

Zoning and subdivision regulations that utilize Crime Prevention Through Environmental Design (CPTED) strategies result in safer neighborhoods.

Community Fabric:

Attractive street scapes provide a pleasant and calming travel experience in urban and suburban neighborhoods.

Home Base:

Common to all types of housing choices is the desire to live in surroundings that are affordable, healthy and safe.

Prosperity:

A diversity of available jobs can ensure a strong Billings' economy.

Successful businesses that provide local jobs benefit the community.

Community investments that attract and retain a strong, skilled and diverse workforce also attracts businesses.

The proposed amendment allows a new type of business within the city limits. New businesses can create unpredictable effects within an existing community. The proposed regulations are intended to prevent some predictable consequences of allowing a business that is still considered illegal in many states. It is likely there will be a high demand for this product due to the regional nature of the Billings retail market and due to the fact the states adjacent to eastern Montana have not legalized marijuana. Colorado is the closest state to Montana where both medical use and adult use marijuana is legal. Expansion from medical use to adult use marijuana will increase demand generally. Allowing these businesses in areas where similar types of business already exist - processing, manufacturing, cultivation, warehousing, transportation terminals - will make this use predictable in those areas.

Expanding the types of districts to Mixed Use districts would bring these businesses too close to neighborhoods, schools, public parks and other sensitive land uses where protection from odors and noise is a primary concern and businesses with high security demands are not compatible. The regulations require an arterial setback for adult use or combined use dispensaries so the separation requirements and the district limitations do not combine to create a cannabis corridor along entryways to the city.

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

The new zoning may increase the danger from fire for new manufacturing and processing facilities that extract cannabis oil. The Fire Marshal has suggested insertion of language to require compliance with Chapter 39 of the 2021 IFC that is not yet in effect in Montana. In general, the proposed zone districts for this use is in proximity to similar uses and will not be close to neighborhoods, public parks or schools where danger from fire or explosion is a higher risk.

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

The proposed regulations limit the effect of locating these businesses within the city limits by providing separation distances from sensitive uses and limiting the businesses to compatible zone districts such as CX, I1 and I2.

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

Transportation: It is not known whether the number of businesses within the proposed three zone districts will affect the overall transportation system. In some jurisdictions, high security transportation of marijuana was required. If Billings becomes a regional cultivation, processing or manufacturing center for Montana,

evaluation of local transportation will be needed on a site by site basis through a Traffic Impact Analysis by the proposed business.

Water and Sewer: This text amendment affects properties within the City of Billings that are served by city water and sewer. Cultivation and processing will increase demand on water and waste water services, but the system is expected to provide those services.

Schools and Parks: Schools should not be significantly affected by the proposed zoning. The draft regulations propose a 1,000-foot separation to schools (primary and secondary, public or private) and public parks with playgrounds or playing fields. This should help protect these two sensitive land uses.

Fire and Police: The CX, I1 and I2 zones within the City of Billings will be served by City Fire and Police Departments. The Fire Marshal's concern with cannabis oil production is noted above in criteria 2. It is likely dispensaries will employ complicated security systems for their locations. The Police and Fire Departments will be involved in reviewing licenses and building permits for any new locations.

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

Not applicable.

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

The proposed zoning may have unknown impacts on the transportation network. Individual business may need to provide traffic impact reports when establishing a new location.

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

The zoning amendment promotes compatible urban growth in the areas of the City that are zoned CX, I1 and I2. The intended use is not an intrusion to these zone districts and the proposed separation requirements will provide buffering to any sensitive land uses.

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

The zoning amendment considers the character of the CX, I1 and I2 districts and the suitability of the property for the proposed uses. Testing Laboratories will be allowed in additional zone districts - Downtown Support (DX) and Central Business District (CBD) since no sales or production of marijuana would occur at these facilities. DX and CBD allow all other research and testing laboratories.

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

Not applicable

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

The proposed zoning may encourage the most appropriate use of some CX, I1 and I2 zoned land in Billings.

Discussion

Commissioner White stated she does not think this is enough zoning areas for this business nor does she like there is only a very small area in the Heights allowing this business. The zoning should be closer to the related zoning of casinos.

Staff stated casinos are a different animal and are treated differently. Explanations to where they are allowed were given.

Commissioner Brooks is concerned this business is being pushed to low income neighborhoods.

Public Comment

Neil Kiner, 1432 Teton Ave, Billings, MT

Mr. Kiner reiterated his email submitted earlier. Believes there is a happy medium and many retail opportunities.

Commissioner White asked about the Colorado zoning. Mr. Kiner does not know about Colorado zoning. Commissioner White expressed concern about tourists and signage for those visiting and how that might look. Mr. Kiner said the state is working on sign restrictions and has heard they are to be strict.

Ming Cabrera, 1734 Poly Drive, Billings, MT

He is concerned there is only one small area in the Heights for this business. He has retail space in the Heights that would be ideal for Main Street dispensaries. Please do not eliminate Main Street as an approved area for the thirty thousand people in the Heights. One of his buildings in the Heights sells pipes and it is a very lucrative business. Why should patrols have to be sent to the extreme north for safety purposes.

NO CALLERS

Discussion

Commissioner Brooks voiced his concerns again regarding this business and potential negative impacts being restricted to low income areas. He referred to studies indicating increased usage and likely addiction between .4-.8 miles from dispensaries. He feels it needs to be spread out throughout the City. This does not promote strong neighborhoods as directed by the Growth Policy.

Commissioner White does not think pushing all this to the outside is the answer.

Staff explained the Corridor Mixed Use zones would be the next step down. Main Street was eliminated by the footage requirements recommended by the Steering committee. The dials are in front of you. Separation requirements and separation from what. Commission recommendations must move forward tonight because of the timeline of events leading up to January 1, 2022 state implementation.

Wyeth Friday talked about the residential separation requirements and is significant because it removes availability. The low-income point is interesting in they are within a half mile radius.

Staff asked protected uses be addressed first.

Vice chair McCall feels frustrated because the commission is just now receiving the information and it seems as if the business is being pigeon holed to certain areas. The largest available areas

are right in his neighborhood. The pressure of having to make a recommendation tonight is daunting.

Commissioner Brooks feels the City is considering capping the number of allowed businesses. He feels the zoning should be expanded and limited by the potential caps.

Motion

Commissioner White made a motion and Commissioner Brooks seconded the motion to amend the dispensary separation requirement to 600 feet from parks, schools and churches only and amend the separation requirement to 350 feet from residential zoning.

| COMMISSIONER | Yes | No | ABSTAINED | ABSENT |
|------------------|-----|----|-----------|--------|
| Mike Larson | | | | X |
| Daniel J. Brooks | X | | | |
| VACANT | | | | |
| Greg McCall | X | | | |
| Trina White | X | | | |

The Motion to amend separation language on City Zone Change 1001 was approved with a 3-0 vote.

Motion

Commissioner White made a motion and Commissioner Brooks seconded the motion to add the “no waiver” language to City Zone Change #1001.

Discussion

| COMMISSIONER | Yes | No | ABSTAINED | ABSENT |
|------------------|-----|----|-----------|--------|
| Mike Larson | | | | X |
| Daniel J. Brooks | X | | | |
| VACANT | | | | |
| Greg McCall | X | | | |
| Trina White | X | | | |

The Motion carried to add language to City Zone Change #1001 with a 3-0 vote.

Motion

Commissioner Brooks made a motion and Commissioner White seconded the motion to add CMU2 and CMU1 zoning City Zone Change #1001.

Discussion

Vice Chair McCall thinks adding these zoning areas is opening it up to broad.

| COMMISSIONER | Yes | No | ABSTAINED | ABSENT |
|------------------|-----|----|-----------|--------|
| Mike Larson | | | | X |
| Daniel J. Brooks | X | | | |
| VACANT | | | | |
| Greg McCall | | X | | |
| Trina White | X | | | |

The Motion carried to add CMU2 and CMU1 City Zone Change #1001 with a 2-1 vote.

Motion

Commissioner Brooks made a motion and Commissioner White seconded the motion to approve City Zone Change #1001 with all amendments as previously voted.

| COMMISSIONER | Yes | No | ABSTAINED | ABSENT |
|------------------|-----|----|-----------|--------|
| Mike Larson | | | | X |
| Daniel J. Brooks | X | | | |
| VACANT | | | | |
| Greg McCall | X | | | |
| Trina White | X | | | |

The Motion carried to approve City Zone Change #1001, with amendments with a 3-0 vote.

Other Business:

Adjournment: The meeting adjourned at 6:28PM.

ATTEST: Approved by a motion November 2, 2021
--Robbin Bartley, Administrative Assistant

Add the following on Page 5

Add new subsection (b) to 27-1005.R.1

(b) Required separations are not subject to reduction, adjustment, or variance and dispensaries shall not be approved within the distances specified.

Add the following on Page 6

Add new subsection (b) to 27-1006.F.1

(b) Required separations are not subject to reduction, adjustment, or variance and marijuana cultivation, processing or manufacturing shall not be approved within the distances specified.

October 5, 2021

Dear Zoning Commissioners,

Thank you for the commitment you've made to our community by serving on this board. It's not lost on me how much of a time and energy commitment it takes to serve the public on a commission like this. I have served on various boards for the city in the past and am a current member of the Energy and Conservation Commission. Additionally, I was a member of one of the subcommittees that helped craft the new zoning regulations, project Re-Code.

I'm writing to you all to encourage you to provide more flexibility in the zoning regulations that are before you regarding cannabis businesses. I have been an interested member of the public in this process and have offered consultation to the city staff and council throughout this process. The mayor, several council members, and the city administrator, have been provided a behind the scenes tour of a dispensary and cannabis farm that I own, The Green Bee. I have been as transparent and forthcoming as possible in an effort to educate and provide knowledge of the industry.

The state has categorized the industry into seven 'types' of business, depending on what the business performs. In a letter I wrote to council, I suggested that zoning regulations reflect these business types, as they are different and require different space, access, etc... I am encouraged to see that planning staff has taken that direction and has begun to implement different zoning regulations based on these business types. However, I would like to see more flexibility built into the regulations. Retail services, as currently written, would be required to be located in hard to find industrial areas. That approach does not encourage retail services, and in fact discourages businesses from locating in our community. Maybe that's the point, I don't know. I do know there are many empty retail spaces available throughout Billings. I encourage you to consider the addition of zoning districts to the retail business types.

I encourage regulate all retail cannabis businesses with the same setback requirements as bars/casinos. The current draft regulation is much more stringent with setbacks from arterial streets and existing land uses. Again, this effectively bans businesses from locating in Billings.

I will attend this meeting and will be available to answer any questions. I look forward to hearing discussion on this issue.

Sincerely,

Neil R. Kiner
Landscape Architect



Second Nature Consulting, PLLC
1432 Teton Ave.
Billings, MT 59102
P: (406) 850-0461