



## Yellowstone County Zoning Commission Minutes for the Meeting of Monday, April 8, 2019

The County Zoning Commission met on Monday, April 8, 2019 in the Miller Building 1<sup>st</sup> Floor Conference Room, 2825 3<sup>rd</sup> Ave North, 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 for **Special Review 331**, will be held on Tuesday, April 23, 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.

The Board of County Commissioners public hearing for **Zone Change 693**, will be held on Tuesday, April 23, 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.

Chairman Boucher opened the meeting and introduced the County Zoning Commission members and staff in attendance: Nicole Cromwell, Zoning Coordinator; Monica Plecker, Planning Division Manager, Planning Karen Husman, Planner I; Robbin Bartley, Administrative Assist.

Commissioners and Staff		0	0	0	0									
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Jerry T. Ray	Commissioner	1	1	-	1									
Troy Boucher	Commissioner Chairman	1	E	-	1									
Ryan Wittman	Commissioner	1	1	-	1									
Tyler Bush	Commissioner Chairman	E	1	-	1									
Todd Hewett	Commissioner	1	1	-	1									

**Attending:** Aura Lindstrand, Dale Broveak, Brandon Wittman, Woody Woods, Tisha Hague.



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### **Public Comment**

Chairman Boucher 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 Ex Parte Communication: Special Review 331:** There was none.

The Commissioners reported no Ex Parte Communications.

Staff received the following outside communications: None

**Disclosure of Ex Parte Communication: Zone Change 693:** There was none.

The Commissioners reported no Ex Parte Communications.

Staff received the following outside communications: NONE

**Motion. Approval of Minutes: February 11, 2019.** (The March 11, 2019, 4:00 p.m. meeting was cancelled).

**Commissioner Bush made a motion, seconded by Commissioner Wittman, to approve the February 11, 2019 meeting minutes as submitted. The motion carried with a unanimous voice vote. Robbin Bartley noted the minutes are dated incorrectly, February 12, 2019. She will correct them to February 11, 2019.**

### **Item 1:**

Zoning Coordinator Nicole Cromwell read the legal notice for County Special Review 331 into the record.

**County Special Review 331 – SW Corner of the Shiloh Rd. & Central Ave. - To allow a new Electrical Substation** – A special review request to allow an electrical substation on a property located in a Residential Multi-Family (RMF) Zone, on Certificate of Survey 862, Parcel 1 & Amended Parcel 4, a 2-acre parcel of land. Tax ID: D00506A.

### **REQUEST**

A special review request to allow an electrical substation on a property located in a Residential Multi-Family (RMF) Zone, on Certificate of Survey 862, Parcel 1 & Amended Parcel 4, a 2-acre parcel of land generally located on the SW Corner of Shiloh Rd. & Central Ave. Tax ID: D00506A. Presented by Karen Husman, Planner I.

### **RECOMMENDATION**

The Planning Division recommends conditional approval.

Planning Division is recommending the following conditions:

1. The approval shall be limited to Certificate of Survey 862, Parcel 1 & Amended Parcel 4, and generally located SW Corner of Shiloh Rd. & Central Ave, tax ID Doo506A.



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2. This special review approval is for an electrical substation as requested. No other special review use is intended or implied by this approval.
3. The site will be developed in substantial conformance to the site plan submitted; the onsite landscaping shall comply with the proposed Yellowstone County landscape ordinance.
4. The site will be developed per Section 27-1105(d) (2) of the Yellowstone County Zoning Regulations with a landscaping buffer on the South West corner and along the south border to buffer the residential neighborhood.
5. The chain link fence will be powder coated in either green or black, and filled with the wooden privacy slats for visual buffer. The barbed wire top must be above an 8-foot high fence.
6. A Zoning Compliance Permit must be submitted and obtained within one year of Special Review approval, and construction must be completed within three years of approval.
7. There will be no construction activities, including site preparation such as grading or digging prior to 7 a.m. or after 8 p.m. daily.
8. 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 27-1600 et seq. of the Yellowstone County Zoning Regulations.
9. 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.

**\*\*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.

### **Discussion**

Chairman Boucher called for questions from the Board.

Jerry Ray asked if the substation would take the entire lot or just the L-shaped piece. Staff stated it would just be on the L-shaped parcel.

Tyler Bush asked staff to describe the surrounding trees. Staff indicated there would be trees along the west and south property lines since these border R zones. There are existing trees along the west property and these will not be disturbed. There are no trees on south property line, so the stumps must be removed and trees planted.

Jerry Ray asked what the square footage of the lot. Staff deferred to the applicant.

Todd Hewitt asked what the solid wall made is made of. Staff replied it is a stone wall.

Nicole stated the wall might be many different materials, however it must be solid.

### **Applicant**

Chairman Boucher called for the petitioners.

### **Aura Lindstrand, Yellowstone Valley Electric Coop, 150 Cooperative Way, Huntley, MT**

Ms. Lindstrand represents the applicant, Yellowstone Valley Electric Coop, (YVEC). She said they would be able to meet the conditions recommended. She explained the wall/fence would be set to the required setbacks and would have the anti-graffiti treatment. She explained how the station would



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increase the reliability of service and would tie into the existing line to serve the city and county. She reviewed their proposal and said, although the property is currently not in the City limits, they would be working with the City Engineering division to ensure the access as well as storm water retention are up to the minimum City standard requirements. She explained the proposed substation is being constructed on a property adjacent to an existing transmission line corridor located on the west side of Shiloh Road. The substation will tie into the existing transmission line and provide power reliability to customers in the YVEC Service Area. There were no other members of the public present to comment on the application.

### **Discussion**

Chairman Boucher called for questions from the Commission.

Jerry Ray asked what an anti-graffiti wall is. Staff advised it is a clear coat type paint that when applied makes the surface non-stick to any type of paint or marker.

Jerry Ray asked the applicant if they bought the whole lot and what the square footage of the substation will be.

Ryan Wittman asked what the height of the transmission lines nearby. Approximately 70 feet high.

### **Dale Broveak, Electrical Consultants, Inc**

Jerry Ray asked if there would be another approach. The intent is to create a new access off of Central Ave.

Where the substation would be put if this were denied? The substation would be located at 72nd and King Ave existing and 69<sup>th</sup> and Grand Avenue as this is the ideal location, and it would be acceptable to go as much as 1 mile west.

### **Brandon Wittman**

CEO of YVEC

Jerry Ray asked if YVEC is controlled by Public Utilities and who YVEC reports to. YVEC reports to The Board of Directors.

### **Public Hearing**

At 4:21 p.m., Chairman Boucher opened the public hearing and asked for those in favor or in opposition of this application.

### **Rebuttal**

Chairman Boucher called for rebuttal from the applicant.

Chairman Boucher asked if there is anyone else wishing to speak in favor or against County Special Review 331. There was none. Chairman Boucher closed the hearing at 4:21 p.m. and called for a motion.

### **Motion**

**Commissioner Ray made a motion to forward a recommendation to the BOCC to conditionally approve YC Special Review 331 with the conditions presented by staff and adoption of the findings of the review criteria. Todd Hewitt seconded.**



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**Discussion.**

Chairman Boucher called for discussion. There was no further discussion on the motion.

Name	Favor	Against	Abstain	Absent
Chairman Boucher	1			
Commissioner Wittman	1			
Commissioner Ray	1			
Commissioner Bush	1			
Commissioner Hewett	1			

**The motion carried 5-0.**

\* The Board of County Commissioners public hearing for **Special Review 331**, will be held on Tuesday, April 23, 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.

**Item 2:**

Zoning Coordinator Nicole Cromwell read the legal notice for **County Zone Change 693 - Text Amendment - Landscaping Regulations** into the record.

**County Zone Change 693 - Text Amendment – Landscaping Regulations** - An amendment initiated by the Yellowstone County Board of Planning on February 26, 2019, to update, revise and amend Sections 27-200, 27-604, 27-1006 and 27-1100 of the Yellowstone County Zoning regulations to update all requirements for landscaping in the Yellowstone County jurisdictional zoning area.

**REQUEST**

This is a zone change to amend several sections of the Yellowstone County Zoning Regulations regarding provision for landscaping with new development or redevelopment of land within the 4.5-mile zoning jurisdiction. These amendments have been developed through the Project Re: Code planning process, have been vetted by the Landscaping Working Group, and the amendment was initiated by the Yellowstone County Board of Planning on February 26, 2019. These amendments are preceding the larger amendments to the overall zoning code, so new or pending County developments can proceed under new and more effective landscape regulations.

**RECOMMENDATION**

The Planning Division is recommending approval.



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Jerry Ray asked if there would be repercussions for dead, not maintained landscaping

Tyler Bush asked if the working group unanimously approved these changes. Yes.

### **Discussion**

Chairman Boucher called for questions from the Board.

### **Public Hearing**

At 4:56 p.m., Chairman Boucher opened the public hearing and asked for those in favor or in opposition of this application.

### **Woody Woods, Landscaping Working Group member, 129 Rolling Meadow Drive, Billings, Montana**

Mr. Woods sits on the Landscape Working Committee. He thanked Nicole for the presentation. He discussed the point system being adopted. Water conservation was considered during the process and he would recommend approval.

### **Steve Lehenbauer, River Ridge Landscaping, 3223 River Rd, Laurel, MT**

Mr. Lehenbauer stated he had just learned about the County amendments and was not clear on how the new code is different from the current code. He stated he was in favor of allowing all types of landscape professionals work on sites of more than 1 acre. He stated he has the knowledge and experience, but not the registration from the state, to design landscaping for sites larger than 1 acre. He stated it was his understanding the code was proposing to eliminate the use of turf grass and he was not in favor of this approach. He stated turf grass is a perfect choice in some areas. Planning staff, clarified turf grass is still allowed in the proposed code but in the required buffer yards, it would not get as many points as other types of plant materials. He stated he wants to see the plant list referenced in the code. Staff clarified the plant list is still being finalized and is not a part of the code per se. The Planning staff will have the plant list available by the time the code goes into effect at the end of May 2019.

He has too many questions and does not recommend approval.

### **Tisha Hague, Tvetene Turf**

Tisha Hague of Tvetene Turf, testified against the proposed amendments. She stated the benefits of turf grass outweigh any of the alleged detriments. She stated the code should not limit where someone can use turf grass. She spoke of a study from California that indicated the alleged drinking water use on turf grass is exaggerated.

### **Woody Woods**

The new code does not say you cannot use turf, the point system allows different uses.

### **Rebuttal**

Chairman Boucher called for rebuttal.



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**Nicole Cromwell, Zoning Coordinator, 2825 3<sup>rd</sup> Ave. North 4<sup>th</sup> Floor, Billings, MT**

Some of the reasons discussed by staff and the Landscape Working Group to have a licensed professional involved include the idea of saving the developer expense and time in the end when the landscaping is installed properly and the plants live for a long time. Professionals also can save developers money and time when the submittal for review to the City-County Planning Division is correct the first time and does not have to go through many rounds of corrections to be approved.

Chairman Boucher asked if there is anyone else wishing to speak in favor or against County Zone Change 693. There was none. Chairman Boucher closed the hearing at 5:14 p.m. and called for a motion.

**Motion**

**Tyler Bush made the motion to recommend approval with 1 change to the draft at Section 27-1103.B.2 by eliminating subsection (a) and changing the wording of (b) to be subsection (a) and to read as follows: “(a) All applicants are encouraged to work with a nurseryman or landscape design professional to meet the requirements of this article.”**

**Seconded by Todd Hewett and unanimously approved.**

**Discussion.**

Chairman Boucher called for discussion. There was no further discussion on the motion.

<b>Name</b>	<b>Favor</b>	<b>Against</b>	<b>Abstain</b>	<b>Absent</b>
Chairman Boucher	1			
Commissioner Wittman	1			
Commissioner Ray	1			
Commissioner Bush	1			
Commissioner Hewett	1			

**The motion carried 5-0**



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**OTHER BUSINESS**

**a.** The next Yellowstone County Zoning Commission meeting is scheduled for Monday, May 13, 2019, 4:00 p.m. in the Miller Building 1<sup>st</sup> Floor Conference Room, 2825 3<sup>rd</sup> Avenue North.

**Adjournment:** The meeting adjourned **5:23** p.m.

**Draft. To be approved by a motion at the next meeting.**  
*Robbin Bartley, Administrative Assistant.*

DRAFT