

ORDINANCES
MILES CITY, MONTANA

ORDINANCE NO. 1311

AN ORDINANCE AMENDING SECTIONS 24-66(e) AND 24-80, AND CORRECTING THE CITY OF MILES CITY ZONING MAP TO INCLUDE CITY PROPERTY NOT REFLECTED AND REMOVING PROPERTIES LYING OUTSIDE OF THE CITY LIMITS, AND PROVIDING FOR A HEARING THEREON.

WHEREAS, City of Miles City staff have noted minor inconsistencies between the City of Miles City zoning code and the International Building Code, as well as errors in the City of Miles City zoning map where properties lying within the city limits have not been included, and where properties lying outside of the city limits have been included;

AND WHEREAS, Section 24-96 of the Code of Ordinances of Miles City, Montana requires that proposed revisions to the zoning code or zoning map be referred to the City Zoning Commission for public hearing and recommendation to the City Council prior to any action by the City Council upon such application;

AND WHEREAS, the Miles City Zoning Commission, on February 6, 2017, upon public hearing and deliberation, recommended to the City Council that such changes be approved.

BE IT ORDAINED, by the City Council of the City of Miles City, Montana, as follows:

Section 1. Section 24-66 (e) shall be amended to read as follows:

“Bed and breakfasts may display signs as permitted by the International Building Code’s sign regulations (Appendix H).”

Section 2. Section 24-80 shall be amended to read as follows:

“A permit shall be required for any clearing, grading, excavation, construction, reconstruction, non-minor change of occupancy or use, land development, re-development or building activity, except as specifically exempted by these regulations or per Section 24-81 below. These regulations include the following four kinds of permits, the procedures for administration of which are found in Section 24-85 below:

- a) A Building Permit, where compliance with zoning is assessed, shall be required for any new building activity listed as “permitted” in the various districts adopted by these regulations (see Sections 24-15 through 24-39).
- b) A Conditional Use Permit shall be required for any land use or building activity listed as a “conditional use” in the various zoning districts (see Sections 24-15 through 24-39).
- c) A Change of Occupancy Permit is required when a non-minor change in use or occupancy occurs in a building or on a premises.
- d) A Certificate of Occupancy is required when a new building is completed.

Building permit applications are submitted with applications for the above permits when building codes apply to the development.

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Building permits are then processed by the Miles City Building Inspector in conjunction with zoning review by the Administrator and, when applicable, the Board of Adjustment. Sign permits are authorized under separate ordinance – see Appendix H of the International Building Code for sign regulations in Miles City.”

Section 3. Zoning for the following described real property located within the City of Miles City, Custer County, Montana, and owned by the City of Miles City, is hereby rezoned from having no zoning designation to Open Space (OS) zone, to wit:

Tract B Less Highway located in Section 33, Township 8 North, Range 47 East, P.M.M., Custer County, Montana, according to the official plat and survey thereof on file with the Clerk and Recorder in and for Custer County, Montana.

Section 4. The following described real properties located outside the City of Miles City, Custer County, Montana, are hereby removed from the zoning jurisdiction of the City of Miles City and thereby will no longer having a zoning designation of General Commercial (GC) under the City of Miles City’s zoning regulations, to wit:

Tract 1-A of the Dyba Addition located in Section 27, Township 8 North, Range 47 East, P.M.M., Custer County, Montana., according to the official plat and survey thereof on file with the Clerk and Recorder in and for Custer County, Montana.

Tract 1B-A of the Dyba Addition located in Section 27, Township 8 North, Range 47 East, P.M.M., Custer County, Montana., according to the official plat and survey thereof on file with the Clerk and Recorder in and for Custer County, Montana.

Tract 1C-A of the Dyba Addition located in Section 27, Township 8 North, Range 47 East, P.M.M., Custer County, Montana., according to the official plat and survey thereof on file with the Clerk and Recorder in and for Custer County, Montana.

Section 5. The property, in the absence of a legal description, shown in Diagram 1, below, located in the Tongue River Slough, located outside the City of Miles City, Custer County, Montana, is hereby removed from the zoning jurisdiction of the City of Miles City and thereby will no longer having a zoning designation of Open Space (OS) under the City of Miles City’s zoning regulations, to wit:

DIAGRAM 1



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Section 6. The City of Miles City Staff Report prepared as part of the review of this application, and attached hereto as Exhibit "A," is hereby adopted as Findings of Fact to support the Council's decision.

Section 7. Prior to final passage, a public hearing shall be held upon this proposed zoning change before the City Council at 7:00 P.M. on the 14th day of March, 2017, in the Council Chambers at City Hall, 17 S. Eighth Street, Miles City, Montana.

Section 8. The City Clerk shall give notice of the date, time and place of such hearing by publication in the Miles City Star at least 15 days prior to the date of such hearing, containing all information required by, and in accordance with, MCA Sections 76-2-303 and 305, as well as Section 24-97 of the Code of Ordinances of Miles City, Montana. Certified mailing of notice is not required for this Ordinance pursuant to the exception set forth in Section 24-97(b)(3) of the Code of Ordinances of Miles City, Montana.

Section 9. This ordinance shall be in full force and effect thirty (30) days after its final passage and approval.

Said Ordinance read and put on its passage this 14th day of February, 2017.

ATTEST:


Lorrie Pearce, City Clerk


John Hollowell, Mayor

FINALLY PASSED AND ADOPTED this 14th day of March, 2017.

ATTEST:


Lorrie Pearce, City Clerk


John Hollowell, Mayor

EXHIBIT A

**Miles City City Council
Zone Map Change and Text Amendment Request
Staff Report**

City of Miles City

The Miles City Zoning Commission met on February 6, 2017 and held a public hearing to consider a request from the Miles City Planning Department for zone map changes and text amendments to Miles City's zoning regulations. Miles City Planner Dawn Colton and Matthew Rohrbach, contract planner with Land Solutions, presented the staff report below (MCZC-2017-02), recommending that the Zoning Commission adopt the staff report as findings of fact and make a recommendation to the Miles City City Council to approve the zone map changes and zoning text amendments.

At the public hearing no one spoke in support of or opposition to the proposed map changes and text amendments. After the close of the public hearing, the Zoning Commission unanimously adopted the findings of fact presented and recommended that the Miles City City Council approve the zone map changes and zoning text amendments.

Background Information

Below is a brief description of the proposed amendments and changes to the Miles City zoning text and map.

Zoning Text Amendment #1 – Article III. Sec 24-66 e) *“Bed and breakfasts may display signs as permitted by Section 24-51.”* This sentence references a section in the regulations which was removed during the zoning update process.

- **Proposed Amendment** – Update to read *“Bed and breakfasts may display signs as permitted by Section 24-51 the International Building Code’s sign regulations (Appendix H).”*

Zoning Text Amendment #2 – The Miles City Zoning Regulations do not reference the sign code in the International Building Code.

- **Proposed Amendment** – Article IV. Sec. 24-80 last paragraph, change last sentence to read: *“Sign permits are authorized under separate ordinance – see Appendix H of the International Building Code for sign regulations in Miles City.”*

Zoning Map Change #1 – The zoning map adopted by the Miles City, City Council on November 9th displayed an outdated city boundary and there are four parcels shown as being in Miles City, which are actually outside city limits and thus are not subject to Miles City’s zoning regulations. One parcel is currently zoned open space and is occupied by the slough at the northern end of Miles City. The other three parcels are located north of the intersection of Otter Street and North Earling Avenue and are currently zoned general commercial. See adopted and proposed zoning maps at the end of this report.

- **Proposed Change** – In light of an updated city boundary, the four properties should no longer be shown as having a zoning designation on Miles City’s zoning map.

Zoning Map Change #2 – One parcel of city owned land did not receive a zoning designation during the zoning update process. See adopted and proposed zoning maps at the end of this report.

- **Proposed Change**– Designate the property in question as Open Space – see review in light of criteria below.

Zone Change

A. Applicant

City of Miles City, Planning Department
17 South 8th Street
Miles City, MT 59301

B. Owner

City of Miles City
17 South 8th Street
Miles City, MT 59301

C. Location and Legal Description of Property

The property is located on Main Street/I-94 Business Route west of the Tongue River – see vicinity map below. The legal description of the property is Tract B Less Highway located in Section 33, Township 8 North, Range 47 East, P.M.M., Custer County, Montana.



D. Existing Land Use(s) and Zoning

The property is currently vacant and is not zoned.

E. Proposed Land Use(s) and Zoning

There is not currently a proposed land use for this property and the proposed zoning is Open Space. The Open Space zone is intended to provide land without physical structures and buildings except where accessory to the provision of open space and recreational opportunities.

F. Adjacent Zoning and Land Uses

- North:* Unzoned, Vacant
- East:* Unzoned, Tongue River
- South:* Custer County Zoning Public Land, Main Street/I-94 Business Route
- West:* Custer County Zoning Public Land, Range Rider’s Museum



G. Size

The property is approximately 35,500 square feet

H. General Land Use Characteristics

The general land use characteristics of the area can be described as largely vacant/open space, with museums and government administrative uses to the south and west.

Evaluation of Zone Change Criteria

The following is an evaluation of the zone change request under the criteria outlined in 76-2-304, M.C.A. and in section 24-96(c) of Miles City's Zoning Regulations.

1. Is the proposed zone change in accordance with the Miles City Growth Policy?

The future land use map in Miles City's Growth Policy identifies this parcel as commercial. The commercial designation is a composite or general term that does not differentiate between the various commercial zoning designations. However, the future land use map also shows this parcel as being in the floodway of the Tongue River, making the possibility of commercial development very unlikely.

The Growth Policy contains several goals and objectives, one of which appears to apply to the proposal.

Economy objective 4.1: Develop a Miles City gateway along the portion of the I-94 business loop which acts as the west entrance into the City. An Open Space zoning designation would enable this property to remain in a natural state and provide for a scenic gateway along the Tongue River as kind visitors and residents enter the City.

Based on this information, the proposed zoning generally complies with Miles City's Growth Policy.

2. Is the proposed zone change designed to secure safety from fire and other dangers?

The property is in the service area of Miles City Fire and Rescue and Miles City Police Department. The property could be accessed from Main Street/I-94 Business Route if there were an approach and driveway in place. As Open Space, the property is not likely to generate concerns over fire, public safety, or other dangers. Based on this information the proposed zoning change is generally designed to secure safety from fire and other dangers.

3. Is the proposed zone change designed to promote public health, public safety, and the general welfare?

As the property is in the floodway of the Tongue River, it is unlikely to be developed. An Open Space designation will further help keep this property free from development thus not subjecting buildings to flooding on the Tongue River. Additionally, as Open Space, the property will provide a natural area for residents to enjoy. Based on this information public health, safety, and general welfare will be promoted through the proposed zoning.

4. Is the proposed zone change designed to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements?

The proposed zoning will not adversely impact the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements, as it is Open Space and not likely to be developed. Based on the above information, the proposed zone change will facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other facilities.

5. Does the proposed zone change provide reasonable provision of adequate light and air?

The property is bordered by vacant land and the Tongue River. Given this information there is currently adequate light and air on the property. The proposed zoning will keep this property in its natural state as Open Space and thus will continue to provide reasonable provision of adequate light and air.

6. How would the proposed zone change effect motorized and non-motorized transportation systems?

As Open Space the proposed zoning will not have an impact on motorized or non-motorized transportation.

7. Does the proposed zone change promote compatible urban growth?

The proposed zoning would not impact growth but would help preserve a natural corridor in the floodway and along the Tongue River. As such, the proposed zoning would promote compatible urban growth by preserving the area of open space on the banks of the Tongue River.

8. Does the proposed zone change consider the character of the district, and its peculiar suitability for particular uses?

The property is compatible with the character of the Open Space district as it is currently in a natural state with trees, grasses and shrubs. As such it is suitable for allowed uses in the district.

9. Would the proposed zone change conserve the value of buildings and encourage the most appropriate use of the land?

The property is in a natural state and an Open Space designation would be the most appropriate use of the land as the property is in the floodway of the Tongue River.

10. Would the proposed zone change be considered illegal spot zoning?

The property is surrounded by open space and vacant land as well as the Tongue River. As a result the proposed zoning of Open Space would not be considered spot zoning.

11. Does the proposed zone change correct an inconsistency in the zoning?

Yes, the proposed zoning corrects and oversight during the zoning update process, in which the property in questions was not given a zoning designation.

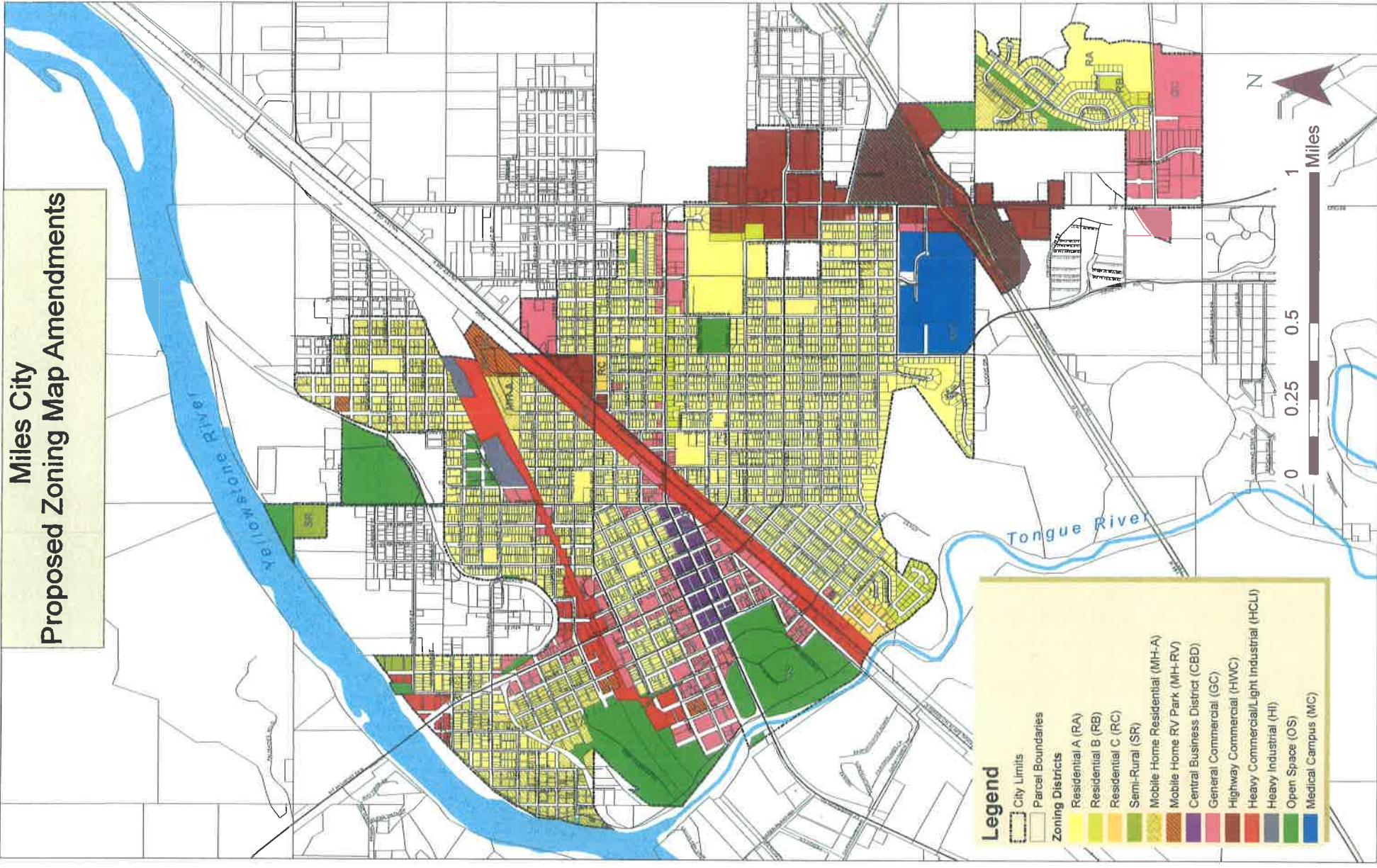
12. Does the proposed zone change address changing conditions or further a specific public challenge?

No the proposed zoning does not address a changing condition or further a specific public challenge

Recommendation

Adopt this staff report as findings of fact and approve the proposed zone map changes and zoning text amendments.

Miles City Proposed Zoning Map Amendments



**CITY OF MILES CITY
Zoning Commission**

**Box 910
Miles City, MT 59301**

February 7, 2017

Mayor Hollowell and City Council Members,

RE: Administrative changes to the adopted zoning map and text.

RE: Proposed re-zone for the property located at 2210 Valley Drive E Miles City, MT 59301 – at the intersection of Valley Drive E and N Strevell Avenue in the northeast portion of Miles City. The legal description of the property is, Lot 4 of the Dyba Addition, better known as the old Dairy Queen.

The Miles City Zoning Commission conducted two public hearings on February 6, 2017 to consider the requests listed above. After reviewing comments from the public hearings, the Zoning Commission recommends approval for the administrative changes to the adopted zoning map and text. Also, recommends approval for the zone change for the property described above, from general commercial to highway commercial.

Please schedule these for review by the City Council at your earliest convenience.

Respectfully,

LeRoy Meidinger, Chair
Zoning Commission



Affidavit of Publication

STATE OF MONTANA }
County of Custer } ss.

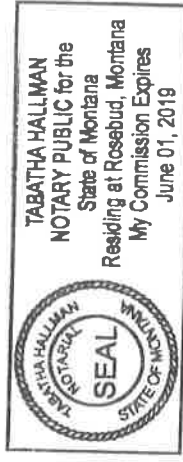
Mary Rose Bovec, being duly sworn on her oath, says that she has been the principal clerk of the printer of the MILES CITY STAR, a daily newspaper of general circulation, printed and published at Miles City, in said County and State. **City of Miles City, Legal Notice.**

Ordinance Number 1311. A printed and true copy which, cut from the columns of said newspaper, is hereto attached, and made a part hereof, was printed and published in said newspaper, in the regular and entire issue of every number of the paper during the period and time of publication, on the following dates,

February 17, 2017.

Signed Mary Rose Bovec
Subscribed and sworn to before me this 17th
day of February, 2017
Tabatha Hallman

Tabatha Hallman, Notary Public for the state of Montana, residing at Rosebud. My Commission Expires June 1, 2019.



LEGAL NOTICE
NOTICE IS HEREBY GIVEN that the City Council of the City of Miles City at a Regular Council Meeting held on Tuesday, February 14 at 7:00 p.m., passed on first reading the following Ordinance:

ORDINANCE NO 1311: AN ORDINANCE AMENDING SECTIONS 24-66(E) AND 24-80, AND CORRECTING THE CITY OF MILES CITY ZONING MAP TO INCLUDE CITY PROPERTY NOT REFLECTED AND REMOVING PROPERTIES LYING OUTSIDE OF THE CITY LIMITS, AND PROVIDING FOR A HEARING THEREON

The above Ordinance is on file and available for public inspection at

the City Clerk's Office at City Hall, 17 S. 8th Street, Miles City, Montana. You are further notified that objections to the final adoption of the Ordinance will be heard by the City Council at its regularly scheduled meeting in the Council Chambers at City Hall, 17 S. 8th Street, Miles City, Montana, on Tuesday, March 14 at 7:00 p.m.

For information or questions you may contact Scott Gray, Public Works Director at 234-3493.

BY ORDER OF THE CITY COUNCIL
Lorrie Pearce
City Clerk
(Published February 17, 2017)

MNAXLP