



**City of Billings Zoning Commission
Meeting Minutes January 3, 2023**

The City of Billings Zoning Commission met on Tuesday, January 3, 2023 at 4:30 p.m., 2825 3rd Ave North, 1st floor conference room of the Miller Building. The public may attend in person or watch the meeting live on Facebook (see below). The Public may call in during specific Public Comment periods at **(406) 237-6165**. All callers will be in a queued system and are asked to remain on hold and be patient. Calls will be taken in the order they are received. Callers will be restricted to 3 minutes of testimony as is customary. Comments may be sent to **Board via email before 1:00 PM on Tuesday, November 1, 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://tinyurl.com/yckr478k>

The City Council has designated January 23, 2023, at 5:30 p.m. as the date and time to receive the Zoning Commission recommendation for the **Special Review** and hold a public hearing.

The City Council has designated February 13, 2023, at 5:30 p.m. as the date and time to receive the Zoning Commission recommendation for the **Zone Change** and hold a public hearing The Council will **conduct a public hearing for the first reading of the ordinance on February 13, 2023**. If approved on first reading, a **second reading will occur on February 27, 2023 at 5:30 pm.**

Commission and Staff		01/03/2023	02/07/2023	03/07/2023	04/04/2023	05/02/2023	06/06/2023	07/05/2023	08/01/2023	09/05/2023	10/03/2023	11/07/2023	12/05/2023
Mike Larson	Chairman	1											
Daniel J. Brooks	Commissioner	E											
Greg McCall	Vice Chairman	E											
Trina White	Commissioner	1											
David Goss	Commissioner	1											
Wyeth Friday	Director, PCSD	-	-	-	-	-	-	-	-	-	-	-	
Monica Plecker	Division Planning Manager	-	-	-	-	-	-	-	-	-	-	-	
Nicole Cromwell	Zoning Coordinator	1											
Tammy Deines	Planning Clerk	-											
Dave Green	Planner II	-											
Karen Husman	Planner I	-											
Robbin Bartley	Administrative Support	1											

Total Number of 2022 Applications	01/03/2023	02/07/2023	03/07/2023	04/04/2023	05/02/2023	06/06/2023	07/05/2023	08/01/2023	09/05/2023	10/03/2023	11/07/2023	12/05/2023	TOTAL
Zone Change	1												1
Special Review	1												1

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

*RETURNING AGENDA ITEM.

Attending:

Chair Larson called the meeting to order at 4:31 pm.

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:

Motion by Commissioner Goss and seconded by Commissioner White to approve the November 1, 2022 meeting minutes with correction.

Disclosure of Conflict of Interest

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

Disclosure of Outside Communication

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

Commissioners White and Goss visited Special Review 995 and Zone Change 1021 locations.

Public Hearings:

City Special Review 995 – Blue Creek Rd & Santiago Blvd – Request for Car Wash – A special review request to allow a carwash facility in a Corridor Mixed Use 1 (CMU1) zone on Lot 1 of Blue Creek Storage Subdivision a .917 acre parcel of land. The applicant has also included requests for variances from the CMU1 Site and Structure regulations in Table 27-400-3 including: (A.1) Build-To Corner, (A.3) Minimum Front Lot Line coverage, (A.4 & A.5) Front and Street-Side Build-to Ranges, (B.8) Parking location, (D.16) Window and Door requirements, and (D.18) Number of Entries on the Front façade; Sec. 27-1005 (Q.1) Carwash bay doors on the front façade, (Q.3.b) location of open air vacuuming facility in the front or street-side yard. A pre-application neighborhood meeting was held on November 21, 2022.

Staff Recommendation:

Planning staff is recommending approval and adoption of the proposed findings of the 9 criteria for Special Review 995.

- Special Review Uses are “special exceptions” in the zone district – not allowed uses
- Proof of compatibility of the Special Review Use rests with the applicant
- Nine Review Criteria
 1. Consistent with the City’s growth policy
 2. Will not endanger the public health, safety, morals, comfort, or general welfare
 3. Site is adequate in size and topography to accommodate the use
 4. Will not be injurious to the use and enjoyment of other property nor diminish and impair property values
 5. Will not impede the normal and orderly development of the area
 6. Conditions necessary to protect the public health, safety, and general welfare can be established
 7. Site has or will have adequate utilities, access roads, drainage, and/or necessary facilities
 8. Adequate measures taken to provide ingress and egress

9. The special review use shall, in all other respects, conform to the applicable regulations or as modified by the City Council

- 1. Approval is for operation of a carwash with 2 auto wash bays and 4 self-service wash bays, 5 outdoor vacuuming stalls on this lot.
- 2. Substantial conformance with submitted site plan – operational hours from 5 am to 10 pm daily.
- 3. Building design and elevations as shown on the architectural drawings.
- 4. Site obscuring wall on the north and southeast property line as shown on plan sheet. Materials will be a masonry wall or facsimile of masonry (Rhino Rock) and will use earth tones. Wood, vinyl and chain link not allowed for this wall location. Proposed sight obscuring fence on south property line may be wood or matte-finish vinyl.
- 5. Install required number of street trees along the inside of new sidewalk on Santiago Blvd. Deciduous trees that will not impeded existing or future infrastructure. Shielding of vacuum stalls on the west property line will be a combo of ornamental grasses and shrubs including evergreen shrubs.
- 6. Landscape plan for property will be prepared and stamped by a MT licensed landscape architect.
- 7. Site plan submitted for Building permit review will include a snow storage area and the location and detail for the trash enclosure.
- 8. All installed landscaping will be maintained and replaced as needed.
- 9. Pavement markings to ensure pedestrian and direction of vehicle travel will be provided on the site.
- 10. No internally illuminated fascia is allowed and all lighting on the building will have full cut-off shields.
- 11. Max height of parking lot lights will be 15 feet and installed with full cut-off shields.
- 12. No exterior attached signs on the building façade that faces east.
- 13. All signs shall comply with code for CMU1 district and any lighted sign will not be lit during non-operational hours.
- 14. Submit a building permit within 1 year of approval and complete the project within 2 years of building permit issuance.
- 15. Requested variances and modifications of site and building standards for CMU1 are specifically approve.
- 16. Minor modifications of the site are allowed (10% or less)
- 17. If special review use ceases for 6 consecutive months or more, a new special review approval is required to re-establish the use.
- 18. Council reserves the right to re-open the conditional approval if the owner fails to respond to a notice of non-compliance with conditions of approval within 45 days. Notice to owner at least 60 days in advance of Council hearing
- 19. Conditions run with the land and are binding on current and future owners.
- 20. Right of building and occupancy permits are contingent on fulfillment of conditions of approval.

Discussion. Questions for staff:

Applicant: Scott Aspenlieder, PEC

Scott Aspenlieder, agent for the owner, stated the owner has no objection to any of the proposed it was his understanding the zone change (Zone Change 1017) to CX - Heavy Commercial was denied due to the other types of uses that could occur in that district - not that a car wash facility was not appropriate at this location. He stated any use of the property - car wash or otherwise would require an applicant to seek variances from the CMU1 district requirements to build to the property line. Mr. Aspenlieder stated the owner lives in Briarwood and also owns Blue Creek Storage directly adjacent to the subject property. He stated he reached out at every opportunity to discuss concerns with the neighborhood, but only one person contacted him about how to work with MDT on a safety study. He stated he sits on the Highway Commission as a representative of this MDT district, and he can offer informed assistance to residents. He stated the County recently sent a letter to MDT requesting a safety study for this section of Blue Creek Road. He stated these studies can take time and would need to be reviewed and recommendations approved by the Highway Commission prior to any improvements by MDT. Mr. Aspenlieder stated only 4 students (SD 2 - Middle School and High School) from Cedar Park subdivision walk down Santiago to catch the bus at Casey's corner. He stated they asked the city (Engineering) if they could build the new sidewalk on the north side of Santiago where it would be the most beneficial to these students, but this was not allowed. The new sidewalk will be built on the south side of Santiago next to the subject property. He stated there has been a queuing analysis that was reviewed by City Engineering. The final conclusions of the queuing analysis were approved by the City Engineer. The analysis shows there will not be queuing out into Santiago Blvd and internal circulation will work. He stated the noise review from both the automatic wash bay blowers and the vacuums on the west side shows the noise at the property lines will be well below even the nighttime maximum in the city code. Mr. Aspenlieder stated the owner has agreed to the restricted hours of operation to find middle ground with the neighborhood. Blue Creek Rd is a commercial corridor at this location south of the Yellowstone River. The zoning is in place and development will happen because the public infrastructure is in place. In response to a question from Commissioner Goss, Mr. Aspenlieder stated the peak hours for the car wash generally coincide with the peak traffic hours on Blue Creek Rd - am to 8:30 am and 4 to 5:30 pm. Mr. Aspenlieder stated there is no intention by the owner to develop anything in the flood plain and the condition requiring a Landscape Architect to design the

site will help preserve the flood plain intact. In response to a question from Commissioner White, Mr.

Aspenlieder stated the peak hours for the self-service wash bays are not the same as the automatic Wash bays. He stated if there is an open self-service bay, people will pull in but if all the bays are full, those potential customers keep going and will not queue and wait.

Questions for applicant:

Public Hearing: 5:20 PM

Chair Larson opened the public hearing and called for anyone wishing to speak in favor or against Special Review 995.

In Favor:

Opposed:

Mr. Vanica stated he was concerned with the internal traffic circulation and that it may allow cars to queue out onto Santiago Blvd. Mr. Vanica also stated the special review criteria (Criteria 3) specifically requires a proposed use to adhere to the zone district requirements. He also was confused why the applicant is requesting these variations from the code requirements through the special review because the Board of Adjustment normally reviews requests for variances. He stated the Commission should recommend denial based on these irregularities in the process as well as the internal site circulation issues. Michele Johnson stated the residents in the area should have the biggest input on what goes on this property since they will be the most effected. She stated the service is not needed at this location since it is less than a three minute drive to the Holiday station car wash on South Billings Blvd. She stated the traffic to and from the car wash will just add more confusion to the chaos of traffic on Blue Creek Road. Ms. Johnson stated the comparison of traffic on S 32nd St W to Blue Creek Rd by staff does not make sense. She stated the Cedar Park Subdivision may have a second access road soon. She stated leaving out first responders from the discussion is not wise. She stated the Blue Creek Fire Dept objected to the zone change and their concerns have not been addressed by this application. Cecil Werven stated he is opposed to the application because it has access on the local street and not the commercial street - Blue Creek Road. He stated the Zoning Commission should not be hearing the application because the zone change was denied and Section 27-1611 of the zoning prohibits a subsequent application on the same property for one year. Mr. Werven stated he does not believe MDT actually denied the drive approach on to Blue Creek Road. Wendy Stiff stated the City Council made its decision at the zone change hearing on a 7-3 vote denying the project. She stated it was not denied based on other uses that might be allowed in the CX but by the zone change criteria findings and the proposed use. She stated the County's request for a safety study will bring new information to the Zoning Commission and would be vital information to have prior to any decision on this project. She stated the project does not meet the city's growth policy for infill. The cost burden to the existing residents is too high especially the Cedar Park subdivision residents. She stated Zoning Commissioners would be opposed if this were located on a corner near their own neighborhoods. She state Mr. Pimley, the owner, did reach out to their newly formed Blue Creek Corridor Commission to join and continue a dialogue. Mr. Pimley has since stopped communication with our group. Charles Stiff spoke in

opposition to the request. He stated the location of this car wash makes as much sense as the new Chick-fil-A at Rosebud and 24th St West. He stated all the residents in the room were opposed to the special review. He stated the Zoning Commission should not be hearing this application since the denial of the zone change happened less than one year ago. He stated developers and consultants receive special treatment from staff and Commission. He stated people are tired of the rubber-stamping that goes on at the expense of the existing neighborhoods. He stated both the Ward 3 Council members voted against the zone change. He stated he was concerned the car wash could have bottlenecks if people drive in with trailers or RVs. Sherry Danielson stated she has lived in the Blue Creek area for 43 years and is opposed to the use of this corner for a car wash. She stated she has watched the traffic increase in volume and speed over the years. She stated there are not just trash trucks going to landfill anymore. Landfill traffic includes large 18-wheeler side dump rigs as well as pick up trucks. She stated the road has about three wrecks a year at Jellison and Blue Creek Road and these are not minor fender benders. She stated these crashes take out guardrails and have serious injuries. She stated 250 vehicles using this car wash every day will just add to the terrible traffic situation on Blue Creek Road. She also stated this owner is not managing or maintaining the storage unit property very well. She stated all the trees died that were planted in the front yard and was only mowed twice last summer. She does not believe the owner will take care of this property any better than the storage units. She stated when the owner needs to ask for seven variances, then the Zoning Commission should just deny the request. Heather Haynes stated she was opposed to the application. She stated she has lived here for 12 years and is a single mother of four kids. She stated the out-of-date MDT traffic study does not include any of the new traffic from all the County subdivisions done since 2006. She stated the Assistant Fire Chief for the Blue Creek Fire Department asked MDT for a yellow flashing light on Blue Creek Rd when the fire station moved out of Cedar Park and onto Blue Creek Rd. MDT denied the requested flashing light. She stated the expectation that MDT would make safety improvements is not reasonable. She stated building a new sidewalk on the south side of Santiago is useless. She would not let her kids use it when they would have to cross Santiago to get to Casey's Corner for the school bus. She stated that queuing of cars for the car wash could potentially block Santiago Blvd creating a safety hazard for her neighborhood. She stated the landfill traffic is already a problem and this car wash would just add to that issue. She stated none of the residents in the area need a car wash. Jim Danielson stated he is very concerned about more water getting on Santiago Blvd in the winter. He stated it is already a problem just from the water filling stations on the north side of Santiago. Gregg Morgan stated he probably lives closest to the new car wash property. He stated the applicant has worked to address his concerns. He is not opposed per se and will probably use the car wash when it is built. He stated he is concerned about what use could be allowed by right if this project is denied. He was concerned the alternatives might be worse for the area than the proposed car wash. Terry Henneberry stated he has lived in the area for over 40 years. He stated the owner should have considered connecting this property with the storage unit property before now. He stated the wait time to get out of Cedar Park onto Blue Creek Rd is longer morning and evening. He stated he was not concerned with the vacuum noise because it is the blower noise that is more powerful. He stated he works up at the airport and the building he has to go into requires a secure entry with an intercom. He stated when the rental car automatic car wash went in about 300 feet away, when the blowers are on, he cannot hear anything on the intercom at the secure door. He stated the use of Santiago Blvd - a local street - for the driveway to the car wash is not right. The street is not a

commercial street. He stated he thinks the owner is trying to squeeze too much on the property without regard to its effect on other people.

Rebuttal:

Mr. Aspenlieder provided rebuttal and clarification on the application. He stated there is no way his consulting firm or his clients get special treatment. He stated in the last 10 years representing clients in the city, he has received negative recommendations from staff, from the City Zoning Commission and the City Council. He stated the staff and the public boards all do a great job evaluating projects to make sure they don't impact residents and further the goals of the community. He stated there are some neighbors who are satisfied with work they have done over the last few months to change the overall site plan and iron out issues. Those residents are not here tonight. He stated the issue over the number of students using Casey's Corner for a bus stop is a misrepresentation of my statement. The four students I noted are come down Santiago Blvd. School District 2 picks up 22 students total from Casey's Corner and only four come from the Cedar Park neighborhood.

Public Hearing closed at 5:59 PM

Discussion:

Commissioner Goss stated he was a no vote when this was a Zone Change request. He believes the process would allow a special review and that Zone Changes are a last resort.

Commissioner White is empathetic to the citizens concerns.

Motion

Commissioner Goss made a motion and Commissioner White seconded the motion to approve Special Review 995 with staff findings, recommendation and conditions.

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

The Motion passed to approve Special Review 995 with a 3-0 vote.

City Zone Change 1021 – Vista West – PND – A zone change request from Agriculture (A – County) to Neighborhood 1 (N1), Mixed Residential 2 and 3 (NX2-NX3) and Public 1 (P1) on

Tract 1 and 2 of C/S 2828 and the adjacent drain right-of-way, a 27.7 acre parcel of land generally located north of Rocky Vista Way, west of Shiloh Rd and south of Bell Avenue. There is a concurrent petition for annexation. A pre-application neighborhood meeting was held on October 25, 2022.

Staff Recommendation:

Planning staff is recommending approval and adoption of the proposed findings of the 10 criteria for Zone Change 1021. Planning staff recommends approval of the zone change to N1, NX2, NX3 and P1.

New Zoning Tool to allow more efficient land use decisions

- Concurrent with annexation
- Applies to all requests of ≥ 10 acres
- Helps build new neighborhoods that are walkable, sociable and resilient (BMCC 27-801.A)
- Allows phasing of annexation but adoption of full zoning plan in advance
- Provides more detail on new neighborhood infrastructure (streets/roads)
- Re-submittal of Zone Change 1004 – withdrawn in Feb 2022
- Applicant is requesting variance from Sec. 27-804.C requiring connectivity to existing streets (Bell Ave and Obie Lane)
- **Staff is not recommending approval of the variance**
- Zoning meets the Growth Policy and West Billings Neighborhood Plan
- Adjacent uses and zoning compatible with proposed zoning plan
- Meets the PND zone district standards for zoning district assembly, and compatibility with existing zoning

Discussion. Questions for staff:

The applicant conducted a pre-application neighborhood meeting on October 25, 2022, at the King of Glory Church located at 4125 Grand Avenue. Twenty-seven persons attended the meeting including the applicants, Rick Leuthold and John Halverson from Sanderson Stewart, agent for the applicant. The required notification area for all new PND zone changes is 1/4-mile from the property boundary. In this case, over 180 individual property owners and interested parties were notified of the pending zoning application. The summary of the meeting is included in the attachments. In general, the questions from the surrounding owners included interest in the number of new dwelling units. The applicants estimated at the time of the pre-application meeting about 550 units might be built. Attendees asked about the traffic impacts and access to surrounding existing streets. The agents stated they would seek a variance from the requirement to connect to existing streets and a full traffic impact study would be based on whether the requested variances are approved or not approved. A preliminary traffic study was done on the prior zone change proposal that included two vehicle connections to Bell Avenue. In response to a question about management of the development, the agents stated this would be under one management company. The applicant attended the West End Task Force meeting on November 15, 2022, at the Community Connections Church at 5556 Grand Avenue. Meeting notes from this meeting are also included. A third public meeting was held at Riverfront Park on November 22, 2022, at 10:30 am. Notes from this "public

event" are also included. Planning staff did not receive any written comments or phone calls from the surrounding owners prior to preparing the Zoning Commission report and recommendation. City staff and departments had no negative comments on the proposed annexation and zoning plan except for the requested variance from connecting existing streets to this development. City staff does not support the variance. City staff believes at least one vehicle connection should be made to Bell Avenue and a connection to Obie Lane, a County public road at this time, should be developed. The Zoning Commission did not concur with the staff recommendation to deny the requested connectivity variance. The Zoning Commission did concur with the staff recommendation of approval for the zoning plan. The Zoning Commission conducted its public hearing on January 3, 2023, and received the staff report, testimony from the agent and from surrounding property owners including, Steve Zeier of Trinity Real Estate, Terry Kaufman of 110 Big Pine Court, Toby Erickson, of 4142 Banbury Place, who was speaking on behalf of the several owners in Legends West and Twin Pines, Missy Erickson of 4142 Banbury Place, Mike Hinthorn of 4160 Bell Avenue, Lisa Owen of 4160 Obie Lane, Nancy Pederson of 26 Twin Pines Lane, and Lincoln Powers of 4185 Obie Lane. John Halverson of Sanderson Stewart spoke as agent for the property owner, Mr. Rick Dorn. He presented the history of the project for annexation and zone change. He stated the original request had significantly more NX3 zoning and adjacent development was not addressed in the zoning plan. He stated the current proposal respects the adjacent zoning of N2 to the north and the RR1 zoning to the east by providing compatible zoning of N1 to the north and east. In addition, there is a plan for a small lot in the northeast corner, zoned Public 1, and a large central recreation area for all the residents also zoned Public 1. Mr. Halverson stated the request for the variance from the connectivity requirement is based on potential traffic management scenarios and on the requests from the adjacent owners on Obie Lane and Bell Avenue as well as the residents in the developments north of Bell Avenue. He stated there is proposed to be a pedestrian connection to Bell Avenue, but the east property line adjoining Obie Lane and Bell Estates subdivision (county) is planned to be fenced off with no connection. He stated the N1 zone on the north and east will allow for compatible dwellings to be developed with similar building heights. Mr. Halverson presented a slide show with a graphic showing the different building heights allowed and the geographic relationship to existing homes to the east and north. He stated the taller buildings in the proposed NX3 zone would be at least 290 feet west of Obie Lane homes and at least 350 feet from homes in Twin Pines.

He stated this location is within 1/4 mile of Shiloh Road which is a major corridor in Billings where a variety of housing choices are available including mixed uses at Shiloh Commons with ground floor-retail and apartments above, apartments in Lenhardt Square and to the east of Shiloh Road as well as manufactured home parks to the east. He stated not everyone who lives in Billings is a homeowner and the latest information shows that at least 35% of the Billings population rents. He stated none of those renters are represented at this meeting. He stated the developer intends to build a variety of housing choices on the property to help create naturally occurring attainable housing. None of the units are intended to be subsidized and will be market rate products. He stated the owner provided three opportunities for surrounding owners and the public to learn more about the proposed development prior to submitting the application to the city. The first meeting was by invitation to the surrounding owners in November. The agent also attended the Westend Task Force meeting in November and a public activity in Riverfront Park to ask people about their experiences in Billings, and their opinion on the proposed development plan. Mr. Halverson stated, the project was generally

well received, but the surrounding owners still had concerns with the access to the property. He stated the application conforms to the city's Growth Policy and Westend Neighborhood Plan. He stated that traffic volume is not dangerous - but traffic speed is dangerous. He stated the illustrated concept plan showing the internal street system is provided with traffic-calming throughout reducing traffic speed. He stated high traffic volume streets can be designed to make it safe for cars and pedestrians. He stated the location of the project we give these residents the opportunity to use other transportation options and not have to drive everywhere. He stated the recreational, educational and shopping opportunities are all within a comfortable walking distance to the property.

Residential density of property makes these nearby amenities and destinations sustainable. Mr. Halverson pointed out the multi-use trail on Shiloh Road is now part of the Billings Marathon Loop and is within walking distance of the newly open medical college at Rocky Vista University. He stated the clear limiting factor for economic growth in Billings is the availability of housing for workers in existing and new businesses in Billings. He stated this location within 1 mile of the primary corridor intersection of King Ave West and Shiloh Road makes compact and efficient land use a good choice. Mr. Halverson stated this new zoning plan has almost three times the minimum required open space area for a PND and this will help improve the sustainability of the neighborhood. He stated the city and state investment in Shiloh Road should be supported by well designed neighborhoods with amenities and not just big yards. He stated the zoning plan is supported and complements both the zoning to the north and east and the south and west. Mr. Luethold, speaking as an agent for the applicant, stated the annexation and zone change proposal are a good fit with the city's growth policy. He stated Josephine Crossing is a good example on how to handle lots of traffic with pedestrian safety throughout. He stated the developer will contribute to any off site and adjacent right of way improvements that are needed. These needed improvements are identified through a complete traffic study. As part of the previous application, a preliminary traffic study was done, but this is incomplete. A complete traffic study will be required once a zoning plan is finalized and the developer begins work on finalizing the development plan. One of the examples of an off site improvement might be upgrades to the Bell Ave street section where it crosses the drain at Shiloh Road. He stated there are deficiencies in the width and geometry at the crossing and there is a wooden fence in the clear vision area that blocks vehicle sight distance for pedestrians and bicyclists on the multi-use path. Mr. Luethold stated improvements will be done on Bell Avenue where it is adjacent to the property and if other improvements are required by the traffic study, those will be done as well. He stated the variance request is based on requests from the adjacent owners, and based on the perception that this development will add an uncompensated burden on these adjacent neighborhoods. He stated the owner is open to leaving utility easements available to Bell Ave and Obie Lane if needed for future utility connections. In response to a question from Commission member David Goss, Mr. Luethold stated the reason no access to Obie Lane is provided is the clear

concern from these neighbors that people from this new development would wander through the subdivision. Mr. Luethold stated the connection was eliminated in response to their concerns. Mr. Steve Zeier of Trinity Real Estate stated he was in favor of the zone change. He stated he has no relationship with the developer or the agent but was here to support this type of zoning for the area. He stated as our city has grown, the development of new housing of any type has lagged behind. He stated the one area where we can make a difference in housing costs is in local regulations and by allowing this mixture of zoning to help build housing

choices. He also stated his desire to see the new code implemented consistently and fairly across the board. Terry Kaufman of Twin Pines testified in opposition. She stated the number of dwelling units - 582 - was too many for this 27 acre parcel of land. She stated the answer to the lack of housing is not just a quantity issue -- it also is a quality issue. She stated there were 4,000 jobs available in Billings recently. Even if every job was taken, there would still be enough apartments for everyone who wants one. She stated the City Council has approved zoning or development of over 2,000 apartments in the last year. She asked whether the City Council or staff has a plan for when all these apartments go vacant when demand subsides. She stated the amount of parking required would be too much for this property to accommodate. Toby Erickson of Legends West spoke in opposition to the zone change. He stated the homeowners in the adjacent subdivisions could not hope to compete with the slick presentation by the developer. He stated he was testifying on behalf of many owners in the adjacent Twin Pines and Legends West subdivision and would appreciate more than three minutes to present his arguments. Chairman Larson allowed Mr. Erickson 15 more minutes than the usual three minutes. He stated the first mention of multifamily development on the property was 10 year ago and that application was withdrawn. At the time, there was no possibility of physically connecting the development to the south, so the only connections was to Bell Ave and Obie Lane. Last year, the applicant came in with a development of mostly 4-story apartment buildings, and no transitional zoning across Bell Ave from Bell Estates. He stated the current proposal has a few more things going for it, but the density is still too high. He stated one row of developed lots with similar dwellings to Twin Pines and Legends West is not enough. He stated it should be much more. He stated the existing city infrastructure cannot support an additional 582 dwelling units in this area. He stated everyone in the room opposes the zone change. He stated there is not enough consideration for the neighbors. He stated the development plan may tick many boxes, but the development just does not fit with the adjacent area. He stated the higher the density, the fewer people tend to care about their surroundings or their neighbors. He stated Bell Avenue is an incomplete street, and it would not be right to put any of the new traffic on Bell Avenue. He stated the existing Bell Ave intersection is deficient and only allow a right turn (south bound) on Shiloh Road. Anyone wanting to go north or east will drive through Legends West, or even Twin Pines or Bonaventure to reach Central Avenue. This puts a traffic burden on our streets we should not have to endure. He stated there is already a good mix of development styles and housing choices in the area and does not see the need to add more apartments. He questioned whether West Billings will be nothing but apartments from now on. He stated apartment developments are not as fire-safe as less dense neighborhoods. He stated there will be significant impacts on schools and there will be higher incidence of crime. He stated these are just results of a higher population - not that people living in apartments are more prone to crime. He stated this will be a negative impact on all types of transportation in the area and there is no benefit to connecting this development to Obie Lane - even a pedestrian connection does not make sense for Obie Lane. He stated Obie Lane has no sidewalks so adding pedestrians to this street will just increase the possibility of car/pedestrian conflicts. He stated Twin Pines is a private development and if this development is connected to Bell Ave, those residents will petition to gate the streets where they connect with Central Ave and Bell Ave. He stated this would not be as safe for these residents if they had to gate their own streets. Legends West is all public streets and connects to Bell Ave - also a public street. It would be unfair to place this cost on existing residents. He stated leaving

of the day. If new traffic is added, then a queue of cars will back up on Bell Avenue, making the situation that much worse. He stated when the developer presented his preliminary traffic, it showed 1,000 more cars per day using Bell Avenue. Mr. Erickson stated Bell Avenue cannot handle that many

additional cars. He stated the zoning buffer is not enough and the proposed N1 is not the same as N2 or RR1. He stated appraisal values of adjacent homes will be reduced and this will result in less marketability of homes and townhomes in the adjacent neighborhoods. He stated most residents of the area feel safe in the homes and on the neighborhood streets. He stated this development will make everything feel less safe. Missy Erickson of Legends West stated the neighbors are not opposed to development of land. She stated the Career Center and the Home Builders Association have sponsored many student-built homes in the neighborhood. She stated this development is not compatible and there should be much less multifamily on the property. Mike Hinthorn of Bell Avenue stated the number of people in this development will equal the population of Columbus, MT. He stated this is too many people in such a small area. He stated no workers in the nearby commercial businesses could afford to live in any of these apartments. He stated the potential rent prices are too high for many workers in Billings. Lisa Owen of Obie Lane stated she was opposed to the zone change. She stated she has lived in the area for 23 years and never imagined she would be looking at a 4-story apartment in the field west of her house. She stated this is not what she thought would be developed west of her subdivision. She stated she thinks she will have to sell her home - now valued between \$400 and \$500 thousand dollars. She stated she is just flabbergasted to think that 582 families will be living on the 27 acres to the west of her house. Nancy Pederson of Twin Pines stated she was opposed to the development and definitely opposed to any connection to Bell Avenue. She stated all the traffic not just from the development, but traffic from the medical school and other apartments south of Monad Rd would use Bell Ave as a convenient cut through. Lincoln Powers of Obie Lane testified in opposition. He stated he and his wife invested in their property with the expectation of continued value over time. He stated his property shares a property line with the subject property and so the impact to his land and property value is more than anyone else. He stated if he had known about the plans to build apartments on the land next door 20 years ago, they would never have built here or invested so much time and resources into their home. He stated Obie Lane is in a private subdivision and cannot just be connected to a new street to the west. He stated, if this was required by the city, they would explore their legal options to stop it. He stated he was concerned about what type of fencing the developer proposes to use along the property boundary. He stated there is no doubt their land will be devalued if this development goes ahead. Mr. Leuthold provided rebuttal comments to the Zoning Commission. He stated all city departments have reviewed the application and the concept for the development of 582 units. He stated none of those departments expressed hesitation on whether services could be provided to the property safely.. The new development will pay its fair share for any off-site improvements that may be required, the new development will pay its property taxes and mill levies to support, police, fire, schools, planning and government in general. Fees for other services like street maintenance, and storm water control will also be paid. He stated he is not a traffic engineer but has worked through many projects that needed a traffic engineer to study the impacts of new traffic. He stated this project, when the entitlements are finalized, will begin the scoping and preparation of a full traffic impact study, the scope of that study will depend on the city's requirement for vehicle connections to adjoining property. He stated Shiloh Road will carry the greatest burden of the new traffic since it is the closest arterial street and is designed to handle at least 50,000 vehicle trips per day. (Shiloh carried about 18,000 vehicles per day in 2021). He stated local streets are designed to handle much less traffic at much lower speeds. Local streets provide circulation within neighborhoods and tend to have less

and professors of Rocky Vista should be able to live as close to the school as possible - reducing the burden of new traffic trips. He stated he has lived in Billings for 38 years and lived in three different types of neighborhoods from Wells Garden Estates to Rimrock Road to a condo development north of Central Avenue. He stated most of these neighborhoods are "drive-to" only since there are no amenities or services within walking distance. The new reality of development is that people want more amenities closer to their homes and more walk services. This development fills this market demand. He stated the city will continue to grow and neighborhoods on the edges of the city will need to adjust as the city grows. He stated he remembers when West Park Plaza was the edge of town, and now it is considered to be a "central" part of the city. He stated the city, through its policies, has guided developers to be more efficient, to use land more deliberately and carefully. He stated this plan meets these policy goals. The Zoning Commission closed the public hearing.

Commission member Trina White made a motion to recommend approval of the zone change and denial of the requested variance from Section 27-804 requiring connectivity to existing streets. The Chairman, Mike Larson, asked if the motion could be amended to exclude the recommendation on the requested variance so that issue could have a separate vote. The motion was amended to exclude a recommendation on the variance and seconded by Commission member David Goss. Commission member Trina White stated that consideration for traffic and vehicles is not the paramount issue. She stated developers work to diminish the impact new traffic has on surrounding neighborhoods, but the neighborhoods should be connected. She stated the cost of housing is rising because of the cost of local and state regulation of building. She stated the new national estimate of the cost to developers to build a single dwelling unit is \$95,000 dollars - and all of that cost is up front before a single shovel goes in the ground. She stated the city is growing as demand is going up for new housing of all types. She stated this has happened since she started as a real estate broker. She stated the expectation that nothing will be built next door on the farm field is not realistic. Commission member David Goss stated he was the first assistant City Administrator back when the city changed its charter. He stated the major issues back then are still the same issues of today - annexation laws, county subdivisions on the edge of the city and how those rules and regulations negatively effected the growth of the city. He stated the city did grow - but it grew out but not up. He stated the city needs to increase density to be more efficient and that includes taller buildings. He stated he does not believe that Bell Avenue has the capacity - even with improvements - to handle the traffic from this development. He stated his support for the requested variance to not connect this development with Bell Avenue. He stated he wished there was an easy answer for this issue of traffic. He stated he supported to motion to recommend approval of the zone change.

Chairman Mike Larson stated he would like to make a substitute motion. Mr. Larson made a motion to recommend approval of both the zone change and the requested variance. He stated it was clear

the members wanted to discuss both the zone change and the variance together, and he agrees with Commission member Goss. The motion was seconded by Commission member Goss. Mr. Goss stated way if a future connection is - needed and can be done with without damaging the existing neighborhoods. Mr. Larson stated he is

he would like to encourage the Council to consider preserving a right of not convinced that the new traffic would not have a detrimental impact on Bell Avenue. He stated the current condition of the street shows it should not be used by new traffic from this development.

He stated the city can only require so much from one developer, The motion to recommend approval of the zone change and approval of the requested variance was approved on a 2- 1 vote, with

Commission member White voting against the motion. Ms. White stated she supported the zoning but not the requested variance.

Public Hearing:7:10 PM

Chair Larson opened the public hearing and called for anyone wishing to speak in favor or against City Zone Change 1021.

In Favor: Steve Zier

Opposed: As listed above

Public Hearing closed at 7:49PM

Discussion:

Motion

Commissioner Larson made a motion and Commissioner Goss seconded the motion to approve City Zone Change 1021 with staff findings and approve the variances requested.

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

The Motion **passed to approve City Zone Change 1021 with a 2-1 vote.**

Other Business:

Adjournment: The meeting adjourned at 8:15 PM.

ATTEST: To be Approved by a motion at the next regularly scheduled meeting.

--Robbin Bartley, Administrative Assistant