



COUNTY OF YELLOWSTONE ZONING COMMISSION

AGENDA-Monday, December 10, 2018

**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: August 13, 2018. (The September, October, and November 2018 Yellowstone County Zoning Commission meetings were canceled due to a lack of agenda items).

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. County Zone Change 691 – 3333 N Frontage Road** - A zone change from Agriculture Open-Space (A-1) to Controlled Industrial (CI) on the easterly 9.16 acres of C/S 1734, Parcel 1, generally located at 3333 N Frontage Road. A pre-application neighborhood meeting was held on October 22, 2018, at the applicant's office at 316 N 33^d St in Billings, MT. Tax ID: D06413. Presented by Monica Plecker, Planning Division Manager

- b. **Item #2 County Special Review 330 – 3760 Wise Lane**- A special review request to operate a gravel extraction open cut mine in an Agriculture Open-Space (A-1) zone on a fraction in the NE ¼ and on a fraction of Lots 1 & 2 in Section 34, Township 1 South, Range 25 East, generally located at 3760 Wise Lane, a 59.21 acre parcel of land. Additional area will be included in the open cut mine area but is not within the Zoning Jurisdiction of Yellowstone County. Presented by Nicole Cromwell, Zoning Coordinator

Other Business/Announcements

Adjournment

The **Board of County Commissioners** public hearing for **Zone Change 691**, will be held **on Wednesday, January 2, 2019, at 9:30 a.m. at 316 N 26th Street – 3rd Floor, Commissioner's Hearing Room**. The Board of County Commissioners will hear all persons wishing to speak relative to the proposed **zone change**.

The **Board of County Commissioners** public hearing for **Special Review 330** will be held **on Wednesday, December 26, 2019, at 9:30 a.m. at 316 N 26th Street – 3rd Floor, Commissioner's Hearing Room**. The Board of County Commissioners will hear all persons wishing to speak relative to the proposed **special review**.

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: 12/10/2018

Information

Subject

Motion. Approval of Minutes: August 13, 2018. (The September, October, and November 2018 Yellowstone County Zoning Commission meetings were canceled due to a lack of agenda items).

Attachments

YZC_2018_08_13_DRAFT



Yellowstone County Zoning Commission Minutes for the Meeting of Monday, August 13, 2018

The County Zoning Commission met on Monday, August 13, 2018 in the Community Meeting Room, Billings Library, 1st Floor, 510 N Broadway, Billings, MT at 4:00 p.m. 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, August 28, 2018, at 9:30 a.m. at 316 N 26th Street – 3rd Floor, Commissioners’ Hearing Room. The Board of County Commissioners will hear all persons wishing to speak relative to the proposed zone changes.

Chairman Wittman opened the meeting and introduced the County Zoning Commission members and staff in attendance: Nicole Cromwell, Zoning Coordinator; Karen Husman, Planner I; Tammy Deines, Planning Clerk; Robbin Bartley, Administrative Assistant

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	1	-	-	-	1				
Troy Boucher	Commissioner Vice Chairman	-	-	1	1	-	-	-	1				
Ryan Wittman	Commissioner Chairman		-	1	E	-	-	-	1				
Tyler Bush	Commissioner	-	-	1	1	-	-	-	1				
Todd Hewett	Commissioner					-	-	-	1	-		-	

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 #689: There was none.

Disclosure of ExParte Communication: YC Zone Change #690: There was none.

Disclosure of ExParte Communication: YC Zone Change #689: There was none.

The Commissioners reported no ExParte Communications.

Communications: YC Zone Change #690: July 30, 2018 letter, Raymond & Sharon Kramer. YCZC 690: August 11, 2018 E-mail. Deines Land & Livestock; August 8, 2018, letter, Barbara Mulvaney Letter. August 13, 2018. William Kreske.



**Yellowstone County Zoning Commission
Minutes for the Meeting of
Monday, August 13, 2018**

Motion. Approval of Minutes: April 9, 2018

Commissioner Boucher made a motion and it was seconded by Commissioner Bush to approve the April 9, 2018 meeting minutes as submitted. The motion carried with a unanimous voice vote.

Item #1: REQUEST The legal notice for County Zone Change #689 into the record.

County Zone Change 689 – Mackenzie Meadows Subdivision – A-1 to R-150 – A zone change request from Agriculture Open-Space to Residential 15,000 (R-150) on the east 45 acres of C/S 3185, Parcel 2, an 87.36-acre parcel of land, generally located on the south side of Neibauer Rd between the BBWA Canal and S 54th St West. A pre-application neighborhood meeting was held on June 25, 2018, on Abby Road at the subject property. Tax ID: D00910A

RECOMMENDATION

Planning staff is recommending the Zoning Commission recommend approval of Zone Change #689 and adoption of the 11 criteria for this zone change.

Discussion

Chairman Wittman called for questions from the Board. Commissioner Bush commented the area to the west of this parcel is outside the zoning designation area. He asked who developed the property to the north. Ms. Husman deferred questions related to the subdivision to the applicant's agent.

Marshall Phil, Blueline Engineering, 2110 Overland Ave # 119B, Billings, MT 59102

Mr. Phil is the applicant's agent. He stated the proposal is for 63 residential lots and 24 commercial lots. During the neighborhood meeting, several citizens voiced concern with water use. He stated DEQ and DNRC will review this application for residential single family homes. The development sizes are restricted by the Covenants and Restrictions. The 72-hour and 8-hour pump tests calculated 66 gallons a minute with a fairly rapid recovery rate. Per the initial report, hydronic modeling shows water is available.

Public Hearing Chairman Wittman opened the public hearing and asked for those in opposition or in favor of this application.

Larry Barber, 2812 S 51st Street West, Billings, Montana

Mr. Barber asked questions regarding the well depth. It was noted there were conflicting opinions during the pre-application meeting with persons to the north with concerns with wells and sewage, density, quality of work. The meeting notes were included in the staff report as a part of the public record.

Debra Julien, 2460 CH Wagner, Billings, Montana

Ms. Julien voiced concern with the effects from the additional 90 wells servicing homes and lawns on the aquifer. She commented Mr. Marshall's comment of installing cisterns as an



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answer is unacceptable as the unavailability of water would cause a serious slump on investments. She commented there have been several traffic accidents at the intersection of Neibauer Road and 56th Street West, and vehicles traveling with high traffic speeds. She asked if there will be odors from the sewage storage disposal.

Sheila Hancock McKay, 2222 S 54th Street West, Billings, Montana

Ms. McKay said she leases state wetlands for educational purposes. She stated the fact the aquifer fed ponds are totally dry is a concern and she is not convinced well sharing will alleviate the water issues.

Rebuttal

Marshall Phil, Blueline Engineering 2110 Overland Ave # 119B, Billings, MT 59102

Mr. Phil said two test wells located along Abby Road were pumped aggressively for long period tests to show the strength of the aquifer. He gave an explanation of the mechanics of a draw down and recovery of the aquifer and stated indications are of a positive aquifer. He clarified his statement and said cisterns may be an option if there isn't enough water for the subdivision to be approved by DEQ. He stated the likelihood of smells from the septic storage is fairly unlikely, and pointed out the State of Montana is communicating regarding the impacts to the ponds and wells.

Chairman Wittman asked if there is anyone else wishing to speak in favor or against YC Zone Change #689. There were none. Chairman Wittman closed the public hearing at 4:29 p.m. and called for a motion.

Motion

Commissioner Boucher made a motion and it was seconded by Commissioner Bush to forward a recommendation of approval of Zone Change #689 and adoption of the 11 criteria for this zone change.

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

The motion passes 5-0.



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Item #2: REQUEST The legal notice for County Zone Change #690 into the record.
County Zone Change #690 – Grand and 50th St West – A-1 to NC & R-70 – A zone change request from Agriculture Open-Space (A-1) to Neighborhood Commercial (NC) for the northern 300 feet (~6.02 acres) and Residential 7,000 (R-70) for the southern 574 feet (~11.53 acres) of C/S 2990, Parcel 1B, a 17.77-acre parcel of land, generally located on the south side of Grand Avenue between 48th St W and 52nd St W. Tax ID: D12489

RECOMMENDATION

Planning staff is recommending the Zoning Commission recommend approval of Zone Change #689 and adoption of the 11 criteria for this zone change. Ms. Cromwell stated this is the 3rd zone change submitted for this parcel of land. The first zone change was submitted in September 2016 for a Planned Development (PD) zoning with Community Commercial (CC), NC and Residential Multi-family-Restricted (RMF-R) as underlying zoning districts. This application was withdrawn before any public hearings were scheduled. The second zone change application was submitted in January 2018 also for a PD but this time with underlying zoning of NC and RMF-R. The zone change was withdrawn at the Zoning Commission hearing on April 9. This application has a new prospective buyer. She pointed out the surrounding urban subdivisions in the area and the active farmland. The Kramer Family understands the development may impact their farming activity. This property is intended to be annexed into the City of Billings.

Discussion

Chairman Wittman called for questions and discussion from the Commission. Commissioner Bush asked about the annexation review process. Ms. Cromwell stated the Limits of Annexation Map denotes this property as within in the “red zone” and having the capacity to be served by City services within the next five years. The review process is initiated with a petition submittal to the Planning Division, and followed with City Departmental reviews and consideration by the City Council. Commissioner Bush asked what is different from the previous application. He pointed out this applicant has the same property owner and the same agent as the previous application. Ms. Cromwell stated the previous application was proposed as a Planned Development with underlying zoning of Neighborhood Commercial and RMF-R. The neighborhood voiced strong concerns with the proposal and the applicant decided to withdraw. Mr. Wells is proposing standard districts of Neighborhood Commercial and R-7000 zoning. She commented typically Neighborhood Commercial uses are less intense and intended to serve the immediate area. Once a zone change application is advertised the proposal cannot be changed unless a delay is granted. Conditions of approval cannot be added to a zone change.

Applicant

Chairman Wittman called for presentation by the applicant.

Scott Aspenlieder, Performance Engineering, 7100 Commercial Ave. Suite 4, Billings, Montana

Mr. Aspenlieder explained the last proposal was for multi-family housing and construction of 6 & 8 unit apartment complexes for rental or lease. A buffer of duplexes was requested and



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discussed at that time. The applicant withdrew due to the inability to make a connection with the neighborhood. Mr. Aspenlieder said this applicant's intent is primarily a twin home development with duplexes and a scattering of traditional single family homes. He stated this builder has a great track record in the community. He stressed this proposal is not intended as a rental facility. The Neighborhood Commercial zoning is proposed as there are medical facilities interested in the northern 6 acres consisting of four lots. The neighborhood meeting for this application had 40-45 attendees, with several in support of the application. Mr. Aspenlieder stated the applicant has been transparent with the neighborhood and the West End Task Force through the process. This proposal does not detract from the neighborhood. The traffic studies will be completed and considered during the subdivision review and annexation process.

Commissioner Bush asked if the applicant attended the West End Task Force meeting prior to submitting this application to the City. Mr. Aspenlieder responded they were unable to attend 1st meeting but attended last month. Commissioner Bush asked why Residential Professional zoning was not considered for the commercial uses. Mr. Aspenlieder stated Neighborhood Commercial zoning allows for mixed-use residential along the arterial street. It does not allow on-premise alcohol service, casinos, or gaming. Consideration was given to the fact the previous proposal did not go through. This applicant has had conversations with the property owner directly to the south to extend the R-7000 zoning on the property in the future should this development experience buildout.

Public Hearing: Chairman Wittman opened the public hearing and asked for anyone wishing to speak in favor or against County Zone Change #690.

Steve Wells, 4832 Audubon Way, Billings, Montana

Mr. Wells is speaking on behalf of his father, Dan Wells. He testified that applicant Dan Wells has a concern for the west end of Billings and is not interested in a "quick turn and burn". He is a 3rd generation west end resident and has developed several west end subdivisions including Day Break, Ironwood, and Oakridge. Steve Wells expressed their desire to have an investment in the family name and the type of homes they built. They are requesting this zone change to continue this tradition forward to the future. Mr. Wells stated he plans to continue in his father's footsteps.

Robert Deines, 4915 Grand Avenue, Billings, Montana

Mr. Deines is the Co-chairman of Billings West end Task Force. Mr. Deines voiced his respect for the Wells family. He stated he is in disagreement with the proposal for a Neighborhood Commercial zoning. He referenced the Growth Policy and the West Billings Plan, which suggests the entrance to a commercial facility should be no further than 1000-feet from the intersection of an arterial street and commercial nodes no closer than 1-mile from each other. Mr. Deines feels this parcel would be located too close to the existing Community Commercial zoned nodes. He voiced concern with the potential for the lack of ties to sidewalks affecting pedestrian and non-motorized traffic, especially with the existing Montessori School and Ben Steele Middle School. He pointed out there is no public transportation available for this area. He asked why a commercial buffer is needed as this parcel is located in the middle of a section of property?



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Donna Deines, 4917 Grand Avenue, Billings, Montana

Ms. Deines stated *Deines Land & Livestock LLC* owns the farm and feed lot across from this parcel. They are supportive of the proposal for R-7000 zoning but opposed to the commercial zoning. She concurred with Mr. Deines and stated the placement of commercial buildings on this lot is not in accordance with the 2008 Growth Policy which intends to deter development of commercial strip malls.

Ms. Deines feels the proposal for a commercial strip on this parcel violates the policy as the character of the neighborhood is residential and not commercial. She feels most of the residents have moved there to get away from the noise and traffic from the business district. She stated, "Just because something is legal doesn't mean it should be done". She said their family will live in the shadow of this development as they intend to continue farming and are not able to move their farm. She pointed out the proposed entrances for this development are directly across from their driveways. Ms. Deines suggested building twin homes instead of 2-story commercial buildings as the view shed will be compromised. She voiced concern with potentially opening the door to future commercial development if businesses are approved at this location. She said the Deines family plans to actively farm their ground for at least two more generations. She said there are several other families who are unable to attend this meeting due to harvest season.

Connie Wardell, 514 64th Street West, Billings, Montana

Ms. Wardell stated she attended all of the meetings related to this parcel. She said the West end Task Force knows Dan Wells to be a reputable developer. Ms. Wardell was a member of the 2008 Growth Policy Steering Committee which attempted to address the strip development on Grand Avenue.

Ms. Wardell said her personal feeling is this is perfect place for Residential Professional zoning and she encourages the developer to change the proposal from Neighborhood Commercial zoning. Ms. Wardell stated this application will set the tone as to whether Grand Avenue will be an arterial with lots of commercial development. Ms. Wardell said she appreciated Dan Wells' attendance to the pre-application meeting at Montessori School and the West End Task Force meeting.

Ann Soulshy, 1501 Granite Peak Trail, Billings, Montana

Ms. Soulshy stated she lives in a twin home and has no problem with Mr. Wells' plan to utilize the R-7000 property for twin homes. She said Mr. Wells has stated his intent is financially motivated for a return on his investments and has said assurance via declarations could restrict any kind of alcohol, casinos, or in house drinking. Ms. Soulshy voiced concern with the potential for litter and noise from businesses similar to Wendy's or McDonalds' restaurant drive-throughs. She said there is a lack of sidewalks for the school children. She suggested using Neighborhood Professional zoning instead of Neighborhood Commercial to allow for a good return on investment and promote less traffic than a "7-11" store, fast food outlet, or tanning salon. She stressed there are serious traffic needs to be addressed. Ms. Soulshy said the Neighborhood Professional zoning would not ruin the aesthetics of the area.



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William Kreske, 120 52nd Street West, Billings, Montana

Mr. Kreske is a long term resident in the area and considers it as a retirement community. He said he is hoping for a gated community similar to Vintage Estates subdivision or the Grand Peaks subdivision. He is in agreement with Residential Professional zoning as a better choice. Mr. Kreske would like to see single family housing or duplexes at best.

Jerry Moore, 406 52nd Street West, Billings, Montana

Mr. Moore said this is a good area. He is worried the Neighborhood Commercial zoning will be extended down Grand Avenue and he asked if there is another option.

Sharon Sharosch, 1503 Granite Peak Trail, Billings, Montana

Mr. Sharosch said she lives in a twin home she purchased due to the investment and country location. She stated she is happy with Dan Wells and quality of construction. Ms. Sharosch is in concurrence with the Deines family. She stated commercial development is not needed and suggested using green space along Grand Avenue.

Rebuttal Chairman Wittman called for rebuttal.

Scott Aspenlieder, Performance Engineering, 7100 Commercial Ave. Suite 4, Billings, Montana

Mr. Aspenlieder said he understands and appreciates the comments. He explained the commercial zoning is necessary as it will provide services and add value to the community. He stressed this proposal is for four 1-acre lots and not strip zoning. He said the flexibility in the zoning is necessary to make the development economics work and meet the needs of the community. Mr. Aspenlieder pointed out the lack of dissenting attendees in comparison to the previous project. He said the issues of traffic and safety will be addressed through the subdivision review process. In response to question by Commissioner Ray, Mr. Aspenlieder clarified the allowable uses for Neighborhood Commercial zoning and said Community Commercial zoning would be needed to allow an on-premise alcohol service.

Chairman Wittman closed the public hearing at 5:24 p.m. and called for discussion from the Commissioners.

Discussion

Commissioner Bush commented there was some confusion with the previous application being withdrawn and there may be an invalid perception of support due to the number of attendees at this meeting. He asked staff regarding the notification process for the adjacent neighborhoods. Ms. Cromwell stated this application used a 600-foot notification radius which is twice the minimum requirement; it was legally advertised; and the property was posted. Commissioner Bush said the residents in Oakridge Subdivision didn't receive notification. He said he stated he doesn't feel this application meets zoning determinations for criterion #1, #3, #6, and #9.

Criterion #1-The application is not consistent with the Yellowstone County 2008 Growth Policy.



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Criterion #3 and Criterion #6-The response in the report for Criterion 3, Facilitation of transportation, water, sewerage, schools, parks and other public requirements, Transportation: “Any new development will increase traffic on the adjacent city and county roads” is not consistent with Criterion 6, effects on motorized and non-motorized transportation, which states “The proposed zoning itself will not generate more traffic on any of the adjacent city or county roads.”

Criterion #9: “Will the new zoning conserve the value of buildings: “There are no existing buildings on the property” does not answer for the adjacent properties.

Zoning Coordinator Cromwell stated Criterion #3 is an unknown due to level of the traffic increase. Criterion #3 and #6 use standard language for a zone change. The increased traffic will trigger requirement of a Traffic Impact Study prior to construction.

Commissioner Boucher asked for clarification on the maximum allowable distance to an arterial intersection. Ms. Cromwell stated the 2001 West Billings Plan denotes a preferred maximum distance of 1,500 feet from an arterial intersection for commercial uses and this zone change is slightly beyond this distance. The proposed zoning of Neighborhood Commercial does not allow “intense” commercial uses such as retail uses over 10,000 square feet. Additional neighborhood services from this zone change could include restaurants, specialty shops, medical & dental offices, day care, schools and assisted living. She pointed out the Growth Policy is not regulatory and the recommendations are *preferred* but not *mandated*.

Motion

Commissioner Bush made a motion and it was seconded by Commissioner Hewett to recommend denial of Yellowstone County Zone Change #689 on the basis of Criterion #1, #3, #6, and #9.

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

Motion carries, 3-2, with Commissioner Boucher and Commissioner Ray voting against the motion. YC Zone Change #689 is recommended for denial.

Other Business/Announcements

Announcement: The September 10, 2018 meeting is canceled due to a lack of applications.

Adjournment: The meeting adjourned at 5:45 p.m.

Draft. To be approved by a motion at the next scheduled meeting.



**City-County Planning Division
 Tuesday, August 13, 2018
 Yellowstone County Zoning Commission**

<i>Printed Name</i>	<i>Address / email</i>
Michelle Sparks JAM PARKS	2225 S 54 th ST W anne@johnvincentlaw.com
Ann Davely Scott Apentzler	621 E. 4 th Ave N., Columbus MT 59019 Performance Engineering
Dave Malkuch	2233 S 54 th ST W
Jerry Moore	1206 52 nd ST W
WILLIAM KRASKE	1120-52 ND ST W
Blaine Poppler	5403 Long Ave W. wjhbira@yahoo.com
Sheila Hancock McKay	2753 S. 56 th Street West 59106
DEBRA JUBIEN	2460 C H WAGNER DR BILLINGS 59106
Barbara Mulvaney	5842 Foothill Ln Billings, MT 59106
LAWRENCE BARKER	2812 50 th ST ^W Billings, MT 59106
ROBERT DEINES	4915 GRAND AVE.
Sharon Scharosch	1503 Granite Peak Trail 59106
Hnn Soulsky	1501 Granite Peak Trail 59106

Planning and Community Services Department



City-County Planning Division
Tuesday, August 13, 2018
Yellowstone County Zoning Commission

<i>Printed Name</i>	<i>Address/email</i>
Ernan Cortés	ernancortese@hotmail.com
Donna Deerin	DFarm46@gmail.com
William Deines	D Farm 46 @ gmail . com
Steve Wells	Steve @ wbr-mt.com
Chuck Platt	chuck @ chuck-platt.com
Karen Freeman	Kfreeman@billingshomes.net
ERNIE PAWLIN	1501 GRANITE PK TRL
Connie Wardell	cwardell@ajministorage.com

Raymond & Sharon Kramer

5126 King Ave. W. • Billings, MT 59106
Phone: (406) 656-3083

Date: July 30, 2018

Planning Division
Planning & Community Services Department
2825 3rd Avenue North, 4th Floor
Billings, MT, 59101

Dear Planning Division:

I am writing to you today regarding the proposal for Country Zone Change 690, Project Number PZ-18-00114. Unfortunately, I am unable to attend the public hearing that will be held Monday, August 13, 2018. As a property owner of surrounding land, I would like to propose my opinion regarding this issue.

I greatly support Regal Land Development and their plan to develop. Not only will the new zoning conserve and increase the value of surrounding land, I feel this would benefit the community in this area as well. With the vast majority of Grand Avenue being commercial, I believe this would be a great use of space for new structures to be built. Regal Land Development does amazing work and I know they would build structures that many within the area would enjoy. I greatly believe that the new zoning is compatible with urban growth in the vicinity and an appropriate use of land in Yellowstone County.

Thank you for your time and effort to review my proposal regarding the county zone change. I am hopeful that this proposal will be accepted. I look forward to hearing the executive decision made by the Board of County Commissioners.

Sincerely,



Raymond & Sharon Kramer

5842 Fottail Ln.
Billings, MT 59106
8.8.18

Performance Engineering LLC,
As a member of Task Force 4
and a home owner in Fottail Village
at 58th and Grand, I am always
interested whenever a new
development is proposed.

It is my understanding the
builder Dan Wells is purchasing
property at 50th and Grand. That
is reassuring as Mr. Wells has
a fine reputation as a business-
man & builder. My hope is
he will strongly be considerate
of the existing neighborhoods

#1 Our existing subdivisions
have a fence, wall or burned
area between Grand and our homes.

#2 We are all well aware of the
congested traffic on Grand Ave.
It is my hope, the entrance
to his subdivision will have
the entrance/exit on 48th not
Grand Ave.

#3 As for the commercial area

p.2

along Grand Ave., it would be more conducive to our area to have only "residential professional buildings. Those structures would then comply to the West End Plan of 7/10/11.

Your careful consideration of our residential areas will be greatly appreciated.

Sincerely,
Barbara Muldowney

Cromwell, Nicole

From: William Deines <dfarm46@gmail.com>
Sent: Saturday, August 11, 2018 3:43 PM
To: Cromwell, Nicole
Subject: Regarding county zone change 690; Project # PZ-18-00114; Kramer property

To the planning division:

Regarding county zone change 690; Project # PZ-18-00114; Kramer property.
Grand Ave. & 50th street.

We are the Deines family aka Deines Land & Livestock and once again we are protesting the proposed zone change. We own and actively farm 80 acres of agricultural property along with a feedlot directly across the road on the north side of Grand Ave. Our family has been on the farm for 5 generations and plan to actively farm this ground for at least 2 more generations and hopefully more. There are 19 members of our family who either live or work on this land. We are all against the neighborhood-commercial zone. 6.2 acres that borders Grand Ave. We are 100% in favor of the residential 7000 zone change. For the past 4 years we have asked that this be developed as residential, the same as the surrounding developments have done. We have requested that the buildings be single story. The commercial strip will be directly in front of our two homes, completely blocking any

view we have to the south. The people from Oakridge subdivision have been promised that their view to the north will not be obstructed. We would like the same consideration!

If you read the West Billings growth plan from 2001 you will see that there are restrictions on where commercial development can be located. This commercial strip violates several of these regulations.

We have gone to nearly every neighborhood in the area and find that almost everyone is opposed to any commercial development in this area. Most people are outraged at the Den and the Albertsons going in. People chose this area to get away from the business districts. We all love the beautiful neighborhoods. Please don't let it be ruined by strips of businesses. There are already so many empty buildings within the business district. Lets work on filling them instead of building more.

We ask that you zone the entire 17 acres of property as Residential 7000. That way it would complement the area and there would be no protests from those of us who live and work here. We will live in the shadow of this development for the rest of our lives. We beg you to listen to the people of the area.

Unfortunately the time of your meeting makes it imposable for those of us who work to attend. We as farmers are in the middle of harvest and unable to take off from our work.

We are totally against the two story four-plexes and the Business strip. Please vote NO!

Thank you for your time,

Deines Land & Livestock

~~FEB. 20, 2018~~
AUG. 13, 2018

AS OUR FAMILY'S BEEN LIVING HERE FOR 4 GENERATIONS WE APPRECIATE THAT WE LIVE IN MONTANA. WE HAVE SEEN MANY CHANGES BUT WE ARE OPTIMISTIC THAT THEY WILL BE RIGHT AND CORRECT! HAVING BEEN ON THIS LOCATION FOR 20 YEARS WE STILL THINK OF GRAND AVE BEING A GRAND PLACE TO LIVE. THIS AREA HAS ALWAYS BEEN A SINGLE FAMILY OR DUPLEX ACROSS THE STREET ALL STRIVING TO COMPLY TO CURRENT ZONING RULES.

I UNDERSTOOD THAT KRAMERS PROPERTY WOULD BE ZONED FOR A GATED COMMUNITY OR LUXURY HOUSES THAT WOULD SATISFY EVERYONE, CREATE MANY JOBS, BRING IN BIG DIVIDENDS FOR PRESENT OWNERS AND SATISFY THE AREA ZONING WITHOUT CAUSING MULTIPLE PROBLEMS WITH MULTIPLE OVERBUILT PROBLEM APARTMENTS. ~~HARRY HOMES HAS A REPUTATION OF POOR MANAGEMENT MEANS POOR RESULTS.~~ LET THE DEVELOPER TAKE THE CORPORATION PROMISES AND DELIVER IN EAST BILLINGS-CITY THEN THE CITY CAN PROFIT AND CITY COUNCIL CAN MAKE A CORRECT DECISION. PLEASE DON'T RUIN THIS ESTABLISHED AND SAFE NEIGHBORHOOD AND PEOPLES LIVES. BECAUSE OF GREED, WE ALSO HAVE TOO MUCH TRAFFIC THAT SPEEDS BY THE SCHOOLS - SAY NO!

William Kueske



County Zoning Commission

Meeting Date: 12/10/2018

SUBJECT: County Zone Change 691 - 3333 North Frontage Road

THROUGH: Monica Plecker

PRESENTED BY: Monica Plecker

Information

REQUEST

Item #1. County Zone Change 691 – 3333 N Frontage Road - A zone change from Agriculture Open-Space (A-1) to Controlled Industrial (CI) on the easterly 9.16 acres of C/S 1734, Parcel 1, generally located at 3333 N Frontage Road. A pre-application neighborhood meeting was held on October 22, 2018, at the applicant’s office at 316 N 33^d St in Billings, MT. Tax ID: D06413. Presented by Monica Plecker, Planning Division Manager

RECOMMENDATION

The Planning Division staff recommends approval and adoption of the findings of the 11 criteria for Zone Change 691.

APPLICATION DATA

OWNER: Terry Sieffert
AGENT: N/A
LEGAL DESCRIPTION: Easterly 9.16 acres of Tract 1 C/S 1734
ADDRESS: 3333 N Frontage Road
CURRENT ZONING: Agricultural Open
EXISTING LAND USE: Agricultural
PROPOSED USE: Industrial
SIZE OF PARCEL: 9.16 acres

CONCURRENT APPLICATIONS

None.

APPLICABLE ZONING HISTORY

Zone Change 650, 2014, AO to CI in association with Lockwood Targeted Economic Development District (TEDD).

SURROUNDING LAND USE & ZONING

NORTH:	Zoning: Unzoned Land Use: Agricultural
SOUTH:	Zoning: Unzoned Land Use: I-90
EAST:	Zoning: Unzoned Land Use: I-90
WEST:	Zoning: HI & CI Land Use: Agricultural and Residential

BACKGROUND

The subject property is located at the dead end of the North Frontage Road in Lockwood just north of the I-90 and I-94 interchange. The property is on the boundary of the County 4.5-mile jurisdictional area and is bordered on the north, east and west by Controlled Industrial (CI) zoning and on the south by the interstate interchange. There are several industrial uses to the west along the North Frontage Road including Peterbilt, 2 truck repair shops, and a truck wrecking yard. To the north and west along Coulson Road, are large gravel mining operations with crushers and asphalt batch plants. Most of the land immediately adjacent to the property is used for agriculture either as pasture or irrigated land. The North Frontage Road is paved up to the entrance gates of the property. The surrounding properties in the zoning jurisdiction were changed from A-1 zoning to Heavy Industrial (HI) or Highway Commercial (HC) zoning in the 1970s although there were additional zone changes in the 1990s and again with the creation of the Targeted Economic Development District creation in 2016.

All the adjacent streets are considered local streets and the North Frontage Road would be considered a commercial local street for traffic purposes. No traffic counts are available for these streets. The posted speed limit on all these streets is 25 mph. Johnson Lane to the west is considered an arterial street and would provide access to the interstate system for trucks and other traffic generated by the proposed use. The property is not within the 5-year limits of annexation area for the City of Billings, and not within any Long Range Urban Planning Area on the City Limits of Annexation Map. The property is adjacent to agricultural uses to the west, north and east. The applicant conducted a pre-application meeting and the meeting notes are attached to this report. The Planning Division received no comments from County agencies or the surrounding property owners. The Lockwood Water and Sewer District does not extend to this section of North Frontage Road. All water and sewer systems will need to be provided on-site.

The County adopted the Lockwood Neighborhood Plan for this area in August 2006 and the Lockwood Growth Policy in 2016. The land use for this area is identified for industrial uses associated with the Targeted Economic Development District which was created in 2016. There are several commercial businesses in the general area already and additional area may catalyze future development. Public water and sewer is not available to these lots so uses will be limited to those not requiring public utilities. The adjacent agricultural uses should experience impacts from the change of zoning and new use since it will have only 1 access from North Frontage Road. Any new commercial development will need to meet the zoning code standards for landscaping.

Uses allowed in the CI zone could have an impact on traffic. The Planning staff must consider all potential uses on the subject property including retail, commercial office space, restaurants (with or without alcohol service), and industrial uses. If the property were developed for retail uses, then new traffic generated would likely be increased beyond what is anticipated with the proposed clothing warehouse and distribution center. A 5,000 square foot restaurant would generate approximately 200 new vehicle trips per day. A more intense use under the proposed zoning would require additional analysis of traffic circulation at the intersection of North Frontage Road and Johnson Lane to the west. The current zoning allows single family dwellings and all agricultural uses. The County does not have traffic counts for this section of the North Frontage Road but the street likely has a pre-dominance of heavy truck traffic given the uses to the west. This traffic is already blended with the local residential and agricultural traffic. Planning staff did not receive any comment from County Public Works regarding traffic generated by the proposed use.

A neighborhood meeting was conducted by the applicant on October 22, 2018, at the Seiffert Law Firm in Billings. The meeting notes indicate no one was in attendance other than Mr. Seiffert. The minutes of meeting are included as Attachment B. The Planning Division did not receive any telephone calls or written comments concerning the application.

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 located near the boundary of the zoning jurisdiction at the dead end of North Frontage Road. The surrounding zoning is Heavy Industrial although agricultural uses are prevalent. The North Frontage Road has a pre-dominance of heavy truck traffic due to the uses to the west of this property. The 2016 Lockwood Growth Policy supports the proposed land use and zoning.

RECOMMENDATION

Planning Division staff recommends Approval of Zone Change #691 and adoption of the 11 criteria for this zone change.

Attachments

Zoning Map and Site Photos
Application
Findings of the 11 Criteria





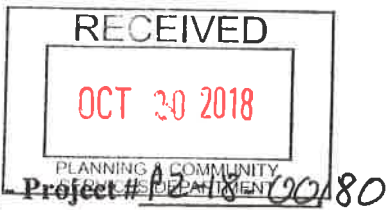












APPLICATION FORM

COUNTY ZONE CHANGE County Zone Change # 691

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: Agricultural Open

Proposed Zoning: Controlled Industrial

Tax ID # D06413 COUNTY COMMISSIONER DISTRICT # 2

Legal Description of Property: Easterly 9.16 acres Parcel 1 Certificate of Survey
1734 S17, T01N, R27E

Address or General Location (If unknown, contact County Public Works): _____
3333 North Frontage Road

Size of Parcel (Area & Dimensions): 9.16 acres (the remaining 31.79 acres of
Tract 1 C/S 1734 was previously zoned Controlled Industrial when the zoning
boundary was expanded for the TEDD)

Present Land-Use: Agricultural

Proposed Land-Use: Controlled Industrial

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): Seiffert Trust
(Recorded Owner)
P.O. Box 31181, Billings, MT 59107
(Address)
406) 245-3443 terrylseiffert@gmail.com
(Phone Number) (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: *Terry L Seiffert* *Bileen B. Seiffert* Date: 10/30/18
(Recorded Owner)

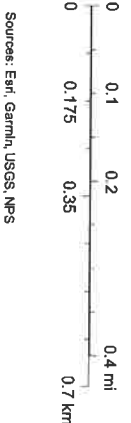
CO-TRUSTEES SEIFFERT TRUST

Viewer map



September 30, 2018

- Mtnview_Fence
- Mtnview_drainline
- Mounview_Lot
- Mounview_Sections
- 1
- 10
- 11
- 12
- 14
- 15
- 15
- 16
- 18
- 1C
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 99N
- 91S
- 99W
- CR
- MAS
- Mtnview_Structures
- Cemeterium
- Reference Markers
- Boundary
- Local/Private
- Interstate
- Federal/State Hwy
- County Rd, Collector
- Principal Arterial
- Local Street or Rd
- Ramp
- Undeveloped Rd
- Private Rd
- Parcels
- Addressess - county
- residential
- commercial
- public place
- non-occupied features
- church
- Railroad
- Township/Ramp



Sources: Esri, Garmin, USGS, NPS

PRE-APPLICATION MEETING

SYNOPSIS

A Pre-Application meeting was held on October 22, 2018, at 10:30 A.M. at the Law Offices of Terry L. Seiffert, 316 North 33rd Street, Billings Montana.

No Property owners came to the Pre-Application Meeting

Dated this 22nd day of October, 2018



Terry L. Seiffert Co-Trustee of the Seiffert Trust

Tract 1 Certificate of Survey 1734 consists of 40.95 acres and is currently in the Targeted Economic Development District (TEDD) . When the zoning boundary was expanded, 31.79 acres of this tract was zoned Controlled Industrial as this property was out side the original zoning boundary. The 9.16 acres was with in the original zoning boundary so did not get included in the zone change even though it was part of the same parcel.

On May 3, 2016 the Yellowstone County Commissioners adopted the Lockwood Growth Policy in Resolution No. 16-57. As part of that Policy the Commissioners specified

A Targeted Economic Development District (TEDD) maybe used to foster secondary, value added economic development. Properties within the general area of the TEDD may be initially zoned agriculture with the intent to rezone to an industrial zoning when and if the TEDD is implemented.

Pre-Application Statement of Owner(s) or Agent(s)

The owner(s), contract purchasers (if any) and agents (if any) are required to submit this completed form and any attachments along with a completed zone change application packet, including any required fees, for a zone change to be processed by the Planning Division.

1. **Present Zoning:** Agricultural Open
2. **Written description of the Zone Change Plan** including square footage or acres of proposed new zoning: 31.79 acres of Tract 1 C/S 1734 has been zone controlled industrial in the zoning boundary expansion for the TEDD. The easterly 9.16 acres of
3. **Subject Property Map: please attach to this form** this Tract was not included
4. **Legal Description of Property:** Easterly 9.16 acres of Tract 1, C/S 1734 S17, T01N R27E
5. **Roster of persons who attended the pre-application neighborhood meeting: please attach to this form**
6. **A copy of the meeting notice. please attach to this form**
7. **A brief synopsis of the meeting results. please attach to this form**
8. **The undersigned affirm the following:**
 - 1) The pre-application neighborhood meeting was held on the 22, day of October, 2018.
 - 2) The zone change application is based on materials presented at the meeting.

Way L. Bupper, Billie B. Richey, J. A. Hoff
CO-TRUSTEES SELFERT TRUST

Owner (s): _____ Telephone: 245-3443

Address: PO Box 31181 Email: TEAMSELFERT@Gmail.com
BILLINGS MT 59107

Agent (s): _____ Telephone: _____

Address: _____ Email: _____



Property looking East



Property Looking West



Property Looking East

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 Growth Policy and Lockwood Growth Policy?*

The proposed zoning does comply with the following goals of the Yellowstone County and City of Billings 2008 Growth Policy and the 2017 Lockwood Growth Policy and area plans:

- 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 additional area for commercial uses in an area with a mix of agricultural, commercial and industrial uses. This is consistent with the Lockwood Community Plan and the neighborhood character.
- Goal: New developments that sensitive to and compatible with the character of adjacent development. (Land Use Element Goal, page 6).
This property is directly adjacent to the interchange of I-90 and I-94 as well as agricultural uses. There is prevalent commercial truck traffic on North Frontage Road. The lots to the north and west are also zoned Heavy Industrial and the proposed zoning and use is compatible with the surrounding uses.
- Lockwood Growth Policy States this area may be appropriate for a Targeted Economic Development District and suitable for industrial uses (Page 4, Page 23)

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

The subject property is currently served by the Lockwood Fire Department with mutual aid from the Billings Fire Department. The nearest fire station is located on Driftwood Lane 2 miles to the south. Billings Fire Station #1 is 5 miles to the west. Depending on the specific uses, the Lockwood Fire Department may require specific development characteristics to prevent structure fires.

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 North Frontage Road when the property is developed. The County will require any new development that adds 500 new vehicle trips per day to analyze the impact of the additional traffic. Without a specific use, the traffic impacts cannot be assessed in particular. The existing residential use will continue to use the existing drive approach.

Water and Sewerage: The property will not be served by public water and sewer systems so all water and sewer will need to be provided on site.

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 the Lockwood 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 near existing commercial and industrial uses to the west. Commercial development should not have a negative impact on the agricultural uses to the north, east and west. The proposed CI zoning will allow the owner to use and market the property for commercial uses. The zoning will promote the health and general welfare of 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 the adjacent streets. Pedestrian traffic in the area is limited due to the lack of sidewalks and trails. Agricultural traffic and commercial truck traffic uses North Frontage Road under current development patterns. There is a small component of residential traffic. The additional traffic generated if the property is developed should not affect any mode of transportation on the adjacent streets.
7. *Will the new zoning be compatible with urban growth in the vicinity?*
The proposed zoning is compatible with nearby urban development. The proposed zoning and development is consistent with the 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 in an area that is a mix of agricultural, residential and commercial. The area is also part of the Targeted Economic Development District. Appropriate zoning districts within TEDD include Controlled Industrial. The property is suitable for CI uses and traffic will have access to the interstate 1-mile to the west from Johnson Lane. The property is suitable for the proposed uses.
9. *Will the new zoning conserve the value of buildings?*
The new zoning will allow the development of new commercial uses adjacent to similarly zoned property. The existing home on the property will remain and continue to be occupied. The home will not become a nonconforming use although its marketability to future owners may be difficult. The CI zoning will not affect the value of the existing buildings on the site and should not have an effect on the surrounding properties.
10. *Will the new zoning encourage the most appropriate use of land in Yellowstone County?*
The property is suitable for some of the uses allowed in the CI zoning district. This is the most appropriate use for the land.

11. *Will the new zoning be as compatible as possible with adjacent zoning in the City of Billings?*

The proposed zoning is not close to the City of Billings and but is compatible with the typical urban development near arterial intersections.



County Zoning Commission

Meeting Date: 12/10/2018

SUBJECT: Special Review 330 - 3760 Wise Lane - Gravel Mine

THROUGH: Nicole Cromwell

PRESENTED BY: Nicole Cromwell

Information

REQUEST

Item #2 County Special Review 330 – 3760 Wise Lane - A special review request to operate a gravel extraction open cut mine in an Agriculture Open-Space (A-1) zone on a fraction in the NE ¼ and on a fraction of Lots 1 & 2 in Section 34, Township 1 South, Range 25 East, generally located at 3760 Wise Lane, a 59.21 acre parcel of land. Additional area will be included in the open cut mine area but is not within the Zoning Jurisdiction of Yellowstone County. Presented by Nicole Cromwell, Zoning Coordinator

RECOMMENDATION

Planning staff recommends conditional approval and adoption of the findings of the 3 review criteria for Special Review 330.

APPLICATION DATA

OWNER: Limm Family, LLC

AGENT: MGL Consultants, Mark Carlstrom & First Mark Construction (fka CMG Construction)

LEGAL DESCRIPTION: on a fraction in the NE ¼ and on a fraction of Lots 1 & 2 in Section 34, Township 1 South, Range 25 East

ADDRESS: 3760 Wise Lane

CURRENT ZONING: A-1 and un-zoned

EXISTING LAND USE: Warehouse, Irrigated agricultural land, and grazing land

PROPOSED USE: Gravel mine - warehouse will remain

SIZE OF PARCEL: 59.21 acres - total mined area of 116.8 acres

CONCURRENT APPLICATIONS

Application to Montana Department of Environmental Quality (DEQ) for an Open Cut Mine.

APPLICABLE ZONING HISTORY

SUBJECT PROPERTY	Special Review	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
Limm Family Wise Lane & Story Road	SR 253	July 9, 1999	Commercial Recreation	Yes	conditions
SURROUNDING PROPERTY	Special Review	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
7980 S Frontage	SR 236	Jan 16, 1997	Manufacture Log Homes	yes	
5200 Neibauer Rd	SR 249	July 28, 1998	Gravel Mine	yes	conditions
7200 Jellison Rd	SR 171 SR 176	Nov 13, 1987 Aug 12, 1988	Skeet Shooting and Archery Range	Denied Denied	
3530 Coulson Rd	SR 325	Aug 12, 2012	Gravel Mine	Yes	conditions

SURROUNDING LAND USE & ZONING

NORTH:	Zoning: A-1 Land Use: Agricultural Land
SOUTH:	Zoning: A-1 and un-zoned Land Use: Agricultural land
EAST:	Zoning: A-1 Land Use: Agricultural land
WEST:	Zoning: Un-zoned Land Use: Commercial Recreation (dirt race track)

BACKGROUND

This is a special review request to open and operate a gravel mine generally located at 3760 Wise Lane, at the intersection of Wise Lane and Story Road. The gravel mine will consist of 4 areas to be mined but will not include the active agricultural operations or the flood plain riparian areas along the Yellowstone River. Only Area A as shown on the submitted site plan is within Yellowstone County's jurisdictional zoning area. All of the surrounding zoned areas are designated for agricultural uses (A-1). The County zoning regulations allow gravel extraction in all agricultural and residential zone districts by special review approval.

Special Review applications are reviewed using County zoning code criteria referenced in this report. Special Reviews do not require a resolution for approval, are not zone changes on property; rather, are tied to specific uses that are allowed in a given zoning district but are subject to a review by the County prior to the use being allowed. Special Reviews, unlike zone changes, may be conditioned to mitigate possible impacts from the use on the subject property or surrounding properties.

This area of West Billings was identified in the 2001 West Billings Plan as an area with rich gravel resources. There have been few gravel mines south of the interstate and west of Billings. Many have been located north of the interstate. In each case, it is the intent of a special review application to consider and place conditions on these applications to minimize any adverse impacts to surrounding property and county assets. This location is over 1 mile from an arterial street - South Frontage Road. Wise Lane and Story Road are designated as principal arterial streets, but neither is built to even a minimum arterial street standard. Both are two-lane older county paved sections with no shoulders and open drainage ditches. The lane width on Wise Lane and Story Road is approximately 9 to 10 feet resulting in an 18 to 20 foot wide road section. It is likely any gravel hauling trucks will need to take more than 1-lane to travel to and from the gravel operation. The gravel operation will not include an asphalt plant or concrete batching plant. The proposed gravel operation includes visual and sound attenuation barriers along the east, north and west property lines of the entire 116.8 acre site. The mine site will not encroach on the riparian area along the Yellowstone River to the south.

Traffic counts on Wise Lane measure between 800 and 1,000 vehicle trips per day. No traffic counts have been collected from Story Road. The intersection of Wise Lane and South Frontage Road does have a higher than normal crash rate due to the lack of lighting, the geometry of the intersection and the higher speeds of traffic on South Frontage Road. South Frontage Road is posted at 55 mph.

The Planning staff reviewed the application and is recommending conditional approval based on the proposed findings of the 3 review criteria. Potential impacts to Story Road and Wise Lane as well as residents in the area are proposed to be mitigated by conditions of approval. Many of the proposed conditions apply to other gravel mine operations in Yellowstone County for the same reasons.

Special review uses must meet three primary criteria; 1) the application complies with all parts of the Unified Zoning Regulations, 2) the application is consistent with the objectives and purposes of the Unified Zoning Regulations and the 2008 Growth Policy, and 3) the application is compatible with surrounding land uses and is otherwise screened and separated from adjacent land to minimize adverse impacts.

This application conforms to the first criteria in so far that it is within a zoning district where gravel mining can be allowed by special review approval. The application also conforms to the second and third criteria. The zoning regulations adopted by the Board of County Commissioners have designated all zoning districts as locations where gravel mines may be allowed by special review approval. The 2008 Growth Policy encourages new development

that is compatible and similar in form and use. The existing gravel mine is compatible with most uses in the area and other surrounding uses if conditions are imposed to mitigate impacts. Conditions of approval can ensure the mitigation of any potential negative effects on surrounding property.

PROPOSED CONDITIONS

1. The approval shall be limited to a fraction in the NE $\frac{1}{4}$ and on a fraction of Lots 1 & 2 in Section 34, Township 1 South, Range 25 East, generally located at 3760 Wise Lane, a 59.21 acre parcel of land. Property included in the mine area but outside the zoning jurisdiction is not subject to these conditions of approval.
2. This special review approval is for establishment and operation of a gravel mine on the subject property. No other special review use is intended or implied by this approval.
3. The development of the gravel mine shall be in substantial conformance with the submitted site plan. Minor adjustments to the location of haul roads or phasing of active gravel mining within the 59.21 acre site are allowed.
4. Dust suppression shall be employed on all exposed rock, gravel, sand or topsoil.
5. A traffic impact analysis shall be submitted to and approved by County Public Works. The applicant will consult with County Public Works on the scope of the analysis. Any mitigation recommended by such analysis shall be implemented as required by County Public Works.
6. Internal haul roads shall be graveled with dust suppression or paved.
7. The site shall be reclaimed according to the plan submitted to MT DEQ.
8. A weed control plan shall be submitted and approved by Yellowstone County Weed Control.
9. Any mining activity within 500 feet of a residence shall be limited to the hours of 7:00 am and 8:00 pm.
10. The operator of the mine shall appoint an individual to act as a contact person and complaints about failure to comply with these conditions shall be directed to that person in writing as a first step in resolving the problem. The name, address and phone number of the contact person will be provided to Yellowstone County Code Enforcement, County Public Works and the County Commissioners. Failure to respond to a complaint or to reasonably comply with the conditions of approval will allow the matter to be brought to the attention of County Code Enforcement. Failure to comply with a notice from County Code Enforcement may be resolved by filing a complaint with the County Attorney by the Code Enforcement Officer.
11. 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.
12. 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.

****NOTE**** Approval of this Special Review does not constitute approval of a building permit, zoning compliance permit, sign permit, or fence permit. Compliance with all applicable local codes will be reviewed at the zoning compliance permit level.

The County Zoning Commission **shall** make a recommendation to the Board of County Commissioners to:

1. Deny the application for a special review use.
2. Grant the application for a special review use.
3. Conditionally grant the application for a special review use.
4. Delay action on the application for a period not to exceed thirty (30) days.
5. Give reasons for the recommendation.

Before recommending approval for a special review use, the Zoning Commission **shall find that the contemplated use:**

1. Complies with all requirements of the County zoning regulations;
2. Is consistent with the objectives and purposes of the County Zoning Regulations and the Growth Policy;
3. Is compatible with surrounding land uses or is otherwise screened and separated from adjacent land in such a way as to minimize adverse effects.

Further the Zoning Commission **shall consider and may recommend imposing modifications or conditions** concerning, but not limited to the following:

1. Street and road capacity;
2. Ingress and egress to adjoining streets;
3. Off-street parking;
4. Fencing, screening and landscaping;
5. Building bulk and location;
6. Usable open space;
7. Signs and lighting;
8. Noise, vibration, air pollution and similar environmental influences.

The proposed use fits with the previous uses of the property and surrounding agricultural activities in the area. Residential uses may be impacted and conditions of approval are recommended to mitigate those impacts. The proposed land use complies with the following goals of the Yellowstone County and City of Billings 2008 Growth Policy and the Lockwood Neighborhood Plan:

- Goal: Predictable land use decisions that are consistent with neighborhood character and land use patterns.

Approval of this special review is consistent with neighboring properties. Limitations on mining close to residences and the requirement for dust suppression will ensure the compatibility of the use. A Traffic Impact Analysis is recommended to accurately gauge the impact of the gravel operation on Story Road and Wise Lane, designated arterial streets. Compliance with the conditions of approval will ensure compatibility with the neighborhood.

- Goal: New developments that are sensitive to and compatible with the character of existing neighborhoods.

The existing gravel mine and its expansion is consistent with the surrounding developments and consistent with the zoning.

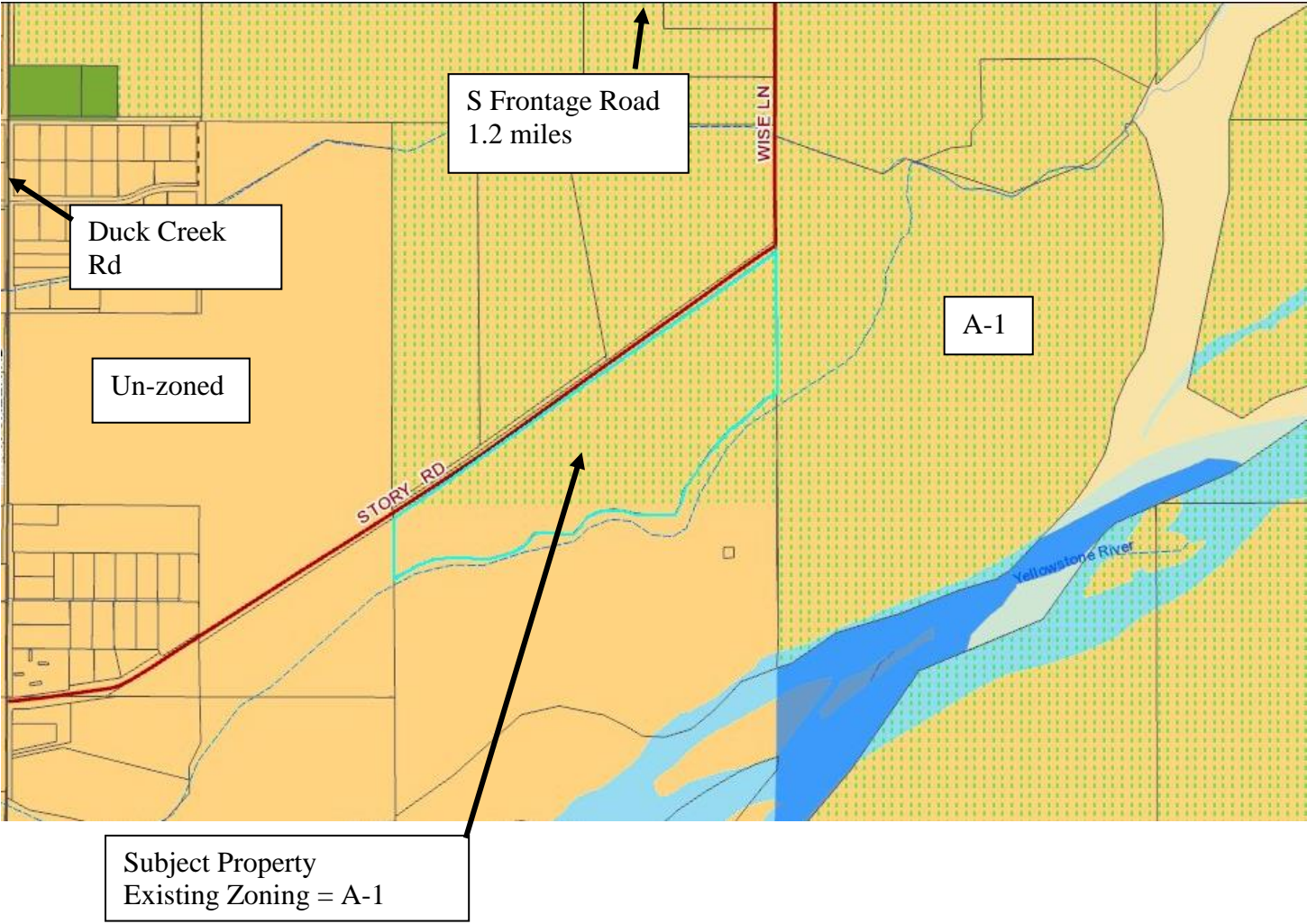
RECOMMENDATION

Staff recommends conditional approval and adoption of the findings of the 3 criteria for Special Review 330.

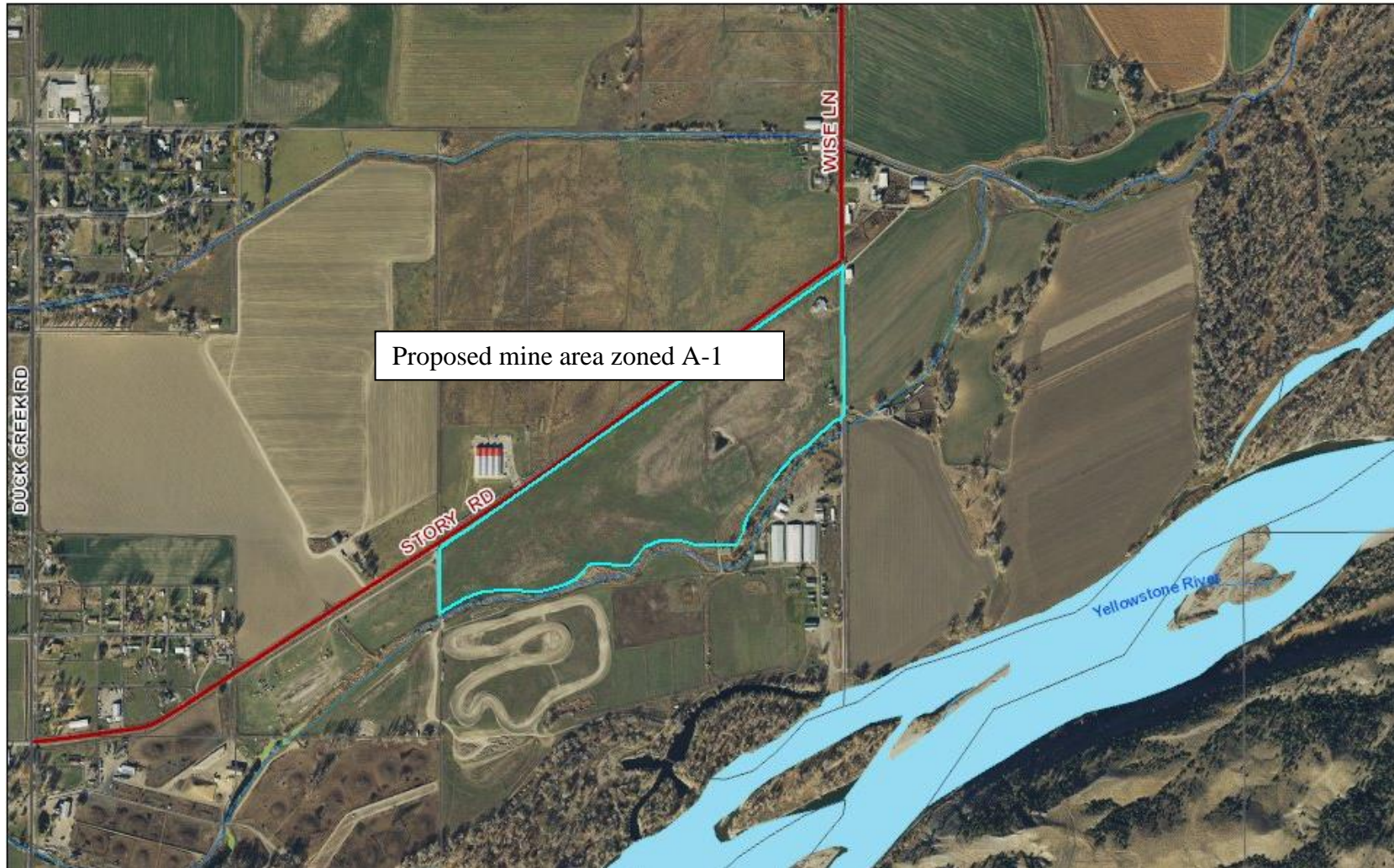
Attachments

Zoning Map and Site Photos
Application and Site Plan

Zoning Map and Site Photos – Special Review 330



Special Review 330 - Gravel Mine



Subject property from S 48th Street West – Greenhouse & Office building



View south west from Wise Lane & Story Rd intersection



View south along Wise Lane



View south east across Wise Lane



View north east across Wise Lane



Warehouse to remain (not part of gravel operation)



View north along Wise Lane from south of intersection with Story Road



APPLICATION FORM

COUNTY Special Review # 330 - Project # PZ-18-00169

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

Present Zoning: Cultural Open

Special Review Requested: For gravel mine site.

TAX ID# D01161 COUNTY COMMISSIONER DISTRICT # 1

Colors correspond

Legal Description of Property: ¹ 534, T01S, R25E, C0S 1299 Parcel 1; 534, T01S, R25E, Frac Hs 1 & 2 & Frac SE4 NE4 (less C0S 3036 01); ² 534, T01S, R25E, Frac NE4 & Frac H 1

Address or General Location (If unknown, contact County Public Works): 2504 Rd.

on Story Road
1. Unknown, 2. 3750 Wise Lane, 3. 3760 Wise Lane.

Size of Parcel (Area & Dimensions): 1. 24.63, 2. 126.879, 3. 58.21 + 1.0 + 1.0

Present Land-Use: The proposed open cut mine permit area is about 116.8 acres. It does not include some property on west side Wise Ln.

Covenants or Deed Restrictions on Property: Yes No or the lower riparian areas by rivers.
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): Limpp Family LLC
(Recorded Owner)
2902 Arvin Rd Billings MT 59102-0564
(Address)
406-670-7399 oscarspark1901@yahoo.com
(Phone Number) (email)

Agent(s): MGL Consultants Ltd (doing mine permit application work)
(Name)
3139 Poly Drive Billings MT 59102
(Address)
406-794-2037 mglbiz10@hotmail.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 Special Review. Also, I attest that all the information presented herein is factual and correct.

Signature: Marcella C Limpp Date: 10/8/18
(Recorded Owner)

SPECIAL REVIEW APPLICATION

CMG JL LLC, Oscar's Site, Special Review 2018

CMG JL LLC (CMG) is proposing an approximate 116.8-acre gravel mine on Limpp Family LLC property in Section 34, T1S, R25E, along the south side of Story Road. CMG is required to submit a mine permit application to the Montana Department of Environmental Quality, Opencut Mining Section, that complies with the requirements of the Opencut Mining Act (Act) and Rules adopted thereunder. Several items comprise an opencut permit application, including evidence of compliance with Special Review and Joint Application For Floodplains requirements.

82-4-402, MCA, states, "Because the extraction and use of opencut materials is important to the economy of this state, it is the policy of this state to provide for reclamation and conservation of land subjected to opencut operations. Therefore, it is the purpose of the part:

- to preserve natural resources;
- to aid in the protection of wildlife and aquatic resources;
- to safeguard and reclaim through effective means and methods all agricultural, recreational, home, and industrial sites subjected to or that may be affected by opencut operations;
- to protect and perpetuate the taxable value of property through reclamation;
- to protect scenic, scientific, historic, or other unique areas; and
- to promote the health, safety, and general welfare of the people of Montana."

1A. In what ways is our proposal consistent with the goals and policies of the adopted Growth Policy?

The requirements of the Act, the Rules adopted thereunder, and operation and reclamation oversight by DEQ ensure that many of the goals and policies of the 2008 Growth Policy are met.

Land Use Element

Sand/gravel literally are the foundation of Billings, Laurel, and surrounding areas. These materials are used to make many products people use on a daily basis (see Economic Development below). However, existing mine sites are being depleted, and, as the population of Yellowstone County increases, more land overlying sand/gravel deposits is converted to residential, commercial, industrial, and other uses. Yet it is important to have sand/gravel sources within and near populated areas to keep the products made from them readily available and affordable for private and governmental projects.

The proposed site area is currently used as hayland, cropland, community garden, and for mud racing. CMG proposes to change the uses of the property to gravel mine and processing area, eventually reclaiming it to pond and dry ground created with excess soil and overburden. All areas will be seeded with appropriate mixes. The bonded 116.8-acre area will not be released by the Department of Environmental Quality until the site is reclaimed according to the plan approved by the Opencut Mining Section.

The accompanying Off-Site Impacts Considerations sheet lists methods to be used to minimize off-site impacts. CMG's management objectives and compliance with governmental regulations will result in clean

and acceptable industry along Story Road. The proposed operation, with its sight and sound barriers, dust control, hours of operation, and environmentally sound mining and reclamation plan will be compatible with the surrounding human and natural communities.

Economic Development

Sand/gravel are essential for economic development and living in Billings, Laurel, and the surrounding area. Materials and products made from them are used for:

Airports	Foundations
Backfill	Golf courses
Base material	Irrigation structures
Bedding	Landscaping
Block	Parking lots
Bridges	Patios and pools
Buildings	Pipe
Culverts	Roads and streets
Curb and gutter	Sanding material
Drainage and filter courses	Sidewalks and steps
Driveways and aprons	Walls and barriers
Floors	Other

Readily available sources of sand/gravel are decreasing due to being mined out or built upon. Sand/gravel are high volume, low value commodities that cannot be economically transported over long distances. To keep product costs lower for private citizens, businesses, governmental agencies, and other users, sand/gravel sources must be located near consumers. The proposed CMG site is located 8 miles from downtown Billings and 7.5 miles from downtown Laurel, with good access to the south side of the Yellowstone River, South Frontage Road, and Interstate 90.

The site will not only be a source of low-cost materials essential for area improvements, construction, and manufacturing, CMG will provide good-paying jobs and purchase products and services from area vendors.

Aesthetic Element

Residential, commercial, and industrial sites are normal components of vigorous communities. CMG's management objectives, environmental protections, and compliance with other governmental regulation will ensure that mining and processing at the Oscar's Site are compatible with the human and natural environments.

Because of the riparian tree and shrub forest along the Yellowstone River, and the distance of the permit area from the river, there will be no aesthetic impact on river users.

Natural Resources Element

CMG and regulatory agencies are committed to the protection of the human and natural environments. Aspects of this are discussed in other sections. The CMG site will be operated in a manner that protects air,

surface water, and groundwater resources. No riparian area will be disturbed. The site is not in designated sage grouse habitat.

CMG will submit a Joint Application For Proposed Work In Montana's Streams, Wetlands, Floodplains, And Other Water Bodies to the County Floodplain Office and US Army Corps of Engineers. Noxious weeds will be controlled as required by law. CMG will obtain any other permits required by law.

A detailed Plan of Operation and bond posted with DEQ guarantees that the site will be reclaimed to a natural, aesthetically pleasing, and productive condition.

Other

The operation will not restrict access to public land. CMG will comply with county regulations for road use. CMG hired a professional archaeological consultant to perform a Class III inventory of the proposed permit area. Two cultural resources were found: Oscar's Landing Strip, and Oscar's Ditch. Neither is eligible for the National Register of Historic Places. The Montana State Historic Preservation Office concurred with this determination. CMG hired HydroSolutions to do a hydrologic study of the area and information acquired will be incorporated into the mining and reclamation plan submitted to the DEQ Opencut Mining Section.

1B. Why is there a need for the intended use of property at this location?

Construction, repairs, and upgrading are constant activities in Billings, Laurel, and surrounding areas. Economical sources of sand/gravel are in high demand, as are products made from them, such as concrete and asphalt. When sand/gravel are readily available, it keeps the costs of products lower for all consumers.

Sand/gravel deposits are located on the Yellowstone River Valley floor and adjacent terraces. Some of this material is being mined, but much of it has been, is being, or will be made inaccessible due to resource depletion and residential, commercial, and industrial development. The Oscar's Site consists of 116.8 open acres with an approximate 12-foot thick sand/gravel deposit that can be easily mined and the products economically distributed to Billings, Laurel, and surrounding areas.

1C. How will the public interest be served if the application is approved?

As discussed 1B, sand/gravel is needed as product, and to make other products, essential for the use, maintenance, and growth of a vibrant community such as Billings, Laurel, and the surrounding area. See the list of uses for sand/gravel under 1A. Sand/gravel is essential to the function of modern communities. The CMG operation will provide good-paying jobs and tax revenue.

1D. Prepare a written statement addressing what is intended to be done with the property, including new construction or change in the use of property, and why a special review is being sought.

A special review is being sought because about 34.8 acres of the 116.8-acre proposed mine site is zoned Agricultural Open (Tax ID: D01161; GeoCode 03-0926-34-1-01-01-000). CMG would like to use the 34.8-acre area for sand/gravel processing, then mining. The remaining acreage within the propose mine permit area is not zoned.

The first step of an opencut operation is to strip the soil and overburden. At the Oscar's Site, this material is about 5 feet thick. The first 2 feet will be stripped as soil. Initial stripped soil will be used to build the 6-foot-high sight and sound berm. Soil not needed for the berm will be used for topdressing reclaimed areas. Excess soil, along with overburden, will be used as fill to create dry ground and pond slopes.

After soil and overburden removal from an area, CMG will excavate the sand/gravel, using conveyors to transport the material to the processing area, and process the sand/gravel via a grizzly and crusher. Some material may be sent through a wash plant to create clean materials for off-site uses including concrete production. The average sand/gravel thickness is about 12 feet, making the total amount of sand/gravel within the proposed permit area about 2,260,000 cubic yards.

As able during the life of the proposed 25-year permit, and when mining and processing draw to a close, CMG will reclaim the site per the plan approved by the DEQ Opencut Mining Section. The proposed plan includes a postmining land use of recreation and wildlife pond, vegetated +/- 4:1 shore slopes, and flat dryland created with excess soil and overburden fill. The resulting pond will be over 80 acres in size and 11-12 feet deep. All soil in the sight and sound berms will be used for reclamation. It is likely that fish will eventually inhabit the pond.

2 and 3. Site Plan.

See accompanying Special Review Site Map.

4. Photographs.

The air photo base for the Site Map gives a clear aerial view of the site and area.

5 and 6. Property Owners.

We followed steps 5 and 6 and obtained the accompanying Oscar's Site Certified Landowners list. Mailing labels are provided.

7. Filing Fee and Sign Deposit.

A check to cover the \$1,103 commercial fee and \$45.00 sign deposit made out to the City of Billings is provided.



AREAS

- A FACILITY AREA THEN MINE AREA 4, 30 A
- B MINE AREA 1, 31 A
- C MINE AREA 2, 31 A
- D MINE AREA 3, 24.8 A

THIS RED-BOUNDED AREA IS THE ZONED PORTION D01161 AGRICULTURAL OPEN

TOTAL PROPOSED PERMIT AREA 116.8 ACRES

ACCESS

SIGHTSOUND BERM

A

B

C

C

B

WISE LANE

SITESOUND BERM

STORY ROAD

N

200161

SPECIAL REVIEW SITE MAP

**CMG JL LLC
OSCAR'S PROPOSED GRAVEL SITE
SECTION 34, T01S, R25E
SEPTEMBER 2018**

MGC CONSULTANTS LTD

