



CITY ZONING COMMISSION
AGENDA-Tuesday, April 2, 2024, 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: bernsb@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 Brenda Berns, Planning Clerk; email bernsb@billingsmt.gov or phone (406) 247-8610

Call the meeting to order.

Introduction of City Zoning Commission Members and Planning Department Staff.

Public Comment

Approval of Minutes: March 5, 2024

The minutes of the Board meeting of March 5, 2024

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. **Zone Change 1049 - 1911 and 1915 8th Ave N - NX1 and N1 to NX2** - A zone change for property in the North Park neighborhood near the intersection of 8th Ave N and N 19th St. The property is currently zoned NX1 - 1911 8th Ave N, and N1 for a vacant lot directly west at 1915 8th Ave N.
- b. **Zone Change 1050 - 5403 Hawk Creek Avenue - NMU to CMU1** - The proposed zoning would allow an existing vacant property to be developed for a wider variety of mixed uses than allowed under the current zoning of Neighborhood Mixed Use (NMU). The Corridor Mixed Use zones (CMU1 and CMU2) are districts appropriate for higher volume arterial and collector streets where access to the site accommodates both vehicle trips and pedestrian access.
- c. **Initiation of Zoning Code Text Amendment - SB 245 Allowance for Multi-Unit development in all Mixed Use and Commercial zones** - The planning staff recommends the Zoning Commission initiate the code amendment as allowed by Section 27-1628.B(1). Any text amendment may be initiated by the Zoning Commission, the City Council or the Planning Board.

Other Business/Announcements

Adjournment

The City Council has designated April 22, 2024 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 May 13, 2024 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 Brenda Berns, Planning Clerk; email bernsb@billingsmt.gov or phone (406)247-8610

City Zoning Commission
Meeting Date: 04/02/2024

Information

Subject

The minutes of the Board meeting of March 5, 2024

Attachments

Minutes of March 5, 2024



**City of Billings Zoning Commission
Meeting Minutes of March 5, 2024**

The City of Billings Zoning Commission met on Tuesday, March 5, 2024 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, March 5, 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 **March 25, 2024 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 April 8, 2024 at 5:30 pm.**

Commission and Staff		01/02/2024	02/06/2024	03/05/2024	04/02/2024	05/07/2024	06/04/2024	07/02/2024	08/06/2024	09/03/2024	10/01/2024	11/05/2024	12/03/2024
Greg McCall	Vice Chair	C	1	1									
Daniel J Brooks	Chairman	C	A	1									
David Goss	Commissioner	C	1	1									
Wyeth Friday	Director, PCSD	C	-	-	-	-	-	-	-	-	-	-	-
Nicole Cromwell	Zoning Coordinator	C	1	1									
Hunter Kelly	Planner I	C	-	-									
Dave Green	Planner II	C	-	-									
Karen Husman	Planner I	C	-	-									
Brenda Berns	Planning Clerk	C	1	1									

Total Number of 2023 Applications	01/02/2024	02/06/2024	03/05/2024	04/02/2024	05/07/2024	06/04/2024	07/02/2024	08/06/2024	09/03/2024	10/01/2024	11/05/2024	12/03/2024	TOTAL
Zone Change	-	1	4										5
Special Review	-	-	-										

Commissioner Brooks introduced the Planning Division Staff and Commissioners: Attending Staff were Nicole Cromwell, Zoning Coordinator, Brenda Berns, Planning Clerk

Attending: Aaron Redland, WWC Engineering; Greg Reid, WWC Engineering; Taylor Kasperick, Performance Engineering; Craig Dalton, Performance Engineering; John Halvorson, Sanderson Stewart; Howard Holz, West End Task Force

Commissioner Brooks called the meeting to order at 4:30 PM

Public Comment

Commissioner Brooks called for public comments. There were no public comments. Commissioner Brooks closed the public comment portion of the meeting.

Nomination. Motion. New City Zoning Commission Chairman and Vice Chair

Commissioner Brooks called for nominations.

Nomination. Motion for Chairman

Commissioner McCall nominated and made a Motion to Approve Commissioner Daniel Brooks as Chairman, seconded by Commissioner Goss. The Motion was approved with a unanimous vote. Commissioner Brooks further herein identified as Chair Brooks.

Nomination. Motion for Vice Chair

Commissioner Goss nominated and made a Motion to Approve Commissioner Greg McCall as Vice Chair, seconded by Commissioner Megorden. The motion was approved with a unanimous vote.

Approval of Minutes: February 6, 2024

Commissioner Goss stated there was a correction to the February 6, 2024 minutes; “Commissioner Brooks was not present and did not vote on any agenda items”. Commissioner Goss made a Motion to approve with the correction, seconded by Commissioner McCall. The Motion was carried with a unanimous vote.

Disclosure of Exparte Communication

COMMISSIONER	DISCLOSED	NONE	ABSTAINED	ABSENT
Beau Mulvaney		X		
Daniel J. Brooks		X		
David Goss	X			
Greg McCall		X		
Andy Megorden		X		

Disclosure of Conflict of Interest

COMMISSIONER	DISCLOSED	NONE	ABSTAINED	ABSENT
Beau Mulvaney		X		
Daniel J. Brooks		X		
David Goss			1046	
Greg McCall			1045	
Andy Megorden		X		

Commissioner Mulvaney visited the location of Zone Change 1047

Commissioner McCall visited the locations of Zone Changes 1043,1045

Commissioner Goss visited the locations of Zone Changes 1043,1044,1045,1047

The Representative for the Applicant, Mr. Halvorson, Sanderson Stewart made a formal request to delay the hearing on Zone Change 1047 until May 7, 2024.

Motion

Chair Brooks called for a Motion to Approve the request to delay the hearing on Zone Change 1047. Commissioner Goss made a motion, seconded by Commissioner Megorden. The Motion was Approved with a unanimous vote.

Nicole Cromwell, Zoning Coordinator stated there will be signs reposted on the property, a new legal ad published, and notification to neighboring property owners. Any additional information will be available on the City of Billings website in early April 2024.

Public Hearings:

- a. **City Zone Change 1043** - 4190 S Frontage Rd - RMH to CX - A zone change request from Residential Manufactured Home (RMH) to Heavy Commercial (CX) for C/S 741, Parcel 2A, Amd Tr 1 & 2, a 1.6 acre parcel of land. Nicole Cromwell, Zoning Coordinator.

Nicole gave an overview of the current zoning and the requested zone change. Proposed zoning allows the following:

- Warehousing, wholesale and contractor warehouse uses
- Requires connection to arterials and transportation corridors
- Limited connections to neighborhoods and residential areas
- Any new development will require conformance with all zoning, building and site development requirements

Heavy Commercial zone is adjacent to the east and south

The Subject Parcel is between neighboring Heavy Commercial zoned businesses. There were two manufactured homes previously on the property, but due to disrepair they were removed. It is not feasible to replace with the same.

The City Council shall consider the Zoning Commission recommended findings of the 10 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

There was discussion regarding septic services available on the property. The Applicant's Representative, Greg Reid, WWC Engineering stated he needed to make a clarification regarding the trunk main currently on the property. The existing large trunk main was put in years ago (lays approximately 20-feet deep and runs adjacent to the property. However, city services cannot be hooked up to it without significant expansion to the existing pipe.

Questions for Applicant: There were none.

Public Hearing:

Chair Brooks opened the public hearing and called for anyone wishing to speak in favor or against City Zone Change. There were none.

Motion

Chair Brooks called for a Motion. Commissioner McCall made a Motion, seconded by Commissioner Megorden to recommend Zone Change 1043 with 10 Review Criteria to City Council to be heard on March 25, 2024 at 5:30 PM.

COMMISSIONER	Yes	No	ABSTAINED	ABSENT
Beau Mulvaney	X			
Daniel J. Brooks	X			
David Goss	X			
Greg McCall	X			
Andy Megorden	X			

The Motion passed to Approve City Zone Change 1043 with a unanimous vote.

- b. **City Zone Change 1044** - 5900 Block of Grand Ave - RRI to NX2 - A zone change request from Rural Residential 1(RR1) a county zone to Mixed Residential 2 (NX2), for C/S 2735, Tract 4-B, a 1-acre parcel of land. Nicole Cromwell, Zoning Coordinator.

Nicole gave an overview of the current zoning and the requested zone change.

Proposed Mixed Residential 2 (NX2) zoning allows the following:

- Two to eight unit residential structures
- Building and siting standards required
- Home occupations allowed

Mixed Residential zone is adjacent to the north in Buffalo Crossing Subdivision

Planning staff recommends approval of the zone change:

- Meets the Growth Policy (2016), Infill Policy (2011) and the West Billings Neighborhood Plan (2001)
- Adjacent uses and zoning compatible with proposed zoning
- Located within a new subdivision with adjacent NX2 zoning
- New development will require all building and siting standards to be met

The City Council shall consider the Zoning Commission recommended findings of the 10 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: There was none.

Applicant's Representative:

Greg Reid, WWC Engineering. This zone change affects primarily the property located to the west and has shown to not have any opposition from the adjacent property owners.

Questions for Applicant:

Commissioner Goss asked if the property was separate in ownership. Greg Reid responded that there are separate owners currently, however, the Applicant is in the process of purchasing the property.

Public Hearing:

Chair Brooks opened the public hearing and called for anyone wishing to speak in favor or against City Zone Change 1044. There was none.

Motion

Chair Brooks called for a Motion. Commissioner McCall made a Motion, seconded by Commissioner Goss to recommend Zone Change 1044 with 10 Review Criteria to City Council to be heard on March 25, 2024 at 5:30 PM.

COMMISSIONER	Yes	No	ABSTAINED	ABSENT
Beau Mulvaney	X			
Daniel J. Brooks	X			
David Goss	X			
Greg McCall	X			
Andy Megorden	X			

The Motion passed to Approve City Zone Change 1044 with a unanimous vote.

- c. **City Zone Change 1045 - 4524 Central Ave - A to CMU1, NMU, NX1, NX2, N2 & P1 - A** zone change request from Agriculture (A) a county zone, to Corridor Mixed Use 1 (CMU1), Neighborhood Mixed Use (NMU), Mixed Residential 1 (NX1), Mid-Century Neighborhood (N2) and Public 1 (P1) on Tract 2 of C/S 3844, a 48.49 acre parcel of land. Nicole Cromwell, Zoning Coordinator.

Nicole gave an overview of the current zoning, the requested zone change, and concurrent annexation.

The proposed zone change is in line with the adopted 2016 Growth Policy goals for Strong Neighborhoods. Zoning regulations that allow a mixture of housing types provide housing options for all age groups and income levels. Walkable neighborhoods, that permit convenient destinations such as neighborhood services, open space, parks, schools and public gathering spaces foster health, goodwill and social interaction. Safe and livable neighborhoods can be achieved through subdivision design that focuses on complete streets, pedestrian-scale streetlights, street trees and walkable access to public spaces. Neighborhoods that are safe and attractive and provide essential services are much desired. Implementation of the Infill Policy is important to encourage development of underutilized properties.

The proposed zoning plan will have urban development adjacent to county agricultural land to the east, west and south. The property to the south may be an addition to the city in the near future if

this development is successful. The layout of the parkland will provide an "entry" type park for the development when the connection is made to the existing west end of Bell Avenue.

Staff recommends approval of the zone change:

- Meets the Growth Policy (2016), Infill Policy (2011) and the West Billings Neighborhood Plan (2001)
- Adjacent uses and zoning compatible with proposed zoning
- Located within a new subdivision with adjacent NX2 zoning
- New development will require all building and siting standards to be met

The City Council shall consider the Zoning Commission recommended findings of the 10 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

There was discussion regarding the future growth and development of the roads between neighboring subdivisions. It was also noted that parklands would be designated at the time of subdivision, not at zoning.

Applicant Representative:

Craig Dalton, Performance Engineering representing the developer on the project. Craig stated the subject property is surrounded by County land and was the reason he reached out to the County regarding the project.

The City recognizes Central Avenue as an important corridor and has made significant improvements to accommodate the ongoing development, however, these costs are high. The City Planning Department reached out to see if this would potentially be a project in the City, as there are projects already in the works to extend water on Central Avenue, which is approximately 800-feet to the next City connection. There was discussion regarding road improvements and controlled access around the subdivision, MDT is proposing a roundabout at 48th & King, most likely 5-10 years out. The intention is to have parks in the subdivision however, it is unsure where the parks will be located. The zoning selected represented the middle ground for transitioning between different types of housing and allowing for the young and aged to find affordable housing.

Public Hearing:

Chair Brooks opened the public hearing and called for anyone wishing to speak in favor or against City Zone Change 1045.

In Opposition

Craig Jardine 110 Saddle Tree Pl Billings 59106

Mr. Jardine stated he is opposed to this zone change request. The multi-family construction does not fit in with what is already in on the north side of Central. Most homes in the subdivision are single-family. With the volume of traffic on Central, it would be more difficult to enter or exit the subdivision, especially with multi-family housing adding to the congestion. Mr. Jardine does not support businesses near residential subdivisions and a buffer should be created with green space, not commercial businesses.

Andrew Wilson 4355 Wells Place, Billings 59106

Mr. Wilson stated he lives near where the commercial businesses are proposed and does not believe it is safe to have businesses so close to the residential neighborhoods. He believes it will devalue property values, especially with a 3 or 4-lane road. Mr. Wilson believes zoning should be like other residential communities, similar to Sundance or Shiloh Estates subdivisions. He does not support a bar, restaurant, or gas station near his subdivision.

Laura Wilson 4355 Wells Place, Billings 59106

Ms. Wilson stated the commercial strip proposed does not fit with the residential neighborhood it is near. These businesses would bring crime, as well as potentially hazardous fluids leaking into the ground water, should a gas station be constructed. There seems to be the potential for 3 & 4-story buildings, which would bring light, noise, and pollution. Mr. Wilson believes too many people would be brought into a small area. We hear traffic, motorcycles, and loud noises, which will be made worse with the proposed construction.

Applicant Representative

Craig Dalton, Engineer stated they want to be transparent, there could be up to 4-story buildings. Casino’s, we addressed in the neighborhood meeting, needs 150’ setback from a casino to a residential zoned area. A bar could be constructed here with the requirements, however unlikely. Having commercial amenities may reduce traffic, this would allow people to walk to the retailers versus driving, keeping pollution to a minimum to residential neighborhoods.

Motion

Commissioner McCall recused himself on Zone Change 1045 due to a conflict of interest. Commissioner Goss made a Motion, seconded by Commissioner Megorden to recommend Zone Change 1045 to City Council to be heard on March 25, 2024 at 5:30 PM.

Discussion

Commissioner Goss stated the residents could request a zone change. Chair Brooks stated he would like to see more growth upward and not as much out into the surrounding area. He shares concerns with residents regarding traffic, as future improvements are not specified in the Capital Improvement Plan (CIP).

Chair Brooks called for a voice vote of the Commission.

COMMISSIONER	Yes	No	ABSTAINED	ABSENT
Beau Mulvaney	X			
Daniel J. Brooks	X			
David Goss	X			
Greg McCall			X	
Andy Megorden	X			

The Motion passed to Approve City Zone Change 1045 with a unanimous vote.

- d. **City Zone Change 1046 - 1202 W Wicks Lane - NX3 to CMU2** - A zone change request from Mixed Residential 3 (NX3) to Corridor Mixed Use 2 (CMU2), for an 8.60-acre portion of an un-platted parcel in Section 20, TIN, R26E - North 1/2 to be known as Lots 1 and 2 of Skyview Ridge 2nd Filing Subdivision. Nicole Cromwell, Zoning Coordinator.

Nicole gave an overview of the current zoning and requested zone change.

Corridor Mixed Use (MNU2) - Proposed zoning allows:

- Mixed uses, retail services, business services, storage, restaurants
- Building and siting standards required
- Personal storage warehousing in CMU2 requires:
 - Overhead doors, loading areas must be screened from the street
 - Security fencing must be located behind landscaping
 - Buildings facing the front street (W Wicks Lane) must meet CMU2 building standards for doors/windows and other façade requirements
 - Exterior overhead doors may not face a street unless located behind another structure
 - No self-storage facility greater than 3 acres in area

Staff recommends approval of the zone change:

- Meets the Growth Policy (2016), Infill Policy (2011) and the Heights Neighborhood Plan (2006)
- Difficult soil conditions make development under current zone (NX3) challenging
- CMU2 requirements for building and siting will protect adjacent uses and zoning
- State trust land is leased – not sold
- New development will require conformance with landscaping standards

The City Council shall consider the Zoning Commission recommended findings of the 10 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

Chair Brooks stated with it being state land and powerlines, soil issues, what else might go in here. Have not seen anything as complex.

Nicole stated anything with a foundation system that does not require much depth would work.

The Twin Oaks subdivision is built with slab on grade, due to the soil issues. Stormwater is challenging due to the lack of absorption, considerable run-off. Personal storage units are built slab on grade, this will support the proposed building.

Chair Brooks stated that we shouldn't expect large residential developments in this area.

Nicole said that is correct.

Applicant Representative

Taylor Kasperick, Performance Engineering stated this would be leased land from the state, they have been talking to a multiple of developers. This area is next to powerlines, given its proximity to the substations. The plan is to develop a storage facility on this property, due to the growth in single family housing and the need for offsite storage. The building will fit into the rest of the surrounding development, held to the standards to CMU2. A storage facility would cause less traffic impact versus an apartment building, which it is currently zoned for. This is a challenging area to develop.

Questions

There was discussion regarding storage of RVs, travel trailers, vehicles, or similar. The Applicant's agent stated outside storage is not proposed for this property. It was also noted there is already dedicated public space.

Public Hearing:

Chair Brooks opened the public hearing and called for anyone wishing to speak in favor or against City Zone Change 1046.

In Opposition

Ed Hostettler 1305 Nutter Circle, Billings 59105

Mr. Hostettler asked if the purpose of project RECODE was to eliminate the need for Zone Change requests.

Nicole Cromwell responded that the purpose of project RECODE was to update the language of the regulations. It was anticipated that with the revision of the language regarding the current zone districts, it would reduce the necessity for as many zone changes that have been filed in the past.

Mr. Hostettler stated he wanted the board to know that he also believed the Inter-Belt Loop would cause congestion coming onto Wicks Lane, which runs along the same road as the proposed storage building.

Linnea Forseth 1056 Picador Way, Billings 59105

Ms. Forseth stated she resides directly across the street from the proposed storage building. Ms. Forseth is opposed to the project, as it is zoned residential and should remain as such. She is concerned with the additional traffic, as well as the potential for intrusive lighted signage. Ms. Forseth noted the Applicant has another property near Laurel and finds it to be visually unattractive due to excessive signage. Ms. Forseth addressed rainwater run-off and how it will be managed. Ms. Forseth shared concerns regarding the multi-use path that people use for walking and biking and is hopeful it will remain intact.

Applicant Representative

Taylor Kasperick, Performance Engineering stated the Beehive Storage in Laurel is owned by the Applicant, however the standards are different for this zoned project versus their property in the county. The lighting will be required to meet the CMU2 code, no billboards will be allowed. We are still going through geotechnical processes and waiting for those reports. Bedrock is very close to the surface; therefore, we will be providing a comprehensive stormwater drainage plan.

Nicole Cromwell stated the allowed signage in the CMU2 zone allows for a standing 25' sign, with max area of 100 sq ft or 10x10, and 40% of the sign area can be electronic display, however no movement or motion. Signs on the building are allowed based on the available area and a temporary banner is also allowed for up to 30 days.

Discussion

There was discussion regarding landscaping, which has been proposed for the front of the building. It was noted that the north access is temporary and will be abandoned when the south facing portion of the property is developed. There will be exterior lighting, but only to the extent that is allowed with proper orientation away from neighboring residences and should aid in reducing potential crime, as proven in studies from Crime Prevention Through Environmental Design (CPTED). Decorative security fencing is proposed, as well as a required buffer.

Motion

Commissioner Goss recused himself on Zone Change 1046 due to a conflict of interest. Commissioner Megorden made a Motion, seconded by Commissioner McCall to recommend Zone Change 1046 to City Council to be heard on March 25, 2024 at 5:30 PM.

COMMISSIONER	Yes	No	ABSTAINED	ABSENT
Beau Mulvaney	X			
Daniel J. Brooks	X			
David Goss			X	
Greg McCall	X			
Andy Megorden	X			

The Motion passed to Approve City Zone Change 1046 with a unanimous vote.

- e. **City Zone Change 1047 - Copper Ridge 7th and 8th Filings – DELAYED TO MAY 7, 2024**
N3 to P1, N1, NX1 and NX2 - A zone change request from Suburban Neighborhood Residential (N3) to Public 1 (P1), First Neighborhood Residential (N1), Mixed Residential 1 (NX1), and Mixed Residential 2 (NX2), portions of Lots 15 & 16 in Block 3 of Copper Ridge Subdivision, 7th Filing and a portion of Lot 15A of Block 3 in Copper Ridge Subdivision, 8th Filing a 62.57-acre parcel of land. Nicole Cromwell, Zoning Coordinator

Other Business: No Other Business

Adjournment: The meeting adjourned at 6:40PM

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

--Brenda J Berns, Planning Clerk

Zoning Commission

Date: 04/02/2024
Title: Zone Change 1049 - 1911 and 1915 8th Ave N - NX1 and N1 to NX2
Presented by: Nicole Cromwell
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 1049.

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

This is a zone change for property in the North Park neighborhood near the intersection of 8th Ave N and N 19th St. The property is currently zoned NX1 - 1911 8th Ave N, and N1 for a vacant lot directly west at 1915 8th Ave N. The owner of 1911 8th Ave N recently purchased the vacant lot. A small home on the property was demolished. The property owner intends to build a similar apartment building on the vacant lot. The current building does not conform to the existing zoning of NX1. NX1 allows one to four unit dwellings. This is a six-unit building. The previous zoning of the property was Residential 6,000 (R60) until 2021. All property zoning was updated in 2021 as part of a complete re-write of the zoning code. The current code has a savings clause for all residential developments regardless of the zone district where the buildings exist. The property could receive a re-build letter, but the owner prefers to have a zone that conforms to the development of the property and to re-zone the adjacent lot, so a similar development can occur to complement the existing apartment building.

The proposed zoning would allow an existing vacant property to be developed for new residential dwellings in a high demand area north of downtown and east of a thriving medical services center and college campus. The North Park area was one of the first residential neighborhoods in Billings, but there are many lots that are not fully developed or are vacant. Some of these conditions are due to demolition of older structures without a plan to replace or rebuild the property. Other properties have never been developed and were part of market gardens and orchards prior to annexation to the city in the 1960s. Small irrigation water companies still exist in North Park, such as the Burnstead Water Users Association.

8th Ave North is a local street with traffic speeds posted at 25 mph. The right-of-way width is more than typical for a local street at 90 feet, as compared to 60 feet for most local streets. The wider width of right-of-way is common in the first subdivisions in Billings, including North Park and the South Side neighborhoods. The pavement width of 50 feet between N 22nd St to N 18th St is 16 feet wider than a standard local street (34 ft). This encourages faster traffic speeds on 8th Ave N. N 18th St is a collector street but must stop at 8th Ave N. East of N 18th St, 8th Ave N goes through the uncontrolled intersection with N 17th St and then dead ends at N 16th St. West of N 22nd St, 8th Ave N again has the right of way while the north/south intersecting streets must stop until the intersection of 8th Ave N and N 27th St.

It is not likely that the current zoning would result in the development of a vacant parcel for single family dwellings (four would be allowed by N1 zoning). Two-family dwellings are also allowed with the same number of structures (four) but with two units in each building. This is essentially the same development density as the proposed NX2 zoning. The NX2 zone could allow four duplexes, but only one structure with more than two units based on the frontage requirements. NX2 allows one duplex for each 20 feet of street frontage, the same as the current N1 zoning. In the NX2, 50 feet of street frontage is required for each building with more than two dwelling units. This lot only has 80 feet of street frontage.

STAKEHOLDERS

The applicant conducted a pre-application neighborhood meeting on February 22, 2024. Three surrounding owners or interested property owners attended the meeting. There were no concerns expressed about the proposed zoning. The attendees talked in general about the neighborhood and issues of concern, including public safety and nuisance properties. The Planning staff posted the property, mailed notices to owners within 300 feet and placed a legal advertisement in the newspaper. The Planning staff also placed notice of the application on its Current Zoning Applications web page. No email or correspondence on the application was received prior to the writing of this staff report.

ALTERNATIVES

The City Zoning Commission may:

- Recommend approval and adoption of the findings of the ten review criteria for Zone Change 1049; or,
- Recommend denial and adopt different findings of the ten review criteria for Zone Change 1049; 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. The applicant has not requested a delay or withdrawal of the application.

FISCAL EFFECTS

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

SUMMARY

Prior to any recommendation to the City Council, the Zoning Commission shall consider the following:

1) Is the new zoning designed in accordance with the Growth Policy and neighborhood plans?

The proposed zone change is consistent with the following guidelines of the 2016 Growth Policy:

- Infill development and development near existing city infrastructure may be the most cost-effective.
- Walkable neighborhoods that permit convenient destinations such as neighborhood services, open space, parks, schools and public gathering spaces foster health, goodwill, and social interaction.
- Implementation of the Infill Policy is important to encourage the development of underutilized properties.

The North Park Neighborhood Plan (2008) identified this area as on the transition border between higher density residential uses and medium density residential areas. This location supports the proposed residential use to allow two-to-eight-unit structures. The existing 6-unit building at 1911 8th Ave N fits in well with the existing neighborhood design. The applicant is proposing a similar building for the adjacent vacant lot.

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

The new zoning requires minimum setbacks, open and landscaped areas and building separations. The new zoning, as do all zoning districts, provides adequate building separations and density limits to provide security from fire and other dangers. The site will be developed in conformance with Section 27-300 (BMCC) as well as sections on landscaping, and off-street parking. New buildings would be required to meet city Building Codes and Engineering standards as well.

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

Similar to criteria two, public health and public safety will be promoted by both the existing zoning and the proposed zoning. The proposed NX2 will allow the existing 6-unit building to conform to the zoning and would allow the vacant property to be developed for similar and compatible uses. Developed land will increase property values. Vacant land tends to add unpredictability to the area.

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

Transportation: The proposed zoning should not have any measurable impact on transportation.

8th Ave N is a well-traveled local street in North Park. There are two north/south collector streets -- N 18th St and N 22nd St. In addition, 8th Ave N has a direct connection to N 27th St, the major north/south arterial street through downtown that connects the rims and airport to Interstate 90. N 18th and N 22nd connect to 6th Ave N a major westbound arterial street that connects to N 27th St and then Grand Avenue.

Water and Sewer: The City provides water to the property and a new service line will be installed for any new development at 1915 8th Ave N. A service line was installed for the existing building at 1911 8th Ave N in 1994. The existing building is connected to a sewer. Any new building at 1915 8th Ave N would need new water and sewer connections.

Schools and Parks: Schools and parks should not be negatively affected by the proposed zoning. The school district provided no comment on the proposed zone change. Parks should not be negatively impacted by the proposed zoning. The property is directly across the street from North Park. Recent efforts to improve the safety of the park will encourage more local residents to be in the park.

Fire and Police: The subject property is served by city public safety services. The Police and Fire Departments had no concerns about the zone change.

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

Similar to criteria 2 and 3, the proposed zoning provides for sufficient setbacks to allow for adequate separation between structures and adequate light and air. Any development of the property would follow the requirements of Section 27-300 (BMCC) and other city regulations for development.

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

The existing property fronts 8th Ave N. There is no sidewalk along the street frontage of the vacant lot. This will be installed at the time of development. Street frontage landscaping will also be installed at the time this lot is developed.

7) Will the new zoning promote compatible urban growth?

The proposed zoning is compatible with the adjacent zoning and existing urban growth. The NX2 zoning is compatible with the surrounding property and development. To the south and east is NX3 zoning that supports apartments, while the surrounding development is a mixture of single family, two-family and multifamily development. The zoning does promote 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 zoning does consider the character of the district and the suitability of the property for the proposed use or uses. The proposed zoning will allow re-development of the vacant lot for residential use. This redevelopment will require the installation of new city infrastructure that will help sustain the neighborhood.

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

The new zoning should add stability to the value of the existing 6-unit apartment building at 1911 8th Ave N and add value to surrounding property when the vacant lot is re-developed. New development tends to increase surrounding property values.

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

The proposed zoning will allow the redevelopment of the vacant property and "right zone" of an existing apartment building. Infill on vacant parcels also contributes to neighborhood stability. The proposed zoning and use will encourage the most appropriate use of the parcel.

Attachments

Zoning Map and Photos ZC 1049
Chart of Zoning History ZC 1049
Pre app information for ZC 1049
Application and Letter for ZC 1049

City Zone Change 1049 – 1911 and 1915 8th Ave N – NX1 and N1 to NX2
Zoning Map and Site Photos



Subject Property





1915 8th Ave N
Vacant lot

1911 8th Ave N

Subject Property



1915 8th Ave N



View south across 8th Ave N to North Park



View south and west across 8th Ave N



1911 8th Ave N – view north and east from 8th Ave N



1911 8th Ave N – view north from 8th Ave N

Zoning History for City ZC 1049 – 1911 and 1915 8th Ave N – NX1 and N1 to NX2

SUBJECT PROPERTY	Zone Change	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
1911 and 1915 8 th Ave N	None		Zoning update in 2021 1911 = NX1 1915 = N1		Original zone for 1911 = R60 Original zone for 1915 = R70
SURROUNDING PROPERTY	Zone Change	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
Burnstead Sub 2nd Filing	NA	2/25/2021	Map update	Y	Block 3 was R60 = NX2 Block 5 (1 ½ Lot 2) was R70 = NX2
Burnstead Sub 3 rd Filing	NA	2/25/2021	Map update	Y	All lots RMF-R = NX3
North Park Sub	NA	2/25/2021	Map update	Y	Most lots updated to NX1
EBURD	901	9/14/2009	Adoption of new zoning	Y	Several lots in North Park updated from R60 to EBRUD-RSV
Sunnyside 3 rd Filing Sub	NA	2/25/2021	Map update	Y	Block 15 all NX2
Foster's Add	NA	2/25/2021	Map update	Y	Block 22 and 23 was RMF = NX1

CITY ZONE CHANGE Pre-Application Statement of Owner(s) and Agent(s)

The owner(s), contract purchasers (if any) and agents (if any) are required to submit this completed form and any attachments along with a completed zone change application packet, including any required fees, for a zone change to be processed by the Planning Division.

1. Present Zoning: 1915 8th Ave N. (vacant lot) is N1
1911 8th Ave N (plex) is NX1.
2. Written description of the Zone Change Plan including existing and proposed new zoning:
We are requesting both lots to be zoned NX2
3. Legal Description of Property: Burnstead subD S33, R2uE, LOT 27, S2E2 of LT 27
Burnstead subD S33 TOIN R2uE LOT 28 S2W2 of LT 28
4. Neighborhood Task Force Area: Yes // No . If Yes, Name of Task Force
Yes - North Park. Chair is Thom Greenwood.
5. Roster of persons who attended the pre-application neighborhood meeting: please attach to on line application ✓
6. A brief synopsis of the meeting results including any written minutes or audio recording.
please attach to on line application ✓
7. The undersigned affirm the following:
 - 1) The pre-application neighborhood meeting was held on the 22, day of Feb, 20 24
 - 2) The zone change application is based on materials presented at the meeting.

Owner (s):

1911 N. Point Apts LLC Telephone: 406 2409790

Address:

PO Box 81294 Billings MT 59108 Email: bscreator@gmail.com

Agent (s):

Infoussa Genty Telephone: same as above

Address: _____ Email: _____

Complete this form and upload to your on-line Zone Change application

**Zone Change 1911 & 1915 8th Ave. N
Neighborhood Meeting Minutes Thursday Feb. 22, 2024**

The meeting started at 5: 30 PM. Melissa & Bryan Gentry, Marc R Osborn, Arthur Wilson and Thom Greenwood were present.

Bryan explained the current zoning and the proposed zoning for both lots. He explained how 1911 N Point Apts, LLC would like to build another 6 plex with secure garages on 1915 8th Ave. N.

Arthur spoke about his lot and how one day they might want to rebuild on it.

Thom said he was on the North Park Task force and there is a need for more affordable housing in Billings. He said it would be good for more citizens to use North Park.

There was small talk about the need for more help with the homelessness and drug addicted people in Billings.

Thom brought up the issue with blight and vacant houses in the North Park area. This can lead to squatters.

There was more talk about the upcoming changes to North Park with work out areas and the dog park.

Arthur expressed his concern with trap and drug houses in the area.

Everyone felt the tearing down of the trap house at 1915 8th Ave N was a good thing and that the zone change should go ahead.

The meeting was over at 5:52 pm.

Respectfully,

 02/23/24

Melissa R Gentry

1911 N Point Apts, LLC

CITY ZONE CHANGE APPLICATION FORM

CITY ZONE CHANGE

Billings Zone Change # 1049

Project # PZX-24-00097

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 1915 8th Ave N is N1 1911 8th Ave N is NX1

Proposed Zoning: NX2

PARCEL TAX ID# 1911 = 005858 1915 = 005854 CITY ELECTION WARD 1

Legal Description of Property: Burnstead subd, S33, T10N, R26E, LOT 27, S2 E2 of LT 27
" " " " " LOT 28, S2W2 of LT 28

Address or General Location (If unknown, contact City Engineering): 1911 + 1915 8th Ave N
59101

Size of Parcel (Area square feet or acres): 1911 = 12,750 sq ft 1915 = 12,000 sq ft

Present Land-Use: 1915 = vacant 1911 - Complex + garage

Proposed Land-Use: NX2 - So 1911 will be correct in zoning + 1915
can be built to closely mirror 1911.

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

Owner(s) 1911 N. Point Apts LLC

(Record Owner)

PO BOX 81294 Billings MT 59108

(Address)

4062409790

(Phone Number)

bsgrealtor@gmail.com

(email)

Agent(s): Melissa Gentry

(Name)

same as above

(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: [Handwritten Signature] Date: 2/26/2024

(Record Owner - Digital Signature Allowed)

Zone Change Application
1911 & 1915 8th Ave. N
City of Billings

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

Hello Planning and Community Services,

We are asking to have the zoning changed at 1911 and 1915 8th Ave North here in Billings, MT. Currently 1911 8th Ave N has a 6 plex and is zoned NX1. 1915 8th Ave. N is a vacant lot and zoned N1. We are changing the zoning to NX2, which is a better fit for both parcels. Once the zoning is changed, we plan to build another 6 plex at 1915. This will closely mirror the structures we have at 1911.

The proposed zoning change for both 1911 and 1915 8th Ave. N is consistent with the adopted Growth Policy, Adopted Neighborhood North Park Plan and other city development policies. It fits the 10 zone change criteria as well.

1. Is the new zoning designed in accordance with the Growth Policy?

The proposed zoning does comply with the following goals of Growth Policy and area plans:

- Predictable land use decisions that are consistent with neighborhood character and preferred land use patterns identified in Neighborhood plans.
- Preserve neighborhood character and quality of life.

This zone change would allow these lots to be zoned as multifamily housing. One of the lots is already constructed for multifamily housing. The zoning is consistent and compatible with the area. The neighboring zoning allows for medium density residential development. There is a need for more affordable, healthy and safe housing and the NX2 zone is in line with this goal.

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

The subject property is currently served by the Billings Fire Department Station 1. The existing and proposed zoning requires building separations, setbacks, and height limits that should provide security from fire or other public safety emergencies.

Zone Change Application
1911 & 1915 8th Ave. N
City of Billings

3. Is the new zoning promoting public health, public safety and general welfare:

When we purchased 1915 8th Ave N, there was a derelict house on location. We had that removed. The current building at 1911 8th Ave. N has adequate security lighting, safety features and good citizen tenants. Trash, graffiti and loiters are immediately removed when they come onto the property. Once another 6 plex is constructed at 1915, it will promote public health, safety and improve the welfare in the area. Currently my tenants at 1911 ask vagrants not to loiter at 1915 and code enforcement has been called multiple times on campers parking illegally.

4. Is the new zoning facilitating the adequate provision of transportation, water, sewerage, schools, parks and other public requirements?

Development under the new zoning will increase traffic once constructed. The property is in the Billings Public Works water/sewer district. The development would likely increase the number of children attending local schools. The development would also pay more in taxes than the current vacant lot, which enhances funds for other public requirements.

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

The proposed zoning would require minimum setbacks, maximum building heights and maximum lot coverage. These requirements should allow adequate light and air to reach the subject property and adjacent properties.

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

The development of the property for residential uses will add traffic volume to the surrounding street network. From my time on the county zoning board, I was informed that multifamily developments tend to generate fewer trips per unit at about 8 trips per day per unit. This area of the North Park neighborhood is walkable with McKinly school 1 mile away, Albertsons only ½ away and the park is across the street .

7. Will the new zoning promote compatible urban growth?

Yes, the neighborhood is a mix of single family homes to multifamily. The new zoning will promote that growth.

Zone Change Application
1911 & 1915 8th Ave. N
City of Billings

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

The North Park Neighborhood plan calls out issues such as dilapidated housing, lack of affordable housing and lack of property maintenance. Once we purchased 1915 8th Ave. N, we tore down the derelict house there and plan to replace it with quality, affordable apartments. As with 1911 8th Ave. N, it will be clean, safe and aesthetically pleasing. This is within the character of the North Park Neighborhood.

9. Is the new zoning going to conserve the value of the buildings:

The new zoning will allow the development of a new residential use building on the vacant lot. It should not affect the value of the existing structures on 1911 8th Ave. N.

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

The new zoning, NX2, is what 1911 8th Ave. N is currently built to fit. 1915 8th Ave. N is almost a mirror image with lot size and shape. It will encourage affordable quality housing, which is a very appropriate use of land in the City of Billings.

Thank you for your consideration.

Bryan & Melissa Gentry

1911 N Point Apts, LLC
PO Box 81294

Billings, MT 59108

bsgrealtor@gmail.com

406.240.9790

Zoning Commission

Date: 04/02/2024
Title: Zone Change 1050 - 5403 Hawk Creek Avenue - NMU to CMU1
Presented by: Nicole Cromwell
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 1050.

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

The proposed zoning would allow an existing vacant property to be developed for a wider variety of mixed uses than allowed under the current zoning of Neighborhood Mixed Use (NMU). The Corridor Mixed Use zones (CMU1 and CMU2) are districts appropriate for higher volume arterial and collector streets where access to the site accommodates both vehicle trips and pedestrian access. The CMU1 district, proposed for this site, is intended to be closer to neighborhood zones, including adjacent or across an alley from residences. The uses allowed in the CMU1 zone include all uses allowed in the NMU zone, but adds uses such as long-term care facilities, higher education facilities, a casino or bar that meets separation requirements and receives special review approval, veterinary clinics with overnight boarding, craft alcohol with restaurants, drive-thru food service without special review (see caveat below), a hotel without special review, a car wash with special review, and gas stations with use restrictions.

The location would not be able to apply for a special review for a bar or casino due to the proximity to Cottonwood Grove Subdivision to the north. Other uses requiring special review, such as a car wash, would also be difficult to locate on this parcel due to the proximity of residences. Under the proposed CMU1 zone district, a drive-thru food service such as a coffee vendor or lunch/dinner could be located on the property as long as the current lot is divided, so the proposed use is not on a parcel that adjoins the residential zoning (Section 27-1005.N). Drive-thru restaurants in a CMU zone on lots that adjoin residential zones still require special review. Other drive-thru services, such as banks, are required to meet the standards in Section 27-1008.J, and includes mitigation of sound from announcement systems, and the location of drive aisles and queuing lanes away from the front property line to the maximum extent feasible.

The MK Subdivision at the northwest corner of 54th St W and Grand Avenue was first annexed, zoned and subdivided in early 2007. In 2014, Lot 2 of Block 1 was changed from Neighborhood Commercial (NC) to Community Commercial (CC) zoning. The Den received special review approval in 2017 to build a bar, restaurant and casino on this lot. This was the first lot developed in the subdivision. The Diamond X Brewing Company successfully changed the zoning on Lots 1-3 of Block 1 of MK Subdivision 2nd Filing in 2019 from NC to Planned Development-NC with allowance for the brewery and one beer and wine license without gaming. The Planned Development zone was amended last year to delete the provision for a beer and wine license and substitute an all-beverage license -- without gaming. The other lots in MK Subdivision, 1st Filing are zoned NMU (Lot 3 -- Chy Way & Grand Ave) and CMU2 (Lot 1 -- 54th St W & Grand Ave).

The city installed a full traffic signal at the intersection of 54th St W and Grand Avenue in 2017. This signal was paid for through developer contributions from the surrounding neighborhoods and commercial developments. Prior to the signal installation, 54th St W was stop controlled and Grand Ave had the right-of-way. The completion of the Ben Steele Middle School at 56th St W and Grand along with the first development in the MK subdivision required the installation of the signal. Grand Avenue at 54th St W handles about 10,000 vehicle trips per day, while 54th St West handles about 5,000 vehicle trips per day. Both arterial streets are not complete to city arterial street standards. This is primarily due to the "checkerboard" of city and county limits on both streets and also due to the lack of complete city infrastructure such as storm water management facilities. The city will be moving forward with a project (2025) to complete Grand Avenue to city standards from Shiloh Road to 62nd Street West.

The current zoning allows a wide range of available uses but not all the uses the owner would like to market for the property, including a potential drive-thru food service. In addition, the NMU zone requires 90% of the front property line to have a building facade in the build-to range of 5--20 feet from the back of the property line. The NMU zone was placed on this parcel during the zoning code update (2021) as the corollary zone to the retired Neighborhood Commercial (NC) zone district. The new zone districts are based on minimum urban development standards that help maximize compatibility between uses and help increase mobility and safe access to mixed-use developments. Planning and Engineering are continuing to work together to refine these standards. The prior zone districts prescribed minimum setbacks, while the new code requires build-to ranges, minimum door and window openings on the first floor and measures building height in stories. The NMU zone has a minimum door and window coverage on the first floor of 45%, while the CMU1 zone has a

minimum of 65% of the first floor frontage. The maximum height in stories in NMU is two stories, while the CMU1 allows up to four stories. The CMU zone requires "step-backs" from a residential zone when the building is over two stories or 35 feet (Section 27-1406.E.3).

The property has a required 25-foot-wide buffer yard along the north property line. This is a requirement of the subdivision to protect the neighborhood to the north. This buffer yard cannot be removed or changed without an amendment to the subdivision plat processed through the Planning Board and City Council. The buffer yard is also mentioned and protected through the private covenants and restrictions of the subdivision. The development requirements in a commercial zone that shares a property line with a neighborhood zone will also require a buffer yard to be installed that includes trees and an opaque screening fence (Section 27-1204.B). This will be in addition to the subdivision landscape buffer yard.

Planning staff is recommending approval based on the proposed findings of the 10 review criteria. The current zone is not necessarily intended for placement along a busy arterial street. *"The NMU district is intended to accommodate a mix of uses, primarily located along neighborhood corridors, that are highly walkable and accessible to pedestrians."* Neighborhood corridors are typically collector streets such as Rehberg Lane or Colton Blvd. The CMU1 district is described this way: *"The CMU1 district is intended to accommodate commercial and other uses along transportation corridors to promote development that is comfortably accessible via all modes of transportation, including motor vehicles, bicycles, and walking."* The CMU1 may also have uses that are slightly larger in scale than the NMU zone and may include uses that are more vehicle oriented (gas stations, drive-thru restaurant).

STAKEHOLDERS

The applicant conducted a pre-application neighborhood meeting on February 22, 2024, at Ben Steele Middle School. Fourteen interested property owners attended the meeting. The primary concerns were about noise from future uses, building height, traffic generation, gas stations and lighting. The pre-application information and notes are attached to the report. Planning staff posted the property, mailed notices to owners within 1,320 feet of the subject property, and published a legal ad in the newspaper. The planning staff also posted the application on our "Current Zoning Applications" web page. Planning staff received no comments or emails on the application 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 1050; or,
- Recommend denial and adopt different findings of the ten review criteria for Zone Change 1050; 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. The applicant has not requested a delay or withdrawal of the application.

FISCAL EFFECTS

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

SUMMARY

Prior to any recommendation to the City Council, the Zoning Commission shall consider the following:

1) Is the new zoning designed in accordance with the Growth Policy and neighborhood plans?
The proposed zone change is consistent with the following guidelines of the 2016 Growth Policy:

Infill development and development near existing City infrastructure may be the most cost-effective. (2011 City Infill Policy; 2016 Growth Policy: Essential Investments, Strong Neighborhoods)

Walkable neighborhoods that permit convenient destinations such as neighborhood services, open space, parks, schools and public gathering spaces foster health, goodwill, and social interaction. (2016 Growth Policy: Strong Neighborhoods)

Implementation of the Infill Policy is important to encourage the development of underutilized properties. (2016 Growth Policy: Strong Neighborhoods)

A diversity of available jobs can ensure Billings' strong economy. Retaining and supporting existing businesses helps sustain a healthy economy. (2016 Growth Policy: Prosperity)

The proposed zoning is also supported by the West Billings Neighborhood Plan that indicated the intersections of arterial streets would be appropriate for nodes of commercial uses including service business and retail options. The plan indicated this intersection as a "Community Center" node, roughly the same area as West Park Plaza at 15th St W and Grand Avenue or about 30 acres. This subdivision along with the commercial area on the east side of 54th St West (Albertson's) is about 21 acres in area. The proposed zoning will allow uses more appropriate for a transportation corridor (arterial street) than a neighborhood corridor (e.g. a collector street -- Rehberg Lane, Poly Drive).

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

The new zoning requires build-to ranges, open and landscaped areas and building separations. The new zoning, as do all zoning districts, provides adequate building separations and density limits to provide security from fire and other dangers. The site will be developed in conformance with Section 27-406 (BMCC) as well as sections on landscaping, and off-street parking. New buildings would be required to meet city Building Codes and Engineering standards as well.

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

Similar to criteria two, public health and public safety will be promoted by both the existing zoning and the proposed zoning. The proposed CMU1 zone will allow marketing to a range of uses that may require more land area or allow a drive-thru service. Developed land will increase property values. Vacant land tends to add unpredictability to the area.

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

Transportation: The proposed zoning should not have any measurable impact on transportation. When the property develops, the developer will be required to update or confirm the information in the existing traffic study for the subdivision and provide mitigation accordingly. Any drive-thru service will require a queuing analysis to ensure customers are not backed into a street (public or private). The property cannot have a driveway access onto 54th St W. This was a condition of subdivision approval. The only access will be via Hawk Creek Avenue.

Water and Sewer: The City will provide water and sewer service to the property. Stubs for both services are already in from Hawk Creek Ave. Storm water will be managed on the site.

Schools and Parks: Schools and parks should not be negatively affected by the proposed zoning. The school district provided no comment on the proposed zone change. Parks should not be negatively impacted by the proposed zoning. The property is not intended for residential development but could have a mixed-use building with apartments.

Fire and Police: The subject property is served by city public safety services. The Police and Fire Departments had no concerns about the zone change.

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

Similar to criteria 2 and 3, the proposed zoning provides for sufficient setbacks to allow for adequate separation between structures and adequate light and air. Any development of the property would follow the requirements of Section 27-400 (BMCC) and other city regulations for development.

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

The existing property has frontage on 54th St W and on Hawk Creek Avenue. The multi-use path on 54th St West has already been installed, and no drive approach will be allowed on to this street. New drive approaches will be allowed off Hawk Creek Avenue. The streets in this subdivision are private, but the subdivision improvement agreement requires the installation of sidewalks along these streets. The connection to the public streets and sidewalks will help complete a pedestrian connection from 54th St W to the existing development on the lots to the west.

7) Will the new zoning promote compatible urban growth?

The proposed zoning is compatible with the adjacent zoning and existing urban growth. The CMU1 zoning is compatible with the surrounding property and development. To the south and east is CMU2 zoning that supports commercial development that can be much larger and have more intense uses than the CMU1. To the north is N2 zoning for Cottonwood Grove Subdivision. The CMU1 zone combined with the landscaping requirements will protect the adjacent neighborhood's uses. To the west is the Planned Development zone for the Diamond X Brewing Company and CMU2 for the Den. The zoning does promote 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 zoning does consider the character of the district and the suitability of the property for the proposed use or uses. The proposed zoning will allow a CMU1 zone on a property with arterial frontage and within a "community center" node of development as envisioned by the 2001 West Billings Plan.

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

The new zoning should add stability to the value of the existing neighborhood by adding predictability and to the existing commercial developments to the west. New development tends to increase surrounding property values.

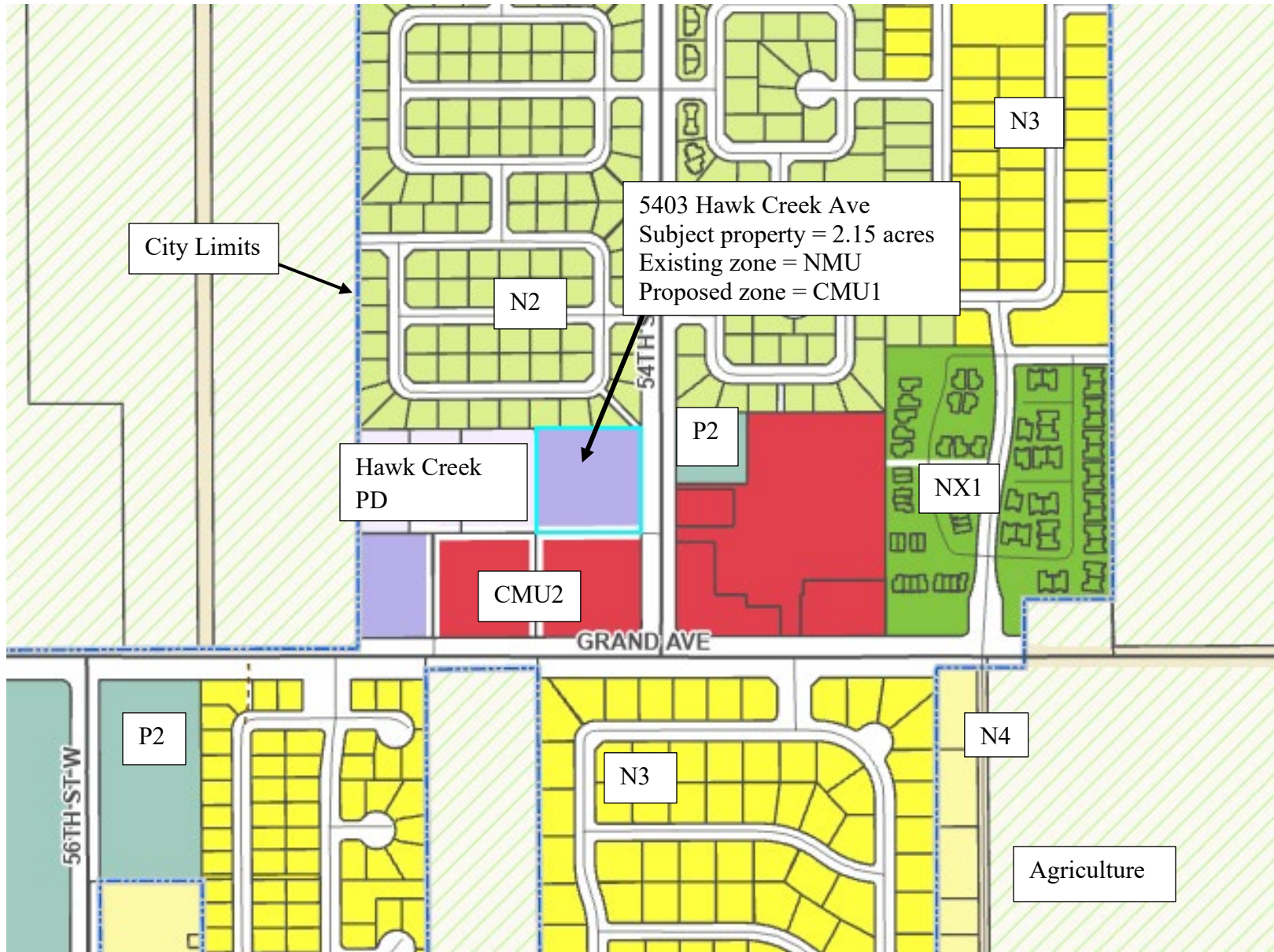
10) Will the new zoning encourage the most appropriate use of land throughout the City of Billings?

The proposed zoning will allow the development of vacant property with uses that are compatible with the street frontage (arterial) and with the adjacent neighborhood zone. This is the most appropriate use of the land.

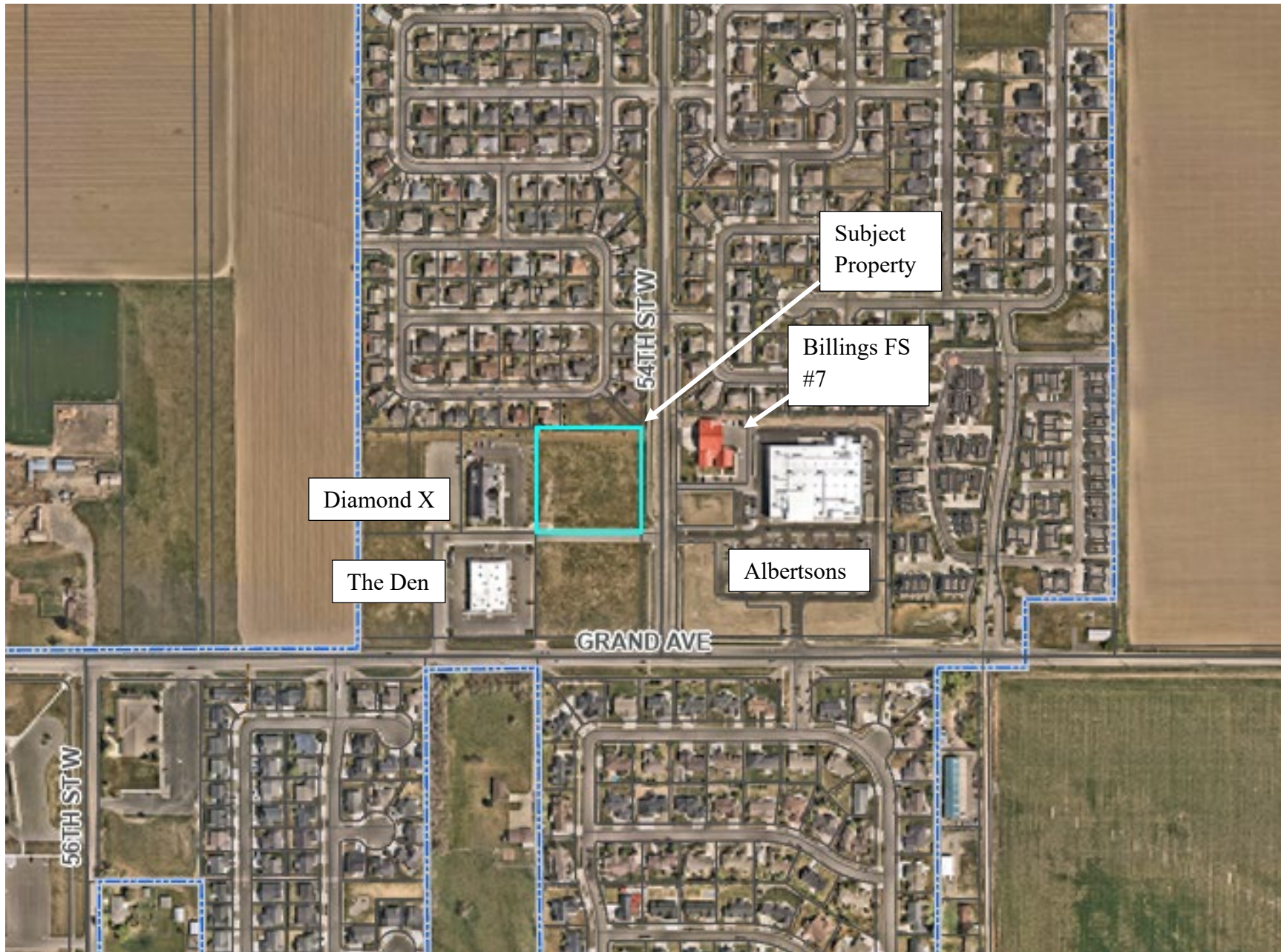
Attachments

Zoning Map and Site Photos ZC 1050
Chart of Zoning History for ZC 1050
Pre application information ZC 1050
Application and Letter for ZC 1050

City Zone Change 1050 – 5403 Hawk Creek Ave – NMU to CMU1
Zoning Map and Site Photos



Subject Property





Subject Property view north from Hawk Creek Ave



View west on Hawk Creek Ave



View east to 54th St W



View east to 54th St W



View south and west

City Zone Change 1050 – 5403 Hawk Creek Ave – NMU to CMU1

Chart of Zoning History

SUBJECT PROPERTY	Application	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
5403 Hawk Creek Ave MK Sub Block 1 Lot 5	City ZC 798	2/26/2007	A to NC & CC	Y	Updated to NMU for Lots 3 and 5
SURROUNDING PROPERTY	Application	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
5417 Hawk Creek Ave	1028	6/26/2023	Amend PD	Y	Switch beer & wine for all beverage license
MK Sub, Block 1, Lts 1-3 Diamond X	971	1/14/2019	NC to PD-NC	Yes	Original PD
MK Sub	City ZC 798	2/26/2007	A to NC & CC	Y	CMU2 & NMU
1411 Chy Way	City ZC 925	10/14/2014	NC to CC	Y	CMU2- The Den
1411 Chy Way	City SR 958	11/27/2017	Allow All Bev & Casino	Y	CMU2 -The Den
Cottonwood Grove	City ZC 734	2/28/2005	A to R-70 (now N2)	Y	Now N2
Daybreak Sub	City ZC 920	6/9/2014	A to R-60 (now N3)	Y	Now N3
Coal Creek Sub	City ZC 961	1/22/2018	RP to CC (expansion)	Y	CMU2, NO & N2
Coal Creek Sub	City ZC 767	11/17/2005	R-96 to RMF, RP and CC	Y	CMU2, NO & N2
Bishop Fox	City ZC 756	5/9/2005	A to CC, P, R-70 and R-96	Yes	Now CMU2, P2 & N2
Buffalo Crossing	City ZC 1011	4/11/2022	RR3 to N3, N2 NX2 and P1	Y	C/S 2735 Tract 4A
Mont Vista	City ZC 851	7/13/2009	R-96 to PD multiple zones	Y	
Grand Peaks Sub	City ZC 938	8/24/2015	R-96 to R-70	Y	Now N3 & N2
Sweetgrass Creek	City ZC 998	10/11/2021	A to to N1, N2, N3, NX1 and P1	Y	Sweetgrass Creek Subdivision
Foxtail Village	City ZC 729	5/10/2004	A to R-96 & R-70	Y	Now N3 & N2
Trails West	City ZC 847	10/14/2008	R-96 to R-60-R	Y	Now N3
Tule Ridge	County ZC 667	12/29/2015	R-96 to CC	Y	Now CMU1
Vintage Estates	None	1/10/2005	A to R-96 default	Y	Now N3

CITY ZONE CHANGE Pre-Application Statement of Owner(s) and Agent(s)

The owner(s), contract purchasers (if any) and agents (if any) are required to submit this completed form and any attachments along with a completed zone change application packet, including any required fees, for a zone change to be processed by the Planning Division.

1. **Present Zoning:** _____

2. **Written description of the Zone Change Plan** including existing and proposed new zoning:
The applicant is proposing to rezone the property from NMU, Neighborhood Mixed-Use to CMU1, Corridor Mixed-Use 1. The intent of the rezoning is to broaden the allowed uses on the property, while allowing a transitional zone to adjacent more intense commercial zoning of CMU2, Corridor Mixed-Use 2. The applicant is intending to build to lease. The future building is unknown with the hopes that this rezoning will broaden commercial developer's interests.
3. **Legal Description of Property:**

4. **Neighborhood Task Force Area:** Yes /// No . If Yes, Name of Task Force
West End Task Force

5. **Roster of persons who attended the pre-application neighborhood meeting:** please attach to on line application

6. **A brief synopsis of the meeting results including any written minutes or audio recording.**
please attach to on line application

7. **The undersigned affirm the following:**
 - 1) The pre-application neighborhood meeting was held on the 22 , day of February 20 24.
 - 2) The zone change application is based on materials presented at the meeting.

Owner (s):

_____ Telephone: _____

Address:

PO Box 2070 Missoula, MT, 59806
_____ Email: _____

Agent (s):

_____ Telephone: _____

Address: _____ Email: _____

Complete this form and upload to your on-line Zone Change application



ATTENDANCE RECORD

IMEG #: 24000862.0

Project: Mountain West Capital Hawk Creek Avenue Rezone

Meeting Description: Re-Zone Neighborhood Meeting

Date: 2/22/2024

Time: 5:30PM

Place: Ben Steele Middle School Cafeteria (5640 Grand Ave., Billings, MT, 59106)

ATTENDEE NAME

PHONE NUMBER

E-MAIL

Sandee Dunstan Len Dunstan	406-656-4909	sandee40dunstone netscope.net
Cathy Bentz	406-245-2891	otttrco@gmail.com
Holland Nielsen	406-396-0056	hollandsmall7@gmail.com holland@
AMARA FRANK	406 794 2184	Tfrank747@gmail.com
FRANK	406-248-8973	
Carol Frederick Jim Keller	406-698-8393	carolfrederick21 @gmail.com
Phil Hopkin	406-696-0091	P_Hopkin@Live.com
Edward Serman	406/861-8107	Ejserman@gmail.com
MATT CRAMPTON	406/231/1967	mjcrampton@b...



ATTENDANCE RECORD

IMEG #: 24000862.0

Project: Mountain West Capital Hawk Creek Avenue Rezone

Meeting Description: Re-Zone Neighborhood Meeting

Date: 2/22/2024

Time: 5:30PM

Place: Ben Steele Middle School Cafeteria (5640 Grand Ave., Billings, MT, 59106)

ATTENDEE NAME

PHONE NUMBER

E-MAIL

ATTENDEE NAME	PHONE NUMBER	E-MAIL
Molly Dutson	801-828-5893	missmollyrose@gmail.com



ATTENDANCE RECORD

IMEG #: 24000862.0

Project: Mountain West Capital Hawk Creek Avenue Rezone

Meeting Description: Re-Zone Neighborhood Meeting

Date: 2/22/2024

Time: 5:30PM

Place: Ben Steele Middle School Cafeteria (5640 Grand Ave., Billings, MT, 59106)

ATTENDEE NAME

PHONE NUMBER

E-MAIL

ATTENDEE NAME	PHONE NUMBER	E-MAIL
Steve Zeiser	406-670-6969	steve@trinityrealt.com
Tiffany Wardell	406-690-6244	wardell.tiffany@gmail



MEETING NOTES

Date	February 22, 2024
Project	Mountain West Capital/Hawk Creek Ave Rezoning
Project Number	24000862
IMEG Attendees	Kelsey Murray, Anna Vickers
Public Attendees	Sandee & Len Dunnstan, Cathy Bentz, Holland Nielson, Tamara Frank, Phil Frank, Carol Frederick, Jim Keller, Phil Hopkin, Edward Sermon, Matt Crampton, Molly Duston, Steve Zeier, Tiffany Wardell

IMEG Started Presentation

I'm Anna Vickers and I'm here with IMEG on behalf of the owner, Mountain West Capital. This is Kelsey, my associate, who is here for the purpose of taking notes. We are here to discuss a proposed rezoning of the parcel located North of Hawk Creek Avenue and West of 54th Street West. The intent of today's meeting is to receive your input, comments and concern for the proposed rezone including any ideas for the property. All input received is being documented.

The zoning on this property is currently NMU, or Neighborhood Mixed-Use. We are requesting CMU1, or Corridor Mixed-Use 1. The differences between the zoning codes are highlighted in the materials provided. The developer is not exactly sure what he wants to build but it will be a build to lease development and it will be commercial. He is leaning toward a coffee shop or bakery, but he also hopes to receive some input from the neighbors regarding what you'd want in your neighborhood. As you can see on the shown exhibit the property is adjacent to N2 which is a residential use, across the street from CMU2 and next to a planned development which is Diamond X.

On your list that compares allowable uses you will see a number of different designations. These things can be permitted, locations limits, applicable use restrictions, and special review. If you see a special review this means that if this use is chosen there will be an application with a hearing specific to that type of use, typically at that point you may see a site plan for that use as well. Applicable use restrictions means that there are specific restrictions in the zoning code further limiting that use. In an effort to preemptively address a common question, a casino is something that would have applicable use restrictions. Casinos are not allowed within 350' of a residential zoning. As you can see on the screen this property is 304'. Therefore, a casino would not be able to fit on this lot. Additionally, a bar, which is defined as a place that receives more income from alcohol sales than food sales, would need to be 150' away from a residential use. This would leave a small portion of the lot for the building to be placed upon. would not be permitted here due to required setbacks from residential properties. This applies to bars as well, however a restaurant serving alcohol may be permitted. This being said I'll open it up for questions and comments.

Public Question: Is the owner different from the owner of Diamond X?

IMEG: Yes, it's a different owner. This owner acquired the property in 2021.

Public Question: As it's zoned right now, isn't it eligible for a restaurant?

IMEG: Yes, the main difference being that CMU1 allows for a drive-thru restaurant not serving alcohol and NMU does not.

Public Question: I live on Round Stone, right behind Diamond X. I'm all for it, but I want to make sure snow removal, power washers, trash collection, and other contractors don't start so early in the morning. I don't want to have to call another property owner to ask them to have their contractors respect quiet hours. My concern is loud noises that wake me up early in the morning. This is important aside from the hours of operation.

IMEG: That's a valid concern and I will pass this on to the owner.

Public Question: It would be nice to see trees and landscaping as a buffer zone between the neighborhood and development.

IMEG: As the property sits right now, there is a 25' landscape easement that is adjacent to the residential neighborhood. The covenants of this property call for trees/landscaping, and a fence. Additionally the City's Zoning Code requires some landscaping.

Public Question: What are the plans for sewer and water from the city? We had torrential rains last year, so are there any plans to move stormwater elsewhere?

IMEG: Right now sewer and water are adjacent to the property in Hawk Creek as well as 54th street. Sewer and water would be provided using city infrastructure. Currently the Subdivision Improvements Agreement for the property requires that stormwater be retained onsite. If stormwater infrastructure is in the area during site design and building DEQ requires us to tie into anything within 500' of the property.

Public Question: Does the new zoning change the height of the buildings?

IMEG: I'm not sure, let me look. It looks like the story façade levels change by 2 feet more in CMU1.

Public Question: What is the current story limit?

IMEG: Both are four stories.

Public Question: What does 'applicable use restriction' mean? My concern is about gas stations.

IMEG: Applicable use restrictions mean that there are specific use restrictions associated with a gas station is chosen. I do not know the restrictions specific to the gas station off the top of my head. I can tell you that during the building permit process there is a requirement that if more than 500 trips per day are triggered a traffic study is required. I was also informed that 5 bays for a gas station would trigger a traffic impact study. You are not the first person that's had concerns about a gas station that I've talked to.

Public Question: What about the street lighting?

IMEG: Street lighting is not required but per the Subdivision Improvements Agreement conduits would be installed should future lighting be desired. I also know that the City of Billings Subdivision Regulations are currently undergoing an update. This update would require streetlights to be installed along new streets within subdivisions. If you oppose this, I strongly encourage you to attend the public hearings regarding the update.



Public Question: What is the process now? After this hearing, does it go to the city council?

IMEG: This meeting is a requirement for a proposed rezoning. After this meeting I will have a conversation with the owner to discuss the input received. Should the owner decide to move forward the application will be due to the City Planning Department by March 1. The City Planning Department then has a month to review the application. There will then be a notification you will receive in the mail regarding future public hearings for this rezoning. There will be one with the Zoning Commission and one with the City Council. The Zoning Commission will vote and make a recommendation to the City Council. The City Council has final decision on the proposed zoning.

Public Question: In reference to coffee shops- it's already permitted to have a restaurant, so why change?

IMEG: At this point the desired use is unknown, as stated the owner is doing a build to lease. When rezoning to CMU1 this will expand opportunities of interest future for a future business.

Public Question: Is the owner someone who lives locally?

IMEG: He lives in Missoula.

Public Question: Since when has he owned that lot?

IMEG: He's owned the property since 2021.

Public Question: If there's consensus among the neighbors about what we don't want, would he be open to hearing from us?

IMEG: Any information about what the neighborhood would or would not like to see I am happy to pass along to the owner and he does want to hear about it. This being said, I will forewarn you that zonings cannot be conditioned. Should you want only specific uses allowed we would need to change the type of rezoning proposal is being requested. This could mean us holding another neighborhood meeting, which can be expensive. As I mentioned the date for submittal is March 1. If you can gather consensus before then for an idea, I am happy to share this with him for an option. I know he does want to be a good neighbor.

Public Question: If he's trying to expand the type of business that could go in there, he must have some idea of what he wants to do. A subway, coffee shop, etc. are all compatible with a neighborhood.

IMEG: As I mentioned in prior, there are use restrictions and special reviews associated with certain uses. Additionally, the owner is unsure of what he would like to go here. He is completing a build to lease at this point we do not know what will go here.

Public Question: But if he's requesting the zoning he must know what is going to go here.

IMEG: As I mentioned I am unsure what is going to go here. I can tell you any time you look at a zoning you should not make your decision based on what someone says will go somewhere. Your decision should be made based on the allowable uses within the zoning. The property's ownership can change but the zoning restrictions continue to be the same. Things such as a casino not being allowed will continue to remain the same no matter who owns the property.

IMEG: If there are no further questions, thank you for coming.



Anna Vickers

From: Anna Vickers
Sent: Thursday, February 29, 2024 8:31 PM
To: mtnavyboy
Subject: RE: Pre-Application Neighborhood Meeting - Yellowstone County Zone Change Request on MK Subdivision Lot 5

Hi Dan,
Currently the use is unknown the owner is doing a build to lease. If you have further questions, please let me know.

Thanks,

Anna M. Vickers
Lead Land Use Planner
IMEG
175 N 27th Street, Suite 1312, Billings, MT 59101 tel (406) 248-9000 single reach (406) 532-0263 mobile (225) 603-1371
fax (406) 721-5224 anna.m.vickers@imegcorp.com <https://www.imegcorp.com>

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-----Original Message-----

From: mtnavyboy <mtnavyboy@charter.net>
Sent: Thursday, February 29, 2024 4:48 PM
To: Anna Vickers <Anna.M.Vickers@imegcorp.com>
Subject: Pre-Application Neighborhood Meeting - Yellowstone County Zone Change Request on MK Subdivision Lot 5

External Email: Treat links and attachments with caution.

Dear Ms Vickers:

I was out of town when the subject meeting was held. What is the intended use of Lot 5?

Thank you for a quick response.

Dan Harman
5336 Sundance Mountain Circle
Billings, MT 59106
(cell): 701-202-8876

From: Anna Vickers
Sent: Wednesday, February 21, 2024 4:31 PM
To: Kelsey L. Murray
Subject: FW: Pre-Application zoning Change Request - MK Subdivision, Lot 5

Follow Up Flag: Follow up
Flag Status: Flagged

Please pdf and save in the file.

Anna M. Vickers
IMEG | Lead Land Use Planner



175 N 27th Street | Suite 1312 | Billings, MT 59101

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(406) 532-0263 | single reach
(225) 603-1371 | mobile
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From: Anna Vickers <Anna.M.Vickers@imegcorp.com>
Sent: Tuesday, February 20, 2024 10:58 AM
To: Jerry Nettleton <jpja@comcast.net>
Subject: Re: Pre-Application zoning Change Request - MK Subdivision, Lot 5

Hi Jerry,

There is no proposed project with this change. The landowner is looking to do a build to lease in the future. He's hoping that the change to CMU1 will allow for a couple of more business' to be interested in the future. Let me know if you have further questions.

Thanks,

Anna M. Vickers

IMEG | Lead Land Use Planner



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From: Jerry Nettleton <jpjja@comcast.net>
Sent: Saturday, February 17, 2024 6:25:14 PM
To: Anna Vickers <Anna.M.Vickers@imegcorp.com>
Subject: Pre-Application zoning Change Request - MK Subdivision, Lot 5

External Email: Treat links and attachments with caution.

Anna -

I received a letter on the neighborhood meeting for the referenced zoning change request. What is the proposed project associated with this change request?

Thanks for your assistance in providing this information.

Jerry Nettleton

Sent from my iPad

From: Anna Vickers
Sent: Thursday, February 22, 2024 8:59 AM
To: Kelsey L. Murray
Subject: FW: Zone change on MK Subdivision Lot 5

Follow Up Flag: Follow up
Flag Status: Flagged

Please pdf and add to the file

Anna M. Vickers
IMEG | Lead Land Use Planner



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From: Anna Vickers <Anna.M.Vickers@imegcorp.com>
Sent: Thursday, February 22, 2024 6:30 AM
To: m.r.ward@bresnan.net
Subject: Re: Zone change on MK Subdivision Lot 5

Thank you for your comments on the city parcel's proposed rezoning. I will add it to the record.

Anna M. Vickers

IMEG | Lead Land Use Planner



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From: m.r.ward@bresnan.net <m.r.ward@bresnan.net>
Sent: Wednesday, February 21, 2024 9:33:32 PM
To: Anna Vickers <Anna.M.Vickers@imegcorp.com>
Subject: Zone change on MK Subdivision Lot 5

External Email: Treat links and attachments with caution.

Hello Anna,

My mother owns the property at 5416 Grand Ave and neither one of us is able to attend your meeting on Thursday Feb 22 but we would like to voice our concerns and comments re the zone change. My family has owned and lived on this 10 acres of land since 1978. Most of the land around us at that time was for agricultural use. I have raised sheep and cattle, pastured horses and cut hay on that land as have most of our neighbors for decades. We both understand that times change and "progress" is inevitable but so much has changed in recent years that life in our part of the county is unrecognizable as our home in the country. The traffic on Grand Ave and 54th street has become dangerous - both of those streets are treated like super highways by most of the drivers . We used to feel safe driving in our neighborhood but now we have to be extra extra cautious just pulling out of our driveway. Both my mom and I have had several near misses with head on traffic when trying to turn into our property off of Grand Ave. Adding more businesses such as a gas station or other auto-oriented uses will just increase traffic and the problems that come with more drivers that don't follow traffic laws. We have a school now and kids that need to cross traffic on Grand and 54th, this just also puts them at more risk. We have enough progress in our area, it's becoming more of a city than a neighborhood. Both my mother and I strongly object to the zone change.

Thank you for your time,
Marla Ward and Janice Ward (property owner)

From: Anna Vickers
Sent: Wednesday, February 21, 2024 4:31 PM
To: Kelsey L. Murray
Subject: FW: Zone Change Request on MK Subdivision Log 5

Follow Up Flag: Follow up
Flag Status: Flagged

Please PDF and save in the file.

Anna M. Vickers

Lead Land Use Planner

IMEG

175 N 27th Street, Suite 1312, Billings, MT 59101 tel (406) 248-9000 single reach (406) 532-0263 mobile (225) 603-1371 fax (406) 721-5224 anna.m.vickers@imegcorp.com <https://www.imegcorp.com>

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-----Original Message-----

From: Anna Vickers

Sent: Wednesday, February 21, 2024 4:29 PM

To: 'Polly Rex' <pollyrex50@gmail.com>

Subject: RE: Zone Change Request on MK Subdivision Log 5

Hi Polly,

These are all fair points and I'm happy to hear them all. If you have any ideas of ideal things for the neighborhood please share them with me. The owner is requesting a rezoning to allow for more business development. As of right now, he is unsure what business will be interested as he will/is advertise the property as a build to lease.

Diamond X is zoned PD, Planned Development. This allows for all alcohol but no casino use within the PD.

Back 9 Lounge is zoned CMU2, Commercial Mixed Use 2.

Albertsons is zoned CMU2, Commercial Mixed Use 2.

Let me know if you have further questions. I'm happy to set up a discussion time, if necessary.

Kindest regards,

Anna M. Vickers

Lead Land Use Planner

IMEG

175 N 27th Street, Suite 1312, Billings, MT 59101 tel (406) 248-9000 single reach (406) 532-0263 mobile (225) 603-1371 fax (406) 721-5224 anna.m.vickers@imegcorp.com <https://www.imegcorp.com>

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-----Original Message-----

From: Polly Rex <pollyrex50@gmail.com>
Sent: Wednesday, February 21, 2024 10:58 AM
To: Anna Vickers <Anna.M.Vickers@imegcorp.com>
Subject: Zone Change Request on MK Subdivision Log 5

External Email: Treat links and attachments with caution.

Hello Anna,

This is in response to your letter dated Feb. 15, 2024 about a neighborhood zone change meeting for lot 5 in the MK subdivision. I live in Vintage Estates which is directly south of Albertson's off Grand Ave.

While I looked up the definition of both zoning categories, the change to CMU1 seems to encourage more business development which could include additional traffic and noise. There's already a brewery, several other Pub type restaurants and an Albertson's nearby. Can you tell me what their zoning category is?

While I don't want to discourage growth in my neighborhood, I also would like to see a balance of business and housing similar to what is already here.

Thank you—I can't attend the meeting Thursday evening but hope for a good turnout and lively discussion.

Polly Rex
5425 Burlington Ave.

Sent from my iPad

Anna Vickers

From: Anna Vickers
Sent: Thursday, February 29, 2024 8:45 PM
To: timschlecht56@gmail.com
Subject: Rezoning Meeting Notes

Good Evening Tim,
I'm going to attach in a separate email the neighborhood meeting notes you requested. I've found these can get filtered to spam. Please confirm receipt.

Thanks,

Anna M. Vickers
IMEG | Lead Land Use Planner



175 N 27th Street | Suite 1312 | Billings, MT 59101

(406) 248-9000 | phone
(406) 532-0263 | single reach
(225) 603-1371 | mobile
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Anna Vickers

From: Anna Vickers
Sent: Thursday, February 29, 2024 8:46 PM
To: 'timschlecht56@gmail.com'
Subject: Rezoning Meeting Notes
Attachments: MEETING NOTES.pdf

Hi Tim,
As mentioned in my prior email, please see attached notes. Please confirm receipt.

Thanks,

Anna M. Vickers
IMEG | Lead Land Use Planner



175 N 27th Street | Suite 1312 | Billings, MT 59101

(406) 248-9000 | phone
(406) 532-0263 | single reach
(225) 603-1371 | mobile
(406) 721-5224 | fax

anna.m.vickers@imegcorp.com

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CITY ZONE CHANGE APPLICATION FORM

CITY ZONE CHANGE Billings Zone Change # 1050 Project # PZX-24-00102

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 _____

Proposed Zoning: _____

PARCEL TAX ID# _____ CITY ELECTION WARD _____

Legal Description of Property: Lot 5, Block 1 of MK Subdivision, Sec. 31, T. 01N, R. 25E

Address or General Location (If unknown, contact City Engineering): Hawk Creek Ave., Billings, MT, 59106

Size of Parcel (Area square feet or acres): 2.1575 acres

Present Land-Use: Vacant

Proposed Land-Use: Unknown: Build to Lease

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

Owner(s) Mountain West Capital, Inc., MWC INC DBA

(Record Owner)

(Address)

(Phone Number)

(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: *Brent Small* Date: _____

(Record Owner – Digital Signature Allowed)

City Zone Change Application Packet

Summary:

The applicant is requesting a rezoning for the property legally described as Lot 5, Block 1, MK Sub of Section 31, Township 01 North, Range 25 East, City of Billings, Yellowstone County, Montana, Principal Meridian Montana. The property is generally located North of Hawk Creek Avenue and West of 54th Street West. The property is currently zoned Neighborhood Mixed-Use (NMU). The applicants are proposing to rezone the parcel to Corridor Mixed-Use 1 (CMU1). Currently the parcel is vacant, however the applicant intends build-to-lease. The goal of the proposed rezoning is to expand the allowable uses for future leasing opportunities. The choice of CMU1 was to provide a transitional zone between the adjacent to the north N2, Mid-Century Neighborhood Residential to the adjacent to the south, CMU2, Corridor Mixed-Use 2.

The 2021 City of Billings Zoning Code defines Corridor Mixed-Use (CMU1) on page 27 as the following:

“CMU1: Corridor mixed-use. The CMU1 district is intended to accommodate commercial and other uses along transportation corridors to promote development that is comfortably accessible via all modes of transportation, including motor vehicles, bicycles, and walking. Commercial uses in the CMU1 district may be somewhat larger in scale and more flexible than the neighborhood mixed-use district, including more auto-oriented uses such as gas stations. While ground stories along streets are intended for commercial uses, the upper stories could accommodate residential and/or office uses.”

The proposed CMU1 zoning designation is in this location meets the defined expectations above. The location of this property is uniquely situated right off 54th Street West, a minor arterial road, and nearby Grand Avenue, a principal arterial road. The proximity of the property to the N2 zoning will encourage multimodal usage such as bicycles and walking.

10 Statutory Zone Change Criteria:

Below is a list of the 10 Statutory Zone Change requirements in **bold**. Responses to each criteria is provided below.

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

The requested new zoning is in accordance with many criteria within the 2016 City of Billings Growth Policy. The policy states the following guidelines:

- “Infill development and development near existing City infrastructure may be the most cost effective.”
 - The new zoning will foster development in an area where infrastructure already exists to support commercial businesses. City of Billings Water and Sewer mains are currently located within 54th Street West and Hawk Creek Avenue. The parcel has an existing sidewalk/bike lane adjacent to 54th Street West. The requested zoning is supportive of desired infill development and allows for

a variety of uses, while still providing a transition zone from the neighborhood to the north to the CMU2 zoned to the south. Currently, the property is vacant but in the area there exists a brewery, casino, and it is across the street from an Albertson's. A CMU1 zoning designation widens the potential uses for this property and follows the development pattern of this neighborhood.

- “A diversity of available jobs can ensure a strong Billings’ economy.”
 - The proposed zoning change fosters economic growth by providing new jobs to locals. The CMU1 designation allows for a wider variety of potential businesses on the property, which will in turn offer a greater diversity of available jobs to locals.
- “Public health and safety and emergency service response are critical to the well-being of Billings’ residents, businesses, and visitors.”
 - The property is located within the City of Billings Fire District and additionally, the closest fire station is across the street on the East side of 54th St West. The requested zone change prioritizes public health and safety.
- “Neighborhoods are safe and attractive and provide essential services are much desired”
 - The desire to rezone property is being completed during a time of slower economic development. The property owner is attempting to complete a build to lease on the property. He would like to see a business that is desired by the neighborhood, thrive on his property. While the business is unknown, he feels as though expanding potential allowable uses can help attract development. The neighborhood will be protected by zoning use restrictions such as casino not being allowed on the parcel due to setbacks from the adjacent neighborhood zoning.

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

The new zoning is designed to secure from fire and other dangers. Since the area is already largely developed with a range of commercial and residential uses, adequate infrastructure exists to support the developments which CMU1 permits. Additionally, the CMU1 designation requires side and rear setbacks, open space, and other design standards that are associated with emergency access. The location is conveniently located across the street from a fire station. During the building permit process any necessary fire suppression standards will be implemented as well.

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

The new zoning will continue to promote public health, safety and general welfare. By rezoning the property to CMU1, the property will act as a transitional zone from the adjacent neighborhood to more intense corridor mixed use to the south and adjacent to the east. Any development on the property will be required to adhere to the site and structure regulations set forth by the City of Billings Zoning Code, City of Billings building/engineering codes and the International Building Code. The City’s zoning code is written to promote public health, safety, and general welfare.

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

The new zoning will facilitate the adequate provision of transportation, water, sewerage, and other public requirements. CMU1 is intended to “accommodate commercial and other uses along transportation corridors to promote development that is comfortably accessible via all modes of transportation, including motor vehicles, bicycles, and walking.” Due to this, the zoning code accounts for adequate provision of transportation. The property is adjacent to existing water and sewer mains within 54th Street West and Hawk Creek Avenue. Additionally, 54th Street West and Hawk Creek Avenue are access streets to the property. The property is located within the school districts of Meadowlark Elementary School, newly built Ben Steele Middle School and West High School. The property is located approximately 2.5 road miles away from the City of Billings Rimrock West Park.

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

The new zoning is designed to provide adequate light and air. The zoning has been designed with setbacks, access requirements, maximum building coverage, etc. These regulations of building design ensure that the zoning provides adequate light and air.

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

During the subdivision process of MK Subdivision a traffic impact study was completed for the property. The Subdivision Improvements Agreement recorded for the property as Document Number 3430740 states that the agreement for impacts on traffic from development of this lot will be offset during the time of building permit. The SIA continues that prior to any building permit approval the developer shall pay a cash contribution to the City of Billings. In the case of Lot 5 of MK Subdivision the cash contribution is \$22,970.27. Additionally, the City of Billings building permit process will require a queueing analysis for any drive-through, sidewalks to be installed for the remainder of the property, and if the development triggers more than 500 trips per day another traffic impact study could be required. Due to these regulations any affect on motorized and nonmotorized transportation are offset.

7 Whether the new zoning will promote compatible urban growth.

The new zoning will promote compatible urban growth. There are two nearby lots, to the south, east, and southwest, which are zoned as Corridor Mixed-Use (CMU2). The CMU1 zoning for the property in question promotes compatible urban growth because it's similar to adjacent zoning. Additionally, since the property is also adjacent to a residential neighborhood to the north, CMU1 acts as a transitional zoning designation to maintain the integrity of both the commercial corridor and the neighborhood it serves.

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

The new zoning considers the character of the district and the peculiar suitability of the property for particular uses. The area is mixed-use in nature, with commercial centers serving both the residents in the area and commuters along Grand Avenue. CMU1 will continue that pattern of growth in this area by allowing for a wider range of commercial uses within the lot in question.

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

The new zonings alignment with adjacent uses should continue to conserve the value of buildings in proximity.

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

The new zoning encourages the most appropriate use of land throughout the City of Billings. The proposed zoning is similar to adjacent existing zoning in the area and is in close proximity to existing infrastructure. Additionally, the City of Billings zoning change application indicates that 80% of the properties in Billings are designated for neighborhood or mixed residential uses, by allowing for the zone change to be corridor mixed use 1 we are promoting economic vitality.

Zoning Commission

Date: 04/02/2024
Title: Initiation of Zoning Code Text Amendment - SB 245 Allowance for Multi-Unit development in all Mixed Use and Commercial zones
Presented by: Nicole Cromwell
Department: Planning & Community Services
Presentation: Yes

Information

RECOMMENDATION

The planning staff recommends the Zoning Commission initiate the code amendment as allowed by Section 27-1628.B(1). Any text amendment may be initiated by the Zoning Commission, the City Council or the Planning Board.

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

In 2023, the Montana legislature passed several laws regarding local land use and zoning provisions. One of those new laws, SB 245, requires cities of 5,000 or more in population to allow, by right, multi-unit developments in all commercial and mixed-use zoning districts. The law includes definitions and restrictions on required off-street parking for multi-unit developments. Planning staff has drafted a zoning code amendment to align Billings' local code with the new state law requirement. The state law is already in effect, and the city must comply. SB245 is attached to this memo for reference along with the draft ordinance.

Initiation of the code amendment does not indicate either approval or denial of the proposed amendment by either the City Council or the Zoning Commission. Initiation of the amendment allows planning staff to engage the public process with outreach to stakeholders, publication of legal advertisements and other public notice procedures for the amendment. The draft ordinance will be finalized and placed on a future Zoning Commission agenda for a public hearing.

STAKEHOLDERS

Planning staff will reach out to the homebuilders and realtors as well as the Neighborhood Task Forces to engage them in a discussion about the new state law and the proposed required local amendment.

ALTERNATIVES

The Zoning Commission may:

- Initiate the amendment; or
- Not initiate the amendment; or
- Request staff to bring more information on the amendment to a future meeting. Ultimately, this required change per State Law must be addressed and initiating the amendment is the first step in the process.

FISCAL EFFECTS

There should be a minor effect on the Planning Division budget if the amendment is adopted. The Planning Division may pay for the incorporation of the amendment into the official City Code, as administered by Municode, the city's official codification company. However, any changes to City Code affect the entire community and City at some level and so costs to update the City Code administered by Municode should be funded by the City's General Fund.

Attachments

Senate Bill 245 enrolled
Draft Zoning Code Amendment for SB 245



AN ACT REVISING MUNICIPAL ZONING LAWS; REQUIRING CERTAIN MUNICIPALITIES TO ALLOW MULTIPLE-UNIT DWELLINGS AND MIXED-USE DEVELOPMENT; PROVIDING DEFINITIONS; AMENDING SECTIONS 76-2-304 AND 76-2-309, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 76-2-304, MCA, is amended to read:

"76-2-304. Criteria and guidelines for zoning regulations. (1) Zoning regulations must be:

- (a) made in accordance with a growth policy; and
- (b) designed to:
 - (i) secure safety from fire and other dangers;
 - (ii) promote public health, public safety, and the general welfare; and
 - (iii) facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other

public requirements.

(2) In the adoption of zoning regulations, the municipal governing body shall consider:

- (a) reasonable provision of adequate light and air;
- (b) the effect on motorized and nonmotorized transportation systems;
- (c) promotion of compatible urban growth;
- (d) the character of the district and its peculiar suitability for particular uses; and
- (e) conserving the value of buildings and encouraging the most appropriate use of land throughout

the jurisdictional area.

(3) (a) In a municipality that is designated as an urban area by the United States census bureau with a population over 5,000 as of the most recent census, the city council or other legislative body of the

municipality shall allow as a permitted use multiple-unit dwellings and mixed-use developments that include multiple-unit dwellings on a parcel or lot that:

(i) has a will-serve letter from both a municipal water system and a municipal sewer system; and

(ii) is located in a commercial zone .

(b) Zoning regulations in municipalities meeting the requirements of subsection (3)(a) may not include a requirement to provide more than:

(i) one off-street parking space for each unit and accessible parking spaces as required by the Americans With Disabilities Act of 1990, 42 U.S.C. 12101, et seq.; or

(ii) an equivalent number of spaces required under subsection (3)(b)(i) provided through a shared parking agreement.

(4) As used in this section, the following definitions apply:

(a) "Mixed-use development" means a development consisting of residential and nonresidential uses in which the nonresidential uses are less than 50% of the total square footage of the development and are limited to the first floor of buildings that are two or more stories.

(b) "Multiple-unit dwelling" means a building designed for five or more dwelling units in which the dwelling units share a common separation like a ceiling or wall and in which access cannot be gained between units through an internal doorway, excluding common hallways."

Section 2. Section 76-2-309, MCA, is amended to read:

"76-2-309. Conflict with other laws. (1) Wherever the regulations made under authority of this part require a greater width or size of yards, courts, or other open spaces; require a lower height of building or ~~less~~ a fewer number of stories; require a greater percentage of a lot to be left unoccupied; or impose other higher standards than are required in any other statute or local ordinance or regulation, the provisions of the regulations made under authority of this part ~~shall~~ govern.

(2) Wherever the provisions of any other statute or local ordinance or regulation require a greater width or size of yards, courts, or other open spaces; require a lower height of building or a ~~less~~ fewer number of stories; require a greater percentage of a lot to be left unoccupied; or impose other higher standards than are required by the regulations made under authority of this part, except for restrictions provided in 76-2-304(3),

the provisions of ~~such~~the other statute or local ordinance or regulation ~~shall~~ govern."

Section 3. Effective date. [This act] is effective on passage and approval.

Section 4. Retroactive applicability. [This act] applies retroactively, within the meaning of 1-2-109, to municipal zoning regulations enacted or adopted on or before [the effective date of this act].

- END -

I hereby certify that the within bill,
SB 245, originated in the Senate.

Secretary of the Senate

President of the Senate

Signed this _____ day
of _____, 2023.

Speaker of the House

Signed this _____ day
of _____, 2023.

SENATE BILL NO. 245

INTRODUCED BY D. ZOLNIKOV, C. FRIEDEL, J. ELLSWORTH, K. BOGNER

AN ACT REVISING MUNICIPAL ZONING LAWS; REQUIRING CERTAIN MUNICIPALITIES TO ALLOW MULTIPLE-UNIT DWELLINGS AND MIXED-USE DEVELOPMENT; PROVIDING DEFINITIONS; AMENDING SECTIONS 76-2-304 AND 76-2-309, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.

ORDINANCE 24-_____

**AN ORDINANCE OF THE CITY OF BILLINGS,
PROVIDING THE REGULATIONS IN SECTIONS 27-1000,
and 27-1300, BE AMENDED TO CONFORM TO STATE
LEGISLATION PASSED BY THE 68TH LEGISLATURE IN
2023, TO AMEND AND CLARIFY THE ZONING
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 changes 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, and 27-1300 – Off Street Parking, have been found to not conform to the recently passed state law (SB 245, Chapter 499) regarding the allowance for multiple-unit dwellings in commercial zones that are served by municipal water and sewer; and to not conform to the maximum number of off-street parking spaces required for such multiple-unit dwellings in those zone districts. This affects the substance of the zoning regulations. Local regulations must conform to the criteria and guidelines for zoning regulations as provided in MCA 76-2-304 and 76-2-309.

Section 3. ZONE REGULATION 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 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				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																											
Households Living (du/structure)																											
1 du	P	P	P	P			P	P	PL	PL	PL	PL	PL				PL	P	P	PL			PR	PR	PR	PR	27-1003
2 dus		P	P	P	P		P	PL	PL	PL	PL	PL					PL	P	P	PL			PR	PR	PR	PR	27-1003
3—4 dus				P	P		P	PL	PL	PL	P	P					PL	P	P	PL			PR	PR	PR	PR	27-1003
5 dus					P	P		P	P	P	P	P	P	P			P	P	P	P			P	P	P	P	27-1003
5—8 dus					P	P		PL	PL	PL	P	P	P				PL	P	P	PL			PR	PR	PR	PR	27-1003
9+ dus						P			PL	PL	P	P	P				PL	P	P	PL			PR	PR	PR	PR	27-1003

c. Sections 27-1302.B and Table 27-13001. Off-Street Parking Standards are amended as follows:

Sec. 27-1302. Calculation of required parking.

A. Required parking.

1. Required off-street parking spaces shall be provided in conformance with Table 27-1300.1, Off-Street Parking Standards, unless modified by article 27-1100, Proportionate compliance.
2. In the case of mixed uses, the total requirements for the various uses shall be computed separately unless the joint use provisions of section 27-1304 apply.

B. Calculation of required parking.

1. When determination of the number of parking or loading spaces results in a requirement of a fractional space, any fraction shall be rounded up and counted as one parking space.
2. When there are multiple structures on a lot or multiple uses in a structure, parking shall be calculated separately for each different use area in a building or on a site, including all accessory uses.
3. Parking spaces required on a per-employee basis shall be based on the maximum number of employees on duty and/or residing on the premises at any one time.
4. Parking spaces required based on the number of beds in a facility shall be calculated based on the number of beds accommodated in the design capacity of the facility.
5. When the standards use seating as a unit of measurement, all calculations shall be based on the number of fixed seats. If fixed seats are not provided, then parking shall be determined at a rate of one space per four (4) occupants unless otherwise specified in Table 27-1300.1, Off-Street Parking Standards.
6. When the standards use the number of occupants as a unit of measurement, all calculations shall be based on the maximum occupant load, as determined by the adopted building code.
7. ~~Surface parking spaces provided for multiple-unit structures shall not be assigned and shall be available to all residents unless approved through article 27-1600, Master site plan. Where surface parking is assigned, the minimum number of spaces provided shall be increased by twenty (20) percent.~~

Table 27-1300.1. Off-Street Parking Standards.

Use	Required Parking
RESIDENTIAL	
Households Living (dwelling unit/structure)	
Dwelling, single unit, detached and attached	2 per du
Dwelling, multiple unit structure	1.5 per du + 1 guest space per 10 units; subsection 27-1302.B.7 also applies
Dwelling unit in a mixed-use structure	2.1 per du
Accessory dwelling unit	Section 27-10098 (ADU standards)
Manufactured Home (Class A, B, C)	2 per du

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 _____ 2024.

PASSED, ADOPTED and APPROVED on second reading this ___ day of _____ 2024

CITY OF BILLINGS

BY: _____

William A. Cole, Mayor

SB 245 Multifamily in Commercial and Mixed-Use zone districts

Attest:

BY: _____

Denise R. Bohlman, City Clerk

Zone Change 1041 - Zoning Code Amendments Phase 4 – Legislative