

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

Change zoning from N-2 to N-3

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

- 4. **Legal Description of Property:**

numerous & attached

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

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- 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 11<sup>th</sup>, day of December, 2021.

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

**Owner (s):** Fallon Assoc Inc. Charles Fallon Telephone: (406) 239-4964

Address: P.O. Box 598 Frenchtown, MT 59834 Email: Charlie.fallon@yahoo.com  
Cindysoffice@yahoo.com

**Agent (s):** Kerry Martinson Telephone: (406) 690-5737

Address: 2044 Broadwater Ave Email: kerry.martinson@outlook.com  
Billings, MT 59102

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, 4<sup>th</sup> 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 1<sup>st</sup>, 2<sup>nd</sup>, and 3<sup>rd</sup> 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 4<sup>th</sup> Filing (new filing with vacant lots available) has been zoned N-2, which is labeled by the city as mid 20<sup>th</sup> 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 4<sup>th</sup> 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 4<sup>th</sup> 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 4<sup>th</sup> 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 4<sup>th</sup> 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

**SECTION 27-306 N3 DISTRICT**

The following site and structure regulations apply to any lot in the N3 district. Refer to 27-303 for general regulations applicable to all districts and Table 27-300.5, below, for regulations specific to this district, keyed to illustrations in Figure 27-300(3). See Article 27-1800 for definitions and information on how to measure the following regulations.

**TABLE 27-300.5 : SITE AND STRUCTURE REGULATIONS**

<b>A. BUILDING SITING</b>		<b>REFERENCES</b>
<b>1</b>	Minimum Lot Width (feet) per principal building 65 Minimum Lot Size (square feet) per principal building none	See Article 27-1500 existing lots of record. See 27-306.C for exemption from minimum lot widths.
<b>2</b>	Maximum Building Width (feet) None	
<b>3</b>	Front Setback (feet) 20 minimum	
<b>4</b>	Street-Side Setback (feet) 10 minimum	
<b>5</b>	Side Setback (feet) 5 minimum Space Between Principal Buildings on Lot (feet) 10 minimum	
<b>6</b>	Rear Setback (feet) 5 minimum	
<b>7</b>	Accessory Building Yard Location Rear	
<b>8</b>	Accessory Building: Rear Setback (feet) 5 minimum, except 0 at alley	
<b>9</b>	Maximum Total Building Coverage (%) 40	
<b>10</b>	Permitted Driveway Access Location Any	See BMCC Section 6-1200 for driveway access standards.
<b>11</b>	Attached Garage Entrance Location Any façade; front façade limited to no more than 50% of façade	
<b>B. Height</b>		
	Principal Building: Maximum Height (stories) 3 Maximum Height (feet) 34	See Article 27-1800 for instructions for measuring height.
	Accessory Building: Maximum Height (stories) 1.5 stories, no taller than the principal building	Accessory roof pitch shall match principal building

SINGLE-UNIT HOME

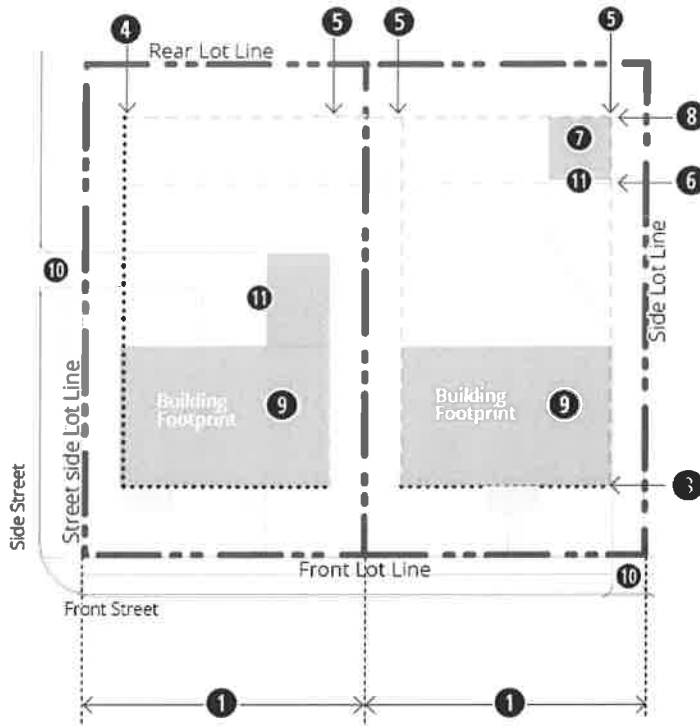


Figure 27-300(3)- N3-district diagrammatic plan.

C. Supplemental Regulations

Lots on cul-de-sacs and flag lots are exempt from minimum lot width regulations. See also Article 27-1500, Nonconformities, for existing lots of record.

## SECTION 27-305 N2 DISTRICT

The following site and structure regulations apply to any lot in the N2 district. Refer to 27-303 for general regulations applicable to all districts and Table 27-300.4, below, for regulations specific to this district, keyed to illustrations in Figure 27-300(2). See Article 27-1800 for definitions and information on how to measure the following regulations.

TABLE 27-300.4 : SITE AND STRUCTURE REGULATIONS

A. BUILDING SITING			REFERENCES
1	Minimum Lot Width(feet) per principal building	50	See <u>27-305.D</u> for 2-unit buildings. See Article 27-1500 existing lots of record.
	Maximum Lot Width (feet) per principal building	120	
2	Maximum Front Building Width (feet)	80 per principal building	
3	Front Build-to Zone (feet)	10-20; match block face average	See Article 27-1800 for block face averaging instructions
4	Street-Side Build-to Zone (feet)	10-15	
5	Side Setback (feet)	5 minimum	
	Space Between Principal Buildings on Lot (feet)	10 minimum	
6	Rear Setback (feet)	5 minimum	See <u>27-305.D</u> for side street lots
7	Accessory Building Yard Location	Rear	
8	Accessory Building: Rear Setback (feet)	3 minimum, except 0 at alley	
9	Maximum Total Building Coverage (%)	40	
10	Permitted Driveway Access Location	Any	See BMCC Section 6-1200 for driveway access exceptions
11	Attached Garage Entrance Location	Any façade; front façade limited to no more than 50% of façade	
B. HEIGHT			
12	Principal Building: Maximum Height (stories).	1.5; 2 stories on maximum 60% of footprint except as provided in 27-305.D	
	Maximum Height (feet)	27	
13	Accessory Building: Maximum Height (stories)	1.5 stories, no taller than the principal building	Accessory roof pitch shall match principal building
C. WINDOWS, FRONT DOOR, ROOF			
14	Minimum Window & Door Coverage: Front Façade (%)	15 per story	Measured per each full and half story. See Article 27-1800 for information on measuring window and door facade coverage
15	Front Door Location	Street Façade	See <u>27-305.D</u> for 2-unit buildings.
16	Permitted Roof Types	Low pitched, flat	See Article 27-1800 for definition of roof types and exception for other allowed roof types.
	Minimum pitch	3:12 (rise:run)	
	Maximum pitch	6:12 (rise:run), except as provided in 27-305.D	

SINGLE-UNIT OR TWO-UNIT HOME

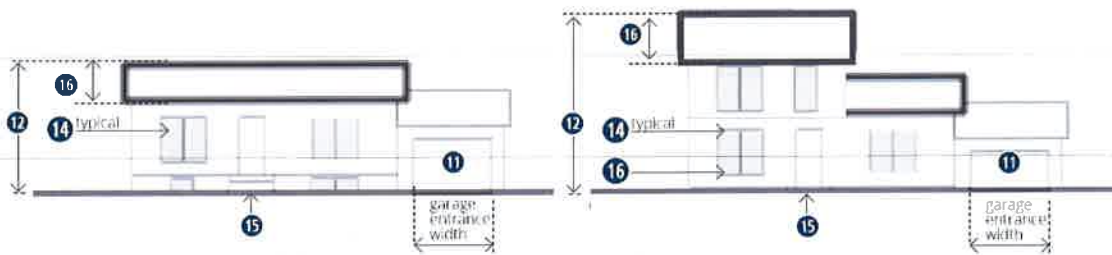
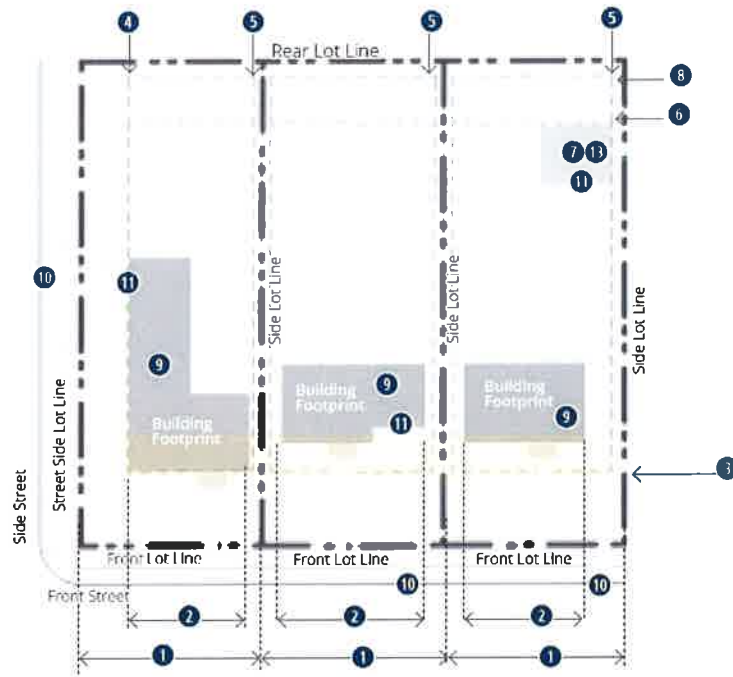


Figure 27-300(2). N2 district diagrammatic plans and elevations.

D. Supplemental Regulations

1. Side Street Lots. Side street lots are those lots located along the short end of blocks, where the front of the lot faces the side street and the depth of the lot is generally the width of most of the lots on the block. Lots with only side street frontage are allowed maximum building coverage of 80%.
2. The following standards apply to 2-unit buildings:
  - (a) Configuration. Allowed configurations include the following: side-by-side per below, stacked units, front and rear units, all located in the principal building; two principal buildings on one lot; or a principal building with an accessory building (see Article 27-1000).
    1. Garage entrances located on the front façade are limited to no more than 50% of the front façade width.
    2. Up to two front door entrances are permitted on the street façade (Table 27-300.4.C)
    3. Principal buildings may have two stories for the entire footprint of the structure.
    4. Roofs may exceed the 6:12 maximum roof pitch.



Notification Area

Press down to start and let go to finish

300 ft radius map – parcels in Emma Jean Heights 1st Filing – Zone Change N2 to N3





Map above indicates Emma Jean Heights Subdivision 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, and 4<sup>th</sup> Filings

City provided Definitions of N-2 and N-3 Zoning below. Note that existing homes in Emma Jean Heights do not meet N-2 Zoning Guidelines.

**N2: MID-CENTURY NEIGHBORHOOD RESIDENTIAL** The N2 district is intended to continue the existing character of the residential neighborhoods with single-and two-family homes developed during the middle of the twentieth century. This district may also be used for new neighborhoods designed with similar characteristics of the mid-century neighborhoods. These characteristics include homes wide on the lot, proportionate garages located in the front façade, low pitched roofs, and doors and windows on the front facades. Building and garage location are specified in the regulations, with basic parameters for front doors and windows

**N3: SUBURBAN NEIGHBORHOOD RESIDENTIAL** The N3 district is intended for residential neighborhoods primarily with single-family homes. Characteristics include wide lots and attached garages typically located on the front building façade, often greater than 35% of the façade. Basic setback and height parameters apply.

## Pre application Statement of Owner or Agent

Re: Zone change request – 4<sup>th</sup> Filing of Emma Jean Heights Subdivision

The zone change from N-3 to N-2 would be inconsistent with the intent for single family homes. With the changes in the set backs in the front and back of new homes with current N-2 zoning, it would be a great contrast with the already over 100 homes built and would seriously change the look of homes built in the subdivision. It is not the intent of the developer to change the look or characteristics of the subdivision. I believe the changes made by the Zoning and Planning Department would diminish the number of future lot sales, and devalue the value of existing homes and lots. I have already lost many lot sales over the erroneous change of zoning for the 4<sup>th</sup> filing and have had threats of lawsuits for recent lot sales against myself and my Realtor, Kerry Martinson.

There is a great need for single family homes with -3 zoning. N-3 zoning protects people with existing homes in the subdivision from box like looking homes and from multi family homes being built in the subdivision, now that multifamily homes can be built on a 7000 sf lot. With regard to Emma Jean Heights Subdivision, any multifamily builds would create parking issues and would inundate the streets with parked cars and trucks making travel and snowplowing a challenge. In closing, I would ask to change the zoning of the 4<sup>th</sup> filing of the subdivision to an N-3 designation that would be consistent with the current homes built in the subdivision and would better reflect the old zoning of R-7000. I also have several 4<sup>th</sup> filing lot sales pending with a contingency in each contract of the approval by the City of Billings for zoning of those lots to be changed to N-3.

Emma Jean Heights is a planned development in the Billings Heights of approximately 60 acres in size with an estimated build out of 190 lots. The master plan was approved in 2007 after a lengthy process with the City of Billings departments, HKM Engineering and the Developer. Covenants and restrictions were drafted with input of the City of Billings and to reflect the developers desire to create a subdivision of mostly single family homes. The property was also annexed into the City of Billings so that the developer could create a higher density and provide city services of water, sewer, and garbage collection as well as public transportation to the residents of the subdivision. A land dedication of greater than 11% was granted by the developer to provide for a large city park and a walking path that runs through the entire subdivision from Bitterroot Drive to Hawthorne Avenue. As part of the agreement, it was agreed that the trail would be constructed by the developer as part of the development cost. A list of street names were provided to the Fire Marshall and through interaction between the developer and the Fire Marshall, street names were chosen so that emergency personnel would

# 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 bttekker@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 4<sup>th</sup> 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 4<sup>th</sup> 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