allow the applicant to withdraw the zone change request.

The Zoning Commission is required to make a recommendation to the City Council on this application for zone change. The application will not proceed to the City Council without a recommendation.

FISCAL EFFECTS

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

SUMMARY

Prior to any recommendation to the City Council, the Zoning Commission shall consider the following:

1. Is the new zoning designed in accordance with the Growth Policy and neighborhood plans?

The proposed zone change is consistent with the following guidelines of the 2016 Growth Policy:

- Prosperity (promoting equal opportunity and economic advancement)
- Predictable, reasonable City taxes and assessments are important to Billings' taxpayers
- A diversity of available jobs can ensure a strong Billings' economy
- Successful businesses that provide local jobs benefit the community
- Retaining and supporting existing businesses helps sustain a healthy economy

The proposed zoning would allow an existing residential home to be converted to a medical office space to allow the owners to establish a professional office for their therapy practice. The proposed zone aligns with allowed continued light commercial development along Lake Elmo Drive, a busy collector street. The NMU district allows neighborhood services and the proposed project will bring new construction improving the aesthetic of the property and the east side Lake Elmo Drive.

The proposed zoning is also supported by the Billings Heights Neighborhood Plan that indicated the area between the parallel streets of Lake Elmo Drive, Main Street and Bench Boulevard would be areas where mixed uses and higher density housing might develop. A gradual and incremental change from residential uses to mixed uses is desirable.

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

The new zoning requires minimum setbacks, open and landscaped areas and building separations. The new zoning, as do all zoning districts, provides adequate building separations and density limits to provide security from fire and other dangers.

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 zoning. The proposed NMU zoning would allow the owner to ensure future development is not intrusive to neighboring property, and still allow compatible uses with the adjacent zoning. Upgrading an older residential structure (1972) for a modern professional office will be beneficial for general health and welfare of the district.

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

Transportation: The proposed zoning will decrease residential traffic, but may cause a slight increase to overall traffic volume during business hours. Lake Elmo Drive has the capacity for any minor increase in traffic volume.

Water and Sewer: The City provides water and sewer to the property. City Utilities Department voiced no concerns.

Schools and Parks: Schools and parks should not be negatively affected by the proposed zoning. The proposed development does not include residential uses.

Fire and Police: The subject property is 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?

The existing property has a fully developed sidewalk on Lake Elmo Drive and appears to be in good condition. Traffic volume on Lake Elmo Drive is approximately 9,500 to 10,000 vehicle trips per day. The existing street can handle any small increase in traffic volume. The new zoning designation itself should not have any measurable effect on the transportation system.

7. Will the new zoning promote compatible urban growth?

The proposed zoning is compatible with the adjacent zoning and existing urban growth in the vicinity. Property east and north of the subject parcel is zoned CX - Heavy Commercial. The remaining residential home south of the subject property shares a driveway by a legal easement. This property will remain zoned N2 for the foreseeable future. West across Lake Elmo Drive is NX2 - Mixed Residential 2 and NMU. The zoning does promote compatible urban growth.

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. The proposed zoning will allow professional offices and neighborhood services on a collector street in a busy neighborhood.

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

The new zoning is not expected to alter the value of any buildings in the area. Any development of the property will need to meet the site development requirements for proportionate compliance with zoning standards, including landscaping, screening, building heights and setbacks.

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

The proposed zoning will allow the development of the property in a mixed use area and will encourage the most appropriate use of land in the district. Supporting local business expansion is beneficial to the economic growth for the City of Billings.

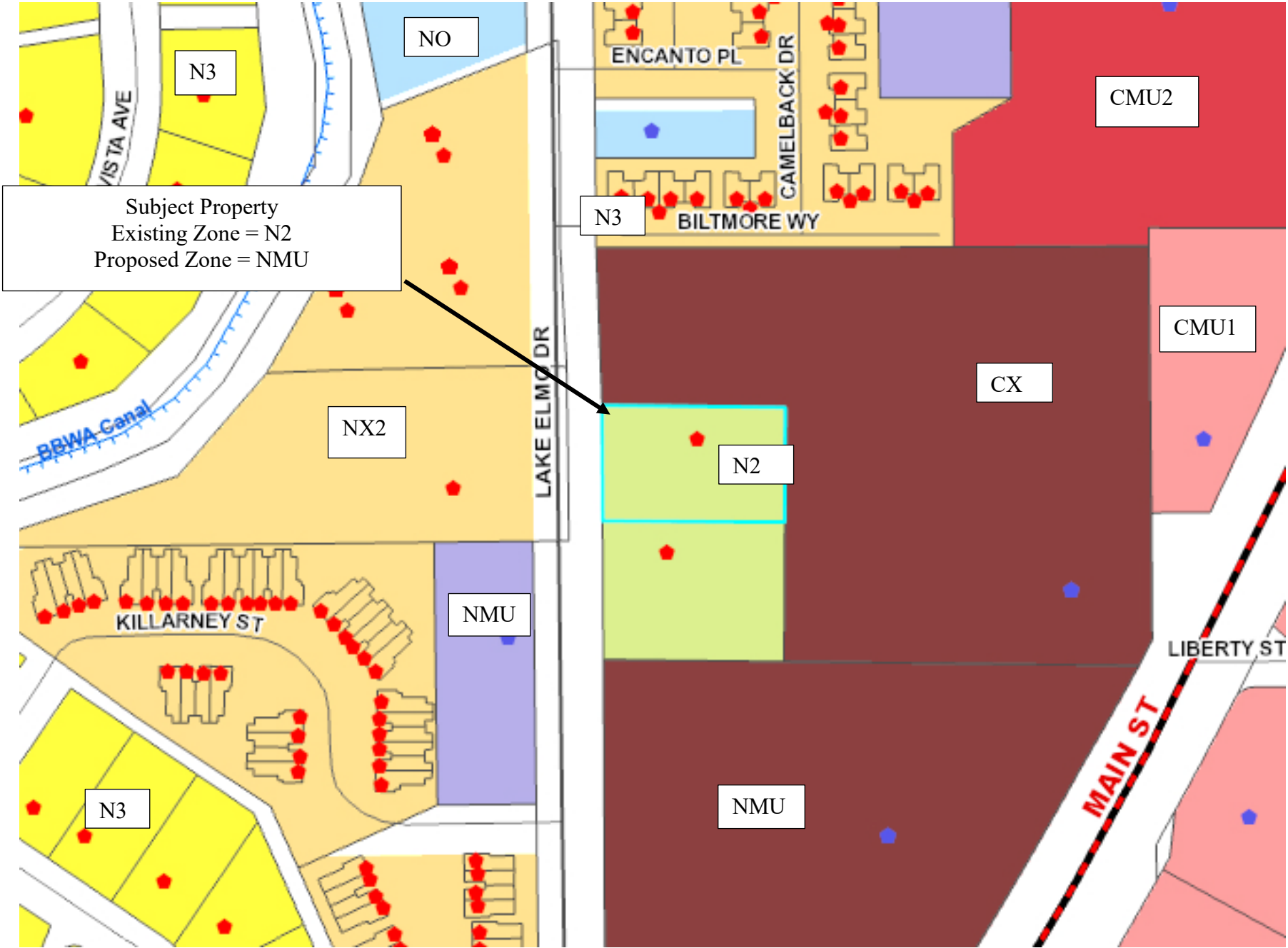
Attachments

Zoning Map and Site Photos

Application and Letter

Zoning History

City Zone Change 1013 – 527 Lake Elmo Drive
Zoning Map and Site Photos





Subject Property



Subject Property view east from Lake Elmo Dr



View north on Lake Elmo Dr



View north west across Lake Elmo Dr



View southwest across Lake Elmo Dr



View south on Lake Elmo Dr



View southeast at adjacent residential home at 523 Lake Elmo Dr – shared driveway access

APPLICATION FORM

CITY ZONE CHANGE Billings Zone Change # 1013 - Project # PZX-22-00058

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 Residential N2-Mid-Century Neighborhood

Proposed Zoning: Neighborhood Mixed Use NMU

TAX ID# D11725 CITY ELECTION WARD 1

Legal Description of Property: S27, T01 N, R26 E, C.O.S. 2637, Parcel 2A, AMO

Address or General Location (If unknown, contact City Engineering): 527 Lake Esmo Drive

Size of Parcel (Area & Dimensions): 0.59 acres

Present Land-Use: Residential - vacant

Proposed Land-Use: Office - clinical psychotherapy

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): Steven R. & Kyle S. Biondich

(Recorded Owner)

1197 Cortez Avenue, Billings, MT. 59105

(Address)

(406) 860-3342, stevebiondich@gmail.com

(Phone Number)

(email)

Agent(s): _____

(Name)

(Address)

(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 Zone Change. Also, I attest that all the information presented herein is factual and correct.

Signature: Steven R. Biondich Date: 3/3/2022

(Recorded Owner)



Date Stamp

March 14th, 2022

RE: Zone Change Request for Residence at 527 Lake Elmo Drive:
10 Zone Chane Critirea

Owner Contact: Steve Biondich, 1197 Cortez Ave, Blogs, MT. 59105 Cell Phone: (406) 860-3342, email: stevebiondich@gmail.com

10 Statutory Criteria for the Zane Change

We meet all 10 statutory criteria for the zone change for 527 Lake Elmo Drive.

- 1.) Whether the new zoning is designed in accordance with the growth policy;**

We would be in accordance with the growth policy by establishing office space for mental health professionals to operate in the Billings Heights area. This would give Billings Heights more access to services for the community.

- 2.) Whether the new zoning is designed to secure from fire and other Dangers;**

We worked with A & E Architects who designed the office remodel to Meet all fire codes and safety standards of a commercial property (see plans on request).

- 3.) Whether the new zoning will promote public health, public safety and general welfare;**

We can provide office space for mental health professionals and provide connections for individuals to access other general health services.

4.) Whether the new zoning will facilitate the adequate provision of Transportation, water, sewerage, schools, parks and other public Requirements;

We are not changing the exterior as we want this property to blend in with the immediate neighborhood. We believe clients respond to more of a home feel for therapy sessions than a traditional business style office space. The location of the property offers ease of access to Main Street. We Are changing the use of the property with no exterior changes. This would Leave water and sewerage the same, having the same access to schools, parks, and other public requirements.

5.) Whether the new zoning will provide adequate light and air;

Since we are not changing the exterior we would have adequate light and air.

6.) Whether the new zoning will effect motorized and non motorized transportation;

More parking would be added in the back of the property but the turn off to the property is a small private road. The main sidewalk on Lake Elmo Drive would not be changed. This would not have a big impact for motorized or non motorized transportation that uses Lake Elmo Drive.

7.) Whether the new zoning will promote compatible urban growth;

We do believe the new zoning will promote compatible urban growth since neighbors around this property are already zoned NMU and we would follow suit.

8.) Whether the new zoning considers the character of the district and the peculiar suitability for particular uses;

As Billings Heights grows certain properties that have ease of access to major streets like Maqin Street, become more of value. These type of properties offer the best location for new businesses and services. We hope to promote urban expansion but keep the exterior the same tying this property to the residential and commercial businesses by which it is Surrounded.

9.) Whether the new zoning will conserve the value of buildings;

Neighboring properties across the street are zone NMU and this zone change would allow us to do the same. We would not change the Exterior of the property and would conserve the value of the building.

10.) Whether the new zoning will encourage the most appropriate Use of land throughout the City of Billings.

As the City of Billings grows, properties that are on the edge of a Residential or business zone will have to adapt. We offer a blend of the two by using a residential structure that can provide office space for mental Health professionals. This keeps the exterior the same and blends a business with the residential neighbors.

**Steve Biondich
Owner
Cell: (406) 860-3342**

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:** residential N2

2. **Written description of the Zone Change Plan** including existing and proposed new zoning:

NMU

3. **Subject Property Map:** please attach to this form

4. **Legal Description of Property:**

2037 Cert. of Survey
Parcel 2A, (size) 25918 sq. ft.

5. **Neighborhood Task Force Area:** Yes /// No . If Yes, Name of Task Force and mailing address of Chairperson:

Heights Task Force

6. **Roster of persons who attended the pre-application neighborhood meeting:** please attach to this form (Zoom meeting (email mt -

7. **A copy of the meeting notice.** please attach to this form Saw you all

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 1st, day of March, 2022

2) The zone change application is based on materials presented at the meeting.

Owner (s): Steve & Kyle Biondini Telephone: (406) 860-3342

Address: 527 Lakeview Drive Email: stevebiondini@gmail.com
1095

Agent (s): _____ Telephone: _____

Address: _____ Email: _____

Synopsis of Meeting

On March 1st, 2022 at 4pm mountain time a zoom meeting was held to 4:30pm and no participants came.

The service growth gap is an issue as the population of Billings grows so must the services. By allowing the proposed zone change for 527 Lake Elmo Drive we could become an asset to the community. We can provide office space for Mental Health professionals to conduct therapeutic services and administrative services. Billings Heights has few professional office spaces that fulfill the needs of professional therapists. We can provide sound proof rooms for therapy sessions and more. The facade of the building would stay a ranch style home as we believe this comforts clients more than traditional office space.

We meet all 10 statutory criteria for the zone change. We would be in accordance with the growth policy by establishing office space for mental health professionals to operate in the Billings Heights area. We are not changing the exterior as we want this property to blend in with the immediate neighborhood. We believe clients respond to more of home feel for therapy sessions, then a traditional business style office space. The location of the property offers ease of access to main street. Neighboring properties across the street are zoned NMU and this zone change would allow us to do the same. We are changing the use of the property with no exterior changes.

Steve Biondich, Owner

SUBJECT PROPERTY	Zone Change	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
	City ZC 209	5/1/1978	R60 to HC	Withdrawn	
	City ZC 212	6/26/1978	R60 to HC	Approved	Zone Map update in 2021 zoned the residential as N2
SURROUNDING PROPERTY	Zone Change	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
2347 Main St	213	6/26/1978	R-60 to NC	Y	Lake Elmo Dr – Current Zone NO
514 Laurie Lane	137 (County)	9/19/77	R72-CC	Y	CMU2
620 Lake Elmo Dr	628	12/8/1997	R60 to CC	Y	NX2
630 Lake Elmo Dr	657	4/10/2000	R60 to CC	Y	NX2
743 Lake Elmo Dr	253	6/5/1979	R60/R70 to NC & CC	Y	CX
713 Main St	88	6/2/1975	R70 to HC	Y	CMU2
614 Conway St	302, 328, 351, 976	1/20/1981; 7/29/1982; 1/3/1984; 7/27/2020	R70 to HC	N N N Y	CX
415-445 Hasnon Lane 731/733 Lake Elmo Dr	541	9/24/1990	R70 to CC	Y	CX (Lake Elmo Dr) NO (Hansen Lane)
528 Lincoln Lane	234	11/27/1978	RMH to HC	Y	CX
760 Lake Elmo Dr	189	12/27/1977	R60 to Public	Y	NO & CMU1
760 Lake Elmo Dr	520	1/4/1988	Public to CC	Withdrawn	NO & CMU1
760 Lake Elmo Dr	526	5/23/1988	Public to NC	Y	NO & CMU1
705 Lincoln Ln	County ZC 200	9/12/1978	R70 to RP	Y	NO
705 Lincoln Ln	County ZC 357	6/5/1984	RP to CC	Y	NO

Zoning Commission

Date: 05/03/2022
Title: Zone Change 1014-3038 Central Ave
Presented by: Karen Husman
Department: Planning & Community Services
Presentation: Yes

Information

RECOMMENDATION

Planning staff recommends approval of Zone Change 1014 and adoption of the proposed findings of the ten review criteria.

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

This is a zone change request from Corridor Mixed Use 1 (CMU1) to Mixed Residential 3 (NX3), on the north 4.05 acres of COS 2991, Parcel 1C, an 8.868 acre parcel of land. A pre-application neighborhood meeting was held on March 16, 2022, via Zoom virtual meeting format.

APPLICATION DATA

OWNER: 3038 Central, LLC
AGENT: Brian Carlisle
LEGAL DESCRIPTION: COS 2991, Parcel 1C
ADDRESS: 3038 Central Avenue
EXISTING ZONING: CMU1 & NX3
EXISTING LAND USE: Vacant land
PROPOSED USE: Multi Family Residential
SIZE OF PARCEL: 4.05 acres

SURROUNDING LAND USE AND ZONING

NORTH: Land Use - Duplex/Condo development
Zoning - N2
SOUTH: Land Use - Residential Single Family
Zoning - N3
EAST: Land Use - Commercial mixed use
Zoning - CMU1
WEST: Land Use - Multi Family Hunters Point Apartments
Zoning - NX3

The subject property is currently a split zone with CMU1 to the North side of the property and NX3 to the south side, the proposed zoning of NX3 is intended to make the entire parcel the same zoning. Prior to project ReCode, the parcel was zoned Residential Professional (RP) Neighborhood Commercial (NC), and Residential Multi Family Restricted (RMF-R). The NX3 zone is intended to accommodate 5 to 8 dwelling units per structure. The minimum number of units allowed per building is 5 up to a maximum of 8 units. The setbacks in the NX3 zone district also have a requirement to have a wider separation when abutting an N1, N2, N3, or RMH zone district (increased from 5 feet to 15 feet on the side and 10 to 20 on the rear). The new zone will allow development of the property in continuity throughout the entire parcel. Adjacent development to the west is similar to the development design proposed under the new zone. This is an undeveloped parcel surrounded by multifamily, single family as well as light commercial development. This infill development is desirable to improve under utilized vacant property by creating desirable street scapes and adding pedestrian connections with sidewalks and bike paths.

Planning staff has reviewed the request and finds the proposed zone change is consistent the 2016 Growth Policy goals, including providing a range of housing options, access to everyday neighborhood services and attainable housing in neighborhoods throughout the city. The adjacent transportation network can handle the proposed traffic from the new development that will be potentially less than under the current zoning of CMU1. The adjacent property and zoning districts will be compatible with the proposed zoning district.

STAKEHOLDERS

The applicant and agent conducted a pre-application neighborhood meeting in a virtual format on March 16, 2022, via Zoom meeting format. There were 5 members of the public in attendance, the synopsis of the discussion is included in the attachments. The primary concerns were the number of units proposed and how it would affect traffic generation and safety. At this time this staff report was generated, the Planning Division has received no public comments or questions

regarding application.

ALTERNATIVES

The City Zoning Commission may:

- Recommend approval and adoption of the findings of the ten review criteria for Zone Change 1014; or,
- Recommend denial and adopt different findings of the ten review criteria for Zone Change 1014: or,
- Delay action on the zone change request for up to 30 days; or,
- Allow the applicant to withdraw the zone change request.

Be advised, the Zoning Commission may not recommend any zone district other than the requested zone districts including a zone district that was not legally advertised or included in the official notice of the hearing.

FISCAL EFFECTS

Approval or denial of the requested zoning will have no fiscal effect on the Planning Division budget.

SUMMARY

Prior to any recommendation to the City Council, the Zoning Commission shall consider the following:

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:

Strong Neighborhoods:

- Zoning regulations that allow a mixture of housing types provide housing options for all age groups and income levels
- Neighborhoods that are safe and attractive and provide essential services are much desired

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

The proposed zoning will allow another housing choice in an area with a diverse development. Existing demand for housing choice is going up for all ages of buyers including "boomers" and millennials just buying a first home. The proposed zoning would allow a housing choice in an area where the choices are limited to mostly multifamily apartments west, single family to the south and two family condos to the north.

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

The new zoning requires minimum setbacks, open and landscaped areas and building separations. The new zoning, as do all zoning districts, provides adequate building separations and density limits to provide security from fire and other dangers.

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

Public health and public safety will be promoted when developed as multifamily housing. The additional dwelling units will help increase the number of rate payers to the city utility systems and increase the taxable value of the property. The new zone will allow development of a residential facility that will include landscaped open space areas, designated pedestrian paths within the development, and new sidewalks adjacent to the right of way. In addition to landscaping that will promote beautification of the property, these additions to the undeveloped area will promote safe walking and biking areas for the public.

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

Transportation: The proposed zoning will increase post-development traffic volume. A traffic impact study (TIS) or an update to an existing TIS will be necessary at the time of development. The proposed zoning to develop multifamily versus the present zoning of mixed use will have a different impact on traffic it is not known without a traffic study the difference between the potential commercial or residential traffic.

Water and Sewer: The City provides water and sewer to the property. There is adequate capacity to serve the property.

Schools and Parks: Schools and parks should not be negatively affected by the proposed zoning. There may be an increase in potential future students depending on the family dynamic that may inhabit the new development.

Fire and Police: The subject property is 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?

Traffic generation from a potential 250 to 300 new dwelling units is estimated to be between 1,500 to 2,400 new vehicle trips per day. This trip counts includes trips to the new residences for services such as mail, deliveries, solid waste as well as the trips by the occupants. The new development will have sidewalks and will connect to other sidewalks and pedestrian facilities in the neighborhood. The new zoning designation itself should not have any increase effect on the transportation system.

7. Will the new zoning promote compatible urban growth?

The new zoning does promote compatibility with urban growth. The proposed zoning will allow this parcel to provide new housing compatible with the existing neighborhood, as well as compatible residential connection to the south portion of the property that is currently NX3 and under development.

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

The proposed zoning considers the character of the district and the suitability of the property for the proposed use. The proposed zoning will allow a housing choice that is in demand in the area. The new proposed NX3 zone on the norther portion of the parcel will allow an additional housing choice that is similar to the adjacent Hunters Point apartment complex to the west, and the south half of the property currently under construction with the NX3 zone.

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

There are no structures on the subject property. In general, new construction improves the value of adjacent property. The new zone will allow development of the property in continuity with the southern half of the parcel already under construction with the NX3 zone restrictions.

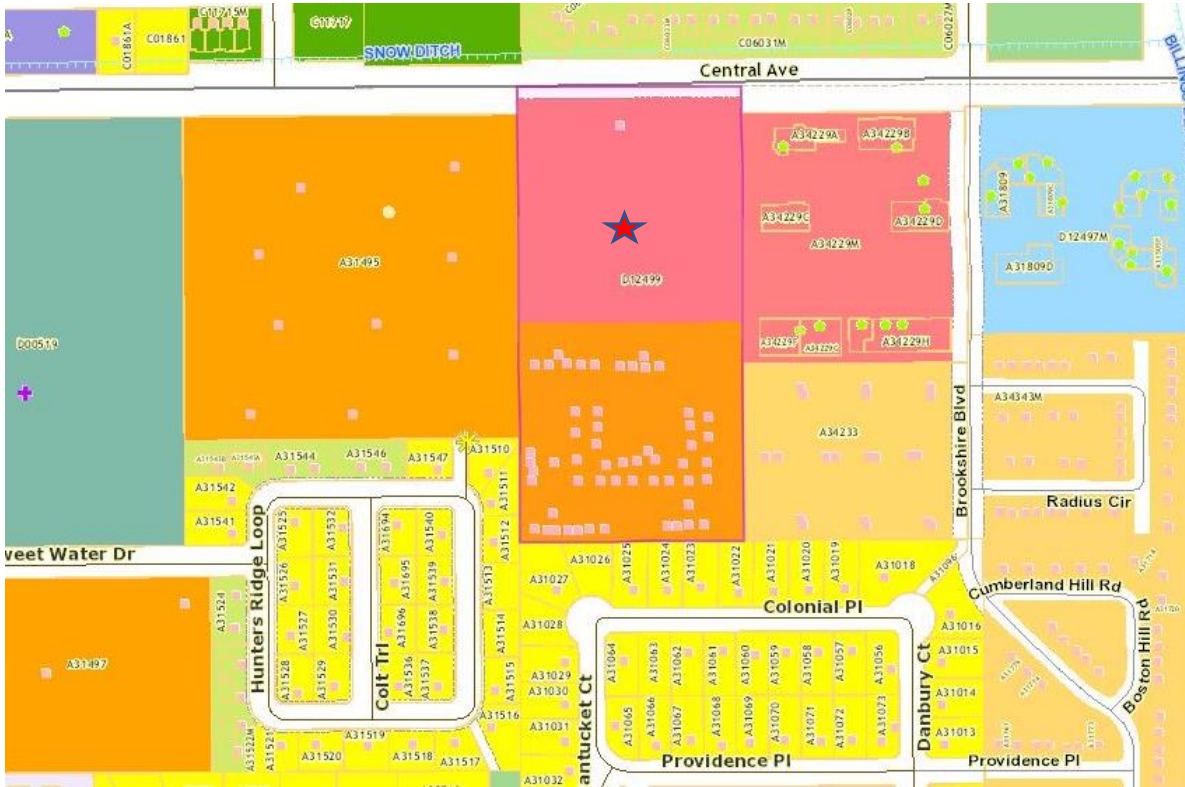
10. Will the new zoning encourage the most appropriate use of land throughout the City of Billings?

The proposed zoning will allow the development of another housing choice in this area of Billings. There are similar developed property in the area including multifamily apartments and two unit condominiums, as well as other developed properties as single family and commercial offices. The proposed zoning and uses will allow the property owner to develop at it's highest and best use according to developed surrounding property uses. This is an appropriate infill for the property as multifamily development that is compatible to the developed parcels in the area.

Attachments

Zoning Map & Site Photos
Application & Applicant Letter
Neighborhood meeting information
History

Zoning Map & Site Photo



Subject Property







West



Looking North Across Central





South



South East

APPLICATION FORM

CITY ZONE CHANGE Billings Zone Change # 1014 - Project # PZX-22-68

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 CMU1

Proposed Zoning: NX3

TAX ID# ~~03092612273010000~~ D12499 CITY ELECTION WARD V

Legal Description of Property: _____

Address or General Location (If unknown, contact City Engineering): ~ 3038 Central Avenue, Billings, MT 59102

Size of Parcel (Area & Dimensions): 4.05 AC

Present Land-Use: Raw land

Proposed Land-Use: Multi-family apartments

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): 3038 CENTRAL LLC

(Recorded Owner) 11650 S State St. #300, Draper, UT 84020

(Address) 801-727-9500 brian.c@bachhomes.com

(Phone Number) (email)

Agent(s): Brian Carlisle

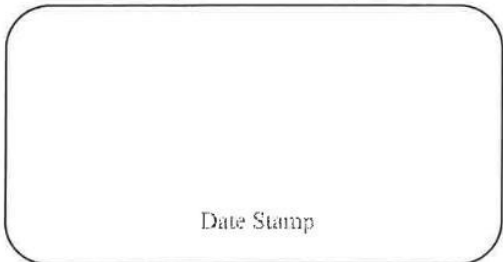
(Name) 11650 S State St. #300, Draper, UT 84020

(Address) 801-540-4808 brian.c@bachhomes.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 Zone Change. Also, I attest that all the information presented herein is factual and correct.

Signature: [Signature] Date: 3/28/22
(Recorded Owner)



As it relates to the adopted Growth policy, our proposed zone change from CMU-1 to NX3 is intended to provide residential growth to Billings within the current city limits. This enables us to connect to existing city infrastructure and avoid large expenses incurred from extending utility lines and roads. This infill development also beautifies the city by improving underutilized vacant property as improving the streetscape along Central Avenue. This will also improve pedestrian and bike connections by adding sidewalks and landscaping.

We will be providing a mixture of housing types of studio units, one and two-bedroom apartments, and three-bedroom townhomes within our development. Bach Homes is a long term property owner who is interested in maintaining and holding our apartment communities for long periods of time into the future. We provide accessible energy efficient housing that helps build communities and will help fill job demand that continues to grow in the Billings area.

Billings Zone Change Criteria

1 - Whether the new zoning is designed in accordance with the growth policy;

See statement above.

2 - Whether the new zoning is designed to secure from fire and other dangers;

New apartments will be fire sprinklered and meet IFC and IBC requirements. Site design will comply with IFC / Billings City fire standards to accommodate fire truck requirements.

3 – Whether the new zoning will promote public health, public safety and general welfare;

New apartments will be an attractive, secure, and safe development. Bach Homes retains their apartment projects and is very concerned for long term maintenance and is regularly updating their communities.

4 – Whether the new zoning will facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements

Site is an infill location and has existing infrastructure to connect to. Project will comply with all public requirements.

5 – Whether the new zoning will provide adequate light and air;

Apartments will provide large windows and modern HVAC systems for all units and amenities.

6 – Whether the new zoning will effect motorized and nonmotorized transportation;

Apartments will provide adequate parking for both cars and bicycles.

7 – Whether the new zoning will promote compatible urban growth;

Apartments provide compatible urban growth by being an infill development.

8 – Whether the new zoning considers the character of the district and the peculiar suitability of the property for particular uses;

Apartments will be designed to be incorporated into neighboring Hunters Pointe phases 1 and 2.

9 – Whether the new zoning will conserve the value of buildings;

Bach Homes intends on retaining long term ownership of buildings and had a track record of maintaining and regularly update their communities.

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

With site being bordered by Hunter's Pointe phases 1 and 2, and with existing demand for apartment units very high, we feel this is the best use for the property to help alleviate housing demand and provide high quality housing and reasonable prices.



Notice of Neighborhood Meeting for Proposed City Zone Change

Meeting Date:

March 16th, 2022

Meeting Time:

5:00 PM Mountain Standard Time

Meeting Location: ZOOM

<https://zoom.us/j/94742420617?pwd=ekVERk5VNIpkNDZYM3JzdlgxWUITQT09>

Meeting ID: 947 4242 0617

Passcode: **Bach**

ZONING BOUNDARY:

A tract of land situated in the NW1/4 of Section 12, T. 1 S., R. 25 E., P.M.M., in the City of Billings, Yellowstone County, Montana, being more particularly described as follows, to-wit: The north half (\pm 393 feet) of Tract 1C of Certificate of Survey No. 2991, as recorded in the office of the clerk and recorder of Yellowstone County, Montana, under Document No. 3033373; said north half also being identified as 'CMU1' according to the most current zoning assignments per the City of Billings Zoning Regulations.

Subject Property (See attached map):

Address: 3038 Central Ave., Billings, MT 59102

Parcel: 03092612273010000

Owners of Subject Property:

Owner:

Bach Land and Development
11650 South State Street
Draper, UT 84020

Applicant:

Brian Carlisle
11650 S. State Street, Suite 300
Draper, UT 84020
(801) 727-9500

Zone Change Plan (See attached drawing):

Existing zoning:

Northern most portion of property is zoned CMU1 (Corridor Mixed Use) 4.33254 acres.

Southern most portion of property is zoned NX3 (Mixed Residential 3) 4.16550 acres

Proposed new zoning:

Northern most portion of property to be zoned NX3 (Neighborhood Commercial) 4.33254 acres.

Southern most portion of property is to remain zoned NX3 (Mixed Residential 3) 4.16550 acres

Neighborhood Meeting Minutes Rezone – Hunters Pointe 3

March 16th, 2022 @ 5:00pm

Synopsis: The neighborhood meeting was held Via remote Zoom call on March 16 at 5:00 pm. There were three attendees not including Brian Carlisle and Derek Rindlisbacher of Bach Homes. Joan Nelson raised concerns about more new apartments increasing traffic along Central Avenue. Jared Hedgeguard raised concerns about a possible increase in vandalism from additional apartments. In general the tone was very amicable and residents were encouraged to voice opinions at future hearings.

Minutes:

Brian Carlisle: Introduction: We are the owners of this parcel (Showing Neighborhood Meeting Notice Including the Note). Brian is explaining the purpose of why we are rezoning. “We are wanting to rezone the CMU1 to NX3.

Joan Nelson: How many apartments are you building in the Southern Portion already being built?

Brian Carlisle: 122 total units are being constructed south of the portion we are trying to rezone.

Joan Nelson: How many apartments are you trying to build in this portion?

Brian Carlisle: We are very early on in this development. But I would estimate that it would be similar to the portion being built.

Jared Hedgeguard: What is the plan for traffic control for entering the apartment complex?

Brian Carlisle: He pulls up a map showing the property on google maps. He begins to explain that we have 2 accesses for the fire trucks. We will receive one access on Central Avenue.

Joan Nelson: Can you show us with your mouse where you will be placing the town homes?

Brian Carlisle: The town homes will be located on the perimeter of the property.

Joan Nelson: That will cause an increase of traffic and congestion on Central Avenue. What do you think Jared?

Jared Hedgeguard: I have never considered traffic, but that might cause more traffic.

Jared Hedgeguard: Another concern that I have is an increase in vandalism. I am concerned with this with more apartments.

Brian Carlisle: One of the places that you can share your concerns and thoughts is also at the planning commission meeting when we present this to them and get it rezoned. If we see that Phase 2 gets filled up fast, we will most likely want to build the next phase to meet the demand of growth in Billings. We are seeing the demand for apartments is beginning to grow exponentially. We have seen this over the last two years not only in Billings but nation wide.

Joan Nelson: How many apartments are at the current Hunters Pointe?

Brian Carlisle: 206 Apartments are there.

Joan Nelson: Okay, thank you.

Jared Hedge guard: I have no other concerns. I am disappointed that there is no buffer between our neighborhood and the apartment community.

Brian Carlisle: We are building town homes on the perimeter to help create a buffer similar to what you want.

Jared Hedgeguard: I would like it to stay commercial, but I know it is ultimately up to you and the city. I do think the access will be fine and we will not have any problems with this.

Brian Carlisle: I think we will stay on a few minutes just incase some others join us as well.

Joan Nelson: Thank you.

Jared Hedgeguard: Thank you.

Roster of Attendees:

- Joan Nelson
- Jared Hedgeguard
- Gordon
- Brian Carlisle
- Derek Rindlisbacher

SUBJECT PROPERTY	Application	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
	None				Previous zone = NC, RP, RMFR Updated zone = CMU1, NX3
SURROUNDING PROPERTY	Application	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
CS 2991 TR 1A	ZC 681	6/11/01	R96 to RP	Y	
CS 2991 3A	682	4/8/02	R96 TO RMFR	Y	
CS 2991 3B	683	5/13/02	R96 TO PD	Y	
CS 2991 2A,2B,2C,3C	707	1/13/03	R96 TO R70 & RMFR	Y	
CS 2991 1A	804	6/11/07	RP TO RMFR	Y	
SC2991 TrB (Brookshire Sub)	823	10/9/07	R96 TO NC,RP, RMFR	Y	
CS 2991 1C	804	10/9/07	R96 TO NC,RP,RMFR	Y	
CS 2991 3B	725	4/25/04	AMEND PD	Y	INCREASE ALLOWED DENSITY

Zoning Commission

Date: 05/03/2022
Title: Zone Change 1015- 1411 Emma Avenue- Change from N2 to N3
Presented by: Karen Husman
Department: Planning & Community Services
Presentation: Yes

Information

RECOMMENDATION

Planning staff recommends approval of Zone Change 1015 and adoption of the findings of the 10 review criteria.

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

City Zone Change 1015 -- Emma Jean Heights -- from N2 to N3 - A zone change request from N2 (Mid-century Neighborhood Residential) to N3 (Suburban Neighborhood Residential), on Block 11, Lot 2, Emma Jean Heights Subdivision, 1st Filing. A pre application neighborhood meeting was held on December 11, 2021.

APPLICATION DATA

OWNER: Penny Levy
LEGAL DESCRIPTION: Emma Jean Heights Sub. 1st Filing,
ADDRESS: 1411 Emma Ave
CURRENT ZONING: N2
EXISTING LAND USE: Residential single family and vacant lots
PROPOSED USE: Residential single family
SIZE OF PARCEL: 9,575 sf

CONCURRENT APPLICATIONS

None

SURROUNDING LAND USE & ZONING

NORTH: Zoning: N2/N3
Land Use: Residential
SOUTH: Zoning: N2/N3
Land Use: Residential
EAST: Zoning: N2/N3
Land Use: Residential
WEST: Zoning: N2/N3
Land Use: Residential

STAFF REVIEW

This is a zone change request to change from N2 to N3. The proposed zoning would update this property within the Emma Jean Heights Subdivision from a mixture of N2 - a zone that allows one and two family dwellings - to N3 - a zone that only allows single family dwellings. Both zone districts allow single family dwellings on individual lots. The N2 zone district was included in Project Recode map update for this parcel as well as several other parcels within Emma Jean Heights Subdivision in an effort to keep the existing development moving forward with the same allowed uses as the previous Residential 7,000 (R-70) zone district. The previous R-70 zoning and the N2 zoning both allow single family dwellings as well as 2-unit dwellings. Planning Staff chose the N2 zone district as it closely resembled the previous zone (Residential-7000). The applicant is requesting the change to N3 district on this parcel that was unintentionally not included in the recent zone change for a portion of the larger subdivision approved under Zone Change 1007 in March of this year.

The subject property was developed in 2017, prior to Project ReCode. The new code has made allowances for structures of

all types that were built prior to the new code, in an effort to allow nonconforming structures to be reconstructed as the original building was approved. Section 27-1505 - Nonconforming site characteristics; 1411 Emma sits slightly off-square with Emma Avenue -- but it appears at least some of the front and side adjacent facades are within the build-to areas required for both streets at least within the 5-ft tolerances for Administrative Relief allowed under the new code, and it appears the home is wide enough to accommodate the existing garage openings of 25 feet total. The only possible non-conforming site characteristic is the additional setback for the front façade that is not garage. Code Section 27-1505 above allows re-building with the "nonconforming site characteristics" intact. The code specifically exempts these characteristics from conformance at re-development/renovation or re-build. Someone could voluntarily want to meet the site characteristics, but nothing in this code requires it. In this case, the property owner would prefer to have the zoning on the property changed to N3, as some of the surrounding properties have done with the approval of Zone Change 1007.

The Planning staff has reviewed the request and is recommending approval based on the findings of the 10 review criteria. The adjacent zoning and development is similar and will provide continuity within the subdivision and between adjacent subdivisions. The adopted Growth Policy of Billings does support compatibility of development.

ALTERNATIVES

The Zoning Commission may:

- Recommend approval and adoption of the findings of the ten review criteria for Zone Change 1015; or,
- Recommend denial and adopt different findings of the ten review criteria for Zone Change 1015; 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

Prior to any recommendation to the City Council, the Zoning Commission shall consider the following:

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:

Strong Neighborhoods:

- Zoning regulations that allow a mixture of housing types provide housing options for all age groups and income levels
- Neighborhoods that are safe and attractive and provide essential services are much desired

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

The proposed zone change is consistent with the following goals of the **2006 Billings Heights Neighborhood Plan**:

- To provide safe, good quality and affordable housing in the Heights.
- Develop housing patterns that are compatible with existing neighborhoods.
- Maintain similar housing in established neighborhoods.

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

The new zoning requires minimum setbacks, open and landscaped areas and building separations. The new zoning, as do all zoning districts, provides adequate building separations and density limits to provide security from fire and other dangers.

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

Public health and public safety will not be affected by the proposed zoning. The new zone would not change the public health, safety and general welfare status from the existing zoning.

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

Transportation: The proposed zoning will not significantly increase post-development traffic volume.

Water and Sewer: The City provides water and sewer to the property.

Schools and Parks: Schools and parks should not be negatively affected by the proposed zoning. School population may increase depending on the demographic of the new residents as homes are built.

Fire and Police: The subject property is served by city public safety services as this is an existing house within an existing city neighborhood. 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?

The new zoning designation itself should not have any increase effect on the transportation system. The N2 zoning may have brought in more dwelling units under the allowed density, therefore the proposed N3 may actually have less of an impact on the transportation system.

7. Will the new zoning promote compatible urban growth?

The new zoning does promote compatibility with urban growth. The proposed zoning will allow this lot continue as it is now in being compatible with most of the existing neighborhood.

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. Previous filings of Emma Jean Heights are built out in accordance with the N3 district. Therefore, allowing an additional lot constructed in the same pattern expands the already existing character. Further, the proposed zoning will continue to allow a housing choice that is in demand in the area and could be built in N2 or N3 zoning districts.

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

Both the N3 (new zone) and N2 (old zone) conserve the value of buildings and allow for single family dwellings. The existing homes in the neighborhoods are predominantly single-family homes and some homes that have already been constructed are built to the N3 standard. Therefore, the new zoning will not diminish the value of the existing neighborhood or the newly zoned property.

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

The proposed zoning will allow the continuance of an existing housing choice in this area of Billings Heights. Residential uses are the most appropriate use of the land.

Attachments

Zoning Map & Site Photos

Application & Applicant Letter

Neighborhood meeting information

History

Zoning Map & Site Photo Zone Change 1015



Subject Property 





Looking North on Columbine



Properties East side of Columbine, North of Emma Ave



Looking West on Emma Ave



South East



South



East

Application & Applicant Letter

APPLICATION FORM

CITY ZONE CHANGE Billings Zone Change # 1015 - Project # P2x-22-00082

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 N-2 - Mid-century Neighborhood

Proposed Zoning: N-3 - Suburban Neighborhood

TAX ID# A35411 CITY ELECTION WARD 2

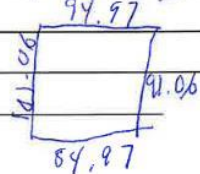
Legal Description of Property: Emma Jean Heights Subd 2nd Filing (15), S23, T01 N, R26 E, Block 11 Lot 2

Address or General Location (If unknown, contact City Engineering): 1411 Emma Ave.

Size of Parcel (Area & Dimensions): 9575 sq. FT 101.06 94.97 91.06

Present Land-Use: residential 84.97 94.97

Proposed Land-Use: Residential 84.97 91.06



Covenants or Deed Restrictions on Property: Yes No

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): Penny B Levy Revocable Trust
(Recorded Owner) 1411 Emma Ave Blgs. Mt. 59105
(Address) 406-860-8554 levypeno@hotmail.com
(Phone Number) (email)

Agent(s):
(Name)
(Address)
(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 Zone Change. Also, I attest that all the information presented herein is factual and correct.

Signature: Penny B Levy (Recorded Owner) Date: March 30, 2022



March 28, 2022

Re: zone change 1411 Emma Ave

The present zoning is N-2 Mid-Century Neighborhood. It was previously a N-3 Zone. My home is not built to the specifications of a mid-century home. There were I believe two homes in Emma Jean sub division that were changed from N-3 to N-2 along with several of Charlie Felton's lots. The lots and the one home that was changed from an N-3 to an N-2 have now been approved to change back to the N-3. I am requesting that my home also be changed back to the N-3 zone.

I also am requesting that I am not billed to have this process billed to me, as I am requesting it be put back into the original zone that my home was built and the construction of my home is also not that of a mid-century.

Thank you,

Penny R. Levy

Penny R. Levy
406.860.8554

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:** N2 - Mid century neighborhood
2. **Written description of the Zone Change Plan** including existing and proposed new zoning:
N3 - Suburban neighbor
3. **Subject Property Map:** please attach to this form
4. **Legal Description of Property:**
Emma Jean Sabin and filing (15) S 23 T 1 N, R 26 Block 1 Lot 2
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 _____, day of _____, 20__.
 - 2) The zone change application is based on materials presented at the meeting.

Owner (s): Penny R. Levy Telephone: 406 - 860 855 4
Address: 1411 Emma Ave Email: fullcircle Realty.penny@gmail.com

Agent (s): _____ Telephone: _____
Address: _____ Email: _____

December 2, 2021

Dear Property Owner,

This letter is to inform you of an informational meeting regarding a zoning change for Emma Jean Heights Subdivision, 4th Filing, that is being made to the city of Billings. The meeting will be held at 1410 Jean Avenue in the Emma Jean Heights Subdivision on December 11, at 10:00 am.

As you may or may not know, the city recently adopted a new Zoning Code for the entire city. The 1st, 2nd, and 3rd Filings in the Emma Jean Heights Subdivision are now zoned N-3. This is labeled by the city as suburban residential zoning and homes that have been built in the subdivision meet this zoning guideline. The 4th Filing (new filing with vacant lots available) has been zoned N-2, which is labeled by the city as mid 20th century zoning and does not allow for many of the features found in the style of homes that have been and are currently being built in the subdivision. This issue came to the developer's attention when it was discovered that the homes currently being built (and approved by the city) were apparently approved in error after the new zoning took effect. Other than the public hearings regarding the new Zoning Code, there was no notice by the city and it is still not clear to the developer why the change was unilaterally made. There had been no notice by the city of the change that was made and it is still unclear as to why. The City of Billings is requiring the developer and land owners of 4th Filing lots formally apply to change the zoning district to N-3, a zoning designation that will match the rest of the subdivision. It is the city's position that it does not "zone downward", but it is the position of the developer that the 4th Filing has been zoned downward so that the zoning request change will be submitted to protect Subdivision property values.

Attached you will find the city supplied definitions of N-2 and N-3 zoning, the legal descriptions of the Emma Jean 4th Filing lots, map of Subdivision showing current zoning, as well as the contact information for the current owners of affected lots.

Developer, Charles Felton, believes this is in the best interest of all lot owners in the Subdivision to maintain the attractive look and desirability of the Subdivision. 100% of the builders currently building in the 4th Filing of the Subdivision have signed the application for the requested change as well. The developer will be present at the meeting to answer any questions you may have regarding the proposed change to N-3 zoning to conform with the rest of the Subdivision.

Sincerely,

 *Charles J Felton*

Charles Felton
(406) 239-4964
1616 Bitterroot Drive
Billings, MT 59105

EMMA JEAN HEIGHT REZONE MEETING

DEC 11, 2021

ATTENDEES

	FULL NAME *	PHONE *	REASON
1	William C. Urickson	406 480-1462 EMAIL Willcutband@yahoo.com	
	Phyllis A. Urickson	406-480-2673 EMAIL	
3	ARDENE BIERWAGEN	406-598-8803 EMAIL	
	Susan Schleining	406-208-5785 EMAIL *Prefer Hockey 59102@hotmail.com	
5	Terry & Schlemmer	406-281-0524 EMAIL WRongway 59105@hotmail.com Dec 11-10 AM	Meeting
	Ross McCulloch	406 860 4586 EMAIL bttrekker@bresnak.net	
7	Stan Kondracki	406-698-7079 EMAIL skondracki@bresnak.net	
	Scott Helmbrecht	406-672-5552 EMAIL scottfeyel@hotmail.com	
9	Brianna Monahan	760-914-1726 EMAIL briemonahan91@gmail.com	
	William Thompson	406.850.9765 EMAIL	

EMMA JEAN HEIGHT REZONE MEETING

DEC 11, 2021

ATTENDEES

11 FULL NAME * PHONE * REASON
 Steven SPRAGUE JR 406 480 0863
 EMAIL STEVENSPRAGUEJR@YALCO.COM

FULL NAME * PHONE * REASON
 GARY BECKER 406 696-9940 CONCERNS
 EMAIL gbecker64@gmail.com ??

13 FULL NAME * PHONE * REASON
 Jerry Stoltenberg 406-698-8309 Lot Owner
 EMAIL wrench2424@gmail.com

FULL NAME * PHONE * REASON
 Jason Cummings 626 827 0478 Owner in the
 EMAIL Cummingsjg@hotmail.com Neighborhood

15 FULL NAME * PHONE * REASON
 Vanessa Cummings
 EMAIL Vanessa.ovando@gmail.com
 "on REASON ↓

FULL NAME * PHONE * REASON
 Lindsey wright (406) 671-0785
 EMAIL Jacob wright

17 FULL NAME * PHONE * REASON
 EMAIL

FULL NAME * PHONE * REASON
 EMAIL

19 FULL NAME * PHONE * REASON
 EMAIL

FULL NAME * PHONE * REASON
 EMAIL

Synopsis of meeting for preapplication neighborhood meeting for request of rezone of Emma Jean Heights

Meeting was held at 1410 Jean Avenue Billings, MT on December 11, 2021 at 10:00 am

Several people from the community attended the meeting and they are documented on the attached attendees list with contact information.

Charlie Felton and Kerry Martinson explained the chain of events in a chronological order, including summarizing e mail chain between city employees, Charlie Felton & Kerry Martinson that prompted the rezoning request after discovering that the 4th filing of the subdivision had been rezoned to an N-2 designation in late November.

Multiple attendees questioned why the change was made and voiced that they are unhappy with the change to N-2 zoning. All attendees were surprised and concerned that the city has the ability to rezone property without notifying property owners. City documents describing N-2 and N-3 zoning and a map of lots in subdivision were provided in all mailings with notice of meeting. The differences between homes and setbacks for the 2 zoning designations were discussed at length. Beau Thompson, owner of Thompson Homes and longtime builder in the subdivision shared how the changes have negatively impacted him.

100% of attendees agreed that they are unhappy with the city decision to change the 4th filing to an N-2 zoning designation, that homes built meeting N-2 zoning will damage the aesthetics of the subdivision, and fear that their property values will decline if N-2 zoning remains in place. 100% of attendees are supportive of change to N-3 Zoning. There was a large amount of frustration with the city voiced by attendees, as there is no understanding why this change was made. Charlie Felton then explained the city position that 2 family homes can be built on the lots and that he is only intending to have single family homes built in the future.

Discussion ensued between attendees and they agreed that they will be reaching out to city council members to encourage the zoning to be changed to N-3 as well as actively encouraging the city to make the zoning change to an N-3 designation. The meeting ended at 10:50 am.

Synopsis prepared by Kerry Martinson

SUBJECT PROPERTY	Zone Change #	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
SURROUNDING PROPERTY	Zone Change #	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
Emma Jean Heights	City ZC 1007	Mar 2022	N2 to N3	Y	
Lot 2, Block 1 Cherry Creek Estates	County ZC 496	Feb 1998	A-1 to R-70 and RMH	Withdrawn	
	City ZC 633	April 1998	A-1 to R-70	Withdrawn	Northern lot on Wicks Lane
	County ZC 506	August 1998	A-1 to R-96	Approved	Riverview Estates east of Cherry Creek
	County ZC 524	Dec 1999	A-1 to PD with RMH & Public zones	Denied	BOCC recommended annexation
	County ZC 541	April 2001	A-1 to R-96 & Public	Approved	Subject Property
	County ZC 543	May 2001	A-1 to RMH & Public	Approved	Litigated & BOCC Decision Affirmed
	County ZC 551	March 2002	Clarifying Zone Boundaries R-96 & Public	Approved	
	City ZC 696	April 2002	A-1 to RMH, RMH to Public & R-96 to Public	Withdrawn	Mistaken submittal by agent
	City ZC 702	July 2002	RMH & Public to R-96	Denied	City Council initiated after annexation in June 2002
	City ZC 703	10/6/2020	R96 to R80	Denied	
	City ZC 983	7/27/2020	P to R80	Withdrawn	
	County ZC 562	July 2003	A-1 to R-96	Approved	Small area east of MHP
	County ZC 673	March 2016	R-96 to RMH	Withdrawn	Subject Property
Cherry Island Est	City ZC 995	9/13/2021	RR1 to P1 & N3	y	
Bitterroot Sub, Lt 1-16, bk1	City ZC 673	9/14/98	R7 to R96	Y	
Bitterroot Heights	City ZC 751	2/14/05	R7 to R7R	Y	
1922 – 1950 Mary St	County ZC 85	4/27/1976	R-70 to RMH	Y	Court reversed ZC
1415 Yellowstone River Rd	County ZC 312	1/22/1982	R-70 to Public	Y	Eagle Cliff Nursing Home
1817 Bitterroot Dr	County ZC 371	11/84	R-70 to R-60	Withdrawn	Annexed
Bitterroot Dr & Walter Rd	County ZC 505	9/28/1998	R-70 to R-96	Y	Multiple owners adjacent to Cherry Creek
1601 – 1747 Wicks Ln	City ZC 637	9/14/1998	R-70 to R-96	Y	Multiple owners adjacent to Cherry Creek
Caleb Park Hawthorne & Wicks Ln	City ZC 761	9/20/2005	R-70 to R-50	Y	Townhomes