



**COUNTY OF YELLOWSTONE ZONING COMMISSION**  
**AGENDA-Monday, May 8, 2017, 4:00 PM**  
**Miller Building, 1<sup>st</sup> Floor Conference Room**  
**2825 3rd Avenue North, Billings, Montana**

NOTICE TO THE PUBLIC

Public Comment:

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

**Call the meeting to order.**

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

**Public Comment**

**Motion. Approval of Minutes: February 13, 2017**

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

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

**Regular Business:**

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

**Public Hearings:**

- a. **Item #1. Zone Change 681-** Request for a zone change from Agriculture-Open Space (A-1) to Residential 9,600 (R-96) for a 20.65 acre parcel of land described as the E1/2W1/2 of Lot 1 and the W1/2W1/2 of Lot 1 in Section 2, Township 1 North, Range 26 East; and Tract 12B of C/S 1420. A pre-application neighborhood meeting was held on February 20, 2017, at 1438 Plateau Road, one of the subject parcels. Tax IDs: D04930A, D04937, D04935. Presented by Karen Husman, Planner I

## **Other Business/Announcements**

### **Adjournment**

Following the public hearing, the County Zoning Commission will make a recommendation to the Yellowstone County Commissioners. The **Board of County Commissioners** public hearing will be held **on Tuesday, May 30, 2017, at 9:45 a.m. in Room 403A, 4<sup>th</sup> 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 3<sup>rd</sup> Avenue North, 4<sup>th</sup> Floor or phone 657-8246. Anyone wishing to be heard on this matter may appear at this hearing. Public hearings are accessible to individuals with physical disabilities. Special arrangements for participation in the public hearings by individuals with hearing, speech, or vision impairment may be made upon request at least three days prior to the hearing. Please notify Tammy Deines, Planning Clerk, at 247-8610 or e-mail at [deinest@ci.billings.mt.us](mailto:deinest@ci.billings.mt.us)

**County Zoning Commission**

**Meeting Date:** 05/08/2017

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**Information**

**Subject**

**Motion. Approval of Minutes: February 13, 2017**

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**Attachments**

YZC\_2017\_02\_13\_DRAFT

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## Yellowstone County Zoning Commission Minutes for the Meeting of Monday, February 13, 2017

**\*\*The January 9, 2017 meeting was cancelled due to a lack of a quorum of members.**

**The County Zoning Commission met on Monday, February 13, 2017 in the Miller Building 1<sup>st</sup> Floor Conference Room, 2825 3<sup>rd</sup> Avenue North at 4:00 p.m.** 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, 4<sup>th</sup> Floor of the Yellowstone County Courthouse.** The Board of County Commissioners will hear all persons wishing to speak relative to the proposed zone change.

At 4:00 p.m., 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. Chairman Wittman introduced Commissioner Tyler Bush and thanked him for his willingness to service in this capacity.

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	01-09-2016	02-13-2017	03-13-2017			
Jerry T. Ray	Commissioner	-	<b>1</b>	<b>1</b>	-	<b>1</b>	<b>1</b>	<b>E</b>	<b>1</b>	-	<b>1</b>	-			
Troy Boucher	Commissioner Vice Chairman	-	<b>1</b>	<b>1</b>	-	<b>1</b>	<b>1</b>	<b>1</b>	<b>1</b>	-	<b>1</b>	-			
Ryan Wittman	Commissioner Chairman		<b>1</b>	<b>1</b>	-	<b>1</b>	<b>1</b>	<b>1</b>	<b>1</b>	-	<b>1</b>	-			
Tyler Bush	Commissioner	-	-	-	-	-	-	-	-	-	<b>1</b>	-			
Vacancy										-		-			

**Attending:** Clayton Beeghly, Vince & Kathy Thomas, Mike Sykes, R. Benson, Scott Aspenlieder, PEC; Jeffery Winkler; Tyler Dugger, Tolliver Law Firm; Gary Blain, Rebecca Rhodes West, Ed Taylor; Bruce Lackman; AJ. Leavitt; Dave Kinnard

### **Public Comment**

Chairman Wittman asked if there was anyone wishing to speak during the public comment portion of the meeting. He stated any member of the public can be heard on any subject is not on the agenda; the Yellowstone County Zoning Commission will not take any action on these items at this time, but could choose to add an item to the next meeting agenda for discussion. There was none.

**Disclosure of Conflict of Interest or exparte communication:** Commissioner Ray recused himself from participation in the hearing for County Zone Change #678.



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

**Approval of Minutes: September 12, 2016**

**Motion**

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

**Public Hearings:**

**Item #1: County Zone Change #678 – 743 Calhoun Lane** – 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.

**RECOMMENDATION**

The Planning Division recommends approval and adoption of the findings of the 11 review criteria for Zone Change #678.

**Discussion**

Chairman Wittman called for questions and discussion from the Zoning Commission. Per Commissioner Bush's request, Nicole Cromwell explained buffering and how it applies to this application.

**Public Hearing**

At 4:14 p.m., Chairman Wittman opened the public hearing at and called for proponents or opponents of Yellowstone County Zone Change #678.

**Proponents**

**Jeff Winkler, HGA Architects, 222 n 32<sup>nd</sup> Street, Suite 200, Billings, Montana**

Mr. Winkler agreed with the staff recommendation for approval and noted there are additional requirements for Entryway General Commercial properties. In response to a citizen's question regarding the incoming business, Mr. Winkler explained the request for a zone change will allow the property to be developed.

**Gary Blaine, 6309 Jellison Road, Billings, Montana**

Mr. Blaine stated Mr. Siddell's intention is to enhance the usability of this parcel. He pointed out this area may act as a buffer zone to the adjacent parcel such as a parking area.



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**Opponents:**

**Rebecca Rhodes West, 742 Calhoun, Billings, Montana**

Ms. Rhodes West asked if the access points may cause issues for rent ability of their properties. A letter in opposition was received from LE Rider which was included in the staff report.

**Rebuttal**

Chairman Wittman called for rebuttal. Mr. Winkler said due to the zoning restrictions, there should not be anything that would restrict access to Ms. Rhode West's lot. Mr. Blaine concurred and said this zone change should enhance the usability of her property due to the requirement of two access points.

At 4:16 p.m., Chairman Wittman asked if there was anyone else wanting to speak in favor or against Yellowstone County Zone Change #678. There was none. Chairman Wittman closed the public hearing and called for a motion.

**Motion**

**Commissioner Boucher made a motion and it was seconded by Commissioner Bush to forward a recommendation to the Board of County Commissioners of approval of County Zone Change #678 with adoption of the Findings of the 11 review criteria.**

Chairman Wittman called for a vote on the motion.

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

**The motion carries, 3-0, with Commissioner Ray recusing.**

**Item #2: County Zone Change #679 – 1926 Mullowney Lane** – 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. Tax ID: D01926.

**RECOMMENDATION**

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

**Discussion**

Chairman Wittman called for questions and discussion from the Zoning Commission.



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Per Commissioner Bush's request, Nicole Cromwell explained buffering and how it applies to this application.

### **Public Hearing**

At 4:14 p.m., Chairman Wittman opened the public hearing at and called for proponents or opponents of Yellowstone County Zone Change #679. Commissioner Ray asked how many manufactured home are involved in this proposal. Nicole Cromwell stated there are 53 units that use private wells and septic systems. The natural slope of the property is from the west to the east.

### **Public Hearing**

Chairman Wittman opened the public hearing at and called for proponents or opponents of Yellowstone County Zone Change #679.

### **Proponents**

**Applicant: Scott Aspenlieder, Performance Engineering, 7100 Commercial Ave, Ste 4, Billings, Montana** Mr. Aspenlieder stated the purpose of the zone change is to prepare the property for a future re-development. He stated the current owner has no intention of seeking annexation and re-development in the near future. He stated the Harmony Meadows development to the north and west will need to build its own infrastructure and get those utility lines down Mallowney Lane and come in from the west of the owner's property before any re-development is possible on this property. He stated there would be no intention of acting on the new zoning until it was annexed and had city services. He stated he understood the need to plan for the Yellowstone River channel migration for any future development. He stated most of the property is covered by this estimated area of migration but emphasized this is not a regulated area by the state or federal agencies. He stated he understood the adjacent owners concerns about becoming surrounded by annexed property. Mr. Aspenlieder stated he is not concerned with the CI zoning to the north and the re-development plan for this property does not intend to create a traffic connection to this subdivision.

### **Opposition**

#### **Mike Sykes, 5875 Sterns Circle, Billings, Montana**

Mr. Sykes asked about the river's migration zone. Mr. Aspenlieder said this is not a flood zone but the migration zone points to changes in the river

#### **Ed Taylor, 5819 Kennison Place, Billings, Montana**

Mr. Taylor asked if the Commercial Industrial zoning will force annexation. Nicole Cromwell



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responded this isn't allowed by state law, and she pointed out where the services will be located on a posted map. Mr. Taylor testified against the zone change. He stated he is the owner of Taylor Electric and is concerned about all this residential development surrounding their business property. He stated the City and County have made all of this residential development possible through zone changes they objected to at previous hearings. He stated the morning and evening traffic on Mallowney Lane and Elysian Road is impossible. He stated he started having his employees show up earlier to try and beat the congestion, but that is no longer effective. He stated he is concerned about the lack of 2 access points for this development. He stated when Harmony Meadows recently subdivided to start development, the Board told them the developer could access their subdivision to gain a second access out of the development. He stated all of the businesses on Stearns Circle and Kennison Place are industrial type businesses and are not interested in annexation and certainly not interested in having thousands of residents using their County road to access Harmony Meadows. He stated his biggest concern is the incompatibility between their businesses and residential multi-family zoning. He stated his workers show up early and can make a lot of noise loading trucks and doing normal business activity. He stated he has had no complaints so far about this activity but future residents would likely be bothered by this normal activity.

### **Vince Thomas, 5657 Stearns Circle, Billings, Montana**

Mr. Thomas testified against the zone change. He stated all of the uses in the subdivision are industrial businesses and residential uses adjacent to their businesses are inappropriate and will lead to conflicts. He stated there are a lot of contractors that work early and some that work later in the evening. He stated the traffic at Mallowney Lane and Elysian Road is backed up by 7 am every weekday. He stated there is business traffic all day long on Mallowney Lane to their shops. He stated if the developer puts in 3-story apartments on this property, traffic will become a nightmare. He stated everyone realizes the manufactured home park is not a good neighbor now but if a new development needs a second access will they be forced to use Stearns Circle? He stated he understands the need for a second access to insure public safety, but putting this traffic through their business development is not the right way. He stated the businesses pay into BUFSA now for fire protection, but the closest fire station is at 24th St West. He stated most businesses have their own water supply but there is no firefighting water source other than what comes in on the fire trucks. The County should have plans for at least a water line in Stearns Circle for firefighting. He stated Cal Kunkel, the developer in Harmony Meadows, is making millions with his new development so they should not have to shoulder any financial burden for his development.



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**Mr. Clayton Beeghly, 5726 Stearns Circle, Billings, Montana**

Mr. Beeghly stated he was opposed to the zone change for numerous reasons. He stated the subdivision to the north has caused a lot of consternation in their subdivision. He stated the County all but abandoned the right of way of Story Road that separates his subdivision from the subject property at least 40 years ago. He stated there is a creek and a ditch that runs exactly in the middle of this abandoned right of way for Story Road. He stated he has concerns about the traffic impact to Mullowney Lane from a re-development. He stated this is a 2-lane dead end street that the County does not maintain at all. He stated he was concerned about the Yellowstone River migration channel and what impact this could have on any future development. He stated with the amount of traffic for this development and now the Harmony Meadows development, Mullowney Lane should be a 4-lane street. He stated Mullowney Lane is backed up to the intersection with Elysian Road almost every morning. He stated it is a bottleneck that no one is taking responsibility for now. He stated there is need right now for another traffic signal at Elysian Road and Mullowney Lane. He stated right now the Yellowstone River channel is moving south but in the future could change migration patterns. He stated Stearns Circle is a County road but no one from the County maintains it or controls who has access. He stated all of the surrounding developers are trying to make the handful of people who live on Stearns Circle pay for any improvements needed for their developments. He stated this is not right or fair to owners in his subdivision. He stated if there is a pool of money developers have paid into for street improvement due to their development impacts, why hasn't the money been spent and the improvement done so far.

**Kathy Thomas, 5657 Sterns Circle, Billings, Montana**

Kathy Thomas testified against the zone change. She stated although she is a partner owner of the property, only the out-of-state owner was notified of the application. Staff checked the surrounding owner records and discovered in fact only one notice was sent and apologized for the oversight. She stated the proposed zoning is inappropriate at this location directly adjacent to their industrial subdivision. She stated she was concerned about changing the zoning now when the owner has no near future plans to annex and re-develop.

**Mr. Clayton Beeghly, 5726 Stearns Circle, Billings, Montana**

Mr. Beeghly testified again against the zone change. He stated this area is popular with wildlife including at least 10 deer and 25 pheasants, and voiced concern that this new development will decimate this wildlife population.



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### **Rebuttal**

Mr. Aspenlieder provided rebuttal testimony. He stated the owner will have to consider all of these issues when and if a re-development of the property moves forward. He stated the City will require the owner to study the traffic impacts and pay to mitigate those impacts, the fire department will study any new development and require the owner to provide access, and the owner will have to pay for all of the infrastructure improvement necessary to make his development possible. He stated the owner is only asking for a zone change, not approval of a future re-development plan. He stated the surrounding subdivisions have conducted traffic studies and all have paid into a City fund to mitigate the traffic impacts. These studies have identified needed improvements to Muldowney Lane, Elysian Road and the traffic signal at Midland and Muldowney. He stated the City is already working on engineering plans for those improvements. He stated his client is only asking for a fair consideration of the proposed zoning.

At 5:20 p.m., 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 recommend approval of County Zone Change #679 and adoption of the findings of the 11 criteria. The motion was seconded by Troy Boucher.

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

**The motion was approved on a 4-0 vote.**

**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 land area will be 7.61 acres (247 feet by 1343 feet). A pre-application meeting was held at the offices of Tolliver Law Firm at 1004 Division Street on December 1, 2016. Tax IDs: D04575L & D04575M.

### **RECOMMENDATION**

The Planning Division recommends approval and adoption of the findings of the 11 review criteria for Zone Change #678.



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### Discussion

Chairman Wittman called for questions and discussion from the Zoning Commission. Ms. Cromwell explained this application is part of the litigation settlement. Per the regulations, the applicant had to wait for one year prior to submitting this zone change request for Highway Commercial zoning. The applicant will be required to meet the FAA regulations for height limits.

### Tyler Dugger, Tolliver Law Firm, PO Box 1913, Billings, Montana, 59103

Mr. Dugger represents Aviation Properties. He stated the law suit was dismissed with prejudice in October, 2016. Mr. Dugger stated the reason for the delay in finalizing the zoning on this parcel. The zoning regulations only allow 1 application on the same property every 12 months so this final zone change had to wait until mid-December 2016 for an application. Mr. Dugger stated he appreciated the Zoning Commission's patience with the resolution of the law suit between the parties.

### Dave Kinnard, 106 Sky Ranch Drive, Billings, Montana

Mr. Dave Kinnard stated he was in attendance to represent the other parties to the lawsuit including Mr. Scott who owns property south of Highway 3. He stated they are in agreement with the proposed zone change.

Chairman Wittman closed the public hearing and called for a motion.

### Motion

**Commissioner Ray made a motion and it was seconded by Chairman Wittman seconded the motion to recommend approval and adoption of County Zone Change #680 with the findings of the 11 criteria.**

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

The motion was approved on a 4-0 vote.

### Other Business/Announcements

- A. The March 13, 2017 County Zoning Commission meeting is cancelled due to a lack of applications. The next meeting will be held as legally advertised and announced.

**Adjournment:** The meeting adjourned at 4:25 p.m.  
**DRAFT-TO BE APPROVED BY A MOTION**



**County Zoning Commission**

**Meeting Date:** 05/08/2017

**SUBJECT:** Zone Change #681- 1400 & 1438 Plateau Road and 1412 Sagebrush Road

**THROUGH:** Wyeth Friday

**PRESENTED BY:** Karen Husman

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**Information**

**REQUEST**

**Item #1. Zone Change 681-** Request for a zone change from Agriculture-Open Space (A-1) to Residential 9,600 (R-96) for a 20.65 acre parcel of land described as the E1/2W1/2 of Lot 1 and the W1/2W1/2 of Lot 1 in Section 2, Township 1 North, Range 26 East; and Tract 12B of C/S 1420. A pre-application neighborhood meeting was held on February 20, 2017, at 1438 Plateau Road, one of the subject parcels. Tax IDs: D04930A, D04937, D04935. Presented by Karen Husman, Planner I

**RECOMMENDATION**

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

**APPLICATION DATA**

**OWNER:** Production Consulting, LLC  
**AGENT:** Scott Aspenlieder  
**LEGAL DESCRIPTION:** E1/2W1/2 of Lot 1 and the W1/2W1/2 of Lot 1 in Section 2, Township 1 North, Range 26 East;  
and Tract 12B of C/S 1420  
**ADDRESS:** 1400 & 1438 Plateau Road, & 1412 Sagebrush Road  
**SIZE OF PARCEL:** 20.65 Acres  
**EXISTING LAND USE:** Agricultural & Residential  
**PROPOSED LAND USE:** Residential  
**EXISTING ZONING:** Agricultural Open Space  
**PROPOSED ZONING:** Residential- 9600

**CONCURRENT APPLICATIONS**

None.

**APPLICABLE ZONING HISTORY**

**Subject Property –**

**County Variance #278-** a variance from Section 27-308 requiring a minimum lot area of 10 acres to allow a minimum lot area of 7.62 acres in an Agriculture-Open Space zoning district on the West ½ of the West ½ of Lot 1 in Section 2, Township 1 North, Range 26 East, a 10.13 acre parcel of land. The proposed variance was to adjust the boundary line between 2 parcels of land to allow access to Plateau Road.

**County Zone Change #668** –requesting a zone change from Agriculture-Open Space (A-1) and Residential 15,000 (R-150) to Residential 9,600 (R-96) on Tracts 1A, 2A, 3A, 4A, 5A1, 6A, 7A, 8A, 9, 10A, 10B, 11 and 12B, and unplatted portions of land described as the SW1/4NW1/4 and the NW1/4SW1/4 of Section 2, Township 1 North, Range 26 East, a 222.83 acre parcel of land generally located east of Highway 87 North and west of Plateau Road.

**Morrell Subdivision**- a proposed major subdivision of 165 lots on the Tracts 1A, 2A, 3A, 4A, 5A1, 6A, 7A, 8A, 9, 10A, 10B, 11 and 12B, and unplatted portions of land described as the SW1/4NW1/4 and the NW1/4SW1/4 of Section 2, Township 1 North, Range 26 East, a 222.83 acre parcel of land generally located east of Highway 87 North and west of Plateau Road.

## **SURROUNDING LAND USE & ZONING**

NORTH: Zoning: Unzoned  
Land Use: Residential/Agricultural

SOUTH: Zoning: Agriculture Open (A-1)/R-15,000  
Land Use: Residential

EAST: Zoning: A-1  
Land Use: Agricultural Use

WEST: Zoning: A-1  
Land Use: Agricultural Use

## **BACKGROUND**

The subject property is located west off of Bitterroot Drive and south of Plateau Road which is approximately 1.2 miles north of Highway 312. All of the surrounding properties are zoned for residential and agricultural uses and some properties have been developed for very low density single family homes. The current zoning, A-1, was in effect since 1973 when the County adopted jurisdictional zoning around the City of Billings. There is currently a home with some out buildings on one of the parcels proposed for this zone change.

The applicant intends to develop the properties with a residential subdivision (approved as Morrell Subdivision) that, as currently submitted for review and approval, would include 20 lots for single family residential development. The zoning would only allow residential development. The applicant states the intention is to make this development similar to the ones in the surrounding area. The applicant also claims they will be extending the County Water District of Billings Heights (CWDBH) water system to this property to enable the home owners to irrigate yards and have domestic water.

A neighborhood meeting was conducted by the applicant on February 20, 2017, at 1438 Plateau Road, one of the subject properties of this proposed zone change. There were no residents in attendance at the meeting. The applicants received one email with concerns about the zone change, concerning water and sewer to the development, what the intended use was and how it would affect neighboring properties. The questions were answered via email.

Planning staff has reviewed this application and is forwarding a recommendation of approval for the proposed zone change based on the 11 criteria for zone changes. The property is adjacent to low density residential uses and agricultural uses. It is in line with the existing growth in this area and would be compatible with what is already there. The proposed zoning would bring predictable land use with it so the surrounding neighbors will know that it can only be used for residential uses.

## **RECOMMENDATION**

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

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## **Attachments**

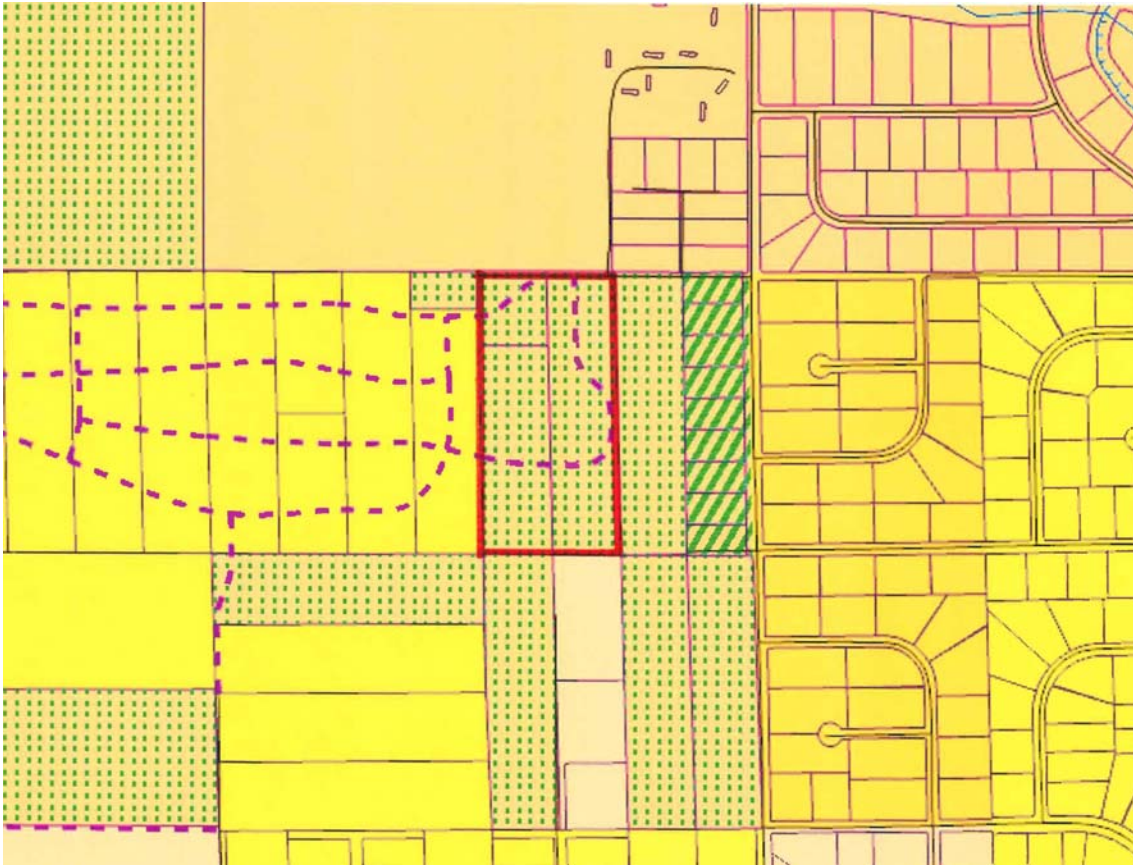
Zoning Map & Site Photos

Proposed Findings of the 11 Criteria

Applicant Letter & Pre Application Meeting

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# Zoning Map & Site Photos



Zoning Map



Subject Property



Looking East



Looking West



Looking North



Looking South

## PROPOSED ZONING COMMISSION DETERMINATIONS

The Yellowstone County Zoning Commission, prior to any recommendation, shall consider the following:

1. *Is the new zoning designed in accordance with the Yellowstone County and City of Billings 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:

- Prohibit high intensity commercial development in residential areas. Provide less intensive commercial development on arterial intersections within residential neighborhoods.  
*This zone change would only allow low density residential in an area of the county that has already seen low density housing developments.*
- Predictable land use decision that are consistent with neighborhood character and preferred land use patterns identified in neighborhood plans. (Land Use Element, page 6).  
*This zone change would allow for low density uses adjacent to existing low-density uses and neighborhoods. This is consistent with the neighborhood character.*
- 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 existing low density residential uses. This is compatible with the adjacent development.*

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 (BUFSA). The nearest fire station is located at St. Andrew's Drive and Wicks Lane, approximately 4.7 miles south and west of the subject property. The majority of the property currently does not pay a BUFSA assessment since there are minimal structures on the properties to assess. If the property is improved with a subdivision and construction of homes, then assessment will go in to effect.

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

*Transportation:* The new zoning will increase traffic on Plateau Road and Bitterroot Drive onto Highway 312. The proposed use, residential development, may require a traffic study to be done, however if a recent study was completed with Zone Change #668 and/or the Morrell Subdivision final plat, it may not be required.

*Water and Sewerage:* The property would have to be served by either individual septic systems or common septic systems. Any system would have to be reviewed and approved by Montana Department of Environmental Quality (MDEQ). The applicant is proposing to extend the County Water District of Billings Heights (CWDBH) delivery system to the subdivision. These parcels are outside the city limits and any wastewater disposal system will need to be approved by Environmental Health prior to any development.

*Schools and Parks:* The proposed zoning would impact three schools as it develops, Independent Elementary, Castle Rock Middle School and Skyview High School.

*Fire and Police:* The subject property is serviced by the Billings Fire Department and the Yellowstone County Sheriff's Department. Fire protection will be evaluated at the time of a development plan.

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

The new zoning will allow development of property that is adjacent to residential and agricultural property in all directions. The current zoning, A-1, allows low density single family dwellings, (1 per 10 acres) and agricultural uses. The proposed Residential 9,600 zoning will allow the owner to develop the property in a similar fashion as what is to the east and south. This will promote the health and general welfare of the area by developing in a similar manner as what is in the area.

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 adjacent streets. Future residential development will add to both motorized and non-motorized activity on the area street system. There are no pedestrian facilities currently on the area streets, but there are unmarked trails throughout the adjacent private property. There are plans for park land and some park connectivity in the subdivision that will help with pedestrian access and circulation.

7. *Will the new zoning be compatible with urban growth in the vicinity?*

The proposed zoning is compatible with adjacent rural residential development. The current zoning and existing residential and agricultural development is consistent with the area and so would the proposed zoning should the zone change be granted.

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 that has low density residential development and agricultural uses. The property is suitable for R-96 uses directly adjacent to these residential and agricultural uses. There is a fairly large amount of R-96 zoning to the south and recently approved Zone Change #668 to the west of the subject properties. The character of the area will change with more density with the proposed residential uses which follow the goals and policies of the 2008 Growth Policy for Yellowstone County.

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

The new zoning will allow the development of new residential uses adjacent to agricultural and residential uses. The new residential uses will result in market values for adjacent residential properties to remain stable or possibly increasing with new interest in living in the area.

10. Will the new zoning encourage the most appropriate use of land in Yellowstone County?  
The property is suitable for the proposed residential development. This area north of Billings Heights has been zoned agricultural and residential since 1973. This is the most appropriate use of land in this area of the County and will encourage similar residential development to what is already in this part of the County.
  
11. Will the new zoning be as compatible as possible with adjacent zoning in the City of Billings?  
The proposed zoning is very compatible adjacent to the City of Billings.

## Applicant Letter

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

The tracts of land of interest are currently zoned A-1, Agricultural Open Space. The land surrounding the property is Agricultural Open Space, R-9,600, R-15,000, and Residential Manufactured Homes (RMH). The Growth Policy has several goals that would be met by changing the zoning of the property from A-1 to R-9,600. 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 R-9,600, R-15,000, Residential Manufactured Homes, and Agricultural Open Space. The land to the east has already been subdivided and new homes have been built. The goal is to have predictable land use decisions that are consistent with neighborhood character and preferred land use patterns. Having the land being R-9,600 will accomplish these goals.

Another issue is that the current zoning ordinances and subdivision regulations do not always prevent incompatible uses in and adjacent to existing City neighborhoods and County townsites. This issue is resolved by having a similar zone as the surrounding areas. The property will be subdivided and new homes will be built. New homes will increase the attractiveness of the area and increase the quality of life.

Aesthetic concerns could be that there are areas in the City and County that are unattractive and present a poor image of the community. The proposed project area is currently non-irrigated farmland. This farmland has green native grasses during the early summer but becomes dry and brown later in the year. Creating a subdivision will create an area with landscaped yards. The landscaped yards will create an attractive community.

A natural resource issue is that water is an important resource and it is becoming more scarce. The property is proposing to extend the Heights Water District delivery system to the subdivision. This will allow sufficient water to be brought to the area as well as allow others to connect to the system. This will also give future projects the opportunity to receive a sufficient, clean supply of water without impacting local groundwater.

Due in part to the arid nature of our environment and the remoteness of some developments, there is an increased risk to human life and property from wildfires. The property will have the ability to water their lawns with the public water supply. The water will create green grass areas which will reduce the risk to human life and property from wildfires.

Weeds detract from the beauty of an area, pose a fire danger, and reduce the productivity of agricultural land. By landscaping and maintaining lawns, 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 and increase the productivity of agricultural land.

### **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 subdivision plan is to subdivide the property and create approximately 20 lots. Agricultural Open Space will not allow the property to be subdivided. The R-9,600 zone will allow the property to be subdivided into attractive and appropriately sized lots that fit within the local community. The land surrounding the property is zoned R-9,600, R-15,000, RMH, and A-1. There are three subdivisions located just east of the property of interest, Antelope Hills Subdivision, Oxbow Subdivision, and Pleasant View Subdivision. These subdivisions are new developments which align with the same development feel of the proposed subdivision.

## Pre-Application Minutes



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

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February 21, 2017

The meeting began at 6:00 pm on February 20, 2017 at 1438 Plateau Road, Billings, MT 59105. Those in attendance were Robert Neihart (Performance Engineering), Jerry Morrell (owner), and Daniel Morrell (owner's employee).

Nobody attended the meeting. The three individuals listed above waited until 6:30 in case someone showed up late. An email was received on February 21, 2017 stating that the individual could not attend the meeting but had some questions regarding the zone change. Questions emailed and subsequent responses are shown below:

- **The 300-ft radius that is on the map what does that mean? My property is inside this radius.**

The surrounding property owners within 300 feet and the Planning Division must be notified by mail at least seven (7) calendar days in advance of the required pre-application neighborhood meeting.

- **Is the developer bringing city water and sewer to the development?**

The developer intends on extending water to the development.

- **How many houses are going to be built in the proposed development?**

The developer intends to create (through subdivision) approximately 20 parcels that will be connected to the approved pre-plat of the Bar 11 Subdivision to the west.

The meeting ended at 6:30 pm.