

ORDINANCE 23-5863

AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING  
THE ZONE CLASSIFICATION ON Lot 1, Block 1, of  
Zimmerman Home Place 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 27-302 and 27-1502, 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 1, Block 1, of Zimmerman Home Place Subdivision, is presently zoned **Mixed Residential 1 (NX1)** and **Public 1 (P1)**, and is shown on the official zoning map within this zone.

**Section 3. ZONE DISTRICT AMENDMENT.** The official zoning map is hereby amended and the zoning on **portions of Lot 1, Block 1, of Zimmerman Home Place Subdivision**, is hereby changed from **Mixed Residential 1 (NX1)** to **Mixed Residential 2 (NX2)** and **Mixed Residential 3 (NX3)** as shown on the attached exhibit, and from the effective date of this ordinance, these portions shall be subject to all the rules and regulations pertaining to **Mixed Residential 2 (NX2)** and **Mixed Residential 3 (NX3)** 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 REPEALER.** All resolutions, ordinances, and sections of the City Code inconsistent herewith are hereby repealed.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 23<sup>rd</sup> day of October, 2023.

PASSED, ADOPTED and APPROVED on second reading this 13<sup>th</sup> day of November, 2023.



CITY OF BILLINGS

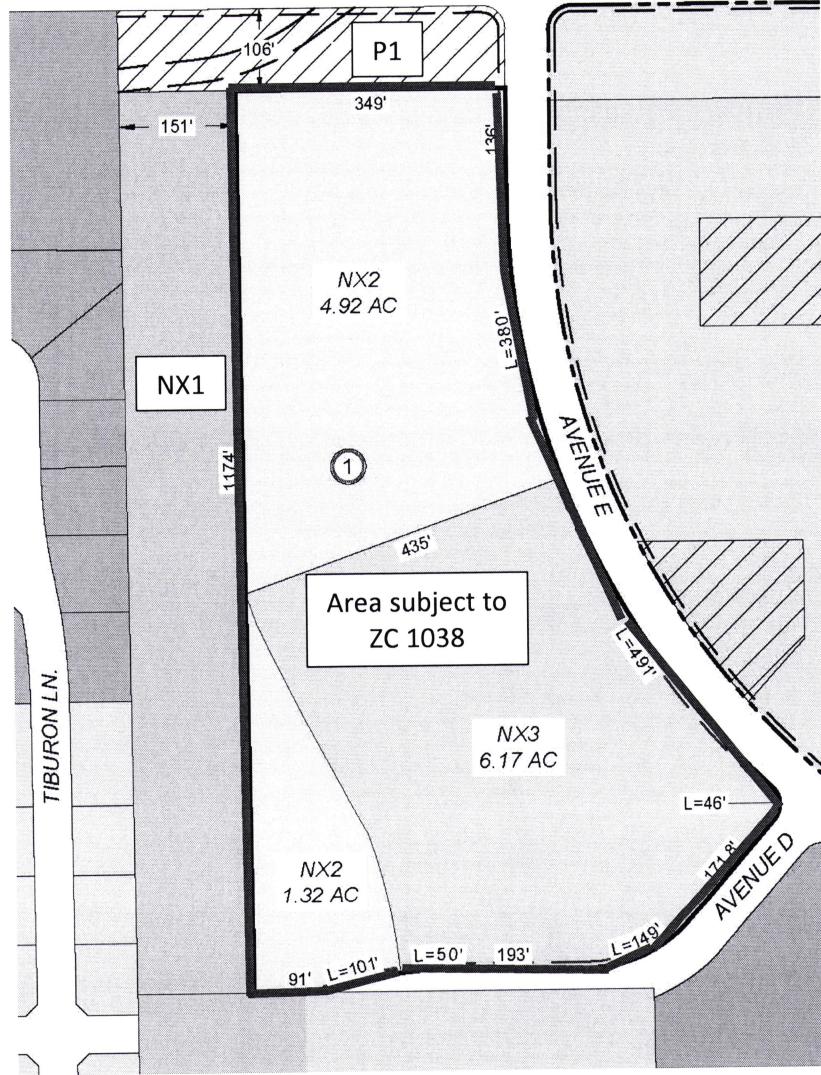
BY: William A. Cole  
William A. Cole, Mayor

Attest:

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

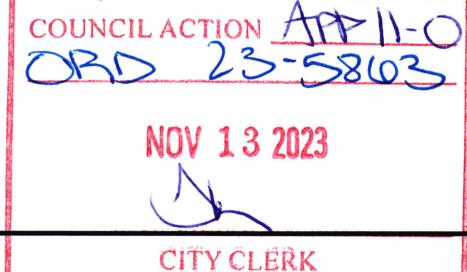
Zone Change 1038 – portions of Lot 1, Block 1, Zimmerman Home Place Sub.

**EXHIBIT – ZONE CHANGE 1038**



**City Council Regular**

**Date:** 11/13/2023  
**Title:** Zone Change 1038 - Zimmerman Home Place Lot 1, Block 1 - NX1 to NX2 and NX3 - 2nd reading  
**Presented by:** Nicole Cromwell  
**Department:** Planning & Community Services  
**Presentation:** No  
**Legal Review:** Not Applicable  
**Project Number:** PZX-23-00170

**RECOMMENDATION**

Planning staff recommends the City Council approve ZC 1038 on second reading. This would be consistent with the Council's first reading action.

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

This is a zone change request for a property currently zoned Mixed Residential 1 (NX1) in the Zimmerman Home Place Subdivision located northwest of the intersection of Avenues D and E. The applicant is proposing to re-zone a portion of the property from NX1 to NX2 and NX3 to accommodate a development plan that includes multifamily buildings with more than 4 units per structure. The proposed zoning of NX2 and NX3 will be more than 150 feet east of the western property line. The applicant has submitted an exhibit that shows the exact proposed zone boundaries for each new zone district. The existing NX1 zone applies to the entire 17.6 acre parcel. The proposed NX2 area will be 4.92 acres and the NX3 zoned area will be 6.17 acres. This leaves approximately 6.5 acres in the NX1 zone district. The NX1 zone requires a maximum height of 2.5 stories or 27 feet, the NX2 zone allows 1 to 3-story buildings and the NX3 zone requires a minimum height of 2 stories and may have up to 4 stories depending on building type. Side-by-side unit structures have a maximum height in the NX3 zone of 3 stories. The property is legally described as Lot 1, Block 1 of Zimmerman Home Place Subdivision.

This area of Billings has been developing over the past 10 to 15 years following the connection of Zimmerman Trail through the Yegen Family Grand Avenue Farm and the major reconstruction of Shiloh Road, another major north/south connection. In 2017, Town Pump bought all the commercially zoned property on the northwest corner of Grand and Zimmerman Trail and put in a new gas station, convenience food store, liquor store and casino. In 2022, the northern lots of the Zimmerman Home Place subdivision were purchased by a local development company and an annexation and zone change for the subject property and for Lot 1, Block 2 to the east was submitted and approved. The previous zoning of Lot 1 Block 1 was N3 and NX1. The zone change deleted the N3 zoning, expanded the area for NX1 zoning and place the north 106 feet in a Public 1 zoning to preserve the area around the Big Ditch that traverses the property at Colton Boulevard. This project was approved and new apartment buildings are under construction to the east of the subject property. This parcel is owned by the same development company.

In 2021, all zoning districts and regulations were updated. The Zimmerman Home Place Subdivision had various zone districts originally approved by the County Commissioners prior to any annexation. This lot was originally zoned R96, R50 and R70 under the retired zoning. All of those zone districts were based on lot area per dwelling unit and only allowed 1 or 2-family dwellings. The updated zoning map in 2021, placed about 2/3's of the property in the NX1 zone district and the north 1/3 in the N3 zone district. This was amended in 2022 as noted above to allow the entire parcel to be zoned NX1 except for the area around the Big Ditch irrigation canal.

Village West Subdivision (west of the subject parcel) began building out in 2005. These lots were updated mostly to the N2 zoning when the city updated all zone districts in 2021. Some of the northern tier of lots in Village West are currently zoned N3. North across Colton Boulevard all the lots are zoned N3. To the east is NX3 and Public 1 zoning and south is NX1, NX3 and Neighborhood Mixed Use (NMU) zone districts.

Housing demand reached a high level in 2021 and the trend continues into 2023. Supply of all types of housing choices has not kept up with the demand. At least two decades ago, local planning and growth policy documents indicated a need for independent living units for aging residents who want to "downsize" from a maintenance heavy single family dwelling on a large lot to unit ownership or townhomes as well as rental apartments. The 2010 Census indicated Billings, like many other urban areas, saw a reduction in average household size to 2.3 persons. Smaller households, aging residents and the higher costs of all housing has driven the demand for apartments, townhomes, and smaller multifamily dwellings (studios and 1-bedroom units). Developers have made robust investments in multifamily dwelling choices in west Billings but less so in northwest Billings. There have been more new residential

developments south of Broadwater Avenue than this area to the north. The most recent multifamily dwelling development in this area is the Zimmerman Home Place apartments - just started this past summer. Prior to Zimmerman Home Place, new apartments were developed at 41st St West and Avenue C - Wheatbaker Patio Homes in 2016. Prior to 2016, only a handful of multifamily dwellings have been built (Grand Peaks and Falcon Ridge) north of Broadwater. There is a significant deficit of this type of housing choice in this area of West Billings.

The Planning staff recommended approval of the zone change and the Zoning Commission concurred with this recommendation. There are challenges to an area of urban development that is on an infill property with existing development around it. This is not meant to ensure homogenous development patterns between neighborhoods, but the development plan should include similar and compatible zone districts, connectivity where and when needed, and recognition of similar goals for both types of property. The 2016 Billings Growth Policy and the 2001 West Billings Neighborhood Plan goals and policies support the proposed adjustment to the zone district boundaries. The West Billings Neighborhood Plan goals and objectives stated the need to locate compatible uses and offer a range of housing choices and development densities. The proposed zone change supports these goals. The 2016 Billings Growth Policy supports a broad range of housing choices, encourages more walkable neighborhoods with connectivity to other transportation options, and building the community fabric through urban designed public spaces. The proposed zone change supports these goals as well. The City Council approved the zone change on first reading on October 23, 2023. A second reading is required.

## STAKEHOLDERS

The applicant conducted a pre-application neighborhood meeting on August 24, 2023, at Arrowhead Elementary School on 38th St W. The pre-application meeting synopsis is attached to this report. Five surrounding property owners signed the attendance sheet for the meeting. The Planning staff has not received any emails, or letters concerning the application at the time of this staff report. Planning staff received one phone call from a neighbor at 3718 Avenue F regarding the proposed zoning boundary change. Planning staff provided clarification on the proposed zone change. Four public comments were emailed to the Planning staff after preparation of the report to the Zoning Commission. These were provided to the Zoning Commission prior to the hearing for their consideration. These public comments are attached to this report.

## Zoning Commission Public Hearing October 3, 2023

The Zoning Commission conducted a public hearing on October 3, 2023, and received the staff recommendation of approval and testimony from the applicant, Preston Lees and the agent, Scott Aspenlieder. No other testimony was received at the hearing. Four letters of comment were received before the hearing and are acknowledged as part of the record. These written letters are attached to this staff report. Commission member Greg McCall stated he has a conflict of interest on this application, so he would not participate in the public hearing or vote. He stated he has worked with Mr. Lees on some preliminary designs on some parcels in the subdivision.

Mr. Aspenlieder stated the applicant agrees with the findings proposed by staff that support the approval of the zone change. He stated the applicant worked hard with his design team to be considerate and careful with the proposed zone change. The applicant left the western edge of the property in its current zoning of NX1 for this purpose. He stated the applicant has done 3 separate Traffic Impact Studies and updates over the past 5 years for this subdivision and development. All the findings and the proposed mitigation has been accepted by the city's engineer, and the developer contributions of close to \$200,000 to those mitigations has been paid to the city. Mitigations and management for traffic will include a new signal at Avenue E and Zimmerman Trail, the installation of a right turn lane for the south bound traffic on Zimmerman Trail at Grand Avenue and several other nearby intersections will have improvement paid in part by this developer. The intersections include Shiloh and Grand, and Zimmerman and Broadwater. He stated the traffic study includes over 160 pages of data collected and analyzed by traffic engineers. He stated based on best engineering practices, most of the traffic will head east and south from the subject property with about 50% of the traffic heading south on Green Valley Drive to the round-about on Grand Avenue. The other directions for traffic will be on Avenue E to Zimmerman Trail or Colton Blvd to Zimmerman Trail. Traffic congestion will be eased through the improvement paid for in part by this developer.

He stated the developer will complete the multi-use trail started on the property to the east, so the residents on this part of the development will have good walking and biking access to the public trails and parks nearby. He stated at the pre-application meeting some residents to the west were concerned with cut-through traffic using the newly open Avenue D. He stated the traffic study does not support the idea that a lot of traffic will use Avenue D. The route to adjacent arterials or collectors using Avenue D is complex and would not be an obvious choice to travel outside the neighborhood. He stated the traffic study concludes most of the impacts will be internal to this subdivision and the developer has paid the proportionate share to improve the adjacent and nearby intersections. Commission member David Goss asked why the proposed zoning boundaries for this lot do not match exactly with the lots to the south or east. Mr. Aspenlieder stated the zoning boundary line follow the latest plan for laying out an internal street system on the lot. He stated the NX1 left in place on the western boundary is the dimension it is to allow a private street to run

parallel with homes on both sides of that street. He stated the developer and applicant chose to keep the NX3 zone as compact as possible so those buildings would more closely match with the existing NX3 to the west and closer to the undeveloped NMU property to the southeast.

Preston Lees, the applicant, testified in favor of the proposed zoning. He stated when a large development is on the drawing board, there are a lot of unknowns. He stated his company is passionate about building great places for all types families and residents of Billings. He stated the preliminary layouts for this parcel showed us the need to update the zoning to match their best ideas. The zone boundaries indicate where the future streets will be located. He stated they will be providing a lot of on-site open space and amenities on this property. He stated the current apartment development to the east could have been laid out to be twice as dense as it is, but he wanted to make sure there will be plenty of outdoor spaces for the new residents to enjoy. He stated the city does need to build more densely to ensure new places are sustainable. He stated his approach is always to exceed the minimum requirements for his developments. He stated density done right will be beneficial to the city. He stated he spends a lot of time with his design team up front, so they can get the details right. He asked the Commission to support the zone change.

The Zoning Commission Chair, Michael Larson, closed the public hearing. Commission member Dan Brooks made a motion to recommend approval and adoption of the findings of the 10 review criteria for Zone Change 1038. The motion was seconded by Commission member David Goss and the motion was approved on a 4-0-1 vote, with Commission Member McCall recusing himself.

#### **City Council Public Hearing 1st reading October 23, 2023**

The City Council held a public hearing on the zone change first reading on October 23, 2023, and received the Zoning Commission recommendation of approval. The City Council also received testimony from the applicant's agent, Scott Aspenlieder.

Mayor Cole closed the public hearing. Council member Pam Purinton made a motion to approve the zone change on first reading and adopt the findings of the 10 review criteria as recommended by the Zoning Commission. The motion was seconded by Council Member Tom Rupsis and was approved on a unanimous vote.

#### **ALTERNATIVES**

The City Council may:

- Approve and adopt on second reading the findings of the ten review criteria for Zone Change 1038; or,
- Deny and adopt on second reading different findings of the ten review criteria for Zone Change 1038; or,
- Delay action on second reading of the zone change request for up to 30 days at the request of the applicant or on its own motion.

The applicant has not requested a delay.

#### **FISCAL EFFECTS**

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

#### **SUMMARY**

Before making a decision, the City Council shall consider the Zoning Commission recommended findings of the ten review criteria:

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

The proposed zone change is consistent with the following guidelines of the 2016 Growth Policy and the West Billings Neighborhood Plan (2001):

The **West Billings Neighborhood Plan** goals and objectives stated the need to locate compatible uses and offer a range of housing choices and development densities. The West Billings Plan adopted a number of Goals, Policies, and Implementation Strategies. The proposed adjustment to the current zone districts and boundaries is consistent with the following adopted Policies of Planned Growth Goal 1: Establish Development Patterns that Use Land More Efficiently

- Policy A "Promote efficient utilization of land within the West Billings planning area by promoting well-designed, more pedestrian friendly, urban development patterns with a mix of uses and an efficient, creative use of land."
- Policy K "Increase residential densities within the West Billings planning area by approving requests for residential zoning that are consistent with this plan."
- Policy M "Development in the West Billings planning area shall provide for a variety of residential types and

densities."

- Policy N "Medium and high-density residential development(including elderly and disabled housing) should be located nearby and within walking distance to commercial centers, medical facilities, parks, and recreational amenities."
- Policy R "Encourage innovative land-use planning techniques to be used in building higher density and mixed-use developments as well as infill developments."

The proposed zoning is compatible with goals of the West Billings Neighborhood Plan. The proposed zone change and street layout will accommodate uses that are compatible in a new mixed residential neighborhood. The proposed development will also have good access to outdoor activities and is in proximity to commercial centers and transportation options. The proposed zoning and development will provide for a variety of housing choices that are not abundant in this area of West Billings. The property is within walking distance to a commercial center, medical facilities, parks and a multi-use trail system.

The proposed amendment is also in line with the adopted 2016 Growth Policy goals for:

#### **Strong Neighborhoods:**

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

#### **Home Base:**

- A mix of housing types that meet the needs of a diverse population is important
- The Housing Needs Assessment is an important tool to ensure Billings recognizes and meets the demands of future development
- Common to all types of housing choices is the desire to live in surroundings that are affordable, healthy and safe
- Planning and construction of interconnected sidewalks and trails are important to the economy and livability of Billings
- Public safety and emergency service response are critical to the well-being of Billings' residents
- Homes that are safe and sound support a healthy community

The proposed zoning will allow the lower density housing type and style to be adjacent to and to the rear of the existing homes in the Village West Subdivision, west of the subject property. NX1 is considered to be more compatible with the Neighborhood zone districts and is typically found in mid-block or block-end locations throughout Billings. The higher density housing in the NX2 and NX3 zones will be located further to the east and across from the NX3 zoned parcels to the south and east and the NMU parcels to the south. The NX1 zone allows 1-4 unit structures while the NX2 allows 2 to 8 unit building and the NX3 requires a minimum of 5 units in a structure. There are no minimum or maximum lot area requirements however each structure in the NX1 zone with 1 or 2 units must have 20 feet of street frontage (public or private) and each unit with 3-4 units must have 50 feet of street frontage. In the NX2 zone each 2-unit building must have 20 feet of frontage and 3 or more unit buildings must have 50 feet of frontage. In the NX3 zone, each multi-unit structure requires at least 50 feet of street frontage. There similar siting and building standards for all NX zones.

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

The proposed zoning of NX2 and NX3 requires minimum setbacks, open and landscaped areas and building separations which creates security for fire and other dangers. Street frontage - public or private - will be required as well as street frontage landscaping, perimeter landscaping and screening based on the adjacent zoning and use, off-street parking and adequate pathways and driving aisles throughout to ensure public safety.

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

Public health and public safety are promoted by the proposed zoning. This is not unique to the NX zones, but instead is promoted by all adopted zoning districts within the City of Billings. The site and structure regulations found in 27-300.6&7 in the NX districts promote the minimum standards to ensure public health and safety and promote general welfare. Provision of public health and safety services from the city will promote the general welfare of the area. The completion of Avenue D to the Village West Subdivision and 38th Street West to the west and the internal street network to the east will promote public safety and the general welfare by ensuring a traffic connection to the

east and west of the subject property.

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

- **Transportation:** The applicant will need to do ensure the existing traffic impact study completed for the subdivision adequately addresses the new zoning and the specific development for the property. The Engineering Division will ensure this is done prior to any approval of a development plan. Each single family dwelling generates about 10-13 daily traffic trips while apartments and townhomes generate between 7--10 trips per day.
- **Water and Sewer:** The City will provide water and sewer to the property. There will be no additional impacts to the system from the proposed changes.
- **Schools and Parks:** Schools and parks may be effected by the proposed zone change and development of a new city neighborhood. School District 2 did not provide any comments. Arrowhead Elementary School had 426 students in the 2022/2023 school year with a student teacher ratio of 17 students per teacher. The student capacity of Arrowhead school is 475 students. Ben Steele has a capacity of 750 with 795 students enrolled last year with a teacher student ratio of 17.1 students per teacher. West High School has a capacity of 1,731 students with an enrollment last year of 2,180 students with a teacher student ratio of 15.91. The closest public park to the subject property is Poly Vista Park, a 15+ acre developed park, is less than 1/4-mile to the northwest. This is the location of the new Landon's Miracle Field, a play space for all children of all abilities. Arrowhead Elementary School is directly north of this public park and also has playing fields open to the public. There is a multi-use path that allows walking and biking to the east and west as well. Country Manor Park, a 5-acre neighborhood park, is about 1/2 mile to the west just north of the Country Manor Apartments. Planning staff did not receive any comments from Parks, Recreation and Public Lands staff concerning this zone change. Any development in the NX zone districts greater than 3 acres requires provision of on-site open space for the new residents use. The types and locations of such open spaces will be determined at the time of a final development plan review with staff.
- **Fire and Police:** The subject property will be served by city public safety services. The Police and Fire Departments had no concerns with the zone change.

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

Similar to criteria 2 and 3, the proposed NX zones, like all zones, requires minimum setbacks to allow for adequate separation between structures and adequate light and air. This parcel is presently vacant therefore any new structure will be required to meet the standards required by Section 27-300-6&7.

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

Non-motorized travel -- walking and biking -- is an essential part of completing Avenue D as part of this development. Pedestrian connections will be ensured through the development, and the property is close to two fixed route MET bus lines (two on Grand). There are no traffic counts on Zimmerman Trail between Rimrock Road and Broadwater Avenue. Traffic counts on Grand Avenue near the Zimmerman Trail intersections are between 18,000 and 20,000 vehicle trips per day. The proposed street connection with the development will allow at least three pathways for the new residents to enter and leave the area including Avenue D to Zimmerman Trail, Avenue D to 38th St W (collector), and Avenue E to Colton Boulevard to Zimmerman Trail. City Engineering will determine if any update to the existing traffic study is required.

7) Will the new zoning will promote compatible urban growth?

The proposed increase in the overall development density is compatible with urban growth and the provision of city level services to the new residents. The proposed zone district boundaries are consistent with the urban growth in this area and will be compatible with the surrounding neighborhoods. Specifically this property is immediately north of property already zoned NX1 and NX3. The NX1 zoning will remain in place for the western 151 feet of the parcel and this is adjacent to N2 and N3 property to the west. Compatibility of these residential districts is preserved by the site and structure standards required in 27-307 and 308. Further site development requirements for parking, landscaping, frontage improvements will be required with new development.

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. This area between Zimmerman Trail and Shiloh Road is beginning to experience growth and development similar to areas further south in West Billings. The city's investment in public infrastructure in the area is spurring the development of new areas for city infill. The existing zones and development pattern for the area is suitable for the NX2 and NX3 districts as shown on the zoning exhibit.

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

The property is an undeveloped agricultural parcel that is in proximity to all city services. Approval of the zone change will provide a housing choice in a residential and commercial area. The zoning designation itself will not influence the value of buildings. In general, new development increases the value of adjacent property.

10) Will the new zoning encourage the most appropriate use of land throughout the City of Billings?  
The proposed zoning will encourage the most appropriate use of this land in Billings. The proposed NX2 and NX3 will be facing similar zoning to the east and south. The NX1 zoning, that allows single family, two-family and up to 4-family dwellings is compatible with the N3 and N2 zoning to the west.

---

#### Attachments

ZC 1038 Ordinance

ORDINANCE 23-\_\_\_\_\_

AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING  
THE ZONE CLASSIFICATION ON Lot 1, Block 1, of  
Zimmerman Home Place 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 27-302 and 27-1502, 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 1, Block 1, of Zimmerman Home Place Subdivision, is presently zoned Mixed Residential 1 (NX1) and Public 1 (P1), and is shown on the official zoning map within this zone.

**Section 3. ZONE DISTRICT AMENDMENT.** The official zoning map is hereby amended and the zoning on portions of Lot 1, Block 1, of Zimmerman Home Place Subdivision, is hereby changed from Mixed Residential 1 (NX1) to Mixed Residential 2(NX2) and Mixed Residential 3 (NX3) as shown on the attached exhibit, and from the effective date of this ordinance, these portions shall be subject to all the rules and regulations pertaining to Mixed Residential 2 (NX2) and Mixed Residential 3 (NX3) 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 23<sup>rd</sup> day of October, 2023.

PASSED, ADOPTED and APPROVED on second reading this 13<sup>th</sup> day of November, 2023.

CITY OF BILLINGS

BY: \_\_\_\_\_

William A. Cole, Mayor

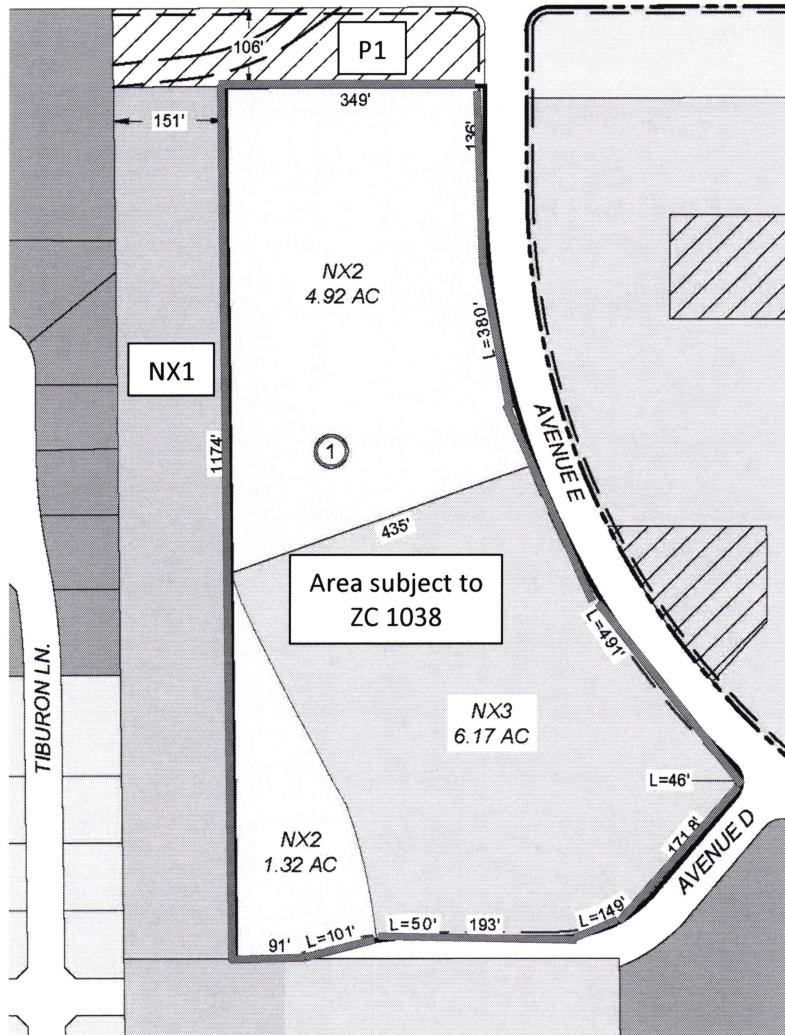
Attest:

BY: \_\_\_\_\_

Denise R. Bohlman, City Clerk

Zone Change 1038 – portions of Lot 1, Block 1, Zimmerman Home Place Sub

## EXHIBIT – ZONE CHANGE 1038



**City Council Regular**

**Date:** 10/23/2023  
**Title:** Zone Change 1038 - Zimmerman Home Place Lot 1, Block 1, NX1 to NX2 and NX3  
**Presented by:** Nicole Cromwell  
**Department:** Planning & Community Services  
**Presentation:** Yes  
**Legal Review:** Not Applicable  
**Project Number:** PZX-23-00170

*Approved 10-0*  
**COUNCIL ACTION**  
*Neese Absent / Excused*  
**OCT 23 2023**  
*db*  
**CITY CLERK**

**RECOMMENDATION**

The Zoning Commission recommends approval and adoption of the findings of the 10 review criteria for Zone Change 1038.

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

This is a zone change request for a property currently zoned Mixed Residential 1 (NX1) in the Zimmerman Home Place Subdivision located northwest of the intersection of Avenues D and E. The applicant is proposing to re-zone a portion of the property from NX1 to NX2 and NX3 to accommodate a development plan that includes multifamily buildings with more than 4 units per structure. The proposed zoning of NX2 and NX3 will be more than 150 feet east of the western property line. The applicant has submitted an exhibit that shows the exact proposed zone boundaries for each new zone district. The existing NX1 zone applies to the entire 17.6 acre parcel. The proposed NX2 area will be 4.92 acres and the NX3 zoned area will be 6.17 acres. This leaves approximately 6.5 acres in the NX1 zone district. The NX1 zone requires a maximum height of 2.5 stories or 27 feet, the NX2 zone allows 1 to 3-story buildings and the NX3 zone requires a minimum height of 2 stories and may have up to 4 stories depending on building type. Side-by-side unit structures have a maximum height in the NX3 zone of 3 stories. The property is legally described as Lot 1, Block 1 of Zimmerman Home Place Subdivision.

This area of Billings has been developing over the past 10 to 15 years following the connection of Zimmerman Trail through the Yegen Family Grand Avenue Farm and the major reconstruction of Shiloh Road, another major north/south connection. In 2017, Town Pump bought all the commercially zoned property on the northwest corner of Grand and Zimmerman Trail and put in a new gas station, convenience food store, liquor store and casino. In 2022, the northern lots of the Zimmerman Home Place subdivision were purchased by a local development company and an annexation and zone change for the subject property and for Lot 1, Block 2 to the east was submitted and approved. The previous zoning of Lot 1 Block 1 was N3 and NX1. The zone change deleted the N3 zoning, expanded the area for NX1 zoning and place the north 106 feet in a Public 1 zoning to preserve the area around the Big Ditch that traverses the property at Colton Boulevard. This project was approved and new apartment buildings are under construction to the east of the subject property. This parcel is owned by the same development company.

In 2021, all zoning districts and regulations were updated. The Zimmerman Home Place Subdivision had various zone districts originally approved by the County Commissioners prior to any annexation. This lot was originally zoned R96, R50 and R70 under the retired zoning. All of those zone districts were based on lot area per dwelling unit and only allowed 1 or 2-family dwellings. The updated zoning map in 2021, placed about 2/3's of the property in the NX1 zone district and the north 1/3 in the N3 zone district. This was amended in 2022 as noted above to allow the entire parcel to be zoned NX1 except for the area around the Big Ditch irrigation canal.

Village West Subdivision (west of the subject parcel) began building out in 2005. These lots were updated mostly to the N2 zoning when the city updated all zone districts in 2021. Some of the northern tier of lots in Village West are currently zoned N3. North across Colton Boulevard all the lots are zoned N3. To the east is NX3 and Public 1 zoning and south is NX1, NX3 and Neighborhood Mixed Use (NMU) zone districts.

Housing demand reached a high level in 2021 and the trend continues into 2023. Supply of all types of housing choices has not kept up with the demand. At least two decades ago, local planning and growth policy documents indicated a need for independent living units for aging residents who want to "downsize" from a maintenance heavy single family dwelling on a large lot to unit ownership or townhomes as well as rental apartments. The 2010 Census indicated Billings, like many other urban areas, saw a reduction in average household size to 2.3 persons. Smaller households, aging residents and the higher costs of all housing has driven the demand for apartments, townhomes, and smaller multifamily dwellings (studios and 1-bedroom units). Developers have made robust investments in multifamily dwelling choices in west Billings but less so in northwest Billings. There have been more new residential

developments south of Broadwater Avenue than this area to the north. The most recent multifamily dwelling development in this area is the Zimmerman Home Place apartments - just started this past summer. Prior to Zimmerman Home Place, new apartments were developed at 41st St West and Avenue C - Wheatbaker Patio Homes in 2016. Prior to 2016, only a handful of multifamily dwellings have been built (Grand Peaks and Falcon Ridge) north of Broadwater. There is a significant deficit of this type of housing choice in this area of West Billings.

The Planning staff recommended approval of the zone change and the Zoning Commission concurred with this recommendation. There are challenges to an area of urban development that is on an infill property with existing development around it. This is not meant to ensure homogenous development patterns between neighborhoods, but the development plan should include similar and compatible zone districts, connectivity where and when needed, and recognition of similar goals for both types of property. The 2016 Billings Growth Policy and the 2001 West Billings Neighborhood Plan goals and policies support the proposed adjustment to the zone district boundaries. The West Billings Neighborhood Plan goals and objectives stated the need to locate compatible uses and offer a range of housing choices and development densities. The proposed zone change supports these goals. The 2016 Billings Growth Policy supports a broad range of housing choices, encourages more walkable neighborhoods with connectivity to other transportation options, and building the community fabric through urban designed public spaces. The proposed zone change supports these goals as well.

## STAKEHOLDERS

The applicant conducted a pre-application neighborhood meeting on August 24, 2023, at Arrowhead Elementary School on 38th St W. The pre-application meeting synopsis is attached to this report. Five surrounding property owners signed the attendance sheet for the meeting. The Planning staff has not received any emails, or letters concerning the application at the time of this staff report. Planning staff received one phone call from a neighbor at 3718 Avenue F regarding the proposed zoning boundary change. Planning staff provided clarification on the proposed zone change. Four public comments were emailed to the Planning staff after preparation of the report to the Zoning Commission. These were provided to the Zoning Commission prior to the hearing for their consideration. These public comments are attached to this report.

## Zoning Commission Public Hearing October 3, 2023

The Zoning Commission conducted a public hearing on October 3, 2023, and received the staff recommendation of approval and testimony from the applicant, Preston Lees and the agent, Scott Aspenlieder. No other testimony was received at the hearing. Four letters of comment were received before the hearing and are acknowledged as part of the record. These written letters are attached to this staff report. Commission member Greg McCall stated he has a conflict of interest on this application, so he would not participate in the public hearing or vote. He stated he has worked with Mr. Lees on some preliminary designs on some parcels in the subdivision.

Mr. Aspenlieder stated the applicant agrees with the findings proposed by staff that support the approval of the zone change. He stated the applicant worked hard with his design team to be considerate and careful with the proposed zone change. The applicant left the western edge of the property in its current zoning of NX1 for this purpose. He stated the applicant has done 3 separate Traffic Impact Studies and updates over the past 5 years for this subdivision and development. All the findings and the proposed mitigation has been accepted by the city's engineer, and the developer contributions of close to \$200,000 to those mitigations has been paid to the city. Mitigations and management for traffic will include a new signal at Avenue E and Zimmerman Trail, the installation of a right turn lane for the south bound traffic on Zimmerman Trail at Grand Avenue and several other nearby intersections will have improvement paid in part by this developer. The intersections include Shiloh and Grand, and Zimmerman and Broadwater. He stated the traffic study includes over 160 pages of data collected and analyzed by traffic engineers. He stated based on best engineering practices, most of the traffic will head east and south from the subject property with about 50% of the traffic heading south on Green Valley Drive to the round-about on Grand Avenue. The other directions for traffic will be on Avenue E to Zimmerman Trail or Colton Blvd to Zimmerman Trail. Traffic congestion will be eased through the improvement paid for in part by this developer.

He stated the developer will complete the multi-use trail started on the property to the east, so the residents on this part of the development will have good walking and biking access to the public trails and parks nearby. He stated at the pre-application meeting some residents to the west were concerned with cut-through traffic using the newly open Avenue D. He stated the traffic study does not support the idea that a lot of traffic will use Avenue D. The route to adjacent arterials or collectors using Avenue D is complex and would not be an obvious choice to travel outside the neighborhood. He stated the traffic study concludes most of the impacts will be internal to this subdivision and the developer has paid the proportionate share to improve the adjacent and nearby intersections. Commission member David Goss asked why the proposed zoning boundaries for this lot do not match exactly with the lots to the south or east. Mr. Aspenlieder stated the zoning boundary line follow the latest plan for laying out an internal street system on the lot. He stated the NX1 left in place on the western boundary is the dimension it is to allow a private street to run parallel with homes on both sides of that street. He stated the developer and applicant chose to keep the NX3 zone as

compact as possible so those buildings would more closely match with the existing NX3 to the west and closer to the undeveloped NMU property to the southeast.

Preston Lees, the applicant, testified in favor of the proposed zoning. He stated when a large development is on the drawing board, there are a lot of unknowns. He stated his company is passionate about building great places for all types families and residents of Billings. He stated the preliminary layouts for this parcel showed us the need to update the zoning to match their best ideas. The zone boundaries indicate where the future streets will be located. He stated they will be providing a lot of on-site open space and amenities on this property. He stated the current apartment development to the east could have been laid out to be twice as dense as it is, but he wanted to make sure there will be plenty of outdoor spaces for the new residents to enjoy. He stated the city does need to build more densely to ensure new places are sustainable. He stated his approach is always to exceed the minimum requirements for his developments. He stated density done right will be beneficial to the city. He stated he spends a lot of time with his design team up front, so they can get the details right. He asked the Commission to support the zone change.

The Zoning Commission Chair, Michael Larson, closed the public hearing. Commission member Dan Brooks made a motion to recommend approval and adoption of the findings of the 10 review criteria for Zone Change 1038. The motion was seconded by Commission member David Goss and the motion was approved on a 4-0-1 vote, with Commission Member McCall recusing himself.

## ALTERNATIVES

The City Council may:

- Approve and adopt the findings of the ten review criteria for Zone Change 1038 as recommended by the Zoning Commission; or,
- Deny and adopt different findings of the ten review criteria for Zone Change 1038; 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 has 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

Before making a decision, the City Council shall consider the Zoning Commission recommended findings of the ten review criteria:

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

The proposed zone change is consistent with the following guidelines of the 2016 Growth Policy and the West Billings Neighborhood Plan (2001):

The **West Billings Neighborhood Plan** goals and objectives stated the need to locate compatible uses and offer a range of housing choices and development densities. The West Billings Plan adopted a number of Goals, Policies, and Implementation Strategies. The proposed adjustment to the current zone districts and boundaries is consistent with the following adopted Policies of Planned Growth Goal 1: Establish Development Patterns that Use Land More Efficiently

- Policy A "Promote efficient utilization of land within the West Billings planning area by promoting well-designed, more pedestrian friendly, urban development patterns with a mix of uses and an efficient, creative use of land."
- Policy K "Increase residential densities within the West Billings planning area by approving requests for residential zoning that are consistent with this plan."
- Policy M "Development in the West Billings planning area shall provide for a variety of residential types and densities."
- Policy N "Medium and high-density residential development(including elderly and disabled housing) should be located nearby and within walking distance to commercial centers, medical facilities, parks, and recreational amenities."
- Policy R "Encourage innovative land-use planning techniques to be used in building higher density and mixed-

use developments as well as infill developments."

The proposed zoning is compatible with goals of the West Billings Neighborhood Plan. The proposed zone change and street layout will accommodate uses that are compatible in a new mixed residential neighborhood. The proposed development will also have good access to outdoor activities and is in proximity to commercial centers and transportation options. The proposed zoning and development will provide for a variety of housing choices that are not abundant in this area of West Billings. The property is within walking distance to a commercial center, medical facilities, parks and a multi-use trail system.

The proposed amendment is also in line with the adopted 2016 Growth Policy goals for:

#### **Strong Neighborhoods:**

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

#### **Home Base:**

- A mix of housing types that meet the needs of a diverse population is important
- The Housing Needs Assessment is an important tool to ensure Billings recognizes and meets the demands of future development
- Common to all types of housing choices is the desire to live in surroundings that are affordable, healthy and safe
- Planning and construction of interconnected sidewalks and trails are important to the economy and livability of Billings
- Public safety and emergency service response are critical to the well-being of Billings' residents
- Homes that are safe and sound support a healthy community

The proposed zoning will allow the lower density housing type and style to be adjacent to and to the rear of the existing homes in the Village West Subdivision, west of the subject property. NX1 is considered to be more compatible with the Neighborhood zone districts and is typically found in mid-block or block-end locations throughout Billings. The higher density housing in the NX2 and NX3 zones will be located further to the east and across from the NX3 zoned parcels to the south and east and the NMU parcels to the south. The NX1 zone allows 1-4 unit structures while the NX2 allows 2 to 8 unit building and the NX3 requires a minimum of 5 units in a structure. There are no minimum or maximum lot area requirements however each structure in the NX1 zone with 1 or 2 units must have 20 feet of street frontage (public or private) and each unit with 3-4 units must have 50 feet of street frontage. In the NX2 zone each 2-unit building must have 20 feet of frontage and 3 or more unit buildings must have 50 feet of frontage. In the NX3 zone, each multi-unit structure requires at least 50 feet of street frontage. There similar siting and building standards for all NX zones.

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

The proposed zoning of NX2 and NX3 requires minimum setbacks, open and landscaped areas and building separations which creates security for fire and other dangers. Street frontage - public or private - will be required as well as street frontage landscaping, perimeter landscaping and screening based on the adjacent zoning and use, off-street parking and adequate pathways and driving aisles throughout to ensure public safety.

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

Public health and public safety are promoted by the proposed zoning. This is not unique to the NX zones, but instead is promoted by all adopted zoning districts within the City of Billings. The site and structure regulations found in 27-300.6&7 in the NX districts promote the minimum standards to ensure public health and safety and promote general welfare. Provision of public health and safety services from the city will promote the general welfare of the area. The completion of Avenue D to the Village West Subdivision and 38th Street West to the west and the internal street network to the east will promote public safety and the general welfare by ensuring a traffic connection to the east and west of the subject property.

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

- **Transportation:** The applicant will need to do ensure the existing traffic impact study completed for the subdivision adequately addresses the new zoning and the specific development for the property. The Engineering Division will ensure this is done prior to any approval of a development plan. Each single family dwelling generates about 10-13 daily traffic trips while apartments and townhomes generate between 7-10 trips per day.
- **Water and Sewer:** The City will provide water and sewer to the property. There will be no additional impacts to the system from the proposed changes.
- **Schools and Parks:** Schools and parks may be effected by the proposed zone change and development of a new city neighborhood. School District 2 did not provide any comments. Arrowhead Elementary School had 426 students in the 2022/2023 school year with a student teacher ratio of 17 students per teacher. The student capacity of Arrowhead school is 475 students. Ben Steele has a capacity of 750 with 795 students enrolled last year with a teacher student ratio of 17.1 students per teacher. West High School has a capacity of 1,731 students with an enrollment last year of 2,180 students with a teacher student ratio of 15.91. The closest public park to the subject property is Poly Vista Park, a 15+ acre developed park, is less than 1/4-mile to the northwest. This is the location of the new Landon's Miracle Field, a play space for all children of all abilities. Arrowhead Elementary School is directly north of this public park and also has playing fields open to the public. There is a multi-use path that allows walking and biking to the east and west as well. Country Manor Park, a 5-acre neighborhood park, is about 1/2 mile to the west just north of the Country Manor Apartments. Planning staff did not receive any comments from Parks, Recreation and Public Lands staff concerning this zone change. Any development in the NX zone districts greater than 3 acres requires provision of on-site open space for the new residents use. The types and locations of such open spaces will be determined at the time of a final development plan review with staff.
- **Fire and Police:** The subject property will be served by city public safety services. The Police and Fire Departments had no concerns with the zone change.

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

Similar to criteria 2 and 3, the proposed NX zones, like all zones, requires minimum setbacks to allow for adequate separation between structures and adequate light and air. This parcel is presently vacant therefore any new structure will be required to meet the standards required by Section 27-300-6&7.

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

Non-motorized travel -- walking and biking -- is an essential part of completing Avenue D as part of this development. Pedestrian connections will be ensured through the development, and the property is close to two fixed route MET bus lines (two on Grand). There are no traffic counts on Zimmerman Trail between Rimrock Road and Broadwater Avenue. Traffic counts on Grand Avenue near the Zimmerman Trail intersections are between 18,000 and 20,000 vehicle trips per day. The proposed street connection with the development will allow at least three pathways for the new residents to enter and leave the area including Avenue D to Zimmerman Trail, Avenue D to 38th St W (collector), and Avenue E to Colton Boulevard to Zimmerman Trail. City Engineering will determine if any update to the existing traffic study is required.

7) Will the new zoning will promote compatible urban growth?

The proposed increase in the overall development density is compatible with urban growth and the provision of city level services to the new residents. The proposed zone district boundaries are consistent with the urban growth in this area and will be compatible with the surrounding neighborhoods. Specifically this property is immediately north of property already zoned NX1 and NX3. The NX1 zoning will remain in place for the western 151 feet of the parcel and this is adjacent to N2 and N3 property to the west. Compatibility of these residential districts is preserved by the site and structure standards required in 27-307 and 308. Further site development requirements for parking, landscaping, frontage improvements will be required with new development.

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. This area between Zimmerman Trail and Shiloh Road is beginning to experience growth and development similar to areas further south in West Billings. The city's investment in public infrastructure in the area is spurring the development of new areas for city infill. The existing zones and development pattern for the area is suitable for the NX2 and NX3 districts as shown on the zoning exhibit.

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

The property is an undeveloped agricultural parcel that is in proximity to all city services. Approval of the zone change will provide a housing choice in a residential and commercial area. The zoning designation itself will not influence the value of buildings. In general, new development increases the value of adjacent property.

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

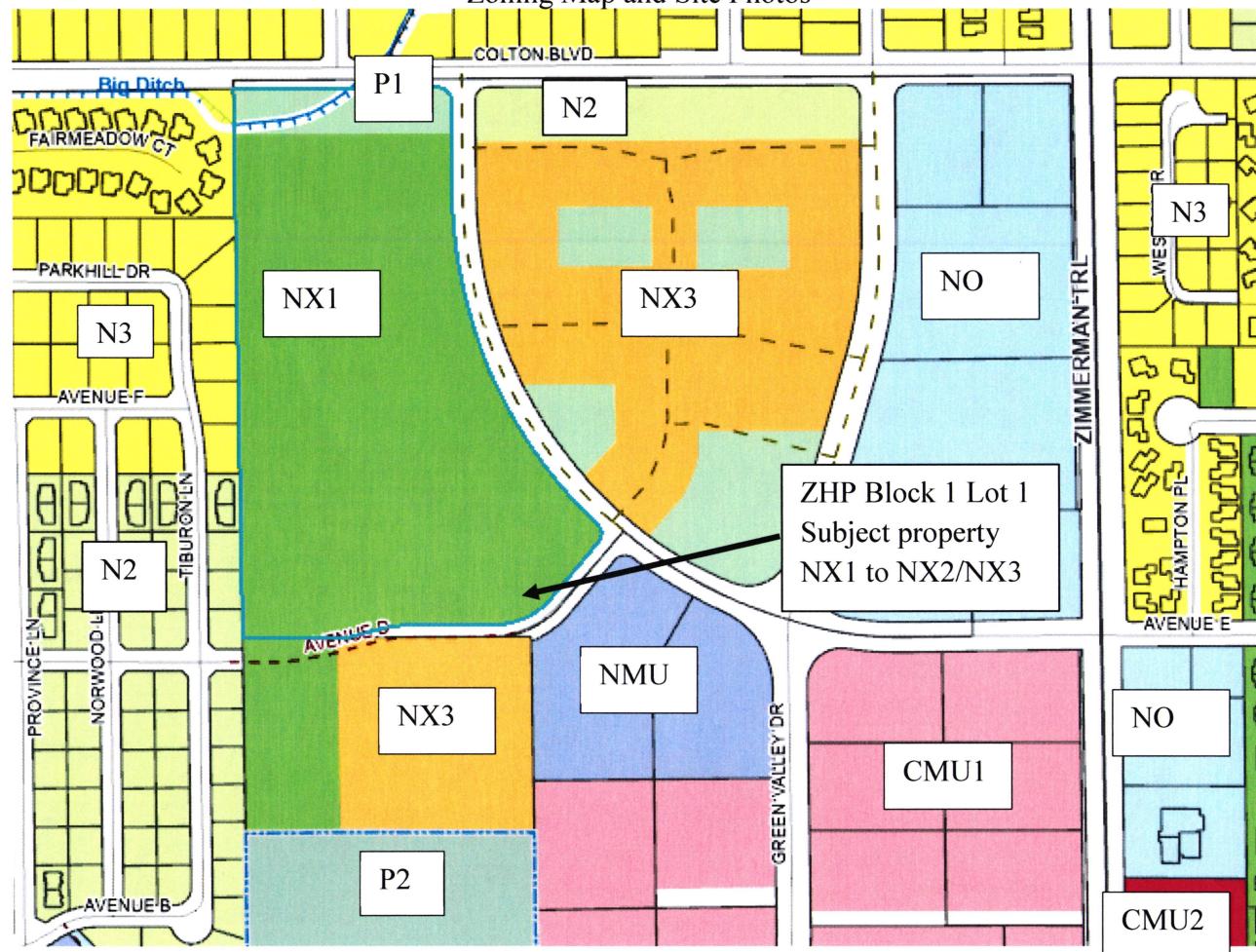
The proposed zoning will encourage the most appropriate use of this land in Billings. The proposed NX2 and NX3 will be facing similar zoning to the east and south. The NX1 zoning, that allows single family, two-family and up to 4-family dwellings is compatible with the N3 and N2 zoning to the west.

---

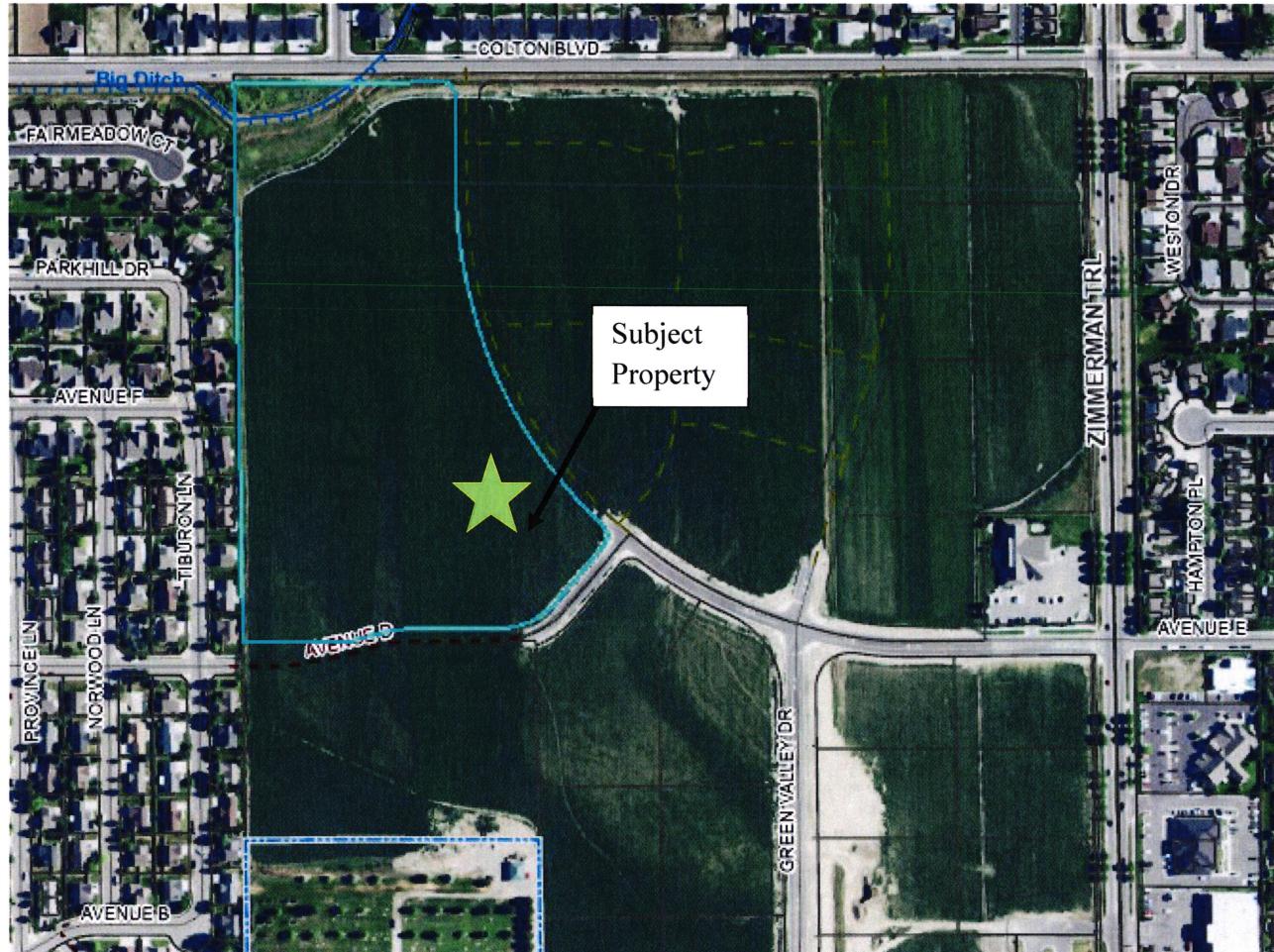
#### Attachments

Zoning Map and Site Photos ZC 1038  
Chart of Zoning History ZC 1038  
Zoning Exhibit for ZC 1038  
Pre application meeting and notes ZC 1038  
Application and Letter  
ZC 1038 public comments as of Oct 4 2023  
ZC 1038 Ordinance

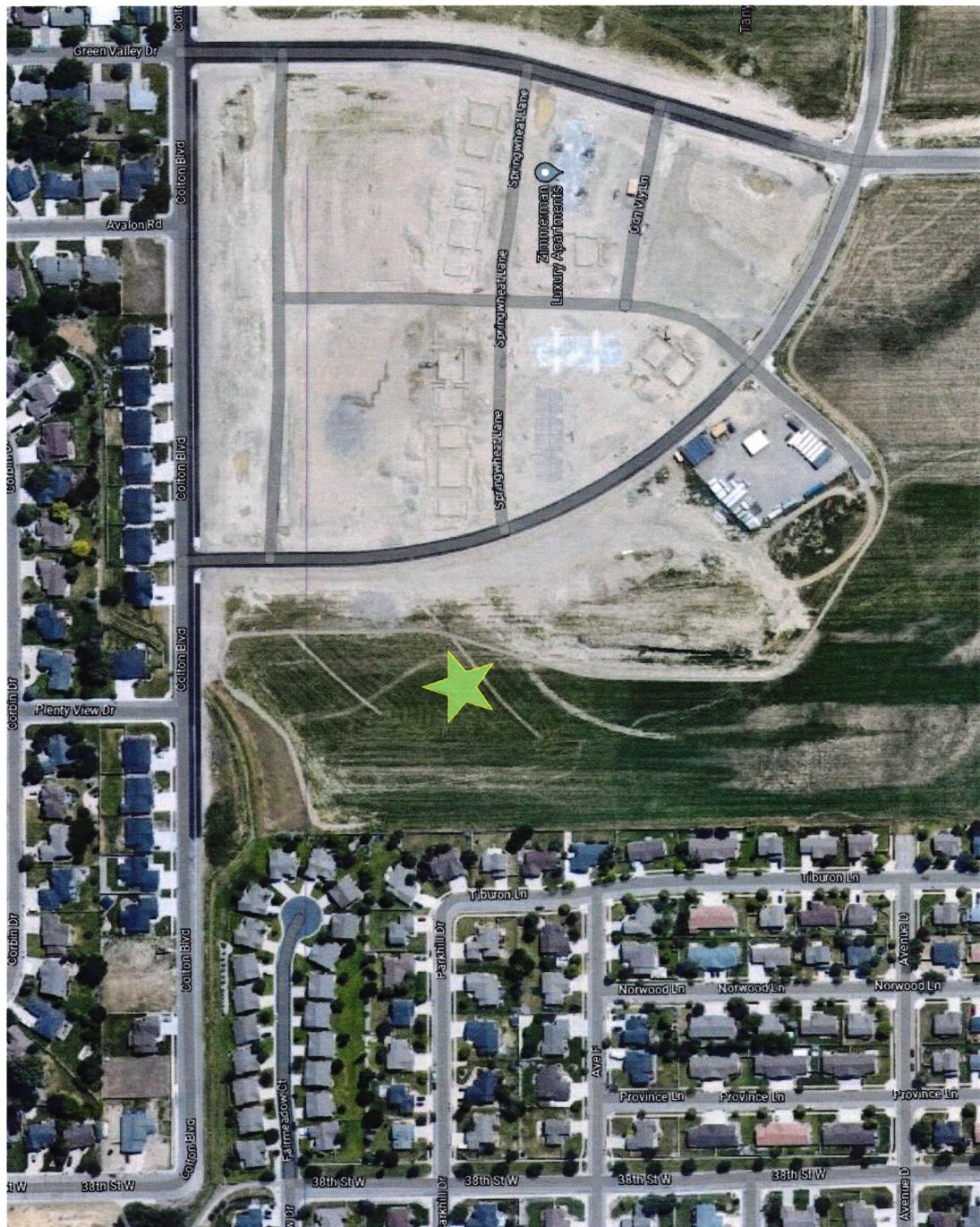
City Zone Change 1038 – ZHP Subdivision Lot 1 Block 1  
Zoning Map and Site Photos



Subject Property



Subject Property





Subject Property view northwest from intersection of Avenue D and Avenue E



View north along Avenue E



View northeast across Avenue E



View east across Avenue E



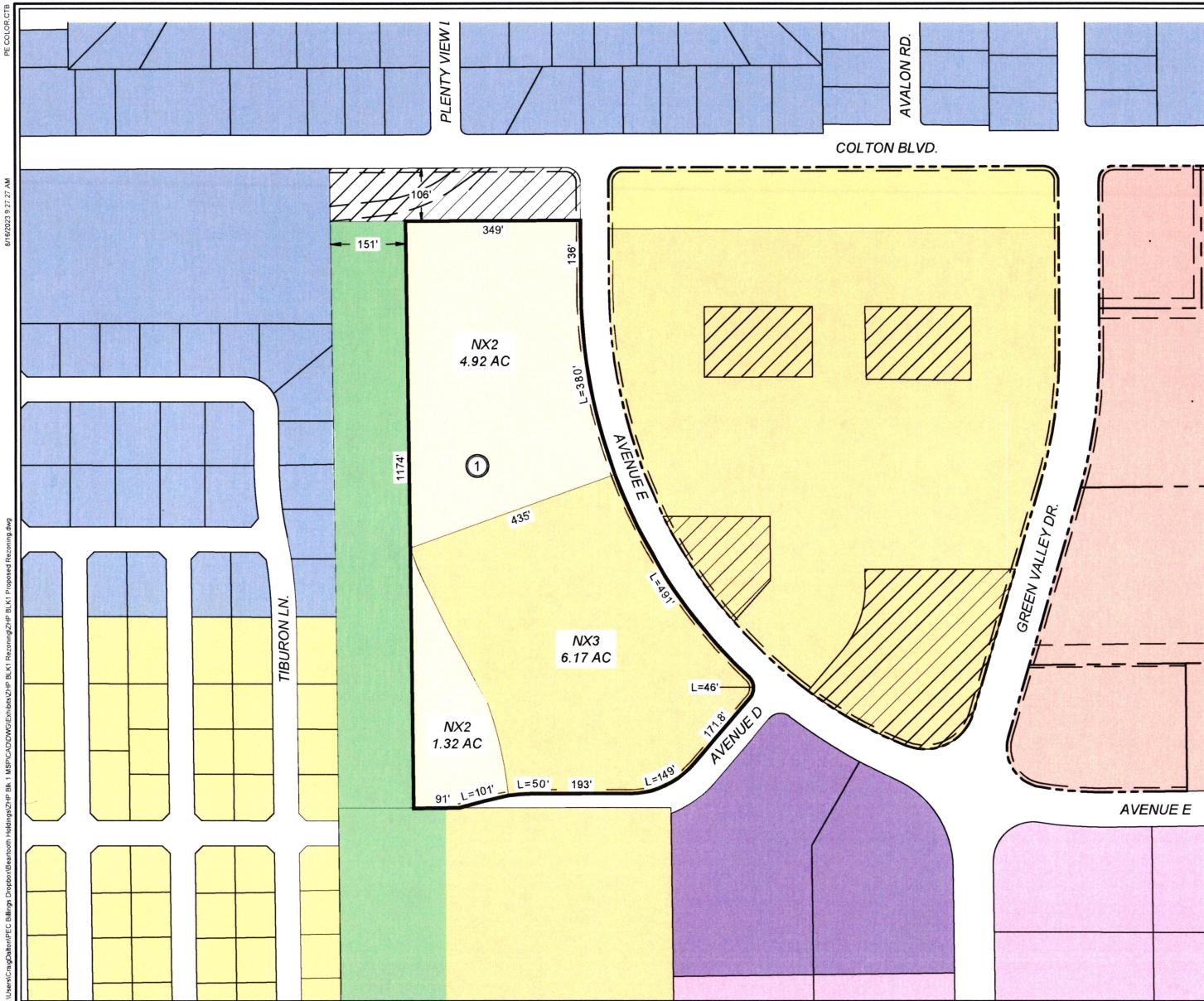
View southeast along Avenue E



View southeast at intersection of Avenue E and Avenue D

Zoning History for ZC 1038 – Zimmerman Home Place Sub Lot 1 Block 1

<b>SUBJECT PROPERTY</b>	<b>Zone Change #</b>	<b>DATE</b>	<b>FOR</b>	<b>APPROVED (Y/N)</b>	<b>ADDITIONAL DATA</b>
Zimmerman Home Place Subdivision	<b>County ZC 675</b>	August 2, 2016	A-1 to CC, NC, RP, Public, RMF-R, R-50, R-70 and R-96	Y	CC & NC parcels annexed for Town Pump development 3411 Grand Ave 2018
Zimmerman Home Place Subdivision	<b>City Zone Change 1009</b>	March 14, 2022	N3, NX1, NX3, and P1 through a PND to N2, NX1, NX3, and P1	Yes	Concurrent Annexation
<b>SURROUNDING PROPERTY</b>	<b>Zone Change #</b>	<b>DATE</b>	<b>FOR</b>	<b>APPROVED (Y/N)</b>	<b>ADDITIONAL DATA</b>
Michellotti Sawyer	1020	10/24/2022	A to NX1 and NX3	Yes	Steward Land townhomes
ZHP 3 <sup>rd</sup> Filing Zimmerman Trail frontage	1019	1/9/2023	NO to CMU1	Withdrawn	
Cardwell Ranch PD	986	10/26/2020	Update to PD	Y	
E.D. King Sub	782	7/10/2006	A-1 to CC	Y	Country Meadow Apts 1997
1501 Zimmerman Trail	807	7/9/2007	R-60-R to CC & RP	Y	Ace Hardware & Offices
3737 Grand Ave	779	6/26/2006	RP to NC	Y	Multi-tenant office/retail
1500 Golden Blvd	572	2/28/1994	A-1 to RMF	Y	Carriage Homes 1997
3155 Avenue C	413	10/25/1983	R-96 to RMF-R	Y	Aspen Meadows 2005
2291 Avenue C	68	8/26/1974	PD to R-60	Y	Rosepark Plaza Apts 1981



**LEGAL DESCRIPTION**

LOT 1, BLOCK 1, ZIMMERMAN HOME PLACE  
SUBDIVISION, 1ST FILING (18), S34, T01N, R25E  
**1** (EXISTING) BLOCK 1, LOT 1: 752.843 SF  
17.689 ACRES

## ZONING LEGEN

- CMU1: COMMERCIAL MIXED USE 1
- NX1: MIXED RESIDENTIAL 1
- NX2: MIXED RESIDENTIAL 2
- NX3: MIXED RESIDENTIAL 3
- P1: OPEN SPACE, PARKS, RECREATION
- NO: NEIGHBORHOOD OFFICE
- NMU: NEIGHBORHOOD MIXED USE
- N2: MID-CENTURY NEIGHBORHOOD
- N3: SUBURBAN NEIGHBORHOOD

### **PROPOSED ZONE CHANGE**

## SITE AND STRUCTURE REGULATIONS

---

**CITY OF BILLINGS ZONING CODE, ARTICLE  
27-300, SECTION 27-308**

TABLE 27-300.9 & 27-300.

<b>BUILDING SITING</b>	<b>NX2 &amp; NX3</b>
MAXIMUM BUILDING COVERAGE (%)	60
FRONT BUILD-TO ZONE (FT)	10-20
STREET-SIDE BUILD-TO ZONE (FT)	5-15
<b>HEIGHT</b>	<b>NX2 &amp; NX3</b>
OVERALL MAXIMUM HEIGHT (STORIES)	NX2: 2.5-4 NX3: 3-4 (BASED ON HOUSING)

1  
ZIMMERMAN HOME PLACE BLOCK 1  
PROPOSED ZONING MAP  
SHEET TITLE

100

PROJECT NUMBER
2021-173
SHEET NUMBER
1 OF 1
EXHIBIT
<b>A</b>
COPYRIGHT 2021

## **Pre-Application Statement of Owner(s) or 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:** NX1 – Mixed Residential 1
2. **Written description of the Zone Change Plan** including existing and proposed new zoning:  
Zone Change from NX1 to a combination of NX2 and NX3 on 12.41 acres
3. **Subject Property Map:** please attach to this form.
4. **Legal Description of Property:**  
Zimmerman Home Place Subdivision 1<sup>st</sup> Filing, Lot 1, Block 1, Section 34, T01 N, R 25  
E. Billings, MT, P.M.M
5. **Neighborhood Task Force Area:** Yes // No. If Yes, Name of Task Force and mailing address of Chairperson:  
Westend Task Force, Steve Zeier
6. **Roster of persons who attended the pre-application neighborhood meeting:** please attach to this form.
7. **A copy of the meeting notice.** please attach to this form
8. **A brief synopsis of the meeting results including any written minutes or audio recording.** please attach to this form
9. **The undersigned affirm the following:**
  - 1) The pre-application neighborhood meeting was held on the 24th, day of August 2023.
  - 2) The zone change application is based on materials presented at the meeting.

**Owner (s):** Highlands ZHP Subdivision, LLC      Telephone: (406) 839 - 7661  
Address: 2116 Broadwater Ave., Suite 101,      Email: [preston@beartoothholding.com](mailto:preston@beartoothholding.com)  
Billings, MT 59102

**Agent (s):** Performance Engineering, Scott Aspenlieder      Telephone: (406) 384 - 0080  
Address: 608 N. 29<sup>th</sup> Street Billings, MT 59101      Email: [scott@performance-ec.com](mailto:scott@performance-ec.com)



608 North 29<sup>th</sup> Street, • Billings, MT 59101 • (406) 384-0080

---

## Lots 2 & 3, Block 1, Zimmerman Home Place Subdivision, 3<sup>rd</sup> Filing

### Zone Change Neighborhood Meeting Notes

The meeting was conducted from 6-7:30 PM on August 24, 2023 at the Arrowhead Elementary School. The meeting was hosted by Scott Aspenlieder of Performance Engineering (agent) and Preston Lees (developer).

There were eleven (11) public participants for the meeting. We did not receive any calls prior to the meeting or following the meeting. Significant discussion occurred regarding the development plan for Block 2 and the ongoing construction, which was not relevant to this application but all information available was shared by Mr. Lees. Those discussions are not summarized below as they are not relevant to this application.

Questions from the individuals and subsequent responses are shown below:

- **What is the timeline on the development of the property?**

*The developer noted that the timeline for this project was to be under construction in 2024, based on completion timelines for ongoing project adjacent to the parcel. That construction would include the completion of Avenue D along the southern boundary of the project area. Construction would likely take up to 24 months to complete.*

- **Why is it being proposed to switch the existing property zoning to NX2 and NX3?**

*NX1 demand is not moving the land forward at this point. Current market interest is higher for multi-family development than for a lower density NX1 residential development. The combination of NX2 and NX3, we believe, is a compromise and consistent with ongoing development to the east of the parcels on Block 2 and the zone change south which was approved by Council for Steward Land Company, essentially the same as what is being proposed. The proposed zoning configuration allows the developer the ability to mix densities and housing products providing more housing choices to the market and residents. This diversity is imperative for the current market to be able to fit multiple housing levels and price points.*

- **What is going to be done to address the increase in traffic in the area?**

*A Traffic Impact Study (TIS) was previously completed for this development. The TIS did anticipate the a change to Block 1 to account for elevated travel from a future change. Remaining within the NX zone types by only adding NX2 and NX3 we'll see a slight increase in trip generation and thus a negligible impact on the existing transportation system aside from the impacts paid for by the developer to*

*intersections in the area. Nonetheless, the results of the TIS show the project will trigger upgrades to the intersection of Avenue E and Zimmerman Trail, calling for installation of a stop light upon full buildout of the Zimmerman Home Place development. The developer will have made the financial contributions to the City of Billings for their impact on those improvements. The lighted intersection will take pressure off the Colton and Zimmerman intersection once installed helping the road network in the area. Again, it should be noted that trip generation from NX2 and NX3 on Block 1 was planned for with the study completed anticipating a change in the future so the contributions made for intersection impacts by the developer will be sufficient to account for their financial obligations. Lastly, it should be noted that completion of Ave. D to the existing neighborhood west of Zimmerman Home Place Subdivision will assist in serving as an outlet for residential traffic from those streets to get to the new lighted intersection at Ave. E and Zimmerman Trail and the roundabout at Grand Ave. and Green Valley Dr.*

- **How many stories will the buildings constructed likely be on the property?**

*NX3 zoning allows for up to four (4) stories in construction. It is likely that 3- to 4-story construction would occur on the site to maximize development potential and value for the lot and neighborhood. There is no definitive plan for how the lots will be developed at this point. It is more likely that a development like that occurring on Block 2 will be carried over to this area but there have been no formal design level efforts put to that at this stage. Securing the zoning approval is necessary before investing and putting at risk any more capital on the development of these lots.*

- **What impact will this development have on property values of the existing homes in the area?**

*There are a handful of studies that point to continued development of vacant lands increasing values to adjacent neighborhoods, even with higher density development. There are no accredited studies we have seen that show that by building higher density development adjacent to single-family housing that a reduction in home value occurs. There certainly will be a change in viewshed from Colton Boulevard but that would also occur if a home was built to the maximum height allowed by NX1 zoning. The development has stepped back density using an NX1 buffer on the west side of the lot to minimize impact, pushing the NX3 to the center and as far away as possible from existing neighborhoods.*

- **Why can't the area be built out under the existing NX1 zoning?**

*There is increasing demand for NX2 and NX3 densities in development to provide a housing need which is not met under NX1. Currently, with the cost of construction large swaths of land are cost prohibitive to develop with only NX1 zoning because developers cannot get the density necessary to offset construction and land costs with current interest rates and inflation.*



# PERFORMANCE ENGINEERING

**Lots 1, Block 1, Zimmerman Home Place, Zone Change Neighborhood Meeting Sign-In**

8/24/2023



608 North 29<sup>th</sup> Street, • Billings, MT 59101 • (406) 384-0080

---

August 16, 2023

Dear Interested Neighbor,

On behalf of Highlands ZHP Subdivision, LLC, 2116 Broadwater Ave., Suite 101, Billings, MT 59102, Performance Engineering, LLC, is writing to inform you of a zoning pre-application neighborhood meeting scheduled to be held on **August 24, 2023** at Arrowhead Elementary School, 2510 38<sup>th</sup> St. West, Billings, MT 59102. Interested parties can attend the meeting held in the Library from 6-7 PM.

The meeting is being held to discuss a proposed zone change regarding the existing property located southwest of the intersection of Colton Boulevard and Avenue E. The owner is requesting the properties shown in the attached exhibits, and described below, be re-zoned to accommodate future development:

**A portion of Lot 1, Block 1, of Zimmerman Home Place Subdivision, 1<sup>st</sup> Filing, S34, T01N, R25E, City of Billings, Yellowstone County, Montana except the western most 151-feet (5.279 ac remaining NX1). Having a total area of approximately 12.41 acres.**

The intent of the meeting is to make neighboring property owners aware of the proposed zoning change for the subject properties, discuss the potential for redevelopment, and to answer questions about the project. Below is a summary of the existing zoning and the proposed zone changes:

Existing Zone District	Existing Area (acres)	Proposed Zone District	Proposed Area (acres)
NX1	17.689	NX2	6.240
		NX3	6.170

The City of Billings generally describes the zoning districts included in this application as:

- NX2: Mixed Residential 2
- NX3: Mixed Residential 3
- A total of 16.41 acres is included in the proposed zone change.

Representatives for Performance Engineering, LLC and the Developer will be present at the meeting to answer questions from those who attend. For those unable to attend the meeting, written letters can be directed to Performance Engineering at 608 North 29<sup>th</sup> Street, Billings, MT 59101, attention Scott Aspenlieder, or emails may be sent to [scott@performance-ec.com](mailto:scott@performance-ec.com). We look forward to discussing the proposed zone change with you and hope to see you on **August 24, 2023 at Arrowhead Elementary**.

Sincerely,

A handwritten signature in black ink, appearing to read 'Scott Aspenlieder'.

Scott Aspenlieder, PE  
Project Manager



608 North 29<sup>th</sup> Street • Billings, MT 59101 • 406-384-0080

---

## Lot 1, Block 1, Zimmerman Home Place Subdivision, 1<sup>st</sup> Filing Zone Change Questions

1. Explain how the proposed project is consistent with the adopted Growth Policy, Neighborhood Plans, and other applicable city development policies.

Essential Investments - The proposed project is classified as an "infill development" within that will not require any additional city water or sewage infrastructure making it a very cost-effective option for the city.

Infill Development Policy - The goal of the Billings Infill Policy is to promote housing and retail choices to encourage economic development, by rezoning this area it will stimulate development of the area and provide a more enjoyable neighborhood environment for the residents.

Diversified & Affordable Housing - This zone change will allow for cheaper and safe housing for new residents. This influx of new residents will be able to affordably live in a new development that has many surrounding amenities. The development will also be an affordable option for the city due to the low cost of service. This project will not require any additional utilities installation other than tying into the existing mains as well as the site exists within already established infrastructure.

2. Explain how the proposed project meets the 10 zone change criteria.
  - a. Is the new zoning designed in accordance with the growth policy?  
The new zoning adheres to the City of Billings growth policy through its expansion of residences, emphasis on public and non-motorized travel, and its cost-effective construction due to its classification as an infill development and low cost of service.
  - b. Is the new zoning designed to secure from fire and other dangers?  
There are fire hydrants located an adequate distance from the site on Avenue E and Colton Boulevard. Construction of the site will comply with building regulations and zoning code to allow for appropriate separation of buildings and proper lighting for public safety and security. The site is also located outside of any floodplain.
  - c. Will the new zoning promote public health, public safety, and general welfare?

The proposed zone change will diversify the surrounding neighborhood and present a residential middle-ground between the family housing to the west and the apartment buildings to the east. Buildout of this vacant land will bring more public eyes to the area to help keep watch on public safety. This zone change to a combination of NX2 and NX3 also requires landscaped or natural open areas which will improve the general well-being of the neighborhood.

**d. Will the new zoning facilitate the adequate provision of transportation, water, sewage, schools, parks and other public requirements?**

The change in zone will not require any additional water or sewage to the site as it is provided by the development being constructed to the east. Park land was identified and dedicated in the PD development to the for the Zimmerman Home Place Subdivision. Even so, additional interior green spaces, pocket parks, and trails will be incorporated into the development for residents and neighbors to use. The development is not necessarily close to MET transportation with the closest routes on Grand Ave. to the south and Poly Drive to the north. The development does connect through a system of trails and pedestrian ways both areas.

**e. Will the new zoning provide adequate light and air?**

The proposed zone change will have minimal impact on light and air in the surrounding area. The required open area will allow for adequate lighting and air for the property and surrounding area. Any improvements to the land must adhere to the zoning requirements for lighting laid out by the City's Zoning Code which directly addresses open areas and light.

**f. Will the new zoning affect motorized and nonmotorized transportation?**

As the zone change will convert agricultural lands to residential development, additional residents will move to the area creating an impact on the motorized transportation in the area. This has been studied and accounted for in the reviewed and approved Traffic Impact Study (TIS) associated with the Zimmerman Home Place Subdivision. The developer, as part of the overall development, has contributed to intersection impacts in the areas identified by City Public Works to mitigate any negative impact coming from the overall development. The vicinity of the MET bus stop will help mitigate this effect to some extent depending on the resident profile for the area. The large number of existing and proposed sidewalks and multi-use trails in the area leading to popular commercial areas, nearby parks, and Arrowhead School will also help mitigate additional unnecessary traffic. It should be noted that the development will complete construction of Ave. D, creating a link between the existing neighborhoods to the west with Zimmerman Trail. This will improve traffic flow within the existing residential neighborhoods to the west.

**g. Will the new zoning promote compatible urban growth?**

The NX2 and NX3 zoning will promote compatible urban growth as it is nestled between low density residential on the west and north sides and medium density residential to the east with medium density commercial to the southeast side. This zoning will allow for new residents to move into a thriving and safe neighborhood that can easily meet most of their needs in the immediate area. The proposed zone change provides the desired step-back in density leaving a portion of NX1 on the west side of Lot 1 and gradually stepping up to higher density on the innermost portion of the lot.

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

By leaving a portion of the existing NX1 zoning in place along the western boundary and stepping up to NX2 and NX3 we are providing adequate buffering and minimizing impacts to surrounding areas. The change from NX1 to NX2/NX3 still provides residential uses of the land as was planned originally. Through proper planning and tiering away from existing neighborhoods the proposed zoning will not impact the character of the existing community.

**i. Will the new zoning conserve the value of buildings?**

The new zoning will conserve the value of buildings in the area by creating new amenities for nearby neighborhoods while not intruding upon them. Inclusion of parks and trails open for public use along with construction of additional transportation infrastructure will also benefit the surrounding neighborhoods.

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

By further buildout of an infill project and providing a lower cost of service to the City of Billings, the development is providing the most appropriate use of the land. The proposed development adequately steps back density from existing residential areas to minimize impact while providing a diversity in housing options and mixed residential neighborhoods within the west end of Billings. Services in the area can support expanded residential growth without straining City infrastructure or EMS services.

**3. Does the new zoning fit with the existing or planned developments within the area?**

The new zoning will fit seamlessly into the existing developments, land currently being developed, and future developments in the area due to its blending of the residential areas with the more commercial focused, southern lots closer to Grand Avenue. It can be fairly assumed that much of the development to the south and east will be medium to high density residential and medium density commercial in which the proposed NX2 and NX3 zoning

will readily fit. The current pedestrian infrastructure in the area will allow for the new residents to navigate the surrounding areas easily and safely. The site will help provide homes for future residents as well as many amenities and necessities for the current and future residents in the area. The proposed zone change will allow for necessary density to provide affordable housing and diversity in housing options for this area of the City. Lastly, the development stepped back density from established neighborhoods with appropriate distances to minimize impacts and the feel of higher density being within the core of Zimmerman Home Place Subdivision.

**From:** [Purinton, Pam](#)  
**To:** [Kukulski, Chris](#); [Iffland, Kevin](#); [Iffland, Kevin](#); [Friday, Wyeth](#); [Cromwell, Nicole](#)  
**Cc:** [jabcarroll@charter.net](mailto:jabcarroll@charter.net); [Council](#)  
**Subject:** Fwd: [EXTERNAL] Zoning commission ethics  
**Date:** Thursday, September 28, 2023 8:11:54 AM

---

I believe we have taken a short amount of time discussing the bare minimum of postings. I agree with Mr. Carroll, a true posting would be on all sides of a property, close to the road and possibly larger so folks know that this zone change may affect their property. Thank you, Mr. Carroll, for calling our attention to this matter,  
Pam Purinton  
Ward 4, Council Member

Sent from my Verizon, Samsung Galaxy smartphone  
Get [Outlook for Android](#)

---

**From:** Jeff Carroll <[jabcarroll@charter.net](mailto:jabcarroll@charter.net)>  
**Sent:** Thursday, September 28, 2023 7:59:13 AM  
**To:** Council <[council@billingsmt.gov](mailto:council@billingsmt.gov)>  
**Subject:** [EXTERNAL] Zoning commission ethics

Just wanted to share the zoning commissions idea of public notice. This is where they have chosen to display the zoning change request sign for the Zimmerman area. It is buried in thick weeds facing mostly empty apartments under construction. To be fair the developer making the request probably knows where it is. Also the road that it is facing was just recently opened. I am impressed that they didn't put a trailer in front of it. Not a single sign on Colton. Nicole Cromwell needs an ethics committee evaluation.



Jeff Carroll

Sent from my iPad

**From:** [David Munson](#)  
**To:** [Purinton, Pam](#)  
**Cc:** [Cromwell, Nicole](#)  
**Subject:** [EXTERNAL] Zimmerman Zone Change 1038  
**Date:** Saturday, September 30, 2023 3:52:15 PM

---

Dear Pam,

I am bringing to your attention a seemingly underhanded approach to a zone change in our neighborhood, Zimmerman Place zone change 1038. The past two years have been frustrating in what has appeared to be developer/city zoning department and commission versus the neighborhood residents surrounding the new high density development. Zoning changes were made with little regard to neighborhood feedback over recent years on this project and now another unethical strategy has been employed. The most recent change is a move to make a zone change without being fully transparent and seemingly sneaking in the changes.

A neighbor recently shared with me in passing a zone change being brought before the zoning division/commission. The person shared that he accidentally found a posted zone change notice among some weeds on a street that was closed to the public. Upon walking down the street that is now open (but unused because there are no dwellings along the street) I discovered the posting off the street among some high shrubs and weeds. It was impossible to read the letter and map because there was some sort of hazy film covering the documents. I could read the number 1038 in one corner of the letter so I went online to see what was happening. The developer is once again attempting to change from the original neighborhood character to high density housing that would allow more high-rise apartment buildings adjacent to neighborhood homes.

**Concerns:** The proposed zoning change will affect traffic in a negative manner. Zimmerman Trail is already clogged and backed up several times each day. There are many times it takes 3-4 traffic light changes to get through Grand Avenue and Broadwater Avenue intersection. In addition, this zoning change is not considering the character of the first neighborhood. But most importantly, the entire zoning process is set up to avoid public input and it appears this is another attempt to sneak in a zoning change without the knowledge of adjacent neighbors.

Given the first zoning change on the Zimmerman Homes project, I have no illusion that the public is welcome to express concerns. Rather, any concerns will be dismissed (rather rudely) and under-the-table zoning agreements between the developer and the zoning department/commission will continue. However, I have never written to you about these concerns so this is likely new to you. I do not expect anything to change on this project. I gave up long ago and feel that my voice has no merit with the City. However, you appear to be a listener and a representative that may look into these issues for future projects and to improve relations between the City zoning and Billings residents.

Thank you.

David Munson  
2108 Avalon Road  
406-698-0444

C: Nicole Cromwell

**From:** [Marlena Lanini](#)  
**To:** [Cromwell, Nicole](#); [Bartley, Robbin](#)  
**Subject:** [EXTERNAL] Comments for City Zone Change 1038  
**Date:** Tuesday, October 3, 2023 6:24:28 AM

---

I am writing to urge the City Zoning Commission to recommend denial for the proposed zoning change “City Zone Change 1038 – Zimmerman Homeplace - intersection of Avenue E and Avenue D - from NX1 to NX2 & NX3”. I am in favor of mixed use residential development and live in the mixed use neighborhood to the west of this development. However, I believe the proposed zoning change as written will have detrimental effects based on the following criteria:

**1. Inadequate provision of parks:**

- a. Further increasing the population density by changing from NX1 to NX2 and NX3 without increasing the public park space does not provide adequate provision of parks.
- b. The public space listed “Public 1” has a large irrigation ditch running through the middle, making it unsafe and reducing the space available for park use. It does not provide adequate provision of parks.
- c. This proposed zoning change, in combination with previous zoning changes granted for this development have split the park land into several small areas. This limits space available to park amenity development for public use. Further, several fragmented pieces of park land are surrounded by large buildings, making them appear to be private courtyards belonging to the apartment buildings instead of a public neighborhood park.

**2. Impacts to non-motorized traffic:**

- a. Increasing the density of traffic will impact the pedestrian and bike traffic on the path along Colton which has two road crossings to this development. Additionally, the trail currently crosses Zimmerman Trail and more traffic in this area will make it even more difficult to navigate this already busy road crossing. The increased density of traffic with several uncontrolled traffic-pedestrian crossings will decrease the walkability of this area.
- b. Increased density will have a negative impact on pedestrian traffic in the neighborhood to the west of the proposed development when the Avenue D connection is complete. Currently the neighborhood to the west offers excellent pedestrian access primarily because there are limited entrance/exit roads, so all traffic is funneled to the main roads. However, after Avenue D is connected, the proposed development with even more NX2 and NX3 zoning will increase traffic in this quiet and pedestrian friendly neighborhood.

**3. Substantially changes the character of the district:** This area has requested several zoning changes, each with increasing space devoted to NX3, decreasing the diversity of housing types available. The narrow (151 ft) strip of zone NX1 adjacent to the surrounding neighborhoods (primarily N3 with some N2), is an inadequate transition zone to a large NX3 zone. This is an abrupt change of character to the surrounding neighborhoods. The current zoning plan of NX1 allows much better

diversity of housing types and also blends in with the surrounding neighborhood character much better than this proposed change.

Thank you for considering my comments.  
Marlena Lanini

**From:** [Jordan Lanini](#)  
**To:** [Cromwell, Nicole](#); [Bartley, Robbin](#)  
**Subject:** [EXTERNAL] Comments on City Zone Change 1038  
**Date:** Tuesday, October 3, 2023 9:02:09 AM

---

I am writing in objection to City Zone Change 1038. The zone change is in contravention to the 2016 Billings Growth Policy and will negatively impact both motorized and non-motorized transportation, as detailed below.

**The proposed zoning is not designed in accordance with the growth policy:**

The proposed zoning does not meet the Growth Policy's Community Fabric requirements. The current plan already lacks developed parks that provide recreation and special amenities. The park areas that are planned are fragmented and located within a courtyard-type space between high density apartment buildings. These areas are only accessible to those that live in the buildings, essentially cutting off this development from social interaction with others in the local community. The Public 1 space is a ditch and right-of-way, which is not a safe area for people to interact.

The proposed zoning does not meet the Growth Policy's requirements to develop Strong Neighborhoods. In particular, it will not result in a sociable and resilient neighborhood. The proposed zoning increases the housing density in the area, to a more homogenous neighborhood. NX1 zoning allows up to four dwellings per unit; NX2 up to eight; and NX3 more than eight. The developer indicates its intent to maximize development density in its application: "Currently, with the cost of construction large swaths of land are cost prohibitive to develop with only NX1 zoning because developers cannot get the density necessary to offset construction and land costs with current interest rates and inflation." This implies all NX2 zones will be developed at eight dwellings. The developer states that "It is likely that 3- to 4- story construction would occur on the site to maximize development potential and value for the lot and neighborhood." This indicates NX3 rezoned areas will be very large apartment buildings.

We can therefore assume the minimum size (even on NX1-zoned lands) will be a four-dwelling unit, leaving this neighborhood without a mixture of housing types, failing to meet the needs of a diverse population. In fact, the width of the NX1 zone in the proposed plan is 151 feet, seemingly designed to avoid the 150-foot protest boundary defined in Montana Code Annotated, Section 76-2-305(2). This, plus the developer's statement that NX1 development is not profitable, indicates that it is highly likely the developer does not intend to develop the NX1-zoned lands at all. This will leave us with a dense, homogenous neighborhood of units with eight or more dwellings.

**The proposed zoning will negatively affect motorized and nonmotorized transportation:**

The intersection of Grand Avenue and Zimmerman Trail already suffers from heavy traffic,

particularly during rush hour periods. Opening Avenue D through from the new development to 38th Street will result in collector street traffic on an existing residential street. Conflict between non-motorized and motorized traffic will increase at the Colton Avenue/Zimmerman Trail multiuse trail crossing due to increased motorized traffic on both Colton and Zimmerman.

Jordan Lanini  
3718 Avenue F  
Billings, MT 59102

ORDINANCE 23-\_\_\_\_\_

AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING  
THE ZONE CLASSIFICATION ON Lot 1, Block 1, of  
Zimmerman Home Place 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 27-302 and 27-1502, 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 1, Block 1, of Zimmerman Home Place Subdivision, is presently zoned **Mixed Residential 1 (NX1)** and **Public 1 (P1)**, and is shown on the official zoning map within this zone.

**Section 3. ZONE DISTRICT AMENDMENT.** The official zoning map is hereby amended and the zoning on portions of Lot 1, Block 1, of Zimmerman Home Place Subdivision, is hereby changed from **Mixed Residential 1 (NX1)** to **Mixed Residential 2(NX2)** and **Mixed Residential 3 (NX3)** as shown on the attached exhibit, and from the effective date of this ordinance, these portions shall be subject to all the rules and regulations pertaining to **Mixed Residential 2 (NX2)** and **Mixed Residential 3 (NX3)** 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 23<sup>rd</sup> day of October, 2023.

PASSED, ADOPTED and APPROVED on second reading this 13<sup>th</sup> day of November, 2023.

CITY OF BILLINGS

BY: \_\_\_\_\_

William A. Cole, Mayor

Attest:

BY: \_\_\_\_\_

Denise R. Bohlman, City Clerk

Zone Change 1038 – portions of Lot 1, Block 1, Zimmerman Home Place Sub

## EXHIBIT – ZONE CHANGE 1038

