

ORDINANCE 24-5883

AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THE ZONE CLASSIFICATION for Lot 5, Block 1 of MK Subdivision, BE AMENDED

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

Section 1. RECITALS. *Title 76, Chapter 2, Part 3, MCA, and Sections 27-1628, BMCC,* provide for amendment to the City Zoning Map from time to time. The City Zoning Commission and staff have reviewed the proposed zoning for the real property hereinafter described. The Zoning Commission and staff have considered the ten (10) criteria required by Title 76, Chapter 2, Part 3, MCA. The recommendations of the Zoning Commission and staff have been submitted to the City Council, and the City Council, in due deliberation, has considered the ten (10) criteria required by state law.

Section 2. DESCRIPTION. Lot 5, Block 1 of MK Subdivision is presently zoned **Neighborhood Mixed Use (NMU)** and is shown on the official zoning map within this zone district.

Section 3. ZONE DISTRICT AMENDMENT. The official zoning map is hereby amended and the zoning for **Lot 5, Block 1 of MK Subdivision** is hereby changed from **Neighborhood Mixed Use (NMU)**, to **Corridor Mixed Use 1 (CMU1)**, and from the effective date of this ordinance, the lot shall be subject to all the rules and regulations pertaining to **Corridor Mixed Use 1 (CMU1)**, as set out in the Billings, Montana City Code.

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 All resolutions, ordinances, and sections of the City Code inconsistent herewith are hereby repealed.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 22nd day of April, 2024.

PASSED, ADOPTED and APPROVED on second reading this 13th day of May,
2024.



CITY OF BILLINGS

BY: William A. Cole
William A. Cole, Mayor

Attest:

BY: Denise R. Bohlman
Denise R. Bohlman, City Clerk

Zone Change 1050 – 5403 Hawk Creek Ave

City Council Regular

Date: 05/13/2024
Title: Zone Change 1050 - 5403 Hawk Creek Avenue - NMU to CMU1 - 2nd reading
Presented by: Nicole Cromwell
Department: Planning & Community Services
Presentation: No
Legal Review: Not Applicable
Project Number: PZX-24-00102

COUNCIL ACTION APP 11-0

ORD 24-5883

MAY 13 2024

RECOMMENDATION

The Zoning Commission recommends approval and adoption of the findings of the 10 review criteria for Zone Change 1050. The City Council approved the zone change on first reading on April 22, 2024. A second reading is required to approve the zone change.

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 Granda 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 recommended approval based on the proposed findings of the 10 review criteria. The Zoning Commission concurred with this recommendation. 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.

Zoning Commission public hearing April 2, 2024

The Zoning Commission conducted a public hearing on April 2, 2024, and received the staff recommendation of approval and testimony from the applicant's agent, Anna Vickers of IMEG Corp. There was no other testimony received. The applicant's agent stated the reason for the zone change was to broaden the possible marketable uses for lease of the property. The owner has no intention of entertaining a lease for a bar or casino. She stated the owner intends to own the land long-term and build-to-suit for businesses that will lease the building(s). She stated any development requirements would be met, including a traffic analysis to ensure traffic is managed.

In response to a question from the Commission, staff clarified that no access would be granted from the property directly on to 54th St West. Chair Dan Brooks stated he would support the request, although there is a potential for a gas or service station on the property under the new zoning. He stated he believes the use standards in the new code would be protective of the neighborhood to the north if vehicle related uses were developed. Member Andy Megorden made a motion to recommend approval to the City Council and adoption of the findings of the 10 review criteria. The motion was seconded by member Beau Mulvaney and was approved on a 4-0 vote. Commission member Greg McCall was absent from the meeting.

City Council Public Hearing and 1st reading April 22, 2024

The City Council held a public hearing on April 22, 2024, and received the Zoning Commission's recommendation of approval and testimony from the applicant's agent, Anna Vickers of IMEG Corp. There was no other testimony. Anna Vickers stated the owners of the Diamond X Beer Company property to the west are not the same owners of the subject parcel. She stated there is a possibility of a bar on the south end of the lot - at least 150 ft away from the neighborhood to the north, but no casino could ever be located on this parcel as the separation distance to the neighborhood of 350 feet could not be met. Ms. Vickers stated the owners want to open up the available uses to

better market the property. She stated there is no active concept or building plan on the parcel. Councilmember Neese asked to have the requirement of the paved pedestrian trail clarified. Ms. Vickers stated there is the requirement for a 25-foot landscape buffer yard along the north property line and that is where the paved pedestrian trail must be located and constructed. She stated she was unsure how the requirement might be triggered as there was no indication in the records of the subdivision. Councilmember Aspenlieder stated it was his understanding, having worked with the owners of the adjacent parcel, that the pathway would be triggered at the time of lot development.

Mayor Cole closed the public hearing. Councilmember Joy made a motion to approve the zone change and adopt the recommended findings of the 10 review criteria. The motion was seconded by Councilmember Tidswell and was approved on a unanimous vote.

ALTERNATIVES

The City Council may:

- Approve and adopt the findings of the ten review criteria for Zone Change 1050 as recommended by the Zoning Commission and as adopted on first reading on April 22, 2024; or,
- Deny 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 at the request of the applicant or on its own motion; or
- Refer the application back to the Zoning Commission for an additional public hearing based on 1) new information submitted that the applicant and public have not had an opportunity to examine; or 2) new information has been presented that was never submitted or considered by the Zoning Commission or staff; or
- Allow the applicant to withdraw the zone change request.

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 making a decision, the City Council shall consider the Zoning Commission's recommended findings as follows:

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.

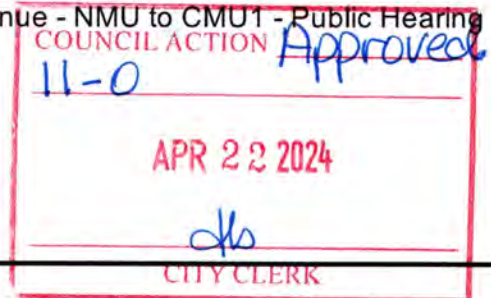
10) Will the new zoning encourage the most appropriate use of land throughout the City of Billings?

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 Commission

Date: 04/22/2024
Title: Zone Change 1050 - 5403 Hawk Creek Avenue - NMU to CMU1 - Public Hearing and 1st reading
Presented by: Nicole Cromwell
Department: Planning & Community Services
Presentation: Yes
Legal Review: Not Applicable
Project Number: PZX-24-00102

**RECOMMENDATION**

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

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ALTERNATIVES

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- Deny and adopt different findings of the ten review criteria for Zone Change 1050; or,
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SUMMARY

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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.

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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.

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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.

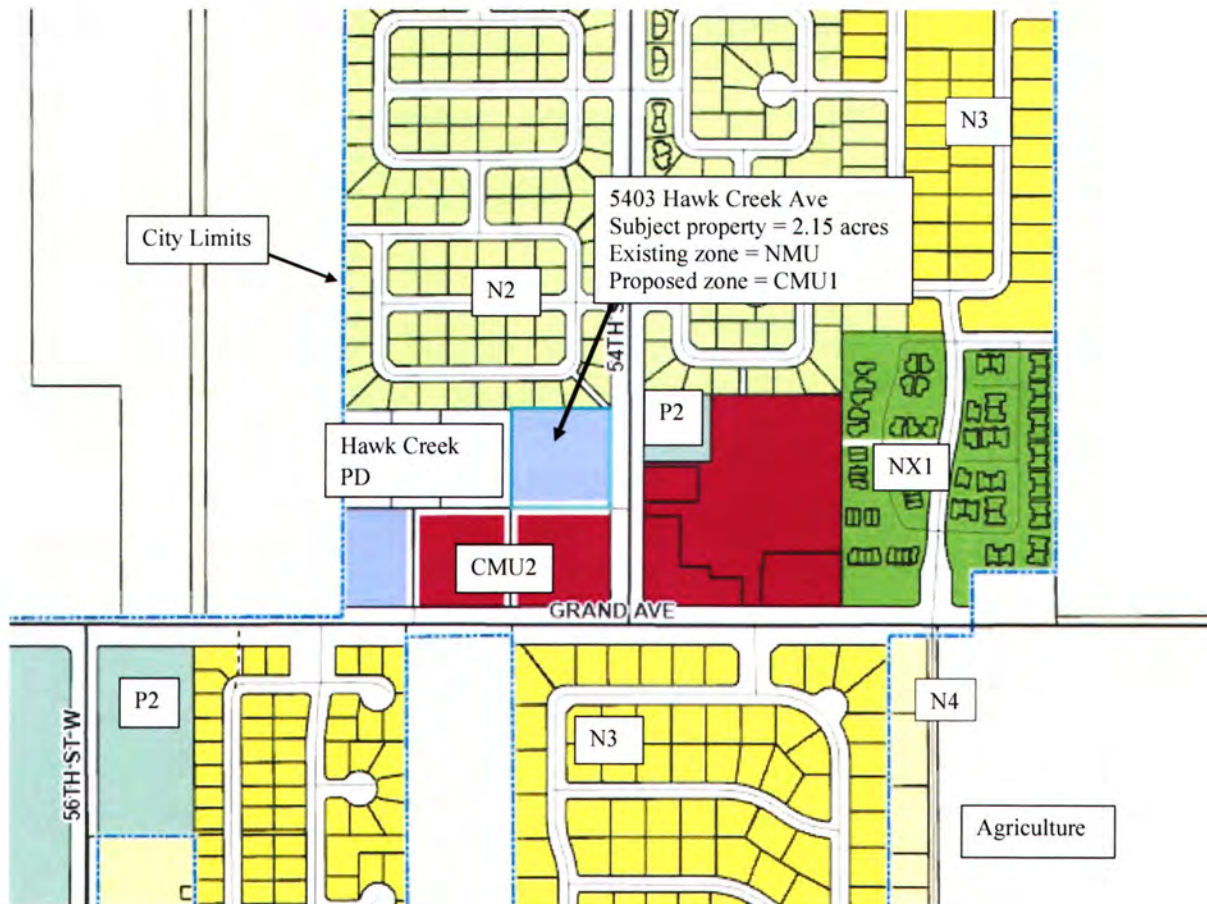
10) Will the new zoning encourage the most appropriate use of land throughout the City of Billings?

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
Ordinance 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 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:** NMU: Neighborhood Mixed-Use
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:**
Lot 5, Block 1 of MK Subdivision, Sec. 31, T. 01N, R. 25E
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):

Mountain West Capital, Inc., MWC INC DBA Telephone: 406-396-0262

Address:

PO Box 2070 Missoula, MT, 59806 Email: montanaoutdoorlife@gmail.com

Agent (s):

IMEG Consultants Corp. - Anna Vickers Telephone: 406-248-9000

Address: 175 N 27th St., Suite 1312, Billings, MT Email: anna.m.vickers@imegcorp.com

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 netpage.net
Cathy Bentz	406-245-2851	ottroo@gmail.com
Holland Nielsen	406-396-0056	nollandsmail7@gmail.com hollande
1 AMARA FRANK	406 794 2184	TFrank747@gmail.com
Phil 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@brennand.net



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

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

Steve Zeiser	406-670-6969	stave@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 rezoning 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



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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

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(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

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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: CMU1: Corridor Mixed-Use 1

PARCEL TAX ID# A31805D CITY ELECTION WARD Ward IV

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)

PO Box 2070 Missoula, MT, 59806

(Address)

406-396-0262

(Phone Number)

montanaoutdoorlife@gmail.com

(email)

Agent(s): IMEG Consultants Corp. - Anna Vickers

(Name)

175 N 27th St., Suite 1312, Billings, MT, 59101

(Address)

406-248-9000

(Phone Number)

anna.m.vickers@imegcorp.com

(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: 2/29/2024

(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 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.

ORDINANCE 24-_____

AN ORDINANCE OF THE CITY OF BILLINGS,
PROVIDING THE ZONE CLASSIFICATION for Lot 5, Block
1 of MK Subdivision, BE AMENDED

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

Section 1. RECITALS. *Title 76, Chapter 2, Part 3, MCA, and Sections 27-1628, BMCC,* provide for amendment to the City Zoning Map from time to time. The City Zoning Commission and staff have reviewed the proposed zoning for the real property hereinafter described. The Zoning Commission and staff have considered the ten (10) criteria required by Title 76, Chapter 2, Part 3, MCA. The recommendations of the Zoning Commission and staff have been submitted to the City Council, and the City Council, in due deliberation, has considered the ten (10) criteria required by state law.

Section 2. DESCRIPTION. Lot 5, Block 1 of MK Subdivision is presently zoned Neighborhood Mixed Use (NMU) and is shown on the official zoning map within this zone district.

Section 3. ZONE DISTRICT AMENDMENT. The official zoning map is hereby amended and the zoning for Lot 5, Block 1 of MK Subdivision is hereby changed from Neighborhood Mixed Use (NMU), to Corridor Mixed Use 1 (CMU1), and from the effective date of this ordinance, the lot shall be subject to all the rules and regulations pertaining to Corridor Mixed Use 1 (CMU1), as set out in the Billings, Montana City Code.

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 22nd day of April, 2024.

PASSED, ADOPTED and APPROVED on second reading this 13th day of May,
2024.

CITY OF BILLINGS

BY: _____

William A. Cole, Mayor

Attest:

BY: _____

Denise R. Bohlman, City Clerk

Zone Change 1050 – 5403 Hawk Creek Ave