



**COUNTY OF YELLOWSTONE ZONING COMMISSION**  
**AGENDA-Monday, September 14, 2020 4:00 PM**  
**Virtual Video Conference Format**

NOTICE TO THE PUBLIC

Public Comment:

Due to the COVID-19 health concerns, the format of the County Zoning Commission meeting will be held in a virtual videoconferencing environment. The normal hearing room on the 1<sup>st</sup> Floor at 2825 3<sup>rd</sup> Ave North (Miller Building) will be closed during the meeting and no one will be attending this hearing in person. Public comment will be taken only during the Public Comment periods as indicated on the agenda, and during the Public Hearings under the Regular agenda. Comments may be sent to Board via email before 1:00 PM on Monday, September 14, 2020. All emails received prior to this time will be read into the record for the public hearing

**Call the meeting to order.**

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

**Public Comment:** The Public may call in during specific Public Comment periods at (406) 237-6165. All callers will be in a queued system and are asked to remain on hold and be patient. Calls will be taken in the order in which they are received. Callers will be restricted to 3 minutes of testimony as is customary. Live coverage can be viewed on the Billings-Planning & Community Services Facebook Page here;

<https://www.facebook.com/Billings-Planning-Community-Services-Department-1738982159659260/?ref=bookmarks>

**Motion. Approval of Minutes: August 10, 2020**

The minutes of the Board meeting of August 10, 2020

**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 Exparte Communication Binder is available at the Sign-In and Agenda Station.**

**Regular Business:**

- A. Opening of public hearings. All callers will be in a queued system and are asked to remain on hold and be patient. Calls will be taken in the order in which they are received. Callers will be restricted to 3 minutes of testimony as is customary. Live coverage can be viewed on the Billings-Planning & Community Services Facebook Page here;  
<https://www.facebook.com/Billings-Planning-Community-Services-Department-1738982159659260/?ref=bookmarks>
- 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. **County Zone Change 703 – Portion of Lot 2, Block 1 Cherry Creek Estates – from R-96 to R-80** - A zone change request from Residential 9,600 (R-96) to Residential 8,000 (R-80), on a portion of Lot 2, Block 1, Cherry Creek Estates Subdivision, specifically the 8.62 acres south of Cherry Creek Loop and north of the city limits. A pre-application neighborhood meeting was held by the applicant on July 27, 2020 at 6:00 pm at the subject property. Presented by Nicole Cromwell, Zoning Coordinator

**Other Business/Announcements**

- a. **Discussion.** The City/County Planning Board is requesting an initial discussion with the County Zoning Commission regarding the potential need to expand the existing County Zoning Jurisdictional Boundary. The current boundary has not expanded in the 47 years since it was first established except for a minor expansion in Lockwood (2016) to include more zoned property for the County's Targeted Economic Development District (TEDD).

There are areas where the County's Zoning Jurisdiction Boundary is coterminous with the city limits and some areas where the city limits have expanded beyond the County's Zoning Boundary (Copper Ridge Subdivision, 70th Street W and Rimrock Road). In 1973, the County's zoning jurisdiction extended at least 4 1/2 miles beyond the city limits. In many areas of West Billings and Billings Heights, the County zoning boundary is much less than 4 1/2 miles from the city limits. The City has expanded significantly since 1973. The County Part 2 zoning jurisdiction has not expanded and in some cases, City zoned land is directly adjacent to un-zoned County land.

Representatives from the City/County Planning Board would like this opportunity to have a discussion about the County zoning boundary. The Planning Board recently helped planning staff in the development of the Land Use element for the County Growth Policy. The Planning Board believes its findings coupled with recent developments occurring on the west end, in particular, creates a critical time to bring awareness of these issues to other boards like the Zoning Commission and Board of County Commissioners.

## Adjournment

The **Board of County Commissioners** public hearing for **Zone Change 703**, will be held on **Tuesday, September 22, 2020, at 9:30 a.m.** The Board of County Commissioners will hear all persons wishing to speak relative to the proposed **zone change**. The Board of County Commissioners may also have specific public hearing procedures in place for this hearing date and time. Please contact the Board Secretary, Teri Reitz at 256-2798, for information regarding the Commissioners hearing.

Information on the preceding item may be obtained by contacting Yellowstone County Planning Department, 2825 3<sup>rd</sup> Avenue North, 4<sup>th</sup> Floor or phone 657-8246, Tammy Deines, Planning Clerk, at 247-8610 or e-mail at [deinest@billingsmt.gov](mailto:deinest@billingsmt.gov)

**County Zoning Commission**

**Meeting Date:** 09/14/2020

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**Information**

**Subject**

**Motion. Approval of Minutes: August 10, 2020**

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**Attachments**

YZC\_2020\_08\_10\_\_DRAFT

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**Yellowstone County Zoning Commission  
DRAFT Minutes for the Meeting of  
Monday, August 10, 2020**

**The County Zoning Commission met on Monday, August 10, 2020 at 4:00 p.m.** Due to the COVID-19 health concerns, the format of the County Zoning Commission meeting will be held in a virtual videoconferencing environment. The normal hearing room on the 1<sup>st</sup> Floor at 2825 3<sup>rd</sup> Ave North (Miller Building) will be closed during the meeting and no one will be attending this hearing in person. 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 25, 2020 at 9:30 a.m.** 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.

Chairman Bush opened the meeting at 4:18pm and introduced the County Zoning Commission members and Planning Division staff: Nicole Cromwell, Zoning Coordinator. Karen Husman, Planner I, Robbin Bartley, Administrative Assistant.

Commissioners and Staff		01/13/2020	02/10/2020	03/09/2020	04/13/2020	05/11/2020	06/08/2020	07/13/2020	08/10/2020	09/14/2020	10/12/2020	11/09/2020	12/14/2020
Jerry T. Ray	Commissioner	1	-	-	-	1	-	-	1				
Troy Boucher	Commissioner Chairman	1	-	-	-	1	-	-	1				
Ryan Wittman	Commissioner	1	-	-	-	E	-	-	A				
Tyler Bush	Commissioner Chairman	E	-	-	-	1	-	--	1				
Todd Hewett	Commissioner	1	-	-	-	1	-		A				

**Other Participants: Scott Aspenlieder, Performance Engineering**

**Public Comment**

Chairman Bush asked if there was anyone wishing to speak during the public comment portion of the meeting. The Public may call in during specific Public Comment periods at (406) 237-6196. All callers will be in a queued system and are asked to remain on hold and be patient. Calls will be taken in the order in which they are received. Callers will be restricted to 3 minutes of testimony as is customary.



**Yellowstone County Zoning Commission  
DRAFT Minutes for the Meeting of  
Monday, August 10, 2020**

**Disclosure of Ex Parte Communication: County Zone Change #702.** The Commissioners reported no Ex Parte Communications.

**Disclosure of Conflict of Interest: County Zone Change #702:** There was none.

**Motion. Approval of Minutes: May 14, 2020**(The June and July meetings were canceled).

**Motion**

**Commissioner Bush made a motion and Commissioner Boucher seconded the motion to approve the May 14, 2020 meeting minutes as submitted.**

**The motion carried with a unanimous voice vote.**

**Item #1: County Zone Change #702**

Zoning Coordinator Nicole Cromwell read the legal notice for County Zone Change #702 into the record.

**REQUEST**

**County Zone Change 702 – 133 Eagle Cliff Meadows – from A-S to R-150 -** A zone change request from Agricultural Suburban (A-S) to Residential-15,000 (R-150), on Certificate of Survey 1884 Tract 1A2, of Amended Tract 1, a 22.2 acre parcel of land. A pre-application neighborhood meeting was held on June 24, 2020 at 6:00 pm via Zoom meeting. Tax ID: D06558.

**RECOMMENDATION**

Approval of Zone Change 702 and adoption of the 11 criteria for this zone change provided within this report Karen Husman, Planner I, gave a brief presentation, and explained the determinations for the Recommendation of approval.

**Public Hearing:** Chairman Bush opened the public hearing and asked if there is anyone wishing to speak in favor or against County Zone Change #702.

**Craig Dawson, Performance Engineering**

No additional comments, please recommend approval of this Zone Change to the County Commissioners.

**Discussion**

Chairman Bush called for discussion. There was none.

**Public Hearing:**

Chairman Bush opened the public hearing and called for anyone wishing to speak in favor or against County Zone Change #702.



**Yellowstone County Zoning Commission  
DRAFT Minutes for the Meeting of  
Monday, August 10, 2020**

**Motion**

**Commissioner Bush made a motion and it was seconded by Commissioner Boucher to forward recommendation of approval and adoption of County Zone Change #702 with the findings of the 11 criteria based on the statutory (MCA 76-3-304) criteria for zone changes.**

<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 carries, 3-0. The YC Zoning Commission will forward a recommendation to the Board of County Commissioners of approval of County Zone Change #702.**

**OTHER BUSINESS**

a. **Announcement:** The next Yellowstone County Zoning Commission meeting is scheduled for Monday, September 14, 2020, (Depending on application submittals).

Zoning Commission Public Hearings for Project RE:Code will convene August 26 and 27 at the Community Center Billings Parks and Recreation.

**Adjournment 4:31 PM**

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



**County Zoning Commission**

**Meeting Date:** 09/14/2020

**SUBJECT:** County Zone Change 703 - Cherry Creek Loop - R-96 to R-80

**THROUGH:** Nicole Cromwell

**PRESENTED BY:** Nicole Cromwell

**Information**

**REQUEST**

**County Zone Change 703 – Portion of Lot 2, Block 1 Cherry Creek Estates – from R-96 to R-80 -** A zone change request from Residential 9,600 (R-96) to Residential 8,000 (R-80), on a portion of Lot 2, Block 1, Cherry Creek Estates Subdivision, specifically the 8.62 acres south of Cherry Creek Loop and north of the city limits. A pre-application neighborhood meeting was held by the applicant on July 27, 2020 at 6:00 pm at the subject property. Presented by Nicole Cromwell, Zoning Coordinator

**RECOMMENDATION**

Planning staff recommends approval of Zone Change 703 and adoption of the findings of the eleven criteria.

**APPLICATION DATA**

OWNER: Cherry Island, LLC  
 AGENT: Blueline Engineering, Marshall Phil, P.E.  
 LEGAL DESCRIPTION: 8.62 acres of Lot 2, Block 1 Cherry Creek Estates south of Cherry Creek Loop  
 ADDRESS: Cherry Creek Loop  
 CURRENT ZONING: R-96  
 EXISTING LAND USE: Vacant  
 PROPOSED USE: Townhomes  
 SIZE OF PARCEL: 8.62 acres out of a total 20.195 acres

**CONCURRENT APPLICATIONS**

City Zone Change 983 - for the southern 3.42 acres of Lot 2, Block 1, Cherry Creek Estates. The City Zoning Commission hearing was conducted on September 1, 2020 and the Zoning Commission is forwarding a recommendation of approval. The City Council hearing is scheduled for September 28, 2020.

**APPLICABLE ZONING HISTORY**

SUBJECT PROPERTY	Zone Change #	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
Lot 2, Block 1 Cherry Creek Estates	County ZC 496	Feb 1998	A-1 to R-70 and RMH	Withdrawn	
	City ZC 633	April 1998	A-1 to R-70	Withdrawn	Northern lot on Wicks Lane
	County ZC 506	August 1998	A-1 to R-96	Approved	Riverview Estates east of Cherry Creek
	County ZC 524	Dec 1999	A-1 to PD with RMH & Public zones	Denied	BOCC recommended annexation
	County ZC 541	April 2001	A-1 to R-96 & Public	Approved	Subject Property
	County ZC 543	May 2001	A-1 to RMH & Public	Approved	Litigated & BOCC Decision Affirmed

	County ZC 551	March 2002	Clarifying Zone Boundaries R-96 & Public	Approved	
	City ZC 696	April 2002	A-1 to RMH, RMH to Public & R-96 to Public	Withdrawn	Mistaken submittal by agent
	City ZC 702	July 2002	RMH & Public to R-96	Denied	City Council initiated after annexation in June 2002
	County ZC 562	July 2003	A-1 to R-96	Approved	Small area east of MHP
	County ZC 673	March 2016	R-96 to RMH	Withdrawn	Subject Property
<b>SURROUNDING PROPERTY</b>	<b>Zone Change #</b>	<b>DATE</b>	<b>FOR</b>	<b>APPROVED (Y/N)</b>	<b>ADDITIONAL DATA</b>
1922 – 1950 Mary St	County ZC 85	4/27/1976	R-70 to RMH	Y	Court reversed ZC
1415 Yellowstone River Rd	County ZC 312	1/22/1982	R-70 to Public	Y	Eagle Cliff Nursing Home
1817 Bitterroot Dr	County ZC 371	11/84	R-70 to R-60	Withdrawn	Annexed
Bitterroot Dr & Walter Rd	County ZC 505	9/28/1998	R-70 to R-96	Y	Multiple owners adjacent to Cherry Creek
1601 – 1747 Wicks Ln	City ZC 637	9/14/1998	R-70 to R-96	Y	Multiple owners adjacent to Cherry Creek
Caleb Park Hawthorne & Wicks Ln	City ZC 761	9/20/2005	R-70 to R-50	Y	Townhomes

## SURROUNDING LAND USE & ZONING

NORTH:	Zoning: R-96 Land Use: Vacant remaining portion of Lot 2
SOUTH:	Zoning: Public (city) Land Use: Vacant
EAST:	Zoning: RMH Land Use: Cherry Creek and Danube Court Manufactured Home Parks
WEST:	Zoning: R-96 and R-70 (County) Land Use: Single family dwellings

## BACKGROUND

This is a zone change request for an 8.62 acre portion of Lot 2, Block 1, Cherry Creek Estates Subdivision, from Residential 9,600 (R-96) to Residential 8,000 (R-80). There is a concurrent City zone change for the portion of Lot 2 south of this property (3.42 acres). The proposed development plan will include a future annexation and subdivision of the property for the development of two-family townhomes. The townhomes would be sold to individual owners.

The current zoning is Residential 9,600 (R-96) in the county portion. The current zoning of Lot 2 was approved by County Zoning Change 541 in May 2001. The Public zone portion was intended to accommodate an extension or connection to the bike & trail system along the Yellowstone River and for potential future park dedication to the city. All large subdivisions for residential purposes are required to either dedicate parkland or pay cash in lieu of dedication. The Public zoned portion of this lot was never offered as parkland dedication and is still owned by Cherry Island, LLC. The Cherry Creek Manufactured Home Park developed and maintains a neighborhood park within the court and Danube Court, the last phase of Cherry Creek, paid cash in lieu of parkland dedication.

The proposed zoning of R-80 will allow one and two-family dwellings on lots of 8,000 square feet for a one-family home and 10,000 square feet for a two-family dwelling. The developer intends to build primarily two-family dwellings and presented a concept site plan at the pre-application neighborhood meeting. The townhomes would be sold to individual owners. The concept plan shows an internal road connecting the northern and southern legs of Cherry Creek Loop with 33 two-family dwellings (66 dwelling units total). The total lot area in the proposed development is about 12 acres. The proposed 66 dwelling units would have about 7,900 square feet of lot area per unit or 5.5 dwelling units per acre. The Aspen Cove Townhomes to the north at the intersection of Wicks Lane and Bitterroot Drive are zoned Residential 7,000 (R-70). There are 34 townhomes on this 4.88 acre parcel and have a density of about 7 dwelling units per acre. The directly adjacent properties to the west are outside the city limits and developed at much lower densities of 1 to 1.5 dwellings per acre.

The Cherry Creek Estates development started in 1998 when the first of 11 zone change applications was filed with

the Planning Division. Four of the zone changes were withdrawn, two were denied and five were approved. The County zone change that approved the Residential Manufactured Home (County ZC 543) zoning was litigated in district court. The suit did not overturn the County Commissioners' decision to approve the zone change. The property including this Public zoned portion of Lot 2 was subsequently annexed to the city in 2002. The City Council agreed to annex the property with the intent to initiate a zone change after the annexation. The Council initiated the zone change in July 2002 to change the RMH and Public zoning to Residential 9,600 (R-96). The owners protested the zone change triggering the requirement for a super-majority vote to approve the zone change. The Council failed to achieve a super majority vote in favor of the zone change so the RMH and Public zoning stayed in place.

The subject property has remained un-developed for the last 22 years while the Cherry Creek Manufactured Home Park and Danube Court were developed. An early zone change application for a Planned Development (County Zone Change 524) proposed an underlying zoning of RMH for the manufactured home park and Public for all of Lot 2. In this proposal, Lot 2 would remain vacant and be developed as a natural area park with landscaping and trails. The Zoning Commission recommended denial. The County Commissioners denied the Planned Development zone change in early 2000. The next approved zone change for the property was in May 2001 and the zoning has remained the same since that time.

The Planning staff has reviewed the application and is recommending approval of the zone change to R-80. The 2006 Billings Heights Neighborhood Plan and the 2008 County Growth Policy encourage the development of infill property where city services already exist and new neighborhoods can be served efficiently. The Heights Neighborhood Plan adopted a general statement encouraging new neighborhoods and developments that are similar in nature to existing neighborhoods. Both plans encourage a mix of housing choices in neighborhoods. The proposed development of townhomes expands the housing options in this area of Billings Heights, and should be a good fit between the manufactured home park and the low density county residences to the west. Water and sewer are readily available to the property. Public safety services are fiscally constrained, but the adjacent neighborhoods are already served and this new development can be served as well.

## **SUMMARY**

Prior to any recommendation to the County Commissioners, the Zoning Commission shall consider the following:

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

The proposed zone change is consistent with the following goals of the 2008 County Growth Policy:

- Predictable land use decisions that are consistent with neighborhood character and preferred land use patterns identified in neighborhood plans.
- New developments that are sensitive to and compatible with the character of adjacent City neighborhoods and County townsites
- Affordable housing for all income levels dispersed throughout the City and County.
- Common to all types of housing choices is the desire to live in surroundings that are affordable, healthy and safe

The proposed zone change is consistent with the following goals of the 2006 Billings Heights Neighborhood Plan:

- To provide safe, good quality and affordable housing in the Heights. Develop housing patterns that are compatible with existing neighborhoods. Encourage high density multi-family development along arterial routes. Maintain similar housing in established neighborhoods.

The proposed zoning will allow another housing choice in an area with limited housing choices – either manufactured homes or large lot single family dwellings. There are a few townhomes at the intersection of Wicks Lane and Bitterroot Drive but the market is under-represented for this high-demand housing choice. The Emma Jean Heights Subdivision to the north and west is zoned for one or two-family dwellings but is developing mostly as single family dwellings. Subdivisions further north and west have allowed similar housing choices by mixtures of zone districts. Existing demand for housing choice is going up for all ages of buyers including “boomers” and millennials just buying a first home. The proposed zoning would allow a townhome choice in an area where two

choices pre-dominate – a manufactured home or a detached single family residence on a larger lot. The overall density of 4 to 6 dwelling units per acre will remain essentially the same throughout the Cherry Creek Subdivision.

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

The new zoning requires minimum setbacks, open and landscaped areas and building separations. The new zoning, as do all zoning districts, provides adequate building separations and density limits to provide security from fire and other dangers.

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

Transportation: The proposed zoning will not significantly increase post-development traffic volume. The applicant will be required to prepare a Traffic report to accurately assess the capacity of the surrounding street network to handle the increased traffic from the townhome development. Any improvements or mitigation will be determined by the City Traffic Engineer.

Water and Sewer: The City will provide sewer to the property. Billings Heights Water will provide water service.

Schools and Parks: Schools and parks should not be affected by the proposed zoning.

Fire and Police: The subject property is served by city public safety services. The Police and Fire Departments had no concerns with the zone change.

4. *Whether the new zoning will promote public health, public safety and general welfare?*

Public health and public safety will be promoted by the proposed zoning. The additional dwelling units will help increase the number of rate payers to the city utility systems and increase the taxable value of the property. Current property taxes paid are about \$92.00 per tax year. Comparable townhomes to the north in Aspen Gateway pay between \$1,500 and \$2,000 per tax year per townhome. There are 34 townhomes in Aspen Gateway and there are 66 proposed townhomes on the subject property.

5. *Will the new zoning provide adequate light and air?*

The proposed zoning provides for sufficient setbacks to allow for adequate separation between structures and adequate light and air.

6. *Will the new zoning effect motorized and non-motorized transportation?*

Traffic generation from 66 new dwelling units will be between 650 to 800 new vehicle trips per day. This trip counts includes trips to the new residences for services such as mail, deliveries, solid waste and similar as well as the trips by the occupants. The new subdivision will have sidewalks and will connect to other sidewalks and pedestrian facilities in the neighborhood.

7. *Will the new zoning promote compatible urban growth?*

The new zoning does promote compatibility with urban growth. The proposed zoning will allow this parcel to provide new housing compatible with the existing neighborhoods to the west and east.

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

The proposed zoning does consider the character of the district and the suitability of the property for the proposed use. The proposed zoning will allow a housing choice that is in demand in the area.

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

There are no existing buildings on the property. Manufactured homes to the east will be the closest to the new development but there is a significant planted buffer yard and 6-foot high screening fence. To the west, most of these homes will be 160 to 200 feet from the back of the new townhomes. In general, new construction tends to increase adjacent building and property values.

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

The proposed zoning will allow the development of another housing choice in this area of Billings Heights. This is

the most appropriate use of the land.

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

The proposed zoning of R-80 will be identical with the proposed zoning for the city portion of Lot 2 and is compatible with the existing Residential Manufactured Home (RMH) zoning to the east. There is a significant existing landscaped buffer between the two properties. This will increase the compatibility of the two developments.

## **RECOMMENDATION**

Staff recommends approval of Zone Change 703 and adoption of the findings of the eleven review criteria.

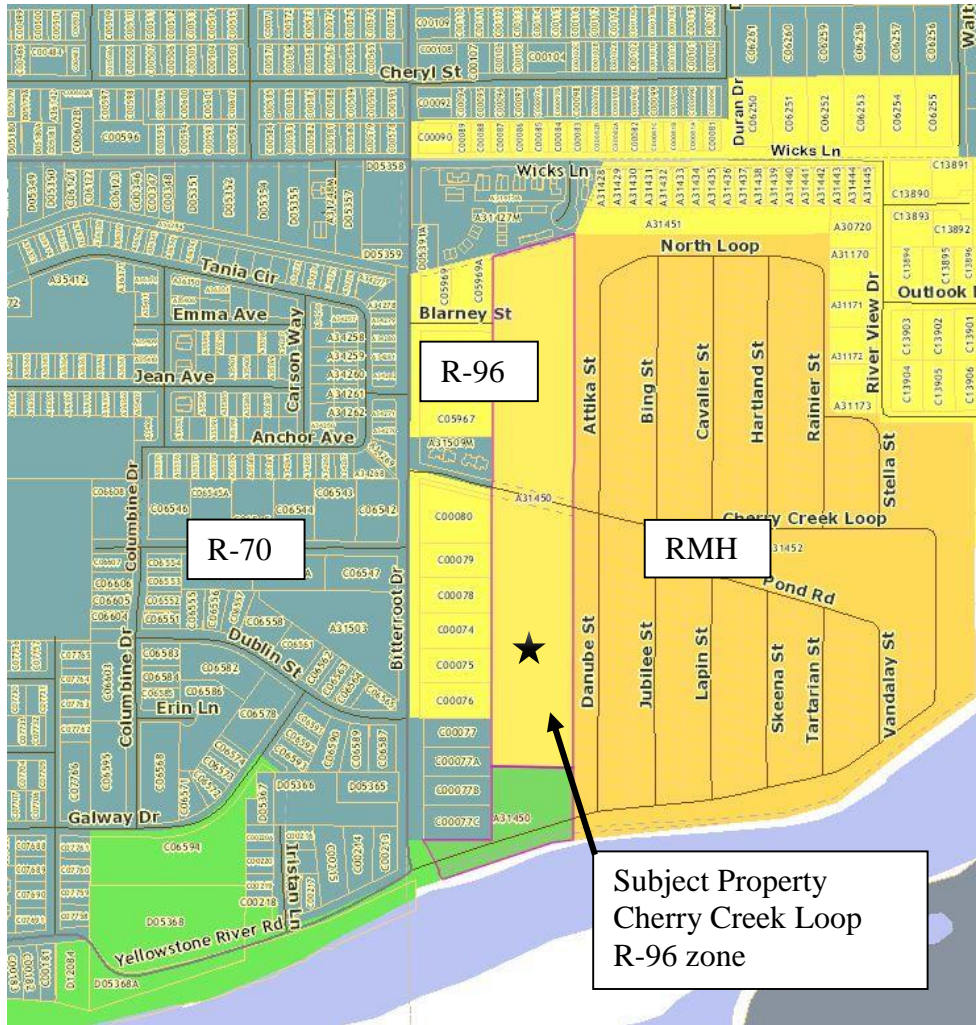
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## **Attachments**

Zoning Map and Site Photos  
Application and Letter

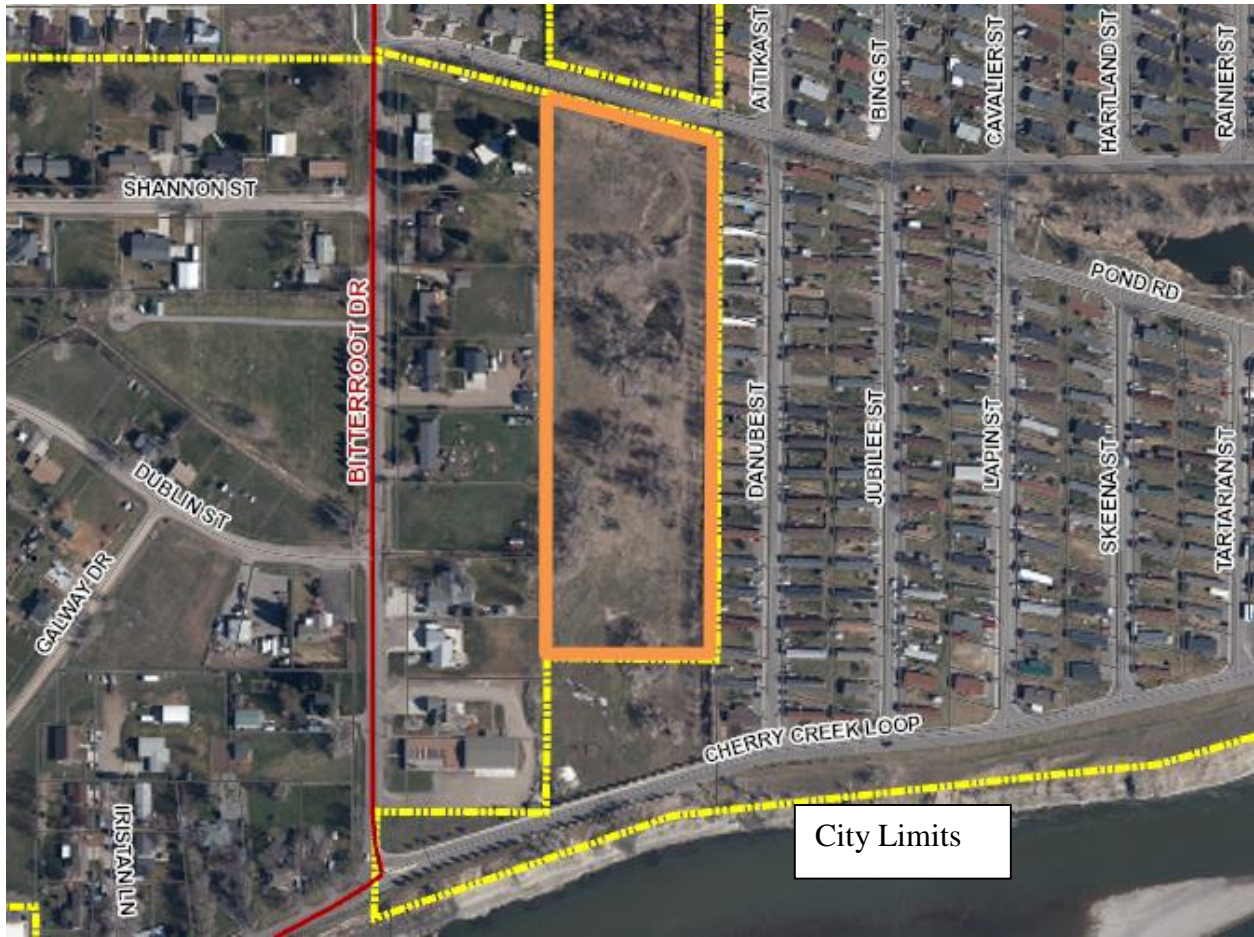
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**Surrounding Zoning**  
Zone Change 703 – Cherry Creek Estates Lot 2, Block 1





Subject Property  
Cherry Creek Loop  
R-96 zone



Subject Property

## Subject Property Photos



Subject Property- view south from Cherry Creek Loop



View west to intersection of Cherry Creek Loop & Bitterroot Drive



View east to the entrance of Cherry Creek Estates MHP



View south and west across subject property



View south from Cherry Creek Loop across subject property



Gate at Cherry Creek Loop access to subject property

Zone Change 703 – Cherry Creek Loop – R-96 to R-80

APPLICATION FORM

COUNTY ZONE CHANGE County Zone Change # 703 - Project # P2-20-00184

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: R-9600

Proposed Zoning: R-8000

Tax ID # A31450 COUNTY COMMISSIONER DISTRICT # 2

Legal Description of Property: \_\_\_\_\_

CHERRY CREEK ESTATES SUB, S24, T01 N, R26 E, BLOCK 1, Lot 2, ACRES 20.196, "MULTIPLE DISTRICTS"-(GD 02-16.77 AC,SD 2-3.42 AC) (04 AMND ANNEX RESOL #03-17967 (04))

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

Cherry Creek Loop

Size of Parcel (Area & Dimensions): 375,619.5F 348.55 x 1067.8 x 338.76 x 1118.93

Present Land-Use: Vacant

Proposed Land-Use: Duplex Housing Development

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): Cherry Island LLC

(Recorded Owner)

5855 Elysian Rd Billings MT, 59101

(Address)

406-254-2106

(Phone Number)

jclause@wmc-i.com

(email)

Agent(s): BLUELINE ENGINEERING

(Name)

724 1ST AVE N, BILLINGS MT 59101

(Address)

406-294-2294

(Phone Number)

MPHIL@BLUELINE-ENG.COM

(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 \_\_\_\_\_ Date: 8-3-20



Date Stamp





July 31, 2020

Planning & Community Services Department  
2825 3<sup>rd</sup> Ave North, 4<sup>th</sup> Floor  
Billings, MT, MT 59101

To Whom It May Concern:

We are submitting this Zone Change Application for the following: the area zoned Pubic in the southern half of Lot 2, Block 1, Cherry Creek Estates Subdivision, Section 24, T1N, R26E, P.M.M. in Yellowstone County, Montana (Tax ID # A31450);

This Zone Change is being submitted to you after several discussions with Staff, neighbors, and the Heights Task Force. It is clear from these discussions that the neighborhood wants to see a project that protects against rundown appearances, reduces crime, and preserves land values. Therefore, a Zone Change of R-8000 has been requested to provide the largest lots available in Zoning, while still being able to build duplex townhomes. The single-family zoning of R-9600, drives the costs above the target market to achieve affordable housing. Single-family homes are not the best transitional zoning from the RMH property. Past zone changes in the area have shown that the higher density uses are not what planning and the neighborhood desire.

To help achieve the desires of these residents, we are preparing documents to allow the townhomes to be owned with individual water and sewer services. An HOA will be formed that will provide for oversight of building and property appearances, lawn and snow removal services. An HOA also helps form a strong neighborhood with pride of ownership. Other concerns with utility and street maintenance will be dealt with by that infrastructure being owner and maintained by the City of Billings and the Heights Water District.

Zone change #673 was a request to change this site from R-96 to RMH and the staff recommended denial. Item 8 in the zoning consideration stated that the request "may not be the best match for the character of the area." It further stated that "A zoning of R-70 on the subject property might be more suitable in density and lot size per unit to transition from the RMH zoning on the east to the R-96 zoning to the west, as well as fit with the existing R-70 zoning in the area." This staff recommendation has been used in helping make the decision to request R-8000 zoning.

The following paragraphs are in response to the questions found within the County Zone Change Application.

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

The rezoning of this property supports the Growth Policy in the following ways:

**Essential Investments (relating public and private expenditures to public values)**

- a. *The safety of all users and the connectivity of the transportation system are important criteria to consider in roadway designs and transportation plans*

The road serving this development being owned and maintained by the city through tax on the proposed lots. Being a public access from N Cherry Creek Loop to S Cherry Creek Loop would be further improve connectivity as the connecting roads to the east are private.

- b. *Public transit and commercial air service are critical to ensure access to and around the City*

Public transit would benefit from the ability to enter either N Cherry Loop to pick up passengers from the nearby housing and then loop around through a public street and leave via S Cherry Loop.

- c. *Planning and construction of safe and affordable interconnected sidewalks and trails are important to the economy and livability of Billings.*

To ensure the development has safe and interconnected sidewalks the new public road would have 5' boulevards and 5' sidewalks on both sides. The sidewalks will be maintained, cleaned, and snow removed by the HOA.

- d. *Developed parks that provide recreation, special amenities (community gardens, dog parks, viewing areas), and active living opportunities are desirable for an attractive and healthy community*

It is anticipated that the Parks Department will request cash-in-lieu for this development.

- e. *Natural landscapes are an important part of Billings heritage and help protect the environment.*

The Development includes ample backyards and encourages planting trees and grasses. In addition, a "no build" zone will run the length of the west boundary and will be landscaped with trees.

- f. *Landscaping of public rights-of-way and entryways makes Billings more visually appealing to residents and visitors*

The public right of way will have a 5' boulevard that will be more visually appealing to residents and visitors. The boulevard will be landscaped and maintained by the HOA.

- g. *Public health and safety and emergency service response are critical to the well-being of Billings' residents, businesses, and visitors*

Public health and safety will benefit from a public road bridging North and South Cherry Creek roads that will be maintained by the city. This is also a public turn around in closer vicinity to the more remote Stella St N, Erin St, and Vandalay St. Giving emergency vehicles easier access.

- h. Infill development and development near existing City infrastructure may be the most cost effective*

Infill development is preferred when possible near existing City infrastructure. This development is a prime example of an infill project with infrastructure existing on the north, south, and running through the middle. The development is also has existing development on all sides.

- i. Accessibility, friendly and cost effective government are important public value.*

This will not apply to this development

- j. The history and heritage of Billings are cornerstones of our community*

The history and heritage of Billings are cornerstone of our community and few things are as crucial to our history as the Yellowstone River. This development borders right on the river and many residents would travel and experience Yellowstone River Road's beautiful view every day. New development in this area could spark more interest and, in the future, and extension of Yellowstone River Road, and N Cherry Creek Loop could become a scenic drive location.

- k. Neighborhoods that are safe and attractive and provide essential services are much Desired*

A well-developed HOA with the means to enforce its rules and regulations will ensure this development will be and remain a safe and attractive neighborhood.

- l. Infrastructure and service investments that stabilize or improve property values, secure future utility costs, consider maintenance costs, and improve our environmental quality far into the future (i.e. energy efficient) are desirable*

Permanent "stick built" homes would be an improvement over the mobile home courtyard to the east. In addition, the new crossroad would provide another cross connection of utilities from N Cherry Loop to S Cherry Loop to provide redundant service in case of incident.

- m. It is important to factor in maintenance costs when programming public spaces and infrastructure*

Maintenance of infrastructure will be paid for by tax on the developed lots.

- n. Integrated, long range water planning that better utilizes existing resources and treatment options, and when necessary acquires new ones, is vital.*

the development in an infill project and will not be extending city water service beyond its current reaches.

- o. Regulatory compliant water and wastewater treatment plants that provide sufficient capacity will help sustain community growth*

The development will be on city water and sewer. These will be maintained by the tax provided by the developments lots.

- p. A supportive school system that inspires, motivates, and prepares students for meaningful employment is important for ensuring a high quality, competitive community*

The school system has been contacted and adequate school space has been confirmed. The new influx of residents to the area also means an increase in revenue for any school bond measures passed.

**Place making (Enhance, maintain, preserve, and improve existing public places)**

- a. A multi-use community recreational facility is desirable*

It is anticipated that there will be no community recreational facilities as part of this development.

- b. Enhancement and maintenance of public spaces and buildings through City stewardship is integral to a vibrant community*

The road, will be the city's and can be enhanced and maintained through their Stewardship.

- c. Park master plans and transportation plans are important to facilitate the preservation and improved public access to the Yellowstone River and the Rims*

The development will provide another access point to N Cherry Creek Loop which runs parallel to the bank of the Yellowstone River. The development is adjacent to Two Moon Park, is 0.5 miles from Hawthorne Park, 0.33 miles From Primrose Park, and 0.8 miles from the Billings Bike Trail network.

- d. Public and private partnerships are valuable for creating enhanced entryways into Billings*

The entryway into the subdivision will have an enhanced design including landscaping and signage.

- e. Locally grown foods help sustain agriculture, provide healthy options, and support local businesses*

Locally grown foods can help sustain agriculture and foster healthier lifestyles. This development includes ample backyard space that would be ideal for home gardens. The lot currently has a lush mix of trees, bushes, and grasses without any irrigation.

*f. The history and heritage of Billings are cornerstones of our community*

The history and heritage of Billings are cornerstone of our community and few things are as crucial to our history as the Yellowstone River. This development borders right on the river and many residents would travel and experience Yellowstone River Road's beautiful view every day. New development in this area could spark more interest and, in the future, an extension of Yellowstone River Road, and N Cherry Creek Loop could become a scenic drive location.

*g. Natural landscapes are important because they define the uniqueness of Billings and help protect the environment and beautify neighborhoods*

Natural landscapes are an important part of Billings heritage and help protect the environment. The Development include very ample backyards and encourages planting trees and grasses. In addition a "no build" zone will run the length of the west boundary and will be landscaped with trees.

*h. Encouraging the installation of art in public spaces enhances the places and showcases the talents and diversity of the community*

No art is currently planned for this development.

i.

*j. Enhancing public buildings and spaces to be more efficient in their uses of energy, money, and space is important to having a vibrant and livable City*

No public building will be part of this development and the public right-of-way will be owned by the city.

**Community Fabric (attractive, aesthetically pleasing, uniquely Billings)**

*a. Developed landscape areas in commercial areas encourage more pedestrian activity and vibrant commercial activity*

There are no commercial areas as part of this development

*b. Attractive streetscapes provide a pleasant and calming travel experience in urban and suburban neighborhoods*

The streets will be maintained by the city and the sidewalks and boulevards will be maintained by the HOA to ensure a pleasant streetscape.

*c. Outdoor public spaces provide casual and relaxing gathering areas for people*

There will be no outdoor public spaces in this development.

- d. *Planning and construction of interconnected sidewalks and trails are important to the livability of Billings*

To ensure the development has safe and interconnected sidewalks the new public road would have 5' boulevards and 5' sidewalks on both sides. The sidewalks will be maintained, cleaned, and snow removed by the HOA.

- e. *Developed parks that provide recreation, special amenities, and active living opportunities are desirable for an attractive and healthy community*

It is anticipated that the Parks Department will request cash-in-lieu for this development.

- f. *Natural landscapes and parks are important because they define the uniqueness of Billings and help protect the environment*

Natural landscapes are an important part of Billings heritage and help protect the environment. The Development include very ample backyards and encourages planting trees and grasses. In addition, a "no build" zone will run the length of the west boundary and will be landscaped with trees.

- g. *Cost-effective landscaping of public rights-of-way and entryways makes Billings more visually appealing to residents and visitors*

The public right of way will have a 5' boulevard that will be more visually appealing to residents and visitors. The boulevard will be landscaped and maintained by the HOA and encouraged to use landscaping or low impact landscaping.

**Strong Neighborhoods (livable, safe, sociable, and resilient neighborhoods)**

- a. *Zoning regulations that allow a mixture of housing types provide housing options for all age groups and income levels*

The housing for this development will be affordable duplex style home units. Will affordable they will have individual water and sewer services so they can each be privately owned and sold. This will provide a transition of affordable homes between the neighboring mobile home court to the neighboring single family homes.

- b. *Walkable neighborhoods that permit convenient destinations such as neighborhood services, open space, parks, schools and public gathering spaces foster health, good will and social interaction*

There will be no public gathering locations as part of this development but there will be full sidewalk access on all sides of the street.

- c. Safe and livable neighborhoods can be achieved through subdivision design that focuses on complete streets, pedestrian-scale street lights, street trees and walkable access to public spaces*

The development will have complete streets with 5' sidewalks and 5' boulevards maintained by the HOA.

- d. Zoning and subdivision regulations that utilize Crime Prevention Through Environmental Design (CPTED) strategies result in safer neighborhoods*

Because the HOA will be enforcing landscaping rules and home maintenance rules it will be following the CPTED #3 principal: territorial reinforcement, and #4 principal: maintenance.

- e. Implementation of the Infill Policy is important to encourage development of underutilized properties*

This development is an infill project.

- f. Public safety and emergency service response are critical to the well-being of Billings' residents and businesses*

Public health and safety will benefit from a public road bridging North and South Cherry Creek roads that will be maintained by the city. This is also a public turn around in closer vicinity to the more remote Stella St N, Erin St, and Vandalay St. Giving emergency vehicles easier access.

#### **Home Base (healthy, safe, and diverse housing options)**

- a. A mix of housing types that meet the needs of a diverse population is important*

This development is a transitional project from the mobile home court to the east to the single-family homes to the west. This will provide a diverse mix of housing options in the local areas as a whole.

- b. The Housing Needs Assessment is an important tool to ensure Billings recognizes and meets the demands of future development*

The Billings Housing Needs Assessment clearly states that Billings' population is on the rise and the need for more housing is as critical as ever. This is especially true of lower income housing for 1<sup>st</sup> time renters/owners, low income households, elderly retired persons, and minority groups. One of the benefits of developing duplex homes instead of single-family homes is an increase in affordability and availability. The duplexes in this development will have individual water and sewer services to each half and thus they can be bought individually. This gives an opportunity, especially to young couples and first-time buyers, to own a home rather than rent. Owning one's

home is always preferable to renting. Another advantage to the duplex system is that it allows caretakers and family members of disabled and elderly people to live close by while giving both parties a large degree of independence.

- c. *Common to all types of housing choices is the desire to live in surroundings that are affordable, healthy and safe*

This development will provide affordable housing with an HOA designed to keep the neighborhood healthy, clean, and safe.

- d. Planning and construction of interconnected sidewalks and trails are important to the economy and livability of Billings

To ensure the development has safe and interconnected sidewalks the new public road would have 5' boulevards and 5' sidewalks on both sides. The sidewalks will be maintained, cleaned, and snow removed by the HOA.

- e. *Public safety and emergency service response are critical to the well-being of Billings' Residents*

health and safety will benefit from a public road bridging North and South Cherry Creek roads that will be maintained by the city. This is also a public turn around in closer vicinity to the more remote Stella St N, Erin St, and Vandalay St. Giving emergency vehicles easier access.

- f. *Homes that are safe and sound support a healthy community*

The duplexes proposed for this development are locally designed and will be built by local contractors to City of Billings and national standards of safety.

- g. *Accessory dwellings units provide an important type of affordable housing options if compatible*

No accessory dwellings will be part of this development.

- h. *Energy efficient housing can reduce energy consumption*

The duplexes proposed for this development are designed to be energy efficient and according to the newest home insulation regulations.

**Mobility and Access (transportation choices in places where goods and services are accessible to all)**

- a. *Connecting people to places with transportation choices is vital to the well-being of Billings' residents, businesses and visitors*

The development will provide another public road loop access for busses to pick up passengers from this development as well as the nearby trailer court.

*b. Safe and accessible transportation systems benefit everyone's quality of life*

This development will have sidewalks on both sides and the HOA will ensure they will be safe and clear of snow and debris.

*c. Affordable public transit is much desired*

No dedicated public transit will be part of this development but it will be accessible by bus.

*d. Development oriented to transit routes will provide more transportation choices and is Preferred*

Public transit would benefit from the ability to enter either N Cherry Loop to pick up passengers from the nearby housing and then loop around through a public street and leave via S Cherry Loop.

*e. "Safe Routes to Schools" promotes physical health and reduces vehicle trips, earning parents more time and less costs for transportation*

To ensure the development has safe and interconnected sidewalks the new public road would have 5' boulevards and 5' sidewalks on both sides. The sidewalks will be maintained, cleaned, and snow removed by the HOA. This would provide a safe route for children within the development and those passing through from the southern end of the mobile home court.

*f. Planning and construction of interconnected sidewalks and trails are important to the economy and livability of Billings*

To ensure the development has safe and interconnected sidewalks the new public road would have 5' boulevards and 5' sidewalks on both sides. The sidewalks will be maintained, cleaned, and snow removed by the HOA

*g. On-street bike facilities promote predictability for all users*

No on-street bike facilities are planned as part of this development.

*h. Expanded air service ensures that Billings remains a competitive and an accessible destination*

No air-services are planned as part of this development.

- i. Technology can reduce congestion and facilitate emergency vehicle travel at railroad crossings*

There are no railroad crossings in this development.

**Prosperity (promoting equal opportunity and economic development)**

- a. Predictable, reasonable City taxes and assessments are important to Billings' taxpayers*

Predictable and reasonable City taxes and assessments are important to Billings taxpayers. This development would add 33 new duplexes with a total of 66 taxable units.

- b. A diversity of available jobs can ensure a strong Billings' economy*

The development would be built by local contractors and designed by local architects and engineers. Once finished the development's HOA would contract local business for lawn care and snow removal creating more local jobs opportunities.

- c. Successful businesses that provide local jobs benefit the community*

There will be no commercial development as part of this subdivision.

- d. Community investments that attract and retain a strong, skilled and diverse workforce also attracts businesses*

New affordable housing opportunities give new workers a foot in the door to start their life in Billings and advance through the job force.

- e. Retaining and supporting existing businesses helps sustain a healthy economy*

New workers moving into the affordable housing of this development would most likely shop in local businesses.

- f. Continued workforce training benefits the community and helps attract and retain Businesses*

This does not apply to this development

- g. Strategically placed industrial parks will encourage a more diverse city economy, and will better help manage effluent and emission from industrial processes*

There will be no industrial parks as part of this development.

1. Explain your need for the intended zone change and why the property cannot be used under the existing zoning. Explain how the new zoning will fit in with the existing zoning and land uses of the immediate area.

The existing zoning of R-9600 is not the most compatible adjacent zoning to RMH zoning. Affordable duplex housing is the perfect transitional zoning to buffer the neighbors to the west.

Additional information and materials specified within the Application forms are included in those forms and/or attached to this letter. We thank you very much for your continued support on this request, and for your consideration of our re-zoning application. Please feel free to contact me at (406) 294-2294 if you have any questions.

Sincerely,



Marshall Phil

**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:** R-9600
2. **Written description of the Zone Change Plan** including square footage or acres of proposed new zoning: Change to R-8000, 382430 SF 1139x349x1057x339
3. **Subject Property Map:** please attach to this form
4. **Legal Description of Property:** \_\_\_\_\_  
CHERRY CREEK ESTATES SUB, S24, T01 N, R26 E, BLOCK 1, Lot 2, ACRES 20.196, \*\*MULTIPLE DISTRICTS\*\*-(SD 02-16.77 AC,SD 2-3.42 AC) (04 AMND ANNEX RESOL #03-17967 (04)
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 27, day of July, 2020.
  - 2) The zone change application is based on materials presented at the meeting.

**Owner (s):** Cherry Island LLC Telephone: 406-254-2106  
Address: 5855 Elysian Rd Email: jclause@wmc-i.com  
Billings MT, 59101

**Agent (s):** BLUELINE ENGINEERING Telephone: 406-294-2294  
Address: 724 1ST AVE N, BILLINGS MT 59101 Email: MPHIL@BLUELINE-ENG.COM

## CHERRY CREEK ZONE CHANGE MEETING

Held on location of property in question on 7/27/2020 6:00 PM

### Participants

Leon Clause – Owner/Developer

Jeff Engel – Contractor/Consultant

Marshall Phil – Engineering Consultant

Joseph LaFountain – Engineering Consultant

Pam Ellis – Heights Task Force and Neighbor

Karmen Higginbotham – Neighbor

Rhonda & Kass loane – Neighbor

Jason McGimpsey – Neighbor

Bridger McGimpsey – Neighbor

Orion McGimpsey – Neighbor

Lindsay McGimpsey – Neighbor

Tracy Marsh – Neighbor

Terry Dennis – Neighbor

Aaron Higginbotham – Neighbor

### Meeting Highlights

Marshall Phil – Project scope is subdivision development of 33 lots with duplex homes. Duplex homes would require changing the current zoning from R-9600 and public to R-7000 or R-8000.

Pam- will the units/ duplexes be rented or sold by the developer

Leon – the units will mainly be sold but it is jointly owned by him and his 2 brothers and cannot say with certainty what percent they will sell or rent

Marshall – condominium documents will be put in place so individual units can be sold with individual water and sewer services.

Jason – what percentage of the units will be sold versus rented? this can cause problems with HOA control while project is still being developed and while units remain unsold

Aaron- Also concerned with how many units would be rented out by the developer

Marshall- With 33 duplexes and thus 66 units the HOA will have the power to ensure rules and regulations involving tenants and appearance will be enforced

Jason- What about the buffer yard mentioned/promised during previous development/zoning (this was a concern of all neighbors and the heights task force)

Marshall- The buffer yard mentioned was never intended to have the entire parcel of land go undeveloped indefinitely. (Neighbors as a whole disagreed with this)

All Neighbors and Heights task force- voiced concern/dissatisfaction with the state of the nearby Cherry Creek trailer courts development and maintenance. Worried that this will be similar. They stated that the current trailer court has high crime rate, drug use, and sex offenders. Cherry Creek trailer court was developed by the father of the current developer.

Leon & Marshall Response- The HOA will prevent these problems because of the size of the development will give it the "teeth" to sue/evict problem tenants. The development will be on city water, sewer, stormwater, and the road will be a public road maintained by the city. None of the improvements will be privately owned and will be maintained by the taxes paid to the city. The HOA will have provisions for yard maintenance snow removal and upkeep.

All Neighbors – the "buffer yard" (as above) helps separate the trailer court from their homes. They like the land undeveloped.

Marshall Response- The subdivision will still act as a buffer from the trailer court as an area of lower density zoning than the trailer court.

Leon- He has to pay the taxes on the undeveloped land.

All Neighbors and Task Force- would like to see HOA draft.

Rhonda loane – how many duplexes will there be and how big are the units, the lots look small

Jason- how big are the lots

Marshall – The lots are more than 10,000 square feet and the units 3500 square feet. The lots are very deep, 140', so they look small on the map but have very large backyards.

Terry Dennis – will the development have irrigation wells to maintain landscape?

Leon- it could

Marshall – The duplexes will be on city water.

Jason- will that affect the groundwater? Have any Boring been done.

Rhonda loane- we have well water; what affect will it have on us?

Marshall – Geotech boring on this property have not been done. Nearby wells indicate that there will be plenty of water. The well would only be for landscape irrigation the homes will have city water service. Bores will be done when the project is farther along in accordance with MTDEQ and DNRC.

Rhonda loane- I have a drain field what effect will it have on my drain field?

Marhsal- the drain field is up hill of development so none.

Jason- has any topo been done of the land where will the duplexes sit?

Marshall- topo has been done, some dirt work will be required but you always want to move as little dirt as possible.

Pam and Neighbors- Pam initially brought up how many new students would be coming from the development but all the Neighbors were concerned about this. Great concern about over crowding in all levels of schools.

Marshall- 27 new students would be added as estimated by 40% of homes have 1 child, according to the Lincoln center Beartooth's target enrollment is 385 and are currently at 354 so it will not be overcrowded. Skyview is at capacity but the Lincoln center stated the Lockwood high school will be taking students and Medicine Crow has more capacity.

Pam- Lockwood relieves the overcrowding that would have necessitated opening an alternative high school in Billings; the bulge of new students that necessitated building 2 new middle schools are now moving into high school. The estimates do not include the impact of the Cal Kunkl development on Barrett Road.

Karen and others - believe the city average for children per home to be greater than national avg. and duplexes whether occupied by renters or owners would more likely be younger families with children

Terry - kids have to wait for the bus at the corner of Cherry Creek Loop and Bitterroot because they bus won't come down the street. And there is no bus shelter or sidewalk.

Terry & Pam – Could a bus shelter be added? People driving by are uncomfortable with the number of students standing at the corner unsheltered

Jason & Pam – has a traffic impact study been done?

Marshall – not at this stage of development but it will be required as part of subdivision development.

Pam- what is the recode zone for the area?

Marshall - we will find out what the recode zoning will be

All – discussion about the type of homes that can/will be put in. What can go onto R-9600, 8000, 7000, can it be duplex, trailer, double wide, modular homes, stick built.

Neighbors and the Task Force- would prefer homes similar to the existing nearby houses.

Discussion with Leon after the meeting with Pam and Terry

There is no open space for children or people with dogs to recreate. This neighborhood has no accessible neighborhood parks. Cal Kunkl's development on Barrett has 1 acre in the planned development agreement for open space for children. This may be a good "quality of life" improvement, leaving a buffer area and creating a more desirable living environment.



## County Zoning Commission

**Meeting Date:** 09/14/2020

**SUBJECT:** C/C Planning Board Discussion on Expansion of County Zoning Jurisdictional Boundary

**THROUGH:** Monica Plecker

**PRESENTED BY:** Nicole Cromwell

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## Information

### REQUEST

**Discussion.** The City/County Planning Board is requesting an initial discussion with the County Zoning Commission regarding the potential need to expand the existing County Zoning Jurisdictional Boundary. The current boundary has not expanded in the 47 years since it was first established except for a minor expansion in Lockwood (2016) to include more zoned property for the County's Targeted Economic Development District (TEDD).

There are areas where the County's Zoning Jurisdiction Boundary is coterminous with the city limits and some areas where the city limits have expanded beyond the County's Zoning Boundary (Copper Ridge Subdivision, 70th Street W and Rimrock Road). In 1973, the County's zoning jurisdiction extended at least 4 1/2 miles beyond the city limits. In many areas of West Billings and Billings Heights, the County zoning boundary is much less than 4 1/2 miles from the city limits. The City has expanded significantly since 1973. The County Part 2 zoning jurisdiction has not expanded and in some cases, City zoned land is directly adjacent to un-zoned County land.

Representatives from the City/County Planning Board would like this opportunity to have a discussion about the County zoning boundary. The Planning Board recently helped planning staff in the development of the Land Use element for the County Growth Policy. The Planning Board believes its findings coupled with recent developments occurring on the west end, in particular, creates a critical time to bring awareness of these issues to other boards like the Zoning Commission and Board of County Commissioners.

### RECOMMENDATION

Not applicable.

### APPLICATION DATA

OWNER: NA

AGENT:

LEGAL DESCRIPTION:

ADDRESS:

CURRENT ZONING:

EXISTING LAND USE:

PROPOSED USE:

SIZE OF PARCEL:

### CONCURRENT APPLICATIONS

Not applicable.

## **APPLICABLE ZONING HISTORY**

Not applicable

## **SURROUNDING LAND USE & ZONING**

NORTH:	Zoning: NA Land Use:
SOUTH:	Zoning: Land Use:
EAST:	Zoning: Land Use:
WEST:	Zoning: Land Use:

## **BACKGROUND**

See information above and attachments.

## **RECOMMENDATION**

Staff recommends

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## **Attachments**

County Zoning - State Law  
Zoning Jurisdiction Map

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## M.C.A. – County Zoning

**76-2-201. County zoning authorized.** (1) For the purpose of promoting the public health, safety, morals, and general welfare, a board of county commissioners that has adopted a growth policy pursuant to chapter 1 is authorized to adopt zoning regulations for all or parts of the jurisdictional area in accordance with the provisions of this part.

(2) For the purpose of promoting the public health, safety, morals, and general welfare, a board of county commissioners that adopted a master plan pursuant to Title 76, chapter 1, before October 1, 1999, may, until October 1, 2006, adopt or revise zoning regulations that are consistent with the master plan.

**History:** En. Sec. 1, Ch. 246, L. 1963; R.C.M. 1947, 16-4701; amd. Sec. 14, Ch. 582, L. 1999; amd. Sec. 2, Ch. 87, L. 2003; amd. Sec. 8, Ch. 599, L. 2003.

**76-2-202. Establishment of zoning districts -- regulations.** (1) (a) Within the unincorporated portions of a jurisdictional area that has been established under provisions of [76-1-501](#) through [76-1-503](#) or [76-1-504](#) through [76-1-507](#) and for the purposes provided in [76-2-201](#), the board of county commissioners may by resolution establish zoning regulations for a part or all of the jurisdictional area or divide the county into zoning districts with zoning regulations that are considered best suited to carry out the purposes of this part. By establishing zoning regulations, the board may regulate the erection, construction, reconstruction, alteration, repair, location, or use of buildings or structures or the use of land.

(b) An action challenging the creation of a zoning district or adoption of zoning regulations must be commenced within 6 months after the date of the order by the board of county commissioners creating the district or adopting the regulations.

(2) In a proceeding for a permit or variance to place manufactured housing within a residential zoning district, there is a rebuttable presumption that placement of a manufactured home will not adversely affect property values of conventional housing.

(3) The regulations in one district may differ from those in other districts.

(4) As used in this section, "manufactured housing" means a dwelling for a single household, built offsite in a factory on or after January 1, 1990, that is placed on a permanent foundation, is at least 1,000 square feet in size, has a pitched roof and siding and roofing materials that are customarily, as defined by local regulations, used on site-built homes, and is in compliance with the applicable prevailing standards of the United States department of housing and urban development at the time of its production. A manufactured home does not include a mobile home or house trailer, as defined in [15-1-101](#).

(5) This section may not be construed to limit conditions imposed in historic districts, local design review standards, existing covenants, or the ability to enter into covenants pursuant to Title 70, chapter 17, part 2.

**History:** En. Sec. 3, Ch. 246, L. 1963; amd. Sec. 18, Ch. 273, L. 1971; R.C.M. 1947, 16-4703; (1)(b)En. Sec. 2, Ch. 441, L. 1989; amd. Sec. 1, Ch. 505, L. 1993; amd. Sec. 274, Ch. 42, L. 1997; amd. Sec. 236, Ch. 542, L. 2005; amd. Sec. 123, Ch. 596, L. 2005; amd. Sec. 6, Ch. 446, L. 2009.

**76-2-203. Criteria and guidelines for zoning regulations.** (1) Zoning regulations must be:

(a) made in accordance with the growth policy; and

(b) designed to:

- (i) secure safety from fire and other dangers;
- (ii) promote public health, public safety, and general welfare; and
- (iii) facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.

(2) In the adoption of zoning regulations, the board of county commissioners shall consider:

- (a) reasonable provision of adequate light and air;
- (b) the effect on motorized and nonmotorized transportation systems;
- (c) compatible urban growth in the vicinity of cities and towns that at a minimum must include the areas around municipalities;
- (d) the character of the district and its peculiar suitability for particular uses; and
- (e) conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area.

(3) Zoning regulations must, as nearly as possible, be made compatible with the zoning ordinances of nearby municipalities.

**History:** En. Sec. 4, Ch. 246, L. 1963; R.C.M. 1947, 16-4704; amd. Sec. 15, Ch. 582, L. 1999; amd. Sec. 3, Ch. 87, L. 2003; amd. Sec. 7, Ch. 446, L. 2009.

**76-2-204. Role of planning boards.** (1) The board of county commissioners shall require the county planning board and the city-county planning board to recommend boundaries and appropriate regulations for the various zoning districts. The county planning board and the city-county planning board shall make written reports of their recommendations to the board of county commissioners, but such recommendations shall be advisory only.

(2) This section shall apply to either the county planning board or the city-county planning board where only one of these planning boards has been established.

**History:** En. Sec. 2, Ch. 246, L. 1963; amd. Sec. 17, Ch. 273, L. 1971; R.C.M. 1947, 16-4702.

**76-2-205. Procedure for adoption of regulations and boundaries.** The board of county commissioners shall observe the following procedures in the establishment or revision of boundaries for zoning districts and in the adoption or amendment of zoning regulations:

(1) Notice of a public hearing on the proposed zoning district boundaries and of regulations for the zoning district must:

(a) state:

- (i) the boundaries of the proposed district;
- (ii) the general character of the proposed zoning regulations;
- (iii) the time and place of the public hearing;
- (iv) that the proposed zoning regulations are on file for public inspection at the office of the county clerk and recorder;

(b) be posted not less than 45 days before the public hearing in at least five public places, including but not limited to public buildings and adjacent to public rights-of-way, within the proposed district; and

(c) be published once a week for 2 weeks in a newspaper of general circulation within the county.

(2) At the public hearing, the board of county commissioners shall give the public an opportunity to be heard regarding the proposed zoning district and regulations.

(3) After the public hearing, the board of county commissioners shall review the proposals of

the planning board and shall make any revisions or amendments that it determines to be proper.

(4) The board of county commissioners may pass a resolution of intention to create a zoning district and to adopt zoning regulations for the district.

(5) The board of county commissioners shall publish notice of passage of the resolution of intention once a week for 2 weeks in a newspaper of general circulation within the county. The notice must state:

(a) the boundaries of the proposed district;

(b) the general character of the proposed zoning regulations;

(c) that the proposed zoning regulations are on file for public inspection at the office of the county clerk and recorder;

(d) that for 30 days after first publication of this notice, the board of county commissioners will receive written protests to the creation of the zoning district or to the zoning regulations from persons owning real property within the district whose names appear on the last-completed assessment roll of the county.

(6) Within 30 days after the expiration of the protest period, the board of county commissioners may in its discretion adopt the resolution creating the zoning district or establishing the zoning regulations for the district. However, if 40% of the real property owners within the district whose names appear on the last-completed assessment roll or if real property owners representing 50% of the titled property ownership whose property is taxed for agricultural purposes under [15-7-202](#) or whose property is taxed as forest land under Title 15, chapter 44, part 1, have protested the establishment of the district or adoption of the regulations, the board of county commissioners may not adopt the resolution and a further zoning resolution may not be proposed for the district for a period of 1 year.

**History:** En. Sec. 5, Ch. 246, L. 1963; amd. Sec. 19, Ch. 273, L. 1971; R.C.M. 1947, 16-4705; amd. Sec. 2, Ch. 591, L. 1995; amd. Sec. 8, Ch. 446, L. 2009.

#### **76-2-206. Interim zoning district or regulation.**

(1) Except as provided in [76-2-240](#) and subject to subsection (3) of this section, the board of county commissioners may establish an interim zoning district or interim regulation to address an emergency that involves the public health, safety, morals, or general welfare if:

(a) the purpose of the interim zoning district or interim regulation is to classify those uses and related matters that must be regulated to mitigate the emergency; and

(b) within 30 working days, the county initiates a study or investigation to verify that an emergency exists and to identify the facts and circumstances that constitute the emergency, the potential options for mitigating the emergency, and the course of action that the governing body intends to take, if any, during the term of the interim zoning district or interim regulation to mitigate the emergency.

(2) A resolution for an interim zoning district or interim regulation must be limited to 1 year from the date it becomes effective. Subject to subsections (4) and (5), the board of county commissioners may extend the resolution for 1 year, but not more than one extension may be made.

(3) The board of county commissioners shall observe the following procedures in the establishment of an interim zoning district or interim regulation:

(a) Notice of a public hearing on the proposed interim zoning district boundaries or of the interim regulation must be published as provided in [7-1-2121](#). In addition to the requirements of [7-1-2121](#), the notice must state:

- (i) the boundaries of the proposed district;
  - (ii) the specific emergency compelling the establishment of the proposed interim zoning district or interim regulation;
  - (iii) the general character of the proposed interim zoning district or interim regulation, including how those uses and related matters that must be regulated to mitigate the emergency will be classified and regulated; and
  - (iv) that the proposed interim zoning district or interim regulation is on file for public inspection at the office of the county clerk and recorder.
- (b) At the public hearing, the board of county commissioners shall give the public an opportunity to be heard regarding the proposed establishment of an interim zoning district or interim regulation.
- (c) After the hearing, the board of county commissioners may adopt a resolution to establish an interim zoning district or interim regulation.
- (4) The board of county commissioners shall observe the following procedures in the extension of a resolution pursuant to subsection (2):
- (a) A study or investigation as provided in subsection (1)(b) must be completed prior to the hearing on the proposed extension of the resolution.
  - (b) Notice of a public hearing on the proposed extension of the resolution must be published as provided in [7-1-2121](#). In addition to the requirements of [7-1-2121](#), the notice must state:
    - (i) the boundaries of the existing interim zoning district;
    - (ii) the specific emergency that compelled the establishment of the existing interim zoning district or interim regulation and the reason for the proposed extension of the resolution; and
    - (iii) that the proposed extension of the resolution is on file for public inspection at the office of the county clerk and recorder.
  - (c) At the public hearing, which must be held prior to the expiration of the existing interim zoning district or interim zoning regulation, the board of county commissioners shall give the public an opportunity to be heard regarding the proposed extension of the resolution.
- (5) After the hearing provided for in subsection (4), the board of county commissioners may in its discretion extend the resolution for the interim zoning district or interim regulation.

**History:** En. 16-4711 by Sec. 20, Ch. 273, L. 1971; R.C.M. 1947, 16-4711; amd. Sec. 16, Ch. 582, L. 1999; amd. Sec. 4, Ch. 87, L. 2003; amd. Sec. 9, Ch. 446, L. 2009; amd. Sec. 5, Ch. 56, L. 2013; amd. Sec. 1, Ch. 416, L. 2013.

**76-2-207. Permits authorized.** The board of county commissioners may provide for the issuance of location or conformance permits and may collect a fee for each such permit. The proceeds of such fees shall be deposited in the general fund of the county.

**History:** En. Sec. 8, Ch. 246, L. 1963; R.C.M. 1947, 16-4708(part).

**76-2-208. Continuation of nonconforming uses.** Any lawful use which is made of land or buildings at the time any zoning resolution is adopted by the board of county commissioners may be continued although such use does not conform to the provisions of such resolution.

**History:** En. Sec. 9, Ch. 246, L. 1963; R.C.M. 1947, 16-4709.

**76-2-209. Effect on natural resources.** (1) Except as provided in [82-4-431](#), [82-4-432](#), and subsection (2) of this section, a resolution or rule adopted pursuant to the provisions of this part, except [76-2-206](#), may not prevent the complete use, development, or recovery of any mineral, forest, or agricultural resources by the owner of any mineral, forest, or agricultural resource.

(2) The complete use, development, or recovery of a mineral by an operation that mines sand and gravel or an operation that mixes concrete or batches asphalt may be reasonably conditioned or prohibited on a site that is located within a geographic area zoned as residential, as defined by the board of county commissioners.

(3) Zoning regulations adopted under this chapter may reasonably condition, but not prohibit, the complete use, development, or recovery of a mineral by an operation that mines sand and gravel and may condition an operation that mixes concrete or batches asphalt in all zones other than residential.

**History:** En. Sec. 10, Ch. 246, L. 1963; R.C.M. 1947, 16-4710; amd. Sec. 2, Ch. 408, L. 1991; amd. Sec. 1, Ch. 340, L. 2005.

**76-2-210. Enforcement of zoning provisions.** (1) If any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained or any building, structure, or land is used in violation of this part or of any resolution adopted under this part, the county, in addition to other remedies, may institute any appropriate action or proceedings to:

(a) prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use;

(b) restrain, correct, or abate a violation;

(c) prevent the occupancy of the building, structure, or land; or

(d) prevent any illegal act, conduct, business, or use in or near the premises.

(2) For the purposes of enforcing subsections (1)(a) through (1)(c), the county shall attempt to obtain voluntary compliance at least 30 days before filing a complaint for a violation of this part that is subject to the penalties under [76-2-211](#).

(3) The board of county commissioners may appoint enforcing officers to supervise and enforce the provisions of the zoning resolutions.

**History:** En. Secs. 7, 8, Ch. 246, L. 1963; R.C.M. 1947, 16-4707(part), 16-4708(part); amd. Sec. 10, Ch. 446, L. 2009.

**76-2-211. Violations and penalties.** A violation of this part or any resolution adopted pursuant thereto is a misdemeanor and shall be punishable by a fine not exceeding \$500 or imprisonment in the county jail not exceeding 6 months or both.

**History:** En. Sec. 7, Ch. 246, L. 1963; R.C.M. 1947, 16-4707(part); amd. Sec. 7, Ch. 266, L. 1979.

**76-2-216. Wholly surrounded county property -- change of use -- hearing.**

(1) If a county parcel for which zoning regulations have been adopted is wholly surrounded by municipal property and a change of an allowed use in the county zoning district occurs, the county governing body shall notify the municipality and all owners of municipal property within 300 feet of the county property of the change of use.

(2) Upon request of either the municipality or at least 10% of the property owners in the municipality who have received the notice, the county governing body shall hold a hearing on the change of use.

(3) If the county governing body determines, based on testimony provided at the hearing, that the regulations in the county district are no longer as compatible as possible with the municipal zoning ordinances as provided in [76-2-203](#)(3), the county governing body may initiate a revision to the zoning district or amendments to the regulations as provided in this part.

**History:** En. Sec. 1, Ch. 274, L. 2013.

**76-2-220. Zoning commission -- appointment -- duties.** (1) For the purpose of providing an optional method of amending any zoning regulations or zoning classification, the county commissioners may appoint a zoning commission to recommend amendments to the zoning regulations and classifications. Such a zoning commission must be composed of at least five citizen members appointed at large from the zoning district. The county commissioners may adopt bylaws for the zoning commission pertaining to the qualifications of the members and such other matters as the commissioners consider necessary.

(2) If a commission is appointed, it shall hold a public hearing to receive relevant testimony. The hearing, which may be held jointly with the hearing by the county commissioners, must be upon at least 15 days' notice of the time and place of the hearing and must be published in the contracted newspaper provided for in [7-5-2411](#) or a newspaper of general circulation in the county. Recommendations of the zoning commission must be submitted to the county commissioners.

**History:** En. Sec. 1, Ch. 462, L. 1981.

**76-2-221. Board of adjustment.** (1) The board of county commissioners shall provide for the appointment of a board of adjustment and in the regulations and restrictions adopted pursuant to the authority of this part shall provide that the board of adjustment may, in appropriate cases and subject to appropriate conditions and safeguards, make special exceptions to the terms of the zoning resolution in harmony with its general purposes and intent and in accordance with the general or specific rules of this part.

(2) The board of adjustment shall adopt rules in accordance with the provisions of any resolution adopted pursuant to this part. Meetings of the board of adjustment must be held at the call of the presiding officer and at times that the board may determine. The presiding officer or in the presiding officer's absence the acting presiding officer may administer oaths and compel the attendance of witnesses.

**History:** En. Sec. 6, Ch. 246, L. 1963; R.C.M. 1947, 16-4706(part); amd. Sec. 2512, Ch. 56, L. 2009.

**76-2-222. Membership and term of board members -- vacancies.** (1) The board of adjustment consists of five members, each to be appointed for a term of 2 years and removable for cause by the board of county commissioners upon written charges and after public hearing. The board of county commissioners may designate the same persons to act as members of the board of adjustment for unincorporated portions of the jurisdictional area as may be appointed by the municipality within the jurisdictional area under provisions of [76-2-321](#) through [76-2-328](#).

(2) Vacancies must be filled for the unexpired term of any member whose term becomes vacant.

**History:** En. Sec. 6, Ch. 246, L. 1963; R.C.M. 1947, 16-4706(1); amd. Sec. 1, Ch. 47, L. 1987; amd. Sec. 275, Ch. 42, L. 1997.

**76-2-223. Powers of board of adjustment.** (1) The board of adjustment shall have the following powers:

(a) to hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this part or of any resolution adopted pursuant thereto;

(b) to hear and decide special exceptions to the terms of the zoning resolution upon which said board is required to pass under such resolution;

(c) to authorize upon appeal in specific cases such variance from the terms of the resolution as will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of the resolution will result in unnecessary hardship and so that the spirit of the resolution shall be observed and substantial justice done.

(2) In exercising the above-mentioned powers, the board of adjustment may, in conformity with the provisions of this part, reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made and to that end shall have all the powers of the officer from whom the appeal is taken.

**History:** En. Sec. 6, Ch. 246, L. 1963; R.C.M. 1947, 16-4706(5), (6).

**76-2-224. Vote needed for board action.** The concurring vote of three members of the board shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official; to decide in favor of the applicant on any matter upon which it is required to pass under any such resolution; or to effect any variation in such resolution.

**History:** En. Sec. 6, Ch. 246, L. 1963; R.C.M. 1947, 16-4706(7).

**76-2-225. Public access to board activities.** (1) All meetings of the board shall be open to the public.

(2) The board shall keep minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record.

**History:** En. Sec. 6, Ch. 246, L. 1963; R.C.M. 1947, 16-4706(part).

**76-2-226. Appeals to board of adjustment.** (1) Appeals to the board of adjustment may be taken by any person or persons, jointly or severally, aggrieved by a decision of the administrative officer or by an officer, department, board, or bureau of the county affected by any decision of the administrative officer. The appeal must be taken within a reasonable time, as provided by the rules of the board, by filing with the officer from whom the appeal is taken and with the board of adjustment a notice of appeal specifying the grounds of the appeal.

(2) The officer from whom the appeal is taken shall transmit to the board in a timely manner all papers constituting the record upon which the action appealed was taken.

(3) An appeal stays all proceedings in furtherance of the action appealed from unless the officer from whom the appeal is taken certifies to the board of adjustment after the notice of appeal has been filed with the officer that by reason of facts stated in the certificate a stay would, in the officer's opinion, cause imminent peril to life or property. In that case, proceedings may not be stayed except by a restraining order, which may be granted by the board of adjustment or by a court of record on application, on notice to the officer from whom the appeal is taken, and on due cause shown.

(4) The board of adjustment shall fix a reasonable time for the hearing of the appeal, give public notice of the hearing as well as due notice to the parties in interest, and decide the appeal within a reasonable time.

(5) At the hearing, a party may appear in person or by the party's attorney.

**History:** En. Sec. 6, Ch. 246, L. 1963; R.C.M. 1947, 16-4706(3), (4); amd. Sec. 2513, Ch. 56, L. 2009; amd. Sec. 1, Ch. 171, L. 2015.

**76-2-227. Appeals -- board of county commissioners or board of adjustment to court of record -- county commissioners may establish appeal process.** (1) (a) The board of county commissioners may establish in the zoning regulations a process for an appeal of a decision by the board of adjustment to the board of county commissioners by any person or persons, jointly or severally, aggrieved by a decision of the board of adjustment or an officer, department, board, or bureau of the county.

(b) The process, if established, must provide that an appeal to the board of county commissioners be initiated by presenting to the board of county commissioners a petition, duly verified, setting forth that the decision is illegal, in whole or in part, and specifying the grounds of the illegality.

(c) The petition must be presented to the board of county commissioners within 30 days after the filing of the decision of the board of adjustment, and a final decision must be made within 60 days of receipt of the petition.

(d) The board of county commissioners may:

(i) remand the special exception to the board of adjustment;

(ii) reverse or affirm, wholly or partly, the decision of the board of adjustment; or

(iii) modify the decision of the board of adjustment.

(2) Any person or persons, jointly or severally, aggrieved by a decision of the board of county commissioners or the board of adjustment may present to a court of record a petition, duly verified, setting forth that the decision is illegal, in whole or in part, and specifying the grounds of the illegality. The petition must be presented to the court within 30 days after the filing of the decision in the office of the appropriate board.

(3) Upon presentation of a petition, the court may allow a writ of certiorari directed to the board of county commissioners or the board of adjustment to review the decision of the board and shall prescribe in the writ the time within which a return must be made and served upon the relator's attorney, which may not be less than 10 days and may be extended by the court. The allowance of the writ may not stay proceedings upon the decision appealed from, but the court may, upon application, on notice to the board of county commissioners or the board of adjustment, and on due cause shown, grant a restraining order. The board of county commissioners or the board of adjustment may not be required to return the original papers acted

upon by it, but it is sufficient to return certified or sworn copies of the original papers or of portions of the original papers that may be called for by the writ. The return must concisely set forth other facts that may be pertinent and material to show the grounds of the decision appealed from and must be verified.

(4) If, upon the hearing, it appears to the court that testimony is necessary for the proper disposition of the matter, the court may take evidence or appoint a referee to take evidence as it may direct and report the evidence to the court with the referee's findings of fact and conclusions of law, which constitute a part of the proceedings upon which the determination of the court must be made.

(5) The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.

**History:** En. Sec. 6, Ch. 246, L. 1963; R.C.M. 1947, 16-4706(8) thru (11); amd. Sec. 2514, Ch. 56, L. 2009; amd. Sec. 2, Ch. 171, L. 2015.

**76-2-228. Awarding of costs upon appeal from board decision.** Costs may not be allowed against the board of county commissioners or the board of adjustment unless it appears to the court that it acted with gross negligence, in bad faith, or with malice in making the decision appealed from.

**History:** En. Sec. 6, Ch. 246, L. 1963; R.C.M. 1947, 16-4706(12); amd. Sec. 3, Ch. 171, L. 2015.

**76-2-240. Effect on amateur radio antenna.** A resolution or rule adopted pursuant to this part may not:

(1) prevent the erection of an amateur radio antenna at heights and dimensions sufficient to accommodate amateur radio service communications by a person who holds an unrevoked and unexpired official amateur radio station license and operator's license, "technician" or higher class, issued by the federal communications commission of the United States; or

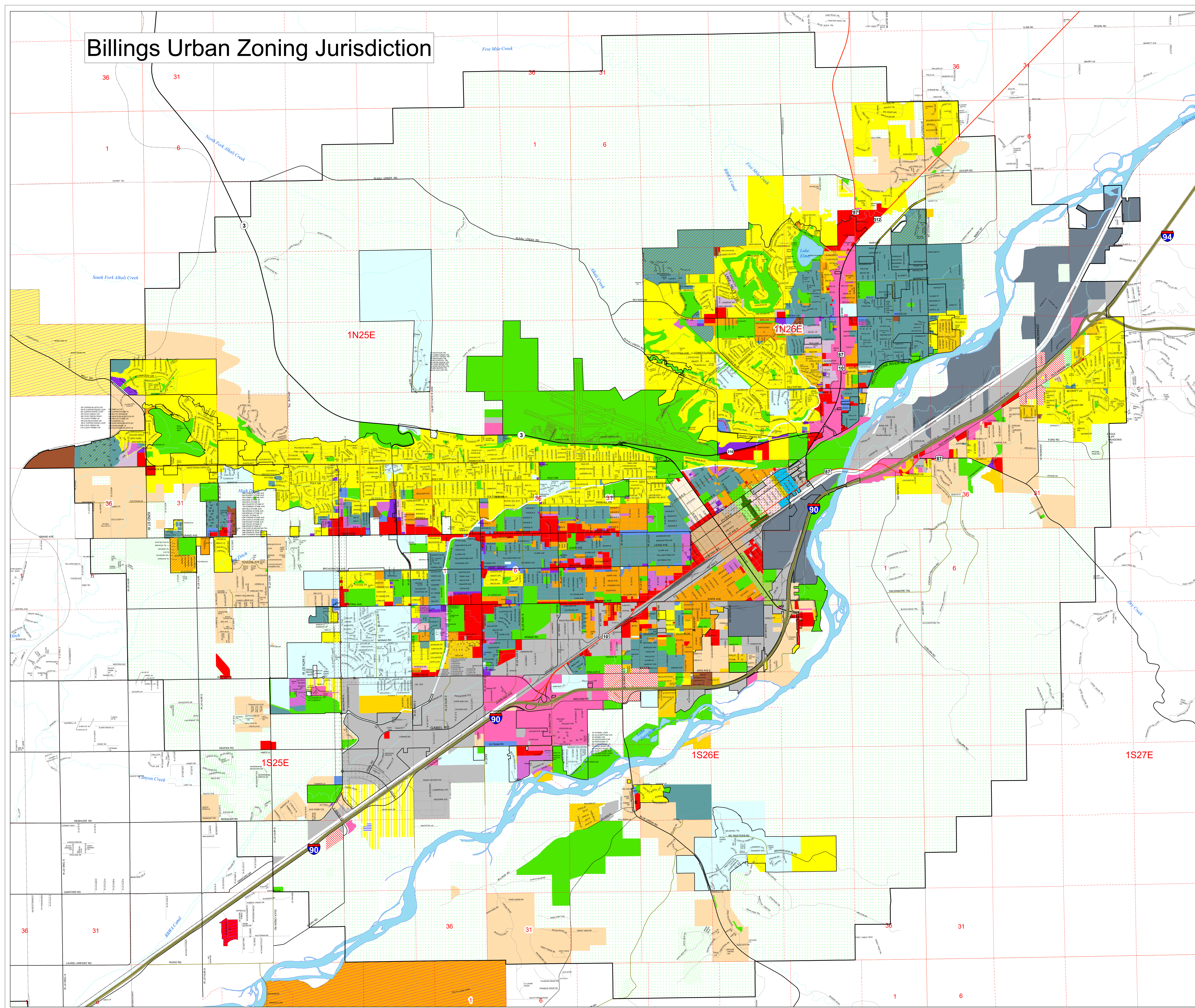
(2) establish a maximum height limit for an amateur radio antenna of less than 100 feet above the ground.

**History:** En. Sec. 3, Ch. 56, L. 2013.

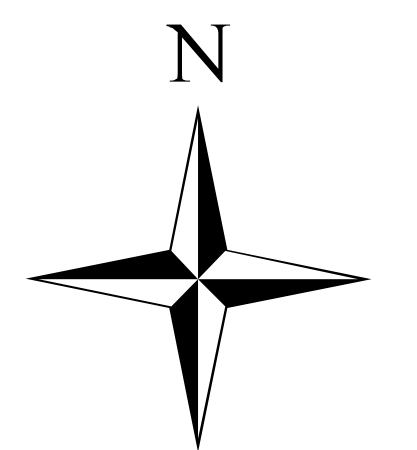
MONTANA CODE ANNOTATED 2017  
TITLE 76. LAND RESOURCES AND USE  
CHAPTER 2. PLANNING AND ZONING  
PART 2. COUNTY ZONING

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- [76-2-202 Establishment of zoning districts -- regulations](#)
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# Billings Urban Zoning Jurisdiction



- Public
  - Residential 15000
  - Residential 9600
  - Residential 8000
  - Residential 7000
  - Residential 7000 Restricted
  - Residential 6000
  - Residential 6000 Restricted
  - Residential 5000
  - Residential Multi-Family
  - Residential Multi-Family Restricted
  - Residential Manufactured Home
  - Residential Professional
  - Neighborhood Commercial
  - Community Commercial
  - Central Business District
  - Planned Unit Development
  - Highway Commercial
  - Heavy Industrial
  - Controlled Industrial
  - Agricultural Open
  - Agricultural Suburban
  - Entryway Light Commercial
  - Entryway General Commercial
  - Entryway Mixed Use
  - Entryway Light Industrial
  - East Billings Railspur Village
  - East Billings Railspur Village Main St.
  - East Billings Central Works
  - East Billings 13th St. Main St.
  - East Billings Industrial Sanctuary
  - Medical Corridor Permit Zoning District
  - S. 27th Street Permit Zoning District
  - East Billings Parking District
  - Shiloh Corridor Overlay District
  - South Shiloh Corridor Overlay District
- Special Zoning Districts**
- 12
  - 14
  - 20
- CITY LIMITS**
- BILLINGS



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This document is intended for informational purposes only and is not guaranteed to be accurate nor current.  
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 YELLOWSTONE COUNTY GIS  
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