



COUNTY OF YELLOWSTONE ZONING COMMISSION

AGENDA-Monday, October 15, 2019 4:00 PM

**Miller Building, 1st Floor Conference Room
2825 3rd Avenue North, Billings, Montana**

NOTICE TO THE PUBLIC

Public Comment:

There will be a Public Comment Section as noted on the agenda. This is the time members of the public may comment on any item not appearing on the agenda. Under State law, matters presented under this section cannot be discussed or acted upon by the Zoning Commission during this time. For items appearing on the agenda, the public will be invited to make comments at the appropriate time. It is very important to speak clearly, and state your name and address for the record. Please limit your comments to three (3) minutes or less.

Call the meeting to order.

Introduction of the Yellowstone County Zoning Commission Members and Planning Department Staff.

Public Comment

Approval of Minutes: September 9, 2019

Disclosure of any Conflict of Interest-Members of the Commission and Staff

**Disclosure of an Outside (Ex Parte Communication)-Members of the Commission and Staff
a. The Exparté Communication Binder is available at the Sign-In and Agenda Station.**

Regular Business:

- A. Opening of public hearings.
- B. Reading of rules for the procedure by which the public hearings will be conducted.
- C. Reading of notices of the public hearings on the following items:

Public Hearings:

- a. **Item #1-YC Zone Change #697-A** zone change request from **Agricultural Open Space (A-1) to Agricultural Suburban (A-S)** on Sunnycove Fruit Farms, Lot 70, a 9.43-acre parcel of land. A pre-application neighborhood meeting was held on August 1, 2019 at 6:30 pm, at 60th St. & Colton, in the barn on the subject property. Presented by Nicole Cromwell, Zoning Coordinator

Other Business/Announcements

Adjournment

Following the public hearing, the County Zoning Commission will make a recommendation to the Yellowstone County Commissioners. The **Board of County Commissioners** public hearing will be held on **Tuesday, October 29, 2019, at 9:30 a.m., 3rd Floor of the Stillwater Building at 316 N 26th St, Commissioner's Hearing Room.** The County Commissioners may, by majority vote, accept or reject the Zoning Commission's recommendation. The Board of County Commissioners will hear all persons wishing to speak relative to the zone change.

Information on the preceding item may be obtained at the Yellowstone County Planning Department, on the 4th Floor of the Miller Building at 2825 3rd Avenue North, 247-8676. 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: 10/15/2019

Information

Subject

Approval of Minutes: September 9, 2019

Attachments

YZC_2019_09_09__DRAFT



**Yellowstone County Zoning Commission
DRAFT Minutes for the Meeting of
Monday, September 9, 2019**

The County Zoning Commission met on Monday, September 9, 2019 in the Miller Building 1st Floor Conference Room, 2825 3rd 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 **FRIDAY, September 27, 2019, at 9:30 a.m., 3rd Floor of the Stillwater Building at 316 N 26th St, Commissioner’s Hearing Room.** The Board of County Commissioners will hear all persons wishing to speak relative to the proposed zone change.

Chairman Tyler Bush opened the meeting and introduced the County Zoning Commission members and staff in attendance: Nicole Cromwell, Zoning Coordinator; and Tamara Deines, Planning Clerk.

Commissioners and Staff		01/14/2019	02/11/2019	03/11/2019	04/08/2019	05/10/2019	06/25/2019	07/28/2019	09/09/2019	10/15/2019			
Jerry T. Ray	Commissioner	1	1	-	1	1	1	1	1				
Troy Boucher	Commissioner Chairman	1	E	-	1	1	1	1	1				
Ryan Wittman	Commissioner	1	1	-	1	1	E	E	E				
Tyler Bush	Commissioner Chairman	E	1	-	1	E	E	A	1				
Todd Hewett	Commissioner	1	1	-	1	E	1	1	1				

Attending: Dennis Ulvestad; Darryl & Dana Love, Scott Worthington, In Site Engineering; Bruce Lackman, Shelly Eggebrecht

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: County Zone Change #694: There was none. The Commissioners reported no Ex Parte Communications. Staff received the following outside



Yellowstone County Zoning Commission DRAFT Minutes for the Meeting of Monday, September 9, 2019

communications: Ms. Cromwell announced that Applicant Dan Wells is going to be delayed for this meeting but he is represented by his agent, Scott Worthington.

Disclosure of Conflict of Interest: County Zone Change #694: There was none.

Motion. Approval of Minutes: April 8, 2019; June 10, 2019, July 28, 2019. (The August 12, 2019, 4:00 p.m. meeting was cancelled).

Motion

Commissioner Hewitt made a motion and Commissioner Ray seconded the motion to approve the April 8, 2019, June 10, 2019, and July 28, 2019 meeting minutes as submitted. The motion carried with a unanimous voice vote.

Item 1:

Zoning Coordinator Nicole Cromwell read the legal notice for County Zone Change #696 into the record.

County Zone Change 696 - 4601 Central Ave - A zone change request from Agricultural Open Space (A-1) to Residential-15,000 (R-150), and Neighborhood Commercial (NC), on S2SWSW-S3, T1S, R25E (less C/S 2221), N2SWSW-S3, T1S, R25E, S2NWNW-S3, T1S, R25E (less C/S3035) & N2NWSW-S3, T1S, R25E, an 78.81-acre parcel of land.

REQUEST

County Zone Change 696 - 4601 Central Ave - A zone change request from Agricultural Open Space (A-1) to Residential-15,000 (R-150), and Neighborhood Commercial (NC), on S2SWSW-S3, T1S, R25E (less C/S 2221), N2SWSW-S3, T1S, R25E, S2NWNW-S3, T1S, R25E (less C/S3035) & N2NWSW-S3, T1S, R25E, an 78.81-acre parcel of land. A pre-application neighborhood meeting was held on July 25, 2019, at the Pavilion at 3595 Monad Road. Presented by Nicole Cromwell, Zoning Coordinator.

BACKGROUND

This is a zone change request from A-1 to R-150, and NC zoning for 78.81 acres of agricultural land on the northeast corner of Central Avenue and 48th St West. A previous zone change - Zone Change 695 - was submitted in June 2019. This application was withdrawn after the July 8, 2019 County Zoning Commission hearing. The County Commissioners accepted the request to withdraw on July 23, 2019. The prior zone change was proposed for Residential 5,000 (R-50), Public (P) and NC zoning on a 73.8 portion of this property. The prior application did not include the five-acre parcel at the intersection of 48th St West and Central Avenue. This parcel is included in the new application and is proposed to be zoned R-1500.

Planning staff has reviewed the development plan, the zoning requested and the adopted



Yellowstone County Zoning Commission DRAFT Minutes for the Meeting of Monday, September 9, 2019

County growth policy and guidance. Based on staff's findings of the 11 review criteria, a recommendation of approval is forwarded to the Zoning Commission. The proposed zoning of R-150 is 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-150 zone is compatible with the surrounding county neighborhood zoning and developments. The applicant has proposed a community drinking water system with individual drain fields on each proposed lot. 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 Homeowner's Association or private operator. Oak Ridge Subdivision to the northwest has a similar drinking water system as does Wells Garden Estates to the west of the subject property.

RECOMMENDATION

Planning staff is recommending approval based on the findings of the 11 review criteria for Zone Change #696.

Discussion

Chairman Bush called for questions from the Board. Clarification was provided by Ms. Cromwell to Commissioner Bush regarding the corner lot, which is included in this application.

Chairman Bush called for presentation by the applicant.

Scott Worthington, 4118 Woodcreek Drive, In Site Engineering, Billings, Montana

Mr. Worthington is representing Mr. Wells as his agent and engineer. He stated this request is compatible and consistent with the surrounding neighborhoods. He pointed out that the platting of this parcel is a separate review process. Regal Land Development has been developing land in this area for the last 25 years and they intend to submit to the County Zoning and Subdivision Regulations.

Public Hearing: 5:00 PM

Chairman Bush opened the public hearing and called for anyone wishing to speak in favor or against County Zone Change #696. There were none. Chairman Bush closed the public hearing and called for a motion.

Motion

Commissioner Ray made a motion and it was seconded by Commissioner Hewitt to forward recommendation of approval of County Zone Change #696 as presented by staff and based on the eleven criterion and the Findings of Fact for this zone change.



**Yellowstone County Zoning Commission
DRAFT Minutes for the Meeting of
Monday, September 9, 2019**

Discussion

Commissioner Ray said this is a well-planned out subdivision but he wished that smaller lots are proposed. Commissioner Hewitt concurred.

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

The motion carries, 4-0.

The Board of County Commissioners public hearing for County Zone Change #695 will be held on FRIDAY, September 27, 2019, at 9:30 a.m., 3rd Floor of the Stillwater Building at 316 N 26th St, Commissioner's Hearing Room.

OTHER BUSINESS

a. **Announcement: The Planning & Community Services Department offices will be closed on Monday, October 14, 2019 in observance of Columbus Day. The Yellowstone County Zoning Commission will meet as legally announced and advertised on Tuesday, October 15, 2019.**

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



County Zoning Commission

Meeting Date: 10/15/2019

SUBJECT: County Zone Change 697 - 1905 60th St W - A-1 to A-S

THROUGH: Monica Plecker

PRESENTED BY: Nicole Cromwell

Information

REQUEST

Item #1-YC Zone Change #697-A zone change request from **Agricultural Open Space (A-1) to Agricultural Suburban (A-S)** on Sunnycove Fruit Farms, Lot 70, a 9.43-acre parcel of land. A pre-application neighborhood meeting was held on August 1, 2019 at 6:30 pm, at 60th St. & Colton, in the barn on the subject property. Presented by Nicole Cromwell, Zoning Coordinator

RECOMMENDATION

Planning staff recommends approval and adoption of the findings of the 11 review criteria for Zone Change 697.

APPLICATION DATA

OWNER: David & Sarah Nigh
 AGENT: None
 LEGAL DESCRIPTION: Lot 70 Sunnycove Fruit Farms
 ADDRESS: 1905 60th St West
 CURRENT ZONING: A-1
 EXISTING LAND USE: Pasture with Barn
 PROPOSED USE: Same but subdivided into two lots
 SIZE OF PARCEL: 9.43 acres

CONCURRENT APPLICATIONS

A pre-application for a minor subdivision was received and reviewed in July 2019.

APPLICABLE ZONING HISTORY

SUBJECT PROPERTY	Zone Change	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
1905 60th St W	None – Original Zoning	November 1973			
SURROUNDING PROPERTY	Zone Change	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
5935 Colton Blvd	County ZC 487	Feb. 3, 1998	R-150 to A-1	Yes	
62nd St W & Colton Blvd	County ZC 287	Sept 25, 1980	A-1 to R-150	Yes	
2530 66th St W	County ZC 499	July 7, 1998	R-150 to A-1	Yes	
1700 & 1720 60th St W	County ZC 542	May 29, 2001	A-1 to R-150	Yes	Two lot subdivision
6767 Grand Ave	County ZC 587	Jan 24, 2006	R-150 to CI	Withdrawn	Existing Auto Wrecking Yard
Colton Blvd – west of 60th St W	County ZC 672	May 31, 2016	A-1 to A-S	Yes	Two lot subdivision

SURROUNDING LAND USE & ZONING

NORTH:	Zoning: A-1 Land Use: Single family dwelling and pasture
SOUTH:	Zoning: A-1 Land Use: Single family dwelling and pasture
EAST:	Zoning: A-1 Land Use: Agricultural
WEST:	Zoning: A-S Land Use: Agricultural and storage

BACKGROUND

This is a zone change request to allow the subdivision of a 9.43 acre parcel into two lots. The Sunnycove Fruit Farms Subdivision has covenants that allow one division of the original lots, so long as one of the new lots is at least 5 acres in area. The current zoning of A-1 only allows lots of at least 10 acres in area. The proposed A-S zone district allows lots as small as one acre. This area of West Billings has a variety of zone districts including A-1, A-S and Residential 15,000 (R-150). Some parcels within the original Sunnycove Fruit Farms plat have been annexed and subdivided with urban size parcels. These subdivisions include Foxtail Village, Cottonwood Grove, and MK Subdivision to the south and east.

The West Billings Neighborhood Plan (2001) indicates this area is in an "Urban Expansion Area". (Map 9, Planned Growth). Some expansion has occurred with the advent of the city's extension of water and sewer lines in Grand Avenue, 58th St W, 54th St W and Rimrock Road in 2003 to accommodate the Ironwood Subdivision north of Rimrock and east of Molt Road and to serve the existing Yellowstone Club Estates Subdivision. The subject property is within the 5-year limits of annexation for the City of Billings, but the owners are not intending to annex this area at this time.

Project ReCode is nearly complete and the new zone districts for the County will include a wider variety of rural residential districts. The subject property and other lots south of Colton and north of Grand Avenue are shown in the new "A" zone district in the County. The new "A" zone will be very similar to the existing A-1 and A-S zones in the County zoning regulations. The proposed A-S will have little impact on surrounding uses or neighbors. No comments or objections to the proposed zone change were received by Planning staff.

SUMMARY

PROPOSED ZONING COMMISSION DETERMINATIONS – Zone Change 697

The Yellowstone County Zoning Commission, prior to any recommendation, shall consider the following:

1. *Is the new zoning designed in accordance with the Yellowstone County 2008 Growth Policy?*

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

- Goal: Predictable land use decision that are consistent with neighborhood character and preferred land use patterns identified in the growth policy. (Land Use Element, page 6). *This zone change would allow for a zone district consistent with the existing neighborhood character and preferred land use patterns. The A-S zone is an agricultural zone that allows small lots than the A-1 zone but still allows agricultural uses. The areas surrounding this property are still in agricultural zones and use. To the south and east are developing urban residential subdivisions.*

In 2001, and then again in 2006, the City and County engaged in area planning for Billings West End. The West Billings Neighborhood Plan and the Northwest Shiloh Area Plan, indicated this area would include expansion of urban level development. The property does not intend to annex to the city at this time and the proposed zoning is compatible with the area at this time.

- Goal: New developments that sensitive to and compatible with the character of adjacent development. (Land Use Element Goal, page 6).

This property is surrounding by adjoining agricultural land and low density residential development. This area of West Billings has seen a lot of urban conversion of agricultural land to neighborhoods, schools and places of worship over the past 15 years. In 2001, the Ironwood Subdivision off Molt Road was the opening of new Billings West End development beyond Shiloh Road. In the intervening years, the number and size of new city neighborhoods west of Shiloh Road has grown steadily. These new urban neighborhoods include Falcon Ridge, Copper Ridge (now out beyond 70th St West), Augusta Ranch, Foxtail Village, Trails West, Daybreak, Cottonwood Grove, Mont Vista, Vintage Estates, Grand Peaks, Legends West, Silver Creek, River Rock Estates, and Twin Pines. The proposed zoning should be compatible in the long term as West Billings continues to grow as an urban area of the city.

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

The subject property is currently served by the Billings Urban Fire Service Area (BUFSA). The service charges are based on the square footage on buildings on the property plus a base fee. The property currently pays about \$64.00 per year. The nearest fire station is located on 54th St West, Fire Station #7 about 1.5 road miles from the subject property. The existing and proposed zoning requires building separations, setbacks, and height limits that should provide security from fire or other public safety emergencies.

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

Transportation: One additional lot in this area will have no measurable effect of the transportation system.

Water and Sewerage: The subject property is served by irrigation water. No on-site waste water system is required since there are no occupied buildings. Riverstone Health and the Montana DEQ will determine what new water or wastewater facilities may be required for new developments in the county.

Schools and Parks: The proposed zoning should have no measurable impact on schools or parks.

Fire and Police: The subject property is serviced by BUFSA and the Yellowstone County Sheriff's Department.

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

The new zoning will allow subdivision of the property to create two lots. New development tends to increase property value for adjacent property. This should 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 any of the adjacent city or county roads. One additional building lot in this area should not effect transportation.

7. *Will the new zoning be compatible with urban growth in the vicinity?*

The proposed zoning is compatible with the adjacent suburban zoning and developments.

8. *Does the new zoning consider the character of the district and the suitability of the property for particular uses?*

The subject property is in an area that has a mixture of rural and agricultural land uses and new urban neighborhoods. It is expected that agricultural uses will continue but will eventually be converted to urban developments. The property is suitable for the particular uses allowed within the proposed A-S zoning district.

9. *Will the new zoning conserve the value of buildings?*

There is an existing barn on the property. The size and location of the barn is conforming to the existing and proposed zoning districts.

10. *Will the new zoning encourage the most appropriate use of land in Yellowstone County?*

The property is suitable for the uses allowed in the proposed A-S zone district and is appropriate for this area of the county.

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

The property is not directly adjacent to any City zoning districts. To the south and east of Sunnycove Subdivision are a variety of urban zoning districts including R-96, R-70, R-60-R, NC and CC. These zoning districts are compatible.

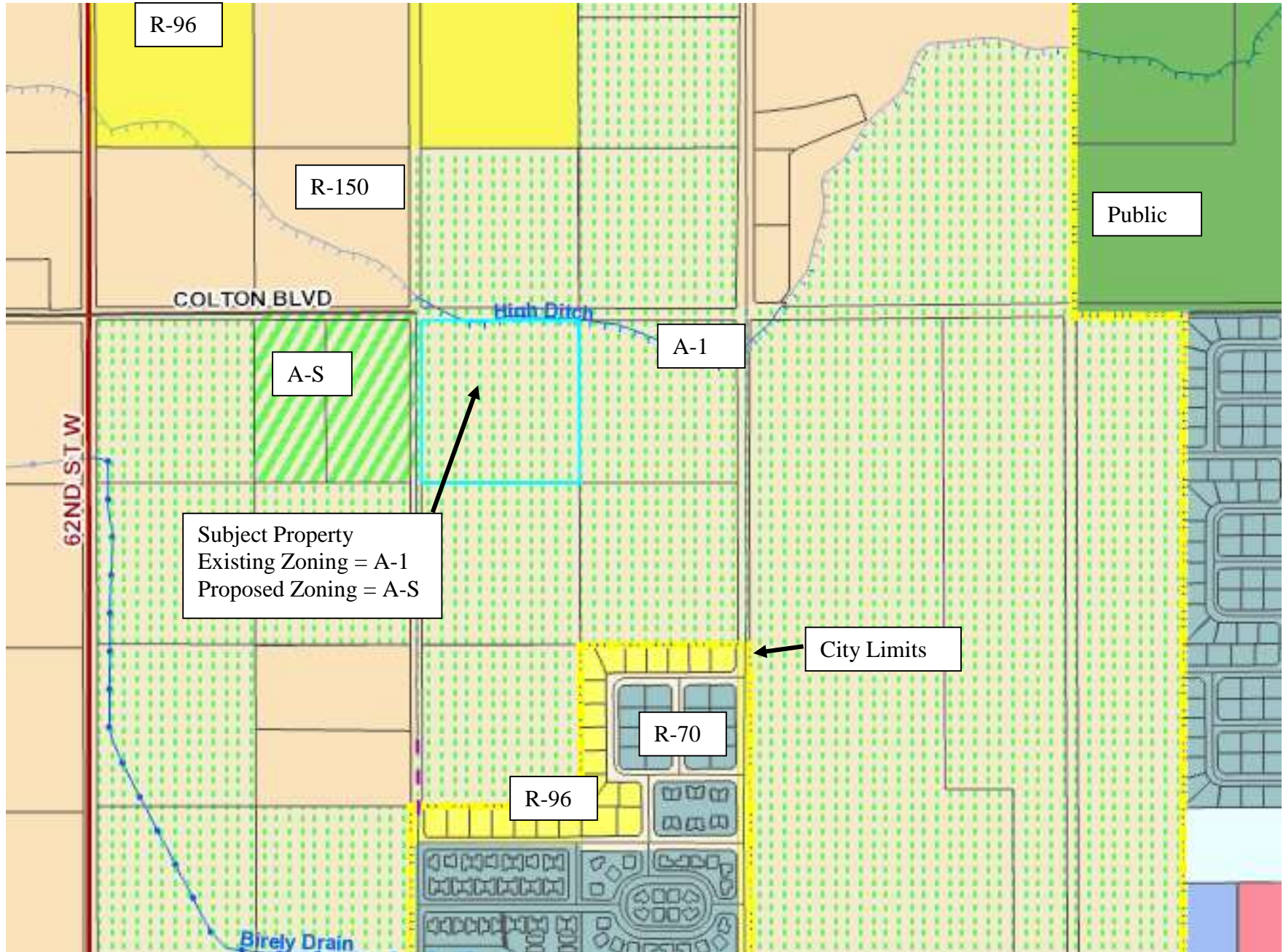
RECOMMENDATION

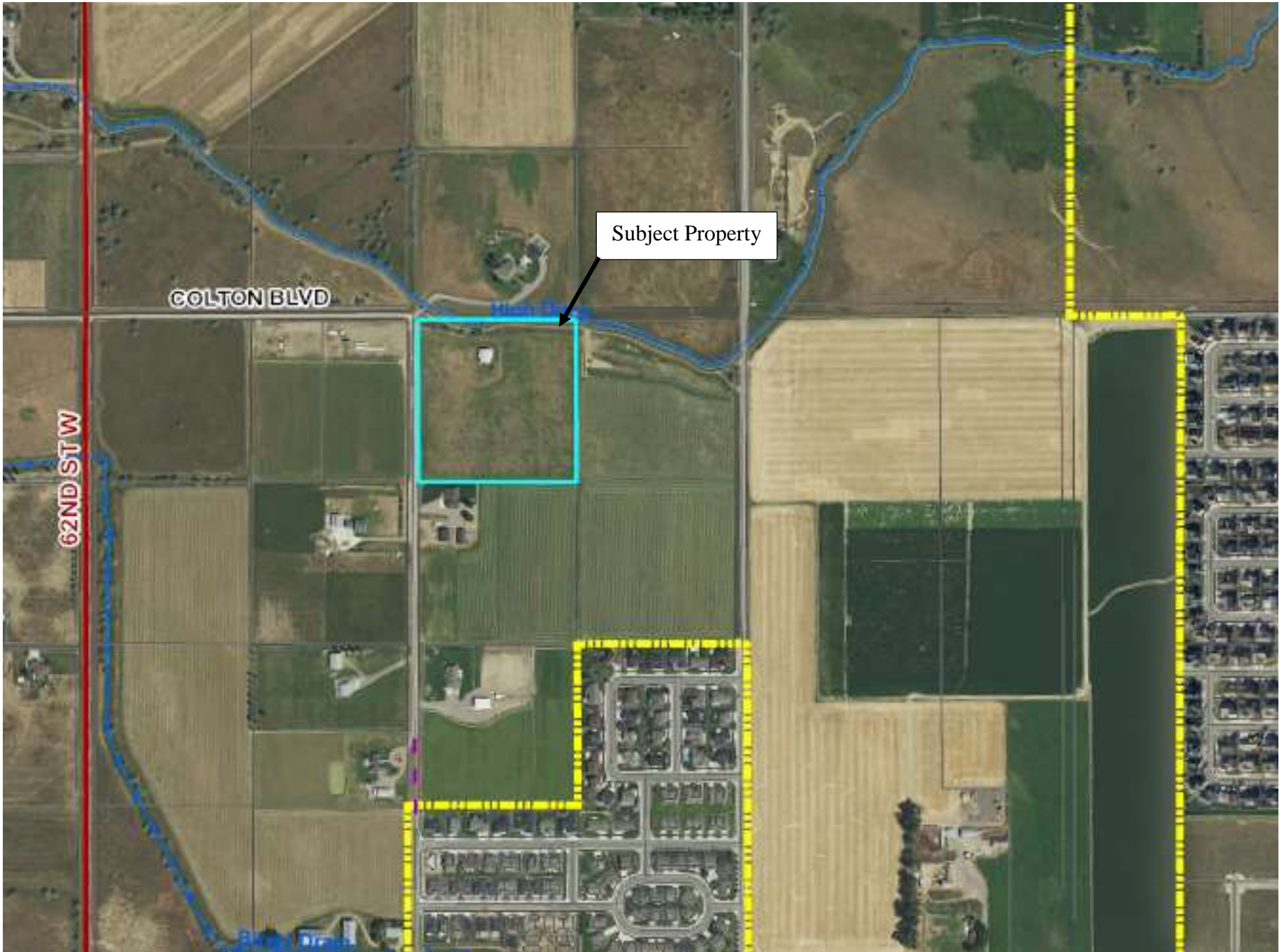
Planning staff recommends approval and adoption of the findings of the 11 criteria for Zone Change 697.

Attachments

Zoning Map & Site Photos
Application

Zoning Map and Site Photos – Zone Change 697







Subject property from 60th St West



View south along 60th ST West



View west across 60th St W



View north at intersection of Colton Blvd & 60th St W



View north and east across intersection to 5935 Colton Blvd



View west along Colton Blvd at intersection

Application and pre-app meeting – Zone Change 697

APPLICATION FORM

COUNTY ZONE CHANGE County Zone Change # 697 - Project # 22-19-00168

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

Present Zoning: Ag-Open

Proposed Zoning: Ag-Suburban

Tax ID # D046730 COUNTY COMMISSIONER DISTRICT # _____

Legal Description of Property: SunnyCove Fruit Farms, S31, T01 N, R25 E, Lot 70

Address or General Location (If unknown, contact County Public Works): _____

SE corner of 60th st & Colton

Size of Parcel (Area & Dimensions): 9.43 acres

Present Land-Use: Agriculture

Proposed Land-Use: Ag-Suburban

Covenants or Deed Restrictions on Property: Yes No _____

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): David & Sarah Nigh

(Recorded Owner)

2035 Chambers Dr. Beeman, MT 59715

(Address)

406 850 9920

(Phone Number)

DNIGH6@GMAIL.COM

(email)

Agent(s): _____

(Name)

(Address)

(Phone Number)

(Email)

I understand that the filing fee accompanying this application is not refundable, that it pays for the cost of processing, and that the fee does not constitute a payment for a Zone Change. Also, I attest that all the information presented herein is factual and correct.

Signature: [Signature] [Signature] Date: 8/11/19

(Recorded Owner)



ZONE CHANGE APPLICATION
SUNNY COVE FRUIT FARMS, LOT 70 Tax ID # D046730
Answers to Application Questions

1. Questions

A. Our proposed zoning change from Ag-Open to Ag-Suburban is consistent with the goals and objectives of the 2008 Growth Policy in the following ways.

- The neighbors in the Sunny Cove Fruit Farm understand their covenants allow for a one time split of a parcel as long as one of the remaining parcels is greater than or equal to 5 acres. The discussion at our neighborhood meeting re-affirmed this as part of the long term planning for the area. This zoning change is consistent with the neighborhood character and preferred land use pattern identified in the neighborhood plans (covenants).

- The covenants prescribes no further dividing of the newly established parcels which will maintain the open space aesthetic of the development.

- Similar parcels in SCFF have completed the same zoning change.

B. The zoning change is necessary to divide the nearly 10 acre (9.43 after road easements) Ag-Open designation into 2 parcels (5.43 acres and 4 acres) in order to improve market value of the property. The new parcels' size require the zoning change to Ag-Suburban. This proposed change is in keeping with the long term neighborhood plan.

2. Photographs available on line at realtor.com on property listing 60th and Colton

3. The Pre-application Neighborhood meeting was held on August 1st at 6:30 on the property. Five of the adjoining property owners were in attendance, one passed on a verbal and one passed on a written agreement with the proposed change and one did not reply or attend. After opening the meeting by reviewing the proposed split of the 9.43 acres and the zoning change and subdivision process, the meeting conversation mainly focussed on current market values and other neighbor's plans for their parcels. Everyone understood the proposed changes and none had objections. (Neighborhood meeting invite letter with map included in this application.)

4. Radius map included.

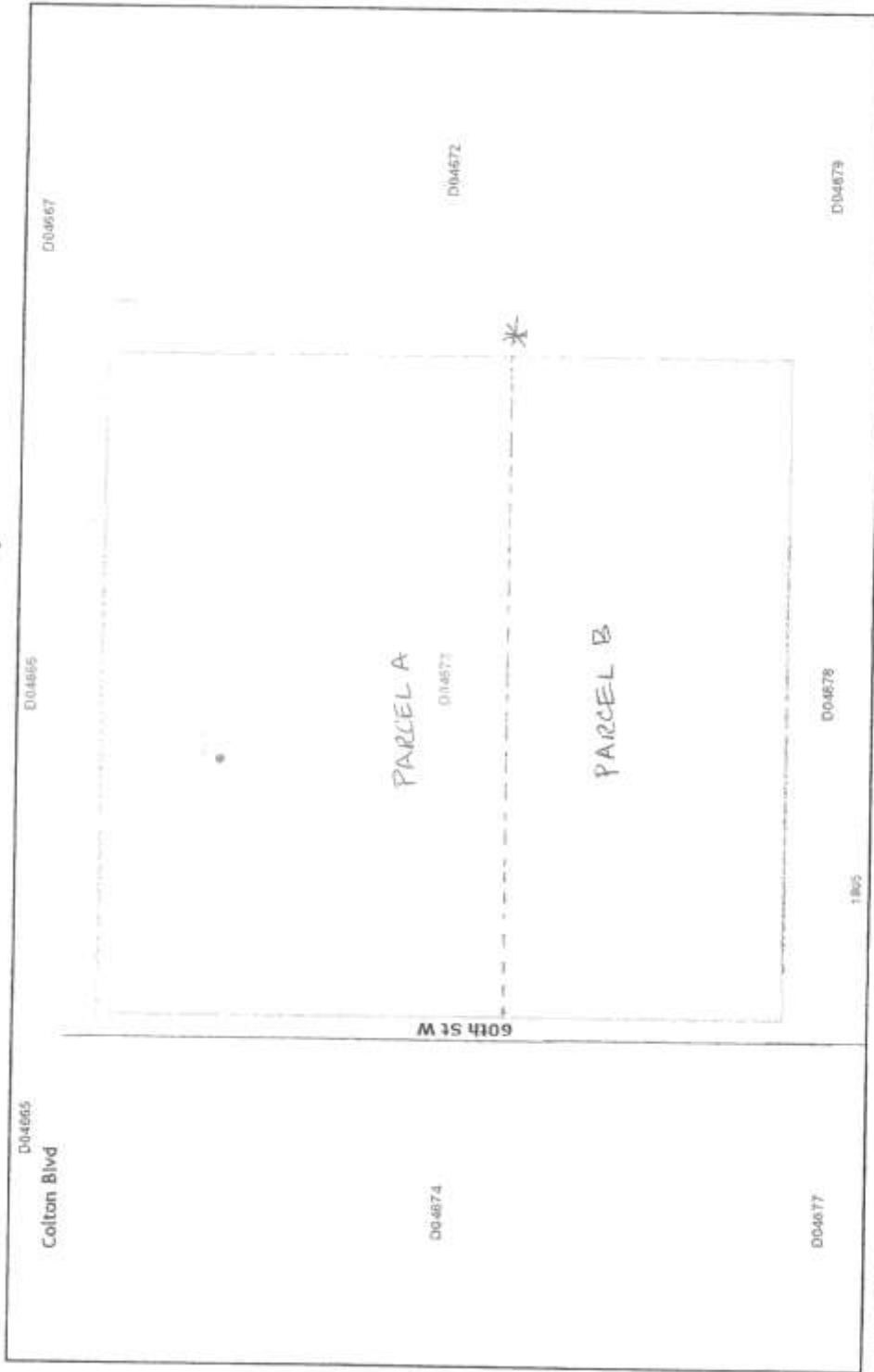
5. Certified list of names included.

6. Filing fee \$912 included, \$50 deposit check for signs included.

Respectfully Submitted,

Dave and Sarah Nigh

Yellowstone County



April 16, 2019

- polygonLayer
- Override 1
- polygonLayer
- Override 1
- Boundary

* Seller proposed subdivisions:
5.43 acre lot - Parcel A
4.00 acre lot - Parcel B



Yellowstone County

Sunny Cove Fruit Farm lot 70
Zoning Change
Neighborhood Meeting Aug 1, 2013

SIGN IN

Julia
Sue Anderson
Steve Powell
Dawn Hall
Ann Soc