



NOTICE TO THE PUBLIC

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://tinyurl.com/yckr478k>

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 4, 2023.

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:

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

Public Hearings:

- a. **City Zone Change 1023 -- Wicks Lane and Bitterroot Dr** -- A zone change request from Mid-Century Neighborhood (N2) to Mixed Residential 1 (NX1) on C/S 515, Parcel 14A1, a 1.11 acre parcel of land. A pre-application neighborhood meeting was held on February 28, 2023, at the East Wesleyan Church at 625 Mattson Lane.
- b. **City Zone Change 1024 -- 3100 Block of Central Avenue** -- A zone change request from Suburban Neighborhood (N3) to Mixed Residential 1 (NX1) on Central Acres 5th Filling, Block 9, Lot 1, a 13,072 square foot parcel of land. A pre-application neighborhood meeting was held on March 3, 2023, at the Faith Evangelical Church at 3145 Sweet Water Drive.
- c. **City Zone Change 1025 -- 54th St W and Rimrock Rd** -- A zone change request from Suburban Neighborhood (N3) to Mid-Century Neighborhood (N2), Suburban Neighborhood (N3) and Public 1 (P1) through a Planned

Neighborhood Development (PND) process on C/S 1834, Tract 2B, a 30.6 acre parcel of land. A pre-application neighborhood meeting was held on March 20, 2023, at the subject property. There is a concurrent petition for annexation.

- d. **City Zone Change 1026 -- 3648 AJ Way** -- A zone change request from Agriculture (A), a county zone district, to Public 3- Civic Campus (P3- Civic) on C/S 1889, Tracts 2 and 3, a 40.001 acre parcel(s) of land. A pre-application neighborhood meeting was held on March 27, 2023, at 3465 AJ Way, Unit 111. There is a concurrent petition for annexation.
- e. **City Zone Change 1028 -- Hawk Creek Planned Development amendment** -- A zone change request to amend and update an existing Planned Development agreement for Lots 1-3, Block 1 of the MK Subdivision, a 3.6 acre parcel of land. The amendment would allow for one (1) full-beverage liquor license without gaming on the property. The current PD agreement allows one (1) cabaret beer & wine license for the Diamond X Brewery and restaurant at 5417 Hawk Creek Ave. The change would eliminate the cabaret license and substitute a full-beverage license. A pre-application neighborhood meeting was held on March 22, 2023, at the Grace Montessori School at 4809 Grand Ave.
- f. **City Zone Change 1029 -- Text Amendment -- Neighborhood and Mixed Residential districts, Fence Materials and Signs** -- An amendment to the text of BMCC Sections 27-304, 27,305, 27-307 and 27-308 related to Building and Siting standards in Neighborhood and Mixed Residential districts; Section 27-1209 related to allowable fence materials in residential and commercial areas and how alternate materials may be proposed; and Sections 27-1403, 27-1407 and 27-1409 related to nonconforming signs, calculations for allowable sign area and off-premise sign separation to residential districts.

Other Business/Announcements

Adjournment

For Zone Changes 1023, 1024, 1025 and 1029, the City Council has designated May 22, at 5:30 p.m. as the date and time to receive the Zoning Commission recommendation for these **Zone Changes** and hold a public hearing. If approved on first reading, a **second reading will occur on June 12, 2023 at 5:30 pm.**

For Zone Changes 1026 and 1028, the City Council has designated June 12, at 5:30 p.m. as the date and time to receive the Zoning Commission recommendation for these **Zone Changes** and hold a public hearing. If approved on first reading, a **second reading will occur on June 26, 2023 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.

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: 05/02/2023

Information

Subject

The minutes of the Board meeting of April 4, 2023.

Attachments

BZC_2023_0404



**City of Billings Zoning Commission
Meeting Minutes April 4, 2023**

The City of Billings Zoning Commission met on Tuesday, April 4, 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, April 4, 2023**. 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 April 24, 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.

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

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: Cameron Colgan, Josh Gray via zoom

Chair Larson called the meeting to order at 4:30 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 White and seconded by Commissioner Brooks to approve the January 3, 2023 and March 7, 2023 meeting minutes.

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

Disclosure of Conflict of Interest

COMMISSIONER	DISCLOSED	NONE	ABSTAINED	ABSENT
Mike Larson		x		
Daniel J. Brooks		x		
David Goss			X – SR 996	
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		


No Commissioners visited the City Special Review 996 location.

Public Hearings:

City Special Review 996 – 1010 Grand Avenue – Request to increase the height of a wireless communication facility (WCF) – A special review request to allow a 30-foot WCF height increase for an existing facility located at 1010 Grand Avenue, in a Corridor Mixed Use 1 (CMU1) zone district, on Lot 1A of Sunset Sub, 4th Filing and 7th Filing Amended, a .47 acre parcel of land. The lease area for the WCF is south of the principal structure and has an existing height of 46 feet. A pre-application neighborhood meeting was held on February 22, 2023.

Staff Recommendation:

Planning staff is recommending conditional approval, based on proposed findings and recommended conditions of approval.



Special Review 996

The Planning staff recommends conditional approval, based on the proposed findings and recommended conditions of approval (BMCC 27-1.023.D)

✓ Consistent with Zoning Policy statement for all WCF including:

1. Allow for managed development to complete a network of WCF
2. Reducing visibility to the max extent possible
3. Encourage the location of WCF in non-residential areas
4. Encourage co-location of antenna
5. Locations that minimize adverse visual impacts
6. Enhance ability of wireless providers to meet the community needs

2. Special Review will not endanger public health, safety, general welfare or morals.

- Proposed site and off-site improvements will not endanger public health or safety
- Conditions are recommended to improve safety
- Not within 1-mile of another WCF over 50 ft in height
- Closest residential use > 100 ft from WCF



Special Review 996 – criteria continued

3. Site is adequate in size and topography for the use.


- The site is large enough for the WCF extension and addition of ground equipment
- The site cannot support an addition of a living hedge and little aesthetic value is added at this location

4. Not injurious to adjacent property

- Development of property tends to increase property values in the area.
- All surrounding property fully developed and the 30-ft height increase will not impact adjacent property

5. Will not impede normal and orderly development of surrounding property

- Lots in the area have been recently re-developed
- Added tower height will not impede continued investment in surrounding land



Special Review 996 – criteria continued

6. Conditions can be established to protect public health & safety

1. Approval is for the increase in tower height of 30 ft within the tower leased area of 1,600 and as shown on the site plan.
2. Substantial conformance with submitted site plan.
3. Any tower enclosure shall be a minimum of 6 ft in height; the use of barbed or sharp fence material requires a minimum fence height of 8 feet with the barbed or sharp material above the 8-ft fence.
4. Submit a request for administrative relief from the required landscaping.
5. Conditions run with the land and are binding on current and future owners.
6. Right of building and occupancy permits are contingent on fulfillment of conditions of approval.

Discussion. Questions for staff:

Commissioner White asked if the site footprint and existing building will be bigger. There will be a larger fenced enclosure.

Applicant: Cameron Colgan, Powder River Development, 408 S. Eagle Rd, Eagle, Idaho
This is leased ground and the proposal full complies with all federal regulations and allows carriers to tag the towers eliminating multiple towers in a ½ mile radius.

Questions for applicant: None

Public Hearing: 4:55 PM

Chair Larson opened the public hearing and called for anyone wishing to speak in favor or against City Special Review 996.

In Favor: None

Opposed: None

Public Hearing closed at 4:55PM

Motion

Commissioner McCall made a motion and Commissioner White seconded the motion to approve City Special Review 996 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 City Special Review 996 with a 4-0 vote.

Other Business:

Adjournment: The meeting adjourned at 4:58 PM.

ATTEST: To be Approved by a motion at the next regularly scheduled meeting.
--Robbin Bartley, Administrative Assistant

Zoning Commission

Date: 05/02/2023
Title: Zone Change 1023- Wicks Lane & Bitterroot Dr. from N1 to NX1
Presented by: Karen Husman
Department: Planning & Community Services
Presentation: Yes

Information

RECOMMENDATION

Planning staff recommends approval and adoption of the findings of the 10 review criteria for Zone Change 1023.

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

City Zone Change 1023 -- Wicks Lane and Bitterroot Dr -- A zone change request from Mid-Century Neighborhood (N2) to Mixed Residential 1 (NX1) on C/S 515, Parcel 14A1, a 1.11 acre parcel of land.

Presented by Karen Husman, Planner I

APPLICATION DATA

OWNER: HWT Const., LLC

LEGAL DESCRIPTION: C/S 515, Parcel 14A1

CURRENT ZONING: N2

EXISTING LAND USE: vacant land

PROPOSED USE: Multi family 4-plexes

SIZE OF PARCEL: 1.111 acres

CONCURRENT APPLICATIONS:

None

SURROUNDING ZONING AND LAND USE:

NORTH: Zoning: N1

Land Use: Residential single

SOUTH: Zoning: N1

Land Use: Residential single family

EAST: Zoning: NX1

Land Use: Residential multi-family (Condo/Townhomes)

WEST: Zoning: N1

Land Use: Residential single family

The proposed zoning would allow development of three, four unit structures at an intersection of two arterial streets. There are other multi unit properties in the area and throughout this neighborhood, including Moose Hollow condominium development consisting of six duplex dwellings on the southeast corner of Wicks Lane and Bitterroot Drive. The properties to the north and directly east are single family residential. There two duplex dwellings two parcels east of the subject property. A Master Site Plan review will be required with the number of dwelling units and three buildings.

STAKEHOLDERS

Planning staff notified the surrounding owners, published a legal ad and posted the property as required by the zoning regulations. A pre-application neighborhood meeting was held on February 28, 2023, at the East Wesleyan Church at 625 Mattson Lane. At the time this staff report was submitted, Planning staff has not received any correspondence on the proposed zone change from surrounding owners.

ALTERNATIVES

The Zoning Commission may:

- Recommend approval and adoption of the findings of the ten review criteria for Zone Change 1023; or,
- Recommend denial and adopt different findings of the ten review criteria for Zone Change 1023; or,
- Delay action on the zone change request for up to 30 days; or,
- Allow the applicant to withdraw the zone change request.

In case of a tie vote on the zone change, the application will be delayed for 30 days until the next Zoning Commission meeting. The Zoning Commission must forward a recommendation with findings to the City Council. The applicant has not

requested a delay or a withdrawal of the application at this time.

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 does conform to 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

Essential Investments

- Infill development and development near existing City infrastructure may be the most cost-effective

The proposed zoning would allow development of a vacant parcel into multifamily housing. The proposed zone is consistent with the City's Growth Policy and increases density without adding a large demand on city services. This will provide additional housing choices and provide a buffer between an arterial intersection and the adjacent residential development to the west and south of the property. Per Section 27-300.D; the NX1 district is intended to continue the character of the first neighborhoods with single-family, two-family, and small-scale multiple-family homes with 3 to 4 units. Multiple-family homes are intended to match the scale of the neighborhood single-family homes with characteristics such as building width, parking and garage location, roof design, and doors and windows on the front facades. The NX1 zone is a preferred zone district along arterial streets in line with this intersection that connects two principal arterial streets at Wicks Lane and Bitterroot Drive.

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

The new zoning requires minimum build-to zones, open and landscaped areas, and building separations. Section 27-307 under table 27-300.6 outlines the requirements for the required building siting. 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?

Similar to criteria 1: NX1 district is intended to continue the character of the first neighborhoods with single-family, two-family, and small-scale multiple-family homes with 3 to 4 units. Multiple-family homes are intended to match the scale of the neighborhood single-family homes with similar massing characteristics. The proposed zoning (NX1) would allow the owner to ensure development is not intrusive to neighboring property, and still allow compatible uses with the adjacent N2 zoning. NX1 like all zones, requires minimum setbacks to allow for adequate separation between structures and adequate light and air. This parcel is presently vacant therefore any new structure(s) will be required to meet the standards required by Section 27-307 under table 27-300.6. Public health and public safety will be promoted by the proposed zoning.

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

Transportation: The proposed zoning itself will have little impact on the surrounding transportation systems. Impact on traffic will depend on the number of residents and drivers on the site after development. The NX1 Zone is intended to be along arterial corridors. Wicks Lane and Bitterroot Drive are arterial streets designed to handle the potential additional traffic.

Water and Sewer: The property has City water and sewer services. The City Public Utilities has accounted for the possible increase in service demand for water and sewer services on this single infill parcel. The change to NX1 zoning would facilitate a review of the potential impacts of additional residential services.

Schools and Parks: The proposed zoning itself should not affect Schools and parks, this will depend on the family dynamics of new residents. Schools and parks should not be negatively affected by the proposed zoning. The School district

had provided no comments on this zone change.

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?

Similar to criteria 2 and 3, the proposed NX1 zone, like all zones, requires minimum setbacks to allow for adequate separation between structures and adequate light and air. This parcel is presently vacant therefore any new structure(s) will be required to meet the standards required by Section 27-300.6 under the NX1 zone. The proposed zoning provides for sufficient setbacks to allow for adequate separation between structures and adequate light and air. The proposed zoning provides for sufficient setbacks to allow for adequate separation between structures and adequate light and air. Additionally, the new zone requires specific landscaping and bufferyards adjacent to public streets as well as parking lot landscaping enhancing the aesthetic and healthy environment.

6. Will the new zoning effect motorized and non-motorized transportation?

The new zoning itself will not impact motorized and non-motorized transportation. Once developed, there will be minimal increased volume to the transportation network, both motorized and non-motorized. Off-street parking for the units will be provided. Sidewalks will be installed as part of the requirements for developing City lots and maintained for pedestrian connectivity. The two principle arterial streets are designed to easily handle the potential additional traffic.

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. This area consists of single and multifamily housing, and the NX1 zone will provide compatible residential development. The proposed zoning will allow infill development of an underutilized parcel into desired housing.

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 infill development of a vacant parcel into desired residential growth. The NX1 zone is compatible with the surrounding N2 and is considered suitable for the particular uses. The proposed zoning does consider the character of the district and the suitability of the property for the proposed use. Per Section 27-300.D; the NX1 district is intended to continue the character of the first neighborhoods with single-family, two-family, and small-scale multiple-family homes with 3 to 4 units. Multiple-family homes are intended to match the scale of the neighborhood single-family homes with characteristics such as building width, parking and garages location, roof design, and doors and windows on the front facades. The NX1 zone is a preferred zone district along arterial streets in line with this intersection that connects two principal arterial streets at Wicks Lane and Bitterroot Drive.

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

The proposed zoning will allow infill development of a vacant parcel into desired housing. This is an appropriate location for the zoning to allow additional density that is compatible with adjacent uses. 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 in the zoning code, including landscaping, screening, building heights and setbacks. A Master Site Plan will be required with the number of units and structures proposed.

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

The proposed zoning will allow infill development of a vacant parcel into desired housing growth. This is an appropriate location for the zoning to allow additional density that is compatible with adjacent uses. The parcel directly east across Bitterroot Drive is currently several multifamily structures. The proposed zoning will allow infill development of a vacant parcel into desired housing growth. This is an appropriate location for the zoning to allow additional density that is compatible with adjacent uses.

Attachments

Zoning Map & Site Photos
Application & Applicant Letter
Neighborhood Meeting Info
History
Site Plan

Zoning Map & Site Photos





South



West on Wicks



South East



North West



East



South west across subject property

APPLICATION FORM

CITY ZONE CHANGE

Billings Zone Change # _____ - Project # _____

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 N2-MID-CENTURY NEIGHBORHOOD

Proposed Zoning: NX-1- MIXED RESIDENTIAL 1-4 UNITS

TAX ID# D05358 CITY ELECTION WARD 2

Legal Description of Property: COS 515 PARCEL: 14A1

Address or General Location (If unknown, contact City Engineering): _____

Size of Parcel (Area & Dimensions): 1.111 ACRES

Present Land-Use: VACANT LAND

Proposed Land-Use: MIXED RESIDENTAIL 1-4 UNITS

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): HWT CONSTRUCTION LLC Joshua Tolentino
(Recorded Owner)

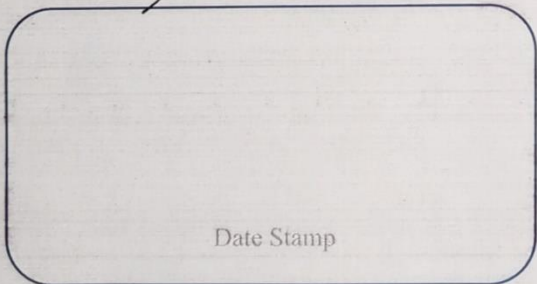
(Address) _____
(Phone Number) _____ (email) honoluluwt2013@gmail.com

Agent(s): A-Line Drafting and Design, Jeff Wollschlager
(Name)

(Address) 406-321-2280 alinedrafting@gmail.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: 02/14/23
(Recorded Owner)



Date Stamp

Wicks and Bitterroot Zone change request.

Subject: C.O.S. 515, PARCEL 14A1, AM (21)

Chairperson of the Board of Adjustment:

We are requesting a Zoning change to said lot positioned on the Southwest corner of Wicks and Bitterroot. We are requesting a zone change from N2 to NX1. The requested Zone change would allow Multifamily living with structure with 1-4 units each. This would be the same zoning as the existing lot across Bitterroot to the East. This lot is located at a busy intersection. This lot with the current zoning requires a Principal Building to have a 10-20 feet front Build to zone. This would not be ideal at a busy intersection for a single family residence. This zone change would allow Three, four-plex structures on this lot. This would create a buffer from the busy intersection and the surrounding N2-Zoning. With a Zone change all requirements of NX-1 Zoning will apply.

Owners Representative



Jeff Wollschlager

A-Line Drafting and Design

406-321-2280

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 _____

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

N2 change to NX-1 _____

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

4. **Legal Description of Property:**

COS 515 PARCEL: 14A1 _____

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

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 28th day of Febuary, 2023.

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

Owner (s): Joshua Tolentino _____ Telephone: __ 406-850-4331 _____

Address: _____ Email: _honoluluwt2013@gmail.com

Agent (s): Jeff Wollschlager _____ Telephone: _____ 406-321-2280 _

Address: _____ Email: alinedrafting@gmail.com

Neighborhood meeting Zoning change request.

PROJECT#: PZX-23-00028

PROPERTY ADDRESS: BITTERROOT DR
TOWNSHIP: 01 N RANGE: 26 E SECTION: 23
CERTIFICATE OF SURVEY: 515 PARCEL: 14A1
FULL LEGAL: S23, T01 N, R26 E, C.O.S. 515, PARCEL 14A1, AM (21)

Neighborhood meeting:

Meeting commenced at 5:10 pm Feb 28th @ 625 Mattson Ln, Billings, MT 59105.

-See attached Attendance list.

I informed the attendants of the zone change request allowing 1-4 unit living structures on this lot with the potential of up to three structures.

Comments:

Wheeler/ Bogas: 1536 Wicks Lane. Immediate neighboring property. Objects to Zone change. Concerned on type of renters. Asked if it will be low-income housing. Will there be background checks. Concerned of number of potential units and demographic of renters. Vehicle parking/traffic was also a concern.

Callahan, Sean: Concerned about parking. Will there be low income or sober living units?

Pam Ellis: Concerned about format of neighborhood meeting letter. It did not say who the owner's are or the representative's business or information. Said she will contact "Nichole" about that.

Shayne Hinz: Mentioned he was just curious.

Jacquilin Garcia, 836 Dorothy Lane: Objects to zoning change not knowing what type of renters will occupy units.

Frank Ewalt: Objected. "No more zoning changes"

Amber Dunn, 832 Dorothy Lane: Objects. "Not next to N2 zoning"

Meet adjourned at 5:35.

Sincerely,



Jeff Wollschlager

Agent/ Representative

2-17-23

Zoning change request.

PROJECT#: PZX-23-00028

PROPERTY ADDRESS: BITTERROOT DR
TOWNSHIP: 01 N RANGE: 26 E SECTION: 23
CERTIFICATE OF SURVEY: 515 PARCEL: 14A1
FULL LEGAL: S23, T01 N, R26 E, C.O.S. 515, PARCEL 14A1, AM (21)

(Southeast corner of the intersection of Wicks and Bitterroot)

To whom it may concern,

A neighborhood meeting is scheduled for the 28th day of February at 5 PM. The location of the meeting will be held at East Wesleyan Church. Located at 625 Mattson Ln, Billings, MT 59105. We are proposing a Zone change from N2-Mid-Century Neighborhood to an NX-1-Mixed residential 1. The zoning change will allow 1-4-unit structures on this lot. We are proposing three structures to be located on this lot.

The purposes of a neighborhood meeting are to: inform neighboring property owners of the details of a proposed development, identify how the developer intends to meet the standards contained in this zoning code, and to allow the applicant to receive preliminary public comment on the proposal.

Sincerely,



Jeff Wollschlager

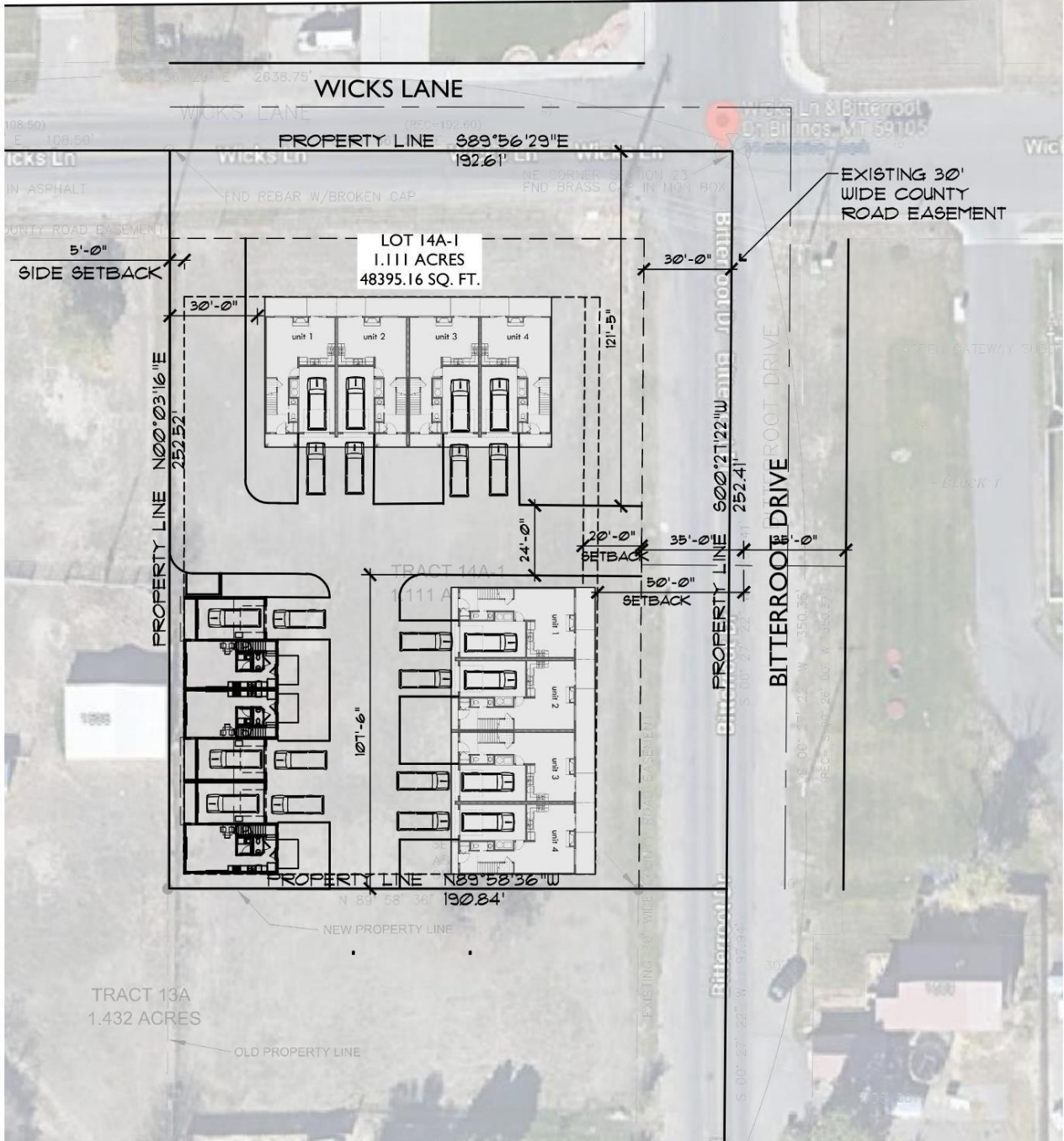
Agent/ Representative

PRE-APP NEIGHBORHOOD MEETING FOR ZONE CHANGE
ATTENDANCE : 2-28/23

NAME	NOTES
Amber Dunn	
STUART wheeler	
Jill Bogas	
Sean Callahan	
Jacque Garcia	
FRANK ELWART	
Pam Ellis	
Shesha Hinz	

Chart of Zoning History

SUBJECT PROPERTY	Application	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
CS 515 Parcel 14A1	NA				
SURROUNDING PROPERTY	Application	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
636 Logan Lane	County ZC 30	12/1974	R-60 to HC	Y	
1327 Main St	County ZC 68	11/1975	R-60 to HC	Y	Four Seasons Shopping Center
1005 Main St	City ZC 275	11/1979	RMH to HC	Y	Now CX
1001 Main St	City ZC 905	12/2012	RMH to HC	Y	Now CX
1005 Main St	City ZC 910	8/2013	RMH to HC	Y	Now CX
429 Josephine Dr	County ZC 203	9/1978	RMF to CC	Y	Now CX & RMH
430 Josephine Dr	City ZC 490	11/1985	RMF to CC	No	
430 Josephine Dr	City ZC 967	8/2018	RMF to CC	Yes	Now CMU1
491 Hilltop and 811-819 Lake Elmo Dr	City ZC 622	9/1997	RMF to CC	Y	Now CMU1 & NX2
527 Lake Elmo Drive	City ZC 1013	6/2022	N2 to NMU	Y	New office space In existing home



SITE PLAN



Zoning Commission

Date: 05/02/2023
Title: Zone Change 1024- Central Ave. N3 to NX1
Presented by: Karen Husman
Department: Planning & Community Services
Presentation: Yes

Information

RECOMMENDATION

Planning staff recommends approval and adoption of the findings of the 10 review criteria for Zone Change 1024.

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

City Zone Change 1024 -- 3100 Block of Central Avenue -- A zone change request from Suburban Neighborhood (N3) to Mixed Residential 1 (NX1) on Central Acres 5th Filling, Block 9, Lot 1, a 13,072 square foot parcel of land. Tax ID: C01861
Presented by Karen Husman, Planner I

APPLICATION DATA

OWNER: Double Deuce Ventures
AGENT: Leona Lee
LEGAL DESCRIPTION: Central Acres 5th Filling, Block 9, Lot 1
CURRENT ZONING: N3
EXISTING LAND USE: Vacant Land
PROPOSED USE: Residential multi-family duplex
SIZE OF PARCEL: 13,072 sf

CONCURRENT APPLICATIONS:

None

SURROUNDING ZONING AND LAND USE:

NORTH: Zoning: N2
Land Use: Residential single family
SOUTH: Zoning: P2
Land Use: Faith Evangelical Church
EAST: Zoning: NX1
Land Use: Residential multi-family (4-unit dwelling)
WEST: Zoning: N3
Land Use: Residential single family

The proposed zoning would allow a vacant parcel to change to NX1 allowing infill development with multifamily housing. There are other similar multi unit properties in the area and throughout this neighborhood, including a four-unit dwelling on the parcel to the east of the subject property, and on the property northeast. Hunters Point apartments is to the southeast. The applicant is proposing construction of the duplex (two-unit dwelling) on the property. The NX1 zone allows 1-4 unit structures.

STAKEHOLDERS

Planning staff notified the surrounding owners, published a legal ad and posted the property as required by the zoning regulations. At the time this staff report was submitted, Planning staff has not received any correspondence on the proposed zone change from surrounding owners. A pre-application neighborhood meeting was held on March 3, 2023, at the Faith Evangelical Church at 3145 Sweet Water Drive.

ALTERNATIVES

The Zoning Commission may:

- Recommend approval and adoption of the findings of the ten review criteria for Zone Change 1024; or,
- Recommend denial and adopt different findings of the ten review criteria for Zone Change 1024; or,
- Delay action on the zone change request for up to 30 days; or,
- Allow the applicant to withdraw the zone change request.

In case of a tie vote on the zone change, the application will be delayed for 30 days until the next Zoning Commission

meeting. The Zoning Commission must forward a recommendation with findings to the City Council. The applicant has not requested a delay or a withdrawal of the application at this time.

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 does conform to 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 would allow development of a vacant parcel to be developed into multifamily housing. The proposed zone is consistent with the City's Growth Policy and increases density without adding a large demand on city services. The Growth Policy supports infill development and this parcel would be developed in line with the surrounding neighborhoods. Under the current N3 zone district only single family dwellings are allowed, a change to the NX1 zone will allow development of this vacant parcel into more than one dwelling unit. The applicant is proposing two dwelling units (one duplex dwelling) and would be an appropriate transition from the adjacent fourplex to the east and the single family to the west on this arterial street. The Growth Policy encourages infill development and encourages a mixture of housing choices. The new zone is compatible with the adjacent developed parcels.

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

The new zoning requires minimum build-to zones, open and landscaped areas, and building separations (found in section 27-307 of the zoning code) 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?

The proposed zoning (NX1) would allow the owner to ensure development is not intrusive to neighboring property and still allow compatible uses with the adjacent N1, N3 and NX1 zoning. The site and structure regulations found in 27-300.6 in the NX1 district promote the minimum standards to ensure public health and safety and promote general welfare. Public health and public safety will be promoted by the proposed zoning.

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

Transportation: The proposed zoning itself will have little impact on the surrounding transportation systems. Impact on traffic will depend on the number of residents and drivers on the site after development. The NX1 Zone is intended to be along arterial corridors. Central Ave. is an arterial street designed to handle the potential additional traffic.

Water and Sewer: The property has City water and sewer services. The City Public Utilities has accounted for the possible increase in service demand for water and sewer services on this single infill parcel. The change to NX1 zoning would facilitate a review of the potential impacts of additional residential services.

Schools and Parks: The proposed zoning itself should not affect Schools and parks, this will depend on the new residents. Schools and parks should not be negatively affected by the proposed zoning. The School district had provided no comments on this zone change.

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?

Similar to criteria 2 and 3, the proposed NX1 zone, like all zones, requires minimum setbacks to allow for adequate separation between structures and adequate light and air. This parcel is presently vacant therefore any new structure(s) will be required to meet the standards required by Section 27-300.6 under the NX1 zone. 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 itself will not impact motorized and non-motorized transportation. Once developed, there will be minimal increased volume to the transportation network, both motorized and non-motorized, off-street parking for the units will be provided. The sidewalk along the Central Ave. is already in place across the south side of the property, this will be updated and maintained promoting pedestrian safety.

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. The proposed zoning will allow infill development of an underutilized parcel.

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

The proposed zoning will allow infill development of a vacant parcel into desired residential growth. The NX1 zone is compatible with the surrounding N1, N3 and NX1 and is considered suitable for the particular uses. The proposed zoning does consider the character of the district and the suitability of the property for the proposed use.

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 in the zoning code. For the NX1 zone, this includes building heights, setbacks, and window and door facade coverage.

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

The proposed zoning will allow infill development of a vacant parcel into desired housing growth. This is an appropriate location for the zoning to allow additional density that is compatible with adjacent uses. The parcel directly adjacent to the east is a four unit residential dwelling, and there are several other multi unit developed properties in the area. This infill parcel developing as a two unit parcel will encourage an appropriate transition between a parcel developed with a fourplex and a parcel with a single family dwelling.

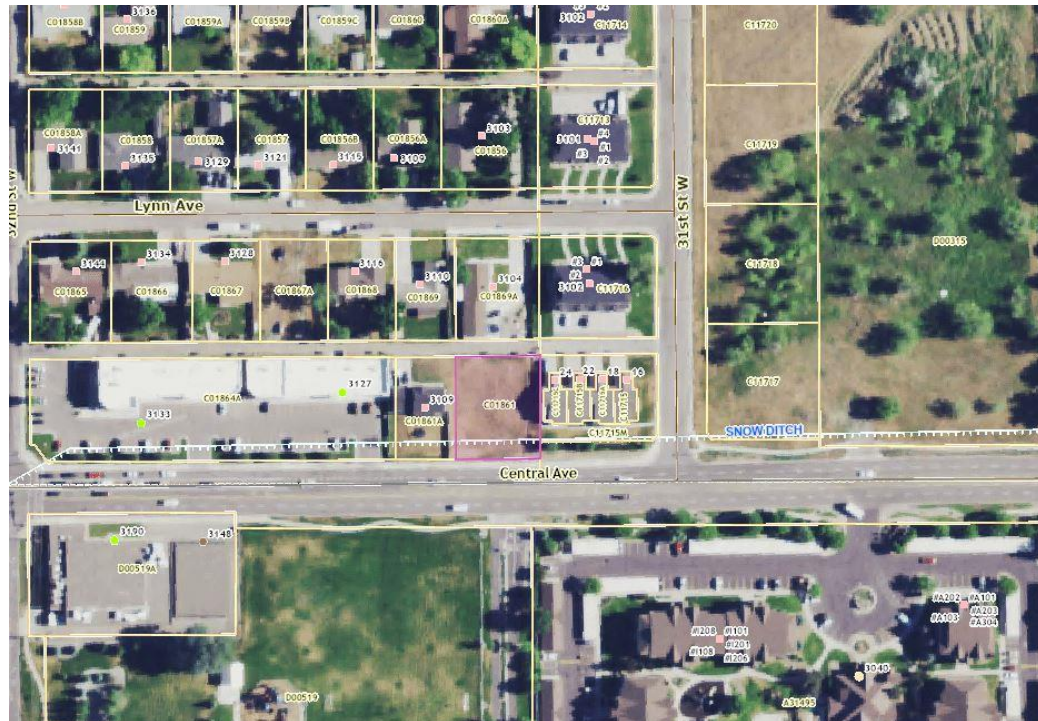
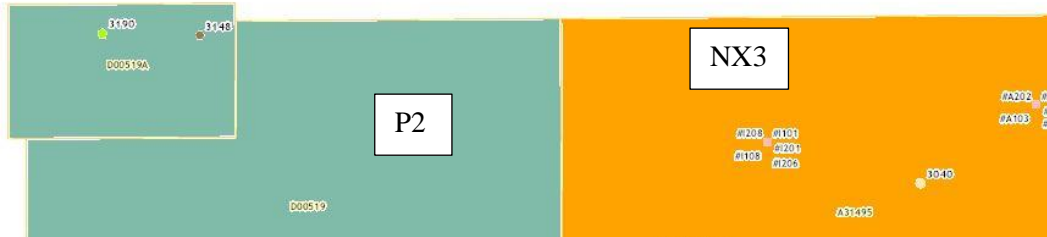
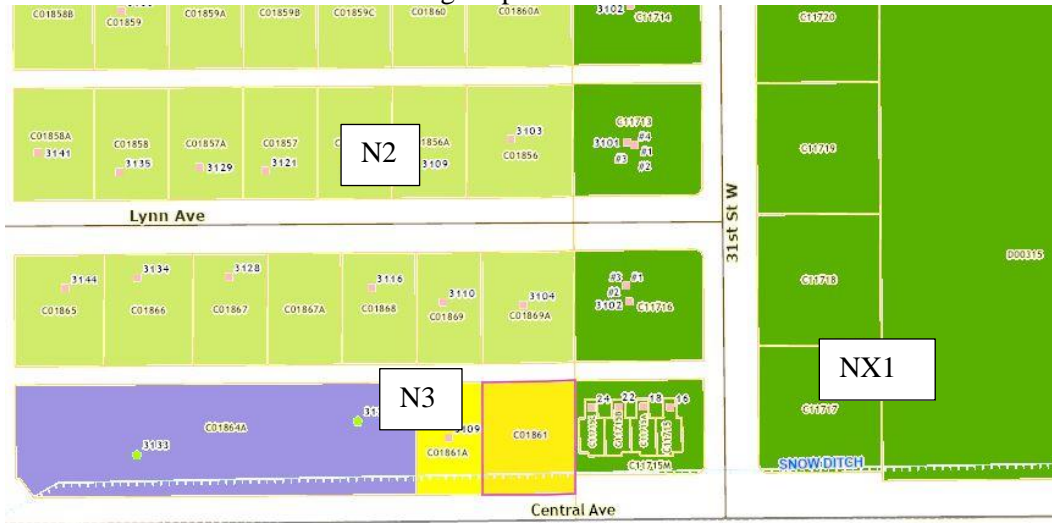
Attachments

Zoning Map & Site Photos

Application & Applicant Letter

Neighborhood Meeting Info

Zoning Map & Site Photos





North



South



East



West



Southwest towards the Faith Church



Southeast toward Hunter's Point

APPLICATION FORM

CITY ZONE CHANGE

Billings Zone Change # 1024 - Project # PZX-23-00036

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 N3

Proposed Zoning: NX1

TAX ID# C01861 CITY ELECTION WARD 5

Legal Description of Property: Central Acres Subd 5th filing Block: 9 Lot: 1 502 TO 15, 225E, Block 9

Address or General Location (If unknown, contact City Engineering): East of 3109 Central Lot 1

Size of Parcel (Area & Dimensions): 105' x 125' : 13,072 sq feet

Present Land-Use: Vacant Lot

Proposed Land-Use: Duplex Building

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): Double Deuce Ventures
(Recorded Owner)
4115 Kaitlin Court Billings MT 59101
(Address)
406-697-6665 (Phone Number)
ddvm+@gmail.com (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: Leora Lee (Recorded Owner) Date: 2-22-2023



To whom it may concern

Location of property:

Central Acres Subdivision: Block 9, Lot 1

Vacant lot just off Central Ave and 31st

Double Deuce Ventures is requesting a zoning change from the City of Billings. The current property is zoned, N3 suburban neighborhood, we wish to have it rezoned NX1, mixed residential one.

We are requesting your presence at Faith Evangelical Church on Friday the 3rd of March at 5:30pm.

Meeting location:

Faith E Church

3145 Sweet Water Drive

Billings, Mt 59102

Thank you.

Leona Lee

Double Deuce Ventures

Billings Mt 59101

406-534-3010

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:** N3

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

Change from N3 to NX1 to build duplex

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

4. **Legal Description of Property:**

Central Acres Subd 5th Filing Block: 9 Lot: 1
501, T 01 S, R25 E, Block 9, Lot 1

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:**

- 2023 1) The pre-application neighborhood meeting was held on the 3rd day of March,
2) The zone change application is based on materials presented at the meeting.

Owner (s): Leona Lee Telephone: 406-697-4970
Address: 4115 Kautlin Cr + Email: apddvmt@gmail.com
Billings MT 59101

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

To whom it may concern

Location of property:

Central Acres Subdivision: Block 9, Lot 1

Vacant lot just off Central Ave and 31st

Double Deuce Ventures is requesting a zoning change from the City of Billings. The current property is zoned, N3 suburban neighborhood, we wish to have it rezoned NX1, mixed residential one.

We are requesting your presence at Faith Evangelical Church on Friday the 3rd of March at 5:30pm.

Meeting location:

Faith E Church

3145 Sweet Water Drive

Billings, Mt 59102

Thank you.

Leona Lee

Double Deuce Ventures

Billings Mt 59101

406-534-3010

Meeting notes on Central Acres re-zoning meeting

Meeting came to order at 5:30 PM at

Faith E Church

3145 Sweet Water Drive

Billings, Mt 59102

Brian Lee started of the meeting with greeting the parties in attendance. He explained how the current zoning and the proposed zoning. He also mentioned the idea he has for the structure that we are wanting to build on the property.

The friends and neighbors asked questions about the process and how the land would be developed.

We closed the meeting at 6:20 pm.

Zoning Commission

Date: 05/02/2023
Title: Zone Change 1025- Fifty Four West Subdivision PND
Presented by: Karen Husman
Department: Planning & Community Services
Presentation: Yes

Information

RECOMMENDATION

Planning Staff recommends approval and adoption of the findings of the ten review criteria for Zone Change 1025, a Neighborhood PND zone change type from Suburban Neighborhood (N3) to Mid-Century Neighborhood (N2), Suburban Neighborhood (N3) and Public 1 (P1) through a Planned Neighborhood Development (PND). A concurrent annexation and subdivision are in progress.

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

City Zone Change 1025 : A zone change request from Suburban Neighborhood (N3) to Mid-Century Neighborhood (N2), Suburban Neighborhood (N3) and Public 1 (P1) through a Planned Neighborhood Development (PND) process on C/S 1834, Tract 2B, a 30.6 acre parcel of land. A pre-application neighborhood meeting was held on March 20, 2023, at the subject property. There is a concurrent petition for annexation and subdivision preliminary plat application. Tax ID: D12427.

This zone change request is for a new neighborhood to be developed on the north side of Rimrock Road and east of 54th Street on a parcel located on the northeast corner of the intersection. This is a Neighborhood PND type that requires at least two "N" zone districts along with a 2% minimum of Public 1 (open space). The PND process is a zoning tool to help guide the coordination of annexation, subdivisions, and master planning for new city neighborhoods. This PND tool allows developers to process all the zoning with the City Council, phase the annexation of the property (if necessary but not applicable to this development), and coordinate both of these processes with subdivision or master site plan review. The tool applies a level of certainty to all stakeholders, including the surrounding property owners.

This zone change is for a Neighborhood PND type and includes neighborhood residential zoning N2 and N3, and Open Space (P1) district. The majority of lots will be designated N3 with the N2 zone nearest to the south center of the development. There will be a linear park strip between the N2 lots and Rimrock Road and continuing west and expanding the P1 zoned area to the corner of 54th Street and Rimrock Road. The PND regulation 27-800 do not allow the designation of N1, N2 or N3 on an arterial street such as Rimrock Road.

APPLICATION DATA

OWNER: Ned Zimmerman, Van Zimmerman
AGENT: KLJ, Travis Copper
LEGAL DESCRIPTION: C/S 1834, Tract 2B
ADDRESS: 54th St. W and Rimrock Rd.
CURRENT ZONING: Suburban Neighborhood (N3) (County)
EXISTING LAND USE: Agriculture - vacant land
PROPOSED USE: New city residential neighborhood
SIZE OF PARCEL: 30.6 acres

CONCURRENT APPLICATIONS:

Petition for Annexation and 54 West Major Subdivision preliminary plat

SURROUNDING ZONING AND LAND USE:

NORTH: Zoning: Suburban Neighborhood (N3)
Land Use: vacant land
SOUTH: Zoning: N2, N3 & PD
Land Use: Residential Zone/ vacant land
EAST: Zoning: N3
Land Use: Residential
WEST: Zoning: N3
Land Use: Residential Subdivision

This area of Billings has experienced a great deal of growth and development in the past decade. This includes Mont Vista Planned Development zone to the south of Rimrock Road customized zoning for specific parcels. Housing demand has reached a high level while supply of all types of housing choices has not kept up with the demand. The 2010

Census indicated Billings has a demand for housing in areas closer to city services. Developers have made robust investments in properties near the edge of Billings and the number of annexed developments have increased in the last 3 years. The demand for housing supports the requested zone change and annexation on this parcel. The surrounding development (Yellowstone Club Estates) to the west, (Yellowstone Ridge Sub.) to the north and (Whisper Ridge Sub.) to the east are designed with similar single family housing choices as the proposed development.

There are challenges to an area of urban development that is on the edge of the city limits. These challenges include ensuring the adjacent county property owners and uses are protected as much as possible from conflicts with the new urban neighborhood residents and uses. In this case the development will be promoting a similar development pattern that exists in the surrounding City parcels. The 2016 Billings Growth Policy goals and policies support the proposed neighborhood PND. The West Billings Neighborhood Plan goals and objectives stated the need to locate compatible uses and offer a range of housing choices and development densities. The proposed zone change supports these goals. The 2016 Billings Growth Policy supports a broad range of housing choices, encourages more walkable neighborhoods with connectivity to other transportation options, and building the community fabric through urban designed public spaces. The proposed zone change supports these goals.

STAKEHOLDERS

The applicant and agent conducted a pre-application neighborhood meeting on March 20, 2023, and 35 residents of the area attended the meeting. The meeting was held at the proposed location. A summary of the meeting is included as an attachment. A PND zone change process requires notification of all owners within 1/4-mile of the subject property. The list for this zone change included 475 owners. Concurrent annexation and subdivision preliminary plat are in progress.

As part of the PND zone change process, the applicant is also required to hold a pre-application Concept Review meeting with city staff to address any concerns with the street layout, zone districts, access, parks, utilities and similar infrastructure provisions. Staff was generally supportive of the proposed street layout and distribution of the zone districts, however Staff was concerned that the linear park strip would promote rear yards with fences along Rimrock Road. There were discussions between planning staff as to how this design could address safety and landscaping in terms of a landscape buffer and possible restriction on fence height to create a more aesthetically pleasing area along Rimrock Road. The subdivision review process is working to try and address these concerns within the confines of the current subdivision regulations as these are not able to be mitigated with the zone change process.

Planning staff did not receive any public comments prior to completing the staff report for the zone change.

ALTERNATIVES

The Zoning Commission may:

- Recommend approval and adoption of the findings of the ten review criteria for Zone Change 1025; or,
- Recommend denial and adopt different findings of the ten review criteria for Zone Change 1025; 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. In the event of a tie vote, the application will be delayed until the next business meeting.

FISCAL EFFECTS

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

SUMMARY

Before making a recommendation to the City Council, the Zoning Commission shall consider the following findings of the ten review criteria:

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 and the West Billings Neighborhood Plan (2001):

The West Billings Neighborhood Plan goals and objectives stated the need to locate compatible uses and offer a range of housing choices and development densities. The West Billings Plan adopted a number of Goals, Policies, and Implementation Strategies. The proposed Neighborhood PND process for the property is consistent with the following adopted Policies of Planned Growth:

Goal 1: Establish Development Patterns that Use Land More Efficiently; Policy R "Encourage innovative land-use planning techniques to be used in building higher density and mixed-use developments as well as infill developments. (This goal

addresses the infill development portion as this parcel applies.)

The proposed zoning is compatible with goals of the West Billings Neighborhood Plan. The proposed zone change and street layout will accommodate uses that are compatible in a residential environment.

The proposed amendment is also in line with the adopted 2016 Growth Policy goals for:

Strong Neighborhoods:

- Zoning regulations that allow a mixture of housing types provide housing options for all age groups and income levels
- Walkable neighborhoods that permit convenient destinations such as neighborhood services, open space, parks, schools and public gathering spaces foster health, goodwill and social interaction
- Safe and livable neighborhoods can be achieved through subdivision design that focuses on complete streets, pedestrian-scale streetlights, street trees and walkable access to public spaces.

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
- Planning and construction of interconnected sidewalks and trails are important to the economy and livability of Billings Public safety and emergency service response are critical to the well-being of Billings' residents
- Homes that are safe and sound support a healthy community

The proposed layout for the property will allow the housing development to be located adjacent to the arterial street frontage with a buffer of P1 between Rimrock Road and the parcels. This is not a desired use of P1 zoning, however, it encourages a desired larger landscape area along the existing separated pathway along the north side of Rimrock Road, promoting desired elements of a walkable community.

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

The N2 & N3 zoning (per section 27-305 and 27-306) requires minimum setbacks, open and landscaped areas and building separations. The zoning assembly and street layout is designed to secure the development from fire and other dangers.

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

Approval of the overall zoning plan and street layout will provide certainty both for the property owner and the surrounding owners. Sections 27-305 and 27-306 specify separation and build to zone designation for the N2 and N3 zone districts. Annexation and provision of public health and safety services from the city will promote the general welfare of the area.

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

Transportation: The applicant will prepare a traffic impact study in coordination with City Engineering and as part of the subdivision review process. This will ensure access from the full build-out of the development will be safe and have adequate traffic controls and management in place.

Water and Sewer: The City will provide water and sewer to the property. There will be no significant or unexpected impacts to the system from the proposed changes. The City has anticipated growth and the impact on City infrastructure to both water and sewer.

Schools and Parks: Schools and parks may be effected by the proposed zone change and development of a new city neighborhood depending on the potential residents. The School district did not provide any comments.

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. Sections 27-305 and 27-306 specify separation and build to zone designation for the N2 and N3 zone districts.

6) Will the new zoning effect motorized and non-motorized transportation?

The proposed development will not negatively impact non-motorized transportation, however any new residential development will likely increase transportation of all types as development occurs and population increases. The proposed project will have some impact on the motorized transportation system in the area as it was historically agricultural property and would not have the same vehicle trips per day as a residential development. The proposed zoning meets the intent of the zoning code close to a major intersection. The developer has begun the process for subdivision review which includes providing a traffic study.

7) Will the new zoning promote compatible urban growth?

The proposed increase in the overall development density is compatible with urban growth and the provision of city level services to the new residents. The proposed project is similar in zoning to the surrounding proposed developments. Specifically, newly annexed properties at a minimum need to provide a mix of zones and this is consistent with the Neighborhood PND requirements and desire for new neighborhoods in the City of Billings.

8) Does the new zoning consider the character of the district and the peculiar suitability of the property for particular uses? The proposed development continues the character of the district. The surrounding developed subdivisions are primarily N3 and N2 zones with a PD close to the south. Those surrounding zone districts are extremely compatible with the proposed development with primarily single family dwellings which is consistent with the new development being proposed and the neighborhood PND.

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

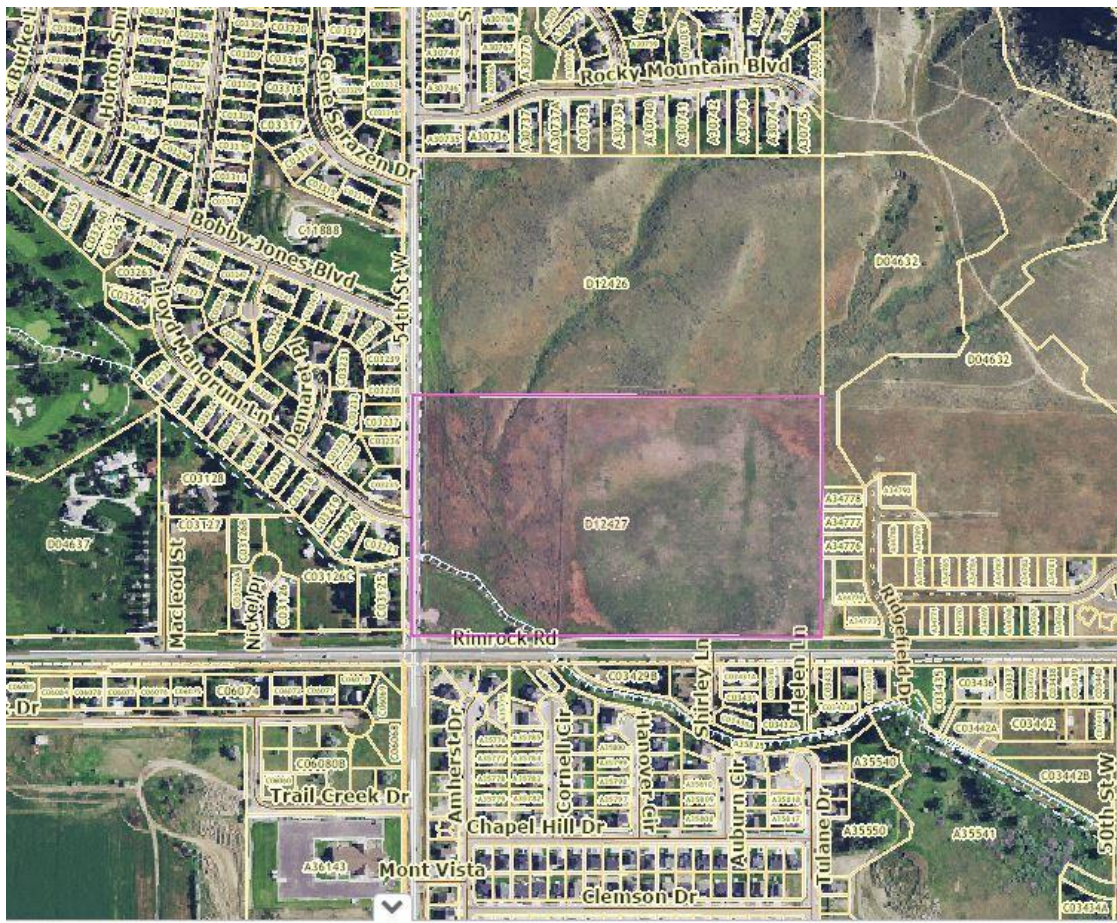
The property is an undeveloped parcel and it is currently in the N3 zone. This criteria is not necessarily applicable to undeveloped property as there are no issues of conformity that would compromise value. Further, approval of the zone change will provide certainty to surrounding landowners of impending development and may help to maintain property values of adjacent buildings.

10) Will the new zoning encourage the most appropriate use of land throughout the City of Billings? The proposed Neighborhood PND zone change process with N2, N3 and Public 1 zoning will encourage an appropriate use of this land in Billings. The proposed development is located on the western border of the City limits and is within the annexation area. The proposed zoning meets the intent of the zoning code. Specifically, newly annexed properties at a minimum need to provide a mix of zones and this is consistent with the Neighborhood PND requirements.

Attachments

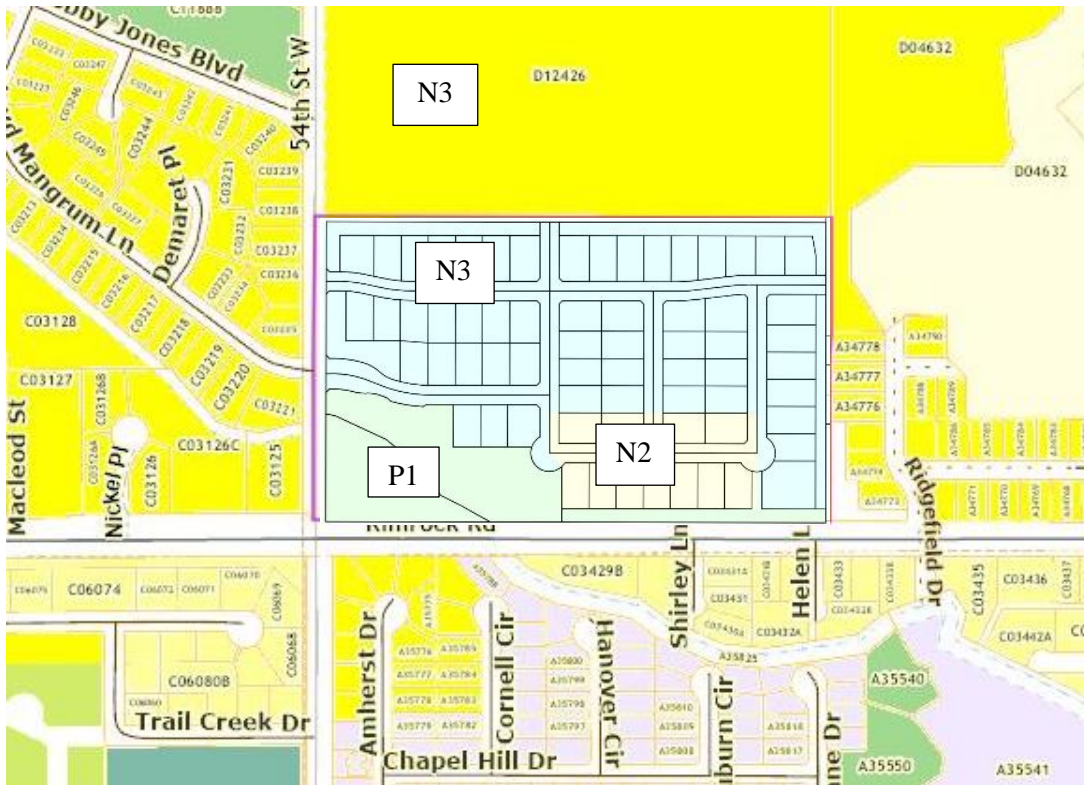
Zoning Map & Site Photos
Application & Applicant Letter
Neighborhood Meeting Info
Site Plan

Zoning Map & Site Photos





City Limits Prior to Pending Annexation



Proposed Zoning



South



East



West



Looking south at the intersection of 54th St. & Rimrock Rd.



Looking north at the intersection of 54th St. & Rimrock Rd.

APPLICATION FORM

CITY ZONE CHANGE **Billings Zone Change #** _____ **Project #** _____

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 N3 _____

Proposed Zoning: N-PND with N3, N2 & P1 districts _____

TAX ID# 000D124270 _____ CITY ELECTION WARD IV _____

Legal Description of Property: Lot 2B Amended, COS 1834 _____

Address or General Location: NE 54th Street West and Rimrock Road _____

Size of Parcel (Area & Dimensions): 30.6 Acres, 1,511' x 882' Present Land-Use: Vacant

Proposed Land-Use: Residential _____

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 Ned Zimmerman _____
(Recorded Owner)

541 Daisy Dean Road, Wilsall, MT 59086-9405 _____
(Address)

406-551-3455 _____ zncattle@gmail.com _____
(Phone Number) (email)

Owner Van Zimmerman _____
(Recorded Owner)

353 Harvard Street #4, Cambridge, MA 2138 _____
(Address)

617-595-2473 _____ van@vanzimmerman.com _____
(Phone Number) (email)

Agent KLJ Engineering (Travis Copper or as Delegated) _____
(Name)

2611 Gabel Road, Billings, MT 59108 _____
(Address)

406-247-2902 _____ travis.copper@kljeng.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: Ned Eric Zimmerman Van Guth Zimmerman Date: 03/23/2023
(Recorded Owner)



Date Stamp



2611 Gabel Road
Billings, MT 59102-7329
406 245 5499
KLJENG.COM

Zoning Application Narrative

Project: Rezone Application, NE Corner of 54th Street West and Rimrock Road, Billings MT, Lot 2B, COS 1834

Property Overview:

The above described property is in Yellowstone County, Outside of the City of Billings City Limits, but within the City of Billings Zoning Jurisdiction. The property is bordered by City Limits on the south, west and east sides, with existing single-family residential development on the south and west sides and undeveloped land to the east and north. The property is currently zoned N3 – Suburban Neighborhood. City owned water and sanitary sewer mains exist on the west and south sides of the property.

The property is proposed for annexation into the City and concurrent rezoning in accordance with the 2016 City of Billings Growth Policy (GP) and current City of Billings Zoning Regulations (ZR).

Synopsis of Pre-application Neighborhood Meeting:

A Pre-application Neighborhood Meeting for this application to re-zone was held on-site at 5:00 PM on Monday, March 20, 2023. Meeting minutes and sign in sheet are included in the zoning application package. Approximately 35 people showed up to the meeting and expressed various concerns and questions, which are summarized in the minutes.

Consistency with Growth Policy, Neighborhood Plans, and other Applicable City Development Policy:

- Map 3.1 of the GP shows the property within the proposed 2004-2011 Limits of Annexation.
- Annexation and re-zoning would involve “Infill and contiguous County Property” as noted as an Essential Investment Object in Chapter 4 of the GP.
- Section 27-801.B.1 of the ZR establishes Planned Neighborhood Development (PND) standards for annexation of lots larger than 10 acres. The PND standards require a minimum of two zones other than P1-Park and Open Space. The applicant is satisfied with the current N3 zone so has selected N2 for the second zone, as being the most similar that which currently exists. The proposed zones meet all other requirement of the PND standards.

10 Statutory Criteria for a Zone Change:

1. Whether the new zoning is designed in accordance with the growth policy
It is consistent as described above.
2. Whether the new zoning is designed to secure from fire and other dangers
Any development of the property will require compliance with all applicable City of Billings development standards, including fire protection requirements.



3. Whether the new zoning will promote public health, public safety and general welfare
Any development of the property will be required to comply with all City of Billings and Montana Department of Environmental Quality health and safety standards.
4. Whether the new zoning will facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements
The proposed zoning does not allow the property to be developed at a dissimilar intensity than the existing N3 zoning. Therefore, the rezone will not result in an increased demand for these services.
5. Whether the new zoning will provide adequate light and air
The proposed zoning does not allow the property to be developed at a dissimilar intensity than the existing N3 zoning. Therefore, the rezoning will not result in reduced air quality or an increased demand for lighting.
6. Whether the new zoning will affect motorized and nonmotorized transportation
The proposed zoning does not allow the property to be developed at a dissimilar intensity than the existing N3 zoning. Therefore, the rezoning will not result in an increase in transportation needs.
7. Whether the new zoning will promote compatible urban growth
The proposed annexation and zoning are needed for infill of property currently in the County that is surrounded by City limits on three sides and develop the property consistent with surrounding land uses.
8. Whether the new zoning considers the character of the district and the peculiar suitability of the property for particular uses
The proposed land use is the same as that previously assigned to the property by the current zoning designation.
9. Whether the new zoning will conserve the value of buildings
The proposed zoning is similar to that of surrounding properties and is consistent with existing and proposed building on those properties.
10. Whether the new zoning will encourage the most appropriate use of land throughout the City of Billings.
Appropriate use for the land was determined in development of the GP, of which, the proposed zoning is compatible.

Fits in with the Existing or Planned Developments within the Area:

Land to the south and west is already developed. There are no current development plans for property to the north or east that are known to the applicant. Street and utility stub outs will be required to adjacent undeveloped land through the preliminary plat review process.

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:** N3

2. **Written description of the Zone Change Plan** including existing and proposed new zoning:
Rezone with Annexation too N PND with N3, N2 & P1 districts per attached map

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

4. **Legal Description of Property:** Lot 2B of COS No 1834

5. **Neighborhood Task Force Area:** Yes
Gordon Olson, Chair Westend Task Force
5929 Ironwood Dr
BILLINGS, MT 59106

6. **Roster of persons who attended the pre-application neighborhood meeting:** attach

7. **A copy of the meeting notice.** attach

8. **A brief synopsis of the meeting results including any written minutes or audio recording.** attach

9. **The undersigned affirm the following:**
 - 1) The pre-application neighborhood meeting was held on the 20th, day of March 2023.
 - 2) The zone change application is based on materials presented at the meeting.

Owner (s): Ned Eric Zimmerman Telephone: 406-551-3455
Address: 541 Daisy Dean Road, Wilsall, MT 59086-9405 Email: zncattle@gmail.com

Owner (s): Van Guth Zimmerman Telephone: 617-595-2473
Address: 353 Harvard Street #4, Cambridge, MA 02138 Email: van@vanzimmerman.com

Agent (s): Travis Copper Telephone: 406-247-2902
Address: KLJ Engineering (Travis Copper or as Delegate) Email: travis.copper@klijeng.com
2611 Gabel Road, PO Box 80303, Billings, MT 59108



MEETING MINUTES

Project: Re-zone Application, NE Corner of 54th Street West and Rimrock Road, Billings MT
Purpose: Pre-application Neighborhood Meeting
Date & Time: 5:00 PM, March 20, 2023
Location: On-site
Attendees: Sign-in Sheet Attached

Discussion Points:

1. Introductions, Handouts & Sign-in
2. Brief discussion from Steve Grabill regarding proposed development and requested annexation / zone change
3. Questions and Comments and Comment Period:
 - a. What will be done about the Prairie Dogs?
KLJ response: Developer will evaluate alternatives and feasibility of exterminating them.
 - b. Concerns of increased traffic at the 54th / Rimrock intersection:
KLJ response: A traffic impact analysis is being completed as part of the subdivision review process.
 - c. Concerns over added pressure to Yellowstone Family Park, and request for Fifty Four West to be included in Yellowstone Family Park Maintenance District.
KLJ response: The developer is required to dedicate or pay cash-in-leu for additional parks through the subdivision review process.
 - d. Proposed lot size?
KLJ response: Generally, 10,000 SF and larger, with a few smaller ones
 - e. Will there be streetlights? Generally, the neighbors were not in favor.
KLJ response: Street lights are not proposed by the developer, but the developer will be required to execute a waiver of right to protest formation of an SID for street lights if the City decides to install them in the future and assess the cost to land owners in the subdivision.
 - f. Does the proposed N2 allow for higher density or duplexes?
KLJ response: We were not sure at the time but stated the developer's intent is for single family homes.
 - g. What if the developer sells lots to other builders that would like to construct duplexes?
KLJ response: The developer was satisfied with the existing N3 zoning but is required to rezone in accordance with City ordinance. The developer picked the N2 zone because it



is the most similar to the already existing N3 zone and will result in the most minimal change that can be approved by City ordinance.

- h. Will curb and gutter be installed along 54th West to north subdivision boundary
KLJ response: Yes
- i. Will there be impacts from shallow groundwater & dewatering?
KLJ response: Geotech borings were completed and we believe most of the construction will not require dewatering.
- j. What types of homes will be constructed?
KLJ response: The developer's vision is something similar to Silver Creek Subdivision off of 46th Street.
- k. Can a parking area be improved on the NE corner of 54th and Rimrock for Cyclists to use the existing trail system?
KLJ response: The developer has offered that area to the City for park use, but the City is not recognizing it as having any value at this time. The developer would consider donating that land for this purpose if it were credited towards the developer's park dedication requirements.
- l. One request was expressed to not develop any parks over concerns of increased crime.
KLJ response: none
- m. Other requests were expressed to landscape the proposed open space south of the ditch.
KLJ response: That is yet to be decided based on review and negotiations with the City as part of the subdivision review process.

Zoning Commission

Date: 05/02/2023
Title: Zone Change 1026 - 3648 AJ Way - A to P3
Presented by: Monica Plecker
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 1026.

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

This is a zone change request for property at 3648 AJ Way from Agriculture (A), a county zone district, to Public 3 - Civic Campus (P3- Civic) on C/S 1889, Tracts 2 and 3, a 40.001 acre parcel(s) of land. The proposed zoning would facilitate the Department of Montana Military Affairs in the development of an Army National Guard facility. In order for these two parcels to be developed, they will be annexed into the City of Billings. This will give access to municipal water and sewer, among other utilities. When properties are annexed into the City, they must also go through a concurrent process to have the property re-zoned to a zone recognized by the City. In this case, the applicant is seeking a zone change to Public 3 Campus (P3). The P3 district is intended for public and civic uses involving multiple structures that are developed in a campus-like environment. P3 zoning is available for medical campuses, educational campuses, and civic campuses with three (3) or more principal buildings. The Army National Guard facility, more specifically known as the Limited Army Aviation Support Facility (LAASF) would be considered a civic campus in accordance with zoning and buildings will likely be constructed over the course of several years. But once the project is completed it will achieve the campus feel as intended by the district.

The following is background information on the proposed facility and operations provided by the Army National Guard: *"The Planned Action is to construct a government-owned permanent Limited Army Aviation Support Facility (LAASF) in Billings, Montana. A larger, Montana Army National Guard (MTARNG) owned facility would accommodate a permanent hangar and would include backup/emergency generator, paved parking, unheated aircraft storage, and fire detection, alarm, and suppression equipment. This large, long-term permanent facility includes space for training rooms, office space, hangar, etc. and would accommodate the emerging growth needs and coverage requirements of the Montana Army National Guard (MTARNG) aviation assets. The permanent facility would better accommodate on-the-ground drill and training activities. The LAASF would be staffed by up to 14 full-time personnel, including mechanics, flight operations specialists, and a mixture of each of the following; avionics, technical supply, production control officer, maintenance test pilot, quality assurance officer, Officer in Charge (OIC), instructor pilot, and maintenance supervisor. During the drill weekends, up to 90 personnel are stationed in Billings. These weekends commence on either Thursday or Friday and conclude on Sunday evenings. Typical start/end times are Thursdays, 10AM -- 11PM; Fridays, 7AM -- 11PM; Saturdays, 7AM -- 11PM; and Sundays, 8AM -- 330PM. The proposed LAASF would support six helicopters (including but not limited to the Chinook, Blackhawk, and Lakota). Flights occur primarily during the day. On weekdays, 2 to 3 helicopter training flights per day originate from LAASF for a total of 10 to 15 flights per work week. The LAASF supports 2 to 3 flights per day on drill weekends for a total of 14 to 21 flights during a drill week. While most flights are single-aircraft operations, some multi-ship operations occur. Multi-ship flights depart the airspace immediately and do not use the traffic pattern. The LAASF operates one additional Saturday per month that includes two to three flights. Flights follow flight paths that are approved by Air Traffic Control. Flight paths originate at the LAASF facility and travel over the airport north of Highway 3."*

Planning staff recommends approval and adoption of the findings for the 10 review criteria for Zone Change 1026 as detailed in the summary section of this report. The proposed P3 zone is compatible with nearby existing aviation facilities and would not be overly intrusive to nearby low-density residential developments considering existing aviation activity.

STAKEHOLDERS

Planning staff notified the surrounding owners, published a legal ad and posted the property as required by the zoning regulations. At the time this staff report was submitted, Planning staff has not received any correspondence on the proposed zone change from surrounding owners. A pre-application neighborhood was conducted by the applicant on March 27, 2023, at 3465 AJ Way - Unit 111, and 16 persons signed the attendance sheet. The pre-application meeting notes and sign in sheet are attached.

ALTERNATIVES

The Zoning Commission may take one of the following actions:

- Recommend approval and adoption of the findings of the ten review criteria for Zone Change 1026; or,

- Recommend denial and adopt different findings of the ten review criteria for Zone Change 1026; or,
- Delay action on the zone change request for up to 30 days; or,
- Allow the applicant to withdraw the zone change request.

In case of a tie vote on the zone change, the application will be delayed for 30 days until the next Zoning Commission meeting. The Zoning Commission must forward a recommendation with findings to the City Council. The applicant has not requested a delay or a withdrawal of the application at this time.

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:

Essential Investments (relating public and private expenditures to public values)

- Infill development and development near existing City infrastructure may be the most cost-effective
- Neighborhoods that are safe and attractive and provide essential services are much desired
- Mobility and Access (transportation choices in places where goods and services are accessible to all)

Prosperity (promoting equal opportunity and economic advancement)

- Community investments that attract and retain a strong, skilled and diverse workforce also attracts businesses

The proposed zoning would allow for the development of a military facility that would serve the region and promote safety. There is only one other facility in the state that serves this role, and a facility like this in Billings will provide faster response times to this part of the state. Additionally, this activity is being located in proximity to an area of the city that already has established aviation operations. The proposed zone aligns with allowed development on adjacent parcels. The P3 district allows civic campuses.

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 are promoted by the proposed zoning. This is not a unique to the P3 zone, but instead is promoted by all adopted zoning districts within the City of Billings. The site and structure regulations found in 27-500.1 in the P3 district promote the minimum standards to ensure public health and safety and promote general welfare. Public health and public safety will be promoted by the proposed zone change.

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

Transportation: The proposed zoning itself will have no appreciable effect on the adjacent transportation network, however once the property is developed there will be some impact to nearby roadways. The property will be served by AJ Way, a public road that is accessed by Highway 3. Montana Highway 3 is a National Highway System (NHS) non-interstate route that extends from Billings to Great Falls. In the project vicinity, Highway 3 generally runs east to west providing access to several public streets and numerous residential driveways. Currently, the facility has a single travel lane in each direction with left-turn lanes at Rod & Gun Club Road (eastbound), Zimmerman Place (westbound), Apache Trail (westbound). Highway 3 also has right-turn lanes at its intersections with Rod & Gun Club Road (westbound) and a roundabout at Zimmerman Trail.

The Billings Area Transportation Plan classifies Highway 3 as a Principle Arterial. Principle arterial roadways are built to carry higher volumes of traffic generally between 30,000-55,000 (ADT). Today traffic volumes in the corridor are approximately 11,500 Average Daily Traffic (ADT). Projections indicate that traffic will increase to approximately 17,000 ADT by the year 2040.

Generally the Level of Service (LOS) through the corridor operates at A or B which is well above the average LOS for the Billings community.

The Army National Guard (ANG) will have an estimated 14 full-time employees. Additionally, the ANG will host monthly

trainings 1 weekend per month. Staff has identified no concerns with access from AJ Way and Highway 3 that would create a negative finding given the above-mentioned information specific to the function of Highway 3.

Water and Sewer: The City provides water and sewer to the property. The utilities will be provided in accordance with the accompany annexation agreement that is mutually agreed upon between the City of Billings and the Property Owner. This agreement is a strict condition of approval for annexations. Water will be extended to the property via AJ Way.

Schools and Parks: Schools and parks should not be negatively affected by the proposed zoning. The proposed development does not include residential uses, therefore, additional students due to this zone change would not be anticipated. It should be acknowledged that with new jobs in the community the school district may realize some increase in student population, however, the zone change does not have a direct correlation to this.

Fire and Police: The subject property is served by city public safety services. The property is currently served by the Billings Fire Department and upon annexation will continue to be served. The nearest fire station is Fire Station 1 which is located approximately 3.9 miles away. The Police and Fire Departments expressed no concerns with the zone change.

5. Will the new zoning provide adequate light and air?

Similar to criteria 2 and 3, the proposed P3 zone, like all zones, requires minimum setbacks to allow for adequate separation between structures and adequate light and air. This parcel is presently vacant therefore any new structure(s) will be required to meet the standards required by Section 27-500.1.

6. Will the new zoning effect motorized and non-motorized transportation?

The new zoning itself will not impact motorized and non-motorized transportation. Once developed, there will be increased volume to the transportation network, both motorized and non-motorized. At this time the facility will house up to 14 full-time employees and will host trainings once per month with an estimated 90 personnel. AJ way provides direct access to the property and upon annexation of these parcels the access will be in the same location. Highway 3 provides access to AJ way. Highway 3 is a principal arterial road and a United States (US) highway. Principal arterial roads are built to carry higher volumes of traffic generally between 30,000-55,000 (Average Daily Traffic - ADT). Today, traffic volumes in the corridor are approximately 11,500 ADT. Projections indicate that traffic will increase to approximately 17,000 ADT by the year 2040, well under the designed capacity. Over time, some improvements may need to be made along Highway 3. These may include traffic management facilities like turn lanes. The addition of improvements such as these will need to be coordinated with the Montana Department of Transportation. Also in the vicinity is the Skyline Trail which is under construction and is located south of Highway 3. The Skyline Trail is a multi-use trail that will extend from the intersection of Highway 3 and Zimmerman Trail through Airport Road along the south side of Highway 3. The City has received federal funding to pave a 10-foot trail that would replace an unimproved/primitive trail that is presently in place. Users of the trail system will observe more air traffic, but the development of the parcel would not obstruct access to the trail.

7. Will the new zoning promote compatible urban growth?

The proposed zoning is compatible with the adjacent zoning and existing uses in the vicinity. This property is near the Billings Flying Service, the Billings Airport and other undeveloped P2 zoned land owned by the City of Billings. The Billings Flying service is a commercial heliport. The use of this property for the Army National Guard close to a heliport and municipal airport does not create compatibility concerns. The proposed Army National Guard facility will also be adjacent to agricultural lands, some that have single family residences. These residences will remain in Yellowstone County. Based on existing activity from the Billings airport and Billings Flying service, there are no additional findings to suggest the P3 zone for the use of the National Guard would not be suitable next to agricultural zoned land.

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 a civic campus to be used by the Army National Guard. The proposed zoning is compatible with the adjacent zoning and existing development and uses in the vicinity. The property is suitable for the proposed use and will fit in with the already existing and established aviation uses in the vicinity (Billings Airport and Billings Flying Service). Further, this use is compatible with the character of the surrounding districts of Public 2 (P2), Heavy Commercial (CX), Agriculture (A), and Light Industrial (I1).

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

The property is currently vacant, therefore the new zoning will not have an impact on the value of buildings for the parcel. Any new structures will need to be in compliance with zoning and building codes, therefore, there are no concerns related to the conservation of value of buildings on the parcels subject to the zone change.

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

In order for the property to be annexed into the City it requires the property be rezoned to a zone recognized by the City. The Department of Military Affairs owns the property and intends to develop it for the Army National Guard. The landowner has chosen the P3 zone as the most appropriate zone and intends to develop the property in accordance with the

requirements of the zoning. A use like this near already established aviation operations and businesses does encourage the most appropriate use throughout the City of Billings.

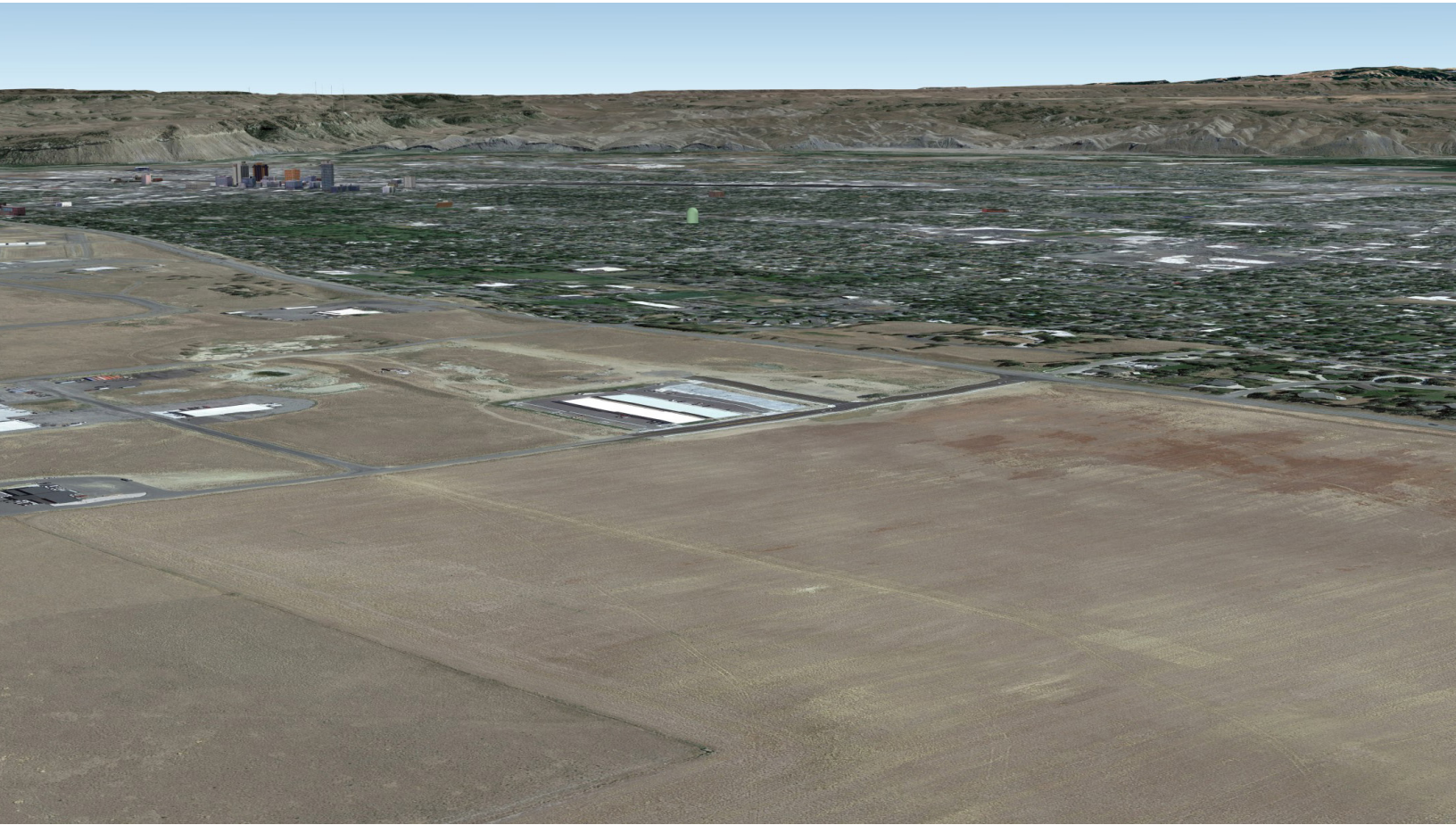
Attachments

Application Letter and Preapplication Notes

Zoning History

Zoning Map and Site Photos

Application and Pre app certification



3648 AJ Way | Zone Change

3 April 2023



NARRATIVE

1	INTRODUCTION	3
2	DECISION CRITERIA	4
3	NEIGHBORHOOD MEETING MINUTES	6

DOCUMENTS

Neighborhood Meeting Mailing
Neighborhood Meeting Sign-In/Attendees

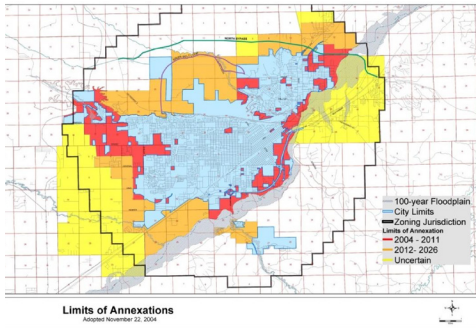
PLANS

Annexation Map

INTRODUCTION

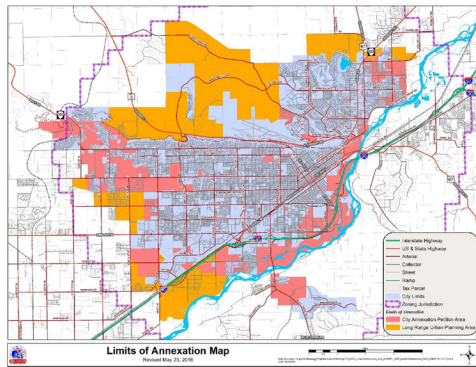
Overview

This is a proposal to change the zoning of these two parcels from County Agricultural to P3 Public Civic Campus zoning. The reason for the proposed zone change is that these parcels are also proposed to be annexed into the City of Billings. Agricultural zoning is not allowed within city limits, so this zone change is an accompanying piece of that process. Annexation of these properties into the city provides the parcels with city utilities, and in-turn, provides the benefit of these parcels to the city. These parcels are owned by the Department of Military Affairs, and the uses that will happen on site will provide public safety and resources to the community.



Growth Policy

The zoning objectives of '3648 AJ Way' were designed in line with the 2016 City of Billings's Growth Policy, and Municipal Code. These documents and others are referenced throughout the application. In the Growth Policy the Limits of Annexation maps have these parcels slated to be annexed from 2012-2026, or within the Long Range Urban Planning Area. To quote the growth policy – **'Shallow bedrock and unstable slopes can pose difficulties for construction.'** A principal reason for annexation is to connect to city utilities to limit the impacts to construction, and negative impacts that independent water, wastewater, and stormwater systems may have on the neighbors and geology.



Neighborhood Plans

There are no Neighborhood Plans for this area.

DECISION CRITERIA

27-1628 D

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

These parcels fit the primary objectives listed within the Growth Policy. For Essential Investments – Under ‘Locations for Investments’ Infill and contiguous County properties is the primary objective. For Public Services the first objective is Public Safety. Integrated Water Systems is the first objective for Infrastructure, and Public services is the first objective of the Business category. For Regulation objectives 2-6 will be met on these sites.

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

Yes, P3 zoning will be served by the City of Billing’s emergency services, including police and fire. Future site development will conform to City of Billing’s public safety, building, and land use requirements in compliance with the Municipal Code, as well as all applicable building codes to help secure safety from fire and other dangers.

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

Yes, all future development will require site plan review and compliance with the City’s Municipal Code which ensures the promotion of public health, safety and general welfare. This proposed zoning change allows for additional civic campus alternatives and provides open space. It is anticipated that this project will increase support facilities, facilitating decreases in emergency response times.

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

Yes, The City conducts extensive planning for municipal transportation, water, sewer, parks, and other facilities and services provided by the City. The adopted plans allow the City to consider existing conditions and identify enhancements needed to provide additional service needed by new development. The development of public infrastructure improvements to serve the property will be required to conform to the City of Billing’s adopted standards which require properties to construct public infrastructure and/or pay impact fees, assessments, and taxes to support transportation, water, sewer, school, parks, and other public requirements.

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

Yes, The Municipal Code includes requirements for providing adequate light and air including park and recreation requirements, maximum building height, on-site open space requirements, lot coverage, and

DECISION CRITERIA (Cont.)

setback requirements. Future development of the property will be subject to these provisions and that of the Building Codes which have standards for ingress and egress, ventilation, and related subjects that further support the provision of adequate light and air.

6. **Whether the new zoning will affect motorized and nonmotorized transportation**

Neutral, with the change in zoning there will be no direct change in transportation with this zone change. It is noted that improvements at AJ Way and Highway 3 will be needed because of existing and planned growth in the future. The zone change of these parcels does not directly impact the area transportation. Future developments will conduct the required Traffic Impact Studies to determine the impact to area transportation networks.

7. **Whether the new zoning will promote compatible urban growth**

The P3 zoning promotes more growth than the agricultural county zoning. The P3 zoning is also compatible with future plans from the 2016 Growth Policy. In the Public Preferred Scenario of the growth Planning Scenarios it has these parcels listed as Heavy Commercial High Density / Industrial Light. Public P3 Civic Campus is not listed as a zone in that plan but it fits similar to those uses. (See images to left)

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

Yes, the proposed P3 can support many types of urban development that serve the immediate area and broader region. With adjacent P2, I1, and CX zoning the P3 uses will fit well with those uses.

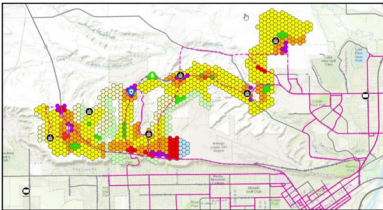
9. **Whether the new zoning will conserve the value of buildings**

There are no existing buildings on the site to evaluate when considering how the values of buildings are being conserved. Any proposed new or expanded structures will be required to meet setbacks set forth in the Municipal Code, which will alleviate potential negative impacts to the values of adjacent buildings on bordering parcels in the event of future development on the subject property. Any future development on the property will be subject to standards in the P3 zoning which will ensure the conservation of adjacent building values.

10. **Whether the new zoning will encourage the most appropriate use of land throughout the city.**

Yes, with adjacent P-2, CX, and I1 zoning we feel this P3 zoning fits the mix of all those zones. Additionally this zoning fits the projected uses of the Growth Policy as mentioned in the Overview.

NORTH PUBLIC PREFERRED SCENARIO (NPP)



NEIGHBORHOOD MEETING MINUTES

1. Peter Rudd from SMA noted the lots and description of the sites that have a proposed zone changes from AG to P3. A map was passed around showing the lot locations. Discussed P3 as multi building campus.
2. Barbara Ramlow:
Will each lot be a separate campus
Response: No, currently anticipating a single campus.
3. Alice Lahren:
How can we be comfortable without knowing what building will be built?
Response: The first phase will be a Limited Army Air Support Facility.
4. Howard Evans:
Who do you represent?
Response: SMA, the State of Montana and The Department of Military Affairs.
What will be done to mitigate noise? Could there be a berm?
Response: Too early in the design phase to tell. Trees have been considered.
5. Morgan Tuss:
What exit/entry will be allowed to handle future development.
Response: A second entry has been discussed, but too early to give a firm answer
6. Richard King (Chair of Rimrock Neighborhood Task Force):
Is there any activity by the county, master planning program that would help define the future of this area outside your property?
Response: Not that we are involved in or have knowledge of.
7. Paul Scarpari:
What happen in Phase 1? Will there be barracks?
Response: Phase 1 is the LAASF; no barracks..
8. Howard Evans:
Why in the City?
Response: We would guess it is due to the availability of site utilities including sewer and water
Is the zone change county or city.
Response: Likely a concurrent Zone Change and annexation through the City of Billings. Need to confirm.
9. Paul Scarpari:
How large will the building and pad be
Response: Too early to tell.

NEIGHBORHOOD MTG. MIN. (Cont.)

What impact will there be: Lights? Noise?

Response: Will need to wait until the later meeting when more specific building details are available, but there will be noise and lights.

10. Jim Helus:

How will the watershed be handled so water doesn't need to be handled? They have had flooding in the basement.

Response: This is a significant design concern and is being addressed with the site design.

11. Theresa Helus: I want to make a few comments – not questions:
AJ Way traffic has become hazardous to the traffic on Highway 3.
Lights on current industrial buildings are too bright.

12. Kevin Moser:

Will there be road upgrades due to this project? Would it be done prior to highway deaths?

Response: Road improvements, if made, will be before or concurrent with facility construction, based on traffic needs.

13. Michael Tuss: I want to make a few comments:

Cut off light fixtures are recommended. Blaine's lighting did a poor job of this.

Air craft have been flying over my house and rattling my windows. Will this be an issue? Army copters have been more respectful than Blaine's

Roundabouts made traffic noise levels high. Suggest lowering speed limit on Highway 3.

Response: None

14. Howard Evans:

Will the building comply with Zoning P3?

Response: Yes

I am questioning P3 Zoning

15. Paul Scarpari:

Dates for follow up meeting?

Response: More are coming but nothing has been scheduled.

16. Howard Evans:

Can we get the master Plan? Is this a public document?

Response: Will verify

Can that be provided?

Response: Will verify

When will the application be made?

Response: Will verify.

Who pays for City Services?

Response: Normally, this would be City system development fees.

NEIGHBORHOOD MTG. MIN.(Cont.)

17. Morgan Tuss: Comment

I would hope for a P3 zoning vs Industrial.

18. Barbara Ramlow:

Will there be a round about?

Response: Not Sure about infrastructure scope at this time.

19. Jeff Biscoe:

I am from "Discovery Field" outdoor learning facility. Barracks will be just across the fence line, will there be a drill sergeant out there yelling obscenities? Can you plant a tree line now?

Response: This barracks is not in the current scope of work.

20. Alice Lahren: Comment

Current Trail that is under construction will make turning problems. North side development may create more issues.

Response: None.

21. Howard Evans:

The other lots that are industrial in this area will they take part in the road improvements.

Response: This is not in the scope of our project. We are unsure of the answer at this time.



architecture + design



HELENA
920 Front Street, Suite 101
Helena, MT 59601
P: 406.442.4933



BOZEMAN
428 East Mendenhall Street
Bozeman, MT 59715
P: 406.219.2216



City Zone Change Neighborhood Meeting

To Whom it May Concern,

Hello, we would like to invite you to a Neighborhood Meeting for the Zone Change of parcels D04590 & D04589 located at 3648 AJ WAY. The parcels previously stated are in the process of annexation into the City of Billings with an accompanying zone change from County Agricultural Zoning to City of Billings' Public zoning. This zone change is occurring as Agricultural Zoning is not allowed within the City of Billings, and the Public zoning accommodates the future needs of the site and community.

When: 6:00pm, March 27th, 2023

Location of Meeting: Warehouse Unit 111

3465 AJ Way

Billings, MT 59106

Address: 3648 A J WAY

Tract 3 D04590

Legal Description: S26, T01 N, R25 E, C.O.S. 1889,

PARCEL 3

Owner Contact: The Department of Military Affairs
PO Box 4789
Fort Harrison, MT 59636-4789
Contact: David Brown
Email: david.a.brown588.nfg@army.mil
Phone: (406)437-4210

Tract 2 – D04589

Legal Description: S26, T01 N, R25 E, C.O.S. 1889,

PARCEL 2

Owner Contact: Lupine Holdings LLC
421 Rimrock Road
Billings, MT 59102-1024
Contact: Erin Herring
Email: erin@flybfs.com
Phone: (406)860-2256












MEETING SIGN-IN SHEET

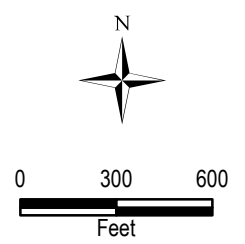
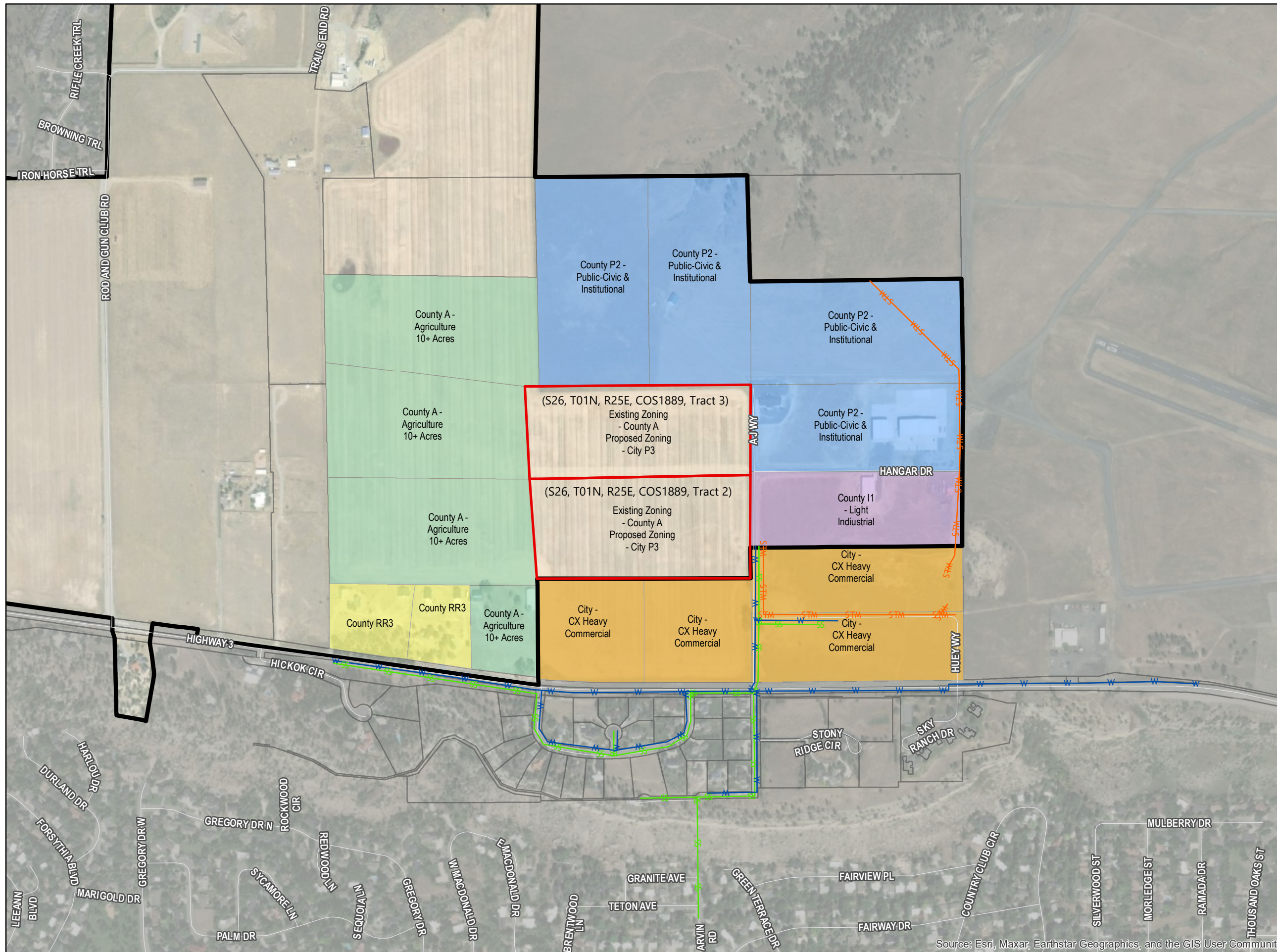
Project:	Zone Change	Meeting Date:	3-27-2023
Facilitator:	Peter Rudd - SMA	Place/Room:	

Name	Title	Company	Phone	Fax	E-Mail
Kevin Moser			690-1718		moser.construction@yshoo.com
P. Vande Veegeste			406 545-0777		drvan@bresnan.net
PAUL R. SCARPARI			406 391-5301		PAUL.SCARPARI@GMAIL.COM
Barbara Ramlow			406- 534-2102		erksider100@gmail.com
Howard Evans			252-3558		RimTop10rd@gmail.com
Jim & Theresa Helus			406- 245-6320		thelus@charter.net
Simon Harper			406 8912		SIMON@BRESNAN.NET
Lyle Gabrian			406 259-1823		lgabrian@bresnan.net
Richard King	Chair: RNTF		406 690-0776		King35@cc.com
Alice Lahren			406 850-8677		alahren@bresnan.net
Norma Boyd			406 865-1991		ncleveland@hotmail.com
Joe Boyd			406 860-3434		JoeBoyd794@gmail.com
Michael Tuss	Resident		406 545-8972		mtussmt@gmail.com
Morgan Tuss	Resident		406- 698-2067		morgan.tuss@gmail.com
Jeff Biscoe	owner / President		406- 839-2999		jeffbiscoe@gmail.com

Annexation Map

Legend

-  Sewer Main
-  Storm Water Main
-  Water Main
-  Parcels To Be Annexed
-  Parcel Boundary
-  City - CX Heavy Commercial
-  County RR3
-  County A - Agriculture 10+ Acres
-  County I1 - Light Industrial
-  County P2 - Public-Civic & Institutional
-  Existing City Limits

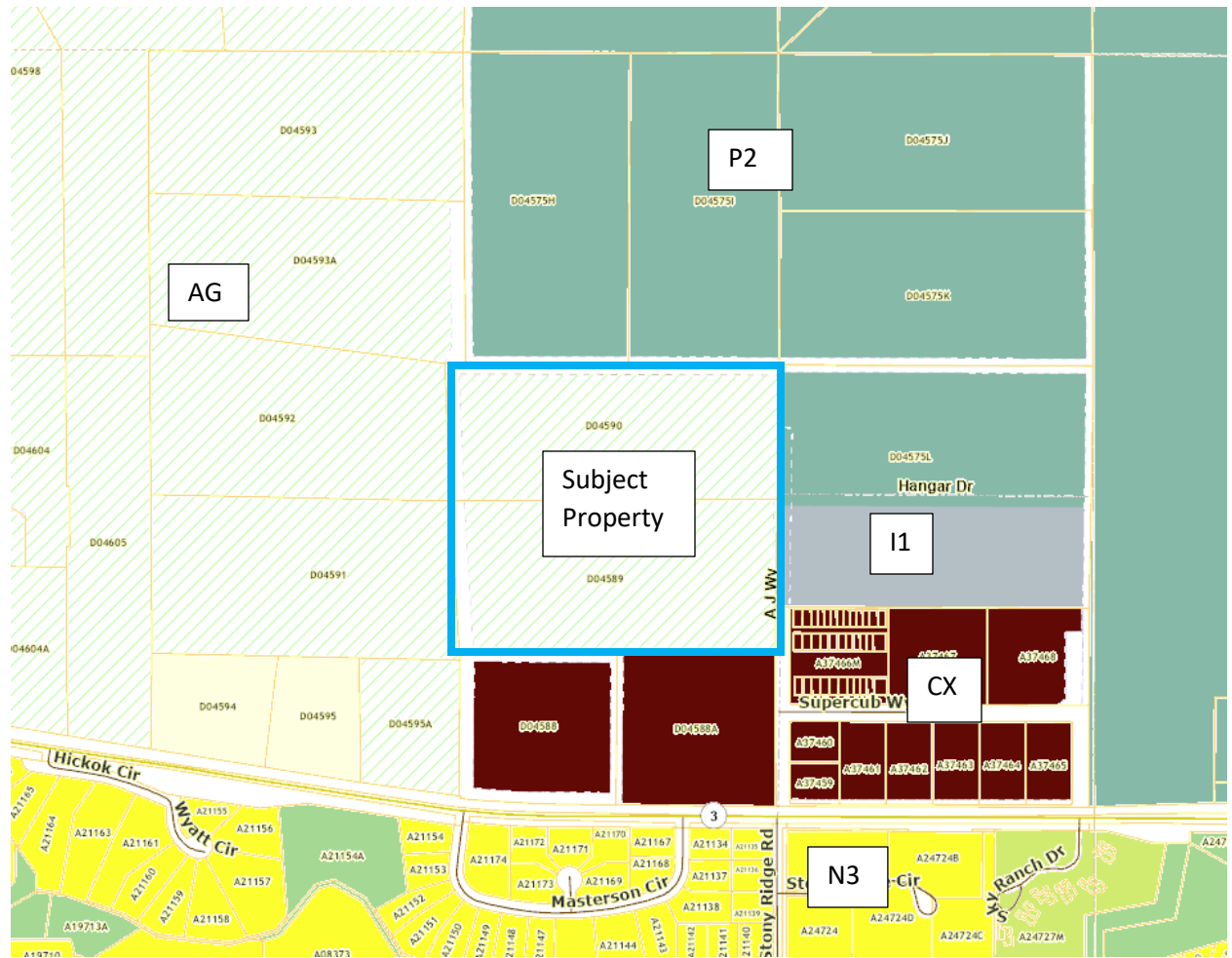


Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community



City Zone Change 1026 – 3648 AJ Way
Chart of Zoning History

SUBJECT PROPERTY	Application	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
3648 AJ Way	NA				
SURROUNDING PROPERTY	Application	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
2300 Block Hwy 3	County ZC 669	4/2016	A-1 to P and CI	Y	Helipad and Ancillary Aviation Businesses
Hwy 3	County ZC 676	11/2016	A-1 to HC	Y	
Hwy 3	County ZC 680	4/2017	CI to HC	Y	



Zoning Map



Aerial Image



Subject Property



Looking northwest from AJ Way



Subject Property Looking South West



Looking South from AJ Way



Looking North East from AJ Way

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:** County- A- Agriculture 10+ acres _____

2. **Written description of the Zone Change Plan** including existing and proposed new zoning:
Plan to annex both parcels and change from Agriculture zoning to P3-Public-
Campuses - Medical, Civic, Educational (Annexation Petition is filed separately) _____

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

4. **Legal Description of Property:**
S26, T01N, R25E, COS 1889, Tract 2 _____
S26, T01N, R25E, COS 1889, Tract 3 _____

5. **Neighborhood Task Force Area** Yes // No . If Yes, Name of Task Force and mailing
address of Chairperson:
Rimrock Neighborhoods Task Force, Chairperson- Richard King (108 Sky Ranch Drive, Billings MT 59106)

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 27th, day of March,
2023.
2) The zone change application is based on materials presented at the meeting.

Owner (s): Department of Military Affairs Telephone: 406-324-3109
Address: 1956 Mt Majo Street, PO Box 4789 Email: john.w.gehring2.mil@army.mil
Fort Harrison, MT 59636-4789

Agent (s): Lee Elder (SMA) Telephone: 406-219-2216
Address: 428 E. Mendenhall St. Email: lee@sma.design
Bozeman, MT 59715

APPLICATION FORM

CITY ZONE CHANGE **Billings Zone Change #** _____ **- Project #** P2X-23-00065

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 County A-Agriculture 10+ acres

Proposed Zoning: City P3- Public- Campuses -Medical, Civic, Educational

TAX ID# 81-0302402 CITY ELECTION WARD 1-after annexation

Legal Description of Property: S26, T01N, R25E, COS 1889, Tract 2 and S26, T01N, R25E, COS 1889, Tract 3

Address or General Location (If unknown, contact City Engineering): 3648 AJ Way, Billings, MT 59106
and the 20 acre parcel directly south of

Size of Parcel (Area & Dimensions): 40.01 acres
this address.

Present Land-Use: Vacant- Agriculture

Proposed Land-Use: Public- Campus- MT Army National Guard -Limited Army Aviation Support Facility

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): The Department of Military Affairs (LTC John Gehring)

(Recorded Owner) 1956 Mt Majo Street, PO Box 4789 Fort Harrison, MT 59636-4789

(Address) 406-324-3109 john.w.gehring2.mil@army.mil

(Phone Number) (email)

Agent(s): Lee Elder (SMA)

(Name) 428 E. Mendenhall St. Bozeman, MT 59715

(Address) 406-219-2216 lee@sma.design

(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: _____ Date: 28MAR2023

(Recorded Owner)



Date Stamp

Zoning Commission

Date: 05/02/2023
Title: Zone Change 1028 - Planned Development Amendment - Hawk Creek
Presented by: Nicole Cromwell
Department: Planning & Community Services
Presentation: Yes

Information

RECOMMENDATION

Planning staff recommends approval of the amendment to the Hawk Creek Planned Development zoning agreement on Lots 1-3 of Block 1 in the MK Subdivision to allow one full beverage liquor license for the property instead of one cabaret beer and wine license. The PD agreement prohibits the location of any gambling on the property as well as restricting other uses in the underlying zone district of Neighborhood Commercial, an archived zone district.

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

This is a zone change request to amend an existing Planned Development (PD) zoning agreement for Lots 1-3, Block 1 of MK Subdivision, 2nd Filling. Lot 3 at 5417 Hawk Creek Avenue is the location of the Diamond X Beer Company. This location has a domestic brewery license with a taproom and a cabaret license for service of beer and wine in the food service area. The original PD agreement allowed one (1) cabaret license on the property without gaming or gambling. The proposed amendment would eliminate the cabaret beer & wine license and substitute a full-beverage liquor license and keep the prohibition on gaming or gambling in place. The other proposed changes to the PD agreement are to name the current property owners, and conform the agreement to the current and archived city zoning regulations. The owners would like to provide a wider range of before and after dinner beverages for their adult customers.

The amendment to the PD adds a use, making it necessary for the amendment to go through the zone change process. The other modifications in the agreement are minor. The previous zoning for the property - Neighborhood Commercial - did not allow any on-premise alcohol service for a restaurant and did not allow a brewery. The current corollary zone district of Neighborhood Mixed Use (NMU), allows a full-beverage license with nine or fewer gaming machines for a restaurant, but still prohibits a brewery or craft alcohol maker. The PD agreement is still necessary to provide certainty for the adjoining neighborhood to the north and to ensure the location is developed in a compatible way.

Planning staff recommends approval and adoption of the findings for the 10 review criteria to amend this PD agreement. The essential activity on the property will not change with the change in the type of liquor license on the property. Full beverage licensees are not required to stay open later than the current closing time for Diamond X Beer Company (11 pm) or to sell package liquor to patrons. These are choices made by a license holder but do come with the full beverage license. The brewery/taproom license will remain as a separate license and allows the brewing of beer, daily sales of beer for on-premise consumption and sales of beer to patrons for off-site consumption. A review of public safety calls for service in the last 6 months shows no calls to this location but 4 calls in the surrounding area, within 500 feet of 5417 Hawk Creek Avenue. These calls related to disturbing the peace, drugs, theft, or DUI. The DUI was reported in February of this year, and the other three calls happened in 2022. The applicant conducted a pre-application meeting on March 22, 2023, and two of the 74 surrounding owners attended the meeting. There were no concerns and the Planning Division received no letters, emails or phone calls regarding the proposed change to the Planned Development agreement.

STAKEHOLDERS

The applicant conducted a pre-application meeting on March 22, 2023, and two of the 74 notified surrounding owners came to the meeting held at the Grace Montessori School (4819 Grand Avenue). There were no concerns with the proposed change to the PD agreement. Planning staff notified the same surrounding owners on April 14, 2023, posted the property and published a legal ad. Planning staff has not received any communications regarding the application from the public or from other city departments.

ALTERNATIVES

The City Zoning Commission may:

- Recommend approval and adoption of the findings of the ten review criteria for Zone Change 1028; or,
- Recommend denial and adopt different findings of the ten review criteria for Zone Change 1028; or,
- Delay action on the zone change request for up to 30 days; or,
- Allow the applicant to withdraw the zone change request.

In case of a tie vote on the zone change, the application will be delayed for 30 days until the next Zoning Commission meeting. The Zoning Commission must forward a recommendation with findings to the City Council. The applicant has not

requested a delay or a withdrawal of the application at this time.

FISCAL EFFECTS

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

SUMMARY

Before making a recommendation to the City Council, the Zoning Commission shall consider the following findings of the 10 review criteria.

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 and the West Billings Neighborhood Plan (2001):

The West Billings Neighborhood Plan goals and objectives stated the need to locate compatible uses and offer neighborhood services in proximity to developed neighborhoods. The West Billings Plan adopted a number of Goals, Policies, and Implementation Strategies. The proposed amendments to the Planned Development agreement are consistent with the following adopted Policies of Planned Growth Goal 1: Establish Development Patterns that Use Land More Efficiently

Policy A - "Shorten automobile trips by locating non-industrial commercial development in proximity to residential areas."

Policy B - "Limit neighborhood commercial centers to compact "commercial villages" of approximately 15 to 20 acres in size."

Policy N - "Subdivision review should encourage mixed-use development and PUD concepts and shall consider the proximity of housing to commercial, medical, and recreational facilities."

The proposed adjustments to the PD agreement are compatible with goals of the West Billings Neighborhood Plan. The proposed amendment will accommodate uses that are compatible in a mixed-use environment. The proposed development will also have good access to outdoor activities and is close to developed and developing residential neighborhoods and pedestrian facilities. There have been no reported compatibility issues with the existing brewery/restaurant and the adjacent neighborhood.

The proposed amendment is also in line with the adopted 2016 Growth Policy goals for:

Community Fabric:

- Developed landscape areas in commercial areas encourage more pedestrian activity and vibrant commercial activity
- Attractive street-scapes provide a pleasant and calming travel experience in urban and suburban neighborhoods
- Outdoor public spaces provide casual and relaxing gathering areas for people
- Developed landscape areas in commercial areas encourage more pedestrian activity and vibrant commercial activity
- Attractive street-scapes provide a pleasant and calming travel experience in urban and suburban neighborhoods

Strong Neighborhoods:

- Walkable neighborhoods that permit convenient destinations such as neighborhood services, open space, parks, schools and public gathering spaces foster health, good will and social interaction

Mobility and Access:

- Planning and construction of interconnected sidewalks and trails are important to the economy and livability of Billings

Prosperity:

- A diversity of available jobs can ensure a strong Billings' economy
- Successful businesses that provide local jobs benefit the community
- Community investments that attract and retain a strong, skilled and diverse workforce also attracts businesses
- Retaining and supporting existing businesses helps sustain a healthy economy

The proposed change to the PD agreement will allow this successful business to expand its adult beverage choices and help grow the business in its current location. The business does generate vehicle traffic but the streets within this commercial node at 54th St W and Grand Avenue are private streets. There are two accesses - one from Grand Avenue (Chy Way) and one from 54th St West (Hawk Creek Avenue). A third access will be developed when the lot at the corner of Grand and 54th St W is developed. There is a 25 ft wide landscape buffer along the north property line for these lots and the lot to the east created with the MK subdivision. The PD does not specify a walking path or trail through this area however one has been provided to the north of Diamond X Beer Company (Lot 3). This path will continue to the west across Lots 1 and 2. The lot to the east, Lot 5 in MK Sub 1st Filing, is currently vacant and may or may not complete this paved walkway to the join with the multi-use path that exists on the west side of 54th St W.

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

The zoning requires minimum setbacks, open and landscaped areas and building separations. The zoning change to allow one full-beverage license will not affect security from fire or other dangers. Any building where alcohol is served is required to be fully sprinkled and there is good access to the property from streets. Fire Station 7 is less than 1,000 feet away on the east side of 54th St W.

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 change. The business is fully developed and has a track record of responsible service to their customers and to compatibility with the adjacent neighborhood. The addition of a full-beverage license will not affect the public health, safety or general welfare.

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

Transportation: The city has reviewed a traffic study for the entire subdivision and proposed uses. The developer has already contributed the required amount for traffic management in the area.

Water and Sewer: The City provides water and sewer to the property. There will be no additional impacts to the system from the proposed change.

Schools and Parks: Schools and parks will not be effected by the proposed amendment. The business is a "family friendly" business and is more than 1/4-mile from Ben Steele Middle School

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 existing PD 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?

Non-motorized travel -- walking and biking -- is an essential part of the circulation plan for this area of West Billings. The existing development plans to provide a continuous walkway in the 25-foot landscape buffer to the north. It is expected any development on Lot 5 to the east will follow suit and connect to the existing multi-use trail on 54th St West. There is a traffic signal at 54th St W and Grand Avenue where people on foot or on non-motorized bikes and scooters can safely cross Grand Avenue and 54th St W. The city, county and state will be working on a set of corridor improvement projects for Grand Avenue from just west of Shiloh Road to the intersection with 62nd St West. Traffic counts in the area on Grand Avenue are about 9,000 vehicle trips per day (3-year average) and about 3,900 vehicle trips per day on 54th St W. The new Albertson's store opening just to the east, as well as new residential development in the area will add to traffic volume and the need for safe pedestrian facilities.

7. Will the new zoning promote compatible urban growth?

The proposed addition of a full-beverage license to this development is compatible with urban growth and the provision of city level services to the new residents. The PD prohibits gaming or gambling on the property so the typical concern with a full-beverage license of a casino is not possible on this property.

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

The proposed PD amendment does consider the character of the district and the suitability of the property for the proposed use. This area between Grand Avenue and Rimrock Road is undergoing rapid development compared to other areas of West Billings. The demand for local services such as groceries, pharmacy, personal services and places to relax and dine out is increasing. Providing the whole complement of these services close to where people live in West Billings will help reduce longer vehicle trips to obtain these services. Most West Billings residents do not have convenient access to these services within 2 or 3 miles of where they live. Consequently, traffic volumes on local streets and arterials is higher in this area compared to similar areas of more compact development.

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

The property is a combination of developed and undeveloped parcels. Approval of the zone change to amend the PD agreement will continue to provide certainty to surrounding landowners and may help to maintain property values of adjacent buildings.

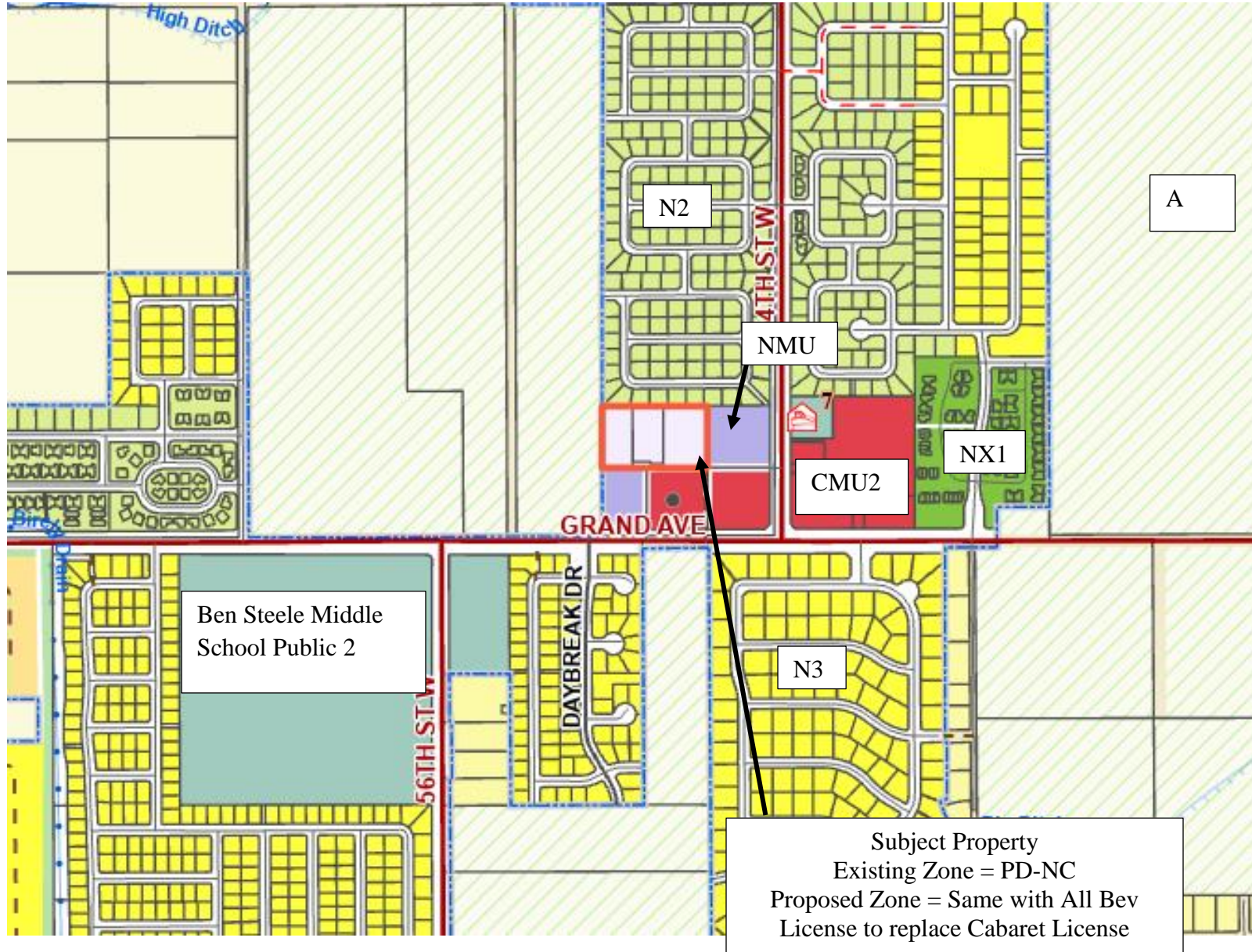
10. Will the new zoning encourage the most appropriate use of land throughout the City of Billings?

The proposed amendment to the PD may encourage the most appropriate use of this land in Billings.

Zoning Map and Site Photos
Chart of Zoning History

Application and Letter
Preapplication meeting materials
Amended PD agreement
Original PD Agreement

City Zone Change 1028 – Hawk Creek PD Amendment
Zoning Map and Site Photos





Subject Property



Subject Property north west of intersection of Hawk Creek Lane and Chy Way



View of west side of Diamond X Brewery and Restaurant (Lot 3)



View north east at Diamond X Brewery



View south east to The Den



View south and west towards Grand Avenue



5417 Hawk Creek Lane – Diamond X

City Zone Change 1028 – Hawk Creek Planned Development
Chart of Zoning History

SUBJECT PROPERTY	Application	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
MK Sub, Block 1, Lts 1-3	971	1/14/2019	NC to PD-NC	Yes	Original PD
SURROUNDING PROPERTY	Application	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
MK Sub	City ZC 798	2/26/2007	A to NC & CC	Y	CMU2 & NMU
1411 Chy Way	City ZC 925	10/14/2014	NC to CC	Y	CMU2- The Den
1411 Chy Way	City SR 958	11/27/2017	Allow All Bev & Casino	Y	CMU2 -The Den
Cottonwood Grove	City ZC 734	2/28/2005	A to R-70 (now N2)	Y	Now N2
Daybreak Sub	City ZC 920	6/9/2014	A to R-60 (now N3)	Y	Now N3
Coal Creek Sub	City ZC 961	1/22/2018	RP to CC (expansion)	Y	CMU2, NO & N2
Coal Creek Sub	City ZC 767	11/17/2005	R-96 to RMF, RP and CC	Y	CMU2, NO & N2
Bishop Fox	City ZC 756	5/9/2005	A to CC, P, R-70 and R-96	Yes	Now CMU2, P2 & N2
Buffalo Crossing	City ZC 1011	4/11/2022	RR3 to N3, N2 NX2 and P1	Y	C/S 2735 Tract 4A
Mont Vista	City ZC 851	7/13/2009	R-96 to PD multiple zones	Y	
Grand Peaks Sub	City ZC 938	8/24/2015	R-96 to R-70	Y	Now N3 & N2
Sweetgrass Creek	City ZC 998	10/11/2021	A to to N1, N2, N3, NX1 and P1	Y	Sweetgrass Creek Subdivision
Foxtail Village	City ZC 729	5/10/2004	A to R-96 & R-70	Y	Now N3 & N2
Trails West	City ZC 847	10/14/2008	R-96 to R-60-R	Y	Now N3
Tule Ridge	County ZC 667	12/29/2015	R-96 to CC	Y	Now CMU1
Vintage Estates	None	1/10/2005	A to R-96 default	Y	Now N3

APPLICATION FORM

CITY ZONE CHANGE

Billings Zone Change # _____ - Project #22-171

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: PD- Neighborhood Commercial with the allowance of one cabaret license and one brewery/taproom license

Proposed Zoning: PD-Neighborhood Commercial with the allowance of one brewery/taproom license and one full liquor license.

Tax ID # A31805F CITY ELECTION WARD # WARD IV

Legal Description of Property: MK Sub 2nd Filing, Section 31, Township 01N, Range 25E, Block 1, Lot 3

Address or General Location (If unknown, contact County Public Works): Grand Avenue & 54th Street West

Size of Parcel (Area & Dimensions): 1.5 ACRES (305 FT X 214 FT)

Present Land-Use: Commercial

Proposed Land-Use: Commercial

Covenants or Deed Restriction on Property: Yes X 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): Arrowhead Investments Corporation

(Recorded Owner)

115 N Broadway Suite 200, Billings, MT, 59101

(Address)

406-855-6884

(Phone Number)

tyschmechel@gmail.com

(Email)

Agent(s): Scott Aspenlieder

(Name)

608 N 29th Street, Billings, MT, 59101

(Address)

406-384-0080

(Phone Number)

scott@performance-ec.com

(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:  Date: 03/30/23

(Recorded Owner)

1. Explain how the proposal is consistent with the goals and policies of the adopted Growth Policy or West End Neighborhood Plan.

The tract of interest is currently zoned Planned-Development Neighborhood Commercial functionally operating at Diamond X Beer Company. There are several Growth Policy goals that are already being met by the current zoning to which the change proposed would only enhance for the surrounding residents.

Essential Investments – With the facility already constructed and operational, the proposed change to allow for full-beverage service does not change the site or building. The applicants have invested significantly in the neighborhood with a building and business that has added value to the surrounding areas while starting to provide necessary neighborhood dining and entertainment to the surrounding region. The site is accessible, friendly and safe for the area and provides a diversity in serve and choices from other businesses in the direct area. The facility will not change physically with the proposed zone change, only operations will change with the insertion of a full-beverage license to the building. The existing site is clean, well-lit, maintained and fits in the character of the neighboring development, not sticking out or detracting from the value of these properties.

Place Making – The existing facility is connected to a local multi-use trail system within the development which will continue to expand with neighboring developments. The business has sourced locally when possible and become a local west-end hang out for those that live in the west end of Billings. The proposed zone change will only enhance the ability of the business to a permanent staple for residents in the area to frequent, making it a permanent neighborhood hangout.

Community Fabric – The existing facility was built with the landscape and heritage of Billings in mind with a barn style look and unique landscaping to ensure the building fit the area and neighborhood. The facility offers indoor and outdoor dining and entertainment experiences during operational hours which align with the desires of local residents, particularly during the summer with an open patio and yard games. The business has catered to locals and neighboring residents to build a strong following as evidence by the waiting lines to get in on most evenings. The proposed zone change will not change or modify the building it would only allow the business to better meet the growing demands and requests of its customers and local residents.

Strong Neighborhoods – The existing facility and business provides for the foundation of a strong neighborhood with community services and a walkable place to dine and find entertainment. The surrounding neighborhoods have benefited from having dining and entertainment establishments within the area, reducing the need to travel into town for the same service. The facility is walkable for five neighboring residential developments, hitting a core tenant of strong neighborhoods. The proposed zone change will not change but only enhance the services and choices for the neighborhood.

Home Base – Although the existing business and facility does not provide housing options it does facilitate further development in the area by providing necessary neighborhood services and entertainment. The business serves as the local hangout and restaurant for many in the surrounding neighborhoods. The proposed zone change would allow for a full-beverage service to better meet the demands and accommodate the neighbors in the area.

Mobility and Access – The business and facility is connected to sidewalks and trails within its development and is fully bikeable and walkable for the neighboring developments. Bike racks are prominently placed in the facility to encourage different modes of transportation to visit the facility. All efforts have been made to encourage outdoors experience and different transportation to visit the facility. The proposed zone change does not change anything to impact, positive or negative, the access and encouragement of alternative transportation methods to the site. No changes to the site layout or building are requested or planned.

Prosperity – The facility and business have provided local jobs that vary from brewmaster and chef to server and facility maintenance which supports the City overall. Additionally, the investment has created a large taxable business on a previously undeveloped tract which helps support the City budget and revenue. The business currently creates a foundation for additional business attraction to the current development by bringing a large customer base to the area. The proposed zone change only further enhances the applicant's ability to serve the existing client base through the expansion of a full-beverage license.

2. Explain how the application meets the 10 statutory criteria for a zone change.

- 1 – The new zoning does not in fact change the existing base zoning of the area nor does it change the type of business or operation able to locate at the site. The PD change request specifically allows for use of a full-beverage license in the existing building. There can still be no gaming on the site and no additional changes are being requested.
- 2 – The new zoning does not in fact change the existing base zoning nor does it change the existing construction on the lot. The site has been built out to be secure from fire and other dangers and previously approved by the Billings Fire Department.
- 3 – The new zoning does not change the existing facility, layout or site as it is constructed. The proposed changes could allow for a change in hours of operation but no change will occur to the site or facilities. The business will continue to provide diversity in jobs, services, and entertainment which benefit the general welfare of the City.
- 4 – The new zoning does not in fact change the base zoning nor will the proposed change facilitate a physical change to the existing facility. With that all said, the existing site facilitates adequate provision for transportation, public utilities, parks and schools. No change will result from the proposed zone change.
- 5 – The new zoning does not in fact change the base zoning nor will the proposed change facilitate a physical change to the existing facility. The existing building and operations meets all current City of Billings zoning regulations and codes to facilitate proper light and air for the surrounding area.
- 6 – The new zoning does not in fact change the base zoning nor will the proposed change facilitate a physical change to the site or transportation networks of the area. The zone change will only allow for the business to better meet the needs and demands of the customer base and residents in the area.
- 7 – The new zoning does not in fact change the base zoning but only allows for full-beverage services under a liquor license. The existing facility has helped facilitate a growing area in our community by providing necessary food, beverage and entertainment services which were not available to the area before. These services are necessary in urban growth of our community

and the continued development of the Billings West End. The proposed change will allow the business to continue to meet the needs and requirements of the customer base while adding value to the neighborhood.

- 8 – The new zoning does not in fact change the base zoning which was already in place and deemed suitable for the particular uses in place and facility constructed. The proposed change will only allow for full-beverage service under a liquor license and will not allow for gaming on the site. There will be minimal to no net change realized by the surrounding properties.
- 9 – The new zoning does not in fact change the base zoning nor will it change the existing building on the lot. The proposed zoning will only allow for expanded full beverage service. The existing building was built with the character of the West End in mind with a nod to our agricultural heritage. The building is very aesthetically pleasing, maintained and landscaped to fit and add value to the surrounding area.
- 10 – The new zoning will certainly encourage the most appropriate use of land in Billings. The proposed change will not create a physical change to the existing site, only allowing for expansion of full beverage service, therefore preserving and enhancing an existing successful business.

3. Explain how the new zoning will fit in with the existing zoning and land uses of the immediate area.

The proposed zoning currently allows the restaurant and taproom facility to sell beer and wine, along with their cabaret license that allows the sale of beer and wine. The proposed zone change would allow for full-beverage service within the existing facility, which it is incapable of doing with the current PD for the lot. Since the current facility is already operational and has been for over a year, the change in zoning will not negatively impact the surrounding area and will provide more opportunities for entertainment for the neighboring residents. No physical changes are being proposed for the site or the building currently housing Diamond X Beer Company. The proposed changes still does not allow for gaming to be located in the facility or on the lot.

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:** Planned Development Neighborhood Commercial with one (1) brewery/taproom and one (1) cabaret license.

2. **Written description of the Zone Change Plan** including a square footage or acres of proposed new zoning: The zoning proposal will change 1.5 acres of developed land, with a restaurant located on the lot with one(1) brewery/taproom and one (1) cabaret license to also include one (1) full liquor license.

3. **Subject Property Map:** See Attachments

4. **Legal Description of Property:** MK Sub, Second Filing, S31, T01 N, R25 E, Block 1, Lot 3

5. **Neighborhood Task Force:** West End Task Force comments not received as of submittal

6. **Roster of persons who attended the pre-application neighborhood meeting:** See Attachments

7. **A copy of the meeting notice:** See Attachments

8. **A brief synopsis of the meeting results:** See Attachments

9. **The undersigned affirm the following:**
 - 1) The pre-application neighborhood meeting was held on the 22nd, day of March, 2023.
 - 2) The zone change application is based on materials presented at the meeting.

Owner (s): Arrowhead Investment Corporation Telephone: 406-855-6884

Address: 115 N Broadway, Suite 200 Email: tyschmechel@gmail.com

Billings, MT 59101

Agent (s): Scott Aspenlieder Telephone: 406-384-0080

Address: 608 N 29th Street Email: scott@performance-ec.com

Billings, MT 59101



608 North 29th Street, • Billings, MT 59101 • (406) 384-0080

March 13, 2022

Dear Interested West-End Neighbor:

On behalf of Arrowhead Investment Corporation, Performance Engineering, LLC, is writing to inform you of a zoning pre-application neighborhood meeting being held on **Wednesday, March 22nd**, at **6:00 p.m.** at **Grace Montessori Academy** located at **4809 Grand Avenue in Billings**. The meeting is being held to discuss a modification to the zoning criteria of a neighboring property. You are receiving this notification as your property is located within 600-ft of the proposed zoning modification as required by the County Zoning Code. The owner is requesting that the property shown on the attached exhibit and described below be re-zoned to accommodate future development:

Block 1 of Lot 3 of the MK Subdivision 2nd Filing in Section 31, Township 1 North, Range 25 East in Yellowstone County totaling 1.5 acres.

The intent of the meeting is to make neighboring property owners aware of the proposed zoning change for the subject property and to answer questions about the project. The property is currently zoned as **Planned Development Neighborhood Commercial (PD-NC) with the exception of** the allowance of one (1) microbrewery/taproom and one (1) cabaret license. The zoning proposal to be presented to Yellowstone County will be to maintain the zoning of the land described above as **Planned Development Neighborhood Commercial (PD-NC) with the exception of** the allowance of one (1) microbrewery/taproom, one (1) cabaret license and one (1) full liquor license. A total of 1.5 acres is included in the proposed zoning criteria modification. Below is the definition for **Neighborhood Commercial (NC)** zoning as stated in the *Unified Zoning Regulations* for Yellowstone County.

“Neighborhood Commercial (NC): A zone for commercial centers and limited retail activities conducted in a unified development designed to serve the surrounding neighborhood with shopping facilities consisting of convenience retail and personal service establishments which secure their principal trade by supplying the daily needs of the neighboring population. Only uses serving the above purpose without undue detriment to surrounding residences should be permitted.”

By way of a Planned Development, the existing **Planned Development Neighborhood Commercial (PD-NC)** zoning will be modified to allow one (1) microbrewery/taproom, one (1) cabaret license and one (1) full liquor license.

Performance Engineering, LLC acting as representatives for the owners will be present at the meeting to answer questions from those who attend. For those unable to attend the meeting, written letters can be directed to Performance Engineering at 608 N 29th Street, Billings, MT 59101, attention Scott Aspenlieder, or emails may be sent to scott@performance-ec.com. We look forward to discussing the proposed zoning modification with you and hope to see you on March 22nd.

Sincerely,

A handwritten signature in black ink, appearing to read 'Scott Aspenlieder'.

Scott Aspenlieder, P.E.
Principal

Return to:
City Clerk
City of Billings
PO Box 1178
Billings, MT 59101

PLANNED DEVELOPMENT AGREEMENT
LOTS 1-3, BLOCK 1, MK SUBDIVISION, SECOND FILING IN
THE CITY OF BILLINGS, MONTANA

THIS AGREEMENT is made and entered into this ____ day of _____, 2023, by and between **Arrowhead Investment Corporation**, whose address for the purpose of this agreement is 115 North Broadway, Suite 200, Billings, MT 59101, hereinafter referred to as “Owner,” and **City of Billings**, Montana, hereinafter referred to as “City.”

WITNESSETH:

WHEREAS, the Owner owns approximately 3.6 acres of real property in Billings, Montana specifically described as Lots 1-3, Block 1 of the MK Subdivision, Second Filing. The foregoing property shall be known as “Hawk Creek Planned Development,” or a related name that may be assigned later.

WHEREAS, the Hawk Creek Planned Development will consist of a mixture of commercial, retail, professional, medical and related uses.

WHEREAS, the Owner desires to place certain building and use restrictions on the property, specify certain land uses, and create a pattern of development that promotes community service, economic activity, convenience, and amenity for the Hawk Creek Planned Development and surrounding neighborhoods.

WHEREAS, the aforesaid Owner and the City desire to ensure the Hawk Creek Planned Development will be developed and maintained consistent with the standards described in this agreement.

THEREFORE, the undersigned hereby establish and declare the following plan for the Hawk Creek Planned Development as set forth herein, which shall apply to all of the real estate described hereinabove, shall bind all of the present and future property owners to such real estate, and shall run with the land.

AGREEMENT

I. PERSONS BOUND BY THE PLANNED DEVELOPMENT AGREEMENT

All persons, corporations, or other entities, who shall hereafter acquire any interest in and to the above described property, in whole, or in part, shall be taken and held to agree, to conform to, and observe the following land uses, restrictions, and other stipulations as to the use thereof, and as the construction of improvements thereon.

II. LAND USES AND BUILDING RESTRICTIONS

Unless expressly designated below, all other standards or requirements of the Zoning Regulations for the City of Billings shall be followed for the type of use within each of the areas described herein.

A. Restricted Uses for Underlying City Zone: Neighborhood Commercial – NC

No land may be used for purposes that include gaming (casinos) or adult entertainment or sexually oriented businesses. No variances or special review approvals may be requested or granted for those businesses.

All allowed land uses as outlined within the City of Billings Zoning regulations for the underlying zone shall be allowed within the Planned Development, with the following exceptions:

Exceptions (uses not allowed):

Division A: Agriculture, Forestry, and Fishing

Group 07 – Agricultural Services

- Veterinary services for Animal specialties – Outpatient Only

Division B: Mining

- Construction sand and gravel mining (1442)

Division D: Manufacturing

Group 20 – Food and Kindred Products

- All sub-groups except offices

Division E: Transportation, Communications, Electric, Gas and Sanitary Sewer

Group 46 – Pipelines, except natural gas

Group 48 – Communications

- All uses except offices

- Group 48 – Commercial Antenna Support Structures
- Group 49 – Electric, Gas, and Sanitary Services
 - Transmission and distribution, electric and gas

Division G: Retail Trade

- Group 54 – Food Stores
 - Convenience Store with Gas Pump Islands
- Group 55 – Automotive Dealers and Gasoline Service Stations
 - All uses

Division I: Services

- Group 70 – Hotels, Rooming Houses, Camps, and Other Lodging Places
 - Rooming, boarding houses; organization hotels and lodging houses, on a membership basis (702, 704)
- Group 72 – Personal Services
 - Coin-operated laundries and dry cleaning (7215)
 - Funeral service and crematories (726)
- Group 75 – Automotive Repair, Services, & Parking
 - Automobile parking (752)

Division K: Non-Classifiable Establishments

Dwellings – Modular Homes

Allowances:

The subject property shall be allowed use of one (1) full beverage liquor license and one (1) brewing/taproom license. Subsequent subdivision of the subject parcel shall not increase the number of licenses allow for use within the Planned Development.

III. OPERATIONAL RESTRICTIONS – Alcoholic Beverage Manufacturing and Full Beverage Liquor License

The Developer and City recognize the sensitive location of the Hawk Creek Planned Development and the need to include specific operational restrictions and site requirements not normally required for the uses listed above.

A. Developer Agrees to the Following:

- a. Any outdoor seating areas associated with the brewing/taproom or full beverage liquor license operations shall be located on either the east, west or south elevations of the structures. Under no circumstances shall seating areas with either taproom or full beverage liquor license operation be located off the north elevation of the structure(s).

- b. Any seating area outside of any enclosed building for use by the patrons of the alcoholic beverage manufacturer or full beverage liquor license operation shall have a fence installed at least 42-inches in height enclosing the outdoor area. There shall be no entry to the outdoor seating area for patrons except through the operating building.
- c. Any music or entertainment, including any permanent or temporary speakers, outside of an enclosed building shall only be installed/located along the western or southern elevations of the structure.
- d. Operating hours for the taproom and full beverage liquor license shall be dictated by Montana State Law outlined in the MCA 16.3.2 and MCA 16.4.1, respectively.

IV. SIGNAGE AND LIGHTING

The intent of signage and lighting design regulation is to encourage the use of signage and lighting as a design component to enhance buildings, landscaping, or other site features while not detracting from the aesthetics of adjacent neighborhoods. Developers should encourage night sky's visibility to reduce the general illumination of the sky in the surrounding area. Design elements should reduce horizontal light glare and vertical light trespass from a development site onto adjacent parcels. Developers should encourage the judicious use of lighting in conjunction with other security methods to increase site safety.

A. Signage

- a. Signage should be provided in accordance with the PDA, with the intent to compliment the pedestrian-oriented environment. The signage requirements included in Article 27-700 of the 2021 Archived Zoning Regulations and any subsequent amendments thereto shall govern the regulation of signage in Hawk Creek Planned Development so far as they are not inconsistent with the Planned Development Agreement and the below standards.
- b. All signs shall comply with the design guidelines below:
 - i. All signs, except for neighborhood identification signs, shall be placed flat against a building or designed as part of an architectural feature thereof.
 - ii. No electronic message displays or signs are allowed.
 - iii. No neon signs are allowed.
 - iv. No balloon signs as defined by the 2021 Archived Zoning Code are allowed.
 - v. No string of pennants, flags, or other similar types of non-informative non-holiday decorations are allowed.
 - vi. One (1) free-standing sign is allowed indicating the name and/or nature of the occupancy for each developed parcel/tenant. Signs may not exceed fifteen (15) feet in height and fifteen (15) feet in width.

vii. No rooftop signs are allowed.

B. Exterior Lighting

- a. Developers shall provide adequate lighting levels in all areas used by pedestrians or automobiles, including building entries, walkways, parking areas, and circulations areas.
- b. All exterior lighting must be installed or shielded to minimize light intrusion into residential units in adjacent neighborhoods.
 - i. All outdoor pole lighting shall be fully shielded and mounted at heights no greater than fifteen (15) feet above grade.
 - ii. All outdoor lighting, except street lighting, shall be aimed or shielded so as to minimize stray light trespassing across property boundaries.

V. LANDSCAPING REQUIREMENTS

All landscaping and performance standards as outlined within section 27-1101 of the 2021 Archived Zoning ordinance shall be followed as required within the underlying City zone. Additionally, all development must comply with the requirements outlined in this Section of the Planned Development.

A. General Landscape Area Requirements

- a. A palette of regionally appropriate drought and climate tolerant plant materials is required to be used.
- b. The use of drip irrigation and/or other irrigation systems is required.
- c. All development should create a pedestrian-friendly environment on the street and connect to adjacent developments as identified in the conceptual master plan.
- d. A variation of elements should be provided along public frontage; no less than two (2) types of trees may be used in a single development lot.
- e. One (1) 2-inch tree is required per 2,000 sf of total landscape area per development lot or parcel.
- f. One (1) large shrub (mature height over three feet) is required for every 500 sf of total landscape area per development lot or parcel.
- g. Trees and shrubs should be grouped for aesthetic and irrigation purposes.
- h. Lawn must have a minimum width of six (6) feet.
- i. Plant materials must be maintained and dead plants must be replaced in a timely manner.

B. Landscaped Green Belt Improvements

- a. A minimum 25-foot landscaped green belt, which may be incorporated into any required building setbacks, shall be landscaped and maintained along the northern property boundary.
- b. Developers shall be responsible for installation and maintenance of the landscaped green belts in accordance with Section V.A of this document.

- c. Landscaped green belts and required setbacks may overlap so that the total area of the two is the greater of either the green belt or the setback.
- d. All improvements shall comply with The City of Billings and Yellowstone County's clear vision standards.

C. Parking Lot Landscaping

- a. All parking lot landscaping may be included as part of the landscaped area as calculated in Section V.A of this document.
- b. Trees shall be planted and incorporated into parking lot layouts at a density of one (1) 2-inch tree for every sixteen (16) parking spots.

VI. SITE LAYOUT AND ORIENTATION

All development must comply with the site layout and orientation requirements outlined in this Section of the Planned Development.

A. Building Requirements

- a. Buildings shall be located in the south two-thirds of the lot allowing for parking or green space on the north third of the lot.
- b. Buildings can be located directly against sidewalk with no front lot setback requirements.
- c. Sidewalks shall be a minimum of 5-feet wide and a minimum of 7-feet wide when directly adjacent to parking areas.
- d. Building height shall be no greater than 34-feet from grade.
- e. No more than fifty (50) percent lot coverage is allowed by the building.
- f. Buildings containing the use of either a brewery/taproom or full-beverage license shall be designed with a likeness to traditional agricultural structures in both elevation and profile views.
- g. All dumpsters shall be contained within a privacy fence that aligns the architecture features of the building.
- h. All development shall provide for bike parking and non-motorized accessibility.

B. Parking Requirements

- a. Parking shall be provided at a one (1) parking spot for every 200-square-foot of building.
- b. Reciprocal parking access shall be provided for all businesses within the development.
- c. Parking lots must be a minimum of 30-feet from the northern boundary with the landscaped green belt counting towards the setback requirement.
- d. Bike parking shall be provided at a one (1) parking spot for every 2,000-square-foot of building with a minimum of two (2) spaces for each building.

VII. MODIFICATION OF THE APPROVED PLANNED DEVELOPMENT

Any modification of the approved development plan shall be processed using the same procedures for a new application, as set forth in the City of Billings Zoning regulations (2021 et seq). However, minor modifications may be approved by the zoning coordinator if he/she makes the following findings through administrative relief:

No change in the overall character of the development;

No increase in the number of residential units greater than two (2) percent;

No additional allowed uses;

No reduction in open space greater than two (2) percent; and

No change in the approved minimum setbacks, maximum lot coverage or maximum allowed height.

IN WITNESS WHEREOF, the parties hereto have set their hands and official seals on the date first above written.

“OWNER”

Ty Schmechel

By: _____

**Arrowhead Investments Corporation
Managing Member**

STATE OF MONTANA)
 : ss
County of Yellowstone)

On this _____ day of _____, 20____, before me, a Notary Public in and for the State of Montana, personally appeared _____, known to me to be the _____ of **Ty Schmechel, Managing Member of Arrowhead Investments Corporation** who executed the foregoing instrument and acknowledged to me that he/she executed the same.

Notary Public in and for the State of Montana
Printed Name: _____
Residing at: _____
My commission expires: _____

This agreement is hereby approved and accepted by the City of Billings, this ____ day of _____, 20__.

“CITY”

CITY OF BILLINGS, MONTANA

Mayor

By: _____
Mayor

Attest: _____
City Clerk

STATE OF MONTANA)
 : ss
County of Yellowstone)

On this ____ day of _____, 20__, before me, a Notary Public in and for the State of Montana, personally appeared _____, known to me to be the Mayor of the City of Billings, Montana, whose name are subscribed to the foregoing instrument in such capacity and acknowledged to me that they executed the same on behalf of the City of Billings, Montana.

Notary Public in and for the State of Montana
Printed Name: _____
Residing at: _____
My commission expires: _____

EXHIBIT A

Return to:
City Clerk
City of Billings
PO Box 1178
Billings, MT 59101

**PLANNED DEVELOPMENT AGREEMENT
LOT 4, BLOCK 1, MK SUBDIVISION IN THE CITY OF
BILLINGS, MONTANA**

THIS AGREEMENT is made and entered into this 14th day of January, 2018, by and between MYK Enterprises, LLC, whose address for the purpose of this agreement is 218 Brookshire Blvd Unit 2, Billings, MT 59102, hereinafter referred to as "Owner," and City of Billings, Montana, hereinafter referred to as "City."

WITNESSETH:

WHEREAS, the Owner owns approximately 3.6 acres of real property in Billings, Montana specifically described as Lot 4, Block 1 of the MK Subdivision. The foregoing property shall be known as "Hawk Creek Planned Development," or a related name that may be assigned later.

WHEREAS, the Hawk Creek Planned Development will consist of a mixture of commercial, retail, professional, medical and related uses.

WHEREAS, the Owner desires to place certain building and use restrictions on the property, specify certain land uses, and create a pattern of development that promotes community service, economic activity, convenience, and amenity for the Hawk Creek Planned Development and surrounding neighborhoods.

WHEREAS, the aforesaid Owner and the County desire to ensure the Hawk Creek Planned Development will be developed and maintained consistent with the standards described in this agreement.

THEREFORE, the undersigned hereby establish and declare the following plan for the Hawk Creek Planned Development as set forth herein, which shall apply to all of the real estate described hereinabove, shall bind all of the present and future property owners to such real estate, and shall run with the land.

AGREEMENT

I. PERSONS BOUND BY THE PLANNED DEVELOPMENT AGREEMENT

All persons, corporations, or other entities, who shall hereafter acquire any interest in and to the above described property, in whole, or in part, shall be taken and held to agree, to conform to, and observe the following land uses, restrictions, and other stipulations as to the use thereof, and as the construction of improvements thereon.

II. LAND USES AND BUILDING RESTRICTIONS

Unless expressly designated below, all other standards or requirements of the Zoning Regulations for the City of Billings shall be followed for the type of use within each of the areas described herein.

A. Restricted Uses for Underlying City Zone: Neighborhood Commercial – NC

No land may be used for purposes that include gaming (casinos) or adult entertainment or sexually oriented businesses. No variances or special review approvals may be requested or granted for those businesses.

All allowed land uses as outlined within the City of Billings Zoning regulations for the underlying zone shall be allowed within the Planned Development, with the following exceptions:

Exceptions (uses not allowed):

Division A: Agriculture, Forestry, and Fishing

Group 07 – Agricultural Services

- Veterinary services for Animal specialties – Outpatient Only

Division B: Mining

- Construction sand and gravel mining (1442)

Division D: Manufacturing

Group 20 – Food and Kindred Products

- All sub-groups except offices

Division E: Transportation, Communications, Electric, Gas and Sanitary Sewer

Group 46 – Pipelines, except natural gas

Group 48 – Communications

- All uses except offices

Group 48 – Commercial Antenna Support Structures

Group 49 – Electric, Gas, and Sanitary Services

- Transmission and distribution, electric and gas

Division G: Retail Trade

Group 54 – Food Stores

- Convenience Store with Gas Pump Islands

Group 55 – Automotive Dealers and Gasoline Service Stations

- All uses

Division I: Services

Group 70 – Hotels, Rooming Houses, Camps, and Other Lodging Places

- Rooming, boarding houses; organization hotels and lodging houses, on a membership basis (702, 704)

Group 72 – Personal Services

- Coin-operated laundries and dry cleaning (7215)
- Funeral service and crematories (726)

Group 75 – Automotive Repair, Services, & Parking

- Automobile parking (752)

Division K: Non-Classifiable Establishments

Dwellings – Modular Homes

Allowances:

The subject property shall be allowed use of one (1) cabaret license and one (1) brewing/taproom license. Subsequent subdivision of the subject parcel shall not increase the number of licenses allow for use within the Planned Development.

III. OPERATIONAL RESTRICTIONS – Alcoholic Beverage Manufacturing and Cabaret License

The Developer and City recognize the sensitive location of the Hawk Creek Planned Development and the need to include specific operational restrictions and site requirements not normally required for the uses listed above.

A. Developer Agrees to the Following:

- a. Any outdoor seating areas associated with the brewing/taproom or cabaret operations shall be located on either the east, west or south elevations of the structures. Under no circumstances shall seating areas with either taproom or cabaret operation be located off of the north elevation of the structure(s).
- b. Any seating area outside of any enclosed building for use by the patrons of the alcoholic beverage manufacturer or cabaret operation shall have a fence installed at least 42-inches in height enclosing the outdoor area. There shall be no entry to the outdoor seating area for patrons except through the operating building.

- c. Any music or entertainment, including any permanent or temporary speakers, outside of an enclosed building shall only be installed/located along the western or southern elevations of the structure.
- d. Any outdoor activities associated with operation of the facilities shall cease by 9 pm.
- e. Operating hours for the taproom and cabaret license shall be dictated by Montana State Law outlined in the MCA 16.3.2 and MCA 16.4.1, respectively.

IV. SIGNAGE AND LIGHTING

The intent of signage and lighting design regulation is to encourage the use of signage and lighting as a design component to enhance buildings, landscaping, or other site features while not detracting from the aesthetics of adjacent neighborhoods. Developers should encourage night sky's visibility to reduce the general illumination of the sky in the surrounding area. Design elements should reduce horizontal light glare and vertical light trespass from a development site onto adjacent parcels. Developers should encourage the judicious use of lighting in conjunction with other security methods to increase site safety.

A. Signage

- a. Signage should be provided in accordance with the PDA, with the intent to compliment the pedestrian-oriented environment. The signage requirements included in Article 27-700 of the United Zoning Regulations and any subsequent amendments thereto shall govern the regulation of signage in Hawk Creek Planned Development so far as they are not inconsistent with the Planned Development Agreement and the below standards.
- b. All signs shall comply with the design guidelines below:
 - i. All signs, except for neighborhood identification signs, shall be placed flat against a building or designed as part of an architectural feature thereof.
 - ii. No electronic message displays or signs are allowed.
 - iii. No neon signs are allowed.
 - iv. No balloon signs as defined by the City of Billings Code are allowed.
 - v. No string of pennants, flags, or other similar types of non-informative non-holiday decorations are allowed.
 - vi. One (1) free-standing sign is allowed indicating the name and/or nature of the occupancy for each developed parcel/tenant. Signs may not exceed fifteen (15) feet in height and fifteen (15) feet in width.
 - vii. No rooftop signs are allowed.

B. Exterior Lighting

- a. Developers shall provide adequate lighting levels in all areas used by pedestrians or automobiles, including building entries, walkways, parking areas, and circulations areas.
- b. All exterior lighting must be installed or shielded to minimize light intrusion into residential units in adjacent neighborhoods.
 - i. All outdoor pole lighting shall be fully shielded and mounted at heights no greater than fifteen (15) feet above grade.
 - ii. All outdoor lighting, except street lighting, shall be aimed or shielded so as to minimize stray light trespassing across property boundaries.

V. LANDSCAPING REQUIREMENTS

All landscaping and performance standards as outlined within section 27-1101 of the City of Billings Zoning ordinance shall be followed as required within the underlying City zone. Additionally, all development must comply with the requirements outlined in this Section of the Planned Development.

A. General Landscape Area Requirements

- a. A palette of regionally appropriate drought and climate tolerant plant materials is required to be used.
- b. The use of drip irrigation and/or other irrigation systems is required.
- c. All development should create a pedestrian-friendly environment on the street and connect to adjacent developments as identified in the conceptual master plan.
- d. A variation of elements should be provided along public frontage; no less than two (2) types of trees may be used in a single development lot.
- e. One (1) 2-inch tree is required per 2,000 sf of total landscape area per development lot or parcel.
- f. One (1) large shrub (mature height over three feet) is required for every 500 sf of total landscape area per development lot or parcel.
- g. Trees and shrubs should be grouped for aesthetic and irrigation purposes.
- h. Lawn must have a minimum width of six (6) feet.
- i. Plant materials must be maintained and dead plants must be replaced in a timely manner.

B. Landscaped Green Belt Improvements

- a. A minimum 25-foot landscaped green belt, which may be incorporated into any required building setbacks, shall be landscaped and maintained along the northern property boundary.
- b. Developers shall be responsible for installation and maintenance of the landscaped green belts in accordance with Section V.A of this document.

- c. Landscaped green belts and required setbacks may overlap so that the total area of the two is the greater of either the green belt or the setback.
- d. All improvements shall comply with The City of Billings and Yellowstone County's clear vision standards.

C. Parking Lot Landscaping

- a. All parking lot landscaping may be included as part of the landscaped area as calculated in Section V.A of this document.
- b. Trees shall be planted and incorporated into parking lot layouts at a density of one (1) 2-inch tree for every sixteen (16) parking spots.

VI. SITE LAYOUT AND ORIENTATION

All development must comply with the site layout and orientation requirements outlined in this Section of the Planned Development.

A. Building Requirements

- a. Buildings shall be located in the south two-thirds of the lot allowing for parking or green space on the north third of the lot.
- b. Buildings can be located directly against sidewalk with no front lot setback requirements.
- c. Sidewalks shall be a minimum of 5-feet wide and a minimum of 7-feet wide when directly adjacent to parking areas.
- d. Building height shall be no greater than 34-feet from grade.
- e. No more than fifty (50) percent lot coverage is allowed by the building.
- f. Buildings containing the use of either a brewery/taproom or cabaret license shall be designed with a likeness to traditional agricultural structures in both elevation and profile views.
- g. All dumpsters shall be contained within a privacy fence that aligns the architecture features of the building.
- h. All development shall provide for bike parking and non-motorized accessibility.

B. Parking Requirements

- a. Parking shall be provided at a one (1) parking spot for every 200-square-foot of building.
- b. Reciprocal parking access shall be provided for all businesses within the development.
- c. Parking lots must be a minimum of 30-feet from the northern boundary with the landscaped green belt counting towards the setback requirement.
- d. Bike parking shall be provided at a one (1) parking spot for every 2,000-square-foot of building with a minimum of two (2) spaces for each building.

VII. MODIFICATION OF THE APPROVED PLANNED DEVELOPMENT

Any modification of the approved development plan shall be processed using the same procedures for a new application, as set forth in the City of Billings Zoning regulations. However, minor modifications may be approved by the zoning coordinator if he/she makes the following findings:

- No change in the overall character of the development;
- No increase in the number of residential units greater than two (2) percent;
- No additional allowed uses;
- No reduction in open space greater than two (2) percent; and
- No change in the approved minimum setbacks, maximum lot coverage or maximum allowed height.

IN WITNESS WHEREOF, the parties hereto have set their hands and official seals on the date first above written.

“OWNER”

Patricia Kramer

By: Patricia Kramer

**MYK Enterprises, LLC
Managing Member**

STATE OF MONTANA)
 : ss
County of Yellowstone)

On this 1st day of December, 2019, before me, a Notary Public in and for the State of Montana, personally appeared Patricia Kramer known to me to be the Managing Member of **Patricia Kramer, Managing Member of MYK Enterprises, LLC** who executed the foregoing instrument and acknowledged to me that he/she executed the same.



Vickie Tiry
Notary Public in and for the State of Montana
Printed Name: Vickie Tiry
Residing at: Laurel, Montana
My commission expires: 1/30/2020

This agreement is hereby approved and accepted by the City of Billings, this 14th day of January, 2019

"CITY"

CITY OF BILLINGS, MONTANA

Mayor

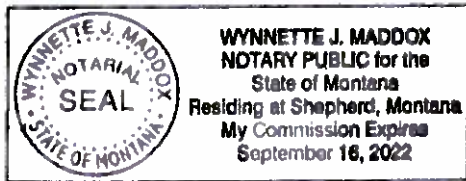
BY: William A Cole
William A. Cole, Mayor

Attest:

BY: Denise R. Bohman
Denise R. Bohman, City Clerk

STATE OF MONTANA)
 : ss
County of Yellowstone)

On this 14th day of January, 2019, before me, a Notary Public in and for the State of Montana, personally appeared William A. Cole known to me to be the Mayor of the City of Billings, Montana, whose name are subscribed to the foregoing instrument in such capacity and acknowledged to me that they executed the same on behalf of the City of Billings, Montana.



Wynnette J Maddox
Notary Public in and for the State of Montana
Printed Name: Wynnette J Maddox
Residing at: Shepherd MT
My commission expires: 9.16.2022

Zoning Commission

Date: 05/02/2023
Title: Zone Change 1029 - Text Amendments - Neighborhood Districts, Fence Materials and Sign Code
Presented by: Nicole Cromwell
Department: Planning & Community Services
Presentation: Yes

Information

RECOMMENDATION

Planning staff recommends the Zoning Commission recommend approval of these draft amendments to the zoning code based on the findings of the 10 review criteria.

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

In February 2021, the City Council adopted a new zoning code and zoning map for the entire city. The Council directed staff to continually monitor the new code to ensure the text of the regulations was working as intended and any corrections or housekeeping changes could be made. The Council also directed staff to monitor the implementation to consider any substantive changes to adjust the code, so it continues to provide support to the development goals of the adopted Growth Policy and general policies of Billings.

Planning staff brought forward a bundle of code corrections and amendments last year (June 2022). Those amendments were approved by the Council. Planning staff has been working on more substantive amendments to the code based on staff experience implementing the new code, information from professionals who use the code, and from the Council in its reviews of zoning applications. These substantive amendments include adjustments to the Neighborhood building and siting standards, the sign code, the Planned Neighborhood Development (PND) process, open space requirements for PNDs and multifamily developments, zoning at annexation as well as the right to rebuild residential structures in mixed-use and commercial zone districts. These adjustments are not indicators of a "broken" set of regulations. Just as a new car or truck has a break-in period, so do new codes and regulations. As a completely new code, the need to monitor for glitches or "pain points" is important. These adjustments are just part of breaking in a new code. Planning staff believes this set of amendments should be the last significant adjustments needed for a few years. Planning staff and the City Council should re-visit the zoning and other land development codes regularly and when a new Growth Policy is adopted.

The City Council took action to initiate these amendments for review, public hearings and adoption at its meeting on April 24. The City Council's action was to begin the process of public review and adoptions. The City Council will act on the specific amendments once the Zoning Commission provides a recommendation and once the Council holds a public hearing. The number of amendments requires these to be brought forward in phases. This first phase will include changes to the Neighborhood Districts building and siting standards, the code section on fence materials and the sign code. Planning staff has worked with several stakeholders over the last several months to craft the draft amendments. This report will describe each amendment and will include just one set of findings for the review criteria for all four ordinances. Each ordinance by city regulation may only address a single comprehensive subject, must have a public hearing and recommendation from the Zoning Commission and then must be voted on by the City Council at two separate meetings.

Neighborhood Districts - Building and Siting Standards - Section 27-300 and 27-1802

The intent of the new districts for residential areas of the city was to ensure new development was maintaining similar development patterns that were successful in Billings and to allow more housing choices in every new neighborhood. There are seven residential zone districts, and five of those districts have building and siting standards that are "form" oriented requirements such as roof pitch, percent of windows and doors on a front facade, build-to zones (not setbacks) as well as location of parking and attached garages.

As staff, builders and developers have implemented the new code there were several areas identified that were unclear, or were too rigid to accommodate building styles and good development patterns. For example, in the five districts where build-to zones are required, the code is silent on what percentage of the front facade is required to be within the build-to zone. Staff has interpreted the code requirement to mean 100% of the front facade. This allows little facade variation that results in less visual appeal on the street frontage. Staff is proposing to specify what percentage of the facade and what facade elements must be in the build-to zone. The range of the build-to zone is also relatively small - between 8 and 20 feet generally. Setting a certain percentage for the front facade in the build-to zone and expanding the build-to zone will allow more variation in building design without allowing buildings to be set too far back from the street.

Staff has found some of the requirements for build-to zones and roof pitch are not clearly the norm in many neighborhoods.

For example, neighborhoods south of Grand Avenue close to downtown have every type of roof style including flat and parapet roofs. Staff is proposing to relax the roof pitch standards to allow more flexibility. Staff has found the code is also too stringent for infill projects by requiring an owner to match the existing setbacks of adjacent homes (build-to zone averaging). Many of these first and second neighborhoods in Billings have large front setbacks, or only a second home at the back of the lot where the "front" house was destroyed. This provision has a good intent but as applied has unintentionally pushed new residences or additions further back from the street frontage than necessary or intended. Developed neighborhoods also have more utility lines - gas, power, water and sewer - that cross through backyards than newer developments. Sometimes the only way to add on to an existing home in these areas is on the front. Staff is proposing to change this from a mandatory requirement to a choice by the owner to expand the maximum build-to zone. The default will be the build-to zone as listed in the district table.

Staff has also encountered difficulty with the requirement to place any accessory building in a rear yard. Many corner lots are developed with no "rear" yard - the space behind the residence between the property line and the home. Most only have a side adjacent to street yard to place an accessory building. The City Board of Adjustment has already heard two variances requesting an accessory building in the street side yard. Staff is proposing to adjust this requirement to allow a street side yard for accessory structures and a side yard with Administrative Relief approval.

One of the goals of the new code was also to provide predictability along with the right amount of flexibility to encourage innovation in building style and architecture. Staff has developed amendments that will address these issues within the neighborhood zone districts. Staff has also drafted an amendment to allow some front facing garage doors in mixed residential districts. This part of code only allows rear or side street access to an attached garage in any of the mixed residential districts. There are some examples of homes and multifamily buildings built in the last 30 years that have no "occupied" building space on the ground-floor visible from the street - the facade is all garage doors. In order to counter this development style, the code was written to limit the width of garage entries that face the street in neighborhood zones (by percentage) and prohibits them in mixed residential zones. There are some builders that have always built multifamily dwellings with detached or rear entry garages, but many others are serving a market that demands a front entry garage - or at least a side entry attached garage. There are a couple of examples where this has been done so the garage is not the dominate feature of the front facade. This proposed ordinance is based on these good examples, and would amend the code to allow some front facing garage doors in the NX1 and NX2 zone district with guidelines in place.

Fence Materials - Section 27-1209

The city last amended the allowable fence materials in 2004. At the time, the city allowed architectural metal panels only in the industrial zone districts. These are typically used in conjunction with a shop building with the same metal siding and do not appear to be out of place in the industrial area development pattern. The code did not specify any design requirements for the use of the material, but the city believed at the time it was not an acceptable material in any zone district except for industrial zones.

In the last 5 to 10 years, the use of corrugated metal panel material has been used in the Billings area and marketed as the most durable fence type where hail is a common occurrence every spring and summer. Any fence permit presented with this material has been denied by Planning staff. This however has not stopped homeowners and contractors from installing this fence material without a permit. In most cases, the use of the material has been done in good fashion and few complaints have been received about these fences. Staff recently held an administrative hearing with the Board of Adjustment on a corrugated metal fence in a neighborhood district that was installed at least 6 years ago. A complaint was received last fall and the fence was made from material normally used for grain bins or other agricultural buildings (see photo attachments). During research for the hearing, staff found there are quite a few (more than a dozen) locations where similar fences do fit in within neighborhoods and commercial areas. These fences have a wide range of colors and finishes and are generally framed with materials other than metal. This diminishes the "industrial" look of the material.

Staff is proposing to amend the code to add this material to the list of approved materials in residential and commercial zones. The amendment includes some design standards for the use of the material including framing the panels and to use material with a non-reflective coating. In addition, the code amendment would allow owners to propose other fence materials through the Administrative Relief process rather than a special review with the City Council.

Sign Code - Section 27-1400

The new sign code took 7 different sign codes and melded them into one new code that applies across all zone districts. In addition, the new code reduced most attached wall signs to a third of the previous code allowance and placed a maximum area for all wall signs on any length of a street facade. The code is matched to the new building and siting standards for the mixed use and commercial zone districts. When a building is close to the street frontage, overly large attached wall signs are unnecessary and out of place. The new code also made the building owner responsible for dividing the amount of wall signage between tenants. In order to encourage conformity with the new code, alterations to existing nonconforming signs is strictly limited.

Staff has found the literal application of the new sign code requirements especially for existing signs on buildings that are

not located close to the street frontage, to be difficult especially since most landowners make tenants responsible for their own signage. The Board of Adjustment has processed three sign variances in the last 6 months related to this issue of wall signs. In the 2 decades preceding the new sign code, only a dozen sign code variances were processed. Some of this may have been due to the previous code's generous amount of sign area.

A recent application to construct a new digital billboard sign revealed to staff the weakness of the sign code for separating these signs from residential areas. This makes areas in West Billings and some areas of Billings Heights acceptable even though the impact from such locations is clearly not in line with the stated sign code policy or the Growth Policy for the city. Staff is proposing to increase this separation requirement and to include county zones that allow residential uses in the separation requirement.

Staff met with sign companies and landowners on their concerns. Staff is proposing to amend the section on how nonconforming signs might be altered without violating the code, assign wall sign area based on leased tenant space on the street frontage and remove the responsibility for landowners to distribute signage across multiple tenants.

STAKEHOLDERS

Planning staff worked with several groups of stakeholders over the last two years while implementing the new zoning code including the Home Builders Association, Billings Area Realtors, architects, engineers, planners and property owners. The amendments were produced through this collaborative effort of testing and applying the code requirements. These amendments and future code changes in phases 2 and 3, were created using their input and ideas. Planning staff shared the draft amendments with the stakeholders through direct email, placed a legal ad and posted the drafts on the Planning division's webpage. After the posting of the legal ad and prior to this Zoning Commission hearing, staff has not received any comments on the draft changes. Individual landowner notifications are not required for these text amendments.

ALTERNATIVES

The Zoning Commission may take one of the following actions:

- Recommend approval and adoption of the findings of the ten review criteria for Zone Change 1029; or,
- Recommend approval with specific changes to the draft ordinances for Zone Change 1029; or
- Recommend denial and adopt different findings of the ten review criteria for Zone Change 1029; or,
- Delay action on the zone change for up to 30 days.

In case of a tie vote on the text amendment zone change, the application will be delayed for 30 days until the next Zoning Commission meeting. The Zoning Commission must forward a recommendation with findings to the City Council.

FISCAL EFFECTS

Adoption of code amendments may affect the Planning Division budget. Municode is the official codification company for Billings. Every amendment to the code has a fee that has usually been assessed and paid for by a department or division. However, the City Code is not particular to one Division or Department. It is utilized by many City staff and is designed to benefit and protect all City residents. It is appropriate and accurate for the cost sharing of codification costs for zoning code updates through the general fund.

SUMMARY

Before making a recommendation to the City Council on the proposed Zoning Code Amendments, the City Zoning Commission shall consider the proposed findings of the ten review criteria.

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

The proposed Zoning Amendments are consistent with the 2016 Billings Growth Policy Statement and Growth Guidelines:

Growth Policy Statement:

In the next 20 years, Billings will manage its growth by encouraging development within and adjacent to the existing City limits, but preference will be given to areas where City infrastructure exists or can be extended within a fiscally constrained budget and with consideration given to increased tax revenue from development. The City will prosper with strong neighborhoods with their own unique character that are clean, safe, and provide a choice of housing and transportation options.

Growth Guidelines:

Essential Investments (relating to public and private expenditures to public values)

- Infill development and development near existing City infrastructure may be the most cost-effective

Place Making (enhance, maintain, preserve and improve existing public places):

- Public and private partnerships are valuable for creating enhanced entryways into Billings

Community Fabric (attractive, aesthetically pleasing, uniquely Billings)

- Attractive street scapes provide a pleasant and calming travel experience in urban and suburban neighborhoods

Strong Neighborhoods (livable, safe, sociable and resilient neighborhoods)

- Zoning regulations that allow a mixture of housing types provide housing options for all age groups and income level
- Safe and livable neighborhoods can be achieved through subdivision design walkable access to public spaces
- Implementation of the Infill Policy is important to encourage development of underutilized properties

Home Base (healthy, safe and diverse housing options)

- A mix of housing types that meet the needs of a diverse population is important
- Common to all types of housing choices is the desire to live in surroundings that are affordable, healthy and safe

Mobility and Access (transportation choices in places where goods and services are accessible to all)

- Connecting people to places with transportation choices is vital to the well-being of Billings' residents, businesses and visitors
- Safe and accessible transportation systems benefit everyone's quality of life

Prosperity (promoting equal opportunity and economic advancement)

- 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

Since the growth policy is a general guiding document that contemplates the overall vision and growth of the community, these amendments that better tailor the regulations to meet local needs are not contrary to the document. The code amendments address the parts of the code that have created challenges or are too general. These amendments will allow the code to be adjusted to meet the community goals and match the expectations of the City Council, community developers, neighborhood builders and citizens. The proposed code amendments will allow the city to better meet the needs of all its residents, businesses and visitors now and into the future. These amendments will integrate nicely into the existing a code, and when working as a whole, will meet the intent of the growth policy.

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

The zoning amendments will not change the code in a way that will create safety concerns related to fire and other dangers. Once integrated, these amendments will not prevent the code from providing adequate building separations and density limits to provide security from fire and other dangers. Considering the nature of these specific amendments, this criteria does not directly relate to most amendments, more specifically, do not relate to wall signs and fence materials, but is more so applicable to the amendments related to garage location in the NX districts. The alteration of the code still allows for appropriate setbacks and site requirements to ensure security of fire and other dangers.

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

Public health, public safety and the general welfare will be promoted by the proposed zoning code amendments and the existing code as a whole. These amendments do not drastically alter the originally adopted code which was found to have met the criteria for promoting public health, safety and general welfare. The proposed adjustments to the neighborhood zone districts will allow more creativity and flexibility in building design in Billings' first and second neighborhoods, as well as Billings' new neighborhoods where more housing choices will be available. The fence material and wall sign amendments are also not contrary to promoting public health, safety and general welfare. The amendments work in coordination with the code as a whole to ensure the minimum standards for health, safety and welfare are being met.

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

Transportation: The existing zoning code and these amendments as a whole should help the city provide safer transportation modes including non-motorized travel and safer routes to school. Sprawling development patterns of homogenous land uses separated by miles from different land uses is an unsustainable development pattern. It unnecessarily increases vehicle trips, drives up demand for parking spaces, wider and more abundant high speed arterial streets, contributes to air pollution and unhealthy life-styles. The existing code and the amendments will allow flexibility with design standards so small multifamily apartments can provide similar conveniences such as covered parking accessible from the street, without compromising traffic safety.

Water & Sewer: The proposed code amendments should have no effect on city water and sewer services.

Schools and Parks: Schools and parks should not be effected by these code amendments.

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

The proposed zoning code amendments, as does the current zoning, provides for sufficient setbacks to allow for adequate separation between structures and adequate light and air. The portions of the zoning code that pertain to adequate light and air are similar to criteria 2 and 3 which specify setback requirements, height requirements, and other siting requirements. The amendment that is most related to this criteria is related to the garage location of the NX1 and build-to area. The proposed amendments still regulate the siting requirements to provide for adequate light and air.

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

The proposed zoning amendments will not directly effect motorized or non-motorized transportation. Several zone districts, and now in limited circumstances, the NX1 and NX2 districts will allow for front facing garages. This is not inconsistent with the safety of motorized and non-motorized transportation. The guidance on when front facing garages are allowable and limited and designed in such a way to still allow for eyes on the street and promote safety principles.

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

The zoning amendments will promote compatibility with urban growth through adjustments to add flexibility, new materials for fencing and new signs for older commercial buildings without compromising the intent of the new code. The zoning code as a whole, is compatible with the City's growth policy and vision for the community as it grows. These amendments should integrate nicely and continue to provide residents and business owners design options as they move forward with housing, signs and fencing.

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

All of the amendments have been considered in a way that continues to carry out the intent of the zoning code as a whole and considers how garage location, wall signs and fence materials can have greater options yet still integrate in existing built environments. Neither garage location, wall sign signage and the addition of a fence material type should be considered intrusive to new or existing neighborhoods. Garages were previously built in the front of most housing types in Billings, and while the amendments will allow for this location it does provide guidance on how to lessen the dominance of the garage and still focus on the living units. Further, the wall sign allowances consider scale developments in a way the existing code does not currently contemplate. These amendments will better suit existing business needs in existing developments while still lessing overall sign clutter and dominance over time. Finally, the addition of certain types of metal to be used in combination with framing will not create compatibility issues with neighborhoods. There are existing examples where fences built to the intent of this amendment have integrated seamlessly into neighborhoods. Generally, these amendments are consistent with existing fabric of both commercial and residential neighborhoods.

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

In general, the code amendments should conserve the value of buildings throughout the City and the amendments do not alter the code in a way that would decrease values. In particular, some adjustments may ease some nonconformity burdens.

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

The code amendments when working with the code as a whole encourage appropriate and compatible uses, design and siting of land in Billings.

Attachments

Draft Amendments Building and Siting regulations
Draft Amendment for Front Facing Garages in NX zones
Draft Amendment for Fence Materials
Draft Amendment Sign Code
Building and Siting Elements Background
Front Garage Entry Background
Example drawings of front load garages
Corrugated Metal Panel Fencing Billings 2023

ORDINANCE 23-_____

**AN ORDINANCE OF THE CITY OF BILLINGS,
PROVIDING Sections 27-304, 27-305, 27-306, 27-307, 27-
308 and 27-1802 related to Build-To Zones, Build-to
Averaging and Building Elements in Build-to Zones, BE
AMENDED**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS THAT:

Section 1. RECITALS. Title 76, Chapter 2, Part 3, MCA, and Sections 27-302 and 27-1502, BMCC, provide for amendment to the City Zoning Map from time to time. The City Zoning Commission and staff have reviewed the proposed zoning for the real property hereinafter described. The Zoning Commission and staff have considered the ten (10) criteria required by Title 76, Chapter 2, Part 3, MCA. The recommendations of the Zoning Commission and staff have been submitted to the City Council, and the City Council, in due deliberation, has considered the ten (10) criteria required by state law.

Section 2. DESCRIPTION. The text of Section 27-304 be amended to allow a greater build-to range, require certain building elements to be within that build-to range, and to allow build-to zone averaging to apply as an option and not a requirement in the N1 zone district.

Section 3. ZONE TEXT AMENDMENT. The text of Section 27-304 is amended as follows:

Sec. 27-304. N1 district.

The following site and structure regulations apply to any lot in the N1 district. Refer to 27-303 for general regulations applicable to all districts and Table 27-300.3, below, for regulations specific to this district, keyed to illustrations in Figure 27-300(1). See article 27-1800 for definitions and information on how to measure the following regulations.

Table 27-300.3. Site and Structure Regulations.

			REFERENCES
A.	BUILDING SITING		
3	Front Build-to Zone (feet) <u>BTZ</u>	8— 20 <u>25</u> ; match block face average <u>allowed</u> <u>1) 60% of Front Façade width</u> <u>2) Front Door</u>	See article 27-1800 for block face averaging instructions.

	<u>Façade Elements Required in Build-to Zone</u>	<u>3) 60% of ground floor window area</u>	<u>See article 27-1800 for description of façade elements</u>
4	Street-Side Build-to Zone (feet)	5— 15 20	
7	Accessory Building Yard Location	Rear/ <u>Street Side Yard</u>	<u>Administrative Relief may be granted for side yard location</u> <u>See Sec. 27-1614</u>
11	Attached Garage Entrance Location	Rear, side, or street-side façade; front façade allowed maximum of no more than 40% of the facade <u>within the Front BTZ</u>	
C.	WINDOWS, FRONT DOOR, ROOF		
15	Front Door Location Entrance Treatment	Front Façade <u>within the BTZ</u> See subsection 27-303.J for Front Entrance	See subsection 27-304.D for 2-unit buildings.
16	Permitted Roof Types	Pitched, tower permitted	See article 27-1800 for definition of roof types and exception for other allowed roof types. See article 27-1500 for existing buildings.
	<u>Roof Types Allowed with Administrative Relief</u>	<u>Any other Roof Type</u>	
	— Minimum pitch, less than 2 stories	4:12 (rise:run)	
	— Minimum pitch, 2 or more stories	3:12 (rise:run)	

SINGLE-UNIT OR TWO-UNIT HOME

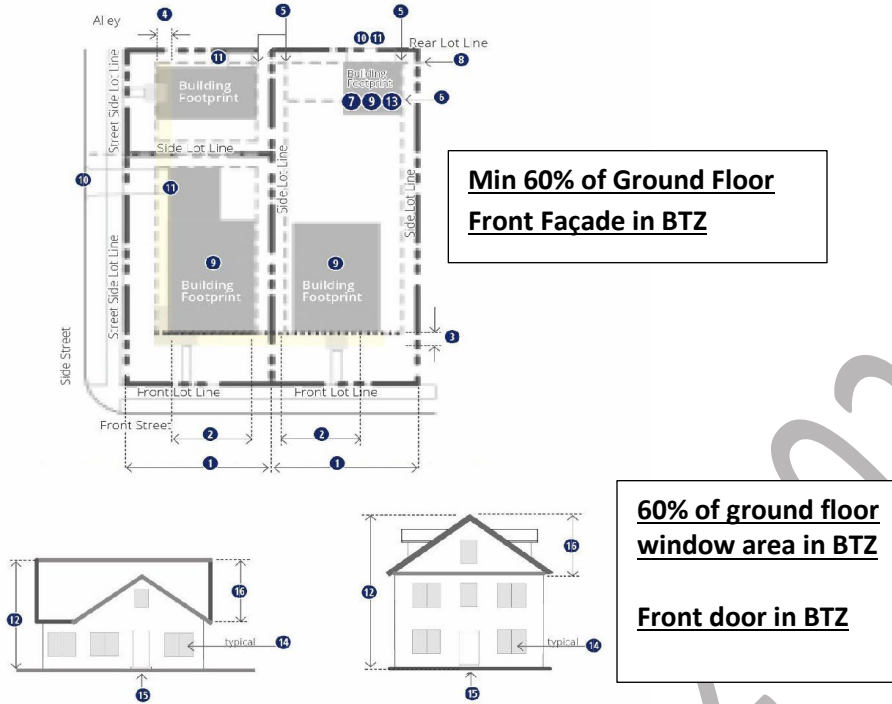


Figure 27-300(1). N1 district diagrammatic plans and elevations.

Section 4. DESCRIPTION. The text of Section 27-305 be amended to allow a greater build-to range, require certain building elements to be within that build-to range, and to allow build-to zone averaging to apply as an option and not a requirement in the N2 zone district.

Section 5. ZONE TEXT AMENDMENT. The text of Section 27-305 is amended as follows:

Sec. 27-305. N2 district.

The following site and structure regulations apply to any lot in the N2 district. Refer to section 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.

			REFERENCES
A.	BUILDING SITING		
1	Minimum Lot Width (feet) per principal building Maximum Lot Width (feet) per principal building	50 120	See subsection 27-305.D for 2-unit buildings. See article 27-1500 existing lots of record. <u>Lots on cul-de-sacs or flag lots are exempt from min lot width</u>
3	Front Build-to Zone (feet) <u>BTZ</u> <u>Façade Elements Required in Front Build-to Zone</u>	10— 20 <u>32</u> ; match block face average <u>allowed</u> <u>1) 60% of Front Façade width</u> <u>2) Front Door</u> <u>3) 60% of ground floor window area</u>	See article 27-1800 for block face averaging instructions. <u>See article 27-1800 for description of façade elements</u> <u>Lots on cul-de-sacs or flag lots are exempt from BTZ requirements</u>
4	Street-Side Build-to Zone (feet)	10— 15 <u>25</u>	<u>requirements</u>
7	Accessory Building Yard Location	Rear/ <u>Street Side Yard</u>	<u>Administrative Relief may be granted for side yard location</u> <u>See Sec. 27-1614</u>
11	Attached Garage Entrance Location	Any façade; front façade limited to no more than 50% of façade <u>within the Front BTZ</u>	
B.	HEIGHT		
12	Principal Building: Maximum Height (stories)	4.5 ; 2 stories on maximum 60% of footprint except as provided in subsection 27-305.D	
	Maximum Height (feet)	27	
C.	WINDOWS, FRONT DOOR, ROOF		
15	Front Door Location	Street Façade <u>within the Front BTZ</u>	See section 27-305.D for 2-unit buildings.
16	Permitted Roof Types <u>Roof Types Allowed with Administrative Relief</u>	Low-p Pitched, flat <u>Any other Roof Type</u>	See article 27-1800 for definition of roof types and exception for other allowed roof types.
	— Maximum pitch	<u>3:12 (rise:run)</u>	
	— Minimum pitch	<u>6:12 (rise:run), except as provided in subsection 27-305.D</u>	

SINGLE-UNIT OR TWO-UNIT HOME

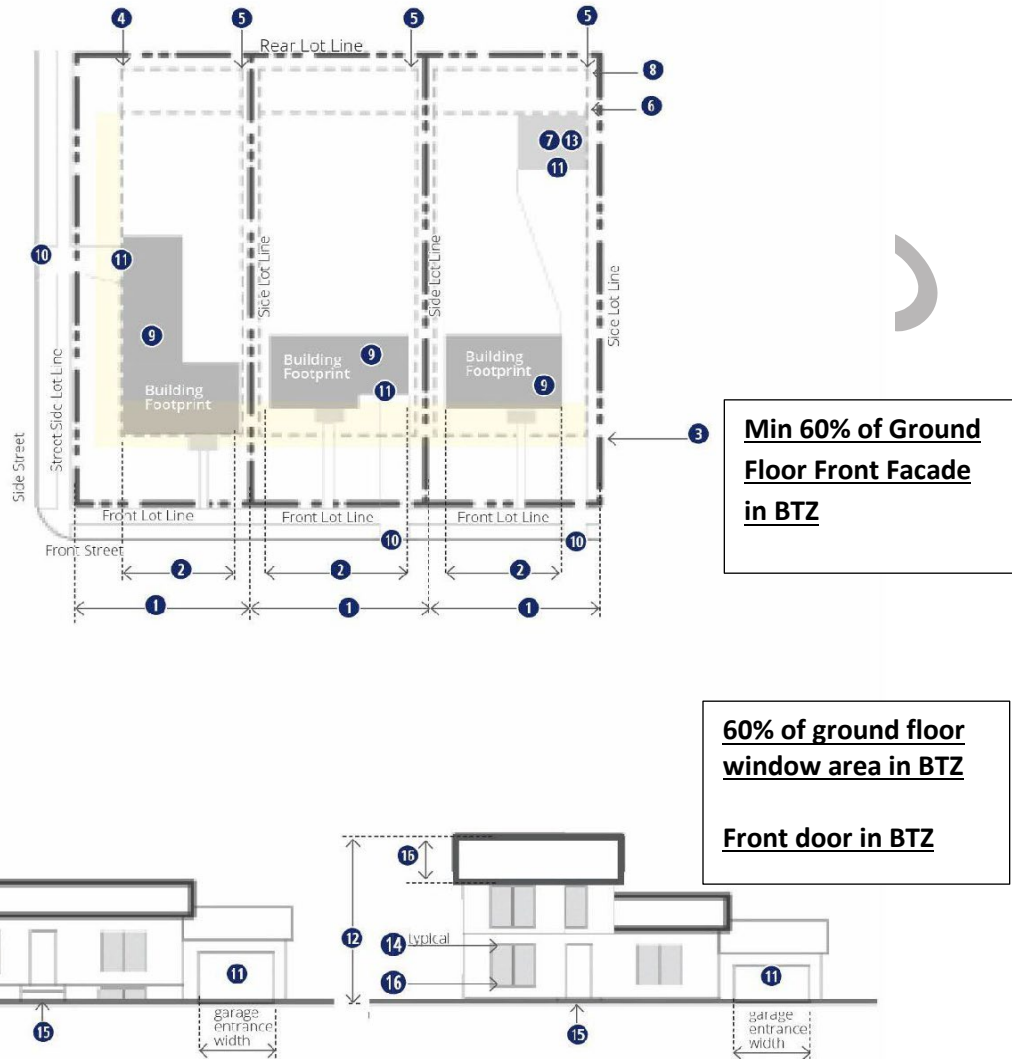


Figure 27-300(2). N2 district diagrammatic plans and elevations.

D. Supplemental regulations.

2. The following standards apply to two-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 (2) 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 fifty (50) percent of the front façade width **within the Build-to-Zone**.

- (2) Up to two (2) front door entrances are permitted on the street façade (Table 27-300.4.C).
- ~~(3) Principal buildings may have two (2) stories for the entire footprint of the structure.~~
- ~~(4) Roofs may exceed the 6:12 maximum roof pitch.~~

Section 6. DESCRIPTION. The text of Section 27-306 be amended to allow an accessory building in a street side yard or in a side yard with administrative relief.

Section 7. ZONE TEXT AMENDMENT. The text of Section 27-306 is amended as follows:

Sec. 27-306. N3 district.

The following site and structure regulations apply to any lot in the N3 district. Refer to section 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.

			REFERENCES
A.	BUILDING SITING		
7	Accessory Building Yard Location	Rear/ <u>Street Side Yard</u>	<u>Administrative Relief may be granted for side yard location See Sec. 27-1614</u>

Section 8. DESCRIPTION. The text of Section 27-307 be amended to allow a greater build-to range, require certain building elements to be within that build-to range, and to allow build-to zone averaging to apply as an option and not a requirement in the NX1 zone district.

Section 9. ZONE TEXT AMENDMENT. The text of Section 27-307 is amended as follows:

Sec. 27-307. NX1 district.

The following site and structure regulations apply to any lot in the NX1 district. Refer to section 27-303 for general regulations applicable to all districts and Table 27-300.6, below, for regulations specific to this district, keyed to illustrations in Figure 27-300(4). See article 27-1800 for definitions and information on how to measure the following regulations:

Table 27-300.6. Site and Structure Regulations.

		Single or Multi-Unit Building	Side-by-Side Attached Units	REFERENCES
A.	BUILDING SITING			
3	Front Build-to Zone (feet) <u>Façade Elements Required in Front Build-to Zone</u>	8—20, match block face average <u>allowed</u> <u>1) 60% of Front Façade width</u> <u>2) Front Door</u> <u>3) 60% of ground floor window area</u>		See article 27-1800 for block face averaging instructions. See definitions for front and street-side. See subsection 27-307.D for through lots. Refer to subsection 27-1802 for visibility at intersections. See subsection 27-303.K for arterial setback regulations. <u>See article 27-1800 for description of façade elements</u>
4	Street-Side Build-to Zone (feet)	8—15		<u>See article 27-1800 for description of façade elements</u>
7	Accessory Building Yard Location	Rear/ <u>Street Side Yard</u>	Rear/ <u>Street Side Yard</u>	<u>Administrative Relief may be granted for side yard location See Sec. 27-1614</u>
C.	WINDOWS, FRONT DOORS, ROOF			
15	Front Door Façade Location & Number of Doors	1 on street façade per building <u>within the Front BTZ</u>	1 per unit on street facade <u>within the Front BTZ</u>	See subsection 27-307.D for multiple buildings on a courtyard.
	Entrance Treatment	See subsection 27-303.J for Front Entrance		
16	Permitted Roof Types <u>Roof Types Allowed with Administrative Relief</u>	Parapet, pitched; tower permitted <u>Any other Roof Type</u>		See article 27-1800 for definition of roof types and exception for other allowed roof types.

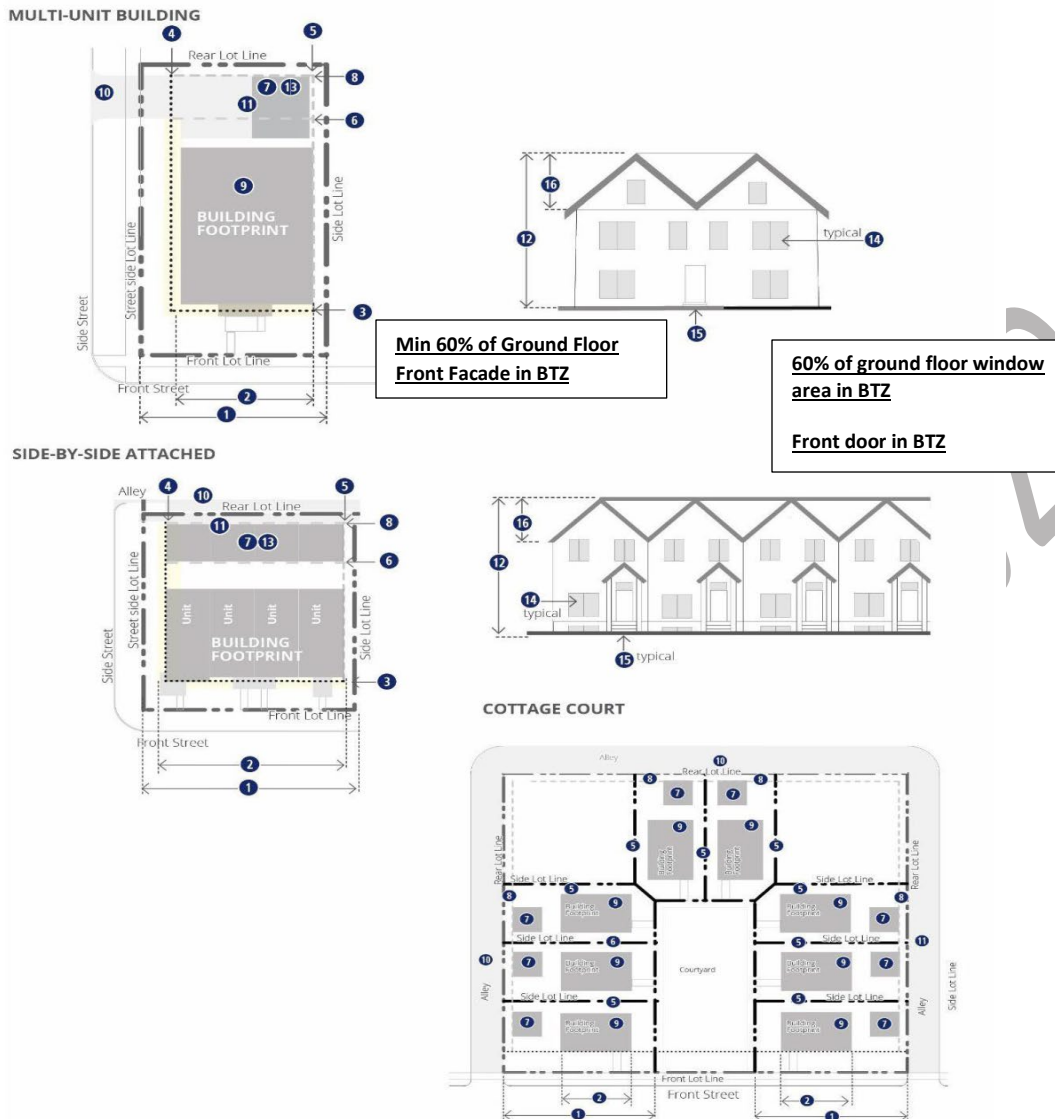


Figure 27-300(4). NX1 district diagrammatic plan.

Section 10. DESCRIPTION. The text of Section 27-308 be amended to allow a greater build-to range, require certain building elements to be within that build-to range, and to allow build-to zone averaging to apply as an option and not a requirement in the NX2/NX3 zone district.

Section 11. ZONE TEXT AMENDMENT. The text of Section 27-308 is amended as follows:

Sec. 27-308. NX2 and NX3 district.

The following site and structure regulations apply to any lot in the NX2 and NX3 district. Refer to section 27-303 for general regulations applicable to all districts and

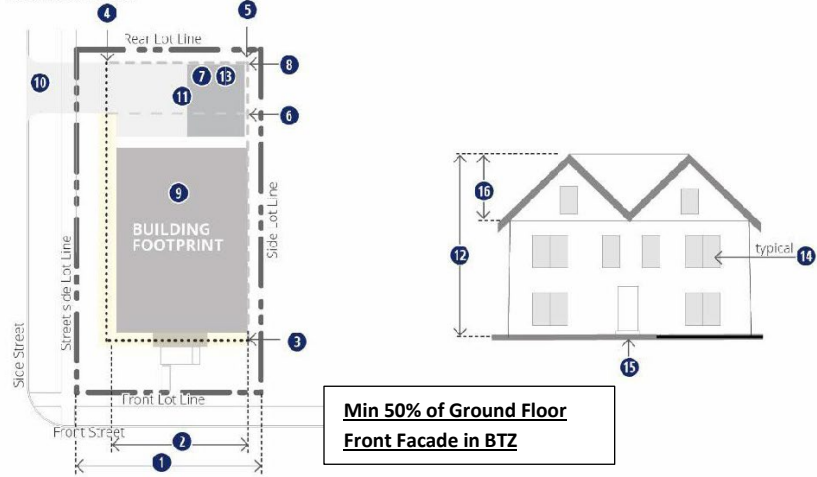
Table 27-300.7, below, for regulations specific to this district, keyed to illustrations in Figure 27-300(5). See article 27-1800 for definitions and information on how to measure the following regulations:

Table 27-300.7. Site and Structure Regulations.

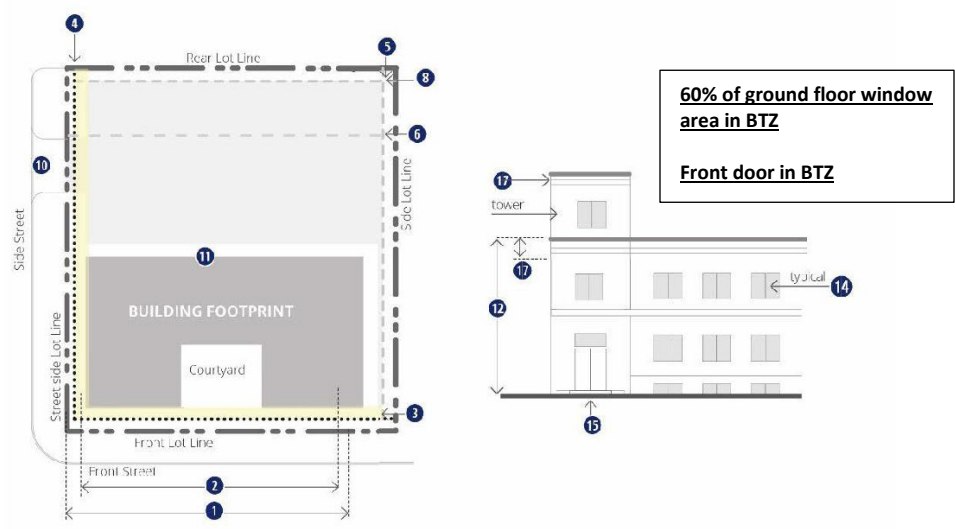
		Multi-Unit Building	Side-by-Side Units	REFERENCES
A.	BUILDING SITING			
2	Maximum Building Width (feet)		172 feet on any frontage <u>in the BTZ</u>	See subsection 27-307.D for fee simple row building units
3	Front Build-to Zone (feet) <u>Façade Elements Required in Front Build-to Zone</u>	10—20 <u>1) 50% of Front Façade width</u> <u>2) Front Door</u> <u>3) 60% of ground floor window area</u>		See definitions for front and street-side. See subsection 27-303.K for arterial setback regulations. See subsection 27-307.D for through lots. Refer to section 27-1802 for visibility at intersections.
4	Street-Side Build-to Zone (feet)	5—15		
7	Accessory Building Yard Location	Rear/ <u>Street Side Yard</u>	Rear/ <u>Street Side Yard</u>	<u>Administrative Relief may be granted for side yard location See Sec. 27-1614</u>
B.	HEIGHT			
12	Principal Building:			See article 27-1800 for definition of half story.
	Minimum Height (stories)	<u>2-1</u>	1-5 <u>1</u> for NX2; 2 for NX3	
	Maximum Height (stories)	3 for NX2; 4 for NX3	2.5 for NX2; 3 for NX3	
C.	WINDOWS, FRONT DOOR, ROOF			
15	Front Door Façade Location & Number of Doors	1 per building on street façade <u>within the Front BTZ</u>	1 per unit on street facade <u>within the Front BTZ</u>	See article 27-1800 for multiple buildings on a courtyard.
	Entrance Treatment	See subsection 27-303.J for Front Entrance		

16	<p>Permitted Roof Types</p> <p><u>Roof Types Allowed with Administrative Relief</u></p>	<p>Parapet, pitched, flat; tower permitted</p> <p><u>Any other Roof Type</u></p>	<p>See article 27-1800 for definition of roof types and exception for other allowed roof types.</p>
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MULTI-UNIT BUILDING



MULTI-UNIT BUILDING



5+ UNIT BUILDING



Figure 27-300(5). NX2 and NX3 district diagrammatic plans.

Section 12. DESCRIPTION. The text of Section 27-1802 be amended to include new language and descriptions to match the amended Sections 27-304, 27-305, 27-307 and 27-308.

Section 13. ZONE TEXT AMENDMENT. The text of Section 27-1802 is amended as follows:

Sec. 27-1802. - Measurements and associated terms.

.....

B. Building and parking siting measurements and terms.

1. Building coverage, maximum. The maximum percentage of a yard or lot permitted to be covered by buildings and any other structures with a roof.
2. Build to corner. Buildings are required to be located within the intersection of the front and street-side build-to zones at street corners.
3. Build-to zones. The build-to zone, when required, is designated separately for each street frontage, front and street-side, in the site and structure regulations table for each district. **Facade elements such as front door(s), windows on the ground floor and a**

percentage of the front façade must be within the build-to zone as shown in the site and structure regulations table for each district. Front or side street facades setback equal to or more than twice the maximum build-to zone in the district are not considered part of the front or street side façade.

(a) Definition. An area in which **all or a percentage of** the front or street side facade of a building shall be placed; it may or may not be located directly adjacent to a lot line. The zone dictates the minimum and maximum distance a structure may be placed from a lot line. **The area between the minimum and maximum is called the Build-to Range.** Refer to Figure 27-1800-3.

.....

(d) Build-to zone (BTZ) averaging. **An owner may choose to increase the maximum build-to zone to better match existing development patterns.** The ~~front setback~~ **build-to zone** average **maximum setback** shall be calculated as follows:

(1) Measurement. The average of the front setbacks of the next two (2) lots on each side of the lot on the same side of the street. If any applicable lots are vacant, the minimum front setback or build-to zone from the site and structure regulations of the district shall be used in the calculation.

(2) Corner lots. For corner lots, the average of the front setbacks of the next two (2) lots adjacent to the lot with the same street frontage as the lot in question. If any applicable lots are vacant, the minimum front build-to zone shall be used in the calculation.

Section 14. EFFECTIVE DATE. This ordinance shall be effective thirty (30) days after second reading and final adoption as provided by law.

Section 15. REPEALER. All resolutions, ordinances, and sections of the City Code inconsistent herewith are hereby repealed.

Section 16. SEVERABILITY. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provisions or application, and, to this end, the provisions of this ordinance are declared to be severable.

PASSED by the City Council on first reading this 22nd day of May 2023.

PASSED, ADOPTED and APPROVED on second reading this 12th day of June 2023.

CITY OF BILLINGS

BY: _____

William A. Cole, Mayor

Attest:

BY: _____

Denise R. Bohlman, City Clerk

Zone Change 1029, Text Amendment for Build to Zones, Neighborhood Districts

Draft April 12 2023

ORDINANCE 23-_____

**AN ORDINANCE OF THE CITY OF BILLINGS,
PROVIDING Sections 27-307 and 27-308 related to the
location and entry of attached garages, BE AMENDED**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS THAT:

Section 1. RECITALS. Title 76, Chapter 2, Part 3, MCA, and Sections 27-302 and 27-1502, BMCC, provide for amendment to the City Zoning Map from time to time. The City Zoning Commission and staff have reviewed the proposed zoning for the real property hereinafter described. The Zoning Commission and staff have considered the ten (10) criteria required by Title 76, Chapter 2, Part 3, MCA. The recommendations of the Zoning Commission and staff have been submitted to the City Council, and the City Council, in due deliberation, has considered the ten (10) criteria required by state law.

Section 2. DESCRIPTION. The text of Section 27-307 be amended to allow the location of an attached garage in the front half of a principal structure and allow the garage entry on the front façade in the NX1 zone district.

Section 3. ZONE TEXT AMENDMENT. The text of Section 27-307 is amended as follows:

Sec. 27-307. NX1 district.

The following site and structure regulations apply to any lot in the NX1 district. Refer to section 27-303 for general regulations applicable to all districts and Table 27-300.6, below, for regulations specific to this district, keyed to illustrations in Figure 27-300(4). See article 27-1800 for definitions and information on how to measure the following regulations:

Table 27-300.6. Site and Structure Regulations.

		Single or Multi-Unit Building	Side-by-Side Attached Units	REFERENCES
A.	BUILDING SITING			
2	Maximum Front Building Width (feet) <u>within the Build-to Zone</u>	60 80	80 100 , 4 units; 120, 4 units on side street	See subsection 27-307.D for fee simple side-by-side attached units.

11	Attached Garage Location Allowed Garage Entrance	Rear half of the building; <u>Any</u> ; Rear or side adjacent to street façade only <u>preferred</u> <u>Front or side load allowed See Sec. 27-307.D</u>	<u>See Section 27-307.D for Front Garage Entry limitations</u>
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D. *Supplemental regulations.*

6. Garage Front Façade Entry – Where no alley, carriage lane or rear access system exists or is planned, a street-facing single-wide garage entry door of 10 feet in width or less within the build-to zone, per dwelling unit, is allowed with the following limitations:

- (a) For multi-unit or side-by-side structures, no more than two 10-foot wide garage doors are side-by-side; and
- (b) Side-by-side garage entries shall share one drive approach no more than 25 feet in width; and
- (c) Shared drive approaches for side-by-side garage entries will be spaced at least 40 feet apart; and
- (d) Front entry garages shall not be more than 40% of the front façade within the build-to zone; and
- (e) Front entry garage doors shall be setback at least 8 feet behind the front door.

Section 4. DESCRIPTION. The text of Section 27-308 be amended to allow the location of an attached garage in the front half of a principal structure and allow the garage entry on the front façade in the NX2 zone district.

Section 5. ZONE TEXT AMENDMENT. The text of Section 27-308 is amended as follows:

Sec. 27-308. NX2 and NX3 district.

The following site and structure regulations apply to any lot in the NX2 and NX3 district. Refer to section 27-303 for general regulations applicable to all districts and Table 27-300.7, below, for regulations specific to this district, keyed to illustrations in Figure 27-300(5). See article 27-1800 for definitions and information on how to measure the following regulations:

Table 27-300.7. Site and Structure Regulations.

		Multi-Unit Building	Side-by-Side Units	REFERENCES
A.	BUILDING SITING			
11	Attached Garage Location Allowed Garage Entrance	Rear half of the building; <u>Any</u> Rear or street-side façade only <u>in NX3 and preferred in NX2</u> <u>Front or side load allowed in NX2 zone See Sec. 27-308.D</u>		<u>See Section 27-308.D. for Front Garage Entry limitations in NX2 zone</u>

D. *Supplemental regulations.*

6. Garage Front Façade Entry – Where no alley, carriage lane or rear access system exists or is planned, a street-facing single-wide garage entry door of 10 feet in width or less within the build-to zone, per dwelling unit, is allowed in the NX2 zone with the following limitations:

(a) For multiunit or side-by-side structures, no more than two 10-foot wide garage doors are side-by-side; and

(b) Side-by-side garage entries shall share one drive approach no more than 25 feet in width; and

(c) Shared drive approaches for side-by-side garage entries will be spaced at least 40 feet apart; and

(d) Front entry garages shall not be more than 40% of the front façade within the build-to zone; and

(e) Front entry garage doors shall be setback at least 8 feet behind the front door.

Section 6. EFFECTIVE DATE. This ordinance shall be effective thirty (30) days after second reading and final adoption as provided by law.

Section 7. REPEALER. All resolutions, ordinances, and sections of the City Code inconsistent herewith are hereby repealed.

Section 8. SEVERABILITY. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provisions or application, and, to this end, the provisions of this ordinance are declared to be severable.

PASSED by the City Council on first reading this 22nd day of May 2023.

PASSED, ADOPTED and APPROVED on second reading this 12th day of June 2023.

CITY OF BILLINGS

BY: _____

William A. Cole, Mayor

Attest:

BY: _____

Denise R. Bohlman, City Clerk

Zone Change 1029, Text Amendment for Mixed Neighborhood Districts – Garage entry

ORDINANCE 23-_____

AN ORDINANCE OF THE CITY OF BILLINGS,
PROVIDING Section 27-1209 FENCE MATERIALS IN
COMMERCIAL AND RESIDENTIAL ZONES PROCESS, BE
AMENDED

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS THAT:

Section 1. RECITALS. Title 76, Chapter 2, Part 3, MCA, and Sections 27-302 and 27-1502, BMCC, provide for amendment to the City Zoning Map from time to time. The City Zoning Commission and staff have reviewed the proposed zoning for the real property hereinafter described. The Zoning Commission and staff have considered the ten (10) criteria required by Title 76, Chapter 2, Part 3, MCA. The recommendations of the Zoning Commission and staff have been submitted to the City Council, and the City Council, in due deliberation, has considered the ten (10) criteria required by state law.

Section 2. DESCRIPTION. The text of Section 27-1209 be amended to add allowed fence materials and clarify how such materials may be used in commercial and residential zones.

Section 3. ZONE TEXT AMENDMENT. The text of Section 27-1209 is amended as follows:

Sec. 27-1209. - Fences, walls and hedges.

E. Materials.

1. Residential and commercial zones.

(a) Generally. All fences in residential, and commercial zoning districts shall be constructed from materials which are commonly used for fencing.

(1) Commonly used fence materials include wood **including wood composites**, brick, stone, split railing, chain-link, wire, vinyl, ornamental iron work, **and corrugated or uncorrugated metal panels framed in wood, vinyl, composite, brick or stone.**

Metal panels shall be coated with a non-reflective material.

(2) Prohibited materials: Railroad ties, intact wood pallets, tires, or rubble **or reflective metal panels.**

(3) Salvaged material that do not meet one of the commonly used fence materials identified above are generally prohibited except as provided in this section. Salvaged material may be used for fencing where:

(i) The appearance of the completed fence is substantially similar to and consistent with the design of a fence constructed of commonly-used materials,

(ii) The salvaged material fence is constructed according to generally applicable fence construction standards, and

(iii) The salvaged material is in good repair and capable of long-term maintenance by the property owner.

(4) Materials not listed **may be submitted for Administrative Relief.** are subject to special review.

(b) Bufferyard fencing. Required bufferyard fencing may be constructed of any of the materials identified in subsection E.1(a) along with powder-coated or vinyl coated chain link fence.

(1) Where an opaque screening fence is required between uses—such as residential next to heavy commercial or industrial—solid vinyl, wood **including wood composites** or similar solid fencing, or powder-coated or vinyl-coated chain link fence with opaque (solid) inserts shall be installed.

(2) An existing fence of the proper height and materials that is located on the property line where a bufferyard fence is required may be retained. Where an existing fence is not compliant with this section, the property owner who is required to install the bufferyard fence shall replace the existing fence with a compliant fence.

2. Industrial zones. All fences in industrial zoning districts shall be constructed from materials commonly used for fencing and shall not be constructed from railroad ties, intact wood pallets, rubble, or salvaged material.

(a) Commonly used fence materials include wood, brick, stone, split railing, chain-link, wire, vinyl, ornamental iron work, finished or coated steel or aluminum building panels.

(b) Barbed wire is only permitted where an eight-foot tall fence is permitted. The barbed wire must be placed on top of the fence and must be located a minimum of eight (8) feet from the ground. Electric fencing is not permitted.

(c) Materials not listed **may be submitted for Administrative Relief.** are subject to special review.

Section 4. EFFECTIVE DATE. This ordinance shall be effective thirty (30) days after second reading and final adoption as provided by law.

Section 5. REPEALER. All resolutions, ordinances, and sections of the City Code inconsistent herewith are hereby repealed.

Section 6. SEVERABILITY. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provisions or application, and, to this end, the provisions of this ordinance are declared to be severable.

PASSED by the City Council on first reading this ____ day of May 2023.

PASSED, ADOPTED and APPROVED on second reading this ____ day of June 2023.

CITY OF BILLINGS

BY: _____

William A. Cole, Mayor

Attest:

BY: _____

Denise R. Bohlman, City Clerk

Zone Change 1029, Text Amendment for Fence Materials

Draft April 12 2023

ORDINANCE 23-_____

AN ORDINANCE OF THE CITY OF BILLINGS,
PROVIDING Sections 27-1403, 27-1407, and 27-1409
related to signs and nonconforming signs, BE AMENDED

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS THAT:

Section 1. RECITALS. Title 76, Chapter 2, Part 3, MCA, and Sections 27-302 and 27-1502, BMCC, provide for amendment to the City Zoning Map from time to time. The City Zoning Commission and staff have reviewed the proposed zoning for the real property hereinafter described. The Zoning Commission and staff have considered the ten (10) criteria required by Title 76, Chapter 2, Part 3, MCA. The recommendations of the Zoning Commission and staff have been submitted to the City Council, and the City Council, in due deliberation, has considered the ten (10) criteria required by state law.

Section 2. DESCRIPTION. The text of Section 27-1403 Nonconforming signs be amended to clarify the language and allow some minor nonconforming signs to be replaced without increasing the nonconformity of the sign.

Section 3. ZONE TEXT AMENDMENT. The text of Section 27-1403. Nonconforming signs, is amended as follows:

Sec. 27-1403. Nonconforming signs.

B. *Classification of nonconformities.* There are two (2) types of legal, nonconforming signs: major and minor. Signs with multiple nonconforming elements are classified in the category of the most significant nonconformity.

1. *Major nonconforming signs.* Major nonconforming signs are those signs for which the nonconformity generates a nuisance per se, violates city sign policy, or is incompatible with adjacent signs and/or the adopted guiding principles such that public policy favors their elimination from the zone if they are discontinued, abandoned, or destroyed. Major nonconforming signs include:

(a) Off-premises signs, **unless permitted as a conforming off-premise sign through Section 27-1409;**

.....

(g) Signs approved with a variance **on or before January 1, 2010,** that permits any issue included in this major nonconformity list.

C. *Major nonconformities.*

1. *Alterations.*

(a) A major nonconforming sign or sign structure may not be altered in any way that increases any nonconformity. A proposed change to any nonconforming aspect of a major nonconforming sign **for a new business**

shall require the entire sign to be brought into conformance with this article.

- (b) General repairs, maintenance, **updates and rebranding for an existing business** and change to advertising copy that does not include replacing a static sign with an EMD are not considered alterations.

2. *Replacement.*

- (a) A major nonconforming sign that is voluntarily replaced **for a new business** shall be replaced with a conforming sign.
- (b) A major nonconforming sign that loses its nonconforming status per subsection 27-1403.F shall be replaced with a conforming sign.

D. *Minor nonconformities.*

1. *Alterations.*

- (a) A minor nonconforming sign may be altered **for an existing business** in a manner that conforms to this zoning code while still maintaining the nonconforming elements. For example, a sign that is two (2) feet over the height limit for the zone district may be altered provided the height is not increased.
- (b) General repairs, maintenance, **updates and rebranding for an existing business** and change to advertising copy that does not include replacing a static sign with an EMD are not considered alterations.

2. *Replacement.*

- (a) A minor nonconforming sign that is voluntarily replaced shall **may** be replaced with a conforming sign.
- (b) A minor nonconforming sign that loses its nonconforming status per subsection 27-1403.F shall be replaced with a conforming sign.

.....

F. *Loss of nonconforming status.* A nonconforming sign shall lose its nonconforming designation and be required to come into compliance with this article if any of the following apply:

- 1. Any portion of the primary **freestanding** sign structure is replaced.
- 2. The primary structure **principal structure** on the site is replaced, renovated in a manner that expands the building footprint by more than fifty (50) percent, or when the sign is required to be moved to accommodate building replacement or expansion in compliance with the zone district regulations.

.....

Section 4. DESCRIPTION. The text of Section 27-1407. Sign regulations by zone district, be amended to clarify the language in reference to attached wall signs.

Section 5. ZONE TEXT AMENDMENT.
as follows:

The text of Section 27-1407 is amended

Sec. 27-1407. Sign regulations by zone district.

.....

B. Neighborhood office, neighborhood mixed-use, and EBURD RSV.

1. *Applicability.* The standards in this section shall apply to the following districts: NO, NMU, and EBURD RSV.
2. *Maximum total permitted sign area.*
 - (a) *Attached wall signs.* Twenty (20) percent of total wall area of a public street-facing wall, ~~or to a max of one hundred (100) square feet,~~ **or to a max of 1.5 square feet of sign area per linear foot of building frontage whichever is less. This maximum wall sign area is allocated on a per tenant basis. See Sec. 27-1407.B.4 for wall signs on building facades that do not face a street.**
 - (b) *Freestanding signs.* ~~Sixty (60)~~ **Thirty-two (32)** square feet unless otherwise provided in Table 27-1400.4. Table 27-1400.1, Permitted Number of Permanent Freestanding Signs applies.
3. *Summary tables.* Tables 27-1400.3 and 27-1400.4 identify the types of signs permitted in the NO and NMU districts, subject to the regulations identified in the table and this article.

Table 27-1400.3. Attached signs NO, NMU, and EBURD RSV.

Sign Type	Number	Height (max., ft.)	Sign Area per Sign (max., sf.)	Illumin.	Additional Standards
Awning	1 per awning	n/a	n/a	Internal or external	Subsection 27-1405.B, Awning Signs
Canopy	1 per canopy	n/a	n/a	Internal or external	Subsection 27-1405.B, Canopy Signs
Projecting	1 per street frontage	Same as wall [1]	32	Internal or external	Subsection 27-1405.B, Projecting Signs
Wall	1 per tenant per street frontage	Same as wall [1]	32 [2] 100	Internal or external	Subsection 27-1405.B, Wall Signs 27-1407.B.2(a)
Window	n/a	Limited to architect. distinct window area	Subsection 27-1405.B, Window Signs	No	Subsection 27-1405.B, Window Signs

Notes:

[1] May not project above wall on which located.

[2] ~~Distribution of this signage across multiple tenancies is the responsibility of the property owner. Extra signage will not be permitted once the maximum signage identified here has been met.~~

Table 27-1400.4. Freestanding signs NO, NMU, and EBURD RSV.

Sign Type	Number	Height (max., ft.)	Sign Area per Sign (max., sf.)	Setback (min., ft.)	Illumin.	Additional Standards
Access Point	1 per vehicle access	3	2	0 [1]	Internal or external	Subsection 27-1405.A, Access Point Signs
Monument	1 per street frontage	8	32	5 [1]	Internal or external	Subsection 27-1405.A, Monument Signs
Monument, Multitenant [2]	1 per street frontage	8	Same as monument plus 10 sf per tenant up to 6 tenants (base + 60 sf max)	5 [1]	Internal or external	Subsection 27-1405.A, Monument Signs
Pedestrian-Scale Freestanding	1 per street frontage	Single pole: 8 Double pole: 5	8	2 [1]	Internal or external	Subsection 27-1405.A, Pedestrian-Scale Signs
Structural Canopy	1 per street frontage	2 feet above canopy	n/a	Canopy: zone district standards	Internal or external; static EMD	Subsection 27-1405.A, Structural Canopy Signs
Notes:						
[1] From all property lines; must comply with clear vision areas per subsection 27-1802.H.						
[2] Distribution of this signage across multiple tenancies is the responsibility of the property owner. Extra signage will not be permitted once the maximum signage identified here has been met.						

4. District specific standards.

- (a) Where signs are linked to a use category, a description of the category can be found in article 27-1000, Use Standards.
- (b) Residential uses and structures within an NO, NMU, or EBURD RSV district are permitted the same signage as neighborhood residential districts as provided in Table 27-1400.2.
- (c) EMD signs are not permitted in NO, NMU, or EBURD RSV districts.
- (d) Tenant signage in multitenant structures shall be ~~allocated to~~ **calculated for** each tenant unit based on the front wall area of the individual unit. Tenants with side, rear, or alley entrances are permitted wall signage on the wall with their primary public entrance only.

C. *Corridor mixed-use and EBURD RSVMS.*

1. *Applicability.* The standards in this section shall apply to the following districts: CMU1, CMU2, and EBURD RSVMS.

2. *Maximum total permitted sign area.*

(a) *Attached wall signs.* Twenty (20) percent of total wall area **of a street facing wall, or a max of two hundred fifty (250) square feet-, or 2 square feet of sign area per linear foot of building frontage, whichever is less. This maximum wall sign area is allocated on a per tenant basis. See Sec. 27-1407.C.4 for wall signs on building facades that do not face a street.**

(b) *Freestanding signs.*

(1) Table 27-1400.1, Permitted Number of Permanent Freestanding Signs applies.

(2) Table 27-1400.5, Maximum sign area for freestanding signs is as follows:

Table 27-1400.5. Freestanding Sign Maximum Area in CMU1, CMU2, and EBURD RSVMS.

Zone District and Number of Businesses	Street Frontage 0—300 linear feet	Street Frontage Greater than 300 linear feet
CMU1 One Tenant	50 s.f.	50 s.f.
CMU1 Multiple Tenants [1]	+ 10 s.f. sign area per additional tenant up to 6 tenants (110 s.f.)	+ 10 sf sign area per additional tenant up to 6 tenants (110 s.f.)
CMU2 One Tenant	80 sf	140 s.f.
CMU2 Multiple Tenants [1]	+ 20 s.f. sign area per additional tenant up to 6 tenants (200 s.f.)	+ 10 s.f. sign area per tenant up to 10 tenants (240 s.f.)
CMU2 Shopping Center [1]	375 s.f.	375 s.f.
Notes:		
[1] Distribution of this signage across multiple tenancies is the responsibility of the property owner. Extra signage will not be permitted once the maximum signage identified here has been met.		

3. **Summary tables.** Tables 27-1400.6 and 27-1400.7 identify the types of signs permitted in these districts, subject to the regulations identified in the table and this article.

Table 27-1400.6. Attached Signs in CMU1, CMU2, and EBURD RSVMS.

Sign Type	Number	Height (max., ft.)	Sign Area per Sign (max., sf.)	Illumin.	EMD	Additional Standards
Awning	1 per awning	n/a	n/a	Internal or external	n/a	Subsection 27-1405.B, Awning Sign
Canopy	1 per canopy	n/a	n/a	Internal or external	n/a	Subsection 27-1405.B, Canopy Sign
Projecting	1 per tenant	Same as wall	48	Internal or external	n/a	Subsection 27-1405.B, Projecting Sign
Wall	1 per tenant per street frontage	Same as wall	Subsection C.2.(a), above {1}	Internal or external	Static; Max 40% of sign area	Subsection 27-1405.B, Wall Sign
Window	n/a	architect. distinct window area	Subsection 27-1405.B, Window Signs	No	n/a	Subsection 27-1405.B, Window Signs

Notes

{1} Distribution of this signage across multiple tenancies is the responsibility of the property owner. Extra signage will not be permitted once the maximum signage identified here has been met.

4. *District specific standards.*

- (a) Where signs are linked to a use category, a description of the category can be found in article 27- 1000, Use Standards.
- (b) Tenant signage in multitenant structures shall be ~~allocated to~~ **calculated for** each tenant unit based on the front wall area of the individual unit. Tenants with side, rear, or alley entrances are permitted wall signage on the wall with their primary public entrance.

D. *CBD and DX.*

- 1. *Applicability.* The standards in this section shall apply to the CBD and DX zone district.
- 2. *Maximum total signage.*
 - (a) *Attached **wall** signs.*
 - (1) *Buildings under ten (10) stories.* Ten (10) percent of the wall area up to a max of two hundred fifty (250) square feet. **This maximum wall sign area is allocated on a per tenant basis. See Sec. 27-1407.D.4 for wall signs on building facades that do not face a street.**

- (2) *Buildings ten (10) stories and taller.* Ten (10) percent of wall area with no maximum.
- (b) *Freestanding signs.* 0.5 square foot per lineal foot of street frontage to a max of fifty (50) square feet unless otherwise provided in Table 27-1400.9. Table 27-1400.1, Permitted Number of Permanent Freestanding Signs **applies.** ~~urban standards apply.~~
3. *Summary tables.* Tables 27-1400.8 and 27-1400.9 identify the types of signs permitted in these districts, subject to the regulations identified in the table and this article.

Table 27-1400.8. Attached Signs in CBD and DX.

Sign Type	Number	Height (max., ft.) [1]	Sign Area Max per Sign (sf)	Illumin.	EMD	Additional Standards
Awning	1 per awning	n/a	n/a	Internal or external	n/a	Subsection 27-1405.B, Awning Signs
Canopy	1 per canopy	n/a	n/a	Internal or external	n/a	Subsection 27-1405.B, Canopy Signs
Projecting	1 per street frontage	May not extend beyond roofline	48 sf	Internal or external	n/a	Subsection 27-1405.B, Projecting Signs
Roof	1 per premises	4 ft. above roofline	x	Internal or external	Animated; Max 40% of sign face	Subsection 27-1405.B, Roof Sign
Under awning or canopy signs	1 per tenant	Below awning or canopy	x	Internal or external	n/a	Buildings with awnings or canopies over the right-of-way
Wall	1 per tenant per street frontage	Same as wall	Subsection D.2(a) above [2]	Internal or external	Animated; Max 40% of sign face	Subsection 27-1405.B, Wall Sign
Window	n/a	Limited to architect. distinct window area	Subsection 27-1405.B, Window Signs	No	n/a	Subsection 27-1405.B, Window Signs

Notes:

[1] Attached signs on taller structures, except for roof signs, shall be located at or below the 10th story of the building.

[2] ~~Distribution of this signage across multiple tenancies is the responsibility of the property owner. Extra signage will not be permitted once the maximum signage identified here has been met.~~

Table 27-1400.9. Freestanding Signs in CBD and DX.

Sign Type	Number	Height (max., ft.)	Sign Area per Sign (max., sf)	Setback (min., ft.)	Illumin.	EMD	Additional Standards
Access Point	1 per vehicle access	3	6	0 [2]	Internal or external	n/a	Subsection 27-1405.A, Access Point Sign
Monument; Monument, Multitenant	1 per street frontage; Table 27-1400.1	8	50 per side; plus 4 sf sign area per tenant up to 6 tenants (24 sf) [1]	0 [2]	Internal or external	Animated, max 40% of sign area	Subsection 27-1405.A Monument Sign
Pedestrian-Scale Freestanding	1 per street frontage; Table 27-1400.1	Single Pole: 8; Double Pole 5	12 per side	0 [2]	Internal or external	Animated, max 40% of sign area	Subsection 27-1405.A, Ped.-Scale Freestand Sign
Structural Canopy	1 per street frontage	2 feet above canopy	n/a	0 [2]	Internal	Static, max 40% of sign area	Subsection 27-1405.A, Structural Canopy Sign
Notes:							
[1] Distribution of this signage across multiple tenancies is the responsibility of the property owner. Extra signage will not be permitted once the maximum signage identified here has been met.							
[2] From all property lines; must comply with clear vision areas per subsection 27-1802.H.							

4. District specific standards.

(a) Where signs are linked to a use category, a description of the category can be found in article 27- 1000, Use Standards.

(b) Tenant signage in multitenant structures shall calculated for each tenant based on the front wall area of the individual unit. Tenants with side, rear, or alley entrances are permitted wall signage on the wall with their primary public entrance.

E. Commercial, industrial, and EBURD CW, 13thSt., and IS.

1. *Applicability.* The standards in this section shall apply to the following districts: CX, 11, 12, and EBURD CW, 13th St. and IS.

2. *Maximum total signage.*

(a) *Attached **wall** signs.* Two (2) square feet per lineal foot of building frontage to a max. of two hundred fifty (250) square feet. **This maximum wall sign area is allocated on a per tenant basis. See Sec. 27-1407.E.4 for wall signs on building facades that do not face a street.**

(b) *Freestanding signs.* One square foot per lineal foot of street frontage to a max. of ~~two hundred fifty (250)~~ **one hundred (100)** square feet unless otherwise provided in Table 27-1400.11. Table 27-1400.1, Permitted Number of Permanent Freestanding Signs applies.

3. *Summary table.* Tables 27-1400.10 and 27-1400.11 identify the types of signs permitted in these districts, subject to the regulations identified in the table and this article.

Table 27-1400.10. Attached Signs Commercial, Industrial, and EBURD CW, 13th, and IS.

Sign Type	Number	Height (max., ft.)	Sign Area Max per Sign (sf)	Illumin.	EMD	Additional Standards
Awning	1 per awning	n/a	n/a	Internal or external	n/a	Subsection 27-1405.B, Awning Sign
Canopy	1 per canopy	n/a	n/a	Internal or external	n/a	Subsection 27-1405.B, Canopy Sign
Projecting	1 per tenant	Same as wall	48	Internal or external	n/a	Subsection 27-1405.B, Projecting Sign
Roof [1]	1 per premises	4 ft above roofline	250	Internal or external	n/a	Subsection 27-1405.B, Roof Sign
Wall	1 per tenant per street frontage	Same as wall	Subsection E.2(a) above, [2]	Internal or external	Static; Max. 40% of sign face	Subsection 27-1405.B, Wall Sign
Window	n/a	Limited to architect. distinct window area	Subsection 27-1405.B, Window Signs	No	n/a	Subsection 27-1405.B, Window Signs

Notes:

[1] Permitted in lieu of a wall sign.

[2] Distribution of this signage across multiple tenancies is the responsibility of the property owner. Extra signage will not be permitted once the maximum signage identified here has been met.

Table 27-1400.11. Freestanding Signs Commercial, Industrial, and EBURD CW, 13thSt., and IS.

Sign Type	Number	Height (max., ft.)	Sign Area per Sign (max., sf)	Setback (min., ft.)	Illumin.	EMD	Additional Standards
Access Point	1 per vehicle access	3	6	0 [1]	Internal or external	n/a	Subsection 27-1405.A, Access Point Sign
Monument	1 per street frontage; Table 27-1400.1	8	100 per side	5 [1]	Internal or external	Static; Max 40% of sign face	Subsection 27-1405.A Monument Sign
Multitenant Monument [2]	1 per street frontage; Table 27-1400.1	8	100 plus 10 sf per tenant up to 6 tenants; 160 max	5 [1]	Internal or external	Static; Max 40% of sign face	Subsection 27-1405.A Monument Sign
Shopping Center Monument	1 per street frontage	8	375	5 [1]	Internal or external	Static; Max 40% of sign face	Subsection 27-1405.A, Monument Sign
Pole	1 per street frontage; Table 27-1400.1	25 [3]	100 per side	5 [1]	Internal or external	Static; Max. 40% of sign face	Subsection 27-1405.A, Pole Sign
Structural Canopy	1 per street frontage	2 feet above canopy	n/a	5 [1]	Internal	Static; Max 40% of sign face	Subsection 27-1405.A, Structural Canopy Sign

Notes:

[1] From all property lines; must comply with clear vision areas per subsection 27-1802.H.

[2] Distribution of this signage across multiple tenancies is the responsibility of the property owner. Extra signage will not be permitted once the maximum signage identified here has been met.

[3] The maximum height of pole signs within 660 feet of and oriented to the interstate or interstate frontage right-of-way is 40 feet.

4. District specific standards.

(a) Where signs are linked to a use category, a description of the category can be found in article 27- 1000, Use Standards.

(b) Tenant signage in multitenant structures shall be calculated for each tenant based on the front wall area of the individual unit. Tenants with side, rear, or alley entrances are permitted wall signage on the wall with their primary public entrance.

Section 6. DESCRIPTION. The text of Section 27-1409 Off-premise/billboard signs be amended to increase the separation distance between residential zones and any replacement billboard sign in the CMU2 zone district.

Section 7. ZONE TEXT AMENDMENT. as follows:

The text of Section 27-1409 is amended

Sec. 27-1409. Off-premises/billboard signs.

C. *Location standards following compliance with subsection 27-1409.B.* All replacement billboards shall be located in accordance with the following standards:

1. *Zoning districts.*

- (a) Replacement billboards shall be permitted as an allowed use in heavy commercial (CX), ~~controlled~~ **light** industrial (I1), and heavy industrial (I2) zoning districts and on boulevard street types in EBURD zone districts.
- (b) Billboards shall be permitted as an allowed use in corridor mixed use 2 (CMU2) zoning district provided that the structure is ~~two hundred (200)~~ **seven hundred (700)** feet or more from a residential zoning district. **This distance shall be measured as a radius from the proposed location of the off-premise sign. A residential zone district includes any Planned Development zone that allows residential uses, and any county zone district that allows residential uses.**
- (c) A special review shall be required for all billboards to be located in a CMU2 zone if the structure is less than ~~two hundred (200)~~ **seven hundred (700)** feet but greater than ~~one hundred fifty (150)~~ **three hundred (300)** feet from a residential zoning district.
- (d) Billboards may be permitted in the CBD through section 27-1623, Special review uses.
- (e) No new billboards shall be permitted on, directed to, or within two hundred (200) feet of the following corridors regardless of the applicable zoning:
 - (1) 27th Street from I-90 to Airport Road (excluding 27th Street North from Montana Avenue to 6th Avenue North).
 - (2) Highway 3 (Airport Road) from Alkali Creek Road west to the city limits.
 - (3) Shiloh Road from I-90 to Rimrock Road.
 - (4) Yellowstone River.
 - (5) Any historic district registered on the National Register of Historic Places.

Section 8. EFFECTIVE DATE. This ordinance shall be effective thirty (30) days after second reading and final adoption as provided by law.

Section 9. REPEALER. All resolutions, ordinances, and sections of the City Code inconsistent herewith are hereby repealed.

Section 10. SEVERABILITY. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provisions or application, and, to this end, the provisions of this ordinance are declared to be severable.

PASSED by the City Council on first reading this 22nd day of May 2023.

PASSED, ADOPTED and APPROVED on second reading this 12th day of June 2023.

CITY OF BILLINGS

BY: _____

William A. Cole, Mayor

Attest:

BY: _____

Denise R. Bohlman, City Clerk

Zone Change 1029, Text Amendment for Sign Code

DRAFT April 12 2023

Build-to Zones

Build-to Ranges

Build-to Averaging

Sections 27-304 (N1), 305 (N2), 307 (NX1) &
308 (NX2/NX3)

Section 27-1802 – Measurements

- Build-to Zone – 100% percent of street-facing façade required in the build-to range – N1, N2, NX zones
 - Staff recommending less than 100% in build-to range, define elements required in build-to range
- Build-to Ranges – 8-20 feet N1; 10-20 feet N2 and NX zones
 - Staff recommending adjustments to increase range combined with percent adjustment above
- Build-to Averaging – required in N1, N2 and NX1
 - Staff recommending the build-to averaging be optional only to increase the build-to zone beyond maximum range

Build-To Zone, and Block Face Averaging or Build-To Zone Averaging – Sections 27-304, 305, 307 and 308; Section 27-1802 - Measurements

The prior zoning (1972-2021) imposed minimum front setbacks but no maximums in all zone districts as well as minimum lot area for each residence on those lots. The minimum front setback in general was 15-20 feet and the minimum lot area for most districts averaged from 7,000 to 9,600 square feet per residence. Many neighborhoods were built with larger setbacks and much larger lots than required and diminished the walkability of neighborhoods and the ability of residents from noticing activity on the street from inside their homes. The previous zoning code also allowed any type of entry to face the street. In some neighborhoods, street facades are almost entirely garage doors with front entries setback as much as 100 feet from the sidewalk. This resulted in a dispersed city with low walkability in many neighborhoods and with some built-in safety issues.



In the zoning code update, we kept two of our zones with minimum setbacks (but no maximum) - RMH and N3. The other districts are intended to counter the dispersion method of building neighborhoods. These zone districts – N1, N2 and NX – require a “range” on the front where all (100%) of the front building façade should be placed for new construction. The range varies from district to district but is generally 10 to 20 feet from the property line inward. The range is small, so articulation of front facades is difficult to manage with the 100% requirement that any street-facing façade be within the build-to range. The build-to range is not working as it was intended even with the flexibility of the allowed averaging for existing neighborhoods.

In order to handle in-fill, renovations, and re-builds in existing N1, N2 and NX zones, the code includes a requirement for averaging of the required build-to range. For example, in Gorham Park most of dwellings in this N2 district are 25 to 40 feet from the front property line. The build-to zone averaging requirement would require new buildings or additions to take the setbacks on two lots to each side of the building lot and average those four setbacks to create a required setback. This provision is also not working as intended for building additions since it is a requirement and not optional.

Issues and Options

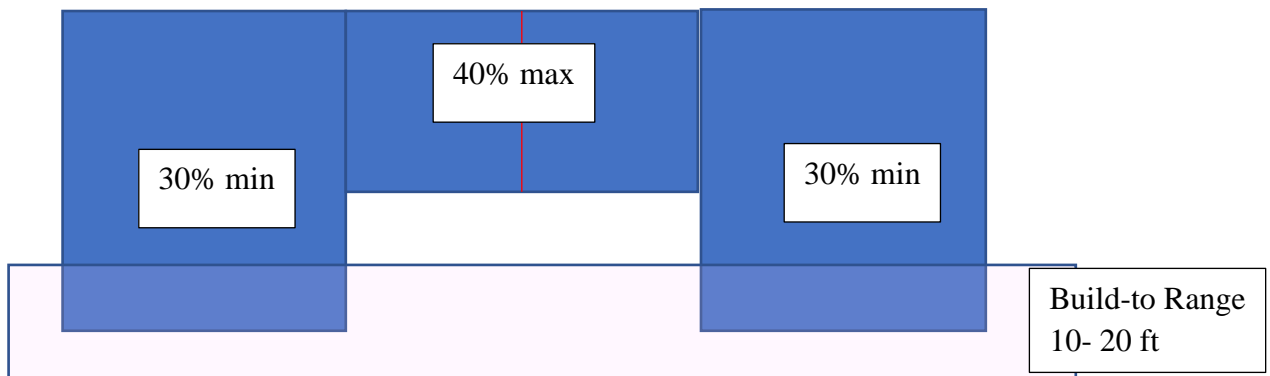
A. Build-to Zone: How much (%) of the front façade is required to be in the build-to zone in the N or NX zone districts?

The code does not specify a percentage and so the assumption in applying the code is “100%” of the front building façade must be in the required build-to range. In districts where there is a minimum front lot line coverage (CMU, NMU, DX, CBD, EBURD) the answer is provided through this percentage. No minimum front lot line coverage is specified for any N or NX zone districts.

Proposed Solution:

- ***Adopt a percent of the front building façade that must be in the build-to range.*** This allows more variations in the front façade without requiring a variance from the build-to range. Some communities that have used the build-to range have adopted a percentage for how much of the street façade must be within this build-to range rather than requiring 100%. These include Salt Lake City, Kansas City, and Cincinnati. This percentage should be in the range of 60 to 80 percent

of the front façade depending on the zone. For example, a lot 80 feet in width in an N2 zone could have a new residential building up to 70 feet wide that faces the street. If the code is amended to require 60% of this building width to be within the build-to range, 42 feet of the residence would have to be within 10 to 20 feet of the front property line. The remaining 28 feet could be further back from the front property line. This would accommodate a driveway and allow the garage entrance to be setback further than 20 feet without the need for administrative relief or a variance. The N1 and NX zones could function the same way. This percentage would also allow for the side-by-side duplex dwellings in the N2 zones that have the common wall between attached garages. The garages would be further back – outside of the build-to zone - so the structure has a shallow U-shape.



B. Build-to Zone Averaging: As applied, some in-fill buildings and renovations would not be allowed to be in the standard build-to range (10 ft to 20 ft) based on “missing front buildings” on adjacent lots or larger-than-normal existing setbacks on adjacent lots.

The Block Face Averaging (term used in the district table) and the Build-To Zone Averaging (term in the Measurements and Definitions section) are used somewhat interchangeably within the code. The term as written in Section 27-1802.B(3) (Build-To Zone Averaging) should be the term we use throughout. The Tables can be updated to use this term. Both ways to measure – the Build-To Zones and the Build-To Zone Averaging – use “mandatory” language. The word “**shall**” is used for the definition of a Build-To Zone. The word “**shall**” is used to describe how the Build-To Zone Average is measured.

27-1802.B.3.(d)

Build-to zone (BTZ) averaging. The front setback average shall be calculated as follows:

- (1) Measurement. The average of the front setbacks of the next two (2) lots on each side of the lot on the same side of the street. If any applicable lots are vacant, the minimum front setback or build-to zone from the site and structure regulations of the district shall be used in the calculation.*
- (2) Corner lots. For corner lots, the average of the front setbacks of the next two (2) lots adjacent to the lot with the same street frontage as the lot in question. If any applicable lots are vacant, the minimum front build-to zone shall be used in the calculation.*

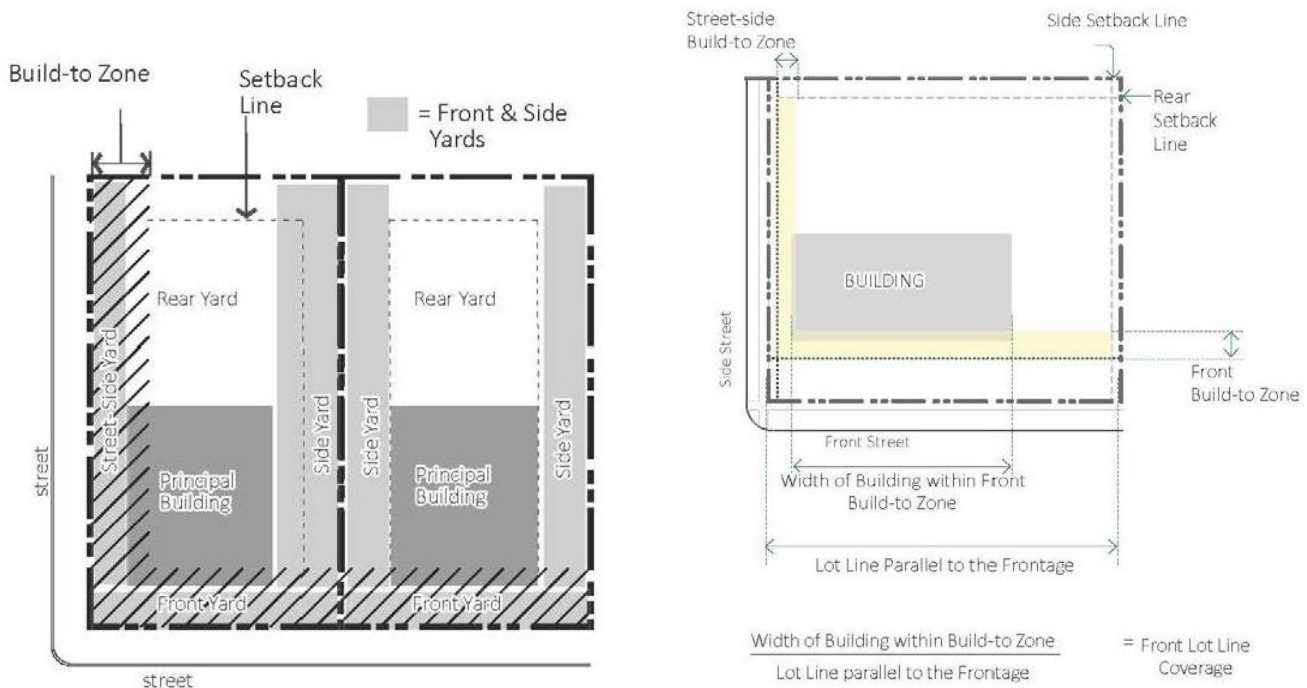
The code requires the use of the BTZ Averaging in any zone with adjacent developed lots. A new neighborhood in an N2 zone district would have to meet the minimum (10 feet) and maximum build-to (20 feet) since there are few adjoining lots with structures on either side of the proposed building. For an in-fill, re-fill or when building a front addition, the Build-to Zone Averaging could make these projects not possible. To use the minimum build-to range, the adjacent lot or lots need to be vacant. However, many lots in N1 or N2 neighborhoods are simply missing the front house and are not vacant. The old code

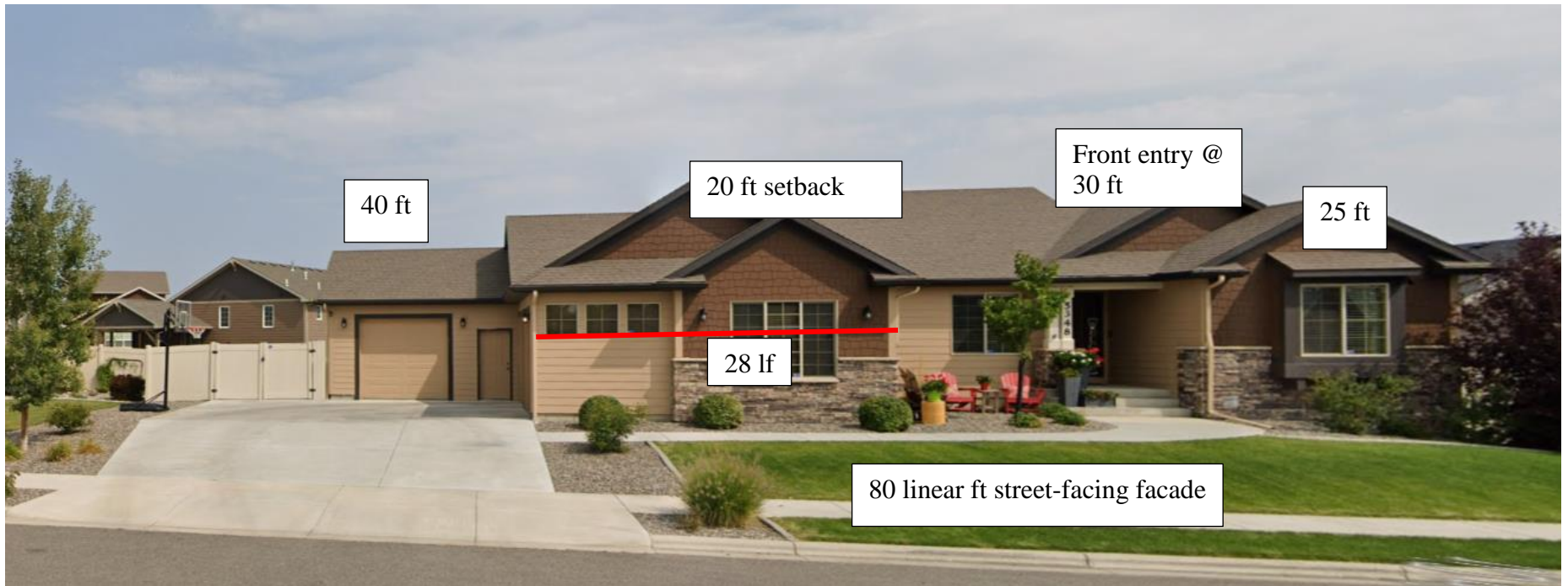
relied on minimum lot area for housing density, so when homes were damaged or destroyed many could not be re-built. Also, remodels and additions to homes are usually planned based on how existing utilities are laid out. Many N1 and N2 neighborhoods have many utilities that run through rear yards to alleys making additions to the rear of a building (rather than the front) more difficult.

The block face averaging is not normally used in other jurisdictions except to grant a smaller setback than required. For example in our previous zoning code, the R-70 zone required a minimum 20 foot front setback. If we had block face averaging in place, we could allow less than the 20 foot setback if the block face average resulted in less than 20 feet. Most jurisdictions that have form-based or form-oriented zone districts do not apply a block face averaging scheme. The form district is intended to capture the predominate character of the neighborhood so block face averaging is not necessary. The district requirements for N1, N2 and NX zones have these form-oriented requirements.

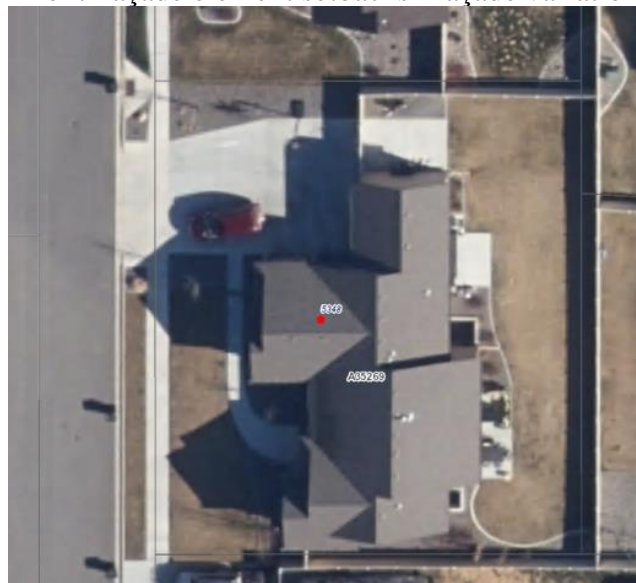
Proposed solution:

- **Allow – but not require - Build-to Zone Averaging only for increases to the maximum Build-to range.** This would allow newer neighborhoods that are still building out (that started out under the previous zoning code) to follow the existing setback patterns without requesting Administrative Relief or variances from the Build-to Zone. It would allow Billings’ original neighborhoods to renovate and in-fill vacant lots by using the standard Build-To ranges for those areas. The build-to range for the N1, N2 and NX zones was based on the predominate existing pattern of residential development. Following the character of the neighborhood is not intended to make sure everything lines up identically. Staff recommends this option with additional details including adjustments to existing build-to ranges. Combined with the proposed adjustments to the percent of building facades required in the build-to zone, this will ease challenges with the new code, and allow building and site design to have more flexibility without eroding the intention of the code requirements – safe and walkable neighborhoods.





Front Façade element setbacks— façade variation



Residential Neighborhoods

Garage Entry and Location

- Sections 27-307 (NX1) & 27-308 (NX2/NX3)

Current Code: Requires Garage entry from side or rear and located in the rear half of the principal structure



Side-by-side multifamily in Billings

Front load garages – NX and other N zones

The Code update in 2021, included siting and building standards for neighborhood districts that specified where attached garage door openings can be placed in relation to the exterior property lines. The N districts all allow garage door openings to face the front street but limit the percentage of garage door opening on the street-facing building façade. This is to ensure we have “eyes on the street” for public safety and to increase the walkability of neighborhood streets. Streets that are merely lined with garage doors – and no living spaces – are uninviting places to walk and can be dangerous for vulnerable pedestrians such as young children or older adults. The NX – Mixed Residential – zone districts and all of the commercial Mixed Use districts require the attached garage entrance to be on the side, side adjacent or rear façade of the structure. Parking lots and detached parking structures are also required to not face front streets. There are some local examples of side-by-side attached dwellings with street facing garage doors that exhibit designs that meet the intent of the new zoning code – ensuring safety and walkability of local neighborhood streets. Other jurisdictions with codes that limit garage door openings on front streets have some flexibility built into the code to allow for some use along front streets.

Recommended Solution:

Allow limited numbers and widths of front façade attached garages in the NX zones. The code can be

amended to allow a limited number or width of front-load attached garages. Here is some draft language:
“Where no alley or rear access system exists or is planned, a single-wide garage entry door of 10 feet in width or less, per dwelling unit facing the front street is allowed in the NX1 and NX2 zone districts with the following limitations:

- 1) The garage door entry is setback least eight feet or more from the front façade of the living area of the dwelling; and
 - 2) No more than two 10-foot wide garage doors are side-by-side; and
 - 3) Side-by-side garage entries shall share one driveway no more than 25 feet in width; and
 - 4) Shared driveways for side-by-side garage entries will be spaced at least 40 feet apart.
- In the NX3 zone district a single-wide garage entry door of 10 feet in width or less per dwelling unit facing the front street is allowed only for side-by-side units in one principal structure and only for side-by-side unit structures with 12 or fewer units. The same limitations in 1 through 4 apply.”



Example of side-by-side units with shared driveways and side-by-side single garage doors between units. The attached garages are setback further than the front façade about 8 to 10 feet.

Here is an example of what we do not want to encourage:

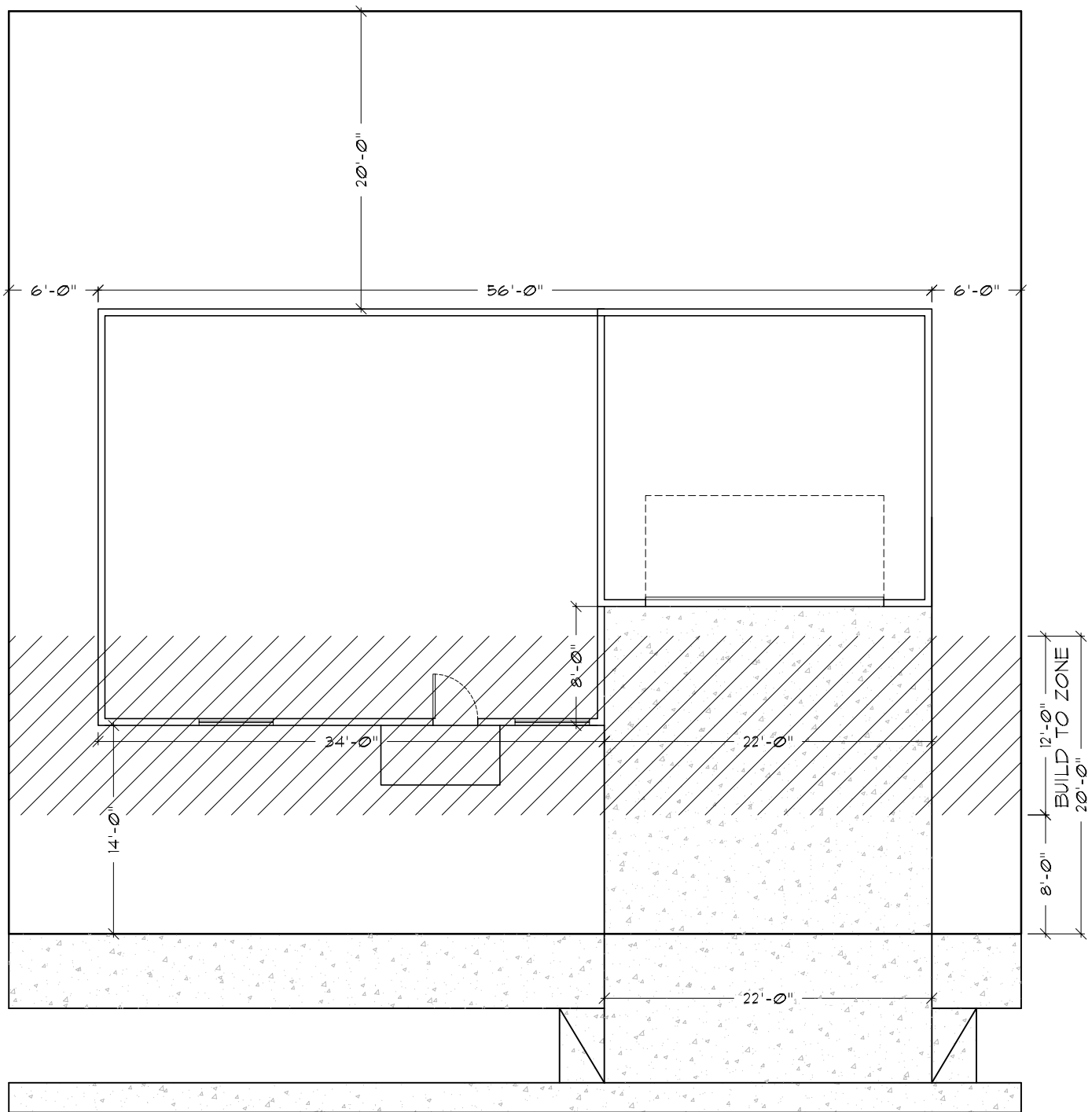


These are five side-by-side units. You cannot see the front door of the townhomes from the street and if you leave the garage door open accidentally, you would never know.

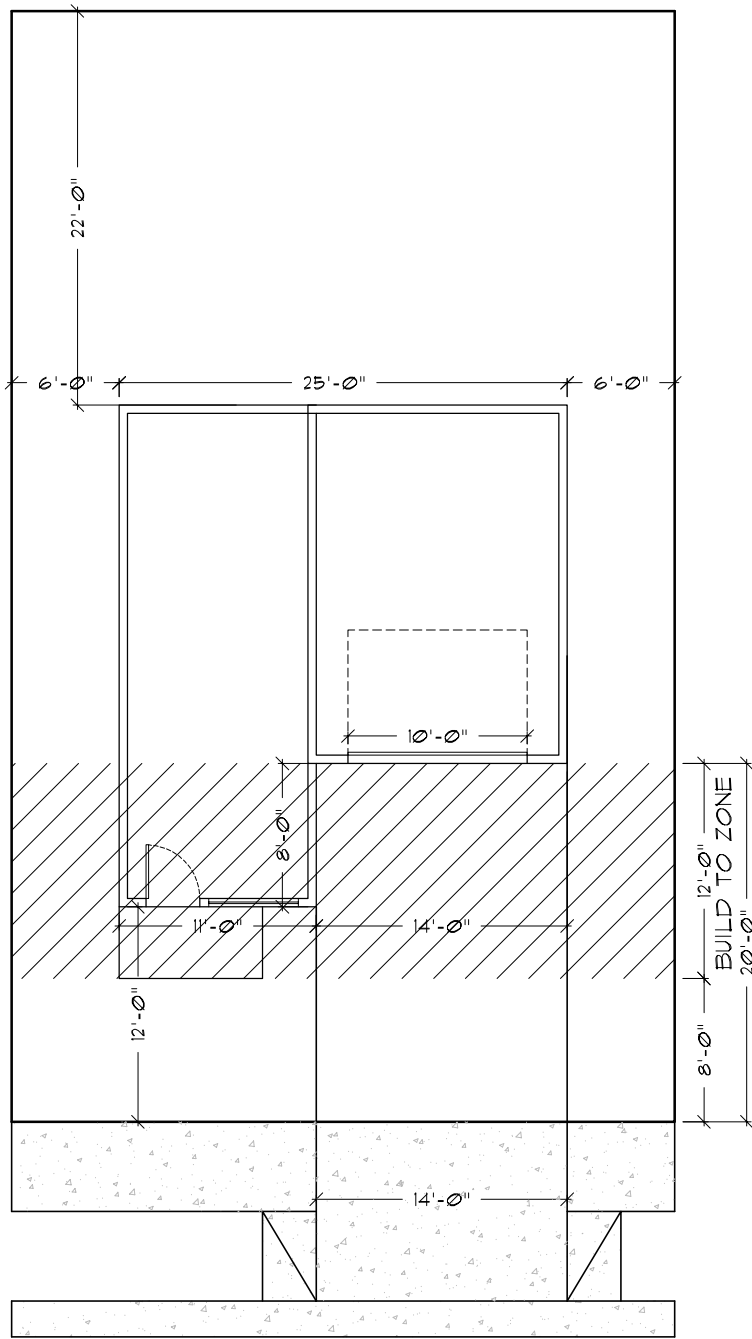


These are several duplexes on a cul-de-sac

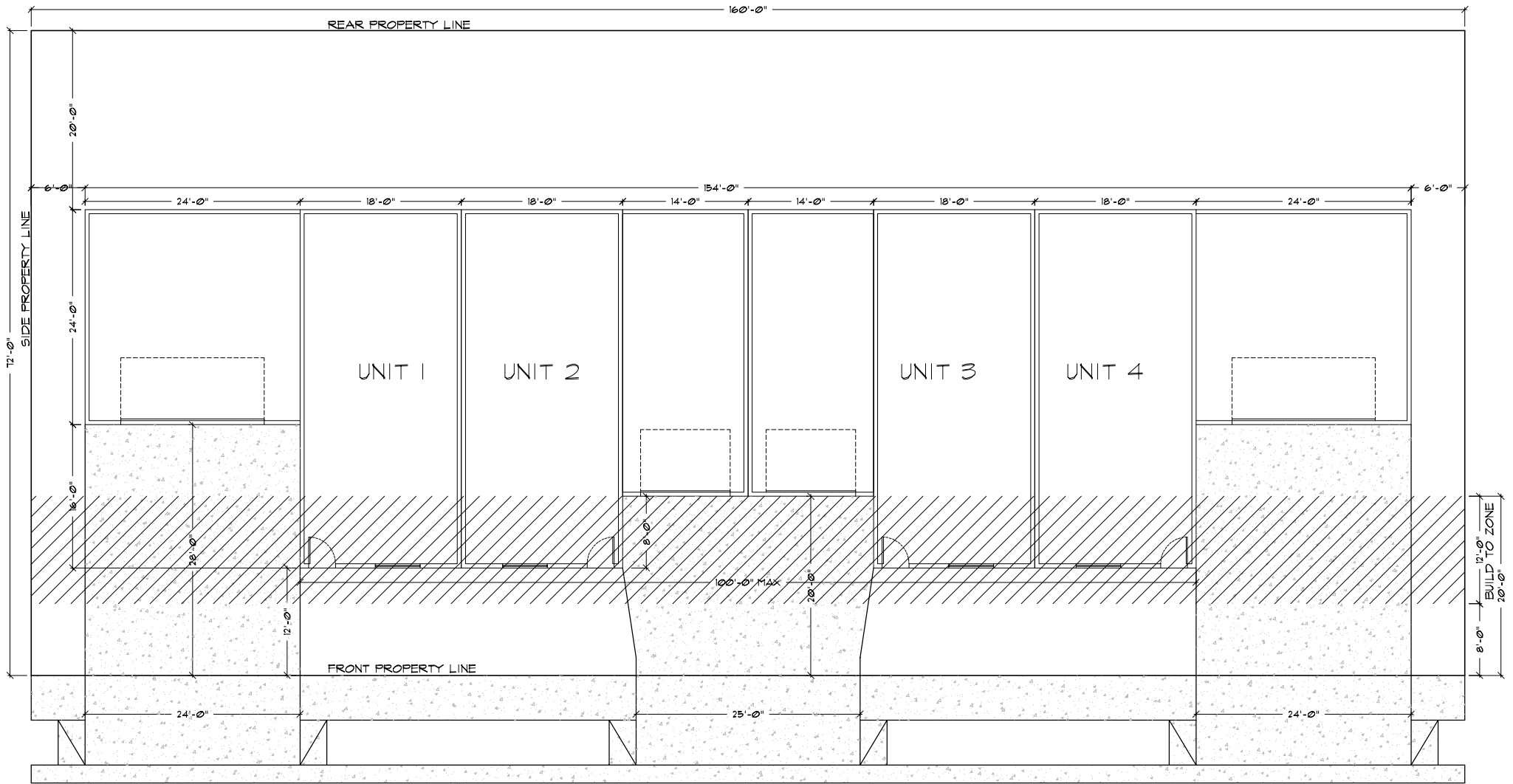
All of these townhomes were built during the same time period 2006-2007. The townhomes with garage dominate front facades appraise much lower than the non-dominate garage townhomes.



NXI SINGLE 2 CAR FRONT LOAD GARAGE



NXI SINGLE 1 CAR FRONT
LOAD GARAGE



NXI 4-PLEX FRONT LOAD GARAGE OPTION



BILLINGS



BILLINGS



BILLINGS



BILLINGS



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