



CITY ZONING COMMISSION
AGENDA-Tuesday, May 2, 2017, 4:30 p.m.
Miller Building, 1st 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 City Zoning Commission Members and Planning Department Staff.

Public Comment

Approval of Minutes:

- a. April 4, 2017 Meeting Minutes.

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 Exparte 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. **City Zone Change 956 – 517 Lincoln Lane** – A zone change request from Residential Multi-family-Restricted (RMF-R) to Community Commercial (CC) on a fraction of 175 feet X 490 feet in the S1/2NWSENE1/4 of Section 27, Township 1 North, Range 26 East, a 1.98 acre parcel of land. A pre-application neighborhood meeting was held on March 30, 2017 at the subject property. Presented by Nicole Cromwell, Zoning Coordinator

Other Business/Announcements

Adjournment

The City Council has designated **Monday, May 22, 2017**, at 6:30 p.m. in the City Council Chambers as the time and place to hear testimony for or against the zone change.

Before taking any action on an application for a **zone change**, the City Council shall first consider the findings and recommendations of the City Zoning Commission. In no case shall the City Council approve a zone change other than the one advertised. The City Council shall take one of the following actions on the zone change requests: 1) approve the application; 2) deny the application; 3) allow withdrawal of the application; or 4) delay the application for a period not to exceed thirty (30) days.

As provided in Montana Code Annotated, Section 76-2-305(2), in the event of a protest petition against such **zone change** signed by the owners of twenty-five (25) percent or more of: (1) the area of the lots included in any proposed change; or (2) those lots or units, as defined in MCA 70-23-102, **one hundred fifty (150) feet from a lot included in a proposed change**, such proposed amendment shall not become effective except by the favorable vote of two-thirds (2/3) of the present and voting members of the city council. For purposes of this protest provision interest in the common elements of the condominium, as expressed in the declaration, included in the calculation of the protest. If the property, as defined in 70-23-102, spans more than one lot, the percentage of the unit owner's undivided interest in the common elements must be multiplied by the total number of lots upon which the property is located. The percentage of the unit owner's undivided interest must be certified as correct by the unit owner seeking to protest a change or by the presiding officer of the association of unit owners. The protest petition must be received in the Planning Division office by 5:00 p.m. on the Friday preceding (May 19, 2017) the first reading of the amendment by the City Council.

The Zoning Commission and City Council will hear all persons wishing to speak relative to the proposed zone change. Testimony regarding the above mentioned item may also be submitted in writing to the Planning Division, 2825 3rd Avenue North, 4th Floor, Miller Building, Billings, MT 59101 (247-8676) or to the Mayor and City Council, P.O. Box 1178, Billings, MT 59103.

Additional information on any of these items is available in the Planning and Community Services Office. 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 Robbin Bartley, Administrative Assistant, at 247-8676 or e-mail to bartleyr@ci.billings.mt.us

City Zoning Commission

Meeting Date: 05/02/2017

Information

Subject

April 4, 2017 Meeting Minutes.

Attachments

BZC_2017_04_04.pdf

City of Billings Zoning Commission Meeting Minutes April 4, 2017

The City of Billings Zoning Commission met on Tuesday, April 4, 2017 in the Miller Building 1st Floor Conference Room, 2825 3rd Avenue North, Billings, Montana.

Chairman Wagner called the meeting to order at 4:30 p.m. The City Council has designated **Monday April 24, 2017** at 6:30 p.m. in the City Council Chambers as the time and place to hear testimony for or against the zoning applications.

Commission and Staff		01/03/2017	02/07/2017	03/07/2017	04/04/2017	05/02/2017	06/06/2017	07/05/2017	08/01/2017	09/05/2017	10/03/2017	11/07/2017	12/05/2017
Dan Wagner	Chairman	1	-	-	1								
Dennis Ulvestad	Commissioner	1	-	-	1								
Mike Boyett	Vice Chairman	1	-	-	1								
Michael Larson	Commissioner	1	-	-	1								
James Mariska	Commissioner	1	-	-	1								
Wyeth Friday	Director, Planning & Community Services	-	-	-	1								
Vacant	Division Planning Manager	-	-	-	-								
Nicole Cromwell	Planner Zoning Coordinator	1	-	-	E								
Tammy Deines	Planning Clerk	-	-	-	-								
Dave Green	Planner II	-	-	-	1								
Karen Husman	Planner I	-	-	-	-								
Robbin Bartley	Administrative Support	1	-	-	1								

Total Number of 2016 Applications	01/03/2017	02/07/2017	03/07/2017	04/04/2017	05/02/2017	06/06/2017	07/05/2017	08/01/2017	09/05/2017	10/03/2017	11/07/2017	12/05/2017	TOTAL
Zone Change	2			2									4
Special Review	1			3									4

Chairman Wagner introduced the Planning Division Staff and Commission: Attending Staff were Nicole Cromwell, Zoning Coordinator; and Robbin Bartley, Administrative Support.

In Attendance

Bruce Buss, George Deal, Eugene Baker, Amber Field, Clara Baker, Debra & Mike Tonkovich, Kevin Howell, Bill Mankin, bob Pulley, Carrie McNeese, Bryan Alexander, John Atkinson, Georgia Heffner, Thresa Goodman, Mike Heffner, Carl Anderson, David Marts, John Jones, Craig Favero, Zach Phelps, Tom Mutchler, Mike Matern, Mary Matern, John Wells, Jason Lillie, Stephon Mentzer, Oscar Heinrich

Public Comment

Chairman Wagner called for public comments. There were no public comments. Chairman Wagner closed the public comment portion of the meeting.

Approval of Minutes: January 3, 2017

Chairman Wagner called for approval of the January 3, 2017 meeting minutes.

Motion

Commissioner Ulvestad made a motion and Commissioner Larson seconded the motion to approve the January 3, 2017 meeting minutes.

COMMISSIONER	Yes	No	ABSTAINED	ABSENT
Dan Wagner	X			
Mike Boyett	X			
Dennis Ulvestad	X			
Mike Larson	X			
James Mariska	X			

The motion for approval then carried with a unanimous voice vote 5-0.

Disclosure of any Conflict of Interest, Ex Parte Communications and Site Visits

A new form has been implemented for any disclosures. If any Board member circled yes to a Conflict of Interest or Ex Parte Communication, it will be explained here.

Public Hearings:

Chairman Wagner reviewed the rules and the procedures by which the City Zoning Commission public hearings are conducted and advised the audience that this would be heard by the City Council on April 24, 2017. He then asked Dave Green to review the first agenda item.

Dave Green presented:

Return Item - City Special Review 953 – 4135 Grand Avenue – Wireless

Communication Facility – A special review request (27-620(d)1.) to allow an 80-foot monopole and wireless communication facility in a Residential 9,600 zone on a church property legally described as C/S 1876, Tract 3A1, a 1.844 acre parcel of land generally located at 4135 Grand Avenue. Tax ID: D04742

RECOMMENDATION

Planning staff recommends conditional approval an adoption of the findings of the 3 criteria for special review.

Questions for Staff:

Chairman Wagner-If approved, what capacity and lifelong years will it provide. Deferred to applicant.

Commissioner Mariska-What is considered whisper quiet regarding generators. By the manufacturer to a certain decibel.

Commissioner Ulvestad-Who decides on 6 foot minimum on fence height. Residential zoning.

Chairman Wagner asked for the applicant of **City Special Review 953**.

KEVIN HOWELL, 11340 N 105TH PL, SCOTTSDALE, AZ

This is a supply and demand issue, more houses require more usage. More data is necessary. Verizon is looking at 8 more sites for towers in Billings. Area growth requires more towers. This tower is higher to reach further west. It is 80 feet to avoid interference. This area is already impacted by 70 foot NWE poles. 50 percent of homeowners nationwide do not have land lines.

Commissioner Mariska - What determines the amount of capacity this will provide?

Reply - This tower is not expandable. The FCC only gives so much bandwidth for use.

Aesthetically, more towers are a problem, but the public demands the service.

Commissioner Boyett- Why can't we put everything on the rims?

Reply – If only one tower were placed on the rims it would be overwhelmed.

Opposed

OSCAR HEINRICH, 5148 Granite Peak Lane

Offered these questions. Can this be a co-location? Why was a tower in this area denied in the past? Can something be done about the appearance?

MIKE HEFFNER, 420 Heffner Lane

Mr. Heffner owns adjacent property and fears the cell towers will bring down property values. His home is a passive solar and does not want blockage of an 80 foot tower. The proposed 6 foot fence at 25x50, is not high enough to hide the equipment which is 10 feet tall and once the easement is there they can do anything they want.

BILL MANIKAN, 4309 Grand Ave

Mr. Manikan is opposed to the look of the base of the tower, not the tower itself. Verizon needs a spot between Grand and Rimrock, another location should be considered.

TERESA GOODMAN, 1643 41st St. West

In 1979 Montana Power proposed eminent domain to put a substation in on their property at this location. She and her husband decided where it would go on their ranch. They were able to stop a previous cell tower erection. She feels they have done their part, put it somewhere else.

CARL ANDERSON, 1708 43rd St. W

Mr. Anderson is opposed to the tower, there are plenty of other ugly towers in the area. It will effect property values in a residential area.

CARRIE MCNEESE, 4309 Grand Ave

Ms. McNeese feels that it should be erected in commercial zoning and not in a residential area.

REBUTTAL

Regarding co-location, definitely, whether another company would choose to mount antenna below or above would be up to them. Verizon is open to a different location. The houses are what is driving the demand. Industrial/commercial areas don't need the service.

Commissioner Larson - Please address the base facility exceeding the height of the fence.

The old type building had dimensions of 12x26x11. Verizon is now using 3 outdoor cabinets measuring 3x3x6 foot tall. They are held about 1 foot off the ground for moisture and a snow roof is constructed and is about 8 feet tall.

Mr. Howell also requests help for aesthetics to be in compliance to the conditions.

Commissioner Boyett- Is it a requirement that the fence is a 6 foot maximum. Staff advised the need of a variance should the fence be over 6 feet.

Chairman Wagner asked for a motion.

Commissioner Boyett made a motion and Commissioner Larson seconded the motion to approve **City Special Review 953.**

DISCUSSION

Commissioner Ulvestad agrees with placing it in CC verses R zoning

Commissioner Larson – the demand for this service is compelling and the impact on the neighborhood is compelling, it is troublesome that there is no representation here by the property owner

Commissioner Mariska- his main concern is this is a utility for services as well as entertainment, and agrees it is not the best place but the area growth makes it eminent.

Commissioner	YES	NO	ABSTAINED	ABSENT
Dan Wagner			X	
Mike Boyett	X			
Dennis Ulvestad		X		
Mike Larson	X			
James Mariska		X		

The motion IS DENIED with a verbal vote of 2-2-1.

Dave Green presenting:

Return Item - City Special Review 954 – 3042 King Avenue West – All Beverage License gaming restricted – A special review request to locate an all-beverage liquor license (gaming restricted) in an existing 6,509 square foot building – Johnny Carino’s – on Lot 3A-1 of Studer Acreage Tracts Subdivision, in a Controlled Industrial (CI) zone, on a 1.17 acre parcel of land generally located at 3042 King Avenue West. Tax ID: C14763

RECOMMENDATION

Planning staff recommends conditional approval an adoption of the findings of the 3 criteria.

Questions for Staff:

Chairman Wagner – is this a new license or existing

Reply – this is an existing license, it is called a floater license and no gaming is allowed

Commissioner Boyett - Johnny Carino’s did have a wine and beer licence

Reply – correct, that license went with the owner of Johnny Carino’s

Commissioner Ulvestad – asked who retained the all beverage license

Chairman Wagner asked for the applicant of **City Special Review 954**.

Bob Pulley, 321 Glee Place, Agent

Daisy Dukes liquor license is being used at this location. The current license from Cactus Creek is restricted. The Mexican Cuisine will want Margaritas.

Casey Keith, 3040 King Ave East, Agent for Lexington Inn and Suites

This type of business is definitely an asset to them. They are in favor of this being approved.

Opposed

NONE

Commissioner Larson made a motion for approval of **City Special Review 954**. Commissioner Boyett seconded the motion to approve **City Special Review 954**.

Discussion

Commissioner Ulvestad thinks this is a good location.

Commissioner	YES	NO	ABSTAINED	ABSENT
Dan Wagner	X			
Mike Boyett	X			
Dennis Ulvestad	X			
Mike Larson	X			
James Mariska	X			

The motion carried with a unanimous verbal vote of 5-0.

Dave Green Presenting:

City Zone Change 955 – 301 - 317 Covert Lane and 1739 – 1747 Cody Dr – A zone change request from Residential 7,000 (R-70) to Residential 6,000 (R-60) on Lots 5, 6, 7 & 8, Block 7, Happy Hollow Subdivision, a 1.36 acre parcel of land. A pre-application neighborhood meeting was held on February 23, 2017 at Oasis Water Park. A concurrent special review has been submitted. Tax IDs: C00404A, C00404B, & C00404C.

RECOMMENDATION

Planning staff recommends approval and adoption of the findings of the 10 criteria for a zone change.

Questions for Staff:

Commissioner Boyett asked what is allowed in R7000 and staff replied 6 Duplexes. In R6000 3-10 plex units. This is a legal non-conforming, therefore no financing is available to improve or rebuild the current structures.

Any time there are more than 3 structures, Public Works considers it a commercial area and requires Storm Water Retention on site.

[Commissioner Larson](#) –There are 2 separate requests here? The Zone Change is what our focus is right now and not the proposed plan.

Chairman Wagner asked for the applicant of **City Zone Change 955**.

BRIAN ALEXANDER, AGENT, SANDERSON STEWART

The proposed zone change would provide more flexibility.
This was originally county property with septic systems.

[Chairman Wagner](#) – how wide is the alley along the north perimeter, 20 foot wide

JOHN JONES, AGENT, 27 N 27 STREET, BILLINGS, MT

The zone change would help with insurance and financing.

TOM ZERBUCHEN, 1747 WICKS LANE

Here tonight representing his elderly mother who lives at 1776 Broadview Drive. This zone change is a no brainer. The current buildings are severely blighted and cannot be replaced at today's costs and pencil out. He is in favor of the zone change in fear that the taxpayers will end up paying for the removal of these buildings.

Opposed

ZACK PHELPS, Representing 316, 318 AND 320 COVERT

Contents that Rainbow Property does not maintain this or any of its properties effectively.

[Commissioner Larson](#) confirms opposition to the project or the zone change.

Mr. Phelps agrees that improvement is needed but that a zone change is not necessary to do that.

STEPHON MENTZER, 330 LAURIE LANE

The proposed zone change will impact the quality of the neighborhood. It is currently very quiet. He is adamantly opposed to the zone change as it will drastically increase the density.

DEBORAH TONKAVICH, 1819 CODY DRIVE

There is a lot of wildlife from the wetlands. More people will decrease the presence of wildlife.

Parking is an issue now and will be more so with the zone change.

Traffic will be an issue, the roads are poor now.

The owners do not maintain the property and never have.

No room for children to play is a huge safety concern.

BRUCE BUSS, 1738 BROADVIEW DRIVE

The proposal of increased density of 100 persons in this small area is not agreeable to any of the current residents. The traffic will not be manageable.

MIKE MATERN, 119 COVERT LANE

We do not need more persons, do not change zoning and allow more persons. I am not opposed to an upgrade just the increased density.

KIM LATTERAL, 1630 CODY DRIVE

The road is already a race strip for high school students. 6 duplexes to 18-30 units with the zone change. It is a poor impact to the neighborhood. He is opposed to the number of units.

AMBER FIELD, 325 LAURIE LANE

There is a fix without a zone change, build 6 duplexes.

There are no sidewalks in the neighborhood and the road is narrow with insufficient parking.

One garbage receptacle is not adequate.

This is a wetland and this zone change will impact the wildlife.

The traffic on this road is horrible and many are not residents.

DAVE MARTZ, 337 LAURIE LANE

The population density proposed is ridiculous. There are wetland issues, garbage is a problem.

Currently the property is not adequately maintained.

He is in favor of 6 duplexes, and opposed to the zone change.

CRAIG FAVERO, 309 STILLWATER LANE

He bought in this area because it is primarily Single Family dwellings 12-20,000 square foot lots.

The small garages proposed will be glorified storage and are not big enough for a truck.

Safety is a huge concern as well as crime with that many persons.

Six duplexes are a much better solution.

EDDY BAKER, 312 LAURIE LANE

His concerns are the density proposed, retaining the water with an 8 foot water table.

A zone change opens up too many potential problems.

CLARA BAKER, 312 LAURIE LANE

This is a quiet neighborhood with seniors. Currently there is no place for children to play, more density is absurd.

MARY MATERN, 119 COVERT LANE

She agrees with all the opposition. She has lived there 2 years and enjoys the large property with wetlands and wildlife. She does not want zone change, no more people.

GEORGE DEAL, 1732 BROADVIEW DRIVE

The traffic on Cody has grown with the new development to the north.

He is against the zone change.

JOHN WELLS, 303 MEADOWLARK LANE

He has lived there since 1991. It is obvious to him that this is an income game. The property is not maintained. The ground water table is very high and there is no place for storm water retention. Six duplexes brings compliance and enables financing and insurance.

MIKE TONKAVICH, 1819 CODY DRIVE

How many units are going in on Sioux lane?
It is 3 times the area that is being proposed here and 30 units.
He enjoys the quiet.

Rebuttal

Commissioner Larson interjected a point of order, indicating that only the zone change be addressed for the purposes of a recommendation to City Council.

BRIAN ALEXANDER, SANDERSON STEWART

The proposed zone change is just one step up in density from the current zoning. Granting the zone change does not change the density hugely without the special review. The zone change is the issue here. Approval is needed to obtain financing and at least a rebuild letter.

Commissioner Boyett made a motion to approve **City Zone Change 955** and Commissioner Larson seconded.

Discussion

Commissioner Larson confirmed with staff that the only other R-6000 in this area is undeveloped. The city owns an area kitty corner that is R-6000 and therefore spot zoning is not a concern.

Commissioner Boyett-confirmed 12 units in R-6000 zoning without a special review

Commissioner	YES	NO	ABSTAINED	ABSENT
Dan Wagner	X			
Mike Boyett	X			
Dennis Ulvestad		X		
Mike Larson		X		
James Mariska	X			

The motion carried with a verbal vote of 3-2.

Dave Green Presenting:

City Zone Change 954 – 5400 Laurel Rd – A zone change request from Residential 7,000 (R-70) to Community Commercial (CC) on portion of Lot1A and all of Lot 2, Block 3 Streeter Brothers Subdivision, a 15,000 square foot parcel of land. A pre-application neighborhood meeting was held on February 27, 2017 at GM Petroleum at 275 Daniel Street. Tax IDs: A14949 & D01379.

RECOMMENDATION

The Planning staff recommends approval and adoption of the proposed findings of the 10 criteria for **City Zone Change 954**.

Questions for Staff: NONE

BRYAN ALEXANDER, SANDERSON STEWART
CONOCO CONVENIENCE STORE

Opposed NONE

Discussion

Commissioner Boyett made a motion and Commissioner Ulvestad seconded the motion to approve **City Zone Change 954**.

Commissioner	YES	NO	ABSTAINED	ABSENT
Dan Wagner	X			
Mike Boyett	X			
Dennis Ulvestad	X			
Mike Larson	X			
James Mariska	X			

The motion carried with a

unanimous verbal vote of 5-0.

Dave Green Presenting:

City Special Review 955 – 301 - 317 Covert Lane and 1739 – 1747 Cody Dr – Three 10-unit apartment buildings – A special review request to demolish three 4-plex apartments and construct three 10-unit apartment buildings in a proposed R-60 zone, on Lots 5, 6, 7 & 8, Block 7, Happy Hollow Subdivision, a 1.36 acre parcel of land. Tax IDs: C00404A, C00404B, & C00404C.

RECOMMENDATION

Planning staff recommends condition approval of 3, 6-unit buildings and adoption of the findings of the 3 criteria for **Special Review 955**.

Questions for Staff:

Commissioner Boyett – why not deny it all? Staff replied that this Special Review meets Growth Policy Guidelines and is good infill.

Commissioner Larson- what obligations would the developer have to mitigate the concerns voiced by the neighbors today? Staff advised that water retention requirements have to be met as well as curb and gutter. Garbage needs to be addressed with Solid Waste.

BRYAN ALEXANDER, SANDERSON STEWART

The applicant is requesting 3, 10 plexes, which maximizes the property use. The site plan was modified, off street parking was increased, swapping green space for parking. 10 plexes are necessary to offset the expenses incurred in demolition and storm water infrastructure, sidewalks, etc. Traffic studies are only required with 500 trips per day. This development does not meet this requirement.

Commissioner Boyett - If we approve the staff recommendation-can your client accept that condition?

Commissioner Ulvestad - Are the septic tanks still there. They are abandoned.

JOHN ATKINSON, 848 MAIN STREET, SUITE 7, ARCHITECT

These are high quality units in hopes of attracting better tenants.

Commissioner Ulvestad is concerned about traffic and children's safety

JOHN JONES, 27 N 27, BILLINGS, MT

This needs to pencil out, duplexes don't work at this level.

This is risky business, clearly one option is for the owners to do nothing.

TOM MUTCHLER, 1417 13TH STREET WEST, RAINBOW PROPERTY

In the last 5 years we have spent \$200,000.00 fixing these units, it is no longer feasible to continue spending money on these units.

JANE ?, 1739 GRAND, WORKS FOR THE MCDONALD FAMILY

Property is maintained to a higher standard since Mr. McDonald's death.

Opposed

BRUCE BUSS

Why are the city properties zoned R6000?

STEPHON MENTZER, 330 LAURIE LANE

This is a business discussion, bare the cost or don't do it. If it is not penciling out it is not the neighbors problem. The neighbor's quality of life is their concern. It is a matter of impact to the area.

EDDY BAKER, 312 LAURIE LANE

The diagram shows 31 residences in a large surrounding area, you are proposing 30 units in a small area. He is very concerned about the high water table in the area and being able to deal with roof run off.

MIKE MATERN, 119 COVERT

This is obviously all about money, why does the density have to change?

KIM LATTERAL, 1630 CODY DRIVE

He again talked about safety. Phantom costs, saying things don't pencil out, there are 100's of variables.

Where will the children play?

ZACH PHELPS, 320 COVERT LANE

Why do all the surrounding property owners have to suffer for one property owner?

TOM ZERBUCHEN

R6000 Lots

Vehemently opposes this special review.

DEBORAH TOMKOVICH, 1819 CODY DRIVE

This year there was no snow removal, if you triple the traffic it will be horrible with persons getting stuck.

CRAIG FAVERO, 309 STILLWATER LANE

He claims the rezone is preferential treatment.

DAVID MARS, 337 LAURIE LANE

The abatement and other maintenance should have been done along the way.

This is spot zoning, it benefits only the McDonalds.

CLARA BAKER, 312 LAURIE

This development will impact their living circumstances, 30 units is too many.

AMBER FIELD, 320 LAURIE LANE

There is no safety infrastructure in place.

Commissioner Ulvestad made a motion to deny and Commissioner Boyett seconded the motion to deny **City Special Review 955**.

Discussion

[Commissioner Larson](#) -addresses spot zoning, disagrees with proposing a different scenario and recommends withdrawal

[Commissioner Mariska](#)- admires spirit of the community

[Chairman Wagner](#) - agrees

[Commissioner Ulvestad](#) – advised audience to show up at City Council

Commissioner	YES	NO	ABSTAINED	ABSENT
Dan Wagner	X			
Mike Boyett	X			
Dennis Ulvestad	X			
Mike Larson	X			
James Mariska	X			

The motion carried to deny with a unanimous verbal vote of 5-0.

Other Business:

The next meeting will be May 2, 2017.

Adjournment: The meeting adjourned at **7:48 p.m.**

DRAFT: To be approved by a motion: **May 2, 2017.**

ATTEST:

Robbin Bartley, Administrative Assistant I



City Zoning Commission

Meeting Date: 05/02/2017

SUBJECT: Zone Change 956 - 517 Lincoln Lane - RMF-R to CC

THROUGH: Nicole Cromwell

PRESENTED BY: Nicole Cromwell

Information

REQUEST

City Zone Change 956 – 517 Lincoln Lane – A zone change request from Residential Multi-family-Restricted (RMF-R) to Community Commercial (CC) on a fraction of 175 feet X 490 feet in the S1/2NWSENE1/4 of Section 27, Township 1 North, Range 26 East, a 1.98 acre parcel of land. A pre-application neighborhood meeting was held on March 30, 2017 at the subject property. Presented by Nicole Cromwell, Zoning Coordinator

RECOMMENDATION

Planning staff is recommending approval and adoption of the findings of the 10 criteria for Zone Change 956.

APPLICATION DATA

OWNER: Propriedad, LLC - Rob Morehead

AGENT: Performance Engineering - Scott Aspenlieder, P.E.

LEGAL DESCRIPTION: Fraction of 175 feet X 490 feet in the S1/2NWSENE1/4 of Section 27, Township 1 North, Range 26 East

ADDRESS: 517 Lincoln Lane

CURRENT ZONING: RMF-R

EXISTING LAND USE: Vacant land

PROPOSED USE: Personal storage warehousing

SIZE OF PARCEL: 1.98 acres

CONCURRENT APPLICATIONS

None.

APPLICABLE ZONING HISTORY

Subject Property - The property was originally zoned R-70 and outside the city limits. In 2012, the property owner received a zone change approval from the County Commissioners to change the zoning to RMF-R. The property was subsequently annexed to the City in December 2015. The zone change in 2012 was opposed by the surrounding property owners in the County due to concerns about irrigation rights, density, light and noise.

Surrounding Property - There have been 15 similar zone change in Billings Heights in the past decade. One zone change was denied for 727 Bench Boulevard at the southeast corner of Bench Blvd and Hilltop Road. Another zone change was withdrawn for for 941 Bench Blvd that would have allowed multi-family development. The remaining 13 similar applications were approved.

SURROUNDING LAND USE & ZONING

NORTH: Zoning: NC
Land Use: Multi-family Townhomes

SOUTH: Zoning: R-70 (County)
Land Use: Single family dwellings

EAST: Zoning: R-70 (County)
 Land Use: Single family dwellings
WEST: Zoning: HC
 Land Use: Heights RV Storage

BACKGROUND

This is an application to change the zoning on this parcel to allow the development of personal storage warehousing on the property. The least intense zoning district that allows this use is Community Commercial (CC) zoning. The area is a mixture of medium to low density residential uses adjacent to higher intensity commercial zones and land uses. The property along Lincoln Lane has developed steadily over the past 10 years to include multi-family dwellings, new commercial uses and services. The Billings Heights Neighborhood Plan (2006) indicated this area between Main Street and Bench Blvd as an area where a mixture of land uses would be appropriate.

Zoning to the north is NC but has developed as multi-family townhomes. Property along the west side of Lincoln Lane is zoned HC but is a mixture of uses ranging from vehicle services, large retail, to storage lots, manufactured home parks and multi-family apartments. There have been 4 zone changes in Billings Heights in the last 5 years to accommodate new personal storage warehousing. The Building Division has issued 38 building permits for new personal storage warehouses in the last 5 years at 15 different locations in the City. Seven of those locations are in Billings Heights. Uses allowed within the CC zone include multi-family residences, large and small retail, business services, bars & casinos (special review required), restaurants, auto sales and service, as well as many other intense commercial uses. The applicant's intent is to build personal storage warehousing but a zone change can not be limited to proposed uses. All uses within the proposed zoning district may be allowed.

Personal storage warehousing provides one of the lowest taxable values on a per square foot basis for commercial development. A quick review of assessed values in Billings Heights for personal storage warehouses shows an average building value of \$25 per square foot. Other uses allowed in the CC zone show much higher assessed building value ratios such as \$118 per square foot for a bank, \$66 per square foot for a car wash and \$85 per square foot for a drug store. The storage lot west across Lincoln Lane has a property improvements value of only 22 cents per square foot.

Lincoln Lane is a local street developed in the County that is gradually being annexed to the City. Most recent annexations and subsequent developments on Lincoln Lane have not included the requirement to improve the adjacent right of way. Sanitary sewer and public water lines are installed within the right of way. Storm sewer drainage only exists on the southern 700 feet of Lincoln Lane behind the Target shopping center. Storm water is not collected or drained by a public system north of Target. New commercial developments within the City limits are required to retain all storm water on site if no public drainage system is available. No traffic counts have been made on Lincoln Lane. The closest traffic count is south on Bench Boulevard east of its intersection with Main Street. Traffic counts for this roadway are fairly low at 2,800 vehicle trips per day. Estimated vehicle trip generation from the proposed personal storage use is about 16 trips per day (8 trips per acre). The proposed use will have very little impact on the adjacent street network. The current zoning of RMF-R could generate up to 400 vehicle trips per day if fully developed at the maximum allowed density.

The Planning staff has reviewed the application and is recommending approval based on the findings of the 10 review criteria. The proposed zoning and use of the property is compatible with the adjacent and surrounding land uses. Development of the parcel will need to be aware of the adjacent County property where field irrigation still occurs. The proposed use will significantly reduce the potential traffic impacts from development. Since the property is directly adjacent to land zoned for residential purposes and used for residential dwellings, the requirements of Section 27-612(e), will need to be followed. These regulations, better known as Neighborhood Manners, restrict outdoor lighting, signage locations, waste storage and collection, as well as requiring screening and buffering of adjacent property. The Billings Heights Neighborhood Plan and the 2016 Growth Policy support the proposed zoning and use in this area of mixed uses and zoning. Lincoln Lane has a range of zoning districts from R-70 and R-60 to RP, NC, CC and HC. There is also a wide variety of uses from a major retail shopping center on the south end to multi-family residences, auto sales, assisted living and other service providers on the north end.

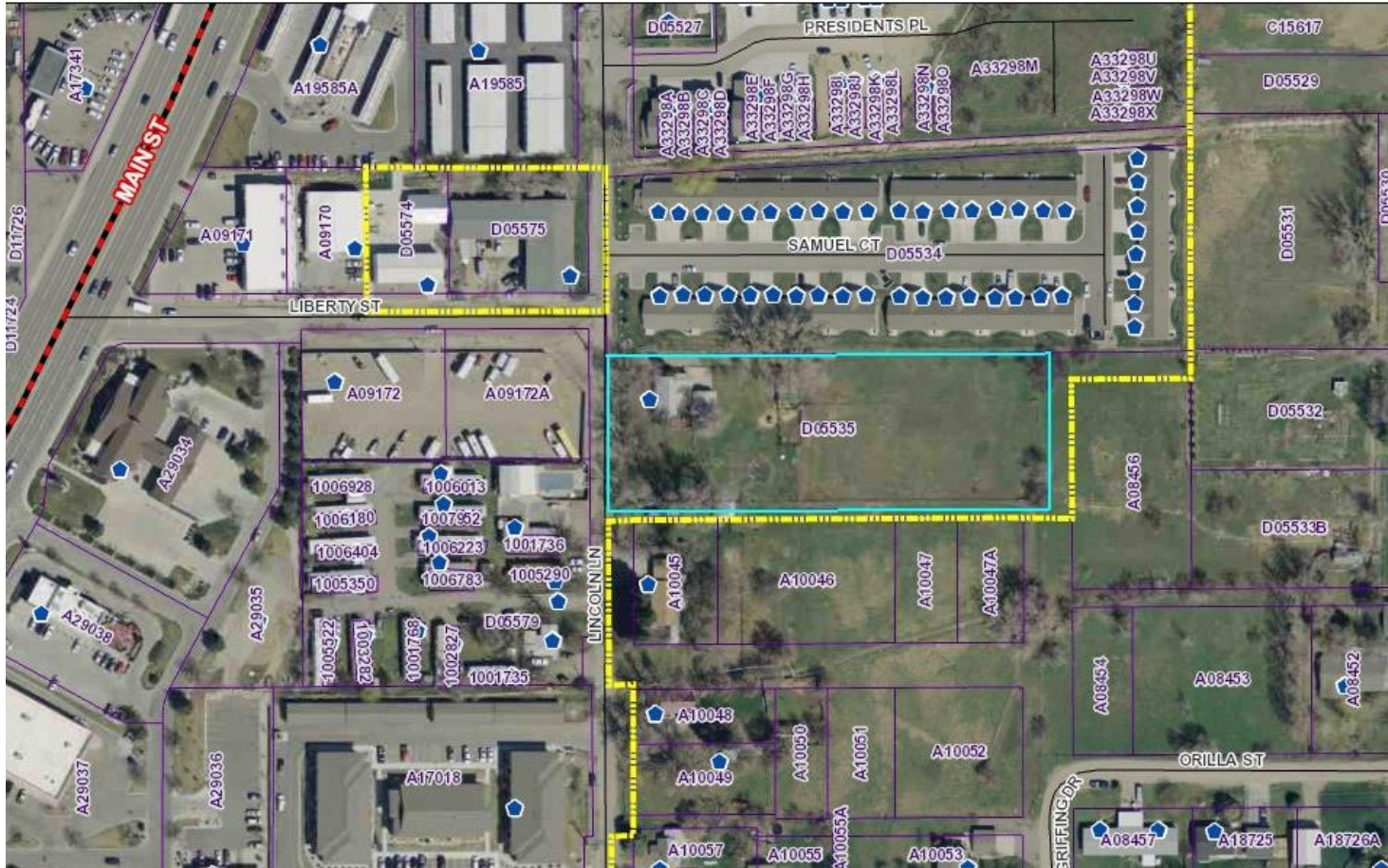
RECOMMENDATION

Planning staff recommends approval and adoption of the findings of the 10 criteria for Zone Change 956.

Attachments

Zoning Map and Site Photos
Review Criteria and Findings
Application and pre-app info

517 Lincoln Lane





Subject Property – view from Lincoln Lane



View south along Lincoln Lane



View west across Lincoln Lane



View north on Lincoln Lane



View east to open land east of subject property



View north and west to auto services on west side of Lincoln Lane

Zone Change #956 – 517 Lincoln Lane

Prior to any recommendation to the City Council, the Zoning Commission shall consider the following:

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

The proposed zone change is consistent with the following guidelines of the 2016 Growth Policy and the Heights Neighborhood Plan (2006):

The Heights Neighborhood Plan Land Use goals and objectives stated the need to "...*maintain residential neighborhoods without the increased traffic associated with intense commercial development. Encourage light commercial development to provide services. Implement the preferred future land use map for the Heights Neighborhood Plan to guide development through zoning requests.*"

- The proposed zoning of CC is to facilitate the development of personal storage warehouses on the property. The storage units will be similar to those on the west side of Lincoln Lane to the north. The current zoning regulations require CC zoning or more intense zones to allow personal storage warehouses. This use is not allowed in the NC or RP zoning district. The Planning staff cannot base its finding on an intended but all of the potential allowed uses within the district. Given the location of the property and the proposed zoning, it is not likely the more intense allowed uses in the CC would locate on the subject property. These include restaurants, bars & casinos (by special review), auto sales, large retail or service providers. While the proposed zoning could allow some future intense commercial uses of the property, the Planning staff finds this is highly unlikely given the specific location and nature of the property.

Essential Investments and Strong Neighborhoods: Neighborhoods that are safe and attractive and provide essential services are much desired.

- The proposed zoning would allow a neighborhood service in this mixed use area. Residents of Billings Heights have a growing need for off-site storage of household items especially boats and RVs. This facility provides a convenient location for this type of storage without any impact to the surrounding neighbors or burdening the existing traffic and street network. The adjacent residential uses will require the developer to follow the "Neighborhood Manners" section of the zoning regulations to ensure the adjacent neighborhood does not experience long term disruption of their property.

Prosperity: Predictable, reasonable City taxes and assessments are important to Billings' taxpayers.

- The proposed zoning and intended use help to equalize the taxes and assessments for services by developing a land use with little demand for city services.

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

The new zoning requires minimum setbacks, open and landscaped areas and building separations. The new zoning, as do all zoning districts, provides adequate building separations and density limits to provide security from fire and other dangers.

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

Public health and public safety will be promoted by the proposed zoning. The current zoning of the parcel – RMF-R – could have developed with up to 52 new multi-family apartments. The

adjacent residential parcels would have experienced a dramatic increase in traffic, noise and similar changes in the area. The proposed zoning and intended use, will allow a much more benign use of the property and can ensure the continued value for adjacent residential uses.

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

Transportation: The proposed zoning will have no measurable effect on the transportation system.

Water and Sewer: The City provides water and sewer to the property. There will be no additional impacts to the system from the proposed zoning.

Schools and Parks: Schools should not be affected by the proposed zoning.

Fire and Police: The subject property is served by city public safety services. The Police and Fire Departments had no concerns with the zone change.

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

The proposed zoning provides for sufficient setbacks to allow for adequate separation between structures and adequate light and air.

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

The new zoning should have no effect on vehicle or pedestrian traffic. The existing zoning could add up to 400 new vehicle trips per day to Lincoln Lane and the surrounding street network. The proposed zoning and intended use would add up to 16 new vehicle trips per day.

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

The new zoning does promote compatible urban growth in this area. The personal storage units provide a service to residents in the area. The intended use is not an intrusion to the area and is a benign use. There are existing storage facilities on the west side of Lincoln Lane including a 1-acre RV storage lot directly across the street.

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

The proposed zoning does consider the character of the district and the suitability of the property for the proposed use. This area between Main Street and Bench Boulevard is a mixture of zoning districts and uses. Personal storage warehousing is not allowed in less intense zoning districts such as NC or RP. The property is suitable for the proposed use given its location in the area.

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

The property is currently developed with a single family dwelling. Approval of the zone change would not change the value of this residence – residential uses are allowed in the CC zone. The value of existing buildings and the parcel will be conserved by the proposed zoning.

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 this land in Billings. This specific location and use is appropriate.

Application and pre-application meeting notes
Zone Change #956 – 517 Lincoln Lane

APPLICATION FORM

CITY ZONE CHANGE

City Zone Change # 956 - Project # PZ-17-00051

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

Present Zoning: Residential Multi-Family Restricted

Proposed Zoning: Community Commercial

TAX ID # D05535 CITY ELECTION WARD # 1

Legal Description of Property: S27, T01 N, R26 E, FRAC 175X490' in S2NWSENE4

Address or General Location (If unknown, contact County Public Works): 517 Lincoln Lane, Billings, MT 59105

Size of Parcel (Area & Dimensions): 1.98 acres

Present Land-Use: Residential

Proposed Land-Use: Commercial Property (storage)

Covenants or Deed Restriction on Property: Yes _____ No X

If yes, please attach to application

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

Owner(s): Propriedad, LLC

(Recorded Owner)

P.O. Box 20853, Billings, MT 59104

(Address)

(406) 208-7691 rmorehead@bigskyed.com

(Phone Number) (Email)

Agent(s): Scott Aspenlieder

(Recorded Owner)

7100 Commercial Ave., Ste. 4, Billings, MT 59101

(Address)

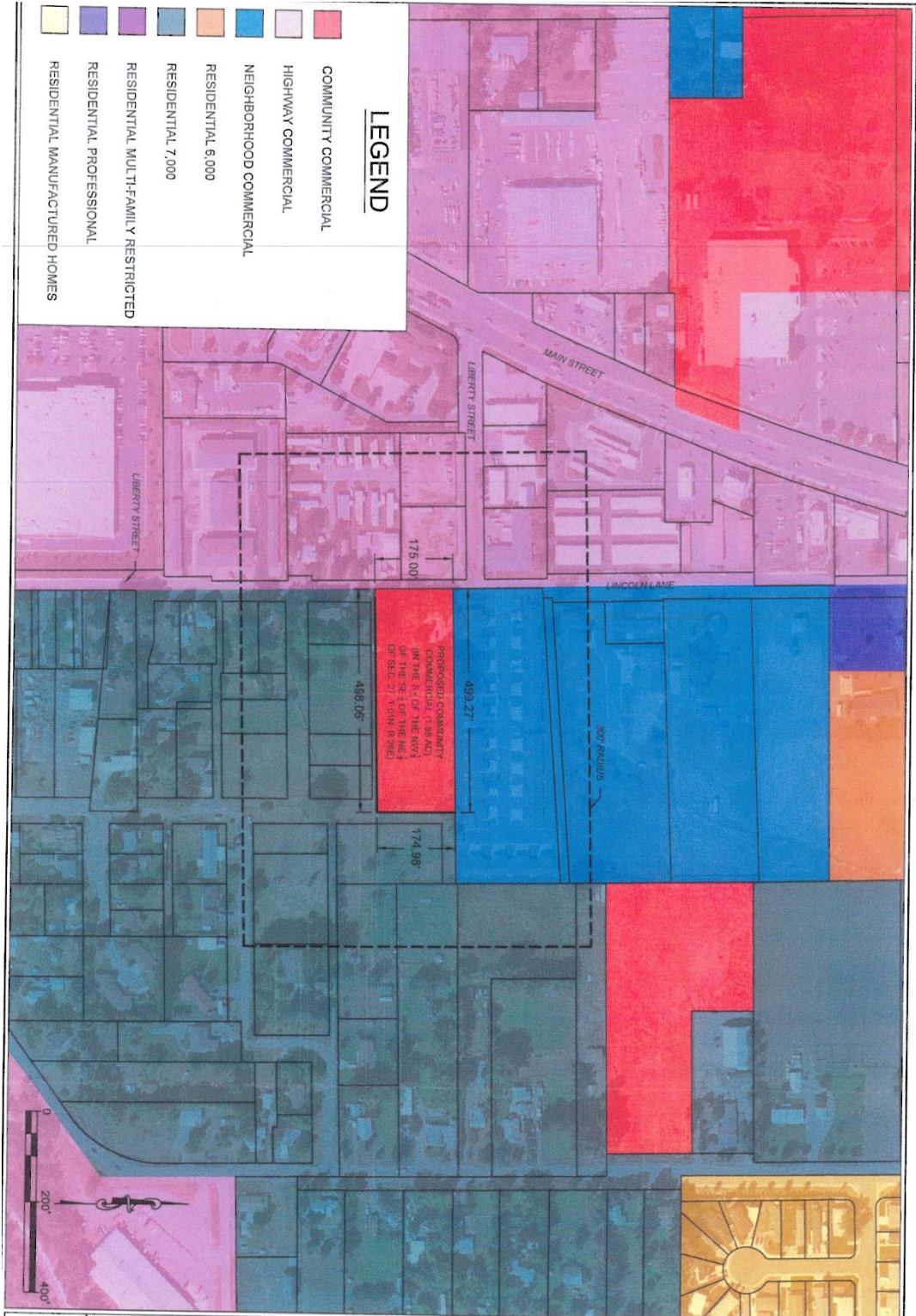
(406) 384-0080 scott@performance-ec.com

(Phone Number) (Email)

I understand 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.

Signature: [Signature] Date: 4/3/17

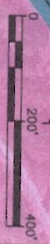
(Recorded Owner)



LEGEND

- COMMUNITY COMMERCIAL
- HIGHWAY COMMERCIAL
- NEIGHBORHOOD COMMERCIAL
- RESIDENTIAL 6,000
- RESIDENTIAL 7,000
- RESIDENTIAL MULTI-FAMILY RESTRICTED
- RESIDENTIAL PROFESSIONAL
- RESIDENTIAL MANUFACTURED HOMES

PROPOSED COMMUNITY COMMERCIAL 1.58 AC ON THE E. 1/2 OF THE NW 1/4 OF SEC. 27, T. 15N, R. 26E



<p>SHEET EX 1</p>	<p>SHEET TITLE AREA ZONING MAP</p> <p style="text-align: center;">PLAN</p>		<p>PROJECT TITLE LINCOLN LANE DEVELOPMENT</p>	<p>CLIENT PROPIEDAD, LLC</p> <p>P.O. BOX 20853 BILLINGS MT, 59104 406-259-7020</p>
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1. In what ways is your proposal consistent with the goals and policies of the adopted Growth Policy?

The tract of interest is currently zoned Residential Multi-Family Restricted. The land surrounding the property is Highway Commercial to the west, Neighborhood Commercial to the north, and Residential 7,000 to the east and south. The Growth Policy has several goals that would be met by changing the zoning of the property from Residential Multi-Family Restricted to Community Commercial. The issues that will be addressed are described below.

The first issue addressed is neighborhoods experiencing pressures from new development and land use changes. The surrounding land is zoned Highway Commercial, Neighborhood Commercial, and Residential 7,000. The goal is to have predictable land use decisions that are consistent with neighborhood character and preferred land use patterns. Having the land zoned Community Commercial will accomplish these goals and provide continuity and consistency.

Another issue is that the current zoning ordinances and subdivision regulations do not always prevent incompatible uses to existing City neighborhoods. This issue is resolved by having a similar zone as the surrounding areas. The proposed zoning will match the Community Commercial directly to the west and marry up with the Neighborhood Commercial to the north.

Weeds detract from the beauty of an area, pose a fire danger, and reduce the productivity of open land. By landscaping and maintaining the development, the weeds in the area will be minimized. This will reduce the spread of weeds throughout the community and to adjacent lands. Fewer weeds will reduce the fire danger.

One of the other major factors when considering development within the City is the strain on transportation services. The proposed project would entail constructing dry storage. This type of development is not a high traffic generating facility and would reduce the amount of strain on the adjacent transportation network.

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.

The proposed development plan is to construct storage on the lot. Residential Multi-Family Restricted zoning will not allow this type of development. The Community Commercial zone will allow the development of storage units that fit within the local community. The land surrounding the property is Highway Commercial to the west, Neighborhood Commercial to the north, and Residential 7,000 to the east and south. Many of the surrounding developments align with the same development feel of the proposed storage site.



7100 Commercial Ave., Ste. 4 • Billings, MT 59101 • 406-384-0080

March 30, 2017

The meeting began at 5:30 pm on March 27, 2017 at 517 Lincoln Lane, Billings, MT 59105. Those in attendance were Scott Aspenlieder (Performance Engineering) and Rob Morehead (owner).

Nobody attended the meeting. The two individuals listed above waited until 6:00 in case someone showed up late. The meeting ended at 6:00 pm.