



## COUNTY OF YELLOWSTONE ZONING COMMISSION

**AGENDA-Monday, September 12, 2016**

**Miller Building, 1<sup>st</sup> Floor Conference Room  
2825 3rd Avenue North, Billings, Montana**

### NOTICE TO THE PUBLIC

#### Public Comment:

There will be a Public Comment Section as noted on the agenda. This is the time members of the public may comment on any item not appearing on the agenda. Under State law, matters presented under this section cannot be discussed or acted upon by the Zoning Commission during this time. For items appearing on the agenda, the public will be invited to make comments at the appropriate time. It is very important to speak clearly, and state your name and address for the record. Please limit your comments to three (3) minutes or less.

**Call the meeting to order.**

**Introduction of the Yellowstone County Zoning Commission Members and Planning Department Staff.**

**Public Comment**

**Motion. Approval of Minutes of June 13, 2016**

**Disclosure of any Conflict of Interest-Members of the Commission and Staff**

**Disclosure of an Outside (Ex Parte Communication)-Members of the Commission and Staff  
a.The Exparté Communication Binder is available at the Sign-In and Agenda Station.**

**Regular Business:**

- A. Opening of public hearings.
- B. Reading of rules for the procedure by which the public hearings will be conducted.
- C. Reading of notices of the public hearings on the following items:

**Public Hearings:**

- a. **Item #1. County Zone Change 676 – West of Logan Airport – Highway 3** – A zone change request from Agriculture-Open Space (A-1) to Highway Commercial (HC) on the south 600 feet of C/S 2037 Tracts 13 & 14, a 20 acre parcel of land. A pre-application meeting was held at the Tolliver Law Firm, 1004 Division St, on July 21, 2016. Presented by Nicole Cromwell, Zoning Coordinator

## **Other Business/Announcements**

## **Adjournment**

Following the public hearing, the County Zoning Commission will make a recommendation to the Yellowstone County Commissioners. The Board of County Commissioners public hearing will be held on **Tuesday, September 27, 2016** at 9:45 a.m. in Room 403A, 4th Floor of the Yellowstone County Courthouse. The Board of County Commissioners will hear all persons wishing to speak relative to the proposed zone change.

Information on the preceding item may be obtained at the Yellowstone County Planning Department, 2825 3rd Avenue North, 4th Floor or phone 657-8246. Anyone wishing to be heard on this matter may appear at this hearing. Public hearings are accessible to individuals with physical disabilities. Special arrangements for participation in the public hearings by individuals with hearing, speech, or vision impairment may be made upon request at least three days prior to the hearing. Please notify Tammy Deines, Planning Clerk, at 247-8610 or e-mail at [deinest@ci.billings.mt.us](mailto:deinest@ci.billings.mt.us)

**County Zoning Commission**

**Meeting Date:** 09/12/2016

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**Information**

**Subject**

**Motion. Approval of Minutes of June 13, 2016**

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**Attachments**

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**Yellowstone County Zoning Commission  
Minutes for the Meeting of  
Monday, June 13, 2016**

The County Zoning Commission meeting on May 9, 2016 was canceled due to a lack of agenda items.

The County Zoning Commission met on Monday, June 13, 2016 in the Billings Library Community Room located at 510 North Broadway at 3:30 pm. The Board of County Commissioners public hearing will be held on Tuesday, June 28, 2016, at 9:45 a.m. in Room 403A, 4<sup>th</sup> Floor of the Yellowstone County Courthouse.

At 4:00 p.m., Chairman Cook opened the meeting and introduced the County Zoning Commission members and staff in attendance: Wyeth Friday, Planning Division Manager, Nicole Cromwell, Zoning Coordinator; Tammy Deines, Planning Clerk

Commissioners and Staff		01-11-2016	02-08-2016	02-12-2016	03-14-2016	04-11-2016	05-09-2016	06-13-2016							
Dennis Cook	Chairman	-	1	1	-	1		1							
Al Littler	Vice Chairman	-	1	1	-	1	R	R							
Jerry T. Ray	Commissioner	-	1	1	-	1	1	E							
Troy Boucher	Commissioner	-	1	1	-	1	1	1							
Ryan Wittman	Commissioner		1	1	-	1	1	1							

**Attending:** Betti Hinrichs; Beth Degenhart; Roy Zimmerman; Ed Janca; Lew Morris; Lyle Zimmerman; Myles M. Egan; Linda Degenhart; Thomas Smith; Dennis Randall, Sanderson Stewart; Randy Adams; Dale Kod; Lisa Lannen; Beth Walter; Paul Before

**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 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. There was none.

**Disclosure of Conflict of Interest or exparte communication:** There was none.

**Disclosure of Outside Communication.** There was none.



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**Approval of Minutes: April 11, 2016. There was no meeting on May13, 2016.**

**Motion**

**Commissioner Boucher made a motion and it was seconded by Commissioner Wittman to approve the February 8, 2016 and February 12, 2016 meeting minutes as submitted. The motion carried with a unanimous voice vote.**

**Public Hearings:**

**REQUEST**

**Item #1-County Zone Change 674 – Alexander Road** – A zone change request from Agriculture-Open Space (A-1) to Agriculture Suburban (A-S) on lots 1 through 8 of Spring Hill Acreage Tracts, Tracts 1 & 2 of C/S 1245, and Tracts 1 and 2 of C/S 1411, a total area of 27.626 acres of land. A pre-application neighborhood meeting was held on April 23, 2016, at 2717 Alexander Road. Tax IDs: D04993, D04994, D04995, C05516 & C05517

**RECOMMENDATION**

The Planning Division recommends approval and adoption of the findings of the 11 review criteria for Zone Change 674.

**Discussion**

Chairman Cook called for questions and discussion from the Zoning Commission. There was none.

**Public Hearing**

Chairman Cook opened the public hearing at 4:08 p.m. and called for proponents or opponents of Yellowstone County Zone Change #674.

**Opponents:** There were no opponents to Yellowstone County Zone Chang #674.

**Proponents**

**Beth Degenhart, 2717 Alexander Road, Billings, Montana**

Ms. Degenhart is the family representative. If approved, this application will bring the land into conformance with the zoning regulations and allow them to have City water services.

Chairman Cook asked if there was anyone else wanting to speak in favor or against Yellowstone County Zone Change #674. There was none.

At 4:10 p.m., Chairman Cook closed the public hearing and called for a motion.

**Motion**

**Commissioner Boucher made a motion and it was seconded by Commissioner Wittman to**



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**forward a recommendation to the Board of County Commissioners of approval of County Zone Change #674 with adoption of the Findings of the 11 review criteria.**

Chairman Cook Called for a vote on the motion.

<b>Name</b>	<b>Favor</b>	<b>Against</b>	<b>Abstain</b>	<b>Absent</b>
Chairman Cook	X			
Commissioner Boucher	X			
Commissioner Ray				X
Commissioner Wittman	X			

**The motion carried with a unanimous voice vote, 3-0.**

**REQUEST**

**Item # 2 - County Zone Change #675 – 3415 Grand Avenue** – A zone change request from Agriculture-Open Space (A-1) to Community Commercial (CC), Neighborhood Commercial (NC), Residential Professional (RP), Public (P), Residential Multi-family-Restricted (RMF-R), Residential 5,000 (R-50), Residential 7,000 (R-70) and Residential 9,600 (R-96) on Tract 1A of C/S 3364, amended, a +/- 95 acre parcel of land. A pre-application neighborhood meeting was held on April 25, 2016 at Shiloh United Methodist Church, 1810 Shiloh Road. Tax ID: D04784.

**RECOMMENDATION**

Approval and adoption of the findings of the 11 criteria for Zone Change #675.

Zoning Coordinator Nicole Cromwell opened this agenda item with a staff presentation.

**Discussion**

Chairman Cook called for discussion and questions by the members of the Board. He commented the potential building height seems to be one of the neighbor’s primary concerns. Nicole Cromwell explained the R-6000R zoning has a 40-foot height limit restriction which may allow for a three story building. The height limit in standard residential zones is 34 feet.

**Public Hearing:** At 4:25 p.m., Chairman Cook opened the public hearing and asked for anyone wanting to speak in favor or against Yellowstone County Zone Change #675.

**Dennis Randall, Sanderson Stewart, 1300 North Transtech Way, Billings, Montana**

Mr. Randall is the agent for the Zimmerman family. He explained the process the Zimmerman family has taken to arrive at the proposed zoning plan for the property. He stated the family had recently completed negotiations to provide right of way for both Colton Boulevard and Grand Avenue and both projects are either completed or will be completed soon. He stated the plan was sensitive to the surrounding neighborhoods and zoning and those areas were zoned in identical or similar zones to what is adjacent. He stated the family intends to sell to one or more development entities and they will ensure any new development is done in an attractive manner so it becomes a good addition to the City. He stated the CC zoning is concentrated at the corner as are the other



## Yellowstone County Zoning Commission Minutes for the Meeting of Monday, June 13, 2016

properties at the intersection of Grand and Zimmerman Trail. He stated the original proposal presented at the neighborhood meeting was for RMF zoning in the center. After concerns about the unlimited building height and density in the RMF zone, the RMF-R zone was proposed in the application. The RMF-R building height is 40 feet and the remaining residential zones are 34 feet. All residential zones in the County and City are set at either 34 feet or 40 feet. He stated many homes in the area were built as single story or story-and-a-half heights. He stated it is likely similar homes and dwellings will be built in this development. He stated there is no specific development plan at this time for the property nor is there a buyer.

### **Lew Morris 3385 Avenue F, Billings, Montana**

Mr. Morris stated the concerns voiced at the neighborhood meeting was the proposal for RMF zoning. He said the height limitation of 40-feet high seems out of line and it will affect those living on Colton Boulevard. Mr. Morris is President of the Homeowners Association. He said they do not want barracks built in this area.

### **Ed Janca, 1824 Hampton Place, Billings, Montana**

Mr. Janca is Vice President of the Homeowners Association. He voiced concern with the potential for high density and the height of the buildings. Happy with

### **Beth Walter, 3740 Corbin Drive, Billings, Montana**

Ms. Walter voiced concerned with the potential height of buildings in the RMFR-R zoning. She said she wants to have an attractive development, preferably limited to 2-story structures. She asked the Zimmerman family to keep this in mind. Ms. Walter asked about the homes under construction on Colton Boulevard and if the bike path will be continued.

### **Roy Zimmerman, 3028 LeeAnn Boulevard Billings, Montana**

Mr. Zimmerman said the Zimmerman family donated the land to the City for the roundabout, (2.5 acres), and they built 3/4 of Colton Boulevard until development of this property takes place. The bike path will be continued through the parcel and continue on the north side of the property. He said they took the neighborhood concerns in consideration and changed the proposed zoning to R-6000R and the 40-ft. building height limit.

### **Lisa Lannen, 1845 Tiburon Lane, Billings, Montana**

Ms. Lannen stated it will be a large impact to her neighborhood to have the R-7000 zoning instead of single family housing. She voiced concerned with the building heights.

### **Betti Hinrichs, 1815 Tiburon Lane, Billings, Montana-**

Ms. Hinrichs asked if Avenue D will be opened to connect with the new development. She concurred with Ms. Lannen, and stated she would like the development to be compatible with the existing single family housing. She supports Colton Boulevard residents' concerns with the building heights.



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**Paul Before, 3630 Corbin Drive, Billings, Montana**

Mr. Before purchased his house in 2001. He questioned locating the parkland in the middle of the parcel and voiced concerned with the building heights. M. Before commented on the increased traffic speeds on Colton Boulevard since it has been built. He asked why the parkland is not planned to be used as a buffer to the single family housing.

**Lyle Zimmerman, Red Lodge Montana**

Mr. Zimmerman spoke in favor of this application and said they tried to meet the desires of the City and will be involved with the development of this property as they have a lot of vested interest in this parcel.

Chairman Cook called for rebuttal.

**Rebuttal**

**Dennis Randall, Sanderson Stewart, 1300 North Transtech Way, Billings, Montana**

Mr. Randall gave some perspective on the building height restrictions, and commented that most 2-story homes will “push the envelope” with the 34-foot height restriction. He said it is difficult to have 3 stories with any type of pitch, about the only way to obtain 3 stories is to have a flat roof. In response to question by Chairman Dennis Cook, Mr. Randall said the vacant lots along Colton Boulevard are zoned R-9600 but he has no knowledge of the type of homes that will be constructed. He has not been involved with the construction of the bike path. As for opening there have been discussions with John Michelotti regarding potential for connectivity between Village West Subdivision and this parcel.

**Myles Egan, 2690 Southridge Drive, Billings, Montana**

Myles Egan said the plans are to construct arts and craftsman style single family homes with a sale price range of \$350,000-\$425,000.

Chairman Cook asked if there was anyone else wanting to speak in favor or against Yellowstone County Zone Change #675. There was none. Chairman Cook closed the public hearing at 5:02 p.m. and called for a motion.

**Motion**

**Commissioner Boucher made a motion and it was seconded by Commissioner Wittman to forward a recommendation of approval of Yellowstone County Zone Change #675 and adoption on the 11 criteria for zone changes.**

**Discussion**

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



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Chairman Cook called for a vote on the motion.

<b>Name</b>	<b>Favor</b>	<b>Against</b>	<b>Abstain</b>	<b>Absent</b>
Chairman Cook	X			
Commissioner Boucher	X			
Commissioner Ray				X
Commissioner Wittman	X			

**The motion passes with a unanimous vote, 3-0.**

Chairman Cook called for other comments or discussion from the Commissioners. There was none. The Board of County Commissioners public hearing will be held on Tuesday, June 28, 2016, at 9:45 a.m. in Room 403A, 4th Floor of the Yellowstone County Courthouse.

**\*\*There will be no Yellowstone County Zoning Commission meeting in July due to the lack of applications.**

**Adjournment:** The meeting adjourned at 5:05 p.m.

**DRAFT: To be approved by a motion on Monday, September 12, 2016**



## County Zoning Commission

**Meeting Date:** 09/12/2016

**SUBJECT:** Zone Change 676 - Aviation Properties - A-1 to HC

**THROUGH:** Nicole Cromwell

**PRESENTED BY:** Nicole Cromwell

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## Information

### REQUEST

**Item #1. County Zone Change 676 – West of Logan Airport – Highway 3** – A zone change request from Agriculture-Open Space (A-1) to Highway Commercial (HC) on the south 600 feet of C/S 2037 Tracts 13 & 14, a 20 acre parcel of land. A pre-application meeting was held at the Tolliver Law Firm, 1004 Division St, on July 21, 2016. Presented by Nicole Cromwell, Zoning Coordinator

### RECOMMENDATION

The Planning Division recommends approval and adoption of the proposed findings of the 11 criteria.

### APPLICATION DATA

OWNER: Aviation Properties, LLC

AGENT: Tolliver Law Firm, Tyler Dugger

LEGAL DESCRIPTION: The south 600 feet of Tract 13 & 14 of C/S 2037

ADDRESS: None assigned - new building on the north 600 feet is addressed as 2101 US Highway 3

CURRENT ZONING: A-1

EXISTING LAND USE: Dryland grazing

PROPOSED USE: Future commercial development

SIZE OF PARCEL: ~20 acres

### CONCURRENT APPLICATIONS

None.

### APPLICABLE ZONING HISTORY

**Subject Property:** The northern 40 acres of these tracts was the subject of Zone Change 669 considered and approved by the Board of County Commissioners in early 2016. The zone change included 20 acres of Public zoning and 20 acres of Controlled Industrial zoning. Subsequent to the zone change approval, a group of surrounding property owners filed suit against the property owners, Aviation Properties, LLC. This application was submitted to finalize the intended zoning and use of the 20 acres with frontage on Highway 3 that remained in the A-1 zoning.

West of the subject property on Tract 2 of C/S 1889, an application to change zoning from A-1 to Highway Commercial (HC) was denied by the County Commissioners in 1985. Other zone changes in the area were from A-1 to Agriculture Suburban (AS) or Residential 15,000 (R-150) and these have been approved. The proposed HC zoning is intended to "*to provide areas for commercial and service enterprises which are intended primarily to serve the needs of the tourist, traveler, recreationist or the general traveling public. Areas designated as Highway Commercial should be located in the vicinity of, and accessible from interstate interchanges, intersections on*

*limited access highways, or adjacent to primary or secondary highways ."*

## **SURROUNDING LAND USE & ZONING**

NORTH:	Zoning: CI Land Use: Agricultural/vacant
SOUTH:	Zoning: R-96 and R-70 (City) Land Use: Single family and two-family dwellings/vacant subdivision
EAST:	Zoning: Public Land Use: Billings Logan Airport
WEST:	Zoning: A-1 Land Use: Agricultural/vacant

## **BACKGROUND**

In December 2015, the applicants filed a zone change for the northern 40 acres of these 2 tracts in C/S 2037. The proposed zoning was Public zoning on the north 20 acres to accommodate a heliport and the middle 20 acres was proposed for CI to accommodate ancillary and service providers for heliport users and equipment. The zone change was ultimately approved by the Board of County Commissioners. The southern 20 acres with frontage on Highway 3 remained in the A-1 zoning district.

After the zone change was approved, a group of surrounding property owners filed suit against the applicant. The 2 parties to the suit have been negotiating a settlement. Part of the proposed settlement includes a final zoning designation for the south 20 acres from A-1 to HC. The surrounding owners are concerned the south 20 acres would be proposed for CI zoning and be a detriment to their homes and investments.

The proposed HC zoning would allow many uses including mixed uses of residential, service businesses, retail, wholesale, offices, schools and other similar uses. HC zoning is found throughout Billings and in areas of the 4.5 mile jurisdictional area outside the City. Many properties along Old Hardin Road, King Ave West, portions of King Avenue East, and along Main Street in Billings Heights are zoned HC. If this property is development outside the city limits without public water or sewer services, the lack of services will limit some of the possible uses. It is likely businesses that require large storage sites and use little water will develop on this site if the property is not placed within the City Annexation Petition Area from the Long Range Urban Planning Area, where it is located now.

The property has 1,342 linear feet of frontage along Highway 3. Highway 3 is an entry corridor to the County and City. Development of land adjacent to this corridor will have a definite effect on the surrounding property and traveling public. There is no specific development proposal for the property at this time. Any development will need to meet the site development requirements for the proposed zoning, including landscaping, building setbacks, and height limitations. Higher site development standards for improvements like parking and storm water management apply within the City Limits.

The Planning Division recently completed a Highway 3 Corridor study to identify safety improvements for motorized and non-motorized traffic in the area. South of Highway 3, the City and County own and manage park land atop the rims. Safe access to these parklands is a concern. In addition, control and management of storm water runoff from paved and unpaved areas is also a concern. The study concluded there are several needed safety improvements along this section of Highway 3, including traffic roundabouts at Zimmerman Trail and Rod & Gun Club Road intersections, and center turn lanes and/or raised medians to better control left turn movements. The study indicated Highway 3 has enough road capacity at least through 2035 for increasing levels of traffic including residential or commercial traffic. The 2015 traffic count for this section of Highway 3 averages about 9,600 vehicles per day. This is not a high volume for a principal arterial street but steady 3 to 4 percent increases in traffic volume have been noted in the past 5 years.

The proposed zoning will have a measurable effect on traffic generation when a development occurs. The property currently has two access points. The primary access is a shared access along the east property line of Tract 14. There is a subsequent access easement granted along the south and westerly property lines to benefit Tracts 9, 10

and 12 to the north and west. There is a gated access from Highway 3 onto Tract 14 that appears to be little used. A new or improved state-approved access will be needed to provide safe access to any proposed development. The current use of the property – occasional grazing of livestock – generates little or no traffic on a daily basis. The types of traffic generated from a development in the HC zone is different than current traffic patterns in the area. MDT may require some traffic analysis and improvements dependent on the type and volume of traffic generated from specific developments on the property. If the property is annexed and developed, the City Traffic Engineer may require a traffic impact analysis to determine the appropriate mitigation or street development to accommodate the new uses.

The Planning Division has reviewed the requested zone change and 11 review criteria for all County zone changes and is recommending approval. The proposed zoning is compatible with the adjacent zoning of CI to the north and Public to the east. Zoning south of Highway 3 within the city limits is designated lower density residential of R-96 and R-70. Most of these parcel have been developed with dwellings that take advantage of the view of the City below the rims. Residential zoning is not usually found along high speed highway corridors except in areas where an amenity - such as the view from a top the rims - is desired. The types of uses and the intent of the zoning district are compatible with the types of traffic along Highway 3.

Any proposed use of the property will have to meet the requirements of the FAA and the Airport Influence Zone around Billings Logan Airport. Land uses sensitive to noise - such as residences, hospitals, schools - would be discouraged at this location. Agricultural uses may continue on the parcel. Property to the west is undeveloped and used for low intensity agricultural uses such as grazing and haying. The 2008 Growth Policy emphasized the need to ensure new zoning is compatible with existing development and that land use decisions were predictable and consistent throughout the City and County. The proposed zoning is consistent with the nature of Highway 3 and the adjacent and proposed land uses on the north side of Highway 3. Residential zoning and development in proximity of Billings Logan Airport is not consistent with the planned uses in the area. Existing agricultural uses on the property and on adjacent land to the west are compatible with the proposed zoning. The property has a 1/4-mile frontage on Highway 3 and the proposed zoning of HC is consistent with similarly situated land both in the City and County.

## **RECOMMENDATION**

The Planning Division recommends approval and adoption of the proposed findings of the 11 criteria.

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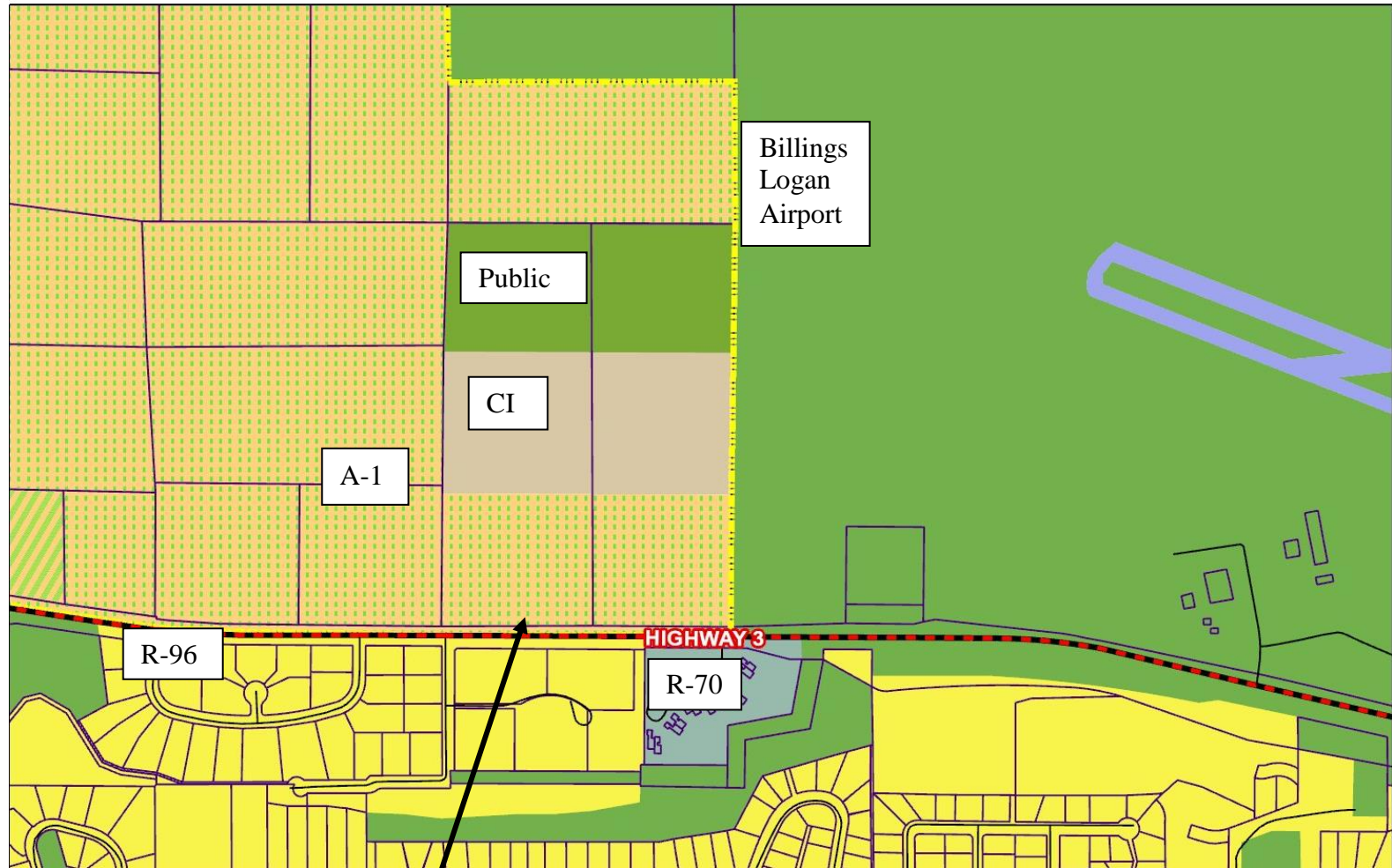
## **Attachments**

Zoning Map and Site photos  
Zoning Criteria Findings  
Applicant Letter and pre-app info

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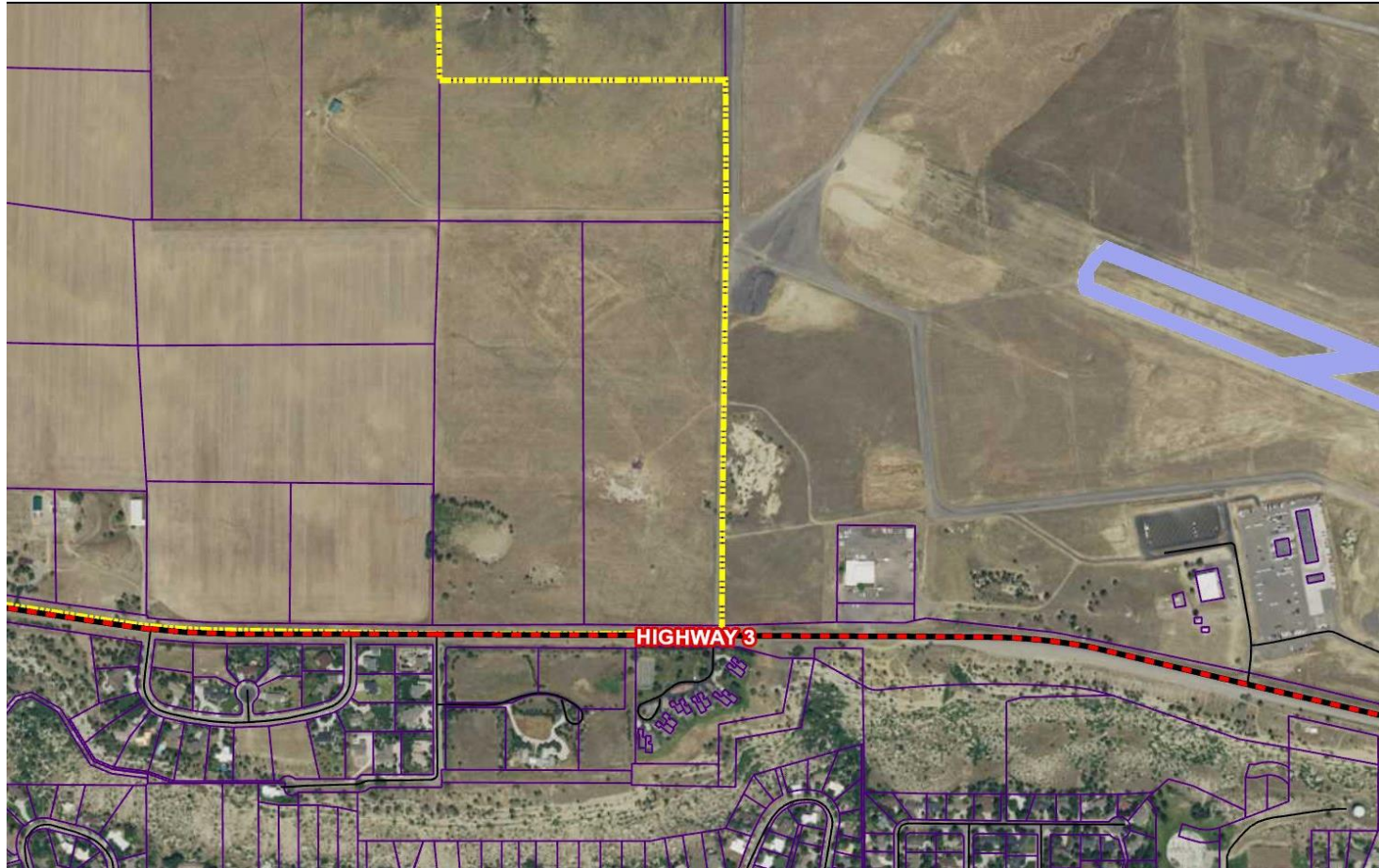
Zoning Map and Site Photos – Zone Change 676

Zone Change 676



Subject Property  
Existing Zoning = A-1  
Proposed Zoning = HC

Zone Change 676





View north from Highway 3



View north and west from Highway 3



View west along Highway 3



View east along Highway 3



View south across Highway 3 to Sky Ranch Drive



View south and east across Highway 3



View north along access to driveway from Highway 3

## PROPOSED COUNTY ZONING COMMISSION DETERMINATIONS

Prior to making a recommendation to the Board of County Commissioners, the Zoning Commission shall consider the following:

1. *Is the new zoning designed in accordance with the Yellowstone County 2008 Growth Policy?*

The proposed zoning does comply with the following goals of the Yellowstone County and City of Billings 2008 Growth Policy and area plans:

- Predictable land use decision that are consistent with neighborhood character and preferred land use patterns identified in the growth policy. (Land Use Element, page 6).

*The potential uses with a HC zone are currently limited for this property due to its location. It is likely businesses that require large storage sites and use little water will develop on this site if the property is not placed within the City Annexation Petition Area from the Long Range Urban Planning Area, where it is located now. The proposed zoning is consistent with the character of the area and the preferred land use patterns along high speed highway corridors. This area of the County includes zoning for agriculture including commercial greenhouses, commercial horse stables, riding arenas, veterinaries, commercial dog kennels as well as low density residential uses. The property has a previous approval for CI and Public zoning on the northern 40 acres of the site. A Heliport is under construction on the north 10 acres. No development has occurred on the remaining acres. The 2008 Growth Policy did not specifically identify this area for future commercial development or expansion, but the adjacent highway and uses support this type of zoning and development.*

- Goal: New developments that are sensitive to and compatible with the character of adjacent development. (Land Use Element Goal, page 6).

*This property is adjacent to A-1, CI, Public and across Highway 3 from City residential zoning of R-96 and R-70. There are a wide variety of aviation and highway related commercial developments along Highway 3, including an MDT Maintenance facility, service buildings for Billings Logan Airport, water reservoirs and wireless communication towers.*

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

The subject property is currently served by the Billings Urban Fire Service Area and pays a small assessment based on the structure (a livestock shelter) currently on the property. Any new structures would trigger additional fees to the fire service district but would not guarantee the availability of specialized fire suppression equipment for aircraft or aviation fuel accidents or fires. The Billings Airport Aircraft Rescue and Firefighting division is a specialized suppression and response unit that is not part of the BUFSA district services. The closest fire station is Fire Station 1 in North Park about 3.5 miles south and east of this location. The Billings Fire Department, or BUFSA, may require special construction or site protection measures depending on the specific uses in any development. The existing and proposed zoning requires building separations, setbacks and height limits that should provide security from fire or other public safety emergencies

except for aircraft rescue and firefighting activities. The fire department may call on the Airport Aircraft Rescue and Firefighting services for these specialized services.

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

*Transportation:* The proposed zoning will have a measurable effect on traffic generation. The property currently has 2 access points. The primary access is a shared access along the east property line of Tract 14. There is a subsequent access easement granted along the south and westerly property lines to benefit Tracts 9, 10 and 12 to the north and west. There is a gated access from Highway 3 onto to Tract 14 that appears to be little used. A new or improved state-approved access will be needed to provide safe access to any future development. The current use of the property – occasional grazing of livestock – generates little or no traffic on a daily basis.

The City and County recently completed a Highway 3 Corridor transportation study in partnership with the Montana Department of Transportation (MDT). The study has several recommendations for improving traffic safety, pedestrian access and storm water management. The study included traffic volume projections out to 2035. It appears Highway 3, with improvements, may handle any additional traffic. The study recommended upgrades to the intersections with Rod & Gun Club Road and to Zimmerman Trail. The types of traffic generated from HC zoning are different than current traffic patterns in the area. MDT may require some traffic analysis and improvements depending on the type and volume of traffic generated from specific developments on the property. If the property is annexed and developed, the City Traffic Engineer may require a traffic impact analysis to determine the appropriate mitigation or street development to accommodate the new uses.

*Water and Sewerage:* The property will not be served by public water and sewer systems unless it is annexed to the City. The property is currently not within the City Annexation Petition Area and would need to be placed in that area from the Long Range Urban Planning Area, where it is located now.

*Schools and Parks:* The proposed zoning should not impact the student population. Residential uses are not planned for the property.

*Fire and Police:* The subject property is serviced by BUFSA and the Yellowstone County Sheriff's Department. Fire protection will be evaluated at the time of any development of the site. If the property is annexed to the City, public safety services will be provided by the City Police Department.

4. *Will the new zoning promote health and general welfare?*

The proposed zoning may promote the health and general welfare. The proposed HC zoning will allow the owner to ensure future development is not intrusive to property across Highway 3 while still allowing compatible uses adjacent to the CI zoning to the north.

5. *Will the new zoning provide adequate light and air?*  
The proposed zoning would require minimum setbacks, maximum building heights and maximum lot coverage. The Airport Influence and Noise Overlay zone will also limit some uses and building heights. These requirements should allow adequate light and air to reach the subject property and adjacent properties.
6. *Will the new zoning effect motorized and non-motorized transportation?*  
The proposed zoning itself will not generate more traffic on any of the adjacent streets. Pedestrian traffic in the area is limited due to the lack of sidewalks and trails on a high-speed state highway. The Highway 3 Corridor Study identified the need for a multi-use trail on the north side of Highway 3 at this location and pedestrian tunnel connections to the south side of Highway 3 to access the public park area along the rims. Residential development is generally located south of the property and the main motorized access to the rim top parks are along the south side of Highway 3.
7. *Will the new zoning be compatible with urban growth in the vicinity?*  
The proposed zoning is compatible with the adjacent zoning and existing urban growth in the vicinity. Property west of the subject parcels is zoned A-1 and used for occasional grazing and very low density residential purposes. Property to the south is zoned for higher density residential neighborhoods within the city limits. There is no current plan for urban growth to the north and west. This area is within the Long Range Urban Planning Area of the City's Limits of Annexation Map but outside the short term City Annexation Petition Area for immediate annexation.
8. *Does the new zoning consider the character of the district and the suitability of the property for particular uses?*  
The subject property is in an area adjacent to a high-speed highway entry corridor to the City and County. The property is on the border of the Billings Logan Airport property and there are several aviation and highway oriented land uses to the east. The current and proposed zoning is compatible with the character of the highway and aviation uses to the east. There are no developments plans for this 20 acre parcel but future uses will be limited due to the lack of public utility services.
9. *Will the new zoning conserve the value of buildings?*  
The new zoning is not expected to alter the value of any buildings in the area. It is not known if its proximity to residential property in the area will affect the value of residential buildings. The value of the residential homes on the south side of Highway 3 are based on their location with the valley view as opposed to frontage along a highway corridor. Any development of the property will need to meet the site development requirements in the zoning code, including landscaping, screening, building heights and setbacks.
10. *Will the new zoning encourage the most appropriate use of land in Yellowstone County?*  
The proposed zoning does encourage the most appropriate use of land in this area of the County given it is adjacent to the Billings Airport and allows the same uses as are

permitted on the Airport property. It is also in an area where aircraft are arriving and departing regularly.

11. *Will the new zoning be as compatible as possible with adjacent zoning in the City of Billings?*

The proposed zoning is a zoning that is also present in the City of Billings but not in the immediate area of the property. HC zoning could allow more intense uses than currently allowed in adjacent zoning districts but the potential universe of intense uses is currently limited due to the lack of access to public facilities including water and sewer services.

Application and pre-app meeting – Zone Change 676



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July 29, 2016

City/County Planning Department  
2825 3rd Avenue North  
4th Floor (Miller Building)  
Billings, MT 59101

**RE: Zone Change Application**

Dear Planning Division Representative,

Please find enclosed a completed Zone Change Application. This application concerns the southern 600 (ft) of the property recently zoned under Yellowstone County Zone Change—669. In Zone Change – 669, the bottom 600 (ft) was left zoned Agriculture Open (A-1). The property’s owner, Aviation Properties, LLC, (“Aviation”) now requests the property be rezoned to Highway Commercial (HC).

Currently, there are no restrictive covenants on the property. Efforts are currently underway to settle the lawsuit, which was filed after Yellowstone County approved County Zone Change – 669. Settlement might entail an agreement providing for restrictive covenants; however, no proposed covenants would restrict Aviation’s ability to seek this zone change. Under the proposed agreement, Aviation is required to seek this zone change.

Finally, the proposed agreement requires Aviation to bring another zone change in early December, seeking to rezone a portion of the property zoned Controlled Industrial (CI) to Highway Commercial (HC). This disclosure is made in an effort to assist your office in reviewing this application, with a mind towards the application which will follow.

All the Best

A handwritten signature in blue ink, appearing to read 'Tyler T. Dugger', is written over a horizontal line.

Tyler T. Dugger

Attorney at Law  
Tolliver Law Firm, P.C.

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*Tyler T. Dugger*

*tdugger@tolliverlaw.com*

APPLICATION FORM

COUNTY ZONE CHANGE County Zone Change # 676 - Project # 82-16-00152

The undersigned as owner(s) of the following described property hereby request a Zone Change as outlined in the City of Billings-Yellowstone County Unified Zoning Regulations.

**Present Zoning:** Agriculture – Open Space (A-1)

**Proposed Zoning:** Highway Commercial (HC)

**Tax ID #** D04575L & D04575M COUNTY COMMISSIONER DISTRICT # 2

**Legal Description of Property:** Tracts 13 &14 C of S 2037 Yellowstone County

**Address or General Location (If unknown, Contact County Public Works):** West of Billings Logan International Airport & North of Montana Highway 3.

**Size of Parcel (Area & Dimensions):** This proposed zone change concerns the bottom 600 (ft) of both above referenced tracts. Beginning at the property’s southern boundary, the proposed zone change’s dimensions and acreage are as follows: approximately 600 (ft) North to South, 1343 (ft) East to West, and it encompasses approximately 20 acres.

**Present Land-Use:** The property currently sits as dormant agricultural acreage.

**Proposed Land-Use:** Aviation Properties, LLC seeks to have the property designated as Highway Commercial to allow for highway and airport compatible commercial development.

**Covenants or Deed Restrictions on Property:** Yes \_\_\_ No X

**If yes, please attach to application:** N/A

\*\*\* Additional Information may be required as determined by the Zoning Coordinator in order to fully evaluate the application.

**Owner(s):** Aviation Properties, LLC  
6309 Jellison Road, Billings, MT 59101  
(406) 252-6937

**Agent(s):** Kenneth D. Tolliver - Attorney at Law - Tolliver Law Firm, P.C.  
P.O. Box 1913, Billings, MT 59103-1913  
(406) 256-9600 ktolliver@tolliverlaw.com

**County Zone Change Application (Continued)**

**1. In what ways is your proposal consistent with the goals and policies of the adopted Growth Policy?**

The proposed zone change compliments and contributes to Yellowstone County and the City of Billings' growth policy. In 2008, Yellowstone County, in partnership with the City of Billings, issued its Yellowstone County and City of Billings 2008 Growth Policy Update ("Growth Policy"). The Growth Policy analyzed and characterized how Yellowstone County's communities had changed overtime and what tools were needed to improve the area's communities. After the work was done, the completed report identified numerous issues, goals, and objectives. This proposed zone change addresses several of the report's stated issues and will assist Yellowstone County and the City of Billings in meeting its goals and objectives.

Successfully rezoning will allow the property to be commercially developed in a manner consistent with its proximity to Montana Highway 3 and Billings Logan International Airport ("Airport"). Yellowstone County zoning regulations provide as follows:

The highway commercial zone is intended to provide areas for commercial and service enterprises which are intended primarily to serve the needs of the tourist, traveler, recreationist, or the general traveling public. Areas designated as Highway Commercial should be located in the vicinity of, and accessible from interstate interchanges, intersections on limited access highways, or adjacent to primary or secondary highways. The manner in which the services and commercial activities are offered should be

carefully planned in order to minimize the hazard to the safety of the surrounding community and those who use such facilities.

(Unified Zoning Regulations, Article 27-300. Zoning Districts and Official Maps, Sec. 27-301. Zoning Districts).

Both Montana Highway 3 and the Airport, by their nature, are used exclusively by tourists, travelers, recreationists, and the generally traveling public. Accordingly, the property should be developed to provide services to the area's users.

Regarding economic development, the Growth Policy calls for a cohesive focus on economic development. Specifically, the plan aspires for: "Coordinated economic development efforts that target business recruitment, retention, and expansion." Currently, the property is underused. As the property's approximately 20 acres cannot be economically used for agricultural applications, rezoning will allow for effective economic use.

**2. Explain your need for the intended zone change and why the property cannot be used under the existing zoning. Explain how the new zoning will fit in with the existing zoning and land uses of the immediate area.**

Concerning proper land use, the Growth Policy sets two relevant goals:

- a. Predictable land use decisions that are consistent with neighborhood character and preferred land use patterns identified in neighborhood plans; and
- b. New developments that are sensitive to and compatible with the character of adjacent City neighborhoods and County town sites.

Future development of the property is barred by current zoning. The property is currently zoned as Agricultural-Open Space (A-1). This classification is designated to "protect and preserve agricultural lands for the performance of a wide range of agricultural functions. The intent is to limit the scattered intrusion of uses not compatible with an agricultural environment;

to encourage agricultural pursuits and protect environmental concerns.” Due to its location adjacent to the Billings Logan International Airport, development atop the Billings Rimrocks, and its small acreage, the property has no agricultural utility.

Aircraft noise and vertical limitations further limit the number of potential uses on the property. This proposed zone change affords Yellowstone County and the City of Billings the opportunity to put airport area property to full and effective use. The Airport indisputably dominates the landscape. Its presence brings a set of challenges and advantages to developers. Highway Commercial zoning effectively mitigates the challenges and capitalizes on the advantages.

Nearby residential neighborhoods may be impacted by the requested zone change; however, the proposed strip of Highway Commercial advantageously buffers residential neighborhoods south of Highway 3 from more intense land uses farther north. In addition, this zone change is consistent with and required by a proposed settlement agreement which would resolve Montana Thirteenth Judicial District proceeding DV 16-0627 which challenged Yellowstone County’s previous Zone Change 669. Plaintiffs in that case were concerned that land-uses, more intense than Highway Commercial, would eventually encroach upon the highway. Resolving this fear, the settlement agreement calls for Aviation Properties, LLC to seek this zone change. This zone change is brought after neighborhood collaboration, and the Plaintiffs in DV 16-0627 represent that they either support or are not opposed to this requested zone change.

Future development in the area is inevitable. Current plans for rezoning and development fit consistently with the existing zoning and land uses of the immediate area.

**Conclusion**

Considering Yellowstone County and the City of Billings' economic and land-use interests, this proposed zone change is consistent with the Growth Policy and general land-use principles. Accordingly, the property should be rezoned from Agricultural Open (A-1) to Highway Commercial (HC).

**Application Form Signature Page**

Aviation Properties, LLC understands that the filing fee accompanying this application is not refundable, that it pays for the cost of processing, and that the fee does not constitute a payment for a Zone Change. Also, I attest that all the information presented herein is factual and correct.

Signed:

**Owner:** Aviation Properties, LLC

Telephone: (406) 252-6937

Address: 6309 Jellison Rd, Billings, MT 59101

Email: N/A

Signature: *Aviation Properties LLC  
as Agent/Attorney in Fact*

Date: 7/29/2016

Aviation Properties, LLC (Signed by Kenneth Tolliver - Agent/Attorney in Fact)



**Zone Change Application Meeting Synopsis**

The Pre-Application Neighborhood Meeting was held at Tolliver Law Firm, 1004 Division St., Billings, Montana, on Thursday July 22, 2016 at 4:00 p.m. Seven community members attended.

Almon Blain, Kenneth D. Tolliver, and Tyler T. Dugger were present representing Aviation Properties, LLC (“Aviation”). The meeting lasted approximately one hour. No attendee expressed opposition to the proposed zone-change.

Inquiries were made by attendees and addressed by Aviation’s representatives as detailed below:

1. Some attendees were interested in what the differences were between Controlled Industrial (CI) zoning and Highway Commercial (HC) zoning. Aviation representatives explained Highway Commercial (HC) zoning allows for less intense land-uses in comparison, and it does not allow many of the industrial/manufacturing land-uses allowed in Controlled Industrial zones;
2. Some attendees expressed concerns over water runoff. Aviation representatives discussed the entire property’s planned storm water detention facility and Aviation’s ongoing obligations to manage water runoff;
3. Aviation representatives discussed the potential of Billings Logan International Airport’s (“Airport”) expansion to the west and its possible impact on the property.
4. Not exclusively concerning the presently proposed zone change, aspects of Aviation’s total property development were discussed; and
5. Aviation’s proposed zone change and its favorable impact on the potential settlement of the lawsuit challenging previous Zone-Change 669 was discussed.