



COUNTY OF YELLOWSTONE ZONING COMMISSION AGENDA

Monday, January 9, 2023

4:00 PM

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

NOTICE TO THE PUBLIC

****ATTENTION****

Citizens are invited to:

- . Review the Agenda Packet on the City's website at: <https://ci.billings.mt.us/117/Agendas-Minutes>
- . View the meeting live online at Facebook: <https://tinyurl.com/yckr478k>

Public comment will be taken only during the Public Comment periods as indicated on the agenda and during the Public Hearings, if any are scheduled, under the Regular agenda. Comments may be sent to Board via email before 10:00 AM on the meeting date. All emails received prior to this time will be read into the record for the public hearing. Comments may be submitted by:

- . Mail: City/County Planning Division, 2825 3rd Ave N 4th Floor, Billings, MT 59101
 - . Email: deinest@billingsmt.gov
- . Call in during the Public Comment periods as indicated on the agenda:
 - . Citizens may call in during specific Public Comment periods at 406.237.6165.
All callers will be placed 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 limited to 3 minutes of testimony as is customary.
Future delivery methods may be explored as best practice is learned.

Please direct questions to Planning Clerk Tammy Deines at deinest@billingsmt.gov or 406-247-8610. Thank you!

Call the meeting to order.

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

Public Comment

Motion. Approval of Minutes: August 8, 2022

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:

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

Public Hearings:

- YCZC 714 This is a zone change request from Neighborhood Mixed Use (NMU) to Light Industrial for a 6.88 acre parcel of land located generally on the west end of Hannon Road. The parcel is legally described as Tracts 1 and 2 of C/S 1263 and addressed as 3250 Hannon Rd. The current use is for a landscaping company - Evergreen Lawn and Landscape and the prospective buyer is Hardrives Asphalt, a heavy contractor involved in building roads and infrastructure.

Other Business/Announcements

Adjournment

Following the public hearing, the County Zoning Commission will make a recommendation to the Yellowstone County Commissioners. The **Board of County Commissioners** public hearing for these applications will be held on **January 24, 2023, at 9:30 a.m. at 316 N 26th Street -- 3rd Floor, Commissioner's Board Room**. The Board of County Commissioners will hear all persons wishing to speak relative to the proposed **Zone Change**.

Information on the preceding item may be obtained at the Yellowstone County Planning Department, 2825 3rd Avenue North, 4th Floor or phone (406)247-8676 or online at <https://www.billingsmt.gov/2361/Current-Zoning-Applications> . Anyone wishing to be heard on this matter may appear at this hearing. Public hearings are accessible to individuals with physical disabilities. Special arrangements for participation in the public hearings by individuals with hearing, speech, or vision impairment may be made upon request at least three days prior to the hearing. Please notify Tammy Deines, Planning Clerk, at 247-8610 or e-mail at deinest@billingsmt.gov



**Yellowstone County Zoning Commission
Approved Minutes for the Meeting of
Monday January 9, 2023**

The County Zoning Commission met on Monday, January 9, 2023 at 4:00 p.m. in the Miller Building 1st Floor Conference Room, 2825 3rd Ave. North.

		01/09/2023	02/13/2023	03/13/2023											
Blaine Poppler	Commissioner	x													
Melissa Ray Gentry	Commissioner	x													
Tyler Bush	Commissioner Chairman	x													
Todd Hewitt	Commissioner	x													
Open	Commissioner	-													

Commissioner Bush opened the meeting and introduced the County Zoning Commission members and Planning Division staff. Commissioner Hewitt is participating virtually.

Zoning Coordinator Nicole Cromwell, Karen Husman, Planner I, Tammy Deines, Planning Clerk

Other Participants: Richard L. Edwards, Susan E. Edwards, Anna Vickers, Amber Long, Andrew Elder, Kevin Sauter

Public Comment

Commissioner 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 three minutes of testimony as is customary. There were no public comments.

Exparte Email Communications: Andrew Elder, Opposition, howie112005@gmail.com; JR Lowell, Opposition, ae4667871@gmail.com; rjkwittman@gmail.com

Email: Keith Balls, Opposition, gwc247@gmail.com; JR Lowell, Opposition, ae4667871@gmail.com

Motion. Approval of Minutes: September 12, 2022

Motion

It was moved by Commissioner Poppler and seconded by Commissioner Hewett to approve the September 12, 2022 meeting minutes as submitted. The motion carried with a



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unanimous voice vote.

No exparte communications or conflicts of interest were announced by the Commissioners.
No one wished to comment regarding items not on the agenda.

Zoning Coordinator Nicole Cromwell read aloud the procedures for a public hearing.

Item #1. County Zone Change 714 This is a zone change request from Neighborhood Mixed Use (NMU) to Light Industrial for a 6.88 acre parcel of land located generally on the west end of Hannon Road. The parcel is legally described as Tracts 1 and 2 of C/S 1263 and addressed as 3250 Hannon Rd. The current use is for a landscaping company - Evergreen Lawn and Landscape and the prospective buyer is Hardrives Asphalt, a heavy contractor involved in building roads and infrastructure.

BACKGROUND

This is a zone change request to change from Neighborhood Mixed Use (NMU) to Light Industrial (I1) for a 6.88 acre parcel of land located generally on the west end of Hannon Road. The parcel is legally described as Tracts 1 and 2 of C/S 1263 and addressed as 3250 Hannon Rd. The current use is for a landscaping company - Evergreen Lawn and Landscape and the prospective buyer is Hardrives Asphalt, a heavy contractor involved in building roads and infrastructure. The proposed use for the property would be storage of equipment and material, there will be no equipment maintenance or servicing of vehicles or equipment on the site. The applicant conducted a pre-application meeting on May 24, 2022, at the subject property. Several surrounding property owners attended the meeting. Their main concerns were having an industrial site adjacent to their residential neighborhoods, dust control and if the use would affect their well water. The details of the pre-application meeting and materials are included as an attachment. The Planning Division received no inquiries or comments from the notified surrounding owners within 300 feet of the subject properties. The County's 2008 Growth Policy supports new developments that are compatible with existing development and neighborhoods. The I1 zone is compatible with a variety of other land uses, including the adjacent I1 zoned property to the east. However, there are also residential land uses and less intense land uses in the area. The property currently has a landscaping business that includes planted trees on the south side of the property. As part of any additions to the property, the applicants through the zoning compliance permitting process, will be required to buffer the adjacent residential development to the west and south and has agreed to provide a sight obscuring fence in addition to utilizing the existing trees on the property to provide additional buffering. Although the applicant does not intend to use the property as an intense industrial use, this does not prevent the potential future uses to significantly impact the surrounding residential neighborhoods and park if the zoning were changed to I1.

RECOMMENDATION

Staff recommends denial and adoption of the findings of the I1 review criteria for Zone Change 714.



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Public Hearing

Commissioner Bush continued the public hearing and asked if there is anyone wishing to speak regarding County Zone Change #714.

Anna Vickers, IMEG, 175 N 27th Street, STE 1312, Billings, Montana

Ms. Vickers represents the applicant, Evergreen Lawn and Landscape, and Hardrives Asphalt, who is the prospective buyer. This request was submitted as Hardrives desires to move the office building to this location and park contracting equipment. Previously, they had intended to use the site for their processing plant but after hearing concerns from the neighbors, they decided to use it for offices and storage in an effort to adjust to the neighbors' concerns. Anna said the reason for the zone change request is this type of business is not allowed in the NMU district. She said building and DEQ permits would need to be obtained should they decide to move the entire business to this location. The goal of the future owner is to clean up the property and provide landscape and fencing for buffering. The owners assured her they intend to leave property as is. The entire area has mostly County Industrial developments. The Growth Policy also supports and speaks to the need for business developments.

Discussion

In response to question by Commissioner Poppler, Ms. Vickers stated the owner's intent is for an office, and shop and equipment parking. There will be no asphalt mixing on site. Commissioner Gentry asked regarding the plans for Hannon Road. Ms. Vickers replied that there are no plans for improvements at this time but this will be discussed with Yellowstone County Public Works. This property would contribute to an RSID. The cistern and septic will have to be brought into compliance and a zoning compliance permit approved. DEQ would be involved with any improvements.

Public Hearing

Commissioner Bush opened the public hearing and asked if there is anyone wishing to speak in favor of County Zone Change #714.

In Favor:

Richard L Edwards, 521 Minnie Place, Billings MT

Mr. Edwards lives west of this parcel. He said this property is in a bad state of decay. He reported that he spoke to the intended buyer who told him he intends to clean up the property and install a fence. Mr. Edwards said he and his neighbors to the north do not oppose this application as this company will be dormant 6-8 months of the year as it is a seasonal business; and the owner plans to clean up the landscaping and weeds and open the access.

Shaley Green, (no address given)

Ms. Green is the realtor and listing agent for this property. She said this is a distressed seller who needs to sell so they cannot go lower in price. Hannon Road is an industrial area. The access point to this property prohibits residential uses and the buyer is willing to restrict uses. She said this property has been distressed for a long period of time. The applicant will pay market value and



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use his equipment for clean-up. She said currently the property is a fire hazard and several vagrants use the property. She sees the proposed Light Industrial zoning to be a positive attribute to the area.

In Opposition

Andrew Elder, 3105 Phillip Street, Billings, MT

Mr. Elder's property borders this property. He distributed a statistical report to the members of the Zoning Commission regarding the composition and toxicity of the oil emulsion used for seal coating and the toxicity of hydrogen sulfide. He said this will be a "stone's throw" to his property and it is not needed at this location. The evacuation zone for this type of processing is ½ mile of the property if there is a disaster. Mr. Elder said he was not notified of this application and has heard multiple versions. He voiced concern with his property values and the potential hazards to his health and safety, and his well. He said some people are in favor of this application but only for gain. Commissioner Poppler asked how Hardrive Asphalt plans to protect the safety of their employees. Mr. Elder referenced a safety data sheet and said the recommendation for a fire is to stand off and let it burn.

Derrick Rudig, 1531 Phillips Street, Billings, MT

Mr. Rudig voiced concern with the potential for well issues. He said his property is in the County and doesn't want to be a part of the City. He has found contaminants in the water. He doesn't want to worry about his wife and would like to live in his home. Mr. Rudig's primary concerns with the proposed zone change are the water and effects on property values.

Kevin Sauter, 3203, 3205, 3209, 3225 Phillip Street, Billings MT

Mr. Sauter has lived in his location forty-three years and owns four lots which are about 20-feet across from this property. He is concerned with potential effects on water, noise generation, and that they will include the manufacturing if the zone change is approved. Originally the applicant said they were going to mix on site then they backed off. He doesn't trust their business. He commented that the "Field of Dreams" and landscape business were good neighbors. Mr. Sauter has not experienced vagrants. There is wildlife on the property and it needs to be cut. He said several people were not notified. Mr. Sauter said the noise will travel through their neighborhood and it is too close to neighbors. He asked if it would be a conflict of interest if Hardrives works for the City and the County. He said he visited the current location for this business and they have a lot of large equipment. Mr. Sauter feels this is not necessary as this business already has a location.

Rebuttal

Anna Vickers, IMEG, 175 N 27th Street, STE 1312, Billings, Montana

Ms. Vickers encouraged looking at the originator of the report and the MDSD sheets. Certified notices were mailed and all were notified.



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Discussion

Commissioner Hewett said he doesn't like the proposed Light Industrial zoning as it will not hold the business to their intent. Commissioner Poppler said there is a residential neighborhood along the perimeter of the property. Hannon Road dead ends into this property and needs improvement. Commissioner Poppler doesn't feel this proposal is a good fit. Commissioner Gentry commented the road condition and potential issues with the area wells. She said she understands Staffs' concerns and she is in agreement with the staff recommendation of denial.

Motion

Commissioner Hewett made a motion to recommendation of denial Zone Change #714 on consistent with staff's recommendation. It was seconded by Commissioner Gentry.

Discussion: There was no discussion on the motion. **The motion carried 4-0, with a unanimous voice vote.**

Zone Change #714 is denied. The Board of County Commissioners public hearing for these applications will be held on January 24, 2023, at 9:30 a.m. at 316 N 26th Street – 3rd Floor, Commissioner's Hearing Room. The Board of County Commissioners will hear all persons wishing to speak relative to the proposed Zone Changes.

OTHER BUSINESS

a. 2023 Yellowstone County Zoning Commission Officers

It is the consensus of the Commission for Tylor Bush to serve as Chairman, and Commissioner Blaine Poppler to serve as Vice Chairman.

b. Announcements:

- There is one vacancy on the County Zoning Commission.
- The February 13, 2023 Yellowstone County Zoning Commission meeting is canceled due to a lack of agenda items.

Adjournment 4:46 PM

Approved by a motion May 8, 2023

--Tamara L. Deines, Planning Clerk

