



**City of Billings Zoning Commission  
Meeting Minutes of May 7, 2024**

The City of Billings Zoning Commission met on Tuesday, May 7, 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 **May 28, 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 June 10, 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	1							
Greg McCall	Vice Chair	C	1	1	A	1							
David Goss	Commissioner	C	1	1	1	1							
Beau Mulvaney	Commissioner	C	1	1	1	A							
Andy Megorden	Commissioner	C	1	1	1	1							
Nicole Cromwell	Zoning Coordinator	C	1	1	1	1							
Karen Husman	Planner 1	C	-	-	-	-							
Wyeth Friday	Director, PCSD	C	-	-	-	-							
Brenda Berns	Planning Clerk	C	1	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	1								8
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:**

John Halvorson, Sanderson Stewart  
Hillary Johnson, Ace Olszowka, Erick Panknin, Gary Lapin, Angela Lapin, Angela, Denise Smith, Dave Holland.

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: April 2, 2024**

Commissioner Goss clarified during the meeting that there was a revision to the minutes of April 2, 2024, to accurately state that there was no conflict of interest regarding Zone Change 1050 on his part. Following this clarification, Commissioner McCall proposed a motion to approve the minutes of April 2, 2024, with the necessary correction, which was seconded by Commissioner Goss. The motion was unanimously approved by all commissioners in attendance.

**Disclosure of Exparte Communication**

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

**Disclosure of Conflict of Interest**

<b>COMMISSIONER</b>	<b>DISCLOSED</b>	<b>NONE</b>	<b>ABSTAINED</b>	<b>ABSENT</b>
Daniel J Brooks		X		
Greg McCall		X		
David Goss		X		

Beau Mulvaney				X
Andy Megorden		X		

Commissioner Goss visited the site of Zone Change 1047

**Motion:**

Commissioner McCall proposed a motion, which was seconded by Commissioner Megorden, to change the sequence of the two zone changes listed on the agenda, starting with Zone Change 1047 instead. The motion was unanimously approved by all commissioners in attendance.

**Public Hearings:**

- a. **City Zone Change 1047** – Copper Ridge 7<sup>th</sup> & 8<sup>th</sup> Filing – N3 to P1 and N1 – a zone change request for a property currently zoned Suburban Neighborhood (N3) in the 7<sup>th</sup> and 8<sup>th</sup> Filings of Copper Ridge Subdivision located on the west end of Rimrock Road essentially dead ends at the railroad right of way at the city limits. Presented by Nicole Cromwell, Zoning Coordinator.

Nicole provided an overview of both the existing zoning regulations and the proposed changes. Following this, the Applicant asked for a postponement of the zoning change hearing to adjust their application to the board. Originally, the application sought a transition from N3 zoning to N1, NX1, NX2, and Public 1. However, the revised application sought to eliminate NX1 and NX2, while retaining Public 1 and N1 zoning designations.

The City Council shall consider the Zoning Commission recommended findings of the 10 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, sewer, schools, parks, and other public requirements.
- 5) Whether the new zoning will provide adequate light and air;
- 6) Whether the new zoning will affect 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 clarified that the zoning regulations prior to the 2021 Recode update would have permitted duplexes under residential 5000 zoning.

Commissioner Goss provided information indicating that there were 378 lots plotted in Filings 7 and 8, with 162 of them already laid out. This leaves 216 lots remaining. He inquired if these remaining lots are proposed for N3 zoning and how many units are planned to be constructed.

Nicole explained that Filings 7 and 8 were developed under N3 zoning with the intention of building out all 378 lots. She further clarified that the current plan for constructing units is based on street frontage rather than solely lot size.

### **Agent**

John Halvorson, Planner with Sanderson Stewart and Agent for the applicant, Williams Homes Mr. Halvorson outlined the updated proposal for a zone change to N1 and P1, which would facilitate the construction of around 50 new units. These residences would exclusively consist of single-family homes, spanning from modest entry-level cottages to more spacious family dwellings. The subdivision's streets will adhere to Billings' specifications, measuring 34 feet curb-to-curb. The zoning adjustment is aimed at incorporating Crime Prevention Through Environmental Design (CPTED) principles. By transitioning to N1 zoning, the neighborhood will accommodate a diverse range of homes suitable for various income levels, fostering a secure and family-friendly environment.

The 50 new units is a slight increase in the density of this area and is considered the most appropriate use of the land. Property values will be maintained by spreading the tax burden over a wider number of property owners.

### **Questions**

Commissioner Goss asked when Williams Homes acquired this parcel. It was affirmed 2 years ago.

### **Public Comment**

Gary Lapin – Copper Ridge Billings.

Mr. Lapin is opposed to higher density. Map shows only 2 exits to Rimrock, this entire half of the neighborhood will use Shiny Penny and Bronze Road. Mr. Lapin would like clarification regarding the development of Rimrock Road prior to development of the new lots.

Hillary Johnson – 33015 Cove Creek Circle Billings.

Ms. Johnson stated there are several things she wished to review. The current school enrollment at current Billings schools are high and has stressed the school system. Medium and High-density residential neighborhoods should be located near commercial areas, which has not been the case thus far. The traffic on Rimrock is concerning and she would ask that another traffic study be done

after the roundabout is completed. We ask that the Commissioners consider matching what already exists in the area, which is N2 housing with a buffer zone.

Ace Olszowka - 4818 Audubon Billings.

Mr. Olszowka stated he echoes Hillary Johnson's comments and requests Zone Change 1047 be put on hold until completion of a safe bike path.

Eric Panknin – 7035 Shiny Penny Way Billings.

Mr. Panknin mentioned that the homes within the subdivision are priced at approximately \$500,000. He also noted the existence of undeveloped lots and expressed worry that the developer might potentially leave the new development in a similarly undeveloped state.

Angela Lapin – Copper Ridge Billings.

Construction has been going on for over 2 ½ years and this will be more construction and Copper Ridge has not been completed yet. There should be a new road directing traffic out from the new development area, not Shiny Penny and Bronze roads.

Ms. Lapin readdressed the board requesting clarification as to how the Zone Change process works. Chair Brooks responded with the process and advised that the board reviews the 10-review criteria and recommends to the City Council and County Commissioners ultimately makes the final decision.

Commissioner McCall stated that the board is comprised of volunteer members, we listen to the public comments, the agent, and the staff and make a recommendation. The information provided here is forwarded to the City Council and they will make the ultimate decision as to whether it will pass or not.

Nicole clarified that what's being shown is a concept, only the zoning is being considered.

Denise Smith – 3039 Forbes Blvd., Copper Ridge Billings.

Ms. Smith mentioned that when she bought her home, it was portrayed as being situated in a single-family neighborhood. Ms. Smith voiced her concern about safeguarding the value of her property and highlighted issues related to Rimrock Road, particularly its existing traffic congestion. She noted the absence of adequate walkways or bike trails along Grand Avenue to accommodate pedestrian traffic. While she supports high-density areas if appropriately planned, she believes that their subdivision was not originally designed with high-density intentions. Ms. Smith pointed out that the developer has yet to complete construction that was previously initiated in the neighborhood, raising concerns about the potential for additional undeveloped lots detracting from the appearance of the subdivision.

Dave Holland – Copper Ridge Billings.

Mr. Holland remarked that Rimrock Road is already showing signs of wear and tear due to the heavy traffic and frequent construction projects. While he supports the idea of affordable housing, he doesn't think Copper Ridge is the appropriate location for it. He pointed out that the nearby Albertson's store has higher prices, suggesting that it caters to residents in the surrounding subdivisions, which primarily feature higher-priced properties.

### **Rebuttal**

John Halvorson mentioned his intention to conduct another traffic impact study to address pedestrian facilities. He stated the developer fully intends to construct sidewalks along the north side of Rimrock. He also emphasized that considerations regarding schools are factored into the subdivision process. While there is a perception that the housing in this area is more affordable, he clarified that these are still market-rate priced homes and not specifically targeted as high-density housing for first-time buyers.

**Motion:**

Commissioner McCall made a Motion, Seconded by Commissioner Megorden to recommend Zone Change 1047 with the 10 Review Criteria to City Council to be heard on May 28, 2024 at 5:30pm.

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 1047 with a 3-to-1 voice vote.**

**Discussion:**

Commissioner McCall acknowledged that much of the public commentary centered on traffic concerns, and he expressed alignment with the public sentiment, particularly concerning the density of housing situated along the rear of the subdivision. Reflecting on the situation, he remarked that it might have been more suitable for the developer to position the higher-density housing closer to the front. Commissioner McCall noted that the slightly smaller lots would enable a blend of more affordable homes, which he deemed appropriate at present, and he doesn't anticipate any adverse effects on current homeowners.

Commissioner Goss stated originally the area was zoned R5000, which is considered more medium density. The zone change to N3 occurred in 2021, and according to when it was recorded, the developer knew in advance that it would be N3. Commissioner Goss would like to see more development where commercial businesses have already been established.

Commissioner McCall stated he believes that the influence of interest rates may dictate a change to future growth based on the changing culture. Developers typically do not create residential subdivisions around commercial developments, the houses most often come first.

Commissioner Megorden stated he agreed with Commissioners McCall and Goss regarding the order of operations and feels this amended zone change request is much more palatable, offering some moderately priced homes in the area.

Chair Brooks acknowledged that the concerns voiced by members of the public were duly noted. However, he indicated that for this N1 zone change, which largely aligns with the existing homes in the area, he doesn't anticipate significant impacts from the addition of approximately 50 new homes. He suggested that the outcome might have been different if the original proposed zone change had been implemented.

- b. **Zone Change 1041 – Text Amendment – SB 245 Amendments** – The planning staff recommends the Zoning Commission forward a recommendation of approval for Zone Change 1041, the amendments to the zoning regulations to comply with the elements of SB 245. Presented by Nicole Cromwell, Zoning Coordinator.

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:

- Revise missed use and commercial district descriptions to allow use by right (Sections 27-400 and 27-900)
- Revise Use Table (Table 27-1000.1) to include the “multi-unit” choice of 5-units/structure.
- Revise Use Table to allow use across all mixed-use and commercial districts.
- Revise Section 27-1003 to remove language concerning required location in mixed use structures.
- Revise off-street parking code (Section 27-1300) to require only 1 off-street parking space per dwelling unit in a multi-unit/multi-family or mixed-use structure.

The language clarifies that residential uses can be on any floor in commercial or mixed-use structures. Changes were made to zone district descriptions for CBD, CMU1 & 2, NMU, EBURD – RSVMS and 13<sup>th</sup> Street MS.

## **Discussion**

Chair Brooks proposed changes to the CBD (Central Business District), to keep the upper story residential and allow office use on the ground floor. For downtown, we want to keep our bottom floors with uses that stay open past 5:00pm, which would generally be restaurants and retail. Nicole proposed changing the language to read "...with storefronts and residential on the ground floor, and upper story with lodging and office uses."

Chair Brooks addressed the fact that the Use Table created specifically for 5-units could present confusion and asked for clarification as to its purpose.

Nicole stated that the Neighborhood Office District only allows 4 units, therefore, to have the 5-units, the distinction needed to be made.

Commissioner Goss sought clarification on the definition of Mixed-Use.

Nicole indicated that she understands it as a broad concept, but it may not be identical across all cities. She mentioned that the initial section of the SB addresses zones designated solely for commercial purposes, aiming to integrate mixed-use developments comprising both commercial and residential elements. Concerns were raised about the importance of accurately labeling developments as mixed use and avoiding misrepresentation when they clearly do not meet the criteria.

Commissioner Goss asked about the allowable parking spaces per unit and requested clarification about whether it is for residential or multi-use.

Chair Brooks stated that the multi-use for residential is computed is 1 per unit, the other portion which is commercial, is computed separately.

Nicole covered the revision of the off-street parking code. Many developers will provide 1 ½ spots per unit.

**Public Comment**

John Halvorson, Billings

Mr. Halvorson clarified that he was speaking in his capacity as a public citizen. He discussed the issue of permissible parking spaces, suggesting that it should be determined by market forces.

Regarding ground floor residential areas, he indicated that they could be acceptable if they meet the minimum grade separation requirements and have a ceiling height suitable for commercial use. He expressed that ground floor office space is not optimal, as it usually only occupies underutilized commercial areas.

**Motion**

Commissioner Goss made a Motion, seconded by Commissioner McCall to recommend approval of the Zoning Code Text Amendment with wording modifications.

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 recommendation of City Zone Change 1041 Text Amendments with a unanimous vote.**

**Other Business: There was none.**

**Adjournment:** The meeting adjourned at 6.07 PM

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

*--Brenda J Berns, Planning Clerk*