



CITY ZONING COMMISSION
AGENDA-Tuesday, September 5, 2023, 4:30 p.m.
Miller Building, 1st Floor Conference Room
2825 3rd Avenue North, Billings, Montana

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.

NOTICE: All meetings and official activities of the MPO are held in buildings and locations that comply with accessibility standards according to the Americans with Disabilities Act (ADA). A TTY number for the hearing impaired, 406-657-3079, is available upon request. 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 the Planning Division Office, at 406-247-8676.

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 July 11, 2023 and August 1, 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 1035 -- 2500 Block of Blue Creek Road -- Rural Residential 1 (RR1) to Suburban Neighborhood Residential (N3)** -- A zone change request from RR1 (Lot 7) to Suburban Neighborhood Residential (N3) on Lot 7 of Blue Creek Acreage Tracts Subdivision, a 2.8 acre parcel of land. A concurrent petition for annexation has been submitted. A pre-application neighborhood meeting was held on July 24, 2023 at the subject property.
- b. **City Zone Change 1034 -- Phase III Zoning Text Amendments - Amendments to the text of BMCC Chapter 27:**
 - **Updates to Administrative Relief provisions Section 27-1614** -- Provide uniformity between administrative relief provisions for all zone districts including incorporation of landscape and off-street parking relief provisions
 - **Landscape Plan clarifications for residential (one and two family) lots Section 27-1618** -- Amend the administrative provisions for a Landscape Plan to clarify plans are not required with building permits for one or two-family dwellings on individual platted lots.
 - **Housekeeping amendments** to correct errors and cross-references in other city codes
 - **Special Review criteria Section 27-1623** -- Amend this code section to allow the Council to require updates to existing sites or structures when considering a special review use.
 - **Zoning at Annexation Section 27-1615** -- Allow an administrative process to determine the most appropriate zone for smaller parcels with existing county zones identical to a city zone district, or when the most appropriate zone change process for a parcel of more than 10 acres is not the Planned Neighborhood Development (PND) in Section 27-800.

Other Business/Announcements

Adjournment

The City Council has designated September 25, at 5:30 p.m. as the date and time to receive the Zoning Commission recommendation for the zone changes and hold a public hearing. If approved on first reading, a **second reading will occur on October 9, 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** map amendment 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: 09/05/2023

Information

Subject

The minutes of the Board meeting of July 11, 2023 and August 1, 2023.

Attachments

BZC_2023_0711
BZC_2023_0801



**City of Billings Zoning Commission
Meeting Minutes July 11, 2023**

The City of Billings Zoning Commission met on Tuesday, July 11, 2023 at 3:30 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). Comments may be sent to **Board via email before 1:00 PM on Tuesday, July 11, 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 July 24, 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 August 14, 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	07/11/2023	08/01/2023	09/05/2023	10/03/2023	11/07/2023	12/05/2023
Mike Larson	Chairman	1	-	1	1	E	1	1					
Daniel J. Brooks	Commissioner	E	-	1	1	E	1	1					
Greg McCall	Vice Chairman	E	-	1	1	1	1	1					
Trina White	Commissioner	1		1	1	1	E	1					
David Goss	Commissioner	1	-	1	1	1	1	1					
Wyeth Friday	Director, PCSD	-	-	-	-	-	-	-	-	-	-	-	
Monica Plecker	Division Planning Manager	-	-	-	-	1	-	-	-	-	-	-	
Nicole Cromwell	Zoning Coordinator	1	-	1	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	1	1					
Hunter Kelly	Planner I	-	-	-	-	-	-	1					

Total Number of 2023 Applications	01/03/2023	02/07/2023	03/07/2023	04/04/2023	05/02/2023	06/06/2023	07/11/2023	08/01/2023	09/05/2023	10/03/2023	11/07/2023	12/05/2023	TOTAL
Zone Change	1	-	1		6	1	3						12
Special Review	1	-	-	1	-								2

Chair Larson 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:

Chair Larson called the meeting to order at 3:30 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 Brooks and seconded by Commissioner Goss to approve the June 6, 2023 meeting minutes with corrections.

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	1031/HBA			
David Goss		x		
Greg McCall				x
Trina White		x		

Disclosure of Outside Communication

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

Commissioner Goss visited the location.

Public Hearings:

City Zone Change 1030 – 4245, 4249, & 4253 King Ave W – A to NX2 – A zone change request to change the zoning from Agriculture (A – a County zone) to Mixed Residential 2 (NX2) on C/S 2064 Parcel 6B, C/S 3125, Parcel 2A and C/S 1400, Parcel 1, a combined 5.89 acre parcel of land. There is a concurrent petition for annexation to the city limits. A pre-application neighborhood meeting was held on May 10, 2023, at the offices of Sanderson Stewart, 1300 N Transtech Way.

Staff Recommendation:

Planning staff recommends approval of the zone change

- Meets the Growth Policy and West Billings Neighborhood Plan
- Adjacent uses and zoning compatible with proposed zoning
- NX2 zone allows housing choices in a moderate density
- Will ensure consistent and orderly development of King Ave West

Discussion. Questions for staff:

Applicant: John Halverson, Sanderson Stewart, 1300 N Transtech Way

Questions for applicant: None

Public Hearing: 3:44 PM

Chair Larson opened the public hearing and called for anyone wishing to speak in favor or against City Zone Change 1030.

In Favor: NONE

Opposed: NONE

Public Hearing closed at 3:44 PM

Motion

Commissioner White made a motion and Commissioner Brooks seconded the motion to approve City Zone Change 1030 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 1030 with a 4-0 vote.

Zone Change 1032 – Northeast of Billings Airport – A to Public 2 – A zone change from Agriculture (A) to Public 2 (P2) for Parcel C, of C/S 3795, a 70.18 acre parcel of land. The property is owned by the City of Billings (Airport) and a concurrent annexation has been submitted.

Staff Recommendation:

Planning staff recommends approval of the zone change

- Meets the Growth Policy
- P2 compatible with adjacent zones and uses
- P2 considers public health, safety and welfare, light and air, fire and other dangers
- Compliance required for any site improvements

The City Council shall consider the Zoning Commission recommended findings of the review criteria:

- (1) Whether the new zoning is designed in accordance with the growth policy;
- (2) Whether the new zoning is designed to secure from fire and other dangers;
- (3) Whether the new zoning will promote public health, public safety and general welfare;
- (4) Whether the new zoning will facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements;
- (5) Whether the new zoning will provide adequate light and air;
- (6) Whether the new zoning will effect motorized and non-motorized transportation;
- (7) Whether the new zoning will promote compatible urban growth;
- (8) Whether the new zoning considers the character of the district and the peculiar suitability of the property for particular uses;
- (9) Whether the new zoning will conserve the value of buildings; and
- (10) Whether the new zoning will encourage the most appropriate use of land throughout the City of Billings.

Discussion. Questions for staff: Commissioner Goss questioned who owns the land between The Timbers and the Airport.

Applicant: None

Questions for applicant: None

Public Hearing: 3:53 PM

Chair Larson opened the public hearing and called for anyone wishing to speak in favor or against City Zone Change 1032.

In Favor: NONE

Opposed: NONE

Public Hearing closed at 3:53 PM

Commissioner Greg McCall arrived at 4:57pm.

Motion

Commissioner Brooks made a motion and Commissioner White seconded the motion to approve City Zone Change 1032 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 1032 with a 4-0 vote.

City Zone Change 1031 – Text amendments for Action Options on Special Review and Zone Changes; Open Space in NX districts and PND; Rebuild of Residential uses in Commercial and Mixed Use districts; and Step-backs for taller structures in NX adjacent to N districts –

An amendment to the text of the zoning regulation Section 27-307; 27-308; 27-802; 27-803; 27-1504, 27-1623; and 27-1628, for the purpose of clarifying and revising these sections regarding decisions on zone changes and special reviews (27-1623 & 27-1628); provision of open space in Mixed Residential and Planned Neighborhoods (27-307, 27-308, 27-802 and 27-803); rebuilding of residential uses in commercial and mixed use zones (27-1504); and step-backs for taller buildings in Mixed Residential 2 and 3 (NX2/NX3) districts adjacent to Neighborhood districts (27-308). The City Council initiated these amendments to the Zoning code on April 10, 2023.



ZC 1031 Text Amendments Phase



ZC 1031.pdf

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.

At 4:26 PM Commissioner Brooks made a motion to accept the 27-1623 & 27-1628 text amendments, Commissioner Goss seconds.

John Halverson, Sanderson Stewart, in favor, stating “shall” remain. Commissioner Goss operated under similar provisions. Raise it or waive it. Chair Larson stated the link to criteria is important. New information is #1 concern. Perception verses the reality of safety concerns.

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

The motion to approve passed 3-1, Commissioner White opposed.

At 4:47 PM Commissioner Goss made a motion to accept the 27-307, 308, 802 & 803 text amendments, Commissioner White seconded.

John Halverson, Sanderson Stewart, stated to make sure agregation of the area is ok.

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

The motion to approve passed with a 4-0 vote.

At 4:49 PM Commissioner Brooks made a motion to accept the 27-1504 text amendments, Commissioner White seconded.

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

The motion to approve passed with a 4-0 vote.

AT 5:09 PM Commissioner White made a motion to deny the 27-308, setbacks, text amendment, Commissioner Brooks seconded.

John Halverson, Sanderson Stewart, stated this is a bad amendment, bad for infill, mised is resilient discriminatory, 3 story apartments opposed to a 3 story mansion.

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

The motion to deny passed with a 4-0 vote. Commissioner McCall being absent for the presentation, abstaining.

Other Business: One item in August.

Adjournment: The meeting adjourned at 5:11 PM.

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

--Robbin Bartley, Administrative Assistant



**City of Billings Zoning Commission
Meeting Minutes August 1, 2023**

The City of Billings Zoning Commission met on Tuesday, August 1, 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). Comments may be sent to **Board via email before 1:00 PM on Tuesday, August 1, 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 August 28, at 5:30 p.m. as the date and time to receive the Zoning Commission recommendation for **Zone Change 1033**, and hold a public hearing. If approved on first reading, a **second reading will occur on September 11, 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	07/11/2023	08/01/2023	09/05/2023	10/03/2023	11/07/2023	12/05/2023
Mike Larson	Chairman	1	-	1	1	E	1	1	1				
Daniel J. Brooks	Commissioner	E	-	1	1	E	1	1	1				
Greg McCall	Vice Chairman	E	-	1	1	1	1	1	1				
Trina White	Commissioner	1		1	1	1	E	1	E				
David Goss	Commissioner	1	-	1	1	1	1	1	1				
Wyeth Friday	Director, PCSD	-	-	-	-	-	-	-	-	-	-	-	
Monica Plecker	Division Planning Manager	-	-	-	-	1	-	-	-	-	-	-	
Nicole Cromwell	Zoning Coordinator	1	-	1	1	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	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	07/11/2023	08/01/2023	09/05/2023	10/03/2023	11/07/2023	12/05/2023	TOTAL
Zone Change	1	-	1		6	1	3	2					14
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: John Halverson, Rick Leuthold, SCL Representative, Kyle

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: July 11, 2023 minute approval delayed

Disclosure of Conflict of Interest

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

Disclosure of Outside Communication

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

Commissioners Goss and Larson visited the location.

Public Hearings:

City Zone Change 1033 – St Vincent’s Healthcare Planned Development Amendment - A zone change to update and amend an existing Planned Development Agreement for St Vincent’s Healthcare Subdivision generally located on the north west corner of the intersection of King Ave W and Shiloh Rd, legally described as Block 1, Lots 1, 2A, 3A-1, 4A, 4B, 5A, 6A1, 6A2, 6A3; Block 2, Lots 1 -12 and Lot 2A; Block 3, Lots 1, 1A, 2-12; and Block 4 Lots 1-4 and Lots 2A2 and 3A, of St Vincent Healthcare Subdivision, a 91.34-acre parcel of land. A pre-application neighborhood meeting was held on May 26, 2023 at the offices of Sanderson Stewart at 1300 N Transtech Way.

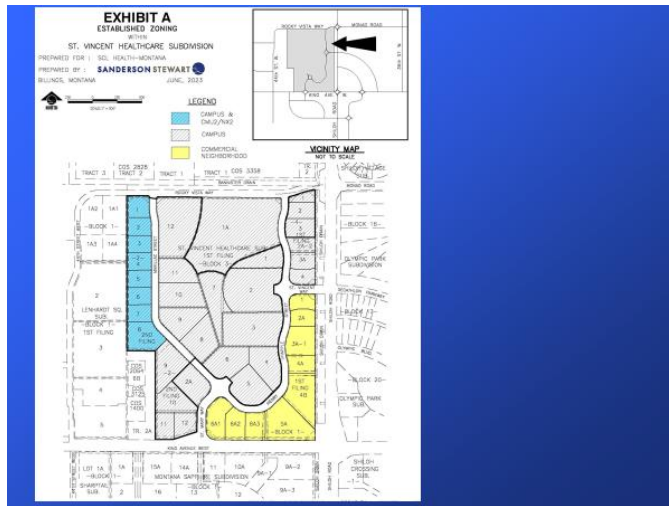
Current Planned Development

Current zoning allows:

- Medical, commercial and some residential uses
- Refers to archived zone districts and overlay zone requirements
- Consistent with adopted covenants and design restrictions

Proposed amendment allows:

- Replaces underlying zone districts with CMU2
- NX2 uses also allowed for specific lots
- All prohibited uses stay in place and several new prohibited uses included
- Updates language



Staff Recommendation:

Planning staff recommends approval of the zone change

- Meets the Growth Policy and West Billings Neighborhood Plan
- Adjacent uses and zoning compatible with proposed zoning
- Same restrictions and prohibited uses still apply
- Normalizes underlying zone districts with districts in use
- Preserves predictability for current lot owners, consistent with adopted CCRs
-

Zone Change Review Criteria

The City Council shall consider the Zoning Commission recommended findings of the review criteria:

- (1) Whether the new zoning is designed in accordance with the growth policy;
- (2) Whether the new zoning is designed to secure from fire and other dangers;
- (3) Whether the new zoning will promote public health, public safety and general welfare;
- (4) Whether the new zoning will facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements;
- (5) Whether the new zoning will provide adequate light and air;
- (6) Whether the new zoning will effect motorized and non-motorized transportation;
- (7) Whether the new zoning will promote compatible urban growth;
- (8) Whether the new zoning considers the character of the district and the peculiar suitability of the property for particular uses;
- (9) Whether the new zoning will conserve the value of buildings; and
- (10) Whether the new zoning will encourage the most appropriate use of land throughout the City of Billings.

Discussion. Questions for staff:

Applicant: John Haverson, Sanderson Stewart, 1300 Transtech Way
Stated it is a slow development. Make the document consistent with subdivision lots, blocks.

Consistent with current standard zoning district. Remove the Shiloh Corridor Overlay reference, simplify. Prohibited uses include Marijuana and Body painting.

Questions for applicant: Commissioner McCall asked who drafted this. SCL & Sanderson Stewart did the drafting.

Commissioner Goss asked if SCL will retain ownership of any of the lots. Sanderson Stewart agents were unsure. Kyle from SCL stated the common areas will retain ground lease one, but most are transferring title. Rick Leuthold stated the intention was always to be sold, but consider ground leases. Parks and common areas retained and ground lease for medical possibilities. Ann Ross Park is dedicated to the city, but will be improved by SCL & maintained by Owner’s Association. Developing OA documents.

Commissioner Goss asked if the streets are private or public. They are public.

Public Hearing: 4:53 PM

Chair Larson opened the public hearing and called for anyone wishing to speak in favor or against City Zone Change 1033.

In Favor: None

Opposed: None

Public Hearing closed at 4:53 PM

Motion

Commissioner McCall made a motion and Commissioner Brooks seconded the motion to approve City Zone Change 1033 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 1033 with a 4-0 vote.

Zone Change 1034 Zoning Commission Discussion – Phase III of Text Amendments – The Zoning Commission will review in a discussion session the following draft text amendments:

- Updates to Administrative Relief provisions
- Landscape Plan clarifications for residential (one and two family) lots
- Housekeeping amendments to correct errors and cross-references in other city codes
- Special Review criteria
- Zoning at Annexation

Information and drafts can be found on the City’s Zoning Application webpage at <https://www.billingsmt.gov/2361/Current-Zoning-Applications> or in the Planning Offices at 2825 3rd Ave N – 4th Floor. These amendments will have future public hearings with the Zoning Commission and City Council.



ZC 1034 Phase 3
Zoning Comm discu

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.

Discussion:

Other Business: There will be one more set (Phase IV) still anticipated due to Legislative changes effective 1/1/2024. **Administrative Relief for residential.** Commissioner Brooks asked who reviews the Administrative Relief applications. Currently Nicole Cromwell, Zoning Coordinator is the reviewer.

Adjournment: The meeting adjourned at 5:50 PM.

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

--*Robbin Bartley, Administrative Assistant*

Zoning Commission

Date: 09/05/2023
Title: Zone Change 1035 " 2449 Blue Creek Road " RR1 to N3
Presented by: Hunter Kelly, Planner 1
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 1035.

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

This is a zone change request from Rural Residential 1 (RR1), a county zone district, to Suburban Neighborhood Residential (N3) on Lot 7 of Blue Creek Acreage Tracts Subdivision, a 2.804 acre piece of land. There is a concurrent petition for annexation to the city.

This zone change request is to allow for the annexation of the subject property to ultimately allow connection to city services. All annexation require the property be zoned with a zoning district that is recognized by the City Zoning. The property is currently zoned RR1 which is a zone district only allowed in the county. A zone change in combination with the annexation is required.

APPLICATION DATA

OWNER: Andrew Boetticher
AGENT: Andrew Boetticher
LEGAL DESCRIPTION: BLUE CREEK ACREAGE TRACTS SUBD, S28, T01 S, R26 E, Lot 7
ADDRESS: 2449 Blue Creek Road
CURRENT ZONING: RR1 (Rural Residential 1 ac to 2.99 ac)
EXISTING LAND USE: Vacant/Agricultural
PROPOSED USE: Residential
SIZE OF PARCEL: 2.804 Acres

CONCURRENT APPLICATIONS:

Petition for Annexation 23-07

SURROUNDING ZONING AND LAND USE:

NORTH: Zoning: RR1
Land Use: Vacant Land
SOUTH: Zoning: P2 - Public - Civic & Institutional
Land Use: Blue Creek Fire Volunteer Fire Department
EAST: Zoning: RR1
Land Use: Vacant
WEST: Zoning: RR1
Land Use: Vacant/Agricultural

The property owners intended to develop a single-family residence on the lot in the County, but the property is not eligible to install a septic system due to close proximity of city services. The only available method for wastewater management on the lot was through the connection to city sewer mains located in Blue Creek Road. Connection to city services requires an annexation, and the annexation requires a zone change to a residential district in the city.

STAKEHOLDERS

The applicant held a pre-application neighborhood meeting on July 24th, 2023 at 7pm. The meeting was held at the subject property. While there were only eight property owners within the 300' mailing radius, twelve participants showed up to the meeting. Minutes taken at the pre-app meeting show there were six opposed to the action and six in support. The six in opposition were concerned the proposal would "force their own properties into annexation". The applicant tried to explain how the City does not forcibly annex property, but was met with skepticism by those in opposition. The meeting lasted a total of 40 minutes.

The Zoning Commission will hold a public hearing for this zone change and the public is able to provide testimony during that time. The City Council will hold a subsequent hearing when considering the Zoning Commission's recommendation.

The public hearing(s) were advertised in the Yellowstone County News, the property was posted and notices were sent to the surrounding owners. No surrounding owners contacted the Planning staff prior to the writing of this report.

ALTERNATIVES

The Zoning Commission may:

- Recommend approval and adoption of the findings of the ten review criteria for Zone Change 1035; or,
- Recommend denial and adopt different findings of the ten review criteria for Zone Change 1035; 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 zoning conforms to the following City of Billings 2016 Growth Policy and guidelines:

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

- The safety of all users and the connectivity of the transportation system are important criteria to consider in roadway designs and transportation plans.
- Infill development and development near existing City infrastructure may be the most cost-effective.
- Infrastructure and service investments that stabilize or improve property values, secure future utility costs, consider maintenance costs, and improve our environmental quality far into the future (i.e. energy efficient) are desirable.

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.
- 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.

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

The new zoning (N3) requires minimum setbacks, open and landscaped areas and building separations per section 27-300.5. The new zoning, as do all zoning districts, provides adequate building separations to provide security from fire and other dangers. Buildings developed within the city limits will comply with building and fire safety codes.

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

The proposed zoning (N3) would allow the owner to develop a single family home which is similar to the surrounding area. The site and structure regulations found in 27-300.5 in the N3 district promote the minimum standards to ensure public health and safety and promote general welfare. An on-site septic facility is prohibited for the property due to proximity to existing city services. Annexation and zoning of the property will promote public health and public safety.

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

Transportation: The proposed zoning will have little impact on the surrounding transportation systems as there are no more than 1 residence expected on the property. There will be no significant impact on the transportation network at this time and a minimal impact if an additional single family home were to be constructed. Blue Creek Road is a state maintained principle arterial. There are no capacity concerns.

Water and Sewer: The property does not have access to utilities at this time, however the applicant has requested annexation. Upon annexation approval the property will connect to City water and sewer. Water and sewer are available in the adjacent right of way.

Schools and Parks: Schools and parks should not be significantly affected by the proposed zone change as there are

no more than 1 residence expected on the property.

Fire and Police: The property will be served by the City of Billings Fire and Police upon successful annexation. The Police and Fire Departments have not stated concerns with the request.

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

The proposed N3 zoning provides for sufficient setbacks to allow for adequate separation between structures and adequate light and air as required by the site a structure regulations found in 37-300.5. Any residential structure built in the future must comply with the setback and separation requirements in Section 27-300.5 ensuring adequate light and air.

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

The new zoning will have no significant effect on vehicle and pedestrian traffic. The property is intended to create a single household and generate minimal trips. Additionally, the property is located adjacent to Blue Creek Road, a principal arterial roadway with adequate capacity to handle the additional residence.

7. Will the new zoning promote compatible urban growth?

The proposed zone change will not negatively impact urban growth. Any future home must be in compliance with the N3 zone and is an acceptable use of property within the City of Billings. The size of this property could allow for future redevelopment for additional single family homes due to the size of the lot. From a service standpoint, annexation and serving properties with nearby city services is ideal. This property is adjacent to city water and sewer facilities. With all of these items considered, the new zoning allows for opportunity to promote future and compatible urban growth.

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

The proposed development continues the character of the district. The development pattern in this area is single family homes. The existing county zone allows single family homes only and the N3 zone is a compatible and similar city zone. The zone designation and annexation will not alter how the property is being used presently, therefore there are no suitability concerns.

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 new or redevelopment of the property will need to meet the applicable site development requirements in the zoning code, including landscaping, screening, building heights and setbacks for the N3 zoning district.

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

The proposed zoning will allow a residential property outside the City limits of Billings to be annexed into the City and connect to City services so the property can be used for a residential dwelling. There are no indicators the N3 zoning is not the most appropriate use of the land.

Attachments

Chart of Zoning History
Application
Justification Letter
Pre-Application Meeting Minutes
Zoning Map and Site Photos

SUBJECT PROPERTY	Zone Change #	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
Blue Creek Acreage Tracts Subs, Lot 7	City ZC 1035	September 25, 2023	Annexation & Zone Change of Residential property	-	RR1 Zone District
SURROUNDING PROPERTY	Zone Change #	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
BLUE CREEK STORAGE SUB, LT 2	City ZC 1017	Sept 26, 2022	CMU1 to CX	N	Valid Protest Petition
Cedar Park Subdivision	Annexation	2002	Connect to Water & Sewer	Y	N3 via Project ReCode
Briarwood Subdivision	Annexation	2002	Connect to Water & Sewer	Y	PUD- R-9600
Cherry Creek Estates Sub, Block 2 , Lot 1	City ZC 995	August 23, 2021	RR1 & P1 to N3	Y	Annexed
Tr. 1A-1 and 1A-2, Certificate of Survey 266	City ZC 994	August 23, 2021	RR1 to N3	Y	Annexed

APPLICATION FORM

CITY ZONE CHANGE Billings Zone Change # _____ - Project # PZX-23-00141

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 RR1

Proposed Zoning: NB

TAX ID# C02386 CITY ELECTION WARD _____

Legal Description of Property: BLUE CREEK ACRES SUBS S28, T01S R26E LOT 7

Address or General Location (If unknown, contact City Engineering): 2449 BLUE CRK RD

Size of Parcel (Area & Dimensions): 2.804 ACRES

Present Land-Use: AGRICULTURAL

Proposed Land-Use: RESIDENTIAL W/ AGRICULTURAL

Covenants or Deed Restrictions on Property: Yes No _____

If yes, please attach to application

*** Additional information may be required as determined by the Zoning Coordinator in order to fully evaluate the application.

Owner(s): ANDREW K BOETTICHER & MICHELLE SPENNY

(Recorded Owner)

2535 GLENGARRY CT BILLINGS MT 59101

(Address)

406-697-1077

(Phone Number)

aboetticher@charter.net

(email)

Agent(s): _____

(Name)

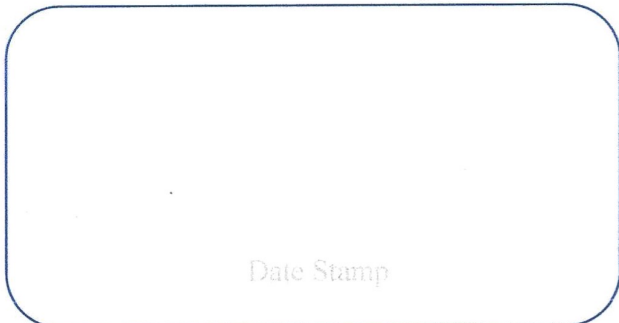
(Address)

(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: [Signature] Date: 7/25/2023
(Recorded Owner)



Date Stamp

Andy Boetticher
2535 Glengarry Court
Billings, MT 59101

July 31st, 2023

Planning and Community Services Department
2825 3rd Ave N, 4th Floor
Billings, MT 59101

Re: Zone Change Request

To Whom it May Concern,


My wife and I are requesting a zone change for a parcel of land we own, legally known as Blue Creek Acreage Subs, S28, T01 S, R26E, Lot 7. This is a 2.804 acre sized lot located along Blue Creek Road approximately one mile west of the Briarwood Subdivision. Currently zoned RR1, we are requesting a change to N3 concurrent with a Petition for Annexation.

Consistent with the city of Billings' Growth Policy Statement, the requested zone change will allow us to develop the subject property while tying into existing city infrastructure and will provide additional increased tax revenue for the city of Billings as compared to an RR1 zone classification. My wife and I have contracted with a local architecture firm to design a modest 3300sf single family home that will complement the existing rural character of the surrounding neighborhood, preserve the natural areas and maintain the agricultural landscape.

Currently, the majority of properties in the immediate area are zoned RR1 or RR3. Many of the lots remain purely agricultural in nature, and those that do have residential structures were built prior to the installation of city services along Blue Creek Road and therefore rely on septic and cistern for basic services. Unfortunately, the subject property is not approved for septic, so we are unable to develop the lot under current zoning. The requested N3 zone classification coupled with annexation will provide us with the ability to utilize city services and develop the lot without any negative impact to adjacent properties while also supporting Billings' overall growth policies.

Thank you for considering our request.

Sincerely,



Andrew K Boetticher

Summary of Neighborhood Meeting

On July 24th, 2023 at 7:00pm, a neighborhood meeting was held on the property with the legal description Blue Creek Acreage Tracts Subs, S28, T01S, R26E, Lot 7. The purpose of the meeting was to make adjacent property owners aware of the owner's plans to annex into the city of Billings for the purposes of connecting to city services and apply for a zone change from RR1 to N3 to comply with available city zone codes. A list of attendees is attached.

The meeting began with the owner introducing himself and his builder. The owner then explained that his original intent for the property was to remain within the county, but because of DEQ requirements related to new septic fields, the owners decided that annexation and rezoning would better suit their needs.

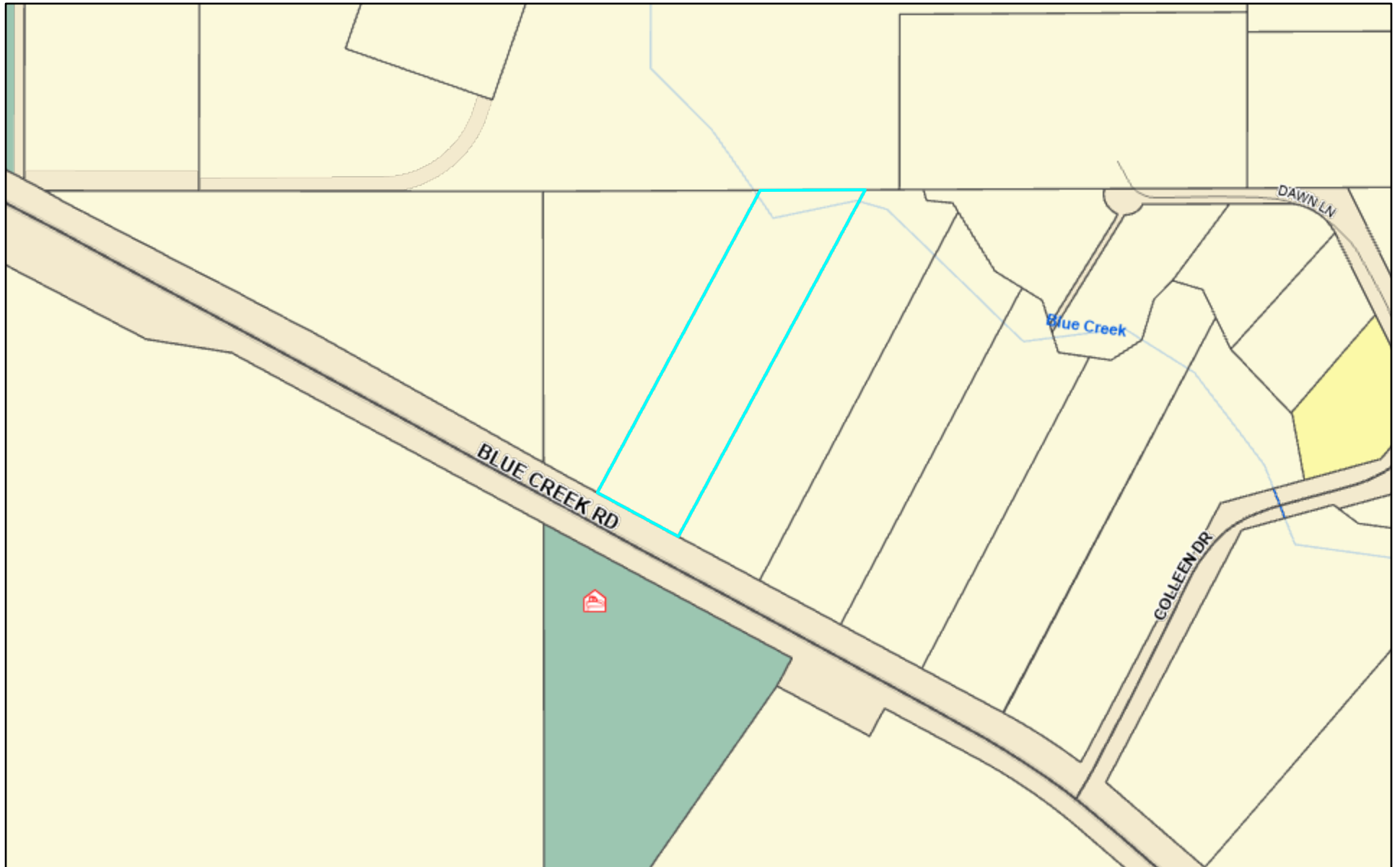
A concern was raised by many of the attendees, several of whom are not within the 300' radius, that they would not support a zoning change out of fear that if the subject property were to be annexed, their properties could then be forced into annexation. The owner stated that in previous conversations with personnel within the city planning department, he was told that the city cannot force anyone into annexation. Several attendees basically replied with something to the extent of "if it's not in writing, they don't believe it".

Some of the attendees asked what the owner's intended use for the property was, to which the owner advised them that he plans to build a single family residence and a small shop space and is looking for more space to pursue gardening and fruit tree growing interests.

After approximately 30 minutes, six of the attendees, most of which were the vocal opponents of annexation and rezoning, left the meeting. At that time, the six remaining attendees, all but one of whom is an adjacent property owner, stated their approval of the proposal for the property.

By 7:40, all attendees had left.

Zone Change 1035



8/28/2023, 11:51:04 AM

Billings - County Zoning

/// A - Agriculture (10+ acres)*

■ N4 - Large Lot Suburban Neighborhood*

■ P2 - Public- Civic, Institutional

■ RR1 - Rural Residential (1 to 2.99 acres)*

■ RR3 - Rural Residential (3 to 9.9 acres)*

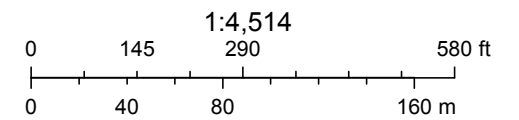
□ Tax Parcels

— Streams, Ditches, Canals

— Creek or Slough

— Road Centerline

— US ROUTE or STATE HIGHWAY



**ZONING
REQUEST**

ZONE
CHANGE
1035
SPECIAL
REVIEW
VARIANCE

An orange rectangular sign with rounded corners is mounted on a black metal post. The sign is divided into three sections. The top section contains the text 'ZONING REQUEST' in large, bold, black capital letters. The middle section contains two white documents pinned to the sign; the left one is a text document and the right one is a map. The bottom section contains the text 'ZONE CHANGE', '1035', 'SPECIAL REVIEW', and 'VARIANCE' in black capital letters, arranged vertically.







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CONSTRUCTION CORP.
All phases of home building
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B

C

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BLAKE CREEK
POL. FIRE DEPT.
BLAKE CREEK
FIRE SERVICE AREA

♿



ZONING
REQUEST

Zoning Commission

Date: 09/05/2023
Title: Zone Change 1034 - Phase III Zoning Text Amendments - Public Hearing
Presented by: Nicole Cromwell
Department: Planning & Community Services
Presentation: Yes

Information

RECOMMENDATION

Planning staff recommends the Zoning Commission recommend approval of the zoning text amendments to the City Council and adopt 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 included changes to the Neighborhood Districts building and siting standards, the code section on fence materials and the sign code. The City Council took action on these first amendments at its May 22, Regular Business Meeting. The Council approved the first phase of the amendments on June 12. The Council then considered the second phase of amendments on July 24, after the Zoning Commission hearing and recommendations from July 11.

Planning staff has worked with several stakeholders over the last several months to craft the draft amendments. At the May 2, 2023, hearing on the first set of amendments, the Zoning Commission asked for the next two phases to include one discussion meeting and then a public hearing meeting. The discussion meeting is intended to provide the Zoning Commission the opportunity to better study the amendments and ask questions of staff and make suggested edits prior to the public hearing. This is the public hearing for the third phase amendments. This phase of amendments includes the following:

- **Updates to Administrative Relief provisions Section 27-1614** -- Provide uniformity between administrative relief provisions for all zone districts including incorporation of landscape and off-street parking relief provisions
- **Landscape Plan clarifications for residential (one and two family) lots Section 27-1618** -- Amend the administrative provisions for a Landscape Plan to clarify plans are not required with building permits for one or two-family dwellings on individual platted lots.
- **Housekeeping amendments** to correct errors, provide clarity and fix conflicts with cross-references in other city codes
- **Special Review criteria Section 27-1623** -- Amend this code section to allow the Council to require updates to existing sites or structures when considering a special review use.
- **Zoning at Annexation Section 27-1615 and 27-800** -- Allow an administrative process to determine the most appropriate zone for smaller parcels with existing county zones identical to a city zone district, or when the most appropriate zone change process for a parcel of more than 10 acres is not the Planned Neighborhood Development (PND) in Section 27-800.

Administrative Relief

Section 27-1614 of the code allows Planning staff to grant minor relief from some code requirements such as setbacks, height, build-to-zone ranges, door and window requirements and other adjustments for new construction where a physical limitation exists that prevents an owner from following the code exactly. Administrative relief is intended to be a small adjustment to the code to fit existing circumstances. It is not a substitute for a formal variance and when a request exceeds the small amount allowed, a variance is required. Similar to variances, the Planning staff must find the request is to make an adjustment that maintains the intent of the requirement, does not adversely affect adjoining property and conditions may be applied to the approved request. The code has two additional "administrative relief" options that are not included in the process outlined in this section: Landscaping waivers and waivers of maximum (and minimum) off-street parking. The proposed draft amendment would allow all requests for administrative relief and waivers to be processed similarly ensuring there will be uniform application of criteria and standards. The draft ordinance is attached.

Landscape Plan

Section 27-1618 of the Administrative Procedures section of the code specifies how and when landscape plans shall be submitted for approval. Typically, these plans are submitted along with a building permit, a master site plan, a zoning compliance permit (county), or special review application. The first set of housekeeping amendments in 2022, clarified the street frontage landscaping required for single and two-family lots in Section 27-1203. A similar clarification and amendment is required in Section 27-1618, to ensure conformity throughout the code related to landscape plans for residential developments. Unless the development of one or two-family homes is covered by a master site plan approval (unit ownership, condominiums, townhomes), landscape plans are not required. Each lot is still required to provide one street tree for each 40 feet of street frontage, but these are not required to be shown on a building permit or zoning compliance permit for lot development or re-development. There are also inconsistencies between Section 27-1200 and 27-1618 that will be resolved with this amendment. The draft ordinance is attached.

Housekeeping Amendments

Small corrections and adjustments are still coming to light as we work with and apply the new zoning code. These adjustments will bring more clarity and reduce confusion for builders, architects, engineers, lawyers and planners as we apply the code to new projects and buildings. These housekeeping amendments include changes to the zoning regulation as well as adjustments to other parts of the city code that have incorrect references to the zoning code. The draft ordinances are attached.

Special Review Criteria

Section 27-1623 includes criteria for decision makers including the types of issues or areas where conditions may be imposed. The current code does not specify that deficiencies in existing site development can be addressed through the special review process. For example, a site may have some but not all the required street frontage landscaping, the type of planting required for a buffer yard, less than the required off-street parking for the existing or proposed use, or a sign type or sign area that is nonconforming to the code. These deficiencies are not mentioned in the special review criteria, but improvements could have a beneficial or mitigating impact on the proposed special review use. The amendment will add language to the decision criteria so the Zoning Commission and Council can consider upgrades to existing sites for new uses requiring special review. The draft ordinance is attached.

Zoning at Annexation

Section 27-1615 and 27-800 govern how zoning is changed and applied at the time of annexation to the city. The City and County now only have a handful of zone districts that are identical - Heavy Commercial (CX), Light Industrial (I1) and Heavy Industrial (I2), and the Public zone districts (P1-3). Some properties close to the city limits also have other "urban" zone districts applied to match the existing development pattern such as Neighborhood Residential 1-3, Mixed Residential 1-3 and Mixed Use zone districts. All of these properties can be annexed with the existing zoning in place and do not require a change to the zoning. During the past two years, the city has also annexed parcels that are inappropriate to apply the Planned Neighborhood Development zone change process because of the size, location and intended use of the property. These properties include a 20-acre parcel added to the Billings Operations Center on Midland Road and a few others. There were other annexations that were required to submit a zone change application even though the city zone district choice was obvious - an annexation of an N4 County zoned parcel surrounded by N3 City zoning. These situations are not uncommon. The current code does not consider these situations. The proposed amendment will set parameters when a zone change application is not required, when a landowner may choose to not go through the PND process, and what happens when an annexation is approved, but the zoning is not. The draft ordinance is attached.

STAKEHOLDERS

Planning staff published a legal ad, posted the final draft ordinances to the city's webpage and is contacting the stakeholders groups with the time, date and location of the public hearing. Planning staff has not received any comments in writing or by phone call from interested persons.

ALTERNATIVES

The Zoning Commission may take one of the following actions:

- Recommend approval and adoption of the findings of the ten review criteria for all or some of the amendments included in Zone Change 1034; or,
- Recommend approval with specific changes to the one or more of the draft ordinances included in Zone Change 1034; or
- Recommend denial for one or more of the ordinances included and adopt different findings of the ten review criteria for those ordinances included in Zone Change 1034; 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 administrative relief actions, landscape plans, special review criteria or zoning at annexation. 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 special review criteria to allow existing site developments to be improved to meet the new code, and zoning choices at annexations will help promote public health and safety by allowing appropriate conditions and options for approval. 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 amendments proposed for phase three do not have any specific relationship to the transportation network or impacts related to transportation.

Water & Sewer: The proposed code amendments should have no effect on city water and sewer services as the amendments are not directly related to utilities like water and sewer.

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

Public Safety Services: Public health and safety should be improved by the code amendments to allow future site improvements for special review uses, and eliminate cross-reference errors in traffic regulation and fire prevention codes.

- 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 the proposed amendment to Administrative Relief. The current code could allow a zero side or rear setback. It was not the intention of the code writers to allow this via administrative relief. An owner could still request this through a variance but not as an administrative process.

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

The proposed zoning amendments will not directly effect motorized transportation. The proposed amendments may have a minor effect on non-motorized transportation. The amendment includes a housekeeping update to the city code on bicycles and in what districts it may be allowed to ride on a public sidewalk. The current code references cite old zone districts that no longer exist. The amendment specifically replaces these old districts with the new districts.

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

The zoning amendments will promote compatibility with urban growth through adjustments to add certainty and flexibility, 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 builders with predictability.

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

All 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 administrative options, special review uses, and annexation options can provide certainty and integrate in existing built environments. 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.

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 Ordinance Administrative Relief

Draft Ordinance Landscape Plan

Draft Zoning Further Housekeeping Ordinance Final

Draft Ordinance Non-Zoning Housekeeping

Draft Ordinance Special Review criteria

Draft Ordinance Zoning at Annexation

ORDINANCE 23-_____

**AN ORDINANCE OF THE CITY OF BILLINGS,
PROVIDING Section 27-1614 ADMINISTRATIVE RELIEF,
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 text of the Zoning regulations from time to time. The City Zoning Commission and staff have reviewed the proposed text amendment 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 27-1614 be amended to allow requests for administrative relief be normalized between zone districts

Section 3. ZONE TEXT AMENDMENT. The text of Section 27-1614 is amended as follows:

Sec. 27-1614. - Administrative relief.

A. Applicability.

1. Administrative relief allows the modification of an existing numeric dimensional standard to accommodate site-specific or minor construction issues.
2. Administrative relief is applicable to new development, redevelopment, and major façade changes.
3. Administrative relief may be requested either as part of an original application or as a modification to an existing approval.

B. Authority. Administrative relief may be requested by an applicant qualified to request a primary development approval or amendment.

C. Procedures.

1. Common procedures. Procedures for review and decision of an administrative relief application are established in sections 27-1602 through 27-1613. They are summarized here for applicant convenience. (*graphic remains the same*)

2. Specific procedures. All applications for administrative relief shall identify the specific issue that the administrative relief is intended to address and how the administrative relief will resolve that issue:

(a) A request for administrative relief prior to construction shall be submitted with the project site plan application. Where the site plan is submitted in conjunction with a primary application, such as a special review request, that is decided by the city council, the request for administrative relief shall also be decided by that body. For example, if an administrative relief request is submitted with a rezoning application, the city council will also decide on the administrative relief.

(b) A request for administrative relief to address a minor construction issue shall be submitted with the ~~approved~~ project site plan, a written description of the minor construction issue, and an amended drawing of that part of the site for which the administrative relief is requested.

D. Permitted types of administrative relief.

1. N1-3, NX1-3, **RMH**, NO, NMU, CMU1, CMU2, DX, and EBURD districts. An applicant may request the following adjustments through administrative relief:

(a) The location of the building may be adjusted within a five-foot area from any minimum yard requirement or build-to zone width/location, **except a side or rear yard setback may only be reduced to three feet from a five foot minimum through administrative relief.**

(b) EBURD: Up to ten (10) percent increase in total impervious coverage, not to exceed the total amount of permitted impervious plus semi-pervious coverage. Compliance with stormwater regulations is required.

(c) Up to ten (10) percent decrease in ~~primary frontage~~ **front lot line** coverage.

(d) Additional height of any story up to two (2) feet, as long as the overall building height does not exceed the allowable height of all floors at their maximum permitted height, **or provided, that the total modification shall not increase the applicable building or structure height by more than ten (10) percent of the otherwise maximum height in the zone, nor add another habitable story or mezzanine.**

(e) Up to ten (10) percent decrease in ~~transparency~~ **front façade window and door coverage** or a ten (10) percent increase in blank wall limitation for corner side facades. **Up to twenty-five (25%) percent of the front façade window**

and door required area (square feet) may apply to use alternative materials for windows or doors, including but not limited to spandrel glass, architectural glass block, faux door/window openings or similar installations. Any approved administrative relief will not significantly reduce visibility into and out of the structure.

(f) Lot coverage. In any zone, modifications of the lot coverage requirement; provided, that the total modification shall not increase the applicable coverage to more than ten (10) percent of the otherwise maximum lot coverage in the zone.

(g) Fence heights and materials. In any zone, modifications of the maximum fence height requirement; provided, that the total modification shall not increase the applicable fence height maximum in any yard by more than ten (10) percent. Fences greater than seven (7) feet in height will need a building permit. Fence materials not listed in Section 27-1209.E may be requested through this process.

(h) Parking. In any zone, a decrease in the number of required off-street parking spaces of not more than fifty (50) percent when total required spaces are at least ten (10) spaces. In any zone, allow more than the maximum number off-street parking stalls as provided in 27-1302.F.

(i) Location of Accessory Structure. In any zone, allow location of an accessory structure in a side yard.

(j) Reduction or variations in required landscaping as provided in Section 27-1614.E.4.

2. CBD, CX, I1, I2, P1-3, PD districts. **An applicant may request the following adjustments through administrative relief:**

~~(a) The zoning coordinator may grant administrative relief that conforms to the following requirements:~~

~~(4) (a) Setbacks. In any zone, modifications of the front, side, or rear yard setback requirement; provided that the total modification shall not reduce the applicable setback(s) by more than ten (10) percent **of the zone district requirement or five (5) feet, whichever reduction is larger.** of that otherwise required in the zone.~~

~~(2)~~ **(b)** Lot coverage. In any zone, modifications of the lot coverage requirement; provided, that the total modification shall not increase the applicable coverage to more than ten (10) percent of the otherwise maximum lot coverage in the zone.

~~(3)~~ **(c)** Structure heights. In any zone, modifications of the building or structure height requirement; provided, that the total modification shall not increase the applicable building or structure height by more than ten (10) percent of the otherwise maximum height in the zone, nor add another habitable story or mezzanine.

~~(4)~~ **(d)** Usable open space. In any zone, modifications of the usable open space requirement; provided, that the total modification shall not increase the applicable coverage to more than ten (10) percent of the otherwise required usable open space in the zone. **Lot coverage. In any zone, modifications of the lot coverage requirement; provided, that the total modification shall not increase the applicable coverage to more than ten (10) percent of the otherwise maximum lot coverage in the zone.**

~~(5)~~ **(e)** Fence heights **and materials. In any zone, modifications of the maximum fence height requirement; provided, that the total modification shall not increase the applicable fence height maximum in any yard by more than ten (10) percent. Fences greater than seven (7) feet in height will need a building permit. Fence materials not listed in Section 27-1209.E may be requested through this process.** In any zone, modifications of the maximum fence height requirement; provided, that the total modification shall not increase the applicable fence height by more than ten (10) percent of the otherwise maximum height in the zone. Fences greater than or equal to eight (8) feet in height will need a building permit.

~~(6)~~ **(f)** Parking. In any zone, a decrease in the number of required **off-street** parking spaces of not more than ~~ten (10)~~ **fifty (50)** percent when total required spaces are at least ~~twenty (20)~~ **ten (10)** spaces. **In any zone, allow more than the maximum number off-street parking stalls as provided in 27-1302.F.**

~~(7)~~ **(g)** Deviations from final planned development maps. In any planned development zone, deviations to ~~final~~ planned development maps which are consistent with the requirements of the ~~preliminary~~ planned development **approval**, ~~final planned development~~ conditions of approval, or development standards of the underlying zoning district.

~~(b)~~ **3.** Administrative relief may not:

~~(4)~~ **(a)** Create, intensify, or expand any nonconformity with maximum or minimum requirements of the zoning district;

- ~~(2)~~ **(b)** Permit uses other than those permitted in the zone district;
- ~~(3)~~ **(c)** Reduce the effectiveness of approved transitional screening, buffering, landscaping, and/or open space; or
- ~~(4)~~ **(d)** Expand the area or type of signage approved.

E. Decision criteria. To approve a request for administrative relief, the zoning coordinator shall make and record findings that all of the following provisions are met:

1. The proposed use, structure, or activity is permitted in the underlying zone district;
2. There are special circumstances existing on the property for which the application is made related to size, shape, area, topography, surrounding conditions, and location that do not apply generally to other property in the same area and zone district;
3. The special circumstances have not been created by the applicant; and
4. The impact of the administrative relief is internal to the subject property.

F. Review and decision-making. Requests for administrative relief are processed as an administrative decision pursuant to subsection 27-1610.A.

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 September 2023.

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

CITY OF BILLINGS

BY: _____

William A. Cole, Mayor

Attest:

BY: _____

Denise R. Bohlman, City Clerk

Zone Change 1034, Text Amendment for Administrative Relief

ORDINANCE 23-_____

**AN ORDINANCE OF THE CITY OF BILLINGS,
PROVIDING Section 27-1618 LANDSCAPE PLAN
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 text of the Zoning regulations from time to time. The City Zoning Commission and staff have reviewed the proposed text amendment 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 27-1618 be amended to clarify landscape plan submittal is not required for one and two-family developments and to conform the plan submission between the city and county landscape code sections.

Section 3. ZONE TEXT AMENDMENT. The text of Section 27-1618 is amended as follows:

Sec. 27-1618. Landscape plan.

A. Applicability. Landscaping in compliance with this zoning code shall be required for any new construction, and expansion of existing structures. All plans submitted in support of a building permit or zoning compliance permit shall include a landscape plan where required. **No landscape plan submittal is required for any one or two-family building permit applications except those located within a development covered by a Master Site Plan approval (Sec. 27-1619). Any building permit for a one or two-family dwelling within a Master Site Plan approved location shall indicate on the site plan the landscaping required by the approved Master Site Plan.**

B. Authority. A landscape plan may be submitted for review by a property owner or the property owner's agent, including the landscape professionals described in subsection 27-1618.C.

C. Procedures.

1. *Common procedures.* Common procedures for landscape plan review are identified in Table 27-1600.1 and are summarized here for applicant convenience.

2. *Specific procedures.* Landscape plans shall be prepared as follows:

(a) Lots of ~~one~~ **1.5 acres** or larger: The plan shall be prepared by a Montana licensed landscape architect.

(b) Lots smaller than ~~one~~ **1.5 acres**: The applicant is encouraged to work with a nurseryman or landscape design professional to meet the requirements of this article.

.....

E. *Post approval.*

4. *Administrative relief.* Administrative relief is provided to add flexibility in the application of a specific landscaping regulation when a standard is inapplicable or inappropriate to a specific use or design proposal. Administrative relief may be applied up to a total of ten (10) individual landscape standards for any site.

The application shall follow the procedures in Section 27-1614 – Administrative Relief.

(a) *Policies.*

(1) The planning division recognizes that the specific landscape requirements in article 27-1200 cannot and do not anticipate all possible landscape situations. In addition, the planning division recognizes that there may be landscape proposals which conform to the purpose, intent and objectives of the landscape regulations, but were not anticipated in the specific regulations. Therefore, the planning division may grant administrative relief in the event of these situations and proposals.

(2) The reasonable development of a site may require the granting of administrative relief to some of the requirements. Although all of the categories of landscape requirements are considered important, the planning division generally assigns the following priorities for compliance with the landscape requirements:

- i. First, adjacent residential uses should be buffered;
- ii. Second, an attractive appearance of the project should be provided along adjacent streets by landscaped setbacks and trees;

- iii. Third, the parking areas and building elevations which form major public views of the project should be visually softened and enhanced by trees and other plantings.
 - (3) Compliance with the requirements, such as the third priority above, should not be "forced" into a site design. For both visual effect and ease of maintenance, relatively few, but larger landscaped areas, which are integrated with the other elements of the site design, are generally encouraged. In addition, relatively numerous and smaller landscaped areas, which are not integrated with the other elements of the site design, are generally discouraged.
 - (4) However, the granting of administrative relief should not always mean that a requirement is reduced without compensation. For example, the granting of a reduced bufferyard depth should be compensated by the planting of additional trees, shrubs or other plants.
- (b) *Application.*
 - (1) A written request for administrative relief shall be submitted ~~to the zoning coordinator either before or in conjunction with the building permit review process.~~ **following the procedures in Section 27-1614.** The written request shall include a justification in terms of the findings necessary to grant administrative relief. ~~The written request shall close with a section for the planning division's use which will include a block for the decision of approval/denial, the zoning coordinator signature, and decision date.~~ The written request with decision shall be attached to the plan or retained in the applicable file, as appropriate.
 - (2) The zoning coordinator must make all of the following findings in order to grant administrative relief:
 - i. The strict application of the regulation in question is unreasonable given the development proposal or the measures proposed by the applicant or that the property has extraordinary or exceptional physical conditions that do not generally exist in nearby properties in the same general area and such conditions will not allow a reasonable use of the property in its current zone in absence of relief;
 - ii. The intent of the landscaping section and the specific regulation in question is preserved;
 - iii. The granting of the administrative relief will not result in an adverse impact upon surrounding properties; and

- iv. Proportional compliance is not appropriate for the location and development planned.
- (3) The zoning coordinator shall render a decision on the request within thirty (30) calendar days of receipt of the request and all required information. An appeal of the zoning coordinator's decision may be made to the board of adjustment with jurisdiction over the property, within thirty (30) calendar days after the decision. At this time, the appeal will be put on the agenda for the next board of adjustment meeting which allows for the required public notice.

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 September 2023.

PASSED, ADOPTED and APPROVED on second reading this ___day of October 2023.

CITY OF BILLINGS

BY: _____

William A. Cole, Mayor

Attest:

BY: _____

Denise R. Bohlman, City Clerk

Zone Change 1034, Text Amendment for Landscape Plan process

ORDINANCE 23-_____

**AN ORDINANCE OF THE CITY OF BILLINGS,
PROVIDING THE REGULATIONS IN SECTIONS 27-1000,
27-1300, 27-1400, 27-1500, 27-1600, and 27-1800, BE
AMENDED TO CORRECT ERRORS, CROSS
REFERENCES, OMISSIONS AND TO AMEND AND
PROVIDE CLARIFICATION OF THE REGULATIONS**

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 text of the Zoning regulations from time to time. The City Zoning Commission and staff have reviewed the proposed corrections and clarifications to the zoning regulations that pertain to all the real property within the City of Billings. 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. Sections 27-1000 – Uses and Use Standards, 27-1200 - Landscaping, 27-1300 – Off Street Parking, 27-1400 – Signs, 27-1500 – Nonconformities, 27-1600 – Administration, and 27-1800 – Definitions and Measurements, have been found to contain errors unrelated to the substance of the zoning regulations. Correction of these errors through an ordinance will make the regulations clearer and provide for accurate administration of the code.

Section 3. ZONE REGULATION CORRECTIONS AND AMENDMENTS

a. Section 27-1002.A.2 is amended as follows:

Sec. 27-1002. - Uses by district.

A. Use table. Table 27-1000.1, Permitted Primary Uses, identifies the permitted primary uses in each zoning district. Each use is given one of the following designations for each zoning district in which that use is permitted:

1. Permitted /P/. These uses are permitted by-right in the zone districts in which they are listed. Permitted uses are required to comply with applicable use-specific standards identified in this article.

2. Permitted in a specified location, such as on upper stories or in the back of a structure/PL/. These uses are permitted by-right in the districts in which they are listed,

provided that the uses are located in the upper stories of a structure. These uses may also be located in the ground story provided that they are located beyond a depth of at least ~~thirty (30)~~ **twenty (20)** feet from the front facade.

3. Permitted with use restrictions /PR/. These uses must comply with the use restrictions identified in this zoning code, including those restrictions included in this article and any use restrictions identified in the zone district where the uses is proposed to be located.

4. Requires a special review /SR/. These uses require special review by the city zoning commission are not permitted uses in the districts in which they are listed but may be allowed as special exceptions subject to specific conditions. Uses permitted by special review must follow any applicable development standards associated with the use as well as meet the requirements of the special review.

5. Uses that are not permitted are indicated by a blank space.

b. Section 27-1002.C – Uses by District – Table 27-1000.1 is amended as follows:

Table 27-1000.1: Permitted Primary Uses	Residential							Mixed-Use and Commercial							Indust.		EBURD				Public							
Use Table	N3	N2	N1	NX1	NX2	NX3	RMH	NO	NMU	CMU1	CMU2	DX	CBD	CX	I1	I2	RSV MS	RSV	CW	13	IS	P1	P2	P3Civ	P3 Ed	P3 Med	Additional Standards	
PUBLIC, CIVIC, AND INSTITUTIONAL																												
Assembly																												
Civic Assembly	SR	SR	SR	SR	SR	SR	SR	SR	P	P	P	P	P	P	P	P	P	P	P	P	P	PR	P	PR	PR	PR	PR	27-1004
Religious Assembly	SR	SR	SR	SR	SR	SR	SR	SR	P	P	P	P	P	SR	SR	SR	P	P	P	P	P		P	PR	PR	PR	PR	27-1004
Campus																												
Planned Civic Campus																										P		P3: 27-500
Planned Educational Campus																										P		P3: 27-500
Planned Medical Campus																										P		P3: 27-500
Educational																												
School, College or University								SR	SR	P	P	P	P	P			PL	P	P	PL	P		P	P	P	P		
School, Primary and Secondary	P	P	P	P	P	P	P	P	P	P	P	P	P	P			PL	P	P	PL	P		P	P	P	P		
School, Trade, Business, Vo/Tech								P	PL	PL	PL	P	P	P	P		PL	P	P	PL	P		P		P	PR	27-1004	
Government and Public Safety																												
Correctional Facilities															SR											SR		
Emergency Services	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	

Use Table	N3	N2	N1	NX1	NX2	NX3	RMH	NO	NMU	CMU1	CMU2	DX	CBD	CX	I1	I2	RSV MS	RSV	CW	I3	IS	P1	P2	P3Civ	P3 Ed	P3 Med	Additional Standards	
COMMERCIAL																												
Commercial Service																												
Broadcasting Stations and Studios								SR	SR	P	P	P	P	P	P	P	P	P	P	P	P							
Business Service								P	P	P	P	P	P	P	P		P	P	P	P	P							
Crematory, Funeral Services										P	P	P	P	P	P		P	P	P	P	P							
Cemetery																												
Consumer Maintenance and Repair								P	P	P	P	P	P	P	P		P	P	P	P	P							
Personal Service								P	P	P	P	P	P	P	P		P	P	P	P	P				PR	PR	PR	27-1005
Studio or Instruction Service								P	P	P	P	P	P	P			P	P	P	P	P				PR	PR	PR	27-1005

Office																												
Business or Professional								P	P	P	P	P	P	P	P		P	P	P	P	P				P	P	P	

Retail Sales																												
Retail, Large-Format											P			P	P		P	P	P	P								

Vehicle Sales and Service, Personal																													
Car Wash										SR	P			P	P	P			P	P	P							27-1005	
Vehicle Sales and Rental											P	P	SR	P	P	P			P	P	P	P							
Outdoor Sales Lot											PR	SR	SR	P	P	P			PR	P	P	P						27-1005.M 27-1008.P	
Vehicle Maintenance and Repair, Minor (5,000 SF or less)										P	P	P	SR	P	P	P			P	P	P	P							
Vehicle Maintenance and Repair, Major (>5,000 SF)											SR			P	P	P			P	P	P								
Vehicle Service Station											PR	PR	PR	PR	P	P	P			PR	PR	PR	PR			P	P	P	27-1005
with Convenience Store										SR	PR	PR	PR	PR	P	P	P			PR	PR	PR	PR			P	P	P	27-1005

c. Section 27-1007.C – Wireless communication facilities is amended as follows:

2. Applicability.

(c) Pre-existing WCFs.

(2) Changes and additions to pre-existing WCFs (including trading out of antennas for an equal number of antennas) shall meet applicable requirements of subsection 27-1007.C.54 General requirements.

d. Section 27-1008.E Accessory Use Table 27-1000.6 is amended as follows:

Table 27-1000.6: Accessory Uses	Residential							Mixed-Use and Commercial							Indust.		EBURD				Public				Additional Standards			
	N3	N2	N1	NX1	NX2	NX3	RMH	NO	NMU	CMU1	CMU2	DX	CBD	CX	I1	I2	RSV MS	RSV	CW	13	IS	P1	P2	P3Civ		P3 Ed	P3 Med	
Residential																												
Accessory Dwelling Unit	SR	PR PL	PR PL	PR PL			PR PL																					27-1008
Employee/Caretaker Unit														PR	PR	PR						PR		P	P	P	P	27-1008
Home Occupation	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	27-1008
Short-Term Rental (Guest Home)	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR			PR	PR	PR				PR	PR	PR	PR	27-1005	
Shelter (accessory to religious institution)												PR	PR				PR	PR	PR	PR	PR						27-1004	

e. Sections 27-1404.C, 27-1405.A.(3, 4 and 5), 27-1407.D and 27-1407.F are amended as follows:

27-1404. Measurement and calculation.

.....
C. Height and clearance. The permitted maximum height for all signs is determined by the sign type and the zoning district in which the sign is located. Sign height and clearance is measured as follows:

1. Freestanding sign height.

(a) The vertical distance measured from the highest point of the sign to the crown of the adjacent street, not including the interstate highway.

(b) Height shall include the sign face, base, cabinet, and ornamental cap.

(c) When the existing finished grade at the point of measurement is lower than the average elevation of the adjacent street finished grade parallel to the location where the sign will be installed, that portion of the sign below the street shall not be included in determining the sign's overall height.

2. Sign clearance.

(a) Clearance for freestanding and projecting signs shall be measured as the smallest vertical distance between finished grade directly underneath the sign face at the lowest point of the sign structure, including any framework or other structural elements.

(b) Signs that project over a roof shall maintain a four (4) foot clearance over the average roof height.

27-1405.A Freestanding signs.

....

3. Monument or ground signs. Monument or ground signs shall have zero may have up to two feet of clearance above the existing finish grade level and shall may be supported in or on the ground.

4. Pole signs.

(a) Pole signs shall have a minimum clearance of eight feet between the bottom edge of the sign face and the grade directly below unless a larger clearance is required by subsections (b) or (c) below.

~~(a)~~ (b) If a free-standing sign projects over a private vehicular driveway or parking lot aisle, the minimum clearance of fourteen (14) feet shall be maintained between the bottom of the sign edge and the established grade of the site.

~~(b)~~ (c) A clear, unobstructed area, a minimum of eight (8) feet in height is required above existing finish grade level when a pole sign is located over a pedestrian walkway or within a clear sight triangle.

5. *Pedestrian-scale signs.*

(a) A pedestrian-scale pole-mounted sign is freestanding, has a minimum clearance of at least two feet above the existing finished grade level, and may be mounted on one or two (2) poles. Three (3) configurations are permitted:

(no changes to Figure 5.)

27-1407.D. CBD and DX.

.....

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 **for any single wall sign**. This **The** maximum wall sign area is calculated ~~on a per~~ **for each** tenant basis **based on the tenant's occupied floor area. Tenant wall sign area is .015 square feet of wall sign area per square foot of occupied floor area.** See Sec. 27-1407.D.4 for wall signs on building facades that do not face a street.

.....

4. District specific standards.

.....

(b) Tenant signage in multitenant structures shall calculated for each tenant based on the **tenant's occupied floor area. Tenant wall sign area is .015 square feet of wall sign area per square foot of occupied floor area.** ~~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.

27-1407.F. Public districts.

1. Public 1: Park and open space.

(a) Freestanding signage is permitted per street frontage as identified in Table 27-1400.12.

(b) Internal park signage is exempt per subsection 27-1403-G. **1402.C**

f. Section 27-1506.A is amended as follows:

Sec. 27-1506. - Compliant single unit residential lots.

A. A single unit dwelling and customary accessory buildings may be erected on any vacant single lot of record as of the effective date of this zoning ordinance in an N1-4-3, NX1-3 or RMH district as follows:

g. Section 27-1606 is amended as follows:

Sec. 27-1606. Procedures for complete applications with changed status.

B. Withdrawn application.

1. Prior to public notice.

(b) A zone change, **special review or variance** application may be withdrawn at any time prior to the publication of the legal advertisement for the public hearing before the city zoning commission **or city board of adjustment**. A withdrawn zone change application may be refiled after a 120-day waiting period. **There is no mandatory waiting period for a withdrawn special review or variance.**

2. Following public notice.

(c) The city zoning commission **or board of adjustment** may allow withdrawal of an application, after advertisement of the ~~zoning commission~~ public hearing has been published, by a majority vote of the members present. After the city zoning commission hearing, a request for withdrawal shall be submitted to the city clerk and shall be submitted by the property owner or authorized agent, as listed on the application. The city council shall have exclusive authority to act on any request for withdrawal after notice of the ~~public hearing~~ **zoning commission recommendation** has been published.

h. Section 27-1302, Table 27-1300.1 Off-Street Parking Standards, is amended as follows:

Table 27-1300.1. Off-Street Parking Standards.

Use	Required Parking
COMMERCIAL	
Eating and Drinking Establishment	
Restaurant	1 per 150 SF GFA
with drive thru	1 per 100 SF-GFA
<u>Without interior seating</u>	<u>as determined by the Zoning Coordinator</u>
Bar or Tavern	1 per 150 SF GFA
Craft Alcohol	1 per 150 SF GFA

i. Section 27-1803 – Definitions, is amended as follows:

M. Terms

Manufacturing: Establishments involved in the manufacturing, processing, fabrication, packaging, or assembly of goods. Natural, constructed, raw, secondary, or partially completed materials may be used. Products may be finished or semi-finished and are generally made for the wholesale market, for transfer to other plants, or to order for firms or consumers. Goods are generally not displayed or sold on site, but if so, such activity is a subordinate part of sales. Relatively few customers come to the manufacturing site. Accessory activities may include retail sales, offices, cafeterias, parking, employee recreational facilities, warehouses, storage yards, repair facilities, truck fleets, and caretaker's quarters.

Artisan: Spaces used by artists for the creation of art or the practice of their artistic endeavors.

Limited: The creation of a unique or customized product, such as hats, boots, or knives, in fulfillment of a customer order.

Light General: An establishment engaged in fabrication, assembly, processing, or manufacturing that generally do not create significant impacts on surrounding areas.

Heavy: An establishment engaged in fabrication, assembly, processing, or manufacturing that have the potential to create significant impacts on surrounding areas due to the types of materials used, byproducts created, hours of operations, volumes of heavy truck or rail traffic, noise, or other factors.

.....

Monument or ground sign: ~~A freestanding sign, other than a pole sign, and supporting structure constructed as a solid structure or one that gives the appearance of a continuous, non-hollow, unbroken mass~~ A monument sign must have a proportionate base where the widest part of the base of the sign is at least one-half (1/2) the width of the widest part of the sign face, or the base consists of two (2) or more supports where the sign face is not more than two (2) feet above the existing grade of the ground under the sign face. A multitenant monument sign is a monument sign permitted for a property with three (3) or more tenants, as identified by individual tenant addresses.

.....

P. Terms

Pole sign: A sign that is ~~supported by~~ mounted on one or more uprights, poles, or braces affixed to the ground, and not attached to a building or structure. The uprights, poles or braces must be independent of each other and may not be clad or covered so as to form a continuous solid structure between the sign face and the ground. A pole

sign has a minimum clearance of at least eight feet to existing grade level and a pedestrian-scale pole sign has a minimum clearance of at least two feet to existing grade level.

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 September 2023.

PASSED, ADOPTED and APPROVED on second reading this ___ day of October 2023

CITY OF BILLINGS

BY: _____

William A. Cole, Mayor

Attest:

BY: _____

Denise R. Bohlman, City Clerk

Zone Change 1034 - Zoning Code Housekeeping Amendments 2023

ORDINANCE 23-_____

**AN ORDINANCE OF THE CITY OF BILLINGS,
PROVIDING THE REGULATIONS IN SECTIONS 14-300,
and 24-600, BE AMENDED TO CORRECT ERRORS,
CROSS REFERENCES, OMISSIONS AND TO AMEND
AND PROVIDE CLARIFICATION OF THE REGULATIONS**

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

Section 1. That Section 14-301 of the Billings, Montana City Code (BMCC) is amended as follows:

Sec. 14-301. - Adoption by reference of the 2012 edition of the International Fire Code.

(b) The following sections of the Fire Code are hereby amended as follows:
Section 5806.2 Limitations. Storage of flammable cryogenic fluids in stationary containers outside of buildings is prohibited within the limits established by the City of Billings ~~and Yellowstone County Unified~~ Zoning Regulations.

Section 2. That Section 14-304 of the Billings, Montana City Code (BMCC) is amended as follows:

Sec. 14-304. - Flammable or combustible liquids and bulk plants; district limits established.

The limits referred to in the adopted fire code in which storage of flammable or combustible liquids in outside aboveground tanks is prohibited, are established as follows: All areas other than those zoned ~~highway heavy~~ commercial, ~~controlled light~~ industrial and heavy industrial.

Section 3. That Section 14-305 of the Billings, Montana City Code (BMCC) is amended as follows:

Sec. 14-305. - Liquefied petroleum gas storage; district limits established.

The limits referred to in the adopted fire code, in which bulk storage of liquefied petroleum gas is restricted, are established as follows: All areas other than those zoned ~~highway heavy~~ commercial, ~~control~~ light industrial and heavy industrial.

Section 4. That Section 24-602 of the Billings, Montana City Code (BMCC) is amended as follows:

Sec. 24-602. - Riding on sidewalks.

(a) No person shall ride a bicycle on a sidewalk within a business district except authorized law enforcement personnel. For purposes of this section, "business district"

is defined in MCA 61-8-102, and any district zoned Central Business District (CBD), Downtown Support (DX), Heavy Commercial (CX), Light Industrial (I1) or Heavy Industrial (I2). ~~any district zoned NC, CC, CBD, HC, CI, and HI pursuant to section 27-201 of this Code.~~

Section 5. EFFECTIVE DATE. This ordinance shall be effective thirty (30) days after second reading and final adoption as provided by law.

Section 6. REPEALER. All resolutions, ordinances, and sections of the City Code inconsistent herewith are hereby repealed.

Section 7. 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 September 2023.

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

CITY OF BILLINGS

BY: _____

William A. Cole, Mayor

Attest:

BY: _____

Denise R. Bohlman, City Clerk

City Code Housekeeping Amendments 2023

ORDINANCE 23-_____

**AN ORDINANCE OF THE CITY OF BILLINGS,
PROVIDING Section 27-1623 SPECIAL REVIEW
CRITERIA, 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 to the text of the City Zoning regulations from time to time. The City Zoning Commission and staff have reviewed the proposed text amendment 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 27-1623 be amended to allow conditions of approval related to the existing site conditions for special review approval.

Section 3. ZONE TEXT AMENDMENT. The text of Section 27-1623 is amended as follows:

Sec. 27-1623. Special review uses.

D. Decision criteria. The zoning commission shall only recommend approval or conditional approval and the city council shall only approve or conditionally approve a special review request if:

1. The special review use is consistent with the city's growth policy and applicable neighborhood plans, if any;
2. The establishment, maintenance, or operation of the special review use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare;
3. The site for the proposed use is adequate in size and topography to accommodate the use while meeting the other requirements of this zoning code, including zone district dimensions, landscaping requirements, and parking;
4. The special review use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood;
5. The special review use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;
6. Conditions necessary to protect the public health, safety, and general welfare can be established, including but not limited to conditions on:

- (a) Regulation of the use;
- (b) Special setbacks, buffers, or screening;
- (c) Surfacing of parking areas;
- (d) Street, alley, or service road dedications, improvements, or bonds;
- (e) Regulation of points of vehicular ingress and egress;
- (f) Regulation of signs;
- (g) Regulation on the performance of the site, including noise, vibration, and odors;
- (h) Regulation of the hours of activities;
- (i) Timeframe for development;
- (j) Duration of use; and
- (k) Update to existing structures or sites to bring the facility closer to compliance with the current building or site development standards including but not limited to signage, landscaping, parking lot landscaping, doors and windows on the street facades of buildings, or other site and building standards; and**
- ~~(k)~~ **(l)** Other relevant conditions that will ensure the orderly development of the site.

(7) Adequate utilities, access roads, drainage, and/or necessary facilities have been or are being provided;

(8) Adequate measures have been or will be taken to provide ingress and egress to minimize traffic congestion in public streets; and

(9) The special review use shall, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, be modified by the city council.

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 September 2023.

PASSED, ADOPTED and APPROVED on second reading this ___ day of October 2023.

CITY OF BILLINGS

BY: _____

William A. Cole, Mayor

Attest:

BY: _____

Denise R. Bohlman, City Clerk

Zone Change 1034, Text Amendment for Special Review conditions

ORDINANCE 23-_____

**AN ORDINANCE OF THE CITY OF BILLINGS,
PROVIDING Section 27-1615 ZONING AT ANNEXATION,
and Section 27-800 – Planned Neighborhood
Development, 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 text of the Zoning regulations from time to time. The City Zoning Commission and staff have reviewed the proposed text amendment 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 Sections 27-1615 and 27-800 be amended to allow a more detailed process for zoning at the time of annexation.

Section 3. ZONE TEXT AMENDMENT. The text of Section 27-1615 is amended as follows:

Sec. 27-1615. Classification of newly annexed area.

A. All procedures except annexation by petition. Annexations of land into the City of Billings may be undertaken pursuant to several statutory procedures. When a parcel of land is annexed to the city under any procedure except annexation by petition, the appropriate zone(s) shall may be determined by reference to article 27-800, Planned neighborhood development or by using the following criteria. ~~Property that is exempt from the PND process shall be classified into a zone district as follows:~~

1. The zoning coordinator will determine the most appropriate zone district. **If the county zone district is an identical zone district in the city, the zone district shall remain the same upon annexation. If the county zone district has an analogous city zone district, the zoning coordinator will ensure the analogous city zone district has similar allowed uses, use standards, site and building standards. For property that has an established use that will continue or expand upon annexation, the zoning coordinator will ensure the zone district selected matches the existing and continued use.** The land owner shall have adequate opportunity to provide input, but the final zone district classification shall be made by the zoning coordinator.

2. Upon determination of the applicable **a substantially different** zone district **from the county zone district**, the zoning coordinator shall follow the procedure in section 27-1628, Zone change, staff review, referral, and recommendation, except that the report, findings and conclusions shall be submitted to the city council prior to or concurrently with the services report that is required by the annexation statutes.

3. A public hearing on the applicable **substantially different** zone district shall be held concurrently with the public hearing on the annexation before the city council, provided that the hearing shall not be sooner than fifteen (15) calendar days after notice of the proposed zone has been given.

4. If the proposed **substantially different** zone district is not approved by the city council, the land shall **not be annexed to the city.** ~~retain the zone district it had in the county; provided, that if the county district is not identical to the city zone district, then a city zone district appropriate to the character of the surrounding area will be applied.~~

B. Annexation by petition. When the proposed annexation is by petition pursuant to MCA Title 7, Chapter 2, Part 46 (Section 7-2-4601, et seq.), the zoning coordinator shall determine whether the section 27-800, Planned neighborhood development, process is applicable, in which case the petitioner shall also submit an application for PND approval. If not, ~~the petitioners shall, concurrently with the petition for annexation, make an application for change of zoning through section 27-1628, Zone change.~~ **the zoning coordinator will use the criteria and process in subsection A.1 above to allow the petitioner to submit a zone change not using the PND process.**

1. All fees shall be paid by petitioner upon filing the application for zoning.

2. Upon filing the application, the zoning coordinator shall follow the procedure set forth in above subsection A.2, above.

3. If no application is filed or the application is denied, the land shall **not be annexed to the city.** ~~retain the same zone district it had in the county provided, that if the county zone district is not identical to the city zone district, a city zone district appropriate to the character of the surrounding area will be applied. The provisions of this subsection shall not be construed to preclude the city from fixing the zone district as provided in subsection 27-1615.A, above.~~

Section 4. ZONE TEXT AMENDMENT.

as follows:

The text of Section 27-801 is amended

B. Applicability.

1. Annexed land. **Unless otherwise provided in this section or in Section 27-1615,** ~~All~~ undeveloped parcels equal to or greater than 10 acres requesting annexation into the city must meet these PND regulations, submitting the PND application concurrent with the annexation request. City of Billings public services, including, but not limited to, water and sewer, are required. Developed parcels, **parcels with zoning determined**

through the process outlined in Section 27-1615, and parcels designated as a P, **or a PD** district in their entirety are not subject to this requirement.

Section 5. EFFECTIVE DATE. This ordinance shall be effective thirty (30) days after second reading and final adoption as provided by law.

Section 6. REPEALER. All resolutions, ordinances, and sections of the City Code inconsistent herewith are hereby repealed.

Section 7. 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 September 2023.

PASSED, ADOPTED and APPROVED on second reading this ___day of October 2023.

CITY OF BILLINGS

BY: _____

William A. Cole, Mayor

Attest:

BY: _____

Denise R. Bohlman, City Clerk

Zone Change 1034, Text Amendment for Zoning at Annexation