



## Yellowstone County Zoning Commission Minutes for the Meeting of Monday, March 9, 2015

**The County Zoning Commission met on Monday, March 9, 2015 in the Miller Building 1<sup>st</sup> floor conference room located at 2825 3<sup>rd</sup> Avenue North.**

At 4:05 p.m., Chairman Cook opened the meeting and introduced the County Zoning Commission members and staff in attendance: Nicole Cromwell, Zoning Coordinator; Dave Green, Planner I, and Tammy Deines, Planning Clerk

Commissioners and Staff		01/12/2015	02/09/2015	03/09/2015	04/13/2015	05/11/2015	06/08/2015	07/13/2015	08/10/2015	09/14/2015	10/13/2015	11/09/2015	12/14/2015
Dennis Cook	Chairman	1	-										
Al Littler	Vice Chairman	1	-										
Terri Welborn	Commissioner	1	-										
Ole Shafer	Commissioner	1	-										
Nicole Cromwell	Planner II/ Zoning Coordinator	1	-										
Wyeth Friday	Planner II	-	-										
Juliet Spalding	Planner II	-	-										
Lora Mattox	Planner II	-	-										
Tamara Deines	Planning Clerk	1	1										
Karen Husman	Planning Assistant	-	-										

**Attending:** Ron Neibauer; Lanney Lucara; Shri Endy; Quentin Eggart, EEC; Katie Zindler; Jim Johnson; Ceclia M. Kimble; Jason Hertz; Travis West, Engineering West; Rod Lorenz; Toby Liechti; Marshal Phil, Blueline Engineering; Steve Henry

**Announcements:**

- The next County Zoning Commission meeting on Monday, April 13, 2015 is cancelled due to lack of applications.

**Public Comment**

Chairman Cook asked if there was anyone wishing to speak during the public comment portion of the meeting. He stated any member of the public can be heard on any subject that is not on the agenda; the Yellowstone County Zoning Commission will not take any action on these items at this time, but could choose to add an item to the next meeting agenda for discussion.



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### **Cecilia Kimball, 3077 Park Hill Drive, Billings, Montana**

Ms. Kimball asked about the possibility of installing a sewer line in the Garden Avenue neighborhood.

**Disclosure of Conflict of Interest:** There was no disclosures of conflict of interest.

**Disclosure of Outside Communication:** There was no one on the Commission wishing to disclose any outside communication.

**Approval of the January 12, 2015 Meeting Minutes:** Chairman Cook called for approval of the January 12, 2015 meeting minutes.

### **Motion**

**Ole Shafer made a motion and Teri Welborn seconded the motion to approve the January 12, 2015 meeting minutes. The motion carried with a unanimous voice vote.**

### **Public Hearings:**

Chairman Cook reviewed the rules for the procedure by which the public hearings will be conducted. He said the applications heard at this meeting would be forwarded to the Board of County Commissioners on Tuesday, March 24, 2015, in the Board of County Commissioners Board Room 403A in the Yellowstone County Courthouse.

**Item #1: : Zone Change #656**— This is a zone change from Residential 15,000 to Community Commercial on the west 470 feet of the south 230 feet of Lot 18, Clark Subdivision, a 2.84 acre parcel of land, generally located a 1102 Garden Avenue. A pre-application neighborhood meeting was held on January 26, 2015 at Jim & Tracy's Alignment at 2203 1st Ave South.

### **RECOMMENDATION**

the Planning staff is forwarding a recommendation of approval based on the 11 criteria for zone changes.

### **Discussion**

Chairman Cook called for discussion. There was none.

### **Public Hearing**

At 4:14 p.m., Chairman Cook opened the public hearing and asked if there was anyone wishing to speak in favor of County Zone Change #656.



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### **Quentin Eggart, Eggart Engineering, 720 Lohwest Lane, Billings, Montana**

Mr. Eggart stated they are unable to service the property with services unless it is annexed and that is not the applicant's intent. The applicant would like to combine the zoning on these parcels so it is under one zoning code. The plan is to access the property from Garden Avenue. They may improve the Kimble Drive but they do not have the ability to vacate it.

### **Jim Johnson, 2203 1st Ave S, Billings, Montana**

Mr. Johnson stated his interest in this parcel is he owns Jim & Tracy's Alignment at 2203 1st Ave South and is looking to relocate their business.

### **Marvin Linde, (no address given)**

Mr. Linde is the current owner of this property. Mr. Linde said this business will be an asset to South Billings.

### **Opposition**

Chairman Cook asked if there was anyone wishing to speak in opposition of County Zone Change #656.

### **Ron Neibauer, 3038 Mac Tavish Circle, Billings, Montana**

Mr. Neibauer owns property at 107 Garden Circle. He stated he is concerned with this proposal and the type of business that may follow. He submitted photographs to the Commission members representing some of "the bad changes in the area" off of Interstate 90. He voiced concern with the potential for Garden Avenue to look like Sugar Avenue with the parcel by parcel development. Mr. Neibauer stated this is a gateway to the City; the properties should be aesthetically pleasing; and not an industrial commercial eyesore. As an owner of a residential property in this area, he feels this zone change will adversely affect his property. He would like this property to remain a greenbelt in for citizens to comfortably bicycle and enjoy the area. Mr. Neibauer stated he does not feel this plan meets the criterion and approval of the zone change the quality of life. He voiced concern with large vehicles accessing the business will burden Garden Avenue. He pointed out business that strive to maintain pleasing surroundings and stated there is no visual barrier from this property for nearby residents. Mr. Neibauer stated a precedent will be set with this decision.

### **Rebuttal**

### **Quentin Eggart, Eggart Engineering, 720 Lohwest Lane, Billings, Montana**

Mr. Eggart stressed to the applicant the plans are still in concept. He stated he does not see this as a detriment as a buffer between the existing commercial traffic and the interstate; and this business against a highway interchange will not create a negative impact to the community.



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### Discussion

Commissioner Littler asked if the landscaping requirements for Entryway Zoning would apply. Nicole Cromwell stated the requirements will follow the landscaping requirements for Community Commercial Zoning and explained the differences between the two zoning classifications. Commissioner Littler asked if the flood plain data has been updated. Quentin Eggart stated this property is not in the flood plain but is located in a flood fringe area; and there are numerous permits needed to build on this property. He explained the difference between the flood way and the flood fringe. There were no further questions.

Chairman Cook closed the public hearing and entertained a motion.

### Motion

**Commissioner Shafer made a motion and it Commissioner Littler seconded the motion to forward a recommendation of approval of Zone Change #656 as presented by staff.**

Chairman Cook called for discussion on the motion. There was none.

The motion carried with a unanimous voice vote, 4-0.

**Item #2: : Zone Change #657**– The applicant is requesting a zone change from Agriculture Open Space (A-1) to Residential 15,000 (R-150) on an un-platted portion of the S1/2NE/14 of Section 16, T1S, R25E, a 65.134 acre parcel of land. The property is generally located between South 48th Street West and South 52nd Street West on the north side of Austrian Pine Drive. The property is currently used as farm land. The applicant conducted a pre-application neighborhood meeting on January 26, 2015 at Elder Grove School located at 1532 South 64th Street West. Tax ID D00621.

### **RECOMMENDATION**

Planning staff is forwarding a recommendation of approval based on the 11 criteria for zone changes.

Planner Dave Green stated a pre-application neighborhood meeting was held for this parcel on January 26, 2015 at Elder Grove School. The property will be subdivided into .5 acre to 1 acre lots and provide separation distances as required by DEQ. The applicant is proposing to do this subdivision in phases and hope to get approval for the water rights needed for wells.

### Discussion

Chairman Cook called for discussion. Commissioner Littler asked for clarification on the posted topographic map. Dave Green stated this property is located between King Avenue and Hesper Road. Commissioner Littler commented on his recollection of the high water table on this



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property. A citizen in the audience commented that at one time, Jeff Junkert had intended to develop this property as a subdivision but withdrew due to issues with high nitrates.

At 4:10 p.m., Chairman Cook opened the public hearing and asked if there was anyone wishing to speak in favor of County Zone Change #657

### **Marshall Phil, Blueline Engineering, 2110 Overland Avenue, Billings, Montana**

Mr. Phil said after the neighborhood meeting, the owner drafted Covenants and Restrictions and distributed them to the area homeowners in order to answer concerns voiced at the meeting. The proposal is for the park area to the north will handle some of the storm water for this project. The homes will be sized and look similar in nature to the adjacent properties. Mr. Phil stated the nitrates continue to be high but there is technology that will help deal with this issue. He commented they are not proposing to build in the northern end of the parcel due to high ground water.

### **Travis West, Engineering West, 33 11st. N, Columbus, Montana**

Mr. West is tasked with putting together the DEQ proposal for this parcel and commented on the updates to the DEQ regulations. They are proposing using SepticNET Advanced Wastewater Treatment, a modular septic treatment system, to mitigate the nitrates in the area from the agricultural uses and drain field runoff. Individual wells are proposed, and the DEQ applications will be submitted in two phases with the first phase containing thirteen exempt wells. Commissioner Littler asked about the nitrate contributions from agriculture and from Hogan's Slough. Mr. West said the nitrate levels are rising throughout West Billings as development takes place. He said the owner will apply for the water right for the overall usage, and no wells will be drilled until DEQ is comfortable with the applications.

### **Opposition**

Chairman Cook asked if there was anyone wishing to speak in opposition of County Zone Change #657.

### **Lanny Lucara, 1212 Bayberry Circle, Billings, Montana**

Mr. Lucara stated Austrian Pine is a narrow road and it barely achieves the requirements. He stated the trees are encroaching in the roadway. He stated the current asphalt does not lend itself to the right-of-way and consideration should be made to increase the road width. Mr. Lucara stated residents in Bridle Creek Subdivision are concerned with potential impacts on their septic systems due to the number of new systems. He asked who will maintain the SepticNET systems on an ongoing basis. Mr. Lucara stated this is a new system in Butte, Montana in 2011. He said he would like to see this subdivision divided into .75 acre to 1 acre lots. Mr. Lucara explained he is not against this proposal but he would like it "done right".



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### **Mike Hollanbeck, 4950 Austrian Pine Drive, Billings, Montana**

Mr. Hollanbeck said he is concerned with the high nitrate level and the saline seep area downgraded from Hogan's Slough. He said he questions whether 60+ wells up gradient to their subdivision will have not have an effect. He would like the developer to commit to the property owners across Austrian Pine and asked what the back side of the properties will look like from their point of view. Mr. Hollanbeck stated he doesn't like the congestion.

### **Sheri Ende, 1215 Bayberry, Billings, Montana**

Ms. Ende stated she works at a local laboratory and deals with nitrate exposure on a daily basis. She said she has tested several wells in the Bridle Creek Subdivision. Ms. Ende said this proposed subdivision is up gradient from their systems and the 61 homes in this subdivision will create a flow underneath their homes. She spoke to "Blue Baby Syndrome", and said it is critical to children drinking high nitrate water. Ms. Ende stated high nitrates is also an indicator parameter of potential herbicide contamination. She has considered the research on the SepticNET systems and does not know if this is the best technology for this parcel. Ms. Ende is very concerned with the health hazards for the residents of Bridle Creek Subdivision. She asked about lowered water pressure. She commented the water pressure dropped in Wells Garden Estates when the additional filings were added to the subdivision.

### **Rod Lorenz, 5060 Maple Ridge Circle, Billings, Montana**

Mr. Lorenz stated he is a resident of Oak Ridge Subdivision and has not had issues with water pressure.

Commissioner Littler reminded attendees these issues are not related to the zoning but will have to be addressed with the subdivision approval.

### **Roy Close, 4905 Blue Spruce, Billings, Montana**

Mr. Close has two wells on his property and the nearby Sanderson property has a cistern due to the nitrate issues. Mr. Close voiced concern as the draw down tests on the water will not duplicate what will happen in July. He stated a SepticNET System for a high alkaline clay based soil will create a need for a lot of maintenance; and treatment of the problem will complicate the problem. Mr. Close prefers either a central water system or a central sewer system. He is not convinced the SepticNET system will handle the high nitrate levels. He is concerned the proposed lot sizes will make it difficult to meet the setbacks for the wells and septic tanks. Mr. Close stressed the fact the economic development has be weighed against the impacts on the water. Rod Lorenz interjected and said he did not recall dealing with heavy soils in the soil analysis conducted by Rimrock Engineering. Mr. Close replied that as a general rule this is a heavy clay, dense, soil.



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### **Eve Hollanbeck, 4950 Austrian Pine Drive, Billings, Montana**

Ms. Hollenback stated they are unclear with the traffic flows and she voiced concern with the devaluation of their property and the effects on the water.

### **Rebuttal**

### **Travis West, Engineering West, 33 11st. N, Columbus, Montana**

Mr. West stated these concerns will be addressed by DEQ and DNRC who will control the density of this application. Currently they have over 30 test pits up to eight feet deep and have not found clay soils. Mr. West explained that annual inspections are required for SepticNET managed treatment systems and a contract will be in place between the homeowner and the septic provider. He said generally, the ground water flow direction runs more easterly and not to the south. They have not conducted the pump or aquifer testing to determine water dependability. He reiterated DNRC will be the governing agency. He said they model the wells from this parcel and the wells from the neighboring subdivisions for a one year period to determine the impacts.

At 5:25 p.m. Chairman Cook asked if there was anyone else wishing to speak in favor or against County Zone Change #657 closed the public hearing and entertained a motion.

### **Motion**

**Commissioner Shafer made a motion and it Commissioner Littler seconded the motion to forward a recommendation of approval of Zone Change #657 as presented by staff.**

### **Discussion**

Chairman Cook called for discussion on the motion. There was none.

**The motion carried with a unanimous voice vote, 4-0.**

### **REQUEST**

**Item #3 County Zone Change #658:** This is a City Council initiated amendment to the Unified Zoning Regulations Section 27-601(a) and 27-606 to allow the off-street parking and storage of Class A or Class D tow trucks in all residential zones. The City Council initiated this zone change on February 9, 2015 at the request of the Yellowstone Valley Tow Truck Association. There is a companion ordinance amendment to 24-406, a City Traffic Code, that regulates on-street parking of similar vehicles. This is not part of the Unified Zoning Regulations. The County Zoning Commission may take comment on this item but will only forward a recommendation on the proposed amendments to the Zoning Regulations 27-601(a) and 27-606.



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### **RECOMMENDATION**

The Planning Division is recommending denial of the amendments to allow tow trucks to park off-street in residential zones.

Planning Staff recommends denial

- Not a predictable land use decision for residential zones
- Tend to increase neighborhood conflicts
- Residential streets and driveways not constructed for heavy weight truck use on a regular basis
- Subject adjacent residents to noise and fumes from starting and idling wreckers
- Enforcement of proposed amendment problematic

### **Discussion**

Chairman Cook called for discussion. Commissioner Littler commented that although only 3-4 businesses currently take trucks home approval of this ordinance may increase these numbers. He said he agrees with Staff that this ordinance may be unenforceable in the County. In response to a question by Commissioner Cook, Nicole Cromwell stated there were 75 complaints of oversized vehicles parked on residential driveways in the last five years, and there were 3,900 off street complaints primarily comprised of recreational vehicles. Commissioner Cook stated he sees the companies' point of view but from a residents perspective the noise may be onerous. He said he concurs with the Staff recommendation of denial. Commissioner Welborn stated this will be a safety issue and will vote in favor of the staff recommendation. Ole Shafer voiced concern with the potential increase in parked vehicles with approval of the ordinance.

### **Public Hearing**

At 4:10 p.m., Chairman Cook opened the public hearing and asked if there was anyone wishing to speak in favor of County Zone Change #658. There was none.

### **Opposition**

Chairman Cook asked if there was anyone wishing to speak in opposition of County Zone Change #658. There was none. Chairman Cook closed the public hearing and entertained a motion.

### **Motion**

**Commissioner Littler made a motion and it Commissioner Shafer seconded the motion to forward a recommendation of denial of Zone Change #658 as presented by staff.**



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### Discussion

Chairman Cook called for discussion on the motion. There was none.

**The motion carried with a unanimous voice vote, 4-0.**

**7. OTHER BUSINESS-** There was no other business.

**Adjournment:** The meeting adjourned at 5:46 p.m.

**ATTEST:** Approved by a motion on Monday, May 18, 2015

  
Dennis Cook, Chairman, Yellowstone County Zoning Commission

  
Tamara L Deines, Planning Clerk