



**Yellowstone County Zoning Commission
DRAFT Minutes for the Meeting of
Monday, July 12, 2021**

The County Zoning Commission met on Monday, July 12, 2021 at 4:00 p.m. in the Miller Building 1st Floor Conference Room, 2825 3rd Ave. North.

Commissioners and Staff		01/13/20	02/10/20	03/09/20	04/13/20	05/11/20	06/08/20	07/13/20	08/10/20	08/26/20	08/27/20	09/14/20	10/12/20
Blaine Poppler	Commissioner	1	-	-	-	-	-	1					
Troy Boucher	Commissioner Chairman	1	-	-	-	-	-	R					
Tyler Bush	Commissioner Chairman	1	-	-	-	-	-	1					
Todd Hewett	Commissioner	1	-	-	-	-	-	1					

Chairman Bush opened the meeting and introduced the County Zoning Commission members and Planning Division staff: Zoning Coordinator Nicole Cromwell, Karen Husman, Planner I, Tammy Deines, and Planning Clerk.

Other Participants: Kolten Knatterud, IMEG; Vicki and Albert Salazar, Don Lohrenz, Laron Pluhar, Don Sloan, Steve Powell, Shirley McDermott, Henry Morgan, Janna Jurovich (Citizen phone call)

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) 237-6165. 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.

Motion. Approval of Minutes: January 11, 2021 (Due to a lack of agenda items, this Commission had no meetings in February-June 2021).

Motion

It was moved by Commissioner Hewett and seconded by Commissioner Poppler to approve the January 11, 2021 meeting minutes as submitted. The motion carried with a unanimous voice vote.

No ex parte communications or conflicts of interest were announced by the Commissioners.



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Nicole Cromwell read aloud the procedures for a public hearing.

Item #1: Special Review 333

Planner Karen Husman read the legal notice for the record and followed with presentation of the staff report beginning with the surrounding zoning on this property.

REQUEST

A special review request to allow a Type II (built before Jan 1, 1990) Manufactured Home to be placed on Parcel 1 of Certificate of Survey 2003, a 3.42 acre parcel of land. A pre-application neighborhood meeting was held on May 19, 2021 at the subject property. Tax ID: D01742

Planning Division is recommending the following conditions:

1. The approval shall be limited to Parcel 1 of Certificate of Survey 2003, generally located at 1037 Riverside Drive.
2. This special review approval is to allow a Type II manufactured home to be placed on the property. No other special review use is intended or implied by this approval.
3. The property is limited to no more than three (3) single family dwellings on the property (two existing structures and one (the proposed) manufactured home).
4. The manufactured home shall be placed on the property in substantial conformance to the site plan submitted with this application.
5. Prior to placement on the property adequate utilities, access roads, drainage, and/or necessary facilities will be provided.
6. Adequate measures will be taken to provide ingress and egress to minimize traffic congestion in public streets.
7. These conditions of special review approval shall run with the land described in this authorization and shall apply to all current and subsequent owners, operators, managers, lease holders, heirs and assigns.
8. Failure to comply with these conditions of approval of the special review use shall be deemed a violation of the zoning regulations.

Staff made a brief presentation to the Commission, explaining the request. The Special Review request conforms to the Zoning Code requirements except for a principle structure on a parcel in the RR3 district is restricted to one. The property is 3.42 acres and can adequately accommodate three single family dwellings. Staff explained to the Commission in this review, per Section 27-1622.d.9, the Zoning Commission has authority to recommend the BOCC approve along with this Special Review a variance to allow three single family structures (3 primary structures) on the described property. Staff proposed conditional approval with restrictive conditions to ensure orderly development of the site.



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Discussion

Commissioner Bush asked the Commissioners for questions and comments. In response to question by Commissioner Blaine Poppler, staff stated that the current RR3 zoning allows for a manufactured home with a special approval for homes older than 1991. The current zoning code allows for one primary unit on the property, and the Zoning Commission has the authority to allow a variance for the second primary structure along with the special review. One public comment in opposition was received by staff.

Public Hearing

Commissioner Bush opened the public hearing and asked if there is anyone wishing to speak in favor or against Special Review #333.

Favor

Applicant Vicki Salazar, Billings, MT

Ms. Salazar said they have permission from the owner to place the mobile home on the property and were not advised about the restriction for age of the mobile home until after placing the home. She stated they wish to live on the property and were not aware of any restriction on the number of homes on the property. Ms. Salazar explained she had spoken to RiverStone Health about a septic system and was informed they could not add another in-ground system and drain field to the property but could install an above ground system.

Commissioner Bush asked about improvements and Ms. Cromwell said it is the year of the manufactured structure that makes it come into play. Chairman Bush noted the staff comment that the structure would have to conform to current setbacks. Staff explained that the applicant is not the owner of the property.

Ms. Salazar explained they would be connecting to the existing water supply and the electric would be installed when they have approval to move forward. The electricity is available at the site. Nicole Cromwell said there are several similar properties with multiple primary structures on the lot. This Commission may grant a variance for the multiple structures. Commissioner Bush asked if this would be the applicant's primary residence. Ms. Salazar said she "snowbirds" during the winter but this would be her primary residence during the summer.

Opposition

Henry Morgan 795 Garden Ave, Billings, MT

Mr. Morgan is a long term resident in this area and is opposed to this application as it is not consistent with the nine criterion for special reviews. He said the last approved special review allowed a mobile home that went into disrepair. Mr. Morgan explained that the area where the home would be placed is in direct view from several properties. The Growth Policy aesthetic elements speak to the need for inviting and attractive urban elements and the site for the proposed use must be an appropriate site. The new Recode zoning classification Residential-



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Rural allows for one principal dwelling. He said there is not adequate space for the third septic system, and the older mobile home would be an eyesore and should not be placed on the property. He asked why staff would return back to the old zoning regulations when this is the zoning that is currently in place.

Henry Morgan, 795 Garden Ave, Billings, MT

Mr. Morgan disagreed that any home can be put there as a third home. The Commissioners explained to Mr. Morgan that this request would be heard as a variance, and as staff pointed out, there are many parcels with three residences. Mr. Morgan asked why we have zoning if it can be changed.

Rebuttal

Ms. Salazar stated the only issue is the age of the trailer. They are working on cleaning but will not improve it if they are unable to move into it. Commissioner Bush pointed out that the current regulations would allow a trailer older than 1991. Under the special review criterion, a variance is allowed to be considered to acknowledge the third principle structure. If this process is not used, this request will have to be brought forward to the Yellowstone County Board of Adjustment.

The public hearing was closed at 4:42 PM.

Discussion

Commissioner Poppler stated it doesn't appear that there are adequate utilities. He stated a variance is needed for more than one structure on this property and this request flies in the face of the Growth Policy. He is in opposition to this application. The Zoning Commission discussed the zoning criteria and the concerns with the property, the noncompliance with the manufactured home already on the site, and the sewer system restrictions.

Motion

Commissioner Poppler made a motion and it was seconded by Commissioner Hewitt to forward a recommendation to the Board of County Commissioners of denial of Special Review #333 based on the lack of adequate utilities and the request does not conform with the Growth Policy of Yellowstone County.

The motion carried with a unanimous voice vote, 3-0 Special Review #333 is denied.

*County Special Review #333 will be heard by the Board of County Commissioners Tuesday, July 27, 2021, 9:30 am.



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Item #2: County Zone Change 704

Planner Husman opened this agenda item with introduction of the request below and followed with presentation of the staff report.

REQUEST

County Zone Change 704 – 626 Johnson Lane – from CMU2 to NX3 - A zone change request from Corridor Mixed Use (CMU2) to Mixed Residential (NX3), on Lot 5, Block 1, Keller Place Subdivision, a 3.560 acre parcel of land. A pre-application neighborhood meeting was held on May 27, 2021, at 501 Johnson Lane. Tax ID: C12325.

RECOMMENDATION

Approval of Zone Change #704 and adoption of the 11 criteria detailed in the summary section of this memo.

The subject property is located at 626 Johnson Lane. This zone change request from Corridor Mixed Use (CMU2) to Mixed Residential (NX3) would allow the property to develop into a transitional district between the existing CMU2 to the north and the RMH to the south and east of the property, creating the opportunity for more housing choices.

The applicant held a pre-application meeting and answered questions and concerns from the neighboring property owners. There were concerns about building design, if there would be playground facilities, how the project would affect the irrigation ditch along Johnson Lane, and additional traffic. The applicant answered that there will not be a playground, however, a green space will be provided with the development. The applicant responded by letting them know the plans were preliminary and any future development will meet all restrictions and requirements, and they did not foresee any long term effects on the ditch.

The applicant intends to develop the property into multifamily housing. The applicant has stated the proposed area is near the "Lockwood Town Center" and would develop an anchor development in that area, bringing more housing to the downtown area of Lockwood. The intention is to provide workforce housing in an effort to attract more businesses to the area. The Lockwood Growth Policy defines the need for more housing choices near the Town Center area. The current zoning of CMU2 allows for multifamily housing, but requires the first floor area to be commercial use. The applicant feels that currently Lockwood has an abundance of available commercial space and in today's economic climate, better use of this parcel would be the creation of additional housing units and add additional housing choices to Lockwood.

Discussion

Commissioner Bush asked the Commissions for questions and comments. There were no questions.



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Public Hearing

Commissioner Bush opened the public hearing and asked if there is anyone wishing to speak in favor or against County Zone Change #704.

Kolten Knatterud, IMEG, 175 N 27th, Billings, MT

Mr. Knatterud is the agent for Paul Jessup, who is the owner and developer of the parcel to the north. He pointed out that under the current zoning, multi-family is allowed but requires a commercial use on the main level and living space above. The drawing is conceptual to depict the maximum units (90) with the required properties. The applicant is forwarding this application to promote growth in the Lockwood Town Center area. The proposed zone change to NX3 would allow the development of the property into multi-family apartments

Discussion

Commissioner Poppler asked if park dedication is necessary. Zoning Coordinator Cromwell said the NX3 zoning requires at least one public open space. This project is proposing 90 total units with 3 stories, (30 units on each story), with public water and sewer. The Fire Station is located south of this parcel. There were no other comments.

Chairman Bush announced the Public Comment phone number 237-6165 and asked if there is anyone wishing to speak about this zone change. There were no further public comments. Chairman Bush closed the public hearing and called for a motion.

Motion

Commissioner Hewitt moved and Commissioner Poppler seconded the motion that the County Zoning Commission forward a recommendation of approval to the County Commissioners for County Zone Change 704 with the conditions of approval and Findings presented by staff.

Discussion

Commissioner Poppler stated the rental units are needed and he has no objections.

The motion carried with a unanimous voice vote, 3-0.

*County Zone Change 704 will be heard by the Board of County Commissioners Tuesday, July 27, 2021, 9:30 am.

Item #3 County Zone Change 705

Ms. Husman introduced this agenda item and explained that a zone change was previously approved on this property and that the plans for the property changed with the new ownership. This request is for a portion of that zone change application.



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REQUEST

County Zone Change 705 – NE side of Grand at 62nd St W – from RR1 to C3 & N4 - A zone change request from Rural Residential (RR1) to General Commercial (C3) and Large Lot Residential (N4), on Lot 104A, Sunny Cove Fruit Farm, a 17.55 acre parcel of land. A pre-application neighborhood meeting was held on May 28, 2021, at 1411 Chy Way. Tax ID: D04691

RECOMMENDATION

Approval of Zone Change #705 and adoption of the 11 criteria detailed in the summary section of this memo.

Kolten Knatterud, IMEG, 175 N 27th Street, Suite 1312, Billings, MT

Mr. Knatterud is the applicant's agent. Mr. Knatterud said John Poukish purchased under 30 acres. A lot line relocation was submitted for the three tracts and Creekside Subdivision was just completed. The original intention for the 17-plus acres was to annex with the City but this will not work based on the utilities. This zone change request for more density is to allow flexibility with development due to several areas that will not allow septic systems due to shallow groundwater. Mr. Knatterud stated they feel this request would be the highest and best use for the commercial property adjacent to Grand Avenue with the available facilities. In addition, the commercial property will not allow septic systems. He does not believe this parcel would allow for a casino due to the surrounding residential districts. The N4 zoning will allow flexibility in development while working with allowable septic tanks. In response to question by Commissioner Blain, Mr. Knatterud said his client is not a commercial developer and will not be the one to build out the commercial use. The applicant intends to build homes on the N4 tract and it will be subdivided from the proposed C3 zoned parcel.

Public Hearing

Chairman Bush opened the public hearing, announced the Public Comment phone number 237-6165, and asked if there is anyone wishing to speak about this zone change.

Opposition

Don Lohrenz, 1705 60th Street West, Billings, MT

Mr. Lohrenz said except for the commercial storage units, the surrounding properties units are larger residential lots. When the first zone change was brought into effect, the residents were told the remaining land would be residential. He stated he would like to see all of the lots be residential. If this is not possible, he would suggest making it parkland and residential.

Dan Sloan, 1805 60th Street West, Billings, MT

Mr. Sloan said there are 70 acres under covenants and restrictions bound to the acreages. Without sewer systems, he feels the residential use should be maintained. He mentioned the new pub behind The Den and does not want something similar in their neighborhood. He said the residents of nearby Foxtail Subdivision want to keep the neighborhood residential.



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Shirley McDermott, 5943 Foxtail Lane, Billings, MT

Ms. McDermott said she concurs with the previous comments. She voiced concern that the change to commercial zoning would eventually allow a bar on the parcel. She noted the proximity of the Ben Steele School. The utilities are in and there are plans for an elementary school. Ms. McDermott is in opposition to this request and thinks the parcel should stay with residential uses. In response to question by a Commissioner Poppler, Ms. McDermott said she believes the utilities are located on 60th Street West. Kolten Knatterud stated they were extended to the corner of 60th Street West and Grand Avenue. She said a request for annexation with the intention of using septic systems presents a difficult situation. She has no opposition to the proposed N4 zoning.

Laron Pluhar, 1720 60th Street West, Billings, MT

Mr. Pluhar stated he is attending this evening to protest any kind of commercial development. He said he is against commercial development within a residential neighborhood. He said the developer has not taken care of the N4 parcel as there are tall weeds and blowing dirt. He said he does not trust the developer and feels he will find a way to put in a commercial development. He asked who will be interested in building a house with a large irrigation ditch in the back yard. He requested that the original proposal be maintained as residential and the adjacent properties be protected from commercial properties.

Janna Jurovich (Citizen phone call) 4103 Palisades Park Drive, Billings, MT 59106

Ms. Jurovich wanted echo the testimonies regarding the commercial zoning. She voiced concern with the groundwater in the N3 parcel as it is extremely alkali. She is concerned with the wastewater from the wells as it will affect the groundwater and possibly poison the water in the ditch.

Rebuttal

Kolten Knatterud, IMEG, 175 N 27th Street, Suite 1312, Billings, MT

Per Mr. Knatterud's request, Nicole Cromwell clarified the setback requirements from a residential zoning for school to allow a casino or bar on an annexed parcel. She said the separation distances in the City for a church, school, public park or playground is 600-ft minimum and 350-ft minimum to a casino or residential zoned district. The N4 parcel would count as a residential district. Perchance it would be 350-ft away from any residential district there is a possibility of putting a casino on that parcel. Kolten Knatterud said there is an access road stubbed in across the ditch on the south side but very little of that property if any would allow this use. He clarified and stated the initial plan was to annex but it didn't prove to be feasible. Commercial uses are not allowed in the N4 area and a rezone would need to be approved to go to commercial. Due to the drain ditch, DEQ will not allow installation of any septic systems that infiltrate into the ground, and a Level 3 evaporation septic system is required. He reiterated this will be the highest best use as this area is changing significantly. The City's long-term plan is to widen Grand Avenue to 72nd Street West which will bring more commercial development. His client believes as development takes place, Grand Avenue will be where most of the commercial uses will be best suited.



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Chuck Lotzke, 1700 60th Street West, Billings, MT

Mr. Lotzke voiced concern that the approval of the C3 zoning will set a precedence to change the N4 to commercial zoning. Nicole Cromwell responded that under the NC zoning, the County and City Growth Policy does not support a large commercial node at 62nd Street West and Grand Avenue. He asked about the lot line relocation to extend the residential zone. Kolten Knatterud said they will be agreeable to a condition of approval.

Steve Powell, 5935 Colton Boulevard, Billings, MT

Mr. Powell stated he is not against commercial development. He said the developer should have an idea of what their proposal is prior to coming the Board with a request. Kolten Knatterud commented that he is always concerned with coming into this stage of a development and stating this will be “x” and then changing the proposal at a later date.

The public hearing was closed at 5:30 PM.

Discussion

Commissioner Hewitt stated the Commission cannot parse the zoning districts and has to deliberate on the requested zoning package. Nicole Cromwell concurred. She noted that this developer said he would move the C3 zoning line to the south to align with the 10-acre agricultural parcel on Grand Avenue. Per Commissioner Poppler’s request, Nicole Cromwell clarified the zoning history on this parcel. The present zoning is RR-1 as opposed to N4 zoning. He said the N4 zoning is difficult to accommodate due to the sanitary system restrictions. Commissioner Bush said he was present when the corner was approved for commercial zoning. He said this does not seem to be consistent and said he would recommend denial.

Motion

Commissioner Poppler made a motion and Commissioner Hewitt seconded the motion to forward a recommendation to the Board of County Commissioners of denial of County Zone Change #705 based on conflict with Criterion (7) of the Zone Change Review Criteria, “whether the new zoning will promote compatible urban growth”; and due to the ground water characteristics, Criterion (3) “whether the new zoning will facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements”.

The motion carried 3-0. County Zone Change #705 is denied.

***The Board of County Commissioners will hold a hearing on this application on July 27, 2021 at 9:30 am.**



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OTHER BUSINESS

b. Announcement: The next Yellowstone County Zoning Commission meeting on August 9, 2021 is canceled due to a lack of agenda items.

Adjournment 5:45 PM

DRAFT-To be approved by a motion at the next scheduled meeting

--Tamara L. Deines, Planning Clerk