



**City of Billings Zoning Commission
Meeting Minutes of April 2, 2024**

The City of Billings Zoning Commission met on Tuesday, April 2, 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, April 2, 2023**. All e-mails received prior to this time will become part of the record for the public hearing. Live coverage can be viewed on the City of Billings Facebook page here; <https://tinyurl.com/yckr478k>

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 28, 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
Daniel J Brooks	Chairman	C	A	1	1								
Greg McCall	Vice Chair	C	1	1	A								
David Goss	Commissioner	C	1	1	1								
Beau Mulvaney	Commissioner	C	1	1	1								
Andy Megorden	Commissioner	C	1	1	1								
Nicole Cromwell	Zoning Coordinator	C	1	1	1								
Karen Husman	Planner 1	C	-	-	-								
Wyeth Friday	Director, PCSD	C	-	-	-								
Brenda Berns	Planning Clerk	C	1	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	2									7
Special Review	-	-	-	-									



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

Attending:

Anna Vickers, IMEG

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

Public Comment

Chair Brooks called for public comments, there were none.

Approval of Minutes: March 5, 2024

Commissioner Goss stated there was a correction to the March 5, 2024 minutes; “Commissioner’s Mulvaney and Megorden were not listed as Commission and Staff”. Commissioner Mulvaney made a Motion to approve with the correction, seconded by Commissioner Megorden. The Motion was carried with a unanimous vote.

Disclosure of Exparte Communication

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

Disclosure of Conflict of Interest

COMMISSIONER	DISCLOSED	NONE	ABSTAINED	ABSENT
Daniel J Brooks		X		
Greg McCall				X
David Goss	1050			
Beau Mulvaney		X		
Andy Megorden		X		

- 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 were none.

Applicant:

Brian & Melissa Gentry 1911 & 1915 8th Ave N, Billings.

Mr. Gentry clarified that the 6-plex, erected by his father-in-law in 1996, has remained unchanged since its inception. The proposed zone change by NX2 intends to align the existing structure with zoning regulations, as it presently falls short. Furthermore, this adjustment would authorize the construction of a second 6-unit building on the premises. Mr. Gentry is hopeful that this zoning modification will facilitate the establishment of two 6-plexes, thereby enhancing the accessibility of affordable housing alternatives.

Questions from Commissioners

There was none.

Public Hearing:

Grace Kim 2004 9th Ave N, Billings

Ms. Kim is against the zone change, citing worries about the neighborhood's ability to manage an extra 16 occupants. She pointed out a forthcoming large development nearby with about 20 units. Ms. Kim contended that the property at 1911 is already exempt and doesn't need a zone change. Concerning the empty plot, she mentioned the potential for 6-8 units on a 1/4 acre but disagrees with such intense density for the area.

Chair Brooks inquired if there were any additional individuals who desired to speak either in favor or against Zone Change 1049. None came forward. Chair Brooks then concluded the Public Hearing.

Rebuttal:

Mr. Gentry clarified that their plans do not include building a second story; instead, they intend to limit each building to a maximum of 6 units. Under the previous zoning regulations, only 5 units were permitted, and since they propose 6 units per building, they believe a rezoning is necessary. They have no plans to exceed 6 units per building.

Discussion:

Commissioner Goss, asked if Senate Bill 245 were already in place, would it have impact on this agenda item.

Nicole Cromwell responded that the only potential impact would be to off-street parking. It would not affect the number of units permitted.

Motion

Chair Brooks called for a Motion. Commissioner Goss made a Motion, seconded by Commissioner Megorden to recommend Zone Change 1049 with the 10 Review Criteria to City Council to be heard on April 22, 2024 at 5:30 PM.

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

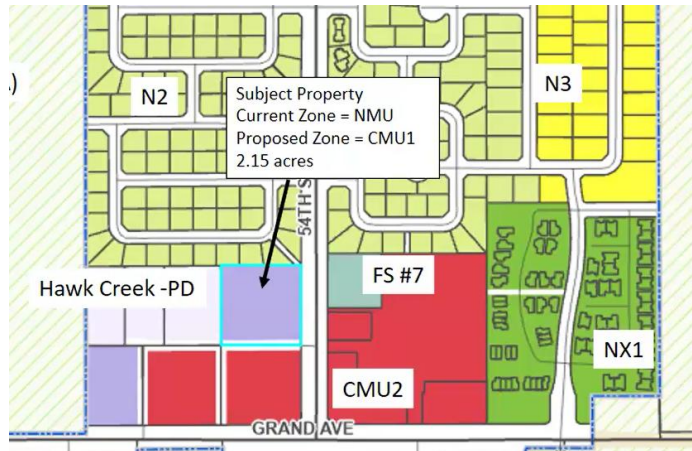
The Motion passed to Approve City Zone Change 1049 with a unanimous vote.

- b. **City 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 other 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. Nicole Cromwell, Zoning Coordinator.

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

NMU	CMU1
<ul style="list-style-type: none"> ❖ Neighborhood Corridors – highly walkable & accessible ❖ Corner stores, personal services and small eateries ❖ Multifamily (up to 8 units) and offices also allowed ❖ Special review required for all food service drive-thrus, hotels or motels, commercial greenhouses, and other retail drive thrus ❖ Uses not allowed: multifamily with >8 units per structure, long-term care, out-patient surgery center, casino or bar, funeral home, craft alcohol, general retail, auto repair, gas station, and personal self storage 	<ul style="list-style-type: none"> ❖ Transportation Corridors – access by all modes of travel – not as walkable as Neighborhood Corridors ❖ Larger scale retail and personal services and more flexible than NMU uses ❖ Some auto-oriented services allowed ❖ Multifamily (8+ units) and offices allowed ❖ Special review and minimum separation distances for casinos or bars ❖ Special review required for food service with drive-thru that shares a property line with neighborhood zone, car washes ❖ Uses not allowed in NMU (listed on the left) generally allowed

The property adjacent is owned by First Interstate, with The Den and Diamond X Beer Company also situated in the same vicinity. Across the street, there are single-family-owned homes, as well as Fire Station 7.



Planning staff recommends approval of the Zone Change 1050:

- *Meets the Growth Policy, Infill Policy and the West Neighborhood Plan
- *CMU1 is intended to be compatible with adjacent neighborhood zone
- * Adjacent uses and zoning compatible with proposed zoning
- * Commercial node at 54th and Grand still building out
- * New development will require augmentation of existing buffer yard to adjacent property to the north and installation of street trees.

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.

Questions from Commissioners

Commissioner Goss sought clarification on the types of businesses classified as 'alternative financial services'. Nicole explained that these encompass pawn shops, payday loan providers, title-for-cash businesses, and similar establishments. Chair Brooks sought clarification on whether vehicle service stations would be permitted. Nicole indicated that the building size should be under 5,000 square feet but could accommodate either a gas station or a small vehicle service station. Chair Brooks inquired about steps to mitigate potential noise disturbances. Nicole clarified that automotive businesses utilizing overhead doors must be oriented away from residential areas and comply with various usage standards.

Applicant's Representative:

Anna Vickers, IMEG 175 N 27th St

Ms. Vickers represents Mountain West Capital. The applicant aims to expand leasing opportunities for the property by considering a build-to-lease arrangement. It is important to note the proposed zoning (CMU1) imposes restrictions that would prevent leasing to certain businesses such as casinos (with 9 or more gaming units), bars (selling only alcohol), and drive-through restaurants, all of which would necessitate a special review process.

Questions for Applicant:

Public Comment. There was none.

Discussion

There was a debate concerning the criteria distinguishing a bar from a restaurant, with the defining factor being whether at least 50% of sales come from alcohol. Nicole affirmed that establishments like a drive-through car wash, a drive-through bank, a casino, or a bar would necessitate a specialized assessment.

Public Hearing:

Chair Brooks opened the public hearing and called for anyone wishing to speak in favor of or against City Zone Change 1050. There was none.

Motion

Chair Brooks called for a Motion. Commissioner Megorden made a Motion, seconded by Commissioner Mulvaney to recommend Zone Change 1050 with 10 Review Criteria to City Council to be heard on April 22, 2024 at 5:30 PM.

Discussion

Chair Brooks expressed apprehensions regarding the possibility of the new zoning permitting a gas station near a residential area but acknowledged that they would be permitted if they met the specified criteria.

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

The Motion passed to Approve City Zone Change 1050 with a unanimous vote.

c. Initiation of Zoning Code Text Amendment - SB-245 allowance for Multi-Unit Development in all Mixed Use and Commercial Zones. Presented by Nicole Cromwell, Zoning Coordinator.

Legislative Changes Zoning Text Amendment 2024-

SB 245 – Allow by right multi-unit development in all commercial and mixed-use zones
 SB 323 & 528 – Allow 2-family and ADUs in all single-family zone districts – this legislation is on hold pending the outcome of the lawsuit filed in the 18th Judicial District Court in Gallatin County.

SB 245 - Intent

- ✓ Increase the available land area for multifamily development in cities
- ✓ Require codes that allow this use by right in all commercial and mixed-use districts
- ✓ Limit the requirement for off-street parking for dwelling units in these districts

State law was effective immediately (July 2023) and applies retroactively to local zoning adopted prior to July 2023



Proposed amendments to conform with SB 245

- ❖ Current code splits types of relief by district and does not include off-street parking and landscaping provisions
- ❖ Proposed amendment would eliminate the need for any ground-floor commercial or non-residential use in mixed use zones
- ❖ Proposed amendment would adjust the off-street parking code to require just one parking space per unit in a multifamily structure or mixed use development

Discussion

There was further discussion regarding parking spaces per unit in a multifamily structure and mixed-use development.

Motion

Commissioner Megorden made a Motion, seconded by Commissioner Goss to initiate the Zoning Code Text Amendment for SB 245.

Chair Brooks called for a voice vote of the Commission.

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

The Motion passed to initiate the Zoning Code Text Amendment for SB 245 with a unanimous vote.

Other Business: There was none.

Discussion

There was discussion regarding fire danger areas and buffer zone requirements for new construction near open grassland.

Adjournment: The meeting adjourned at 5:29 PM

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

--Brenda J Berns, Planning Clerk