



**Yellowstone County Zoning Commission  
Minutes for the Meeting of  
Monday, March 12, 2018**

**The County Zoning Commission met on Monday, March 12, 2018 at 4:00 p.m.** in the Community Meeting Room, Billings Library, 1<sup>st</sup> Floor, 510 N Broadway, Billings, MT **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, March 27, 2018, at 9:45 a.m. in Room 403A, 4<sup>th</sup> 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; Tammy Deines, Planning Clerk; and Robbin Bartley, Admin I. Commissioner Ray is not in attendance for this introduction.

Commissioners and Staff		01/08/2018	02/12/2018	03/12/2018	04/09/2018	05/14/2018	06/11/2018	07/09/2018	08/13/2018	09/10/2018	10/08/2018	11/12/2018	12/10/2018
Jerry T. Ray	Commissioner	-	-	1									
Troy Boucher	Commissioner Vice Chairman	-	-	1									
Ryan Wittman	Commissioner Chairman		-	1									
Tyler Bush	Commissioner	-	-	1									
Vacancy	-----								-		-		

**Attending:** See attached attendance sheets.

**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: YC Zone Change #687:** There was none.

**Disclosure of ExParte Communication: YC Zone Change #687:** There was none.

**Disclosure of ExParte Communication: YC Zone Change #687:** There was none.

The Commissioners reported no ExParte Communications. Zoning Coordinator Cromwell reported staff received additional public comment between the time the packets were mailed and the meeting. It is included in the public comment folder and was forwarded to the Board of County Commissioners via email prior to this meeting. Note: letters in favor or against YC Zone



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Change #687 received by the staff report deadline were included as a part of the staff report which was included in the Commissioners' meeting packets and posted on the City of Billings' website here:

[http://agenda.ci.billings.mt.us/agenda\\_publish.cfm?id=&mt=ALL&get\\_month=3&get\\_year=2018&dsp=agm&seq=5606&rev=0&ag=632&ln=19188&nseq=&nrev=&pseq=&prev=#ReturnTo19188](http://agenda.ci.billings.mt.us/agenda_publish.cfm?id=&mt=ALL&get_month=3&get_year=2018&dsp=agm&seq=5606&rev=0&ag=632&ln=19188&nseq=&nrev=&pseq=&prev=#ReturnTo19188)

### **Motion Approval of Minutes: December 11, 2017**

**Commissioner Bush made a motion and it was seconded by Commissioner Boucher to approve the December 11, 2017 meeting minutes as submitted. The motion carried with a unanimous voice vote.**

### **Public Hearings:**

Ms. Cromwell read the legal notice for County Zone Change #687 into the record.

### **Item #1: REQUEST**

A change request from Residential 7,000 (R-70) to Planned Development with underlying zoning of RMF-R (PD-RMF-R) on the northern 10.77 acres of C/S 840, Parcel 1, a 20.77 acre parcel of land generally located east of the Kiwanis Trail bike path and south of Barrett Road. The PD specifies height limitations, buffer yard requirements, provisions for amenities and limits the total number of dwelling units to one hundred (100). A pre-application neighborhood meeting was conducted on December 26, 2017, at the Country Inn and Suites, 231 Main Street. A Preliminary Review meeting was held on Monday, February 5, 2018 at the Billings Library. Presented by Nicole Cromwell, Zoning Coordinator

### **RECOMMENDATION**

Planning staff is recommending approval based on the proposed findings of the 11 review criteria for Zone Change 687.

### **Staff Presentation**

Nicole Cromwell opened this agenda item with the staff report for County Zone Change #687. This zone change will only apply to the northern 10.77 acres of C/S 840 Parcel 1. She pointed out the need for a traffic safety and discontinuity of street development is the largest public concern. The current level of street construction is well below city standards for a collector street. She briefly reviewed City Standards for roadways. A letter was provided by Debi Meling, City Engineer, Public Works Engineering Division, in consultation with Tim Miller, YC County PW Director, regarding possible solutions to traffic and pedestrian safety concerns. Solutions for traffic and pedestrian safety requires collaboration of all agencies, neighbor's, and adjacent developers. A Traffic Improvement Study, (TIS), is required before the first Building



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Permit or Zoning Compliance Permit can be issued or a Subdivision or Master Plan is approved. She gave a basic overview of the zone change review and approval process.

### **Discussion**

Chairman Wittman called for questions and discussion from the Commissioners. Commissioner Bush asked if the County proposed solutions in regard to the traffic patterns? Nicole Cromwell reported Yellowstone County Public Works Director Miller offered to create a Rural Safety District to build sidewalks outside the city limits. If annexed there will be an additional area of off-street sidewalk along Barrett Road where none exists now. She responded to Commissioner Bush and said the developer has the option to develop under the current zoning but has selected the Planned Development instead. This developer and builder concentrates on attached multi-family unit products. She explained other development options and pointed out under the current zoning, 96 dwelling units could be developed. This developer plans to develop 100 units based upon the user agreement. Commissioner Boucher asked if the BOCC approves this agreement, the developer is bound to the agreement as recorded in the Clerk & Recorder's office? Ms. Cromwell stated the maximum unit count is based on a raw 10 acres, and it may be significantly less if the property were subdivided.

### **Public Hearing**

Chairman Wittman opened the public hearing and asked for anyone wishing to speak in favor or against YC Zone Change #687.

### **Scott Aspenlieder, Performance Engineering, 7100 Commercial Ave, Ste 4, Billings, Montana**

Mr. Aspenlieder is the agent for the property owners William Schultz, Trustee; and CK Land LLC. He stated it is worth noting substantial changes have been made to this proposal based on comments received from the Heights Force and public comment during the preliminary meetings. He concurred that addressing the traffic is a difficult issue. The plan is to annex this parcel into the City, and the developer will work with City Engineering to widen Barrett Road. Boulevard sidewalks will be constructed for pedestrian use and a buffer will be provided. A Traffic Impact Study. (TIS), will be required with the submittal of a Master Site Plan application. This developer will participate in the intersection improvements as development takes place. Mr. Aspenlieder stated they are committed to addressing traffic and pedestrian safety. Initially, this was intended to be a 10-acre development but the developer added .77-acre to be used for open space and a common area. In an effort to meet public concerns half-way, some architectural changes will be made to the product including Hardy board siding, color changes, and dormers to break up roof lines. The reasoning for the request for RMFR underlying zoning is this developer is being 100% transparent with his intent for what they plan to construct. Mr. Aspenlieder stated due to economics, trends of construction are moving towards higher density developments. He feels this is a reasonable project and the concerns have been addressed to the best of their ability through the meeting process.



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### **Discussion**

Chairman Wittman called for questions from the Board. Commissioner Bush commented on student populations at Medicine Crow Middle School and Bitterroot School which are at or reaching capacity. Mr. Aspenlieder stated these are generally starter homes filled with young professionals instead of families.

### **Arian Whitman, 1024 Claremore Lane, Billings, Montana**

Ms. Whitman stated they did not anticipate the proposed density due to the surrounding zoning. She voiced concern with apartments with occupants who tend to be more transient, which may not increase buying potential and be a deterrent to the neighborhood. She stated there is a need to address sidewalks as children are currently walking in the road.

### **David Whitmore, 2106 West Echo Drive, Billings, Montana**

Mr. Whitmore stated his parents have lived in the area since 1972 so he is concerned with a major character change by adding apartments to this property. He noted there is already a contingent of "young professionals" who rent places in the area that are not good neighbors and the proposed development will just attract similar residents. He stated none of the surrounding county roads are set up for pedestrians so kids and others have to walk in the road. He testified the weeds on the north side of Barrett Road are so tall in the summer they block the view around the corners of intersections. He noted the appropriate zoning for the property is the existing zoning of R-70. Mr. Whitmore is against this proposal and he stated he feels it would be better served with construction of some nice homes.

### **Travis McDowell, 2029 Forrest Park Drive, Billings, Montana**

Mr. McDowell testified in favor of the application. He stated he has worked with this developer for many years and they are constantly looking for ways to improve the product. He stated over the years the developer has added single story units to accommodate accessible units.

### **Chris Nielson, 1125 Barrett Road, Billings, Montana**

Mr. Nielson testified in opposition. He has been a resident in this area for 29 years and the school has contributed to the changes. Mr. Nielson has submitted photographs provided of students walking. He stated he received the letter from the City Engineer. He feels this is a "rush job". He testified a normal housing subdivision would develop over a few years and would not have the immediate impact this development will have on the area. He said his biggest concern is the traffic and pedestrian safety. He noted this section of Barrett Road is not set up to safely handle the existing kids walking to school, or the parents who are picking up and dropping off kids from the middle school. He testified many of the kids walking to school come from neighborhoods north and east of this location. He said the new residents in the development will have a hard time getting into and out of the development during normal commute times because of the school traffic. He stated he understands how the developer will build out the frontage on Barrett but if most of the traffic is going to the east to Hawthorne Lane this just puts all the traffic pressure on under-built county roads.



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\*\*At 4:45 p.m. Commissioner Ray joined the meeting.

### **Tiffani Wardell of 1309 Daybreak, Billings, Montana**

Ms. Wardell testified in opposition. She stated she was here to speak against this application although she is not an immediate neighbor. She testified this developer has also proposed a similar zone change on the west end of Billings. She stated the traffic situation at both locations must be fixed before any of these zoning proposals are considered. She stated this development style is out of character for this area and for the west end of Billings.

### **Dee Martinson, 832 Kale Drive, Billings, Montana**

Ms. Martinson testified in opposition. is not against developing this area and appreciates the changes. Her concern is the traffic. The concern is the addition traffic created from the units. She read aloud a portion of a letter submitted to the Commissioners. Traffic is affected on those living north of Barrett Road, and the traffic on main. the Developer is only planning to construct curb, gutter, sidewalk along the 500 feet of his property. She asked that the City and County work together to pave Barrett road at the time of development.

### **Tom Zurbuchen, 1747 Wicks Lane, Billings, Montana**

Mr. Zurbuchen testified in favor of the zone change. He stated the county should be commending this developer for stepping up and building a road the County and City will not improve. He stated the entire area is zoned R-70 but the developers proposed density is the same as many existing surrounding developments. He stated as soon as the new middle school opened it was apparent there was a big pedestrian safety problem, but no one is willing to deal with the issue. He testified pedestrian safety could be improved if the neighbors agreed to an RSID but no one wants to step up and do that. He stated the area has a mixture of City and County development and this new development would not be out of place. He testified this development is a win for the area and the county should approve the zoning.

### **William Schultz, (no address given), Billings, Montana**

Mr. Schultz is the property owner. owner of the property, testified in favor. He stated he has owned the land for decades and at the age of 92 he is ready to move on. He noted when Mike Sartorie told him a couple of years ago he was retiring from agriculture and would no longer be leasing his 20 acres of ground, he knew it was time to sell. He stated he advertised for a new farmer to lease up the property, but he had no takers. He testified he then advertised the land for sale and Cal Kunkel's was the only offer. He stated he never really made any money on the land but it was a good farm. He testified he has worked with Cal Kunkel's father and so he knows and trusts Cal to do a good job on the development. He would like the county approve the zone change so he can retire.



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### **Mike Sartorie, 1880 Hawthorne, Billings Montana**

Mr. Sartorie testified in opposition to the zone change. He stated his biggest concern is the lack of a buffer and fencing along the east property line. He noted his biggest concern is the lack of a buffer and fencing along the east property line. He stated he was the only property owner to actually share a property boundary with the proposed development. He was also concerned about what plans there might be for the southern 10 acres. He pointed out this 10 acres of ground will only have frontage on Kyhl Lane. He testified Kyhl Lane will be a mess to develop as he discovered when he platted the first few lots in his subdivision off Hawthorne Lane. He stated the proposed zoning is a radical change from the existing zoning in the area. He commented the staff's presentation of the existing zoning density and the proposed zoning density is not an "apples to apples" comparison. He testified It is not likely a developer could get 96 dwelling units on the existing R-70 zoned 10.77 acres even with a master site plan approval.

### **Terry Odegard, 2101 Lake Hills, Billings, Montana**

Mr. Odegard testified in favor of the zone change. He stated he has been in the real estate business for over 20 years and has seen many multi-family developments built and bring needed housing choices to the market. He stated some of these projects turned out very well and some not so well but we should not characterize people who live in apartments as not invested in living in a good area. He stated many of the people who choose an apartment do not have the \$50,000 on hand to make a first time home purchase. He stated young families especially struggle to find decent affordable places to live in Billings Heights. He stated this proposal will fit with the neighborhood and provide a good housing choice.

### **Ron Kaminski, 1205 Barrett Road, Billings, Montana**

Mr. Kaminski testified in opposition. He stated the area does not need high density apartments and does not need transitory housing. He stated there is a big difference between apartments and single family homes. He testified the traffic situation on Barrett Road needs to be fixed before any development happens on the land. He urged the Commission to keep the current R-70 zoning in place.

### **Rebuttal**

Chairman Wittman called for rebuttal.

### **Scott Aspenlieder, Performance Engineering, 7100 Commercial Ave, Ste 4, Billings, Montana**

Mr. Aspenlieder stated he appreciated the comments; and from their perspective, they feel the pain and do not wish to build a development with exit difficulties. Scott Aspenlieder provide rebuttal testimony. He stated the traffic issue on Barrett Road is a big problem and will require more than this developer to shoulder the solution. He stated the proposed development will help ease the pedestrian safety issue by building over 500 feet of road and sidewalk that does not exist now. He testified that unless the residents want to do an RSID, he cannot see another path forward on the larger Barrett Road issue. He stated it was not fair to place the entire burden of



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this under-built county road on this developer, and they are committed to doing a good job on this project for the community.

Chairman Wittman asked if there is anyone wanting to speak in favor or against YC Zone Change #687. There was none. Chairman Wittman closed the Public Hearing 5:11 p.m. and called for a motion.

### Discussion

Commissioner Ray asked if a buffer zone can be required. Nicole Cromwell explained the landscaping code does not require a buffer zone between residential uses; whereas a Planned Development includes specific requirements by the developer. When submitted, the Master Plan could include buffering. The Commission could amend the Planned Development to buffer the eastern property line. Commissioner Ray asked about fencing around the parcel, and what the City will do to address the traffic. Ms. Cromwell said if the parcel is annexed, the City will require a Traffic Impact Study, (TIS). The findings of the TIS will be addressed prior to issuance of a building permit. Ms. Cromwell continued and gave some scenarios depending on the study which identifies improvements needed to the existing road system. These findings are addressed by the City Engineering Division. Commissioner Bush voiced concern with number of units that could be built with current zoning. Ms. Cromwell clarified and stated this is based on the gross area of the land. Staff gauges what is the maximum allowable density under the current and proposed zoning. Commissioner Bush acknowledged the disparity between the City and the County for improvements. Nicole Cromwell said this development will generate a calculation which will trigger needed improvements.

### Motion

**Commissioner Ray made a motion to amend the Planned Development to require property line fencing on the east and south property lines. He stated this requirement would be added to Article IV.B and C. The motion was seconded by Commissioner Wittman.**

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

**The motion passes 3-1 roll call vote.**

Chairman Wittman called for a main motion on the zone change request.



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**Motion**

Commissioner Boucher made a motion to recommend denial of the Zone Change #based on negative findings for Criteria #10 and #11. Mr. Boucher noted this proposed zoning would not encourage the most appropriate use of land in Yellowstone County. He said this type of development density and apartment style building cannot be built outside the City limits and is not appropriate in Yellowstone County. He stated the proposed zoning is not designed to be as compatible as possible with the adjacent city zoning. He noted all of the surrounding city subdivisions and neighborhoods are zoned and developed in the the surrounding city subdivisions and neighborhoods are zoned and developed in the R-70 zoning district. The motion was seconded by Commission member Tyler Bush.

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

**The motion carried 3-1 roll call vote.**

**Other Business/Announcements**

The next meeting will be held as legally advertised on April 9, 2018.

**Adjournment:** The meeting adjourned at 6:15 p.m.

**APPROVED BY A MOTION APRIL 9, 2018**

