



COUNTY OF YELLOWSTONE ZONING COMMISSION

AGENDA-Monday, September 11, 2017, 4:00 PM

**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.

Public Comment

Motion. Approval of Minutes: June 12, 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: YC Zone Change 683 - 2230 S 44th St W** - The applicant is requesting a zone change from Agriculture-Open Space (A-1) to Residential 15,000 (R-150) on Parcel 1A of C/S 1149, a 10.65-acre parcel of land. A pre-application neighborhood meeting was held on July 18, 2017, April 24, 2017, at the subject property. Tax ID: D00804. 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, September 26, 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: 09/11/2017

Information

Subject

Motion. Approval of Minutes: June 12, 2017

Attachments

YZC_2017_06_12_DRAFT



Yellowstone County Zoning Commission Minutes for the Meeting of Monday, June 12, 2017

The County Zoning Commission met on Monday, June 12, 2017 in the Miller Building 1st Floor Conference Room, 2825 3rd 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, June 27, 2017, at 9:45 a.m. in Room 403A, 4th Floor of the Yellowstone County Courthouse.**

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; Dave Green, Planner II, 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	01-09-2016	02-13-2017	03-13-2017	05-08-2017	06-12-2017
Jerry T. Ray	Commissioner	-	1	1	-	1	1	E	1	-	1	-	E	1
Troy Boucher	Commissioner Vice Chairman	-	1	1	-	1	1	1	1	-	1	-	1	1
Ryan Wittman	Commissioner Chairman		1	1	-	1	1	1	1	-	1	-	1	1
Tyler Bush	Commissioner	-	-	-	-	-	-	-	-	-	1	-	1	1
Vacancy										-		-		

Attending: Larry Smith; Robert & Lisa Hendershot; Walt Williams; Dan A Jellison; Tim Hudson; Susan and Ron Arneson

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: There was none.

Disclosure of Outside Communication. There was none.

Approval of Minutes: May 8, 2017

Motion

Commissioner Boucher made a motion and it was seconded by Commissioner Ray to approve the May 8, 2017 meeting minutes as submitted. The motion carried with a unanimous voice vote.



Yellowstone County Zoning Commission Minutes for the Meeting of Monday, June 12, 2017

Public Hearings:

County Zone Change #682 – Kimble Subdivision 3rd Filing – A zone change request from Residential 15,000 (R-150) to Agriculture-Open Space (A-1) on Lots 6-10, Block 1 and Lots 1-10 of Block 2, Kimble Subdivision 3rd Filing, and the soon to be abandoned rights of way within the subdivision, a 3.03-acre parcel of land. A pre-application neighborhood meeting was held on April 24, 2017, at the subject property. Tax IDs: A09614, A09615, A09616, A09617, A09618 & A09619.

Dave Green opened this agenda item with a staff report and PowerPoint presentation.

RECOMMENDATION

The Planning Division recommends conditional approval of Special Review #285. Planning Division is recommending the following conditions:

1. The approval shall be limited to C/S 108, Tract 1; C/S 593, Tract 1 and Tract 2D generally located at 720 and 748 Washington St and 3719 King Avenue East.
2. This special review approval is to modify and expand the location of the existing special review approval (SR #285 April 22, 2003) to operate a commercial recreational facility and associated parking lot and expand hours of operation from 8 am to 10 pm. No other special review use is intended or implied by this approval.
3. These conditions of special review approval shall run with the land described in this authorization and shall apply to all current and subsequent owners, operators, managers, lease holders, heirs and assigns.
4. Failure to comply with these conditions of approval of the special review use shall be deemed a violation of the zoning regulations. Enforcement of the regulations and conditions shall be as set forth in Section 27-1601 et seq. of the Unified Zoning Regulations.

Discussion

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

Public Hearing

At 4:13 p.m., Chairman Wittman opened the public hearing at and called for proponents or opponents of Yellowstone County Zone Change #682.

Proponents

Dan Jellison, Walt Williams, Billings, Montana 59106

Mr. Jellison and Walt Williams are the property owners. Mr. Jellison stated they are trying to maintain the integrity of the neighborhood and continue the gardens. He explained that a potential problem was eliminated when 3719 King Ave E was acquired and as a result they are doing events and weddings. “Dan Walt Gardens” gets daily visitors from the Billings Community and from all over the United States.



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Susan Arneson, 675 Jackson Street, Billings, Montana

Ms. Arneson asked if the functions will continue as before Mr. Jellison replied they will and they wish to keep the integrity of the neighborhood and the Southside Community. Commissioner Ray commended Mr. Jellison for their work.

Opponents: There were no opponents.

At 4:18 p.m., Chairman Wittman asked if there was anyone else wanting to speak in favor or against Yellowstone County Special Review #329. There was none. At 4:33 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 forward a recommendation to the Board of County Commissioners of conditional approval of County Special Review #329 with the conditions and 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, 4-0. The Board of County Commissioners public hearing will be held on Tuesday, June 27, 2017, at 9:45 a.m. in Room 403A, 4th Floor of the Yellowstone County Courthouse.

Item #2: County Zone Change #682 – Kimble Subdivision 3rd Filing – A zone change request from Residential 15,000 (R-150) to Agriculture-Open Space (A-1) on Lots 6-10, Block 1 and Lots 1-10 of Block 2, Kimble Subdivision 3rd Filing, and the soon to be abandoned rights of way within the subdivision, a 3.03-acre parcel of land. A pre-application neighborhood meeting was held on April 24, 2017, at the subject property. Tax IDs: A09614, A09615, A09616, A09617, A09618 & A09619.

Dave Green opened this agenda item with a staff report overview and PowerPoint Presentation. He explained to the Commission that the Agricultural-Open, (AG-O), zoning allows equestrian veterinary uses without a special review as does Controlled Industrial, (CI), and Heavy Industrial, (HI), zoning. Staff feels the AG-O zoning is the best option even though it doesn't meet the 10-acre minimum requirement as it fits the uses in the neighborhood. The applicant intends to construct a building on the site for equestrian medical care and provide pasture area.



Yellowstone County Zoning Commission Minutes for the Meeting of Monday, June 12, 2017

RECOMMENDATION

Approval of Zone Change #682 and adoption of the 11 criteria for this zone change.

Discussion

Chairman Wittman asked the Commission members for questions and discussion. In response to a question by Commissioner Ray, Dave Green stated that Community Commercial zoning does not allow equestrian uses for large animal care; and the staff recommendation is based on the applicant's request.

Public Hearing

Chairman Wittman opened the public hearing and asked if there is anyone wishing to speak in favor or against County Zone Change # 682.

Larry Smith, 331 N Silvertip Road, Bridger, Montana

Mr. Smith stated Pete Heidman is his son-in-law and he is attending today in his absence. He reported that Mr. Heidman currently owns "Montana Equine". Mr. Heidman is purchasing this parcel from the Kimble family. He said Mr. Heidman's intent is for this property is to have a presence in Billings to address horses with minor conditions. He pointed out there are other businesses in the area and stated this will be a good location for this business. Commissioner Ray commented he would like to see an industrial use in this area in the future. Commissioner Boucher asked staff regarding the need for a variance. Dave Green explained this is not an allowed use in R-15000 zoning, and a zone change may be submitted in the future if a different use is desired. Mr. Heidman submitted a "Summary of Potential Concerns" related to the proposed zoning change from R-15,000 to Ag-Open. Zoning Coordinator Nicole Cromwell stated this has been done before, and there are several lots in the west end of Billings and in Lockwood that never met the 10-acre minimum zoning criterion.

Chairman Wittman asked if there is anyone else wanting to speak in favor or against County Zone Change #682. There was none. Chairman Wittman closed the public hearing and called for a motion.

Motion

Commissioner Boucher made a motion and Commissioner Bush seconded the motion to forward a recommendation of approval to the Board of County Commissioners for Zone Change #682 and adoption of the 11 criteria for this zone change.

Chairman Wittman called for a vote on the motion.



**Yellowstone County Zoning Commission
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Name	Favor	Against	Abstain	Absent
Chairman Wittman	X			
Commissioner Boucher	X			
Commissioner Ray	X			
Commissioner Bush	X			

The motion carries, 4-0. The Board of County Commissioners public hearing will be held on Tuesday, June 27, 2017, at 9:45 a.m. in Room 403A, 4th Floor of the Yellowstone County Courthouse.

Other Business/Announcements

- A. The July 10, 2017 meeting is cancelled due to a lack of applications.
- B. City/County separation of the zoning code: Zoning Coordinator Nicole Cromwell stated staff is working on scheduling a joint meeting for the City and County Zoning Commissions, tentatively July 17, 2017, 4:00 p.m. She will notify the Commission when this date and time is confirmed.

Adjournment: The meeting adjourned at 4:40 p.m.

DRAFT-TO BE APPROVED BY A MOTION AT THE NEXT SCHEDULED MEETING.



County Zoning Commission

Meeting Date: 09/11/2017

SUBJECT: Zone Change 683 - 2230 S. 44th St. W.

THROUGH: Monica Plecker

PRESENTED BY: Karen Husman

Information

REQUEST

Item #1: YC Zone Change 683 - 2230 S 44th St W - The applicant is requesting a zone change from Agriculture-Open Space (A-1) to Residential 15,000 (R-150) on Parcel 1A of C/S 1149, a 10.65-acre parcel of land. A pre-application neighborhood meeting was held on July 18, 2017, April 24, 2017, at the subject property. Tax ID: D00804. Presented by Karen Husman, Planner I

RECOMMENDATION

Planning staff recommends approval of Zone Change #683 and adoption of the 11 criteria for this zone change.

APPLICATION DATA

OWNER: Raymond George Olson
AGENT: Patricia Ann Wilson
LEGAL DESCRIPTION: Parcel 1A of C/S 1149
ADDRESS: 2230 S. 44th St. W
SIZE OF PARCEL: 10.65 Acres
EXISTING LAND USE: Agricultural & Residential
PROPOSED LAND USE: Residential
EXISTING ZONING: Agricultural Open Space
PROPOSED ZONING: Residential- 15,000

CONCURRENT APPLICATIONS

County Exempt plat:

Proposed Family Transfer - Amended Tract 1-A of Amended C/S 1149.

APPLICABLE ZONING HISTORY

Subject Property – None

SURROUNDING LAND USE & ZONING

NORTH: Zoning: Ag-Open
Land Use: Residential/Agricultural
SOUTH: Zoning: R-150
Land Use: Residential
EAST: Zoning: R-150
Land Use: Residential
WEST: Zoning: R-150

BACKGROUND

The subject property is located west of South 44th Street West. The current zoning, A-1, has been 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 the parcel proposed for this zone change.

The applicant intends to split the lot and create a separate parcel for the existing home. There is currently an application under review for this parcel with the exemption of “gift or sale to a member of the immediate family” ([MCA 76-3-207(1)(b)]. In order to divide the existing house with two plus acres and leave eight acres, a zone change, or a variance would be required to allow the smaller lot. The applicant has decided to apply for a zone change to achieve compliance to be able to move forward with the lot split.

A neighborhood meeting was conducted by the applicant on July 18, 2017, at 2230 S. 44th St. W., the subject property of this proposed zone change. There were eight residents in attendance at the meeting. Concerns were voiced about more wells on the property that could possibly jeopardize the existing wells in the area.

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. 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

Staff recommends approval of Zone Change #683 and adoption of the 11 criteria for this zone change.

Attachments

Determinations
Zoning Map & Site Photos
Application & Pre App Minutes

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 2008 Growth Policy?*

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

- Goal: Predictable land use decisions 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 605 S. 24th Street W., approximately 4 miles north and east of the subject property.

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

Transportation: The proposed zoning will have minimal effect on traffic generation. Future development of the property may generate additional traffic. Prior to development a traffic impact study may be required.

Water and Sewerage: The property is in the county and will be required to get MDEQ approval for water and sewer systems. Any new system would have to be reviewed and approved by Montana Department of Environmental Quality (MDEQ). The parcel is 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 two schools as it develops, Canyon Creek Elementary/Middle School and West 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.

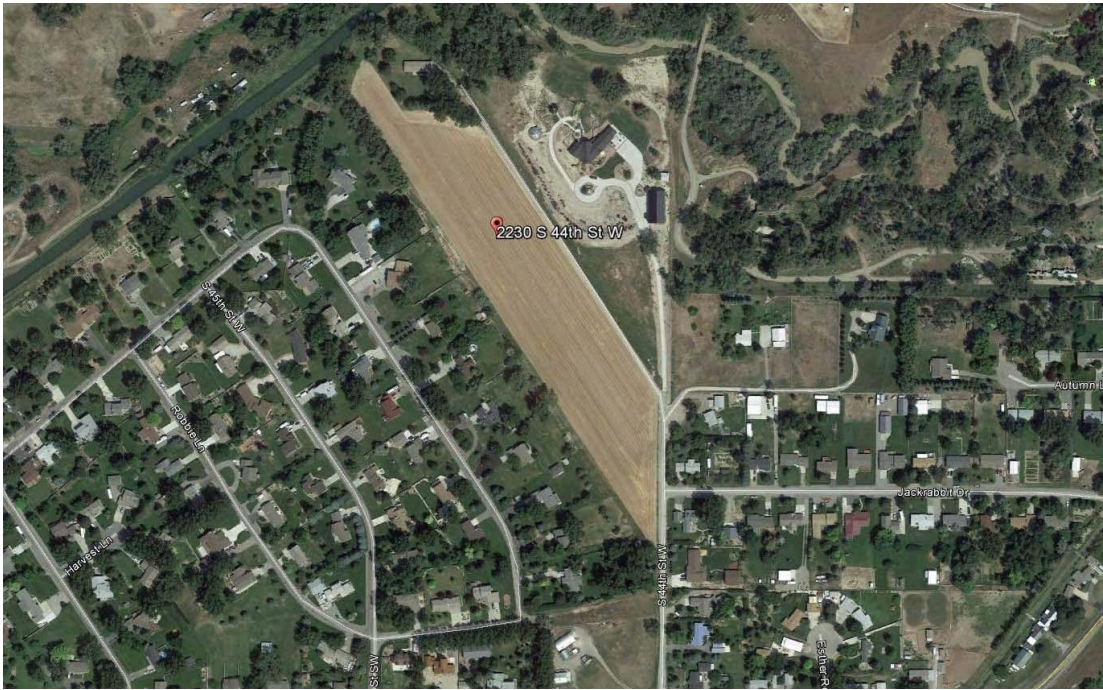
4. *Will the new zoning promote health and general welfare?*

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 15,000

zoning (R-150) will allow the owner to develop the property in a similar fashion as what is to the west and southeast. 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.
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-150 uses directly adjacent to these residential and agricultural uses. There is a fairly large amount of R-150 zoning to the south, west and east of the subject property. The character of the area will change with more density with the proposed residential uses which follow the goals and policies of the 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 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.

Site Photos



Subject Property



Looking North/West



Looking South



Looking East (Toward Jackrabbit Lane)

Application

APPLICATION FORM

COUNTY ZONE CHANGE County Zone Change # 683 - Project # P2-17-0131

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: Ag Open

Proposed Zoning: Residential 15000

Tax ID # D00804 COUNTY COMMISSIONER DISTRICT # _____

Legal Description of Property: 03-0926-22-3-13-01-0000
S22, T01S, R25 E, C.O.S. 1149, Parcel 1A, AMD

Address or General Location (If unknown, contact County Public Works): _____
2230 South 44th Street West Billings, Montana 59106

Size of Parcel (Area & Dimensions): 10.65 acres

Present Land-Use: Farming over 8.5 acres house and yard over remaining part

Proposed Land-Use: Selling 2.65 - including house to Chris Wilson (son) and farming 8 acres until sold in one chunk

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): Patricia Ann Wilson Personal Rep for Raymond George Olson
(Recorded Owner)
2 Big Sky Country Drive Billings MT 59102
(Address)
406-698-0714 (Phone Number) mttigger@yahoo.com (email)

Agent(s): _____
(Name)

(Address)

(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: Pat Ann Wilson (Recorded Owner) Date: July 24, 2017

Pre-Application Minutes

Zoning Meeting Information & Questions Asked- July 18, 2017

Reason For Zone Change	We have 10.65 acres and my son wants to buy the 2.65 acres that is around the house. That will leave 8 acres that we plan on selling in one unit.
Zoning Change	Zoned as Ag Land-must be minimum of 10 acres. Changing to 15000 Residential, a zone intended to provide for low density, single-family residential developments in areas which may or maynot be serviced by a public water and/or sewer system, which is what all the property to the west of us is zoned as, per the City, County officer, Dave Green-247-8666
Procedure	Once we have this meeting then the land will be posted of the zoning change request. My paperwork and payment will go in to the City, County Committee for review. You will be getting information from them about the meeting, and a zoning sign will be posted by them on the property.
Zone Changed	I will sell my son the house and land that is grassed (about 2.65acres) and balance to the west of it. Then I will put the other 8 acres (as one unit) up for sale.
Can Apartments be built there	No this is being zoned for single family dwellings. If someone wanted to build apartments they would have to change the zoning and go through this same process.
Wells and water rights	Concerns were brought up about the zoo having something like 8-10 wells on their property and with the possibility of 8 new homes coming in could that cause a problem with their wells. Someone stated that there was a river under our land and there was plenty of water. My comment was that I only new of the restrictions about the wells and unknown about the rest.
The Paving of 44th Street	Several people wanted to know how much of the road to my property was mine. I have a private drive that goes from my house down the lenght of my property to South 44th Street. I maintain, gravel, and blow snow in the winter. They wanted South 44th Street paved and wanted to know if it was going to be paved if I sell the property. One person stated that it had to be the countys because there is a speed limit sign posted. I said that 44th is not my property and as for if it would get done if we had a developer buy the place I am sure they would have to go by what the rules and regulations are from the City, County Planning office. There were lots of complaints about South 44th Street not being paved and wanting to know if the County was going to pave it because of all the dust it causes when people drive by.
My Road	Would my road stay the same? It would depend entirely on who bought the 8 acres and for what. If the farmer buys it it will probably be farmed. If developer buys it it would be brought up to City County Planning codes. Probably wider.
What has to happen if developed	A man spoke up and stated that if it is developed that roads, curbs, and gutters are required to be put in. I added that a large water tank would be buried for a firetruck to refuel and access to that tank put in place. And that there were lots of rules and regulations that had to be followed even to put in one house.