



**City of Billings Zoning Commission
Meeting Minutes May 2, 2023**

The City of Billings Zoning Commission met on Tuesday, May 2, 2023 at 4:30 p.m., 210 North 27th, City Council chambers, 2nd floor. The public may attend in person or watch the meeting live on Facebook (see below). Comments may be sent to **Board via email before 1:00 PM on Tuesday, May 2, 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>

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.**

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

Total Number of 2023 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		6								8
Special Review	1	-	-	1	-								2

Vice Chair McCall introduced the Planning Division Staff and Commission: Attending Staff were Nicole Cromwell, Zoning Coordinator, Monica Plecker, Planning Division Manager and Robbin Bartley, Administrative Assistant.

*RETURNING AGENDA ITEM.

Attending:



sign in sheets.pdf

Vice Chair McCall called the meeting to order at 4:30 pm and asked to amend the Agenda order, hearing City Zone Change 1028 first.

Public Comment

Vice Chair McCall called for public comments. There were no public comments. Vice Chair McCall closed the public comment portion of the meeting.

Approval of Minutes:

Motion by Commissioner Goss and seconded by Commissioner White to approve the April 4, 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	1028			
Greg McCall		x		
Trina White		x		

Commissioner Goss disclosed his sister lives close to this location.

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		

Commissioner McCall visited 1024 and 1028, Commissioner White visited 1024, 1025 and 1028, Commissioner Goss visited all but 1023 locations.

Exparte on ZC 1023, a copy is located at the sign in sheet location.

Public Hearings:

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.

Staff 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.

Discussion. Questions for staff:

Applicant: Scott Aspenlieder, Performance Engineering

There is nothing new, this is a verbage swap for a full liquor license. This property is not connected to the DEN. The hours of operation are mandated by State law, the owners are good neighbors.

Ty Schmeckel is the owner. He states this is a walkable and friendly area.

Questions for applicant: None

Public Hearing: 4:57PM

Vice Chair McCall opened the public hearing and called for anyone wishing to speak in favor or against City Zone Change 1028.

In Favor:

Opposed:

Kaitlin Taylor, 5408 Round Stone Ave

Jill Saitta, 5422 Round Stone Ave

Molly Dutson, 5418 Round Stone Ave

Travis Branington, 5426 Round Stone

The above listed persons expressed concerns regarding extended hours of operation, public urinating, intoxicated persons, unpredictable behaviors, property values, safety issues, suspicious activities, trash and insects, loud music and traffic concerns all in their “backyards”

Rebuttal

Scott Aspenlieder stated he takes their concerns seriously. They are committed to an 11pm closing. The owners are not changing the business model. There is willing participation with the neighborhood.

Public Hearing closed at 4:58 PM

Motion

Commissioner Goss made a motion and Commissioner White seconded the motion to approve City Zone Change 1028 with staff findings, recommendation and conditions, limiting operating hours to the current hours and to explore a better buffer yard.

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

The Motion **passed** to approve City Zone Change 1028 with a 3-0 vote.

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.

Staff Recommendation:

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

Discussion. Questions for staff: Commissioner McCall asked if any opposition was received. Staff replied 1 call in opposition was received.

Applicant: None

Questions for applicant: None

Public Hearing: 5:13 PM

Vice Chair McCall opened the public hearing and called for anyone wishing to speak in favor or against City Zone Change 1023.

In Favor: Doug Wilde, 4720 Audubon

This development would be regulated to make necessary improvements and is an asset to the area.

Opposed:

Stuart Wheeler, 1536 Wicks Lane

He purchased his place in 2021, 1.43 acres. This is a single family area. There would be traffic increases with the addition of 3 triplexes. What about trash enclosures?

Boese, 806 Mossman

There is high volume traffic at Wicks and Bitterroot. 9 units on 1 acre is too dense.

Jill Bogas, 1536 Wicks Lane

The dumpster is right next to my property, what about a bufferyard?

Public Hearing closed at 5:18PM

Motion

Commissioner White made a motion and Commissioner Goss seconded the motion to approve City Zone Change 1023 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 Zone Change 1023 with a 3-0 vote.

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 Filing, 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.

Exparte received include a petition. 10 signatures were not valid, they did not meet the 150 foot requirement.

Staff Recommendation:

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

Discussion. Questions for staff:

Commissioner McCall asked if this was to buld a duplex.

Applicant: Leona Lee, 4115 Kaitlin Court

This will not change the character of the neighborhood. A duplex is an affordable option in this location.

Questions for applicant: None

Public Hearing: 5:25PM

Vice Chair McCall opened the public hearing and called for anyone wishing to speak in favor or against City Zone Change 1024.

In Favor: None

Opposed:

Jason Tittle, 22 31st St W

He did not sign the petition but stands in solidarity with his neighbors. There is no access to Central or 31st Street West. He wishes the board to reject this Zone Change.

Tony Donahue, 24 31st Street W

He is opposed to the Zone Change.

Gerry Vote, 3128 Lynn

He submitted a letter of opposition. Drivers cut through Lynn and the alley. More renters makes more traffic. The alley should be paved now with this development. We understand single family residence is not viable but the owner tried to buy this lot. The Zone Change should not be approved. 6-10 acres is already zoned for Multi-family.

Rebuttal

NONE

Public Hearing closed at 5:31PM

Commissioner McCall stated although N3 zoning may be a concern, with this housing crisis, SB 323 will allow duplexes on any SR only zone.

Motion

Commissioner white made a motion and Commissioner Goss seconded the motion to approve City Zone Change 1024 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 Zone Change 1024 with a 3-0 vote.

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.

Staff 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.

Discussion. Questions for staff:

Applicant: Steve Graybill, KLJ, 2829 S. Tanager Lane, Agent
He is here to answer any questions from the board.

Questions for applicant:

Commissioner McCall asked if the P1 zoning as a strip is a buffer to the trail and some park.
Commissioner Goss asked if there is access to the P1 land from the neighborhood.

Monica Plecker stated there is a 30 foot wide access and landscape to buffer the backyard fences.
Stormwater fencing of the ditch for safety. P1 will have stormwater so it cannot be dedicated to the public.

Public Hearing: 5:47PM

Vice Chair McCall opened the public hearing and called for anyone wishing to speak in favor or against City Zone Change 1025.

In Favor:

Doug Wild, 4712 Audubon

This is a good PND, he is in favor of the use. There are concerns for access.

Dustin Bretz, 5407 Rimrock

He supports the zone change, this is the right choice for the intersection. There are concerns about the traffic.

Opposed:

Pat Curry, 5412 Gene Sarazon Drive

He expressed great concern for the traffic safety. Adding 100 plus cars onto 54th St W. He believes there should be access directly onto Rimrock Rd. Yellowstone Family Park was paid for by the neighborhood. New residents will use our park. P1 I undeveloped. Prairie dog village will move in.

Christy Oassar, 5358 Amherst Drive

SFR is acceptable but not duplexes. She disagrees with the neighborhood meeting synopsis. Traffic, access are still issues. She signed the protest petition.

Gary Pogue, 5028 Rimrock Rd

Traffic is too dense on Rimrock Rd. 50 homes times 2 plus duplex is too much. He is patient with road improvements. The prairie dogs need to be eradicated.

Rebuttal: NONE

Public Hearing closed at 6:03PM

Motion

Commissioner Goss made a motion and Commissioner White seconded the motion to approve City Zone Change 1025 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 Zone Change 1025 with a 3-0 vote.

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.

Staff Recommendation:

Planning staff is recommending approval and adoption of the findings of the 10 review criteria for Zone Change 1026.

Discussion. Questions for staff:

Commissioner Goss asked if connection to the airport would require further review.

Applicant:

LTC Geehring, Montana National Guard

They have had an aviation presence in Billings since January 2023. Have visited with neighbors south of Highway 3. The Department of Army has authorized permanent location Billings. In 12 months they have rescued 92 people including flooding. Their new location optimizes quicker responses. Transparency is important. We can't get a head of ourselves. The 98 acres added to the west may happen. Perhaps another ZC in late summer. The public may visit our location at 2121 Hangar Drive this Saturday from 11am -4pm.

Lee Elder, SMA Architects

He provided conceptual designs. The zone change is because of the annexation. It will have a P3 campus feel. One building now and more in the future. There is no planned connection but could happen in the future. Stormwater will go north. The Floor Plan centers around the hangar floor.

Questions for applicant:

Commissioner Goss asked about weekend trainings. Will there be additional personnel and extra equipment.

The Black Hawks are mostly on site. Training is for Montana folks, it is not a regional or a training flight school.

Public Hearing: 6:32PM

Vice Chair McCall opened the public hearing and called for anyone wishing to speak in favor or against City Zone Change 1026.

In Favor: None

Opposed: None

Public Hearing closed at 6:32PM

Motion

Commissioner Godd made a motion and Commissioner White seconded the motion to approve City Zone Change 1026 with staff findings, recommendation and conditions.

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

The Motion **passed** to approve City Zone Change 1026 with a 3-0 vote.

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.

The Zoning Commission recommends approval on a 3-0 vote, including the findings of the 10 review criteria amendments to the following:

Neighborhood and Mixed Residential zone district garage location and building and siting requirements; and

Fence materials in commercial and residential zone districts

The Zoning Commission recommends approval on a 2-1 vote including the findings of the 10 review criteria amendments to the following:

Sign Code including a recommended amendment to the proposed 700-foot separation distance from a residence district for a new billboard in a CMU2 zone district, be reduced to 500 feet

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 through a first and second reading.

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.

The Zoning Commission conducted a public hearing on May 2, 2023, and received the staff recommendation and testimony from Doug Wild from the Home Builders Association (HBA), Kelly Strobel and Allie Carley of Lamar Montana, an outdoor advertising company. In addition, the Zoning Commission received three letters of comment on the proposed text amendments including emails from Lamar Montana regarding the sign code changes, Danny Wrywas of Absolute Fence regarding the fence material changes, and Lilly Corning of Corning Companies regarding sign code changes. The letters of comment are attached.

Staff presented the text amendments one at a time to allow public comment on each change. The first amendment concerns the allowance for front-load garages in the mixed residential zone districts. The ordinance would allow some front-load garages in the NX1 and NX2 zone districts with some siting requirements. Staff explained some conflicts may occur with the city code regarding curb cuts (Section 6-1208). Planning has started discussion with the Engineering Division about how to resolve this conflict. Doug Wild from the HBA stated he was in favor of the amendment and found it to be a good compromise solution.

The next ordinance addresses the building and siting requirements for neighborhood districts and mixed residential districts. The current code requires 100% of the front facade for new buildings in N1, N2, NX1-3 districts to be within the build-to range at the front of a lot. The build-to range for some districts is narrow and does not allow flexibility for facade variations. The amendment would specify the elements and percent of the front facade required to be in the build-to range including front doors, 60% of the ground-floor window area and 60% of the width of the new structure. In addition, roof types and roof pitches in the N1 and N2 districts do not contribute to the character of these districts.

Staff has found these regulations to be more than required to accomplish good neighborhood design. Accessory building locations have also been adjusted to allow a street side yard location and not just a rear yard. Staff is also proposing to eliminate the requirement to match a block-face average build-to setback. Staff proposes to make the build-to averaging an option for builders. This ordinance also includes some changes to Section 27-1800 for definitions and measurements to conform the changes. Mr. Wild also stated his support for these proposed.

The third ordinance is related to fence materials, specifically metal panels (un-corrugated or corrugated) are proposed to be added as an allowed fence material in commercial and residential zone districts. The material has become more common as more durable and its ability to withstand hail damage and lasts longer than other common fence materials. The ordinance specifies metal panels must be framed and coated with non-reflective materials.

The final ordinance concerns changes to the sign code. The proposal includes changes to the nonconforming sign section that would allow existing business to change and update their signs so long as the nonconforming aspect of the sign is not increased. New businesses would need to install a conforming sign. The next set of changes in the code will allow a specific amount of wall sign area for each tenant in a building. The current code requires the building owner to allocate this wall sign area across the tenants in the building. This is not a tenable approach to sign budgeting for wall signs. Most building owners do not track tenant signage other than to require the tenant to get permits and comply with sign code. The code amendment keeps the maximum area for any single wall sign regardless of building frontage. The final part of the sign code amendment is related to billboard signs or off-premise signs. The existing code section is built off a moratorium on new off-

premise signs put in place in 1999. This moratorium allowed existing sign owners to receive a sign face "credit" whenever a non-conforming billboard sign was removed. The sign face credits do not expire and can be used by the owner to install a new billboard sign in a conforming location. Lamar Montana has accrued the most sign face credits since the moratorium was put in place. Lamar does look for new locations whenever the market and traffic volumes on arterial streets meet minimum requirements for outdoor advertising. The current billboard sign code allows these types of signs in Corridor Mixed Use 2 (CMU2), Heavy Commercial (CX),

Light and Heavy Industrial (I1 and I2), and on boulevard streets in the EBURD zones. In the CMU2 zone only, there is a minimum separation to a residential zone of 200 feet. If a sign is less than 200 feet, but at least 150 feet from a residential district can be allowed by special review approval. Lamar applied last year for a location of a new back-to-back digital billboard in a parking space in front of the Den on Grand Avenue. The location met the 200-foot rule since the code does not include County zone districts that allow residential use. The West End Task Force learned of the proposed new billboard sign and the application was withdrawn by Lamar. This area of Billings is on the urban/rural interface and there are not many structures or developments to contain the visibility of these types of signs. Staff chose the 700-foot distance to match the distance of two city blocks. In addition, staff is proposing to add County zones that allow residential uses and Planned Development zones that allow residential zones as districts to include in the spacing requirement. Kelly Strobel of Lamar Montana, stated he doubts the staff direction came from the City Council and believes the existing language is protective of the residential neighborhoods in Billings. He stated they applied for a new sign in front of the Den and then the West End Task Force got wind of the new location. Mr. Strobel stated the permit was withdrawn, but he was questioning why the sign was not approved. Allie Carley from Lamar stated the 700-foot separation will be detrimental to their business and to other businesses in the community that rely on billboards for advertising. She stated the Commission should vote to deny this amendment. She stated Lamar is interested in cleaning up the old billboards and converting them to digital sign faces. She stated the amendment will tie their hands by making most of their signs nonconforming. Staff provided clarification on how nonconforming signs can be updated and what is meant by "rebranding". Staff explained the right to continue a nonconforming aspect of a sign for an existing business. Rebranding will not include a company name change since that would be a new business. Rebranding is the creation of a new look and feel for an established product or company. It typically includes changes to a market strategy that include color, design and images. Staff provided information on billboard signs, spacing, and process for identifying nonconforming billboard signs.

The Zoning Commission closed the public hearing. The Zoning Commission members chose to vote on each individual ordinance for its recommendation to the City Council.

On the ordinance concerning front-load garages in the NX1 and NX2 zones, Commission member Trina White made a motion to recommend approval and adoption of the 10 review criteria. The motion was seconded by Commission member David Goss and was approved on a 3-0 vote.

For the ordinance for building and siting standards in Neighborhood and Mixed Residential zone districts,

Commission member Trina White made a motion to recommend approval and adoption of the 10 review criteria. The motion was seconded by Commission member David Goss and was approved in a 3-0 vote.

For the ordinance on fence materials, Commission member Trina White made a motion to recommend approval and adoption of the 10 review criteria. The motion was seconded by Commission member David Goss and was approved in a 3-0 vote.

For the ordinance on sign code amendments, Commission member David Goss made a motion to recommend approval and adoption of the 10 review criteria. There was no second of this motion. A new motion was made by Vice Chair Greg McCall to recommend approval with an amendment to reduce the 700-foot separation to 500 feet for new billboard signs in CMU2 zones and adoption of the findings of the 10 review criteria. The motion was seconded by Commission member David Goss and approved on a 2-1 vote with Commission member Trina White voting against the motion.

Other Business: 1 Zone Change for June meeting and next group of Text Amendments. July 2023 will be moved to July 11, 2023.

Adjournment: The meeting adjourned at 8:24 PM.

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

--Robbin Bartley, Administrative Assistant