

APPLICATION FORM

COUNTY ZONE CHANGE County Zone Change # _____ - Project # PZX-22-00130

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: A - Agriculture 10+ Acres

Proposed Zoning: Planned Development (PD)

Property Tax ID # 000D05052B COUNTY COMMISSIONER DISTRICT # _____

Legal Description of Property: Parcel 3A122 & Tract 3B-2-5-3 Amended, Certificate of Survey No. 1655, Yellowstone County, Montana

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

2847 Bitterroot Drive

Size of Parcel (Area & Dimensions): ± 30.226 acres

Present Land-Use: former gravel pit

Proposed Land-Use: storage for sale or rent and/or agriculture

Covenants or Deed Restrictions on Property: Yes No

If yes, please attach to application

*** Additional information may be required as determined by the Zoning Coordinator in order to fully evaluate the application.

Owner(s): Kraig P. Kosena

(Recorded Owner)
P.O. Box 16653; Missoula, MT 59808-6653

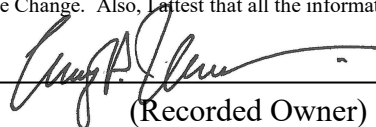
(Address)
(406) 240-6151 kraigk@kkmontana.com
(Phone Number) (email)

Agent(s): Kraig P. Kosena

(Name)
P.O. Box 16653; Missoula, MT 59808-6653

(Address)
(406) 240-6151 kraigk@kkmontana.com
(Phone Number) (Email)

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

Signature:  Date: 6/29/22

(Recorded Owner)



Date Stamp

ZONING STATEMENT

2847 Bitterroot Drive

Billings, MT

The property addressed as 2847 Bitterroot Drive is just under 30 acres and currently zoned A – Agriculture 10+ Acres. As such, some of the permitted uses include Livestock and Crop Production, Commercial Feeding Yard, Milling (subject to Special Review), Minor Utility Substations and operation of Commercial and Private Stables.

We are proposing a change in zoning to Planned Development (PD) to allow Outdoor Storage and Personal Self-Service Storage and/or R-1 Residential 1 Neighborhood and/or Agriculture. We believe our proposed zone change is consistent with the adopted Growth Policy primarily because of our vision of the completed project and the current residential property development in the vicinity.

With regard to the *Land Use, Aesthetics and Open Space and Recreation Elements* within the policy, our PD would complement the adjacent residential land uses by providing storage options for nearby dense housing developments. This availability could limit the collection of personal property on the streets, ideally avoiding neighbor conflict and/or injury as a result of unsecured property. This development would also satisfy some of the desire for mixed-use neighborhoods as articulated within the plan. Additionally, the proposed PD would possibly include the creation of a public park bordered on one side by Five Mile Creek. This portion of the development would be available to the public for recreation while also providing a visual buffer between local area traffic and the development itself. We feel the presence of this park also addresses concerns within the *Cultural and Historic Resources and Community Health Elements*. The park could be an ideal venue in which to display public art as well as provide a natural environment to promote physical activity.

As stated previously, the existing Agriculture zoning permits uses we feel are less than considerate of the *Natural Resources Element* of the plan. Livestock and Crop Production, Commercial Feeding Yard, Milling, Minor Utility Substations and operation of Commercial and Private Stables would likely have an adverse effect on the water resource, the local wildlife/riparian population and air quality. In conjunction with the proposed PD, water usage would be very minimal, perimeter fencing would be installed and site mitigation of weeds would be a priority.

With regard to the *Economic Development Element*, the development of the structures described in the PD would certainly provide living-wage jobs, although temporary. The development also concludes with a “clean” product, located in the Heights, reducing dependence on travel to Billings. In response to neighbor-expressed doubt about the demand for self-storage in the area, we have contacted five nearby facilities. The first four had no availability, nor did the fifth; however, the fifth did at least offer to put us on a waitlist. Another facility in the general area would certainly be addressing an existing need.

In addition to the benefits presented here, the increase in tax revenue to Yellowstone County should be acknowledged. We have researched the county tax records of 10 self-storage facilities. On average, these properties are taxed annually at nearly \$9,500/acre. The current tax annual liability for the property being considered is less than \$73/acre. While not expressed within the *Economic Development Element*, this additional tax revenue would certainly bring with it a positive impact.

Addressing the *Transportation Element*, we believe the proposed PD will not have an adverse effect on traffic count in the vicinity. In fact, given the neighbor comments regarding the high speed of traffic on Bitterroot Drive, we would suggest that a gated entry would actually slow traffic associated with the proposed storage development. It would also reduce travel to other areas of town for storage facilities.

Since the Neighborhood Meeting, our approach has changed a bit. The neighbors expressed their preference for residential development of the site. We have confirmed that a secondary access point to the site would be required and we are researching those details. There has also been interest expressed by two neighbors in potentially buying portions of the property to maintain as open space. Given this development, we would like the ability to integrate the existing Agriculture zoning on the site until development is underway with self-service storage. Given this interest, should an acceptable agreement be negotiated, the Ag zoning would come with a more favorable tax rate to them.

Finally, we can address the *Public Facilities and Services Element*. The proposed development would replace the existing dilapidated structures with new, clean, attractive, well-lit and secure improvements and we are requesting no public funding.

Aside from the governing elements of the Growth Policy, which we feel we have successfully addressed within this statement, it is important to mention the effect the minority opposition has had on the property owner and ownership. The neighbors have and will continue to resist any change proposed to the Ostermiller site, which they seem to value. However, they apparently do not value it enough to make any effort to *purchase* the property for their own enjoyment.

In closing, we feel the points presented here address most, if not all of the County Zone Change Criteria. We appreciate and look forward to your consideration of this proposal.

PLANNED DEVELOPMENT AGREEMENT

For

Bitterroot Acres Development

PARCELS 3A-1-2-2 & TRACT 3B-2-2-3,
AMENDED CERTIFICATE OF SURVEY
1655

THIS AGREEMENT, made and entered into this ____ day of _____, 2022, by and between Kraig P. Kosena, hereinafter referred to as "Owner", and Yellowstone County, hereinafter referred to as "County".

WITNESSETH:

WHEREAS, the undersigned is the Owner of PARCELS 3A-1-2-2 & TRACT 3B-2-2-3, AMENDED CERTIFICATE OF SURVEY 1655, according to the plat thereof on file and of record in the office of the Clerk and Recorder of Yellowstone County, Montana under document No. 3017067; and

WHEREAS, the Owner intends to place a Planned Development Zone District as outlined in this Agreement, and as provided within the Yellowstone County Zoning Regulations; and

WHEREAS, the aforesaid Owner and the County desire to place building and use restrictions on the above-described Premises, as provided in this Agreement;

NOW, THEREFORE, in consideration of the premises, the undersigned hereby establish and declare the following building and use restrictions which shall be applicable to all of the above-described real property.

I. PERSONS BOUND BY THE PLANNED DEVELOPMENT AGREEMENT

All persons, corporations, or other entities, who shall hereafter acquire any interest in and to the above-described Premises shall be taken and held to agree, to conform to, and observe the following building and use restrictions, for the construction of improvements thereon.

II. BUILDING AND USE RESTRICTIONS.

Unless expressly designated below, all other standards or requirements of the Yellowstone County Zoning Regulations shall be followed for the type of use within each of the areas listed and as shown on the Zoning Master Plan shown on Exhibit A:

1. Area A – Public 1 (P1) – Open Space and Recreation – 4.9 acres
2. Area B – Commercial Mixed Use (CMU1) – Personal Self-Storage for Sale or Rent and/or Low-Density Single Family Residential – 10 acres
3. Area C – Heavy Commercial (CX) – Personal Self-Storage and/or Outdoor Storage for Sale or Rent - 6.4 acres
4. Area D – Agriculture (A) – Agricultural Uses or Personal Self-Storage or Outdoor Storage for Sale or Rent – 8.9 acres

Area A – Public 1 (P1) – This zone district shall follow all uses allowed, allowed by Special Review or prohibited within the standard Public 1 district as outlined in the Yellowstone County Zoning Regulations. Such uses shall not include active recreational uses that are incompatible with the riparian values and flood plain restrictions of Five Mile Creek. Uses in the P1 zone district that are specifically prohibited include:

- Campgrounds (all types)
- Civic Assembly
- Government and Public Safety Buildings and Uses
- Indoor Amusement and Recreation Buildings and Uses
- Outdoor Amusement and Recreation Uses for Adults
- Assembly Uses for Entertainment and Trade
- Wireless Communication Facilities
- Day Care Centers (accessory to a primary use)
- Solar or Wind Energy Production Facilities

Area B - Commercial Mixed Use (CMU) – This zone district shall follow the rules for Mixed Uses as outline in the Yellowstone County Zoning Regulations for Corridor Mixed Use zone districts with the following limitations:

- 1) The only commercial use shall be personal self-storage facilities. Such facilities shall follow the requirements of Section 27-1006.A.1(a-c). All personal self-storage facilities shall be constructed on site and will not include shipping containers.
- 2) Residential uses shall be allowed on the same parcel as a commercial use but are not required to be within the same building.
- 3) Residential uses are limited to single family residences.
- 4) Setbacks, heights, separations and lot coverage for residential dwellings shall follow the Yellowstone County Zoning Regulations for the RR1 zone district (Rural Residential 1).
- 5) There shall be no more than 15 residential dwellings in Area B.
- 6) Agricultural uses are allowed that involve crop production or pasturing of horses or cows.
- 7) Accessory agricultural uses for residents are allowed as outline in Section 27-1008 and 27-1009 of the Yellowstone County Zoning Regulations.

Area C – Heavy Commercial (CX) – This zone district shall follow the rules for Heavy Commercial districts as outlined in the Yellowstone County Zoning Regulations with the following limitations:

- 1) Uses are limited to either personal self-storage facilities for sale or rent or to outdoor storage of boats, RVs, trailers, or other personal vehicles that cannot be normally stored on residential or personal property. All vehicles or personal property stored outdoors shall be licensed and operable (if required) and shall not meet the definition of junk, salvage or trash as outlined in the Yellowstone County Zoning Regulations. Self-storage facilities shall follow Section 27-1006.A.1 (a-c) unless otherwise modified by this agreement. Outdoor storage facilities shall follow Section 27-1006.B unless modified by this agreement.
- 2) The zone district will have a security fence for the storage facilities with exterior landscaping intended to visually obscure the storage facility and yards from adjacent property and from residential uses. The security

fencing will be at least 6 feet in height. The exterior landscaping shall consist of evergreen trees or shrubs planted within 10 feet of the security fencing and spaced so a continuous visual barrier is created within a five to seven year period after planting. The minimum height of any evergreen at the time of planting shall be five feet above ground. Plant materials will be continuously maintained and replaced as needed.

- 3) No self-storage unit shall be equipped with power outlets or water services.
- 4) A manager's office or residence may be provided on the property to provide security to the storage facilities. No other residential uses are allowed.

Area D – Agriculture (A) – This zone district shall follow the Yellowstone County Zoning Regulations for Agriculture zones with the following limitations and additions:

- 1) No residential uses are allowed
- 2) The following uses are also prohibited:
 - a. Civic or Religious Assembly
 - b. Schools, Hospice and Day Care
 - c. Animal Sales, Service or Veterinary Care
 - d. Assembly for Entertainment or Trade
 - e. Bed and Breakfast or Campgrounds (any)
 - f. Auction House or Grain Elevators
 - g. Sand and Gravel Mining
 - h. Wireless Communication Facilities
 - i. Auction Yard or Commercial Feeding Yard (livestock)
 - j. Milling (wood)
 - k. Livestock Services
- 3) Self-storage and Outdoor Storage Facilities are allowed with the same standards as provided for in Area C above.

Development Schedule:

All improvements in the Planned Development will be constructed within five years of the date of the final approval of the this Planned Development by the Board of County Commissioners.

Other Special Agreements:

One freestanding sign at the primary access to the property from Bitterroot Drive is allowed. The sign shall not exceed 32 square feet as measured on one side of the sign. The sign may be illuminated by an external light source. A sign permit will be applied for and approved prior to installation. Structures internal to the development may have signs for identification or addressing purposes and do not require sign permits so long as these signs are not visible from any public right of way. If a public right of way is platted into the subject property, sign code standards will be as determined by the Zoning Coordinator.

Other requirements:

Unless expressly designated above, all other standards or requirements of the Yellowstone County Zoning Regulations and any other County land development standards shall apply.

III. REVERSION:

If for any reason this Planned Development is not implemented and constructed for occupancy within the development schedule in Article II above and in conformance with this Agreement, the zone on PARCELS 3A-1-2-2 & TRACT

3B-2-2-3, AMENDED CERTIFICATE OF SURVEY 1655, shall revert to its original County zoning district of Agriculture (A).

IV. PLANNED DEVELOPMENT AGREEMENT AMENDMENTS OR

CHANGES: Major changes in the final development plan or other documents similarly approved and recorded shall be considered the same as a new petition and re-application shall be made in accordance with the procedures for a new application. Minor changes and development may be approved by the County

Zoning Coordinator provided that such changes do not increase the gross floor area, height of buildings, or land uses.

IN WITNESS WHEREOF, the parties hereto have set their hands and official seals on the date first above written.

**NOTARY BLOCK(S) TO BE PLACED
HERE**

Exhibit A
Zoning Master Plan

