



**Yellowstone County Zoning Commission
Approved by Motion
Monday July 10, 2023**

The County Zoning Commission met 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	04/10/2023	05/08/2023	06/12/2023	07/10/2023	08/14/2023	09/11/2023	10/09/2023	11/13/2023	12/11/2023
Blaine Poppler	Commissioner	x	-	-	-	1	-	E	C				
Melissa Ray Gentry	Commissioner	x	-	-	-	1	-	1	C				
Tyler Bush	Commissioner Chairman	x	-	-	-	1	-	V	C				
Todd Hewitt	Commissioner	x	-	-	-	1	-	1	C				
Open	Commissioner	-	-	-	--	-	-	-	-				

Pro Tem Chairman Gentry opened the meeting and introduced the County Zoning Commission members and Planning Division staff. Commissioner Bush is participating virtually, (V).

Staff Present: Zoning Coordinator Nicole Cromwell, Tammy Deines, Planning Clerk, Brenda Berns, Planning Clerk

Other Participants: William Jensen (ZC 717, ZC 719); Louise Jensen (YZC 717, YZC 719); Jacquelin Robinson (YZC 717, YZC 719); Randall Robinsen (YC 717, YC 719); Sandra Baer? (YC 718); Kenny L Barte (YZC 718); Lisa Schelle (YZC 718) Russ Schelle (YZC 718); Jim Smith (YZC 717), Duane Christensen (YZC 717); Florence Diede; Miranda & Rory Peck; John Halvorson, Sanderson Stewart.

Public Comment

Commissioner Gentry 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 E-mail Communications: Letter in opposition Randall and Jacquelin Robinson Zone Change #YZC 717, #YZC 719; A petition in opposition to YZC #717 by multiple property owners in Pat Dahl Subdivision. Rachel Voldseth, Erik Voldseth, Renae Mileus, Karl Myers, Julie Myers.



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Motion. Approval of Minutes: May 8, 2023 (The June 12, 2023 meeting was cancelled due to a lack of applications).

Motion

It was moved by Commissioner Hewett and seconded by Commissioner Tuss to approve the May 8, 2023 meeting minutes as submitted. The motion carried with a unanimous voice vote.

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 717 – 705 Johnson Lane – CMU1, N4 and RR1 to CX A zone change request from Corridor Mixed Use 1 (CMU1 – Lots 4A and 5A), Large Lot Suburban Neighborhood Residential (N4 – Lots 1 & 2), and Rural Residential 1 (RR1 – Lot 3) to Heavy Commercial (CX), on Lots 4A, 5A and portions of Lots 1, 2 and 3 of Block 1, Fly In Subdivision. The total area for re-zoning is approximately 9.81 acres of land as shown on the application exhibit. A pre-application neighborhood meeting was held on May 11, 2023, at Lockwood High School. Tax IDs C12463 (Lot 4A), C12464 (Lot 5A) and portions of C12460 (Lot 1), C12461 (Lot 2) and C12462 (Lot 3).

REQUEST

County Zone Change 717 is a zone change request from Corridor Mixed Use 1 (CMU1) on Lots 4A and 5A to Heavy Commercial (CX) and from Rural Residential 1 (RR1 - Lot 3) and Large Lot Suburban Neighborhood Residential (N4 – Lots 1 & 2) have portions of these lots changed to CX as shown on the proposed amended subdivision for the Fly In Subdivision, generally located at 705 Johnson Lane. The properties are generally located south of the intersection of Old Hardin Rd and Johnson Lane between Johnson Lane and Mauser Street to the east. The applicant proposes to reduce the width of Lots 1 and 2 from 150 feet to 90 feet (east to west) and add this area to proposed Lot 5A-1. The applicant also proposes to have a small northwest corner of Lot 3 (59' X 65'), currently zoned RR1, also be included in the new Lot 5A-1.

RECOMMENDATION

Planning staff is recommending approval and adoption of the findings for the 11 criteria for Zone Change 717.

Discussion

Commissioner Gentry called for discussion from the Commissioners. In response to question by Commissioner Gentry, Nicole Cromwell explained buffering is normally triggered by a building or new development proposed for the property. Commissioner Hewett asked if there are restrictions on the building height or lighting. Nicole Cromwell said in general it would have to be 50 feet from a residential area and she pointed out that any new development would have to go through



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Planning review. She commented there are several businesses in the area that are 24-hour operations.

In Favor

John Halverson, Sanderson Stewart, 1600 N Transtech Way, Billings, MT

Mr. Halverson provided a presentation for this application for the property located on 705 Johnson Lane. He represents the Landowner, R.L. Dunker & Sons. He pointed out I-90 and commented on upcoming future improvements and State projects. He said the reasoning for this application is that this use has been made non-conforming, making it difficult for the owner to insure the properties. The Dunkers proposed a lot line adjustment for Lot 5A which will maintain a buffer of 150' to the existing residential uses and the proposed heavy commercial use. He followed with an explanation of what made the use nonconforming and commented there was some concern voiced by the neighbors with the uses allowed within a heavy commercial zone. The primary concerns were special review uses which would have to be approved by the County Commissioners. He said the required separation distance for adult entertainment or a bar would be difficult to meet on this site. He pointed out the B3 Landscape Buffer, which is the most intense buffer at 10' deep, heavy planting of vegetation, and a full screen fence. The request is to allow the small business to continue its use and replace the building in the event of a disaster.

There were no questions for Mr. Halverson from the Commissioners.

Public Hearing

Commissioner Gentry opened the public hearing and asked if there is anyone wishing to speak regarding County Zone Change #717.

In Opposition

Jacquelin Robinson, 707 Mauser Street, Billings, MT

Ms. Robinson's property faces the "Fly In Lube". She is concerned that if the buffer zone is moved it will only allow a distance of 0-ft from her property to the heavy commercial use. She stated she is asking for the "general comfort and security in their own homes". She is concerned with the potential loss of value of their home as they have been advised that the change to heavy commercial zoning could affect their property values from 10%-50%. Ms. Robinson strongly opposes this zone change request. She is asking the current zoning and the buffer distance be retained. Ms. Robinson provided a video depicting the current noise levels from the power station and the refinery. Commissioner Gentry asked if Ms. Robinson's real estate agent is in attendance that provided the market analysis. Mr. Robinson said the realtor used comparative values in the area and he wrote the recommendation with the proposed zone change in consideration.

Jim Smith, 2914 Weaver, Billings, MT

Mr. Smith asked the legal distance for buffer. Ms. Cromwell said the County can allow placement of these zoning types adjacent to residential uses, but typically good planning practices do not place these types of zoning across the street. The zoning is changed at the rear property lines, but



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this is not required within the County Zoning Code. The 150-ft buffer was established when the property was sold to Mr. Duncan. Commissioner Tuss asked if there is legal documentation of this agreement. Mr. Smith provided a zoning application from 2003 for this property which is also included in the petition packet provided to Staff. Commissioner Tuss asked if there were any Covenants. Mr. Smith was unaware of any Covenants. Commissioner Tuss noted there is a notation in the document regarding the 150-ft wide buffer zone.

William Jenson, 2920 Weaver Ave, Billings, MT

Mr. Jenson asked why the buffer should be moved as there is already enough room. He asked who will maintain the buffer zone once created.

Louise Jensen 2920 Weaver Ave., Billings, MT

Ms. Jensen is not for the zone change. She would want assurance that the adjoining business will have access to Mauser Street. Commissioner Gentry stated this would have to be approved through MDT.

Rory Peck, 2938 Alaskan Ave., Billings, MT

Mr. Peck is opposed to this zone change request. Concern with traffic and children, lack of restriction on lighting. He asked if sidewalks will be required with the heavy commercial zoning. Nicole Cromwell said there are plans for a trail along Johnson Lane as development happens. There are no plans for sidewalks along Mauser Street. If sidewalks are wanted, the neighborhood can petition the County to create a RSID.

Randall Robinson, 707 Mauser Street, Billings, MT

Mr. Robinson is a longtime resident at this property. He said he feels that Mr. Dunker wants to dump the Flying Lube as bare property is more valuable. He asked why Mr. Dunker should prosper at the expense of the neighborhoods. Mr. Robinson said there is additional traffic from the subdivisions.

Rebuttal

John Halverson, Sanderson Stewart, Billings, MT

Mr. Halverson represents applicant, R. L. Dunker and Sons. He clarified the distance between the residences on the east side of Mauser is 210 feet with the line adjustment and with the zone change it will be 150-ft. The truck stop will not be immediately across the street from residential uses. This zoning is compliant with all of the previous Master Planning in this area. The buffer zone will be triggered at the time of any development on the parcel. The sidewalk will be triggered per the appropriate portion of the compliance code. This business has been in operation for 30-years and this is the reason for zone change. Commissioner Gentry confirmed the owner of the property will maintain the buffer zone. Does the zone change and the buffer go hand in hand? This will effectively move the heavy commercial zone closer to the residential area.



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Discussion

At 4:53 Pro Commissioner Gentry closed the public hearing and called for discussion. Commissioner Tuss stated she feels the concerns of the citizens are valuable. Commissioner Hewett said he feels this zone change will provide landscaping and the buffer zone which is more attractive. Commissioner Bush had no comments. Commissioner Tuss commented, should the Heavy Commercial zoning be denied, another request could be submitted for CMU zoning. Commissioner Tuss said there are 3 sides of residential development with lighting and drainage concerns. Nicole Cromwell said there is no lighting provision in the zoning code. Commissioner Tuss said she doesn't feel the heavy commercial zoning is not the most appropriate zoning and noted the surrounding zoning. The zone changes were intended to disincentivize heavy commercial use and noted criterion 8, 9, 10.

Motion

Commissioner Tuss made a motion and Commissioner Hewett seconded the motion recommending denial based on the findings for the 8,9,10 criteria for Zone Change #717. Criterion 8, 9, 10 Based on testimony and information provided by the developer. The proposed zoned change does not meet the character of the district and there are other options to provide the developer to recoup their investment. The value of the building is not met, and the zoning could severely impact them. Commissioner Tuss recognized there are other mixed uses in the area and said the zone change is not appropriate due to the residential areas and commercial light uses.

Discussion:

Commissioner Hewett said he doesn't like the heavy commercial next to the residential. Commissioner Gentry said she doesn't like the nonconforming use for the applicant's property. **2-2. No recommendation will be forwarded.** Commissioner Tuss, Commissioner Hewitt, Favor. Commissioner Gentry, Commissioner Bush, Against.

Zone Change #717 is denied. The Board of County Commissioners public hearing for these applications will be held on July 25, 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.

Item #2. County Zone Change 718

541 Woodland Road and 2422 Old Hardin Road – NX1 and N4 to C3 – A zone change request from Mixed Residential 1(NX1 – Lots 17 & 18) and Large Lot Suburban Neighborhood Residential (N4 – Lot 19) to General Commercial (C3) on Lots 17, 18 and 19 of Meadowbrook Subdivision, a 1.9-acre parcel of land. A pre-application neighborhood meeting was held on May 18, 2023, at the subject property. Tax IDs: C04821 and C04822.

REQUEST



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County Zone Change 718 is a request to change the zoning on Lots 17 & 18 (Mixed Residential 1 - NX1) and Lot 19 (Large Lot Neighborhood Residential- N4) in the Meadowbrook Subdivision to General Commercial (C3). The total area of all three lots is 1.9 acres and is located on the east side of the intersection of Old Hardin Road and Woodland Road across the street from the Little League ball fields. The property currently has at least three residential homes and one commercial shop building. The intent of the zone change is to allow the owner to plan for future commercial development on the property.

RECOMMENDATION

Planning staff is recommending approval and adoption of the findings for the 11 criteria for Zone Change 718.

Discussion

Commissioner Gentry called for discussion from the Commissioners. Commissioner Gentry asked if the owner wishes to continue with the campground/subdivision for rent or lease, would it include setting the buffer along the property lines according to the zoning and subdivision regulations within the Lockwood and sewer district. The floodplain will be an issue for any new building.

Public Hearing

Commissioner Gentry opened the public hearing and asked if there is anyone wishing to speak regarding County Zone Change #718.

In Favor

Greg Reid, WWC Engineering, Billings, MT

Ms. Redland represents Superior construction properties, Chris Vlahos. The applicant became aware of the noncompliance with the zoning and will forward the application for subdivision which will establish the buffer. Commissioner Tuss, the current use is RV camping on site and it is non-compliant with additional units.

In Opposition

Russ Schelle, 363 Juniper Drive, Billings, MT

Mr. Schelle said any buildup will restrict the water and it will flow into the Little League Baseball field and the properties to the south of this parcel. Dry Creek is full of grass clippings and garbage. He asked how campers can be placed into a floodway and said the traffic flow is difficult with limited views at the corner. He doesn't feel this will benefit anyone except the property owner. Mr. Schelle provided a photo of the Little League field flooding to the members of the Commission.

Sandy Barta, 362 Woodland Rd, Billings, MT

Ms. Barta commented the flood plain leaves a chance that it can flood in any given year. She is concerned with the traffic and there are kids in the area during the baseball season. She is



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concerned with the potential for motor homes and tents parking and public safety. She asked if the RVs and the house will have to be moved if the zoning is not approved.

Rory Peck 2938 Alaskan Ave, Billings, MT

Mr. Peck is a Little League coach and worked on the field following the flooding. He said the water does not have anywhere to go. There a lot of kids in May in June using the fields and he is concerned with children's safety.

Rebuttal

Greg Reid, WWC Engineering, Billings, MT

Mr. Reid stormwater permitting is required with subdivision review, along with onsite flows handled by DEQ and County Public Works. The type of traffic and number of campers do not warrant a Traffic Impact Study. The various locations vehicles will approach may be required to be moved further away from intersections under subdivision review. Mr. Reid further clarified the use of tents would be considered non-compliant. Commissioner Gentry asked if there is a background check for potential RV rental spaces. Mr. Reid said he is unaware of any restriction and would not deem necessary. Commissioner Tuss asked if the main access to the parcels come from Woodland Road. Nicole Cromwell clarified the enforcement process is through the County enforcement officer. If the applicant is denied, the County will move forward with enforcement.

Discussion

At 5:32pm Commissioner Gentry closed the public hearing and called for discussion. Commissioner Tuss commented on the transient nature of camping with people coming and going. Commissioner Gentry doesn't believe this is an appropriate use. Commissioner Hewett is sympathetic to the need for this type of use for temporary housing and the current high cost of living. Commissioner Gentry doesn't feel this is the right spot with the flood plain, which will need to be mitigated. Commissioner Hewett said the previous zone change allowed multifamily use. Commissioner Bush commented there is a need for motor home parks with the Little League Tournaments. There is a lot of existing traffic throughout the summer months, and this will not add to the traffic. Commissioner Tuss feels there is a lot of other options for camping, and it will not accommodate the volume of vehicles needed for tournament parking.

Motion

Commissioner Gentry made a motion and Commissioner Hewett seconded the motion recommending denial and adoption of the findings for the 11 criteria for Zone Change #718. Criterion 10, 4-health and general welfare allowing transient camping. 8-character of the district. No other campgrounds in the area. 10-encourage the most appropriate use of the land-next to the neighborhood and the little League Field. Recommendation to deny –Commissioner Hewett, Commissioner Gentry, Against. Commissioner Tuss, Commissioner Bush, Favor.



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Discussion: There was no further discussion on the motion.

Zone Change #718 is denied. The Board of County Commissioners public hearing for these applications will be held on **July 25, 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.

Item #3. County Zone Change 719

547 Johnson Lane – from Agriculture (A) to General Commercial (C3) and Mixed Residential 1 (NX1)

REQUEST

County Zone Change 719 is a zone change request from Agriculture (A) to General Commercial (C3) and Mixed Residential 1 (NX1) for property located at 547 Johnson Lane, legally described as C/S 1901, Parcel A1 and 12.77-acre parcel of land. The land is owned by the Lockwood Fire District, and Andrew Miller of Clock Tower Hospitality and Anna Vickers of IMEG Corporation are the agents for the zone change. A pre application meeting was held on May 25, 2023, at the Lockwood High School Commons.

RECOMMENDATION

Planning staff is recommending approval and adoption of the findings for the 11 criteria for Zone Change #719.

Discussion

Chairman Bush called for discussion from the Commissioners. This property belongs to the Lockwood Fire District ...

Public Hearing

Chairman Bush opened the public hearing and asked if there is anyone wishing to speak regarding County Zone Change #719.

In Favor

Anna Vickers, IMEG, 125 North 27th Street. Billings, MT

Ms. Vickers represents the applicant and seller of the property, Lockwood Fire District No. 8, John Staley, Chief. They want to ensure the site design aligns with street design the way the streets run and allow for the buffer. Residential use was chosen as the 27’ height is lower, and the design intent was for patio homes. The design aspect is waiting on the zone change request approval. Intend to move forward with subdivision if approval and will follow all subdivision regulations.

In Opposition

Rory Peck, Billings, MT



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Mr. Peck would be more favorable with the potential for a hotel and it sounds like the residential use proposed will be similar. He is concern with the traffic as the only entrance is located on Enfield and there is a need for another outage to Johnson Lane.

Florence Diede, 535 Johnson Lane, Billings, MT

The fire department purchased this property from the Diedes. She asked if there will be a buffer zone provided. Does this make sense to locate housing in a flood area? She said access to the housing would include access to Mauser. The north and east end of the property had fences moved to accommodate sewer lines with the understanding that the lots would be accessed through Mauser Street and Enfield.

Rebuttal

Anna Vickers, IMEG, Billings, MT

Ms. Vickers the subdivision regulations will be followed. Contributions will be given for improvements per a traffic study, if required. It is difficult to address traffic currently, as there isn't a full design available. They will build to subdivision standards which means staying out of the flood plain. They must buffer for all residential zones, which include Ms. Diede's property.

Discussion

At 6:00 pm Commissioner Tuss closed the public hearing and called for discussion. Commissioner Tuss considering the surrounding area this is a reasonable request. Bush no comments.

Motion

Commissioner Gentry made a motion and Commissioner Hewitt seconded the motion recommending approval and adoption of the findings for the 11 criteria for Zone Change #719.

Discussion: There was no further discussion on the motion.

The motion carried 4-0, with a unanimous voice vote. Zone Change #719 is approved. The Board of County Commissioners public hearing for these applications will be held on July 25, 2023 at 9:30 a.m., 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.
- The August 14, 2023 Yellowstone County Zoning Commission meeting is canceled due to a lack of applications.



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Adjournment 6:02 PM

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

--Brenda J Berns, Planning Clerk