



COUNTY OF YELLOWSTONE ZONING COMMISSION

AGENDA-Monday, February 13, 2017

4:00 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 the Yellowstone County Zoning Commission Members and Planning Department Staff.

- A. **Welcome! and Introduction of new Yellowstone County Zoning Commission member, Mr. Tyler Bush.**

Public Comment

Approval of Minutes:

Motion. The minutes of the Board meeting of September 12, 2016. (The October, and November, 2016 meetings were canceled due to a lack of agenda items. The December, 2016, and January 9, 2017 meetings were canceled due to a lack of a quorum of Zoning Commission members).

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:
 1. **Item 1: County Zone Change 678 – 743 Calhoun Lane** (Return Item due to lack of a Zoning Commission quorum in January) – A zone change request from Residential 9,600 (R-96) to Entryway General Commercial (EGC) on Tracts A1 and A2 of C/S 775, Amended, a 1.353 acre parcel of land. A pre-application meeting was held at the Hampton Inn, 5110 Southgate Drive, on October 30, 2016. Tax IDs: D01588 & D01588A. Presented by Nicole Cromwell, Zoning Coordinator.
 2. **Item 2: Zone Change 679 – 1926 Mullowney Lane** – (Return item due to lack of a quorum of the Zoning Commission in January) A zone change request from Residential Manufactured Home (RMH) to Residential Multi-Family-Restricted (RMF-R) Tract 1-AA of C/S 1156, a 9.39 acre parcel of land. A pre-application meeting was held at the offices of Performance Engineering at 7100 Commercial Avenue on November 22, 2016. Presented by Nicole Cromwell, Zoning Coordinator
 3. **Item # 3: County Zone Change 680 – Highway 3** – A zone change request from Controlled Industrial (CI) to Highway Commercial (HC) on a portion of Tracts 13 & 14 of C/S 2037, more particularly described as the south 247 feet of the current CI zone as shown on the zoning map. The property is located just west of the Billings Logan International Airport and north of Highway 3. The land area will be 7.61 acres (247 feet by 1,343 feet). A pre-application meeting was held at the offices of Tolliver Law Firm at 1004 Division Street on December 1, 2016. Presented by Nicole Cromwell, Zoning Coordinator

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, February 28, 2017, 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

County Zoning Commission

Meeting Date: 02/13/2017

Information

Subject

Welcome! and Introduction of new Yellowstone County Zoning Commission member, Mr. Tyler Bush.

Attachments

YZC_Application_Tyler Bush

Yellowstone County



COMMISSIONERS
(406) 256-2701
(406) 256-2777 (FAX)

P.O. Box 35000
Billings, MT 59107-5000
commission@co.yellowstone.mt.gov

January 17, 2017

Mr. Tyler Bush
4820 Cedar Ridge Circle
Billings, MT 59106

RE: Yellowstone County Zoning Commission

Dear Mr. Bush,

The Board of County Commissioners of Yellowstone County has appointed you to represent Yellowstone County as a member on the above named board. Your term by this appointment will be to June 30, 2018.

We wish to take this opportunity to thank you in advance for accepting this community service.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
YELLOWSTONE COUNTY, MONTANA

A handwritten signature in black ink, appearing to read "John Ostlund", written over a horizontal line.

John Ostlund, Chair

A handwritten signature in black ink, appearing to read "Denis Pitman", written over a horizontal line.

Denis Pitman, Member

A handwritten signature in black ink, appearing to read "Robyn Driscoll", written over a horizontal line.

Robyn Driscoll, Member

BOCC/ptb

cc: Board File - Clerk & Recorder
Mr. Wyeth Friday, C/C Planning Director, 2825 3rd Ave. N., 4th Floor, Billings, MT 59101
Nicole Cromwell/Tammy Deines, C/C Planning, 2825 3rd Ave. N., 4th Floor, Billings, MT 59101

County Zoning Commission

Meeting Date: 02/13/2017

Information

Subject

Motion. The minutes of the Board meeting of September 12, 2016. (The October, and November, 2016 meetings were canceled due to a lack of agenda items. The December, 2016, and January 9, 2017 meetings were canceled due to a lack of a quorum of Zoning Commission members).

Attachments

YZC_2016_09_12

YZC_2017_01_09_CANCEL



**Yellowstone County Zoning Commission
Minutes for the Meeting of
Monday, September 12, 2016**

The County Zoning Commission met on Monday, September 12, 2016 in the Miller Building 1st Floor Conference Room, 2825 3rd Avenue North at 4:00 p.m. 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 County Commissioners may, by majority vote, accept or reject the Zoning Commission’s recommendation. The Board of County Commissioners will hear all persons wishing to speak relative to the zone change.

At 4:00 p.m., Proteome Chairman Ryan Wittman opened the meeting and introduced the County Zoning Commission members and staff in attendance: 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	09-12-2016						
Jerry T. Ray	Commissioner	-	1	1	-	1	1	E	1						
Troy Boucher	Commissioner Vice Chairman	-	1	1	-	1	1	1	1						
Ryan Wittman	Commissioner Chairman		1	1	-	1	1	1	1						
Vacancy															
Vacancy															

Attending: John R. Christensen, Brian Kelleher, Tyler Dugger, Ken Toliver, Dave Kinnard

Public Comment

Chairman Witman 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 ex parte communication: There was none.

Disclosure of Outside Communication. There was none.



Yellowstone County Zoning Commission Minutes for the Meeting of Monday, September 12, 2016

Approval of Minutes: June 13, 2016

Motion

Commissioner Boucher made a motion and it was seconded by Commissioner Ray to approve the June 13, 2016 meeting minutes as submitted. The motion carried with a unanimous voice vote.

Public Hearings:

REQUEST

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. Tax IDs: D04575L & D04575M.

Zoning Coordinator Nicole Cromwell explained this request is the result between the property and a group of property owners who filed litigation following the submittal and hearings for Yellowstone County Zone Change #669. 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.

RECOMMENDATION

The Planning Division recommends approval and adoption of the findings of the review criteria for Zone Change #676.

Discussion

Proteome Chairman Wittman called for questions and discussion from the Zoning Commission. Commissioner Ray asked if both parties have worked out terms and agreement.

Mr. Christianson said the expectation is to dismiss the lawsuit and this proposal is an integral part of the agreement. Per Commissioner Rays request, Nicole Cromwell explained the intent of this zone change request.

Public Hearing

Proteome Chairman Wittman opened the public hearing at 4:10 p.m. and called for proponents or opponents of Yellowstone County Zone Change #676.

Opponents: There were no opponents to Yellowstone County Zone Change #676.

Proponents

Ken Tolliver, P.O. Box 1913, Billings, Montana

Mr. Toliver thanked planning staff and the Commissioners for the great amount of time spent with a highly contested issue.



**Yellowstone County Zoning Commission
Minutes for the Meeting of
Monday, September 12, 2016**

At 4:12 p.m., Proteome Chairman Wittman asked if there was anyone else wanting to speak in favor or against Yellowstone County Zone Change #676. There was none. Proteome Chairman Wittman closed the public hearing and called for a motion.

Motion

Commissioner Ray made a motion and it was seconded by Commissioner Boucher to forward a recommendation to the Board of County Commissioners of approval of County Zone Change #676 with adoption of the Findings of the 11 review criteria.

Proteome Chairman Wittman called for a vote on the motion.

Name	Favor	Against	Abstain	Absent
Proteome Chairman Wittman	X			
Commissioner Boucher	X			
Commissioner Ray	X			

The motion carries, 3-0.

Other Business/Announcements

- A. **Elections:** Commissioner Dennis Cook and Commissioner Al Littler have resigned their positions.

Motion

Commissioner Ray made a motion and Commissioner Boucher seconded the motion to have Commissioner Ryan Wittman serve as Zoning Commission Chairman and Commissioner Troy Boucher serve as Yellowstone County Zoning Commission Vice Chairman.

Name	Favor	Against	Abstain	Absent
Proteome Chairman Wittman	X			
Commissioner Boucher	X			
Commissioner Ray	X			

The motion carries, 3-0.

- B. **There will be no meeting in October. The next County Zoning Commission meeting will be held November 14, 2016.**

Adjournment: The meeting adjourned at 4:25 p.m.

DRAFT—To be approved by a motion on Monday, November 14, 2016



**Yellowstone County Zoning Commission
Minutes for the Meeting of
Monday, January 9, 2017
(Canceled due to lack of quorum of members)**

The County Zoning Commission met on Monday, January 9, 2017 in the Miller Building 1st Floor Conference Room, 2825 3rd Avenue North at 4:00 p.m.

Cancellation Announcement:

At 4:00 p.m., Chairman Ryan Wittman announced this meeting will not be opened due to a lack of a quorum of Zoning Commission members. He apologized to those attending for the inconvenience.

Approval of the September 12, 2016 meeting minutes and the hearing for County Zone Change #678-743 Calhoun Lane and County Zone Change

Staff in attendance: 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	09-12-2016	01/09/2017				
Jerry T. Ray	Commissioner	-	1	1	-	1	1	E	1	A				
Troy Boucher	Commissioner Vice Chairman	-	1	1	-	1	1	1	1	1				
Ryan Wittman	Commissioner Chairman		1	1	-	1	1	1	1	1				
Vacancy														
Vacancy														

Attending: Sherril Burke, HGFA, Architects, PLLC; Michael Burke HGFA Architects, PLLC; Robbie Neihart, Performance Engineering & Consulting; Cindy Dahlquist; Dustin Dusek; Scott West; Rebecca West

The next County Zoning Commission meeting will be held Monday, February 13, 2017.



County Zoning Commission

Meeting Date: 02/13/2017

SUBJECT: Zone Change 678 - 743 Calhoun Lane

THROUGH: Nicole Cromwell

PRESENTED BY: Nicole Cromwell

Information

REQUEST

Item 1: County Zone Change 678 – 743 Calhoun Lane (Return Item due to lack of a Zoning Commission quorum in January) – A zone change request from Residential 9,600 (R-96) to Entryway General Commercial (EGC) on Tracts A1 and A2 of C/S 775, Amended, a 1.353 acre parcel of land. A pre-application meeting was held at the Hampton Inn, 5110 Southgate Drive, on October 30, 2016. Tax IDs: D01588 & D01588A. Presented by Nicole Cromwell, Zoning Coordinator.

RECOMMENDATION

Planning staff recommends approval and adoption of the findings of the 11 criteria for Zone Change 678.

APPLICATION DATA

OWNER: Charlie Siddle
AGENT: Michael Burke, HGFA Architects
LEGAL DESCRIPTION: Parcel 1A & 2A, C/S 775 Amended
ADDRESS: 743 Calhoun Lane
CURRENT ZONING: R-96
EXISTING LAND USE: Single family residence and vacant land
PROPOSED USE: Future development
SIZE OF PARCEL: 45,302 square feet

CONCURRENT APPLICATIONS

None.

APPLICABLE ZONING HISTORY

Subject property: None. This is the original zoning applied to this parcel in November 1973.

Surrounding property: Property to the south and west was changed from residential zoning to Entryway General Commercial (EGC) zoning during the past 20 years. In 1997, for property now occupied by Cabela's and Sam's Club, the zoning was changed from Residential 15,000 (R-150) to EGC. In 2008, the property directly adjacent to the south at 4513 King Avenue East was changed from R-96 to EGC. West across the street at 766 Calhoun Lane the zoning was changed in 2011. The South Billings Boulevard Interchange Master Plan adopted applies to the current and future land uses of property in the area. This land was not included in that master plan. The South Billings Boulevard Urban Renewal Master Plan was adopted by the City and County in 2012. This property was included in the master plan area.

SURROUNDING LAND USE & ZONING

NORTH:	Zoning: R-70 Land Use: Single family homes
SOUTH:	Zoning: EGC Land Use: Single family home
EAST:	Zoning: R-70 Land Use: Singel family homes
WEST:	Zoning: EGC & R-70 Land Use: Single family homes

BACKGROUND

This is a zone change request to allow the current owner of the property to prepare an overall site development plan for this property and the adjoining 4.25 acre parcel to the south. Both properties are owned by the same owner. The parcel to the south was annexed and a zone change to EGC approved in 2008. Subsequently, a zone change from R-96 to EGC was approved for property at 766 Calhoun Lane. No parcels currently zoned for commercial or mixed uses north of King Ave East have developed since the new zoning was adopted in the past decade. The entryway/interchange zoning districts were first adopted into the County and City zoning codes in 1993 to encourage better site design, higher quality building materials, and enhanced landscaping requirements for property surrounding the interstate interchanges. Every interchange was not necessarily included in a re-zoning to the new entryway standards. In addition, adherence to development standards outside the City limits for entryway zoned areas is not uniform.

In 2012, the City and County completed a South Billings Boulevard Urban Renewal Master Plan for a large tax increment finance district (1,400 +acres). This property is within the "Optimist Park" study area. Potential uses for property at or near this location include a major neighborhood service center including retail or mixed uses. These more intense commercial uses are allowed within the proposed zoning district of EGC. In addition, the enhanced landscaping requirements and improved site development standards in comparison to "standard" commercial zones should benefit the neighborhood by screening and buffering new uses where necessary or desired.

King Avenue East and Calhoun Lane have both been completely re-constructed. Calhoun Lane was completed in 2015 and its intersection with King Avenue East is fully signalized. The volume of traffic on King Avenue East has experienced dramatic increases since the completion of its re-construction. In 2014, average daily traffic increase to 14,200 vehicle trips per day and this increased the 3-year average daily traffic 41%. As street improvements and businesses develop in the corridor, traffic will increase as well.

The Planning staff is recommending approval of the proposed zoning based on the proposed findings of the 11 criteria. The adjacent zoning to the south and west is compatible with the proposed zoning. The property is own in common with the 4.25 acre parcel to the south also zoned EGC. The development potential of the property has recently increased due to the completion of infrastructure improvements in the area and the resultant increases in traffic volume. The SBBURA Master Plan adopted in 2012, supports the proposed zoning by indicating this area should develop with s neighborhood service center or a mix of uses that serve the area residents. The adjacent zoning and development to the north and east is R-70 and are fully developed city neighborhoods. Careful site design will be necessary to protect these adjacent neighbors while still providing multiple options for those residents to access the new businesses. The property is an under-utilized property surrounding by property already annexed to the City. It is likely, this property will be annexed when a development plan for the owner's holdings is finalized. The proposed zoning will ensure predictable and compatible development of the property.

RECOMMENDATION

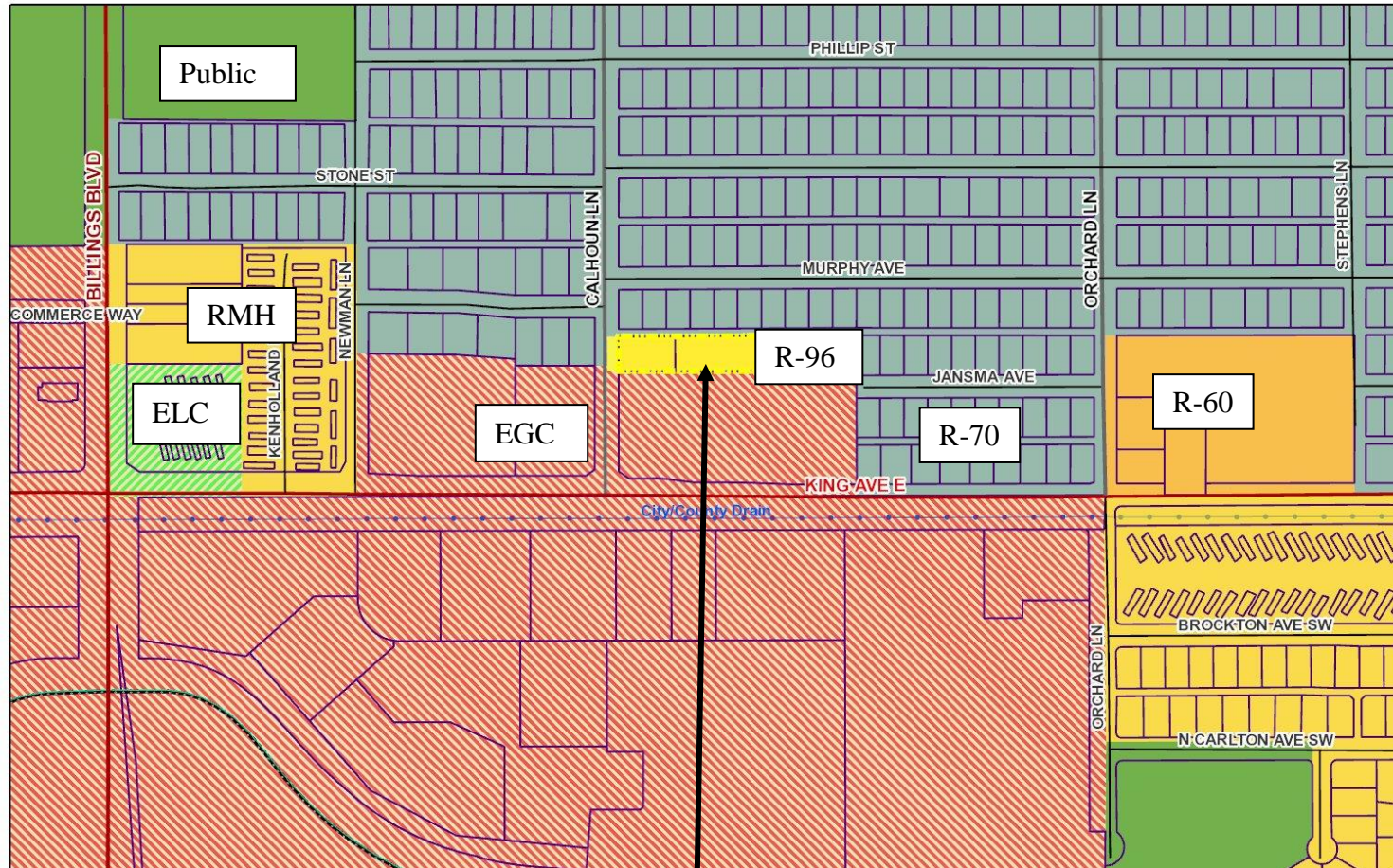
Planning staff recommends approval and adoption of the proposed findings of the 11 criteria for Zone Change 678.

Attachments

Zoning Map and Site photos
Proposed Findings

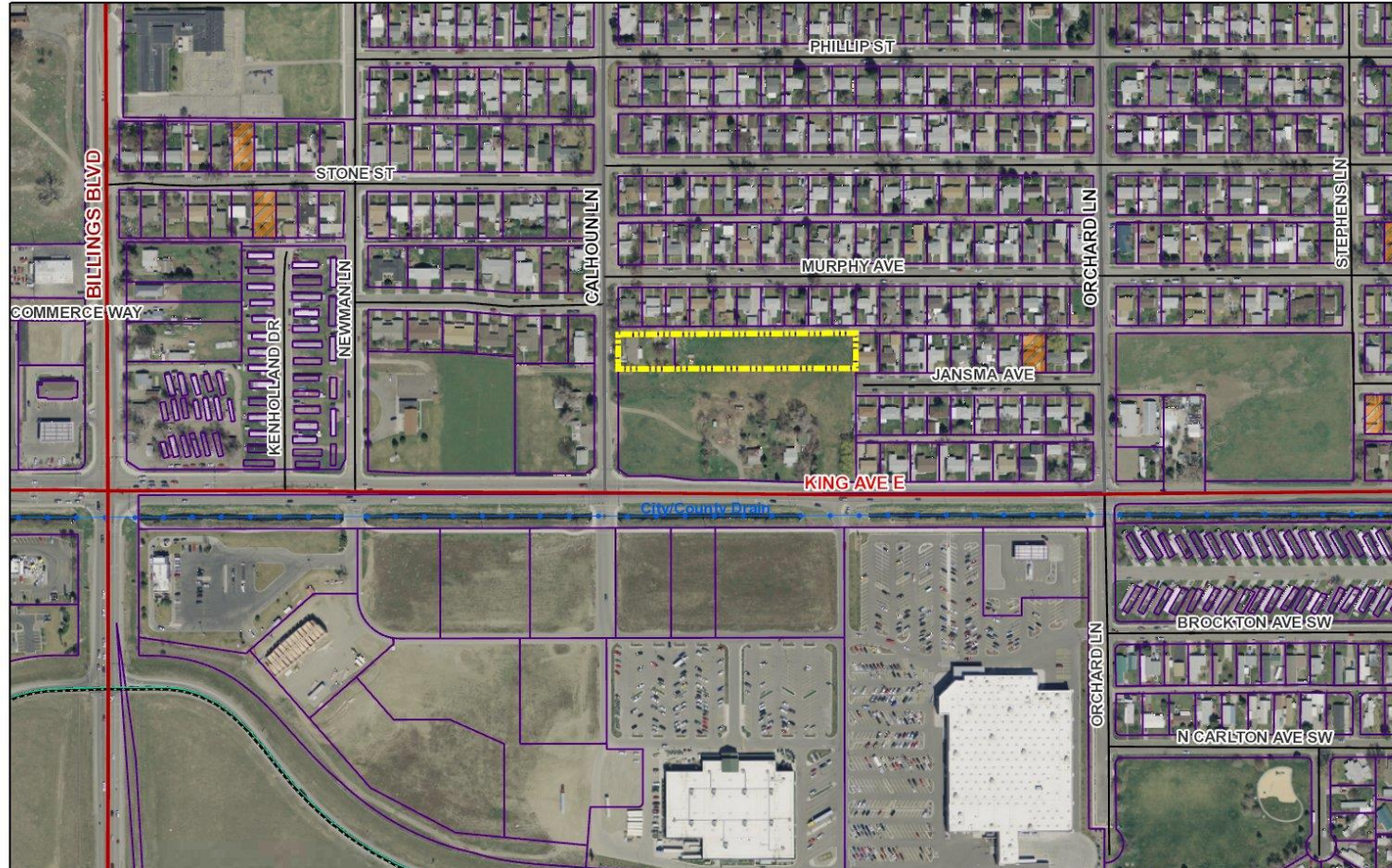
Pre application notes and Applicant letter
Letter of comment from Ella Rider

Zoning Map and Site Photos – Zone Change 678
743 Calhoun Lane



Subject Property
Existing Zoning = R-96
Proposed Zoning = EGC

743 Calhoun Lane

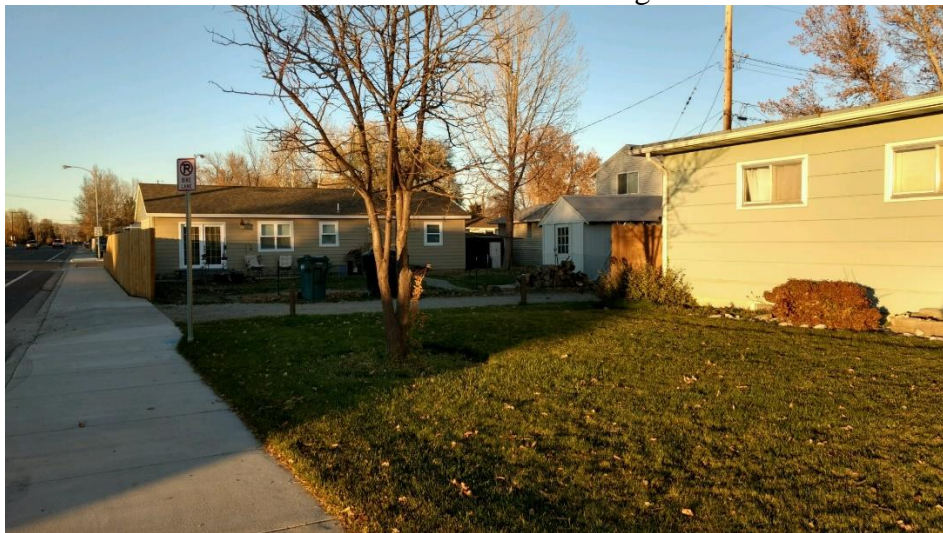




Subject property



View south to intersection with King Ave East



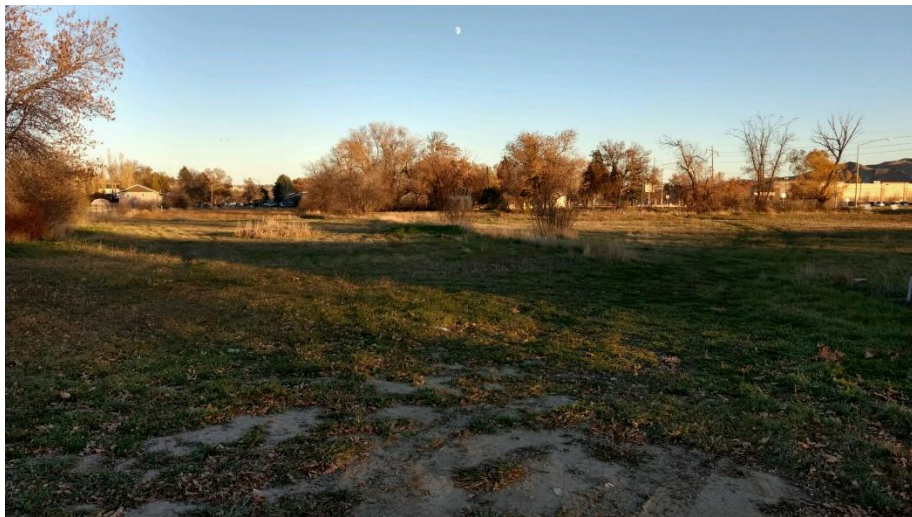
View north along Calhoun Lane



View south west across Calhoun Lane



View west across Calhoun Lane



4.25 acre property adjacent and south of subject property

PROPOSED COUNTY ZONING COMMISSION DETERMINATIONS

Prior to making a decision the Board of County Commissioners 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 an EGC zone are consistent with the adjoining property to the south in the same ownership as the subject property. Any new development on the property will likely occur within the city limits after annexation of this property. The property is within the City Annexation Area. The proposed zoning is consistent with the character of the area and the preferred land use patterns for the Optimist Park area identified in the SBBURA Master Plan. The property to the south was zoned EGC in 2008. Careful site planning will be needed to provide screening and buffering the neighborhoods to the north and east where and when necessary.

- 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 EGC zoning to the south and west across Calhoun Lane. The zoning to the north and east is R-70. Development within the city limits will require screening and buffering for the adjacent residential zones.

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 dwelling at 743 Calhoun Lane. Any new structures would trigger additional fees to the fire service district. The closest fire station is Fire Station 4 at Terry Park about 1.25 miles directly north. The existing and proposed zoning requires building separations, setbacks and height limits that should provide security from fire or other public safety emergencies.

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

Transportation: The proposed zoning may have a measurable effect on traffic generation when the property is developed. It is likely a traffic impact study or a traffic accessibility study would be required when a final development plan is proposed. The current single family dwelling has 1 drive approach off Calhoun Lane. It is likely this lot will be consolidated with the adjacent 4.25 acre parcel for a larger overall development. The lot to the south has 3 access points – 2 on King Avenue East and 1 off Calhoun Lane.

Water and Sewerage: The property is currently served by city water and sewer services although not annexed to the city limits. The property is currently within the City Annexation Petition Area. New commercial development will need additional water and sewer services. This should not impact the existing infrastructure capacity.

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 and City Fire Department.

4. *Will the new zoning promote health and general welfare?*
The proposed zoning may promote the health and general welfare. The proposed EGC zoning will allow the owner to ensure future development is consistent with the adjacent EGC and with the neighborhoods to the north and east.
5. *Will the new zoning provide adequate light and air?*
The proposed zoning would require minimum setbacks, maximum building heights and maximum lot coverage. If annexed the property will need to adhere to the requirements in Section 27-615(e) – the neighborhood manners section of the zoning code. The requirements include standards for site lighting, location of solid waste storage, screening of mechanical units and buffering of adjacent residential uses. 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 has been improved by the complete re-construction of Calhoun Lane in 2015. Residential development is generally located north and east of the property and there is now safe pedestrian travel in the area including along King Avenue East.
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. The SBBURA Master Plan envisioned additional neighborhood services in the area and the proposed allows this possibility as well as more intense commercial development. This area is within the City Annexation Petition Area.
8. *Does the new zoning consider the character of the district and the suitability of the property for particular uses?*
The subject property is adjacent to a 4.25 acre property already annexed to the city and zoned EGC. The subject property and the adjacent property are in common ownership. The current and proposed zoning is compatible with the character of the area is suitable for the allowed uses within the EGC district.
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. 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 adjacency to the city limits.

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 and immediately adjacent to the property.

Zone Change 678
Pre-application meeting notes and Applicant Letter

**Pre-Application Neighborhood Meeting Minutes
Sunday, October 30, 2106**

Location: Hampton Inn, 5110 Southgate Drive – 2 p.m.

Owner Presenter: Michael Burke – HGFA-Architects, PLLC – Owner Agent
Adjacent Property Owner Presenter: Gary Blain

The handout attachments that were provided at this meeting have been made part of the Zone Change Application submittal.

Attendees: Refer to Attendance Sheet Attached

- This meeting was to inform the property owners within the prescribed area as identified by City/County Planning of a proposed zone change request from Residential 9600 to Entryway General Commercial
- A Powerpoint presentation was given which reviewed information that was submitted in the package mailed to residents within the boundary as prescribed by City/County Planning along with site photos.
- Summary – In lieu of developing the property at 743 Calhoun Lane in Yellowstone County, Montana for Residential 9600 which cannot be accomplished without road access that does not exist, the developer is requesting the property be re-zoned to Entryway General Commercial to allow for uses as defined under this category.
- The following is a summary of the discussion that transpired:
 - Owner has no current use planned for how the property is going to be developed. Michael Burke read off a list of possible commercial uses that the re-zoning would allow under Entryway General Commercial.
 - Issues discussed from property owners:
 - Restriction of quiet times – Michael indicated the need to press for enforcement of existing ordinances.
 - Does the owner have to have another meeting to present to community? No, all future meetings (hearings) will be part of the Zone Change Application process.
 - Attendees did not want a casino or bar. Michael indicated that the zoning would only allow what is listed as permitted uses for the intended zone change. Any other uses would require a special review.
 - Zoning – Setbacks would be required and are listed under Entryway General Commercial site development requirements for setbacks as it relates to being adjacent to residential areas.
 - Location of property requesting zone change – Both pieces of property are in the county.

- Concerned about traffic and noise on the alley. There are City/County ordinances for these issues if they exceed the ordinance requirement. Traffic access off the alley to the proposed Entryway General Commercial zoning would only be allowed if it were allowed by the engineering requirements related to Entryway General Commercial use next to a residential area.
- How do you guarantee safety requirements? Michael indicated that he was unsure anyone could guarantee safety but that development of the properties to the south and west of the existing residential areas under the Entryway General Commercial requirements will most likely provide a safer, more well-lit overall property when it is developed.
- Can alley be used as access? Michael indicated the site development requirements indicate a fence would be required along the alley. It is his understanding that any access request through that fence at the time of the site's development would require a special review that typically allows comment from the residents.
- What happens next with City/County Planning? The Zoning Application deadline is November 7, 2016. If the applicant meets that deadline, the subsequent hearings are as follows:

Zoning Commission Hearing	December 12, 2016
County Commission Hearing	December 27, 2016

- Does our vote count? The whole intent of this meeting was to inform the residents within the 300 foot radius of what our request was. These minutes will be passed onto City/County Planning as part of the process. If they have other issues, the residents need to contact City/County Planning or attend the hearings listed above. If there is something we can help answer we will be happy to.
- Gary Blain explained what he thought the property could be – the property is expensive so it would probably be a high value development
- Mike Burke will contact Nicole Cromwell with Planning to answer questions
 - What would happen to value of homes? One property owner indicated their property value went up. This property owner, we believe, lived off of King Avenue East. One was concerned it would go down. This property owner, we believed, lived north of the requested property change in the Residential 7000. There was no data to support a decrease other than speculation/ concern from that property owner.
- Notification:
 - A public hearing shall be held in all petitions for a change in zone classification. As part of the notification procedure, the Zoning Coordinator will notify all persons identified as owners of property within 300 feet of the property proposed to be rezoned by mail not less than 15 days prior to the date of the public hearing before the County Zoning Commission.
 - Notification of the proposed rezoning shall be posted in a conspicuous place on the property.

- Legal notice shall be published not less than 15 days prior to the public hearing in a newspaper of general circulation.
- Mike Burke stated that he believes that engineering will be looking at traffic on Calhoun Lane, quantity, etc. and its long-term impact on the area as it relates to the sites when a development plan is determined and submitted.
- City/County Planning will receive minutes of this meeting. Mike indicated that he would be happy to provide meeting minutes to the attendees if they were not being made available as part of the submittal. If they are available through the submittal, City/County Planning will notify the property owners on how to access the minutes.

Meeting was concluded at approximately 2:35 p.m.

Please sign in
01/30/2016 2 p.m.

<u>Name</u>	<u>Address</u>	
Ellen & Ted Bideo	4504 Murphy Ave	
GARY BLAIN	6309 Jellison Rd	Barb
SAM HANDEL	4139 JAS. W. A.	Lyberty
FLOYD L. MARTIN	4645 Phillips	Highland TEE
FRED FABER	4520 Murphy Ave	off July
Angela Smart	4528 Murphy Ave	
Michael & Donna	4427 RING AVE E.	Mike & Donna
Mike & Donna		
Daniel Watkins	737A Key City D.	
Michael & Donna		
- scheduled wouldn't sign		
Michael Burke - ngfa architects	- 222 N. 32nd St	
	Ste # 306	
Sheril Burke - ngfa - architects	"	

Yellowstone County Zone Change Application

1. Answer the following questions:

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

Response: The request for changing R9600 zoning to Entryway General Commercial makes a consistent transition between the existing R7000 and the existing Entryway General Commercial. The R9600 is now an island unto itself unserved by a street access, thus rendering it an extremely awkward zoning within the two consistent existing zones surrounding it.

Having the ability to develop tax code lots D01588, D01588A and D01589 as one combined zoning area allows:

- Site Development required under Entryway General Commercial and their associated public rights-of-way and entryways to make Billings more visually appealing to residents and visitors.
- The use of natural landscapes being important because they define the uniqueness of Billings and help protect the environment as well as beautify the neighborhood.
- The assistance in making the neighborhood safe, attractive and provide essential services allowed under Entryway General Commercial and the site development requirements.

This zoning will allow the possibility of integrating the following through and including use of the site development requirements:

- Landscaped areas in commercial zones that encourage more pedestrian activity and vibrant commercial activity.
- Streetscapes that provide a pleasant and calming travel experience in the zoning neighborhood.
- Allowing this parcel into the greater Entryway General Commercial zoning will further allow diversity of available jobs and services ensuring a strong Billings economy.
- It will allow for businesses within the allowed zoning to provide local jobs benefiting the community.
- It will allow for community investments that attract and retain a strong, skilled and diverse workforce.

- b. 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.

Response: The existing property on the corner of Calhoun Lane and King Avenue East to the south of the requested zone change is Entryway General Commercial. It is the

long-term intent to absorb the new property currently zoned R9600 into the overall Entryway General Commercial parcel allowing a better use for that parcel which is more consistent with the discussion and documents provided by the City and County Growth Policy. This was further evident with the placement of the curb cuts on Calhoun when Calhoun was further developed. The current zoning is, in our belief, undevelopable in a true R9600 format. There is no street access to Parcel A2. Parcel A1 extends to the road deeper to the west than a more traditional R9600 format and since there is no existing roads to access both parcels A1 and A2, we believe the proper zoning classification should be changed to Entryway General Commercial.

2. Photographs may be submitted and are often helpful. They should be of a size adequate to show the nature of the property.

Response: See attached photos of the site requesting the zone change.

3. Pre-Application Statement of Owner(s) or Agent(s) affirming pre-application meeting was held and include the following: 1) the pre-application neighborhood meeting was held, and 2) the zone change application is based on materials presented at the meeting. Include a copy of the meeting notice, written materials mailed or provided at the meeting, the sign-in sheet of attendees, and a brief synopsis of the meeting results.

Response: Attached please find the following:

- Pre-Application State of Owner(s) or Agent(s) affirming pre-application meeting was held
 - Materials mailed to adjacent property owners along with a copy of the meeting notice
 - Sign-In Sheet of Attendees
 - Meeting minutes of the Pre-Application Meeting
4. A filing fee must accompany all applications for Zone Changes. No application for a Zone Change will be accepted until the filing fee is paid in full. Commercial: \$1,103.00. A \$45.00 deposit for posting of zoning request signs is required at the time the application is received. The deposit will be returned when the sign is returned by the applicant or agent at the first public hearing.

Response: Attached find a check made payable to the *City of Billings* in the amount of \$1,103.00. Also attached find a check made payable to the *City of Billings* in the amount of \$45.00 for the deposit for posting of zoning request signs.

5. Once the pre-application neighborhood meeting has been conducted the applicant or his/her agent may submit a zone change application and it shall include, but not be limited to, the following information:

- a. A legal description of the tract(s) proposed to be rezoned.

Response: 743 Calhoun Lane – Parcels A1 & A2 (Amended) of COS 775 (S09, T01 S, R26E) in Yellowstone County, Montana

- b. A map showing the dimensions, acreage, and location of the tract(s) and adjacent land uses.

Response: See attached Aerial Image Map of Site indicating Acreage and Property as well as a Current Zoning Map of the Site and adjacent properties.

- c. The present and proposed classification for the tract(s).

Response: The zone change is a request to change the existing parcels from Residential 9600 to Entryway General Commercial.

Currently Zone: Residential 9600
Requested Zone Change: Entryway General Commercial

- d. A certified list of the names, addresses and legal description of the owners of property within a radius of three hundred (300) or more feet, as determined by the zoning coordinator, of the exterior boundaries of the tract(s).

Response: Attached find the certified list of property owners as provided by the Clerk & Recorder's office.

- e. Gummed mailing labels with the names and mailing addresses typed or printed neatly of all of the property owners indicated on the certified list.

Response: Attached find the gummed mailing labels with the names and mailing addresses typed of all of the property owners indicated on the certified list.

- f. The names and addresses of the owner(s) of the land and their agents, if any, along with the recorded property owner's signature.

Response: See attached County Zone Change Application Form.

Zone Change 678
Letter of Comment

County Zone Change #678
Project # 16-205



Nov. 14, 2016

City County Planning Dept

I went to meeting at Hampton Inn, parking was great didn't have to walk far, got handicap parking, talk (meeting) was in language you could understand.

We live in this house
4504 Murphy since Feb. 1969.
This business about having two more meetings is senseless.

Don't understand the wording in the letter (11 questions) when we asked the questions at first meeting was in language we could understand. I didn't really understand the letter wording was not in language that we asked the questions.

My view on the 3 meetings is not for the people that live across from the tracts.

1. Not everyone will attend all 3 meetings
2. Having the meetings at different places.
3. People will get dis courage

4. People don't like the traffic noise, being in crime close to our homes.

My thoughts are with all the meetings, people won't come -

My main thought is I didn't really understand the letter, wording was not in language that we asked. The questions

My husband Albert has medical problems and needs handicap parking, if this is not available we won't make the meetings, don't know where the Miller building is -

I think you planned on having 3 meetings at different places it was to discourage people and they wouldn't show up so you can go ahead and do what you want.

I don't want the tracts to be changed to commercial.

Don't know what businesses will bring in on King Ave we will have the overflow traffic in our alley
Don't want the noise or crime

Sincerely
Eve Bider



County Zoning Commission

Meeting Date: 02/13/2017

SUBJECT: ZC 679 - 1926 Mullooney Lane

THROUGH: Nicole Cromwell

PRESENTED BY: Nicole Cromwell

Information

REQUEST

Item 2: Zone Change 679 – 1926 Mullooney Lane – (Return item due to lack of a quorum of the Zoning Commission in January) A zone change request from Residential Manufactured Home (RMH) to Residential Multi-Family-Restricted (RMF-R) Tract 1-AA of C/S 1156, a 9.39 acre parcel of land. A pre-application meeting was held at the offices of Performance Engineering at 7100 Commercial Avenue on November 22, 2016. Presented by Nicole Cromwell, Zoning Coordinator

RECOMMENDATION

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

APPLICATION DATA

OWNER: Triple H, LLC
AGENT: Performance Engineering, Scott Aspenlieder, P.E.
LEGAL DESCRIPTION: Tract 1-AA of C/S 1156
ADDRESS: 1926 Mullooney Lane
CURRENT ZONING: RMH
EXISTING LAND USE: Mobile home park
PROPOSED USE: Multi-family dwellings
SIZE OF PARCEL: 9.39 acres

CONCURRENT APPLICATIONS

None.

APPLICABLE ZONING HISTORY

Subject Property - The current zoning of the property - RMH - is the original zoning adopted by the County in 1973. The mobile home park has been in place since 1972 and is known as River Grove Estates Mobile Home Park. The mobile home park is licensed by the state for 53 units.

Surrounding Property - River Grove Estates to the north was originally planned as a mobile home park subdivision but due to the lack of access to public utilities, this plan was never completed. The subdivision is now zoned Controlled Industrial (CI) by a zone change approved by the County in 1977 and 1978. Several businesses have located in this subdivision during the past 40 years, although many lots remain un-developed. Further east is the Holy Cross Cemetery and Josephine Crossing Subdivision. Josephine Crossing was annexed to the City and zoned in a planned development. To the north is the Harmony Meadows Subdivision and Josephine Landing both recently annexed to the City and planned for higher density residential uses and mixed use development.

SURROUNDING LAND USE & ZONING

NORTH:	Zoning: CI Land Use: Shops and service businesses
SOUTH:	Zoning: RMH Land Use: Yellowstone River
EAST:	Zoning: Public Land Use: Holy Cross Cemetery
WEST:	Zoning: A-1 and RMF-R Land Use: Agricultural and Harmony Meadows Subdivision

BACKGROUND

This is a zone change from RMH to RMF-R to allow the eventual re-development of this property from a mobile home court to multi-family apartments after annexation to the City for public services. The mobile home park has existed here for approximately 45 years and continued maintenance of the facility outside the city limits is no longer possible. The property is not within the flood plain of the Yellowstone River, but may be affected in the future by the normal channel migration of the river bank and terraces. Several new residential and mixed use subdivisions to the north and west have been approved for annexation and development within the city limits. New public water and sewer lines will be installed to service these areas and these services will be accessible to this property for the first time since its original development.

The surrounding zoning and land uses vary from the Public zoning for Holy Cross Cemetery to the east to the RMF-R zoning for Harmony Meadows Subdivision to the northwest. The CI zoning north across Story Road and the Suburban Ditch accommodates some low water use businesses and storage shops. There is at least one of those shops with an attached apartment. This residence was approved by special review of the County Commissioners in 2003.

The property is within the Limits of Annexation as set by the City Council through its Limits of Annexation Map and Annexation Policy. Development to the northwest in Harmony Meadows Subdivision will be occurring in the very near future. A first phase of multi-family apartments has been approved for 107 units. Additional phases will be planned and developed in the next 5-10 years.

There are no traffic count numbers for the south end of Mallowney Lane. The intersection of Mallowney Lane and Elysian Road has experienced a large increase in traffic as Josephine Crossing has built out in addition to the Riverfront Pointe Estates just north of Elysian Road. Mallowney Lane just south of the signalized intersection with Midland Road has a traffic count of over 8,600 vehicle trips per day in 2016, up from 6,700 trips per day in 2011. Ten years ago (2006) the traffic count at this location was 4,400 trips per day. As additional residences are constructed, traffic will continue to increase on Mallowney Lane and the surrounding street network.

The Planning Division is recommending approval of the proposed zone change based on the findings of the 11 criteria. The property is within the Limits of Annexation of the City of Billings and soon will have access to City utility services. The existing development is over 45 years old and in need of revitalization. The existing zoning could remain, but the required investment in new infrastructure after annexation would not be supported by the existing development revenue. The 2016 Growth Policy for the City of Billings encourages a mixture of housing types in new development and the efficient use of newly annexed property. The proposed zoning also meets some of the goals of the County 2008 Growth Policy including compatible land uses in existing neighborhoods and predictable land use decisions based on those existing and developing neighborhoods. The 2008 Growth Policy also states the need to sustain and expand affordable housing options in the City and County. The existing zoning, RMH, only allows a maximum dwelling density of 6.5 to 7 units per acre. There are currently 53 dwellings on this 9.39 acre parcel of land or about 5.5 units per acre. The proposed zoning of RMF-R could allow up to 26 dwelling units per acre with all City services. The most realistic development density in the proposed zoning is closer to 14 to 16 dwellings per acre but is still 3 times the existing development density. This level of development will provide more opportunity for attainable rental housing for this area of Billings and Yellowstone County.

RECOMMENDATION

Staff recommends approval and adoption of the findings of the 11 criteria for Zone Change 679.

Attachments

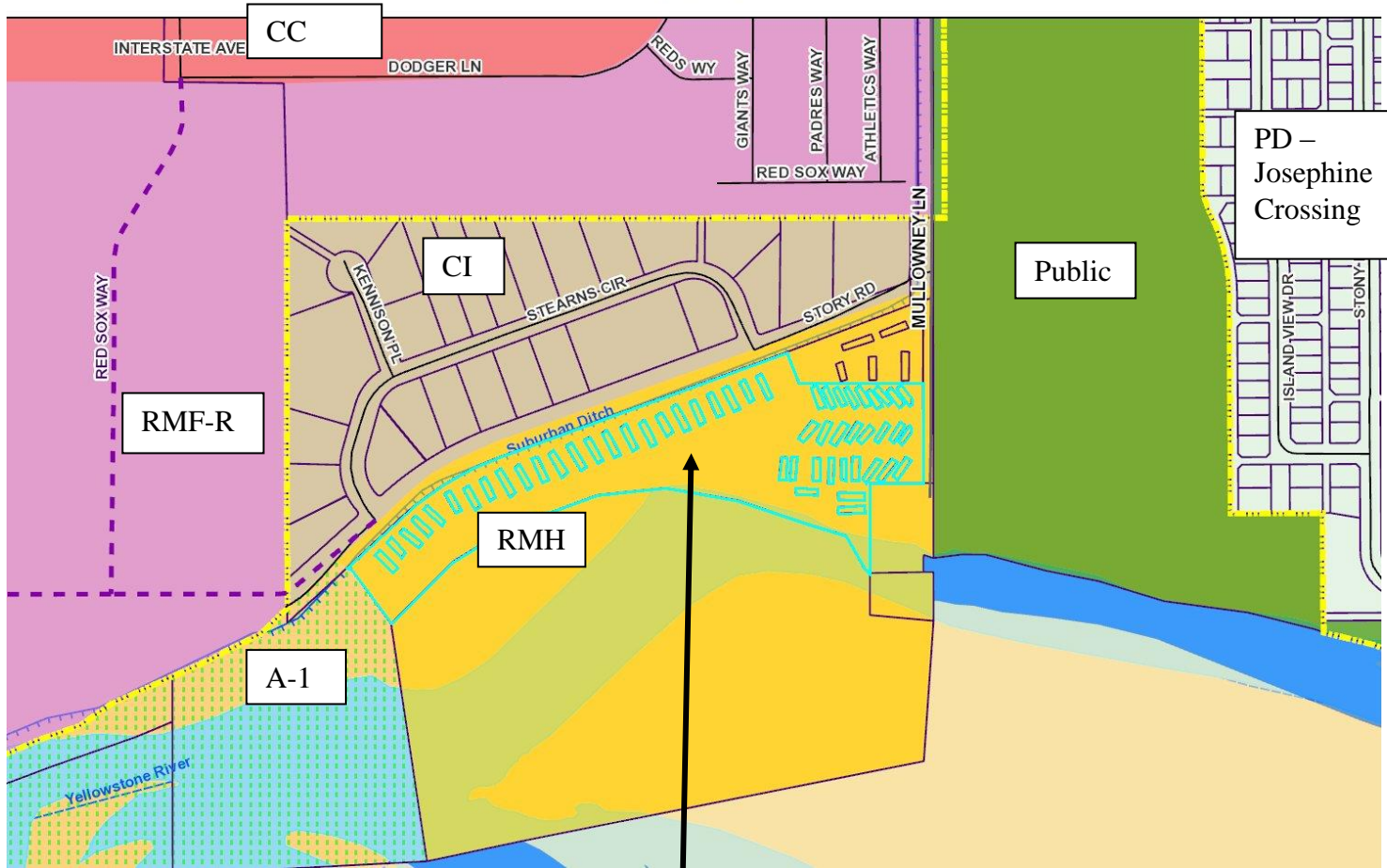
Zoning Map and Site Photos

Proposed Findings of the 11 Criteria

Pre-app notes and Application

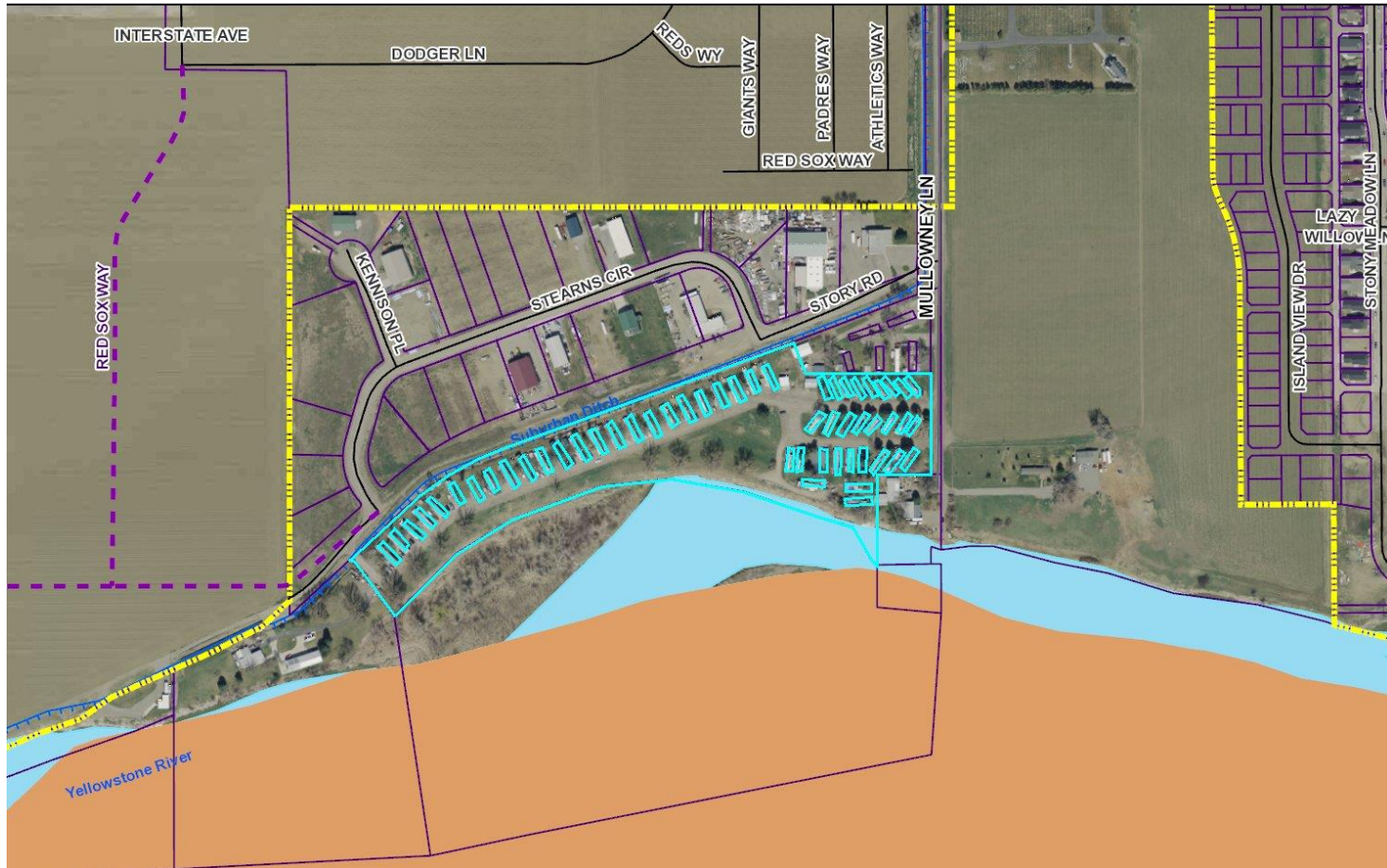
Zoning Map and Site Photos – Zone Change 679

ZC 679



Subject Property
Existing Zoning = RMH
Proposed Zoning = RMF-R

ZC 679







Subject property



View north on Mallowney Lane



View south to the dead end of Muldowney Lane



View east across Holy Cross Cemetery to Josephine Crossing neighborhood



View west along internal access road



View east along internal access road

PROPOSED COUNTY ZONING COMMISSION DETERMINATIONS

Prior to making a decision the Board of County Commissioners 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 proposed zoning would allow a greater variety of dwellings on this property including 2-family and multi-family apartments. The current zoning of RMH only allows single family dwellings. The proposed zoning is consistent with the zoning to the north west in Harmony Meadows Subdivision and is compatible with the surrounding land uses and neighborhoods. Any new development on the property will likely occur within the city limits after annexation of this property. The property is within the City Annexation Area. The proposed zoning is consistent with the character of the area.

- 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 variety of zoning districts and land uses including a cemetery, some low density shops and service buildings as well as agricultural uses. The proposed zoning will allow the existing manufactured home park to continue until annexation is requested. At the time of annexation, a development agreement will require improvements to the adjacent city right of ways and connection to city utility services. This will likely result in a complete re-development of the property for a variety of housing options including single family. Two-family and multi-family dwellings either for rent or for sale.

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 accessory buildings. The assessment is not based on the number of manufactured homes in the park. Any new structures would trigger additional fees to the fire service district. The closest fire station is Fire Station 5 on S 24th St West about 2.2 miles north and west. The existing and proposed zoning requires building separations, setbacks and height limits that should provide security from fire or other public safety emergencies.

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

Transportation: The proposed zoning may have a measurable effect on traffic generation when the property is re-developed. It is likely a traffic impact study or a traffic accessibility study would be required when a final development plan is proposed. The current manufactured home park has 1 access from Mallowney Lane. All 53 dwellings are located off this access road

Water and Sewerage: The property is currently served by on site water and waste water systems and is not annexed to the city limits. The property is currently within the City Annexation Petition Area. New development will need additional water and sewer services. This should not impact the existing infrastructure capacity.

Schools and Parks: The proposed zoning may impact the student population when re-development occurs.

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 and City Fire Department.

4. *Will the new zoning promote health and general welfare?*
The proposed zoning may promote the health and general welfare. The proposed RMF-R zoning will allow the owner to ensure future development after annexation to the city includes a wide variety of housing options, and will replace the out-of-date manufactured homes on the property.
5. *Will the new zoning provide adequate light and air?*
The proposed zoning would require minimum setbacks, maximum building heights and maximum lot coverage. 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 minimal due to the lack of pedestrian facilities. Developments to the east, north and west will be installing pedestrian facilities and when this property is annexed and re-developed these facilities will also be required. For any re-development, the city will likely require a traffic analysis to determine the potential improvements necessary to accommodate new residents.
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. This area is within the City Annexation Petition Area.
8. *Does the new zoning consider the character of the district and the suitability of the property for particular uses?*
The subject property is adjacent to Public zoning, CI zoning to the north and A-1 and RMF-R zoning to the north west. The current and proposed zoning is compatible with the character of the area and is suitable for the allowed uses within the RMF-R district.
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 the CI property in the area will affect the value of residential buildings. Any re-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 adjacency to the city limits.

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 and adjacent to the property.

Zone Change 679
Pre-application meeting notes and Applicant Letter



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

MEMORANDUM

To: City/County Planning Division
From: Scott Aspenlieder, Project Manager
Date: December 1, 2016
Subject: Triple H, LLC Proposed Zone Change

A neighborhood zoning meeting was conducted on November 22, 2016 from 6:00-7:00 p.m. at the offices of Performance Engineering & Consulting located at 7100 Commercial Avenue in Billings. A list of attendees is attached to this letter. The meeting was held to facilitate questions and concerns from neighboring property owners regarding the proposed zone change to the property described below.

Amended Tract 1-AA of Certificate of Survey No. 1156 in Section 19, Township 1 South, Range 26 East in Yellowstone County totaling 9.39 acres.

Questions that were presented during the meeting are as follows:

1. How will potential future annexation of the property affect neighboring tracts?
Answer: The intent is only to annex the subject property owned by Triple H, LLC. Should others want to annex when the property is annexed in the future they can join but none are planned to be included.

2. How will this zone change impact traffic and access on Mallowney Lane?
Answer: At a future date if the property is redeveloped a Traffic Accessibility Study will be required as part of the annexation/subdivision process to look at impacts of traffic in the area. The intent is to continue operation of the property in its current makeup and capacity at this point with the opportunity to transition to residential multi-family in the future as public utilities become available in the area.

3. What impact will a zone change have on neighboring properties?
Answer: At this point the property and adjacent properties will remain within the County and will not be annexed. Similarly, the property will continue operation as it is currently organized, as a mobile home park. It is our understanding that based on these two facts the proposed zone change will have little to no impact on property taxes in the area.

The meeting attendees made it clear that there was no interest in annexing the adjacent or neighboring properties if that time ever came. It was noted that the neighboring attendees intended on remaining county parcels in perpetuity. Attendees were made aware that this was the first step in the process and there would be two more opportunities for public comment to the Zoning Commission and Yellowstone County Commissioners.



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

Zone Change Meeting Attendees 10/22/2016

Name:

Everett Martin
Roger Klier
Bruce Restad
Ken Peterson

Address:

5623 Story Road
5846 Story Road
1920 Mallowney Lane
424 48th St. West

APPLICATION FORM

COUNTY ZONE CHANGE County Zone Change # 679 - Project # PZ-16-00225

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

Present Zoning: Residential Manufacture Homes (RMH)

Proposed Zoning: Residential Multi-Family- Restricted (RMF-R)

Tax ID # D01926 COUNTY COMMISSIONER DISTRICT # _____

Legal Description of Property: Amended Tract 1-AA of COS No.1156, Sec 19, T15, R26E

Address or General Location (If unknown, contact County Public Works): 1926 Mullowney Lane

Size of Parcel (Area & Dimensions): 9.39 Acres

Present Land-Use: Mobile Home Park

Proposed Land-Use: Residential Multi-Family Housing

Covenants or Deed Restrictions 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): Triple H, LLC

(Recorded Owner) PO Box 1086 Bellevue, WA 98009

(Address) (425) 466-8977

(Phone Number) (email)

Agent(s): Scott Aspenlieder, PE

(Name) 7100 Commercial Ave Suite 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: James Herbert Nyemba Date: 12.2.16
(Recorded Owner)



County Zoning Commission

Meeting Date: 02/13/2017

SUBJECT: ZC 680 - Highway 3 - West of the Billings Logan International Airport

THROUGH: Nicole Cromwell

PRESENTED BY: Nicole Cromwell

Information

REQUEST

Item # 3: County Zone Change 680 – Highway 3 – A zone change request from Controlled Industrial (CI) to Highway Commercial (HC) on a portion of Tracts 13 & 14 of C/S 2037, more particularly described as the south 247 feet of the current CI zone as shown on the zoning map. The property is located just west of the Billings Logan International Airport and north of Highway 3. The land area will be 7.61 acres (247 feet by 1,343 feet). A pre-application meeting was held at the offices of Tolliver Law Firm at 1004 Division Street on December 1, 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: Tyler Dugger, Tolliver Law Firm

LEGAL DESCRIPTION: C/S 2037, Tracts 13 & 14 - the south 247 feet of the central portion of the property currently zoned CI

ADDRESS: 2101 Highway 3

CURRENT ZONING: CI

EXISTING LAND USE: Vacant land

PROPOSED USE: same with possible future development

SIZE OF PARCEL: 7.61 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. A second application was submitted (Zone Change 676) to finalize the intended zoning and use of the 20 acres with frontage on Highway 3 that remained in the A-1 zoning. This zone change to Highway Commercial (HC) was approved in September 2016. This zone change was submitted after the 1 year waiting period imposed on the first application to finalize the agreement between the parties to the law suit and move the CI boundary 247 feet north of its current location and allow the subject property to have more HC zoning - 27.61 acres.

Surrounding Property: 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: Vacant
SOUTH:	Zoning: HC Land Use: Vacant
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, until September 2016, when a zone change for the southern 20 acres was approved for Highway Commercial (HC).

After the 2015 zone change was approved, a group of surrounding property owners filed suit against the applicant. The 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 and a zone change for the southern 247 feet of the 20 acres of CI zoning 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 proposed new boundary of the HC zoning district will add 7.61 acres of land to this zoning district. There are some uses allowed in the CI zone that could be detrimental to the surrounding properties especially those residences south of Highway 3. The new zoning boundary will align with the existing topography of the site so the HC zoning will extend just north of the "red barn" on the agricultural land.

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 throughout this portion of the corridor. 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 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 parcels 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 close 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.

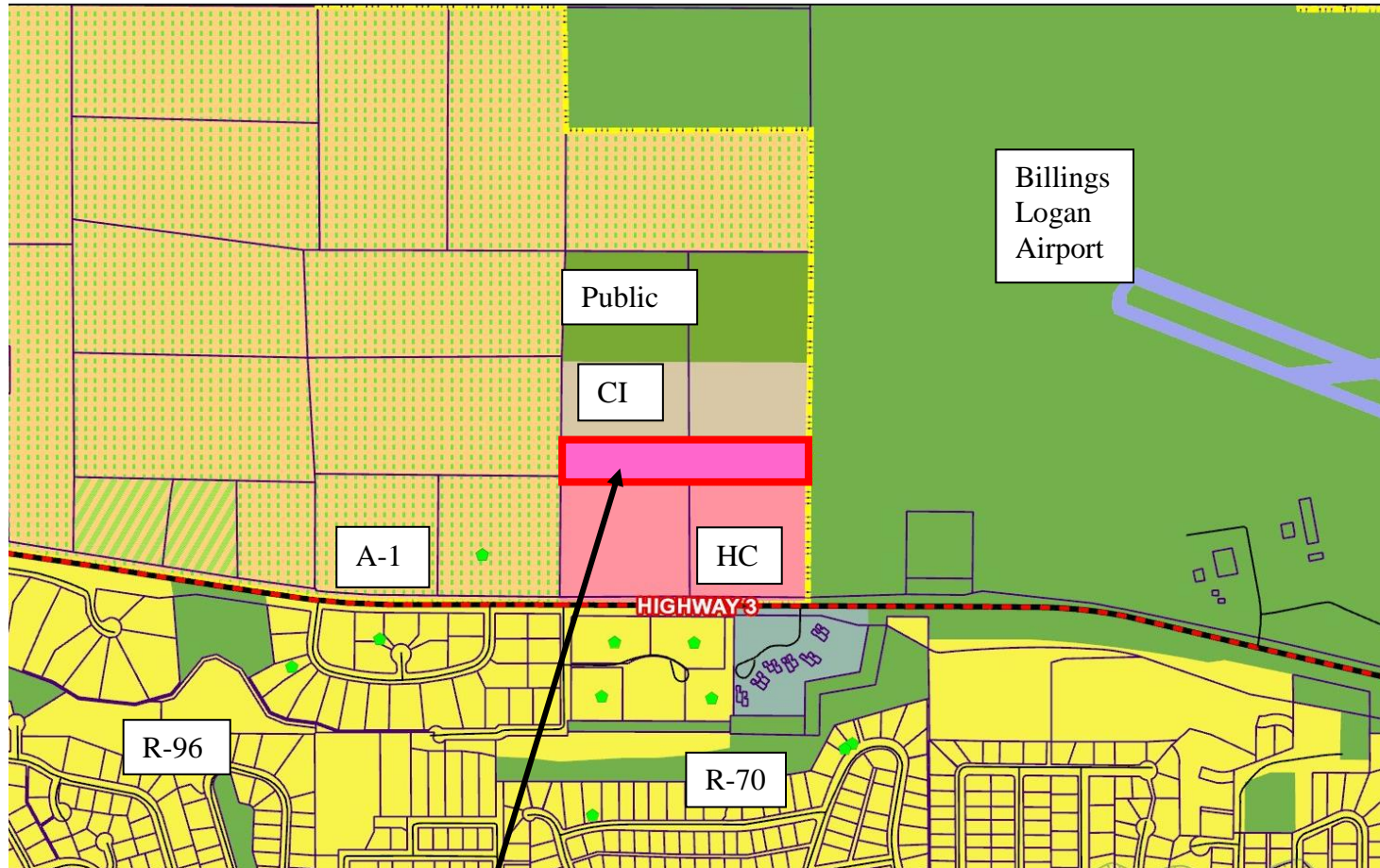
RECOMMENDATION

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

Attachments

Zoning Map and Site Photos
Proposed Findings of the 11 criteria
Application and Pre-app meeting

Zoning Map and Site Photos – Zone Change 680
2101 Highway 3



Subject Property
Existing Zoning = CI
Proposed Zoning = HC
(7.61 acres)

2101 Highway 3





View north from Highway 3



View west along Highway 3



View south across Highway 3



View east along Highway 3



View north from access road – landscape berm and new heliport in background



View west from access road north of new landscape berm



View of heliport from access road just north of landscape berm

PROPOSED COUNTY ZONING COMMISSION DETERMINATIONS

Prior to making a decision the Board of County Commissioners 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,, HC, 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 may have a measurable effect on traffic generation in the future if the property develops. 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 highway commercial uses. Property south of Highway 3 is zoned for medium density residential uses 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 7.61 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 680

APPLICATION FORM

COUNTY ZONE CHANGE

County Zone Change # 680 - **Project #** PZ-16-00227

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: Controlled Industrial (CI)

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): The southern border of the proposed zone change will be the property's current east to west Controlled Industrial (CI)/Highway Commercial boundary. The northern boundary shall be the line running east to west from points along the east boundary and west boundary of the property located 1,065 feet south of the northeast and northwest corners of the Property. The proposed zone change's dimensions and acreage are as follows: approximately 247 (ft) North to South, 1343 (ft) East to West, and it encompasses approximately 7.61 acres. If approved, the entire Highway Commercial zone would be expanded and would run, commencing at the southern property boundary, 847 (ft) North to South and 1343 (ft) East to West.

Present Land-Use: The property currently sits as undeveloped Controlled Industrial zoned acreage.

Proposed Land-Use: Aviation Properties, LLC seeks to have the above referenced acreage designated as Highway Commercial which would allow for highway and airport compatible commercial development.

Covenants or Deed Restrictions on Property: Yes No

If yes, please attach to application: Please see Exhibit "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 over time 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.

Successful 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." The requested zoning will allow for coordinated development by increasing the size of the property's adjacent Highway Commercial zone.

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.

Aircraft noise and vertical limitations 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. Airport's 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 will be positively impacted by the requested zone change. This zone change is consistent with and required by the settlement agreement which resolved 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 former Plaintiffs in DV 16-0627 represented through the settlement agreement they either support or are not opposed to this requested zone change. This zone change is the last zone change contemplated by the settlement agreement.

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 Controlled Industrial (CI) 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
Address: 6309 Jellison Rd, Billings, MT 59101

Telephone: (406) 252-6937
Email: N/A

Signature: Aviation Properties LLC Date: 12/8/2016
Aviation Properties, LLC Kenneth Tolliver P.A.
(Signed by Kenneth Tolliver - Agent/Attorney in Fact)

Zone Change Application Meeting Synopsis

A Pre-Application Neighborhood Meeting was held at Tolliver Law Firm, 1004 Division St., Billings, Montana, on Thursday December 1, 2016 at 4:00 p.m.

Tyler T. Dugger was present representing Aviation Properties, LLC. No one else attended the Pre-Application Neighborhood Meeting.