



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

The County Zoning Commission met on Monday, July 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 County Zone Change #695 will be held on Tuesday, July 23, 2019, at 9:30 a.m., 3<sup>rd</sup> Floor of the Stillwater Building at 316 N 26<sup>th</sup> St, Commissioner’s Hearing Room. The Board of County Commissioners will hear all persons wishing to speak relative to the proposed zone change.

Pro Tem Chairman Todd Hewett opened the meeting and introduced the County Zoning Commission members and staff in attendance: Nicole Cromwell, Zoning Coordinator; Karen Husman, Planner I; and Tamara Deines, Planning Clerk.

\*\*Commissioner Boucher is participating via conference call.

Commissioners and Staff		01/14/2019	02/11/2019	03/11/2019	04/08/2019	05/10/2019	06/25/2019						
Jerry T. Ray	Commissioner	1	1	-	1	1	1						
Troy Boucher	Commissioner Chairman	1	E	-	1	1	1						
Ryan Wittman	Commissioner	1	1	-	1	1	E						
Tyler Bush	Commissioner Chairman	E	1	-	1	E	E						
Todd Hewett	Commissioner	1	1	-	1	E	1						

**Attending:** Dana Wagenhals, Peg Parker, Tom Parker, Wando Smith, Alan Holom, Les & Joanne Love, Darryl & Dane Love, Gary & Patty Bradshald, Ken Pietz, Scott Worthington, Dan Wells, Steve Zeir, Steve Wells Bruce Lackman, David Cunningham, Kirksey Cunningham

**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.



**Yellowstone County Zoning Commission  
Minutes for the Meeting of  
Monday, July 8, 2019**

**Disclosure of Ex Parte Communication: County Zone Change #693:** There was none. The Commissioners reported no Ex Parte Communications. Staff received the following outside communications: None

**Motion. Approval of Minutes: April 8, 2019, June 10, 2019.** (The May 13, 2019, 4:00 p.m. meeting was cancelled). Approval of the April 8, 2019 and June 10, 2019 meeting minutes is delayed.

**Item 1:**

Zoning Coordinator Nicole Cromwell read the legal notice for County Zone Change #694 into the record.

**County Zone Change 695 – 4601 Central Ave - from A-1 to R-50, P & NC - A zone change request from Agricultural Open Space (A-1) to Residential-5000 (R-50), Public (P) and Neighborhood Commercial (NC), on , S2SW-S3, T1S, R25E (less C/S 2221), N2SW-S3, T1S, R25E, S2NWNW-S3, T1S, R25E (less C/S3035) & N2NWSW-S3, T1S, R25E, an 73.801 acre parcel of land. A pre-application neighborhood meeting was held on 5/17/19, at Ben Steele Middle School Commons. Tax ID: D00351, D00352, D00353 & D00354.**

**REQUEST**

County Zone Change 694 – 2821 US Hwy 87 N. - A zone change from Residential 9,600 (R-96) to Community Commercial (CC), on C.O.S. 603, PARCEL 2A, AMND, S11, T01 N, R26 E, a 1.896 acre parcel of land. A pre-application neighborhood meeting was held on April 24, 2019, at 2811 Highway 87 N. Presented by Karen Husman, Planner I

**RECOMMENDATION**

Planning staff is recommending denial based on the findings of the 11 review criteria for Zone Change 695.

The proposed zoning of R-50 is not a zone district that is appropriate for a residential subdivision without municipal services for water, wastewater, police, fire and similar urban level services. The proposed R-50 zone is not compatible with the surrounding county neighborhood zoning or developments. As proposed, the R-50 could be 4 times the density of the surrounding subdivisions. The applicant has proposed to engineer a "public" water and waste water system for this higher density subdivision outside the city limits. The Department of Environmental Quality and state law deems a water supply that serves 15 or more people year round or 25 people or more for 60 consecutive days in a calendar year a "public" water supply. These small water systems are typically managed and financed privately by a Homeowners' Association or private operator. While these smaller systems must meet the same drinking water quality standards as a municipal or water district supplier, they are not municipal or true public systems, are not designed to the same standards as municipal systems, and are more prone to quality and quantity issues.



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

### **Discussion**

Pro Tem Chairman Hewitt called for questions from the Board. There were no questions from the Commission members.

Pro Tem Chairman Hewitt called for presentation by the applicant.

### **Dan Wells, 5847 Whispering Woods, Billings, Montana**

Mr. Wells introduced Craig Dalton, Performance Engineering; and Scott Worthington, In Site Engineering. Mr. Wells stated that up until a month ago the City was not interested in annexation of this parcel. They have worked to design a community water and sewer system that is compatible with DEQ and will provide services to approximately 500 people. Mr. Wells does not plan to move forward with the permitting process until after this zone change review is resulted. Mr. Wells said he has developed several west end subdivisions with community water and sewer systems. He said the proposed community water system has been proven and DEQ vetts the water aquifer prior to approval. He commented the new sewer systems are designed to better handle sewage. Mr. Wells referred to the eleven criterion in the staff report. He feels the proposed zoning is very compatible as the nearby Day Break Subdivision, Granite Peaks Subdivision, Trails West Subdivision, and the "Happy Homes" development have higher densities. He said the market is demanding nice homes with less yard space similar to the Legacy Homes Subdivision. There are number of twin home and single-family homes proposed for this development. This property is protected for fire through BUFSA and installation of a dry hydrant will be required. Mr. Wells pointed out this property will include parkland. He noted that should this parcel be developed as a City parcel, there would be less parkland with the same density. His feeling is the community will like the open space and trails proposed in this County subdivision. The traffic study has been conducted and they will meet the requirements from the study. Mr. Wells pointed out the homes in Aldinger Acres are in valued in the \$300,000 - \$400,000 range. The new construction duplexes in Twin Pines Subdivision starts at \$275,000 and this proposal will be similar. Single Family homes will be in \$300,000-\$425,000 range. Mr. Wells feels they can work with DEQ and provide a public system at a smaller cost and a development with more parkland if developed in the County. He asked for the Commission's approval for this zone change.

Pro Tem Chairman Hewitt called for questions and discussion.

### **Discussion**

Commissioner Hewitt asked about the potential impacts of the community system on neighboring wells during peak times. Dan Wells said a well was drilled in January and pumped at full capacity for 72 hours for a drawdown cone, and this information is compiled and submitted to DNRC. Based on this information, the aquifers are strong and there will not be a significant drawdown or negative impacts.

Commissioner Hewitt asked about widening Central Avenue with a third lane. He voiced concern with this subdivision impacting the traffic levels in the morning hours. Dan Wells said



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

based on the traffic study modeling, a determination will be made for the road and intersection requirements. He commented this system is designed for future connection.

### **Scott Worthington, 4118 Woodcreek Drive, InSite Engineering, Billings, Montana**

Mr. Worthington is representing Mr. Wells as his agent and engineer. He stated the proposed water and wastewater systems are complete and considered viable by the State of Montana. The test well information will be considered along with the water rights by DNRC. The technical report has been published and the physical water exceeds the legal demands. In terms of compatibility, this development creates high quality affordable homes with less burden on homeowners for yard care. One third of the parcel will be parkland and provide 1.4 miles of trails with sidewalks on both sides of the street. He continued and commented that statistically a typical parcel with R-9600 zoning has two dwelling units per acre and the average lot size is 8,625 square feet. This development has potential for 2.86 dwelling units per acre. He concluded and stated they have reviewed the entire criterion extensively and feel these areas have been more than adequately addressed. There is a reliable source of water in terms of quantity and quality. He asked for the Commission's consideration of approval for this zone change request.

### **Craig Dalton, 608 N 29th Street, Performance Engineering, Billings, Montana**

Mr. Dalton said they have undergone rigorous testing and made a significant investment to ensure the water rights; and there will be no impacts. He stated to this point, DEQ is onboard and considers this proposal as a public system. Mr. Dalton said in cases where the County has not approved this type of development without coming into the City, this is generally due to lack of the aquifer being able to support the density.

### **Public Hearing: 5:00 PM**

Pro Tem Hewitt opened the public hearing and called for anyone wishing to speak in favor or against County Zone Change #695.

### **James Smith, 4720 Wyoming Ave, Billings, Montana**

Mr. Smith's concern is with the proposed density of the homes. He said his has invested his time and money in his property, as he wants to be in the County. He would like to request development of larger lots to maintain the feel of the neighborhood.

### **Susan Sullivan, 810 Bluegrass Place, Billings Montana**

Ms. Sullivan stated her major concern is traffic and she asked what the City's plan is for Broadwater Avenue. She said she is representing their Home Owners' Association. She said left hand turn movements from their development are unable to due to due to high volume traffic conditions.



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

### **David Cunningham, 4841 Custer Ave, Billings, Montana**

Mr. Cunningham stated the roadways in this area are narrow and unsafe for pedestrian traffic, and the traffic volume has tripled since the junior high has been built. He asked the County to be proactive with traffic planning in this area. He feels an R-5000 development should be in the City instead of the County, and the County should require fire hydrants for this development instead of a dry hydrant. Mr. Cunningham stressed the need for curb, gutter, and services, as this parcel is located almost in the City. He is worried with the potential for a high-density development in Yellowstone County and feels this should be brought into the City to promote healthy growth.

### **Dana Love, 393 48th Street West, Billings, Montana**

Ms. Love expressed safety concerns for her family and her property due to a proposed road that will be built in the near vicinity of her property. She noted issues with high traffic, noise, and an unsafe living environment due to accidents. She said there is not enough road space with the 2-lane roadways. Her expectation when she purchased her home was for a country living feel.

### **Wanda Smith, 4720 Wyoming Ave, Billings**

Ms. Smith disagrees with this request for a higher density development as the surrounding developments are zoned R-15000 for single-family homes. The proposed duplexes will back up to her property. She pointed out that there are developments located to the north and west of her property with lots ranging from .5-acres to 5 acres. Ms. Smith said there are currently 67 dwellings on approximately 63 acres. She said this development would bring 400 plus cars. She said she was disappointed to hear at the neighborhood meeting this development is not consistent with the surrounding area and will degrade the value of the surrounding properties.

### **Tom Parker, 4728 North Woodhaven Way, Billings, Montana**

Mr. Parker is opposed to this request. He submitted a document to the Commissioners with density calculations and statistic pointing to the net buildable area of 31.7 acres and an average of 6.66 dwellings per buildable acres. He pointed out the lots in the R-1500 area are larger than .5 acres.

### **Ken Pietz, 4645 North Woodhaven Way, Billings, Montana**

Mr. Pietz is concerned with the provision for water and sewer. He asked if this development will have to hook up to City Services should it become available. He is also concerned with traffic as currently there is congestion on 48th Street West.

### **Les Love, 4825 Custer Ave, Billings, Montana**

Mr. Love asked what would happen to the irrigation ditches as they exist today. He stated the proposed R-5000 zoning belongs in the City and not in the County.



**Yellowstone County Zoning Commission  
Minutes for the Meeting of  
Monday, July 8, 2019**

**Kirksey Cunningham, 4841 Custer Avenue, Billings, Montana**

Ms. Cunningham does not feel the proposed R-5000 density will be appropriate until 48th Street West and Central Avenue can handle the existing traffic. She related her experience as a student waiting for the school bus and feels it will be unsafe for children to wait at the proposed entrance to this subdivision.

**Dana Wagenhals, 4816 Dovetail Avenue, Billings, MT**

Mr. Wagenhals stated a similar community water system in Oakridge Subdivision works well. He pointed out that as shown on the map, the City will bring services up to 48th Street West and could provide water to the Oakridge subdivision. He said citizens should weigh the differences between this application and what potentially could come if the parcel is developed in the City. Mr. Wagenhals feels this development could be a plus if it is moved forward as a County development.

**Gary Bradshaw, 4717 Woodhaven Way, Billings, Montana**

Mr. Bradshaw said he has enjoyed living in this area and wishes this subdivision would be developed with the same concept as the Oakridge Subdivision. He asked if the nitrates would have an impact on the treatment system for the sewage system. He asked about a proposal for a Neighborhood Commercial zoned parcel on the corner of Central Avenue and what will be placed there. Mr. Bradshaw stated he is pleased with Staff's recommendation of denial of this application.

**Steve Wells, 4832 Audubon Way, Billings, Montana**

Mr. Wells stated it is interesting to hear citizens' concerns: primarily the fear of the unknown, and fear of change. He feels Wells Development has been prudent in addressing these fears. He commented they have tried to propose an affordable housing with public spaces. He stated he feels this proposal would be a better development for everybody if the emotions were removed.

**Joanne Love, 4825 Custer Avenue, Billings, Montana**

Ms. Love said they would be impacted by the traffic coming off 48th Street West. She said Mr. Wells did not develop the parks as promised in the adjacent subdivision.

Pro Tem Chairman Hewitt called for rebuttal by the applicant.

**Rebuttal**

**Dan Wells, 5847 Whispering Woods, Billings, Montana**

Mr. Wells said he appreciates the comments and the emotions expressed by the citizens this evening. He said change is coming with growth. He stated he owns this property and intends to develop it. Regarding storm drainage, the proposed swales will retain and convey the water. The Urban Standards Committee identified needs for development in the County. There is a demographic change with persons that do not wish to care for large lots. He explained that the County parkland referred to during the public testimony was dedicated to the County and the



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

residents in Wells Garden Estates did not wish to have it changed. He said the parkland would be developed and paid for by a parkland RSID. This proposal is for 74 acres and 211 homes with a density of 2.86 homes per acre. His findings point out that another Oakridge Subdivision could be done but it would not meet the market demands. He said there would be no further development until the adjoining property on Broadwater is developed. He pointed out the homes along Wyoming would be separated from the proposed twin home development by 80-feet of Snow Ditch right-of-way and open space. He said there will be collection points within the neighborhood for mail and school drop offs.

Pro Tem Chairman Hewitt asked if there is anyone else wishing to speak in favor or against County Zone Change #695. There was none. At 5:45 pm, Pro Tem Chairman Hewitt closed the public hearing and called for a motion.

Jerry Ray this is a well-planned out situation and he feels Mr. Wells is a fine developer. He commented he is experiencing similar proposals in his neighborhood.

### **Motion**

**Motion was made by Commissioner Ray to forward a recommendation of approval of County Zone Change #695, as the City will not receive the request for services.**

**The motion dies for a lack of a second.**

### **Motion**

**Commissioner Boucher made a motion to forward recommendation of denial of County Zone Change #695 as presented by staff and based on the eleven criterion and the Findings of Fact for this zone change.**

**Discussion:** There was no 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 carries, 2-1, with Commissioner Ray voting against the motion.**



**Yellowstone County Zoning Commission  
Minutes for the Meeting of  
Monday, July 8, 2019**

**OTHER BUSINESS**

a. **Cancelation notice:** Due to a lack of agenda items, The Yellowstone County Zoning Commission meeting scheduled for Monday, August 12, 2019, 4:00 p.m. in the Miller Building 1<sup>st</sup> Floor Conference Room, 2825 3<sup>rd</sup> Avenue North is canceled. The September 9, 2019 County Zoning Commission meeting will be held as legally announced and advertised.

**Adjournment:** The meeting adjourned **5:49** p.m.

**Draft. To be approved by a motion at the next scheduled meeting.**  
*Tamara L. Deines, Planning Clerk*

DRAFT