



**Yellowstone County Zoning Commission
DRAFT Minutes for the Meeting of
Monday, August 8, 2022**

The County Zoning Commission met on Monday, August 8, 2022 at 4:00 p.m. in the Miller Building 1st Floor Conference Room, 2825 3rd Ave. North.

		01/10/2022	04/11/2022	06/13/2022	07/11/2022	08/08/2022								
Blaine Poppler	Commissioner	1	1	1	1	1								
Melissa Ray Gentry	Commissioner	1	1	1	1	1								
Tyler Bush	Commissioner Chairman	1	1	1	1	1								
Todd Hewitt	Commissioner	1	1	1	1	E								
Open	Commissioner													

Commissioner Bush opened the meeting and introduced the County Zoning Commission members and Planning Division staff.

Zoning Coordinator Nicole Cromwell, Karen Husman, Planner I, Robbin Bartley, Administrative Assistant

Other Participants: see attached sign in sheets

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.

Motion. Approval of Minutes: July 11, 2022

Motion

It was moved by Commissioner Gentry and seconded by Commissioner Poppler to approve the July 11, 2022 meeting minutes as submitted. The motion carried with a 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.



**Yellowstone County Zoning Commission
DRAFT Minutes for the Meeting of
Monday, August 8, 2022**

Chairman Bush chose to change the order of the Agenda as posted. The items will now be heard County Zone Change 712, 713 and concluding with 711. This consideration was made due to the public comment expected for County Zone Change 711.

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

Item #2 County Zone Change 712 – 2433 Highway 87 E – From RR3 to NX1 - A zone change request from Rural Residential 3 (RR3) to Mixed Residential (NX1) on C.O.S. 929, PARCEL 4, AMD and S31, T01 N, R27 E, SENWNW4, an 14.45 acre parcel of land. A pre-application neighborhood meeting was held on June 15, 2022, at Lockwood School. Tax ID: D06622 & D06613.

The applicant requested a 30 day delay of this public hearing.

Commissioner Poppler motioned to approve the 30 day delay and Commissioner Gentry seconded the motion.

The motion to delay was approved with a unanimous vote.

Item #3. County Zone Change 713 – S 44th Street West - From RR3 to RR1 - A zone change request from Rural Residential 3 (RR3) to Rural Residential 1 (RR1), on C.O.S. 3639, PARCEL 2A2A1, a 5.052 acre parcel of land. A pre-application neighborhood meeting was held on May 25, 2022, at the subject property. Tax ID: D00350C

RECOMMENDATION

Planning staff has reviewed this application and is forwarding a recommendation of approval from RR3 to RR3 based on the 11 criteria for zone changes.

- Meets the goals of the West Billings Plan & the Growth Policy & the 11 review criteria
- Compatible to this area density residential uses & agricultural uses
- Encourages similar development as adjacent subdivision to the north & south east.
- Adjacent to the City limits, future development encourages communication with City & County for smart growth

BACKGROUND

This is a zone change request for a 5.01-acre parcel of land at South 44th Street West, past Shiloh Road on Central Avenue. The applicant would like to change the zoning of the property to



Yellowstone County Zoning Commission DRAFT Minutes for the Meeting of Monday, August 8, 2022

allow low density residential lots on the property that will match the existing county subdivisions to the north and west. At the time of subdivision, impacts from the development will be quantified and mitigated as required by County subdivision regulations. This is in an area that was identified for rural and large lot residential development in the West Billings Neighborhood Plan adopted by the city and county in 2001. Much has changed since 2001 and City limits and services are in close proximity to this area today. This is discussed further below.

Five minor large lot residential subdivisions developed on the west end of Billings outside the City limits in the last 15 years - Cold Stone Estates, Hardy Boys, Lamm Subdivision, CC Subdivision and Golden Willow. These are generally located north and east of this location with primary access off Grand Avenue. There are several county major subdivision in the area, including Cloverleaf Meadows to the north and Shiloh Estates to the south and east (both are in the RR1 district) and Sundance to the west (in the N4 district).

Most of the residential subdivisions rely on either on-site water and wastewater or small community water or wastewater systems or both. A west end groundwater study completed in the last decade has indicated the local shallow aquifer in this area will be depleted (quantity) and water quality will be lower in the next 20 to 25 years. This is primarily due to less irrigation as well as more on-site waste water disposal. The irrigated farm land in West Billings has helped to replenish the aquifer while the additional discharge of waste water from septic systems has contributed excess nutrients (nitrogen) to the groundwater. It is expected alternate drinking water supplies, other than groundwater wells, will be required for many county subdivisions as development continues. Further, a new groundwater study of West Billings that will build on the previous work of the Montana Bureau of Mines and Geology is underway in partnership with the City of Billings and results of this updated study will be available in 2023. While this information is important and will likely affect development in this area significantly in the next few years, how developments propose to handle water or wastewater is ultimately the authority of the Montana Department of Environmental Quality. The necessary approvals of how water and wastewater are handled require approval from this agency as part of subdivision review. If the property were to not develop through subdivision, sanitation approval would still be required.

The subject property is also located within the City's Long-Range Urban Planning Area on its Limits of Annexation Map as an area the City is considering for future annexation. However, the applicant is pursuing a county zone change for development and does not intend to request annexation. However, discussions with property owners, potentially including this one, are occurring right now to the west, south, and south across Central Avenue. Also, the county



Yellowstone County Zoning Commission DRAFT Minutes for the Meeting of Monday, August 8, 2022

subdivision directly to the north, Cloverleaf Meadows, is already having water supply concerns with its well system and has approached the City for annexation options to access City services. It is critical that this property owner and others fully understand the City's intent to serve this area and how they may participate to avoid development in the County to occur and then be surrounded by the City almost immediately. The West Billings Plan (2001) supports development of both county and city subdivisions but recommends that County subdivisions within areas that could be annexed (the Urban Expansion Area) should have a development plan that allows for efficient and effective conversion to city utilities and services. The West Billings Plan also shows a neighborhood services center at the intersection of Central and 48th St. West. Urban residential subdivisions with municipal utilities are about 1/4-mile to the east and about 1 mile to the north and west. The established pattern in this area is for new urban growth in areas designated for annexation. The owner reached out to planning staff last fall to inquire about process to amend the Limits of Annexation map but did not submit a formal Urban Planning Study. Ultimately, no changes were made to the map last year as no applications were received. However, City staff as noted above, is now in direct discussions with property owners in this immediate area to find solutions to have the area annexed and served with City services. In 2001, and then again in 2006, the City and County engaged in area planning efforts for Billings West End. Both plans, the West Billings Neighborhood Plan and the Northwest Shiloh Area Plan, emphasize the need to differentiate between County low-density subdivisions that may be well outside of any future annexation area and to plan for development that is within annexation areas and should be annexed to the city.

The County's 2008 Growth Policy supports new developments that are compatible with existing development and neighborhoods. The RR1 zoning is a large lot rural zone that is compatible with a variety of other land uses, including the agricultural and rural residential uses to the west. However, the City limits share this property's east boundary and Planning staff recommends and encourages discussion of annexation and access to city services occur prior to development of this property moving forward.

Discussion

Commissioner Bush asked the Commissioners for questions and comments. There were none.

Commissioner Poppler stated the current easement access is off of 44th Street W. Has there been a discussion about moving the access to Broadwater Ave? Staff indicated this would be considered at plan submittal.



**Yellowstone County Zoning Commission
DRAFT Minutes for the Meeting of
Monday, August 8, 2022**

Public Hearing

Commissioner Bush opened the public hearing and asked if there is anyone wishing to speak regarding County Zone Change #713.

Mark Gaughan, 49 Vista Drive, Billings, MT, owner

The desire is to subdivide the acreage into four, 1.25 acre plots. There was no opposition expressed during the neighborhood meeting. There will be a roundabout at the NE corner.

No one wished to speak in favor or in opposition.

Commissioner Poppler stated he believed it is consistent with the area and meets subdivision requirements.

Motion

Commissioner Gentry made a motion and it was seconded by Commissioner Poppler to forward a recommendation to the Board of County Commissioners of approval of Zone Change #713 as recommended by staff.

Discussion

There was no discussion on the motion.

The motion carried with a unanimous voice vote.

Item #1: County Zone Change 711 – 2847 Bitterroot Drive – From A to PD- A zone change request from Agriculture 10 acres and over to Planned Development, on C.O.S. 1655, PARCEL 3A122, & TR 3B-2-2-3 AMND a 30.226 acre parcel of land. The intended underlying zones and uses include low-density residential, public parks and open space, outdoor and personal self-storage and agricultural uses. A pre-application neighborhood meeting was held on May 15, 2022, at 2847 Bitterroot Drive. Tax ID: D05052B

RECOMMENDATION

Planning staff has reviewed this application and is forwarding a recommendation of approval from N2 to P2 on 4 acres of the subject property based on the 11 criteria for zone changes.

- Meets the goals of the Growth Policy & the 11 review criteria
- Compatible to this area of lower to medium density residential uses and the adjacent school
- Supplements public recreation playing fields – allows more teams to practice and have game time



Yellowstone County Zoning Commission DRAFT Minutes for the Meeting of Monday, August 8, 2022

BACKGROUND

This is a zone change request to allow a Planned Development (PD) zone district to be established on land formerly used for gravel mining, asphalt mixing, and a heavy construction contractor yard. The site is about 30 acres in area and includes a short section of Five Mile Creek and its flood plain, and is bordered by rural residential zoning and agricultural zoning to the north, west, south and east. The city limits are diagonally south and west across Bitterroot Drive. About 60 to 70 percent of the site has been disturbed through the activity of the gravel mine, asphalt plant and heavy construction equipment activity on the property for over 40 years. The southwest corner of the property has been untouched as it was south of Five Mile Creek and is in the flood plain. The proposed Planned Development, a customized zone district specific to this parcel of land, is intended to allow some low density residential uses, mixed uses including outdoor and personal storage warehouses as well as agricultural uses and dedication of the public park area south of Five Mile Creek.

Planned Development zoning is only allowed on parcels currently zoned Agriculture and must meet the criteria and guidelines in Section 27-702 (Objectives of PD) of the Yellowstone County zoning regulations:

- A. To permit the development of planned industrial, commercial, or mixed-use development zones, while protecting the character and quality of adjacent uses.
- B. To permit flexibility in design and use of an individually owned property or a group of separately owned properties to allow for economy, convenience and amenity in development.
- C. Preserve, enhance, and retain the existing natural environmental qualities in the landscape such as topographic variation, views, water areas and native vegetation.

Planned Development zoning is not intended to allow a single type of use or address an issue better dealt with through another administrative process. The County zoning code for PDs states the following: "*PD zoning may not be used to provide a site-specific solution to a single issue that can be resolved through a more appropriate administrative means.*" The Planned Development zones considered and approved by the county and city are diverse and include both residential, commercial, industrial and mixed uses. The PD zones range in area from less than 1 acre to over 400 acres. Many of the PD zones approved in the early 1970s were adopted to include golf courses, school sites, customized housing choices and large park parcels. More recent PDs approved include the Walmart development on Main Street, the Barrett Road multi-family development, Rehberg Ranch west of the airport and Annafeld, a new neighborhood south of the interstate.

Many PD zone districts are developed to allow specific designs for buildings, or to provide more restrictions on uses than allowed by a standard zone district. This parcel represents a challenge due to its location at the edge of the city limits, with medium to low density residential uses in the area, a natural stream and flood plain and with decades of use for semi-industrial purposes. The aerial maps (attached) show a parcel that is significantly different from surrounding rural residential or agricultural uses. The previous uses of the property were not conforming to the



Yellowstone County Zoning Commission DRAFT Minutes for the Meeting of Monday, August 8, 2022

current or previous zone district regulations but were allowed to continue until the uses were abandoned. The previous uses cannot be re-established because the uses have been abandoned for more than 1 year. For example, if the Ostermiller family had sold or leased the property to another heavy or general contractor then a zone change or other land use permit would not have been required within the one year period. The nonconforming uses would have continued without interference.

The proposed PD envisions a mixture of uses on the property including dedication of a public park parcel (south of Five Mile Creek), a small low density residential development, outdoor storage and personal warehouse storage as well as continuation of more uses allowed by the current Agriculture zoning. The PD zoning exhibit indicates where each of these development types (Areas A, B, C & D) will be located.

Area A, about 4.5 acres in the southwest corner of the property, is intended for parkland and open space, with an underlying zone district of Public 1 (P1). Uses will be restricted based on preserving the riparian conditions for Five Mile Creek. This includes restrictions on active recreational playing fields for adults, campgrounds, civic buildings or solar/wind energy facilities that would otherwise be allowed in the underlying Public 1 zone district.

Area B, about 11 acres extending east from the entrance road on Bitterroot Drive and encompassing some of the least disturbed area on the property, is intended for mixed uses (similar to Corridor Mixed Use zones) with low density residential and commercial uses. The draft PD only allows one commercial use: personal storage warehousing. The draft PD requires compliance with the use standards for personal storage developments as written in the County zoning regulations and includes the following:

27-1006.A.1

(a) No business activity other than rental of storage units shall be conducted within a self-service storage unit.

(b) Security fencing or gates shall be located behind any required landscaping area.

(c) Security gates shall be located so that two vehicles awaiting entry do not stack into the public right of way or any pedestrian path. This may be reduced to one vehicle for facilities with fewer than 25 units or where security gates are only locked outside of normal business hours.

The PD specifically excludes the use of shipping containers for storage facilities in Area B and no outdoor storage (RVs, boats, trailers etc.) is allowed in this area. The draft PD limits the type of dwellings allowed - single family only - and the total number of dwelling units in Area B to 15. Dwellings and personal storage warehouses could exist on the same parcel of land.

Area C, about 6.5 acres directly east of Area B and containing most of the area used for the previous semi-industrial uses, is intended to be used only for outdoor storage and personal storage warehousing. The proposed underlying zoning is Heavy Commercial (CX) and the only commercial use allowed being outdoor storage and personal warehouse storage. The use standards for Area B apply as well as additional standards for outdoor storage as stated in Section 27-



Yellowstone County Zoning Commission DRAFT Minutes for the Meeting of Monday, August 8, 2022

1006.B. The draft PD agreement does not allow storage of business or commercial equipment. The draft PD only allows outdoor storage for "*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.*" Area C also has specific requirements for the perimeter fence, landscaping and for maintenance of these facilities. In addition, no power outlets or water will be supplied of any of the storage units. No residential uses of this area is allowed with the exception of a manager's office/residence.

Area D, the remaining 8+ acres of the site and east of Area C, will remain as an area for agricultural uses with an underlying zoning of "A". Uses in the zone area restricted including the prohibition on residential use, animal sales or services, sand or gravel mining, assembly uses, auction yards and similar uses. The area may serve as pasture land or land for hay and grazing of livestock. Area D could also allow personal self-storage or outdoor storage with the limitations and uses standards outlined for Area C.

The proposed PD agreement also comes with a "reversion" clause so if the development as proposed is not completed within a short time (five years from approval) the zoning would revert to the current zoning of Agriculture. This clause has been used in a few other PD districts to ensure predictable and timely development should the developer gain approval for the zoning.

Discussion

Commissioner Bush asked the Commissioners for questions and comments. Zoning Commission member Blaine Poppler asked staff about the reasoning of the recommendation of approval. Mr. Poppler specifically wanted to understand why a zone district that is very different from the surrounding uses of residential and agriculture would be recommended for approval. Staff explained the previous uses on the property would likely make this property unsuitable for similar uses such as a low density rural residential subdivision. Staff would expect there would be some contamination of the ground from the previous uses, as well as severe compaction of the ground. Staff explained the existing conditions on the site are significantly different than surrounding property and could not be easily converted or developed to a similar state. Staff explained the tight restrictions in the proposed PD make the proposed uses more compatible than through a standard zone district such as General or Heavy Commercial (C3 or CX) for personal storage warehousing.

Public Hearing

Commissioner Bush opened the public hearing and asked if there is anyone wishing to speak regarding County Zone Change #711.

The applicant and property owner, Kraig Kosena, PO Box 16653, Missoula, MT,

Provided testimony in favor of the PD zone change. He stated he was a Billings native and spent most of his early years in Billings Heights until his family moved to Missoula. He currently resides in Missoula but considers Billings to be his home town. He stated he is a Navy veteran and retired several years ago. He stated the neighborhood meeting he conducted in May resulted



Yellowstone County Zoning Commission DRAFT Minutes for the Meeting of Monday, August 8, 2022

in some of the directly adjacent owners inquiring about purchasing the east part of the property to add to their own acreage. The original zone master plan and PD document was amended to allow this area of the property to remain in "agriculture" zoning so if the sale to an adjacent owner were to occur it would not be a much different zone. He stated the surrounding owners who attended the pre-application neighborhood meeting expressed interest in allowing low density residential uses on the property. He stated they amended the draft PD to allow a few residential dwellings on a part of the property. He stated he reached out directly to as many adjacent neighbors as possible prior to the neighborhood meeting to give them the benefit of a one-on-one meeting to discuss the proposed development plan and hear their concerns. Only one owner, Mrs. Kembel who owns the closed 240-acre gravel mine to the east, did not want to meet. Mr. Kosenka stated the original intent was to donate the

4-5 acre parcel south of Five Mile Creek to the County as public open space. He stated he has not been successful in contacting the County Parks Board consultant. At a pre-development meeting with County staff last week, another staff member stated it is not likely the Parks Board would be interested in the property due to the lack of a funding mechanism to maintain the property. He stated the property could remain as private open space as they do not intend to develop this section of the property for any purpose. He stated the primary use they intend to develop in the other areas of the parcel is personal storage warehousing with some outdoor storage for boats and RVs. He stated the underlying zones, restrictions on uses and site development standards are intended to allow some flexibility in the future but the primary use for most of the property is for personal storage units. He stated the biggest concerns he has heard from a few surrounding owners is about traffic, crime and security. He stated he talked with several storage businesses in Billings and in Missoula and they reported that daily gate traffic (in and out) was minimal compared to the number of storage units. A recommendation from one owner on how to prevent someone from living in a unit was to require a keyed entry into and out of the gate. He stated this way they know when someone goes in later in the evening but does not come back out. He stated they do not intend for the facility to be a 24-hour access storage facility. The gate would only be open for keyed entry from 6 am to 10 pm.

Perry Rockvam of 2647 Meadow Creek Loop stated he was not in favor of the zone change. He stated when he retired they moved into this neighborhood because it allowed them the convenience of living in the city with all the benefits of rural living. He stated the area is quiet, there is abundant wildlife and not much traffic either in the subdivision or on Bitterroot Drive. He stated this zone change would change all this. He stated the area is rural and not commercial. He stated the zoning just does not fit in this area. He stated he is concerned the value and marketability of his property would be reduced by this development.

Mike Kok of 1643 Quarter horse Lane testified against the PD zone change. He stated they moved in 17 years ago and enjoy the environment of this rural residential area. He stated there is a lot of open land in the area. He stated he did research on personal storage facilities that are within 10 miles of this location. He discovered there are over 55 facilities within that 10-mile



Yellowstone County Zoning Commission
DRAFT Minutes for the Meeting of
Monday, August 8, 2022

radius that have over 10,000 units available. He said many offers either indoor storage or outdoor storage or a combination of both. He stated the owners he spoke with indicated occupancy rates running from 45% to 100%. He stated the average occupancy rate is 75%. He stated that leaves 2,500 units available right now within 10 miles of this location. He stated this development is not only not wanted by the surrounding owners, it is not needed. He stated the impacts from traffic, noise, wildlife disturbances, homeless people, illegal activities, and light pollution would be too much. He stated the zoning is not consistent with the existing zoning of the area which is rural residential and agriculture.

Peter Light of 2904 Bitterroot Drive stated he was opposed to the zone change. He stated there is no commercial zoning or activity anywhere close to this property. He stated this zone change does not appear to be consistent or compatible with the adjacent zoning or uses. He stated the neighbors lived with the uses on the Ostermiller property even though it was zoned agriculture because everyone knew Ostermiller would eventually run out of gravel. He stated the expectation was the next owner would honor the zoning and use the land as intended or re-zone it for some rural residential uses. He stated a small group of the neighbors did decide to try and buy the property when it was for sale but the current owners had already made an offer and Mrs. Ostermiller could not take the neighbor's offer.

Jim Ridgeway of 1615 Old Sorrel Trail stated he agreed with Dr. Light. He stated this is a neighborhood not just vacant ground on an arterial street. He stated the area is quiet, has little traffic or noise and for these reasons this is why people call this area home. He stated there are plenty of goods and services nearby within the city and the area does not need or want new storage units. He stated he would not repeat what others had already said, but he agreed with all the testimony in opposition.

Robert Wagenaar of 2903 Legacy Lane testified in opposition to the zoning change. He stated that despite what is allowed in the PD agreement, the development will be mostly storage units, boats and RVs. He stated he has a view from the north across most of the subject property. He stated this is not an appropriate use at this location. He stated Bitterroot Drive may be an arterial street but it is narrow and used by many different users such as cyclists, runners and introducing more traffic here would be an unnecessary conflict. He stated he also agrees with the previous speakers against the zone change but most importantly he does not believe the zone change is conforming to the County's growth policy.

Don Thoreson of 1835 Mary Street testified in opposition to the zone change. He stated the north end of his property is adjacent to the subject property. He stated the area is very quiet with lots of wildlife that travels through. He stated the light pollution alone would have a strong impact on the environment. He stated right now there is nothing but trees, but in the future this may all change.

Nancy Auren of 3003 Bitterroot Drive testified in opposition. She stated she agreed with the previous speakers that the area is quiet with abundant wildlife and would be negatively impacted by the proposed uses. She stated they purchased an adjacent lot to their main property just to



Yellowstone County Zoning Commission
DRAFT Minutes for the Meeting of
Monday, August 8, 2022

ensure they had solitude for their home. She stated hundreds of storage units, boats and RVs would not fit this area along with all the required security measures like razor wire fences.

Adri Ryberg of 2585 Bitterroot Drive testified against the zone change. She stated she has a lot of horses on her property along with lots of wildlife. She stated it is sometimes a challenge to keep the horses safe being so close to the arterial street. She stated she is worried about all the trash and litter that will come off the storage unit property and possibly being a mess on her property.

Mike Haaland of 1852 Three Bars Trail testified against the zone change. He stated he loves the neighborhood and this proposed storage unit business would not be good for their neighborhood just to the north. He stated his big concern is too much lighting for security. He stated when the round-a-bout was finished for Five Mile Creek Road the new lights were so bright. It seemed like it was too much light for that little round-a-bout even though it is a half-mile away from his house.

Ricardo Murga of 1651 Oklahoma Star Trail testified in opposition. He stated they purchased their home in 2017 and spent 1 year looking for the right place in Billings Heights. He stated they chose this area because there is very little lighting after dark. His family enjoys using their telescope to star gaze at night. Too much lighting will make this not possible. He stated the installation of 500 storage units on this property would essentially change this area from rural residential to a commercial corridor.

Gerry Dillon of 1621 Old Sorrel Trail testified in opposition. He stated the proposed zoning is inconsistent with the character of the area. He stated the development will bring noise, light pollution and crime. He also stated Mr. Kosena provided new information on where the potential residential homes would be located - not Area B but Area C. He stated at the very least the Zoning Commission should postpone action until he provides clarity on this part of the PD.

Linda Floyd of 2642 Meadow Creek Loop testified in opposition to the zone change. She stated when they bought their home in Bitterroot Heights they did their due diligence. They noted the land on the east side of Bitterroot Drive was zoned agriculture. She stated they wanted city services but also wanted the benefits of a quiet rural area. She stated this area provides this quality of life. She stated she spoke with the owner of KO Storage (Bench Boulevard) and he stated "prepare to have your life changed forever". He told her that nothing good happens at storage facilities overnight. She did state that none of the storage unit owners she spoke with would go "on record" about their experiences for fear of damaging their business reputation.

Manny Vasile of 2602 Meadow Creek Loop testified in opposition to the zone change. He stated he is employed in the criminal justice field and can state at least anecdotally that storage units are used for criminal activity especially in higher crime areas such as Billings. He stated right now he can leave his garage doors open without worrying about theft and he can leave his



Yellowstone County Zoning Commission DRAFT Minutes for the Meeting of Monday, August 8, 2022

dog doors unlocked without worrying that someone will break into his home. He stated the area is very safe now but will likely become less safe with a storage unit facility close by.

Rebuttal

Mr. Kosena provided rebuttal testimony. He stated he understands the neighbor's concerns. He stated they originally just wanted to do the whole property as storage units but then changed their plan in response to the concerns expressed by these same neighbors. He stated the three issues he heard about this evening were security, lighting and noise. He stated they plan to have a completely secure facility with no overnight access into the storage facility. He stated this will include a key panel on the inside of the security fence to monitor when customers leave the facility. He stated it will be a well-managed and maintained facility. He stated he is no more interested in building an eyesore than the neighbors are in living near one. He stated he understands from contacts in the industry there may be just a handful of vehicle trips per day at a facility like this one. He stated the traffic in and out of the site would be much less than it was when Ostermiller Construction was operating from the site. He stated he also uses a storage unit in Missoula, and they visit the unit maybe 4 times a year. He stated he does not understand the complaint about potential noise. He stated this will be for people with personal property they need to store so there should be little noise generated. He stated the security lighting for the facility will be minimal and motion activated. He stated he was concerned about the comment that the neighbors tried to buy the property but the owner could not sell because our offer was already on the table. The neighbors knew this property was for sale for 4 years but made no offers until I made an offer to buy the property.

Commissioner Bush asked if there is anyone else wishing to speak in favor or against county Zone Change #711.

Discussion

Chair Tyler Bush closed the public hearing. Commission member Blaine Poppler stated he knows Billings Heights has set a community boundary to not entertain any commercial zoning of any kind east of Bench Boulevard so the testimony in opposition is not unexpected. He stated he also lives in the County but on the west end and he understands the desire for a peaceful and undisturbed quality of life with easy access to city services. He also is concerned with the inconsistency of this zoning to the immediately adjacent zoning and land uses. He stated he found the proposal to only meet perhaps half of the zone change criteria. Commission member Melissa Gentry stated she did drive by the location just to understand a little more about the property and its location. She was surprised about the distance between this property and the neighborhoods where the letters of opposition originated. She stated she would have more concern about the proposed zoning if it were directly adjacent to more residential homes. She stated as a real estate professional she does market analysis for buyers and sellers and one of the issues she looks for is what is happening next door but not at property that is further away. She stated she did not believe this development would negatively impact homes in the nearby neighborhoods. Planning staff clarified for the Commission how criteria findings are developed and considered. Criteria findings are considered as a whole and



Yellowstone County Zoning Commission DRAFT Minutes for the Meeting of Monday, August 8, 2022

are not given any particular weight during review. For example, it is not as simple as 6 positive criteria findings out of 11 criteria requires a recommendation of approval. Staff explained the Commission can make different findings than the staff and can decide these different findings provide enough weight to make a recommendation of denial to the County Commissioners. Chair Tyler Bush stated he was concerned with the compatibility of the proposed use and zoning. He stated he disagrees with the staff proposed finding for criteria 8: *Does the new zoning consider the character of the district and the suitability of the property for particular uses?* He stated he finds this proposal is not considerate of the character of the area and the use is not suitable for the property. He stated the testimony at the hearing and written testimony from the surrounding owners clearly shows the proposed use is not suitable for this property in particular. He stated he is not opposed to change in land uses over time but it is clear the proposed use is not a good fit at this location.

Mr. Poppler agreed with Mr. Bush on his assessment of the finding for criteria 8 as well as his concerns as it relates to the findings for criteria 1: *Is the new zoning designed in accordance with the Growth Policy?* Mr. Poppler stated he does not find this proposal to be a predictable land use based on the surrounding land uses and zoning.

Ms. Gentry stated she also disagrees to a point with the finding of Criteria 9: *Will the new zoning conserve the value of buildings?* She stated the staff finding should be modified to include a statement that directly adjacent property and buildings may be negatively affected by the zone change.

Motion

Tyler Bush made a motion to recommend denial of the zone change and adopt the staff's proposed findings for Criteria 2-7 and 10-11, and substitute the Commission's findings for Criteria 1,8 and 9. The motion was seconded by Blaine Poppler. Commission member Melissa Gentry stated although she is concerned about the directly adjacent building values, she does not necessarily agree with the findings proposed for Criteria 1 and 8. She stated there are more positive than negative findings for this proposal. The Commission voted 2-1 (Gentry opposed), to approve the motion to recommend denial.

Discussion

There was no discussion on the motion.

The motion to deny carried with a voice vote, 2-1.

The Board of County Commissioners public hearing for these applications will be held on Tuesday, August 23, 2022, 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. Announcements:

- There is one vacancy on the County Zoning Commission.



**Yellowstone County Zoning Commission
DRAFT Minutes for the Meeting of
Monday, August 8, 2022**

Adjournment 5:48 PM

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

--Robbin Bartley, Administrative Assistant



City-County Planning Division

Monday, August 8, 2022

Yellowstone County Zoning Commission

Printed Name	Address/email
KRAIG & MEGAN KOSENA	PO BOX 16653 MSO MT 59808 KRAIGR@KCMONTANA.COM
Michael & Denise Kolk	1634 Quarterhorse LN Billings, MT 59105
HARRY & BEV RUKSTAD	1637 CED CORREL TRAIL BILLINGS MT, 59105
Regina Alvar	2645 Meadow Creek Loop Billings MT 59105
Linda Floyd + Gayle Brucher	2642 Meadow Creek Loop Billings, MT 59105
Kristine Ostermayer	1985 Mary St Blg MT 59105
Barb Sholley	1925 Legacy Ln Billings 59105
Robert & Victoria Wegenaar	2903 Legacy Ln Billings 59105
Perry Rookman	2647 Meadow Creek Loop, Billings 59105
Terry & JoAnn Dukart	2735 Bitterroot Billings MT 59105
Ricardo & Jennifer Murga	1651 Oklahoma Star Trl. 59105
Jim Reno	1544 Redwing Circle (3160 B. Hunt)
Elizabeth Larkwood	1520 Mustang Valley Ar.
Tracy & Don Thoreson	1835 Mary St. 59105

County 2C

Sign In 8/8/2022

MARK GAUGHAN

49 Vista Dr.

Dellings, MT

LOUI RUBASH

1500 OKLAHOMA STR TRL WEST

Rica & Mike Dombrowski

1520 Oklahoma
Star Trl W 59105

Susan & Steven Vold

1420 Oklahoma Star Trl W

Blys
59105

Nicky Wolf

1410 Oklahoma Star Tr W

Blys 59105

Jim Riquelme

1615 Old Sorrel

1966 59105

Jane Wallace

1810 Caroline Street Bly 59105

Adri Kyring

#2985 Bitterroot dr

Peter & Marie Light

2904 Bitterroot dr 59105

Jack Dillon

2819 Daisy Lane

59105

Joy Diller

1621

Old Sorrel Trail

Mike Healand

1852

Three Bars Trail

Nancy + Dave Stockman

1704 Three Bars Tr

Nancy Aurea

3003 Bitterroot Dr

Robert S. Wegencar

2903 Legacy Lane