



**Yellowstone County Zoning Commission  
Minutes for the Meeting of  
Monday, April 11, 2016**

**The County Zoning Commission met on Monday, April 11, 2016 in the Billings Library Community Room located at 510 North Broadway at 3:30 pm. The Board of County Commissioners public hearing will be held on Tuesday, April 26, 2016, at 9:45 a.m. in Room 403A, 4<sup>th</sup> Floor of the Yellowstone County Courthouse.**

At 3:30 p.m., Chairman Cook opened the meeting and introduced the County Zoning Commission members and staff in attendance: Wyeth Friday, Planning Division Manager, Nicole Cromwell, Zoning Coordinator; Tammy Deines, Planning Clerk

Commissioners and Staff		01-11-2016	02-08-2016	02-12-2016	03-14-2016	04-11-2016								
Dennis Cook	Chairman	-	1	1	-	1								
Al Littler	Vice Chairman	-	1	1	-	1								
Jerry T. Ray	Commissioner	-	1	1	-	1								
Troy Boucher	Commissioner	-	1	1	-	1								
Ryan Wittman	Commissioner		1	1	-	1								

**Attending:** Laren E Pluhar, Don Hohrenz, Bob Murry, Lindsay McGimpsey, Desiree Nyre, Trysten White, Jason Lillie, Karmen Higginbotham, Chad E. Morrison, Charles J. Felton, Tom Zurbuchen, Tom Llewellyn, Don DeTonanean, Virgil Middendorf, Larry Trettenbach, Dan Sloan, Linda Trettenbach, Tracy Marsh, Carey Chapman, Jason McGimpsey, Rhonda Ioane/Kas, Mike Ferguson, Juanita McIntire, Aaron Higginbotham, Terry Odegard, Mary Horvath

**Public Comment**

Chairman Cook asked if there was anyone wishing to speak during the public comment portion of the meeting. He stated any member of the public can be heard on any subject is not on the agenda; the Yellowstone County Zoning Commission will not take any action on these items at this time, but could choose to add an item to the next meeting agenda for discussion. There was none.

**Disclosure of Conflict of Interest or exparte communication:** There was none.

**Disclosure of Outside Communication:** 3/8/16 letter, from Larry and Linda Trettenbach, 1608 Blarney Street, Billings, Montana in opposition to YZC #673. 4/6/16 letter, from Steve and Danielle Begger, 1606 Shannon Street, Billings, Montana in opposition to YZC #673. Email recounting a phone call received from Florence Muessig, 1910 Overlook Drive, Billings, Montana in favor of YZC #673. 4/4/16 Letter from Jason S. Anthony, 1680 Riverview Drive, Billings, Montana in opposition to YZC #673. 4/4/16 letter received from Billings Heights Task Force, Jason Lillie, Chairman, 234 Sharron Lane, Billings, Montana in opposition to YZC #673. 3/16/16 letter from Mary and Angie Horvath, 1630 Moose Hollow Lane, Billings, Montana in opposition to YZC #673. 2/26/16 letter from Craig Dalton, P.E., Performance Engineering &



## Yellowstone County Zoning Commission Minutes for the Meeting of Monday, April 11, 2016

Consulting, regarding neighborhood meeting conducted on February 18, 2016 for YZC #673. 3/7/16 letter from G. Renee McFarren, in opposition to YZC #673. 3/15/16 letter from Jason McGimpsey, 1327 Bitterroot Drive, Billings, Montana in opposition to YZC #673. 4/4/16 letter from Lindsay McGimpsey, 1327 Bitterroot Drive, Billings, Montana in opposition to YZC #673. 4/3/16 letter from “Concerned Community Member” regarding YZC #673. 4/1/16 letter from Aaron Higginbotham in opposition to YZC #673. 3/23/16 letter from Angie L. Lynch in opposition to YZC #673. 3/23/16 letter from Darren C. Lynch, 1427 Anchor Ave, Billings, Montana in opposition to YZC #673. 4/5/16 letter from Tracy Marsh, 1808 Janie Street, Billings, Montana in opposition to YZC #673. 4/3/16 Letter from Terry and Susan Schleining, 1420 Anchor Ave, Billings, Montana in opposition to YZC #673. 3/21/16 letter from Karmen Higginbotham, 1315 Bitterroot Drive, Billings, Montana in opposition to YZC# 673.

**Approval of Minutes: February 8, 2016; February 12, 2016. There was no meeting on March 14, 2016.**

### Motion

**Commissioner Boucher made a motion and it was seconded by Commissioner Ray to approve the February 8, 2016 and February 12, 2016 meeting minutes as submitted. The motion carried with a unanimous voice vote.**

### Public Hearings: REQUEST

**Item #1-County Zone Change 672 – Colton Blvd & 60th St West** – A zone change request from Agriculture-Open Space (A-1) to Agriculture Suburban (AS) on Lot 71 of Sunny Cove Fruit Farms, a 10 acre parcel of land. The applicant and agents conducted a pre-application neighborhood meeting on February 24, 2016 at 3555 Racquet Drive. Presented by Nicole Cromwell, Zoning Coordinator.

### RECOMMENDATION

The Planning Division recommends approval and adoption of the findings of the 11 review criteria for Zone Change 672.

### Discussion

Commissioner Ray asked about the access from this subdivision. Nicole Cromwell replied the access is along Colton Boulevard from 62<sup>nd</sup> Street West. An emergency access will not be required at this time.

Chairman Cook called for presentation by the applicant. The applicant is not available.

Chairman Cook opened the public hearing at 3:43 p.m. and called for proponents or opponents of Yellowstone County Zone Change #672.

### Opponents

#### Dan Slone, 1805 60<sup>th</sup> Street West, Billings, Montana

Mr. Slone stated there is a 70-acre Covenant & Restriction that affects this lot. He is not



## **Yellowstone County Zoning Commission Minutes for the Meeting of Monday, April 11, 2016**

opposed to the zone change but is opposed to the fact the request does not divide the parcel according to the recorded Covenants. Mr. Slone stated Mr. Llewellyn is aware of the Covenants and should have covered this issue. This is a one-time split of the 10-acre parcel. The 2001 amendment to the covenants allowed for a split with 1 of the lots at 5 acres or more. Commissioner Ray asked for clarification on the Covenants & Restrictions and Mr. Slone provided the Commissioners with a copy. Mr. Slone stated they are not ready to amend the Covenants. In response to question by Commissioner Wittman, Mr. Slone explained the actual lot size is 9.43 acres.

### **Laren E Pluhar, 1720 60<sup>th</sup> Street West, (Lot 103A), Billings, Montana**

Mr. Pluhar stated this proposal is a violation of the Covenants. He said he doesn't feel a waiver is fair as they were held to the Covenants for their subdivision. He stated they want the subdivision covenants to be in compliance as established.

Commissioner Cook asked if a neighborhood meeting was held. Mr. Pluhar reported this issue was discussed at the neighborhood meeting. Mr. Llewellyn got upset and left the meeting after they expressed their concerns and opposition to the proposal. Mr. Pluhar stated he doesn't feel it is necessary to go to court to reach an agreement.

### **Don Lorenz, 1705 60<sup>th</sup> Street West, Billings, Montana**

Mr. Lorenz stated he is a neighbor who is trying to help. He related he has told Mr. Llewellyn this request cannot be done. The neighbors want the existing Covenants upheld. Mr. Lorenz hosted the neighborhood meeting at his home per Mr. Llewellyn's request.

In response to a question by Commissioner Boucher, Mr. Lorenz explained there are 7 affected tracts and 60% of the ownership of the described tracts is required for an amendment. The Covenants renew automatically for another 10 years after a 30 year period. Mr. Lorenz offered copies of the neighborhood meeting minutes to the Commissioners.

### **Jason Lillie, 2334 Sharron Lane, Billings, Montana**

Mr. Lillie asked if those who purchased the other 7 lots had an expectation the Covenants & Restrictions would be enforced. Nicole Cromwell clarified and stated this request is for a zone change to a 10-acre minimum and gave reminder Covenants and Restrictions are not enforced by the County, as they are a private contract between citizens not the County.

### **Proponents**

#### **Tom Llewellyn, 1925 Grand Avenue, Billings, Montana**

Mr. Llewellyn stated this request is for a zone change. He said he has a copy of subdivision submittal for one 5-acre tract on the east side of the parcel and another tract at 4.3980 acres. He explained the zone change is required as the Ag-Open zoning requires 10-acre tracts and there are no 10-acre parcels in this subdivision.

Chairman Cook asked if there was anyone else wanting to speak in favor or against Yellowstone County Zone Change #672. There was none. Chairman Cook closed the public hearing and called for a motion.



**Yellowstone County Zoning Commission  
Minutes for the Meeting of  
Monday, April 11, 2016**

**Motion**

**Commissioner Boucher made a motion and it was seconded by Commissioner Ray to forward a recommendation to the Board of County Commissioners of approval of County Zone Change #672 with adoption of the Findings of the 11 review criteria.**

Chairman Cook Called for a vote on the motion.

<b>Name</b>	<b>Favor</b>	<b>Against</b>	<b>Abstain</b>
Chairman Cook	X		
Commissioner Boucher	X		
Commissioner Littler	X		
Commissioner Ray	X		
Commissioner Wittman	X		

**The motion carried with a unanimous voice vote, 5-0.**

**REQUEST**

**Item # 2 - County Zone Change 673 – East of Cherry Creek/Danube Court Manufactured Home Park** – A zone change request from Residential 9,600 (R-96) to Residential Manufactured Home (RMH) on a portion of Lot 2, Block 1 of Cherry Creek Estates, a 16.77 acre parcel of land. The owners and agents conducted a pre-application neighborhood meeting on February 18, 2016 at the Cherry Creek Community Center at 1955 N Cherry Creek Loop. Tax ID: A31450. Presented by Wyeth Friday, Planning Division Manager.

**RECOMMENDATION**

The Planning staff is forwarding a recommendation of Denial based on the 11 criteria for zone changes. Planning staff has reviewed this application and is forwarding a recommendation of denial for the proposed zone change based on the 11 criteria for zone changes. While RMH zoning is a viable zoning in some areas of the community, and exists to the east of the subject property, zoning in this area of the County has not met many of the criteria for zone changes and shows additional RMH zoning in this area of the County would also not meet many of the criteria. Staff found additional RMH zoning in this area of the County would not be consistent with many of the goals of the Yellowstone County and City of Billings 2008 Growth Policy for public, health, safety and quality of life (Criteria #1); would result in significant service demands on law enforcement and community services (Criteria #3); would not promote health and general welfare for the current residents and neighborhood (Criteria #4); would not be the most suitable zoning for the property considering the character of the district and the use (Criteria 8); does not appear to conserve the value of buildings in the area (Criteria #9); and does not encourage the most appropriate use of land in this area of the County (Criteria #10). Following the staff presentation, Division Manager Wyeth Friday clarified and noted the split zoning of the parcels, and pointed out today's request focuses on the parcel located in the County. He commented on the discussion for a buffer area and said based on the notes of Zone Change #554 there was coordination between the owners and neighbors but it could not have been a condition for the zone change. He stressed the importance of understanding the City and the County in their process had the understanding and thought things would go well with this development as it provides more affordable housing. Staff received several comments and letters



## Yellowstone County Zoning Commission Minutes for the Meeting of Monday, April 11, 2016

pointing out public safety issues for the adjacent manufactured home park. He noted a report of the Police calls and Code Enforcement Violations for the period of 2007 to present. There is concern given the track record of this owner/developer, providing more RMH housing would not be within the boundaries of the Findings. Staff received 16 letters regarding this zone change, one in favor, and fifteen in opposition.

### **Discussion**

Chairman Cook called for discussion and questions by the members of the Board. There was none.

**Public Hearing:** At 4:26 p.m., Chairman Cook opened the public hearing and asked for anyone wanting to speak in favor or against Yellowstone County Zone Change #673. He reminded the audience to be respectful of everyone's testimony.

### **Proponents**

#### **Scott Aspenlieder, Performance Engineering, 2101 Overland Avenue, Billings, Montana**

Mr. Aspenlieder is the agent for the owner. This is a request to use the 16.75 acres to expand the existing mobile home park. Based on the nature of the land the maximum density would be 70-80 units, and is far below the densities in Cherry Creek and Danube Court. Citizens voiced concerns at the neighborhood meeting regarding increased traffic and school crowding.

Mr. Aspenlieder said the issue of school crowding is out of their control as School District #2 is addressing this as they approach developments. He stated today's request is for the zone change and a lot of the comments can be addressed during the subdivision review.

Commissioner Ray commented this is a management issue. Mr. Aspenlieder said he does not disagree but changes are being made with evictions. Management is trying to address some of the issues and bring it back to its original intent. He asked the Commission if it is appropriate to deny a development on the basis of the adjacent development and management. He noted the need for contiguous zoning and asked if the ability to deny this request falls within the criterion?

#### **Jason McGimpsey, 1327 Bitterroot Drive, Billings, Montana**

Mr. McGimpsey concurred with Planning staff's recommendation as the zone change does not meet the eleven criterion or the Growth Policy. He commented the numerous mentioning of a buffer area in the previous Zone Change #543. Mr. McGimpsey stated Zone Change #543 was approved due to the promises made by the developer, who is currently in violation of the Development Plan.

#### **Tracy Marsh, 1808 Janie Street, Billings, Montana**

Ms. Marsh concurred with Mr. McGimpsey's comments. She doesn't feel approving a zone change without addressing the management issues is prudent. Ms. Marsh said the additional units will fill open classrooms and propagate the existing overcrowding in the schools.

#### **Aaron Higginbotham, 1315 Bitterroot, Billings, Montana**

Mr. Higginbotham is against this zone change request. He said the owners are not following the



## Yellowstone County Zoning Commission Minutes for the Meeting of Monday, April 11, 2016

general terms and regulations of Cherry Creek Subdivision, does not allow additions; unkempt buildings; storage of construction equipment; or noxious or illegal activities. Mr. Higginbotham stated this is not the case, as no permits are taken out for buildings and they are in a state of disrepair; there are parked unlicensed vehicles; open garbage, fences in disrepair; and home skirting in disrepair or nonexistent; and a lot of illegal activity.

Mr. Higginbotham read aloud a letter submitted by **Don DeTonacour, 1725 Riverview Drive, Billings, Montana.** Mr. DeTonacour voiced concern with safety issues due to the state of general disrepair of Cherry Creek Subdivision. Elementary school children using Bitterroot Drive to go to school are in danger as there are no sidewalks or lighting. Mr. DeTonacour asked the Commission to deny the zone change request.

### **Jason Lillie, 234 Sharron Lane, Billings, Montana**

Mr. Lillie is the Chairman of the Heights Task Force. He stated he concurs with Staff's recommendation of denial of the zone change. Mr. Lillie said School District #2's redistricting committee did not take into consideration the additional 80-100 homes in this area and it would have a negative impact on the school district. He asked the Commission consider the past track record of this property owner and the effects on the neighboring properties.

### **Lindsay McGimpsey, 1327 Bitterroot Drive, Billings, Montana**

Ms. McGimpsey is in opposition to the zone change. She stated she is in agreement with the staff presentation. Ms. McGimpsey spent a lot of time canvassing the area and visited with over 100 home owners. She reported people living around the Cherry Creek Development generally fear for their safety. She stated safety and health is a basic need deserved by community members and pointed out the burden of the crime rate and fire calls. There are 24 registered violent sexual offenders in Cherry Creek, is a huge safety issue due to the large number of children in the development. Violations include drug issues, child abuse and neglect, noise disturbances, harassment, DUI, forgery, fraud, custodial interferences, and weapons violations. Commissioner Ray asked Ms. McGimpsey what she suggests. She replied she would encourage rejecting the zone change as asking the management to continue to address the issues and do more. She said in terms of rezoning, the development should be stopped from further expansion. In response to question by Commissioner Ray, Ms. McGimpsey said she feels the problem lies in with the management's greed, mismanagement due to lack of resources, and lack of screening of tenants.

### **Tom Zurbuchen, 1747 Wicks Lane, Billings, Montana**

Mr. Zurbuchen stated he originally protested the 1998 Cherry Creek development. He wishes to have something "reasonable" in his front yard. He discussed the effects of zoning on property values of the surrounding properties. Mr. Zurbuchen said the tracts are currently zoned R-9600. This developer obtained the zoning for the trailer court in August, 2004. He noted a comment by Commissioner Reno regarding the 300-foot buffer zone, and he stated taking this away will adversely affect property values. Mr. Zurbuchen stated this zone change does not fit the 11 criterion and he urged denial of the zone change.



## Yellowstone County Zoning Commission Minutes for the Meeting of Monday, April 11, 2016

### **Chad E. Morrison, 32 Lapin Street, Billings, Montana**

Mr. Morrison has been a resident of Cherry Creek for 7 years. He is in favor of this extension as management has went above and beyond trying to address issues. He said management sent letters to property owners, and they dealt with his issues with his neighbor.

Mr. Morrison stressed , “Things don't happen overnight”, and said management has a maintenance crew out daily. He said persons outside the subdivision are coming into the court and causing problems. Mr. Morrison commented management is doing a good job and they work on these issues on a daily basis.

### **Mary Horvath, 1630 Moose Hollow Lane, Billings, Montana**

Ms. Horvath submitted a letter in opposition to the zone change. Ms. Horvath reside at the north end of the proposed area. Ms. Horvath spoke to the need for a green zone to protect the ecosystem and wildlife. She feels management have made improvements in order to get this zone change request changed, and they are “trying to put lipstick on a pig”. Ms. Horvath recently purchased her home and would have declined if she had known of this proposal; as approval of the zone change.

### **Bob Murry, 512 ½ 16<sup>th</sup> Street West, Billings, Montana**

Mr. Murry asked Mr. Morrison for an estimated time frame of how long it will take to bring the area “into shape”. Mr. Morrison said it shouldn't take long at all as the owners have been working at this for quite some time.

### **Charles Felton, (No Address Given)**

Mr. Felton owns Emma Jean Heights Subdivision. He said builders do not want to build in his subdivision due to Cherry Creek. Mr. Felton's property has been vandalize, and he stated there is not enough law enforcement to handle current needs. He asked why the expansion would be allowed as it seems there are more units than there are supposed to be in the current development. Mr. Felton stated he would not have purchased his property had he known, and he intends to stop this expansion one way or another.

\*Division Manager Wyeth Friday reminded the Commission of the 5:30 p.m. time limit for today's space.

### **Trysten White, 1955 Cherry Creek Loop, Billings, Montana**

Ms. White said she is related to Clauses and works at the office. Ms. White said the management office sent out 364 notices to residents to address issues. They are working with the police officer at Castle Rock Middle School. Trespassers are not allowed into the subdivision. They have been trying to address the issues before the zone change for the development was submitted. Ms. White stressed the need to provide affordable housing. Chairman Cook called for rebuttal.



**Yellowstone County Zoning Commission  
Minutes for the Meeting of  
Monday, April 11, 2016**

**Rebuttal**

**Scott Aspenlieder, Performance Engineering, 2101 Overland Avenue, Billings, Montana**

Mr. Aspenlieder said they have taken the comments received at the neighborhood meeting to heart and the owner has been working diligently to address some of the issues. Ms. Aspenlieder said the community has to provide low income housing, and this area is reasonable for expansion of this type of low to moderate income housing. He asked the Commission to take these facts into consideration and give them an opportunity to provide plans for submittal for subdivision review. He pointed out there are vehicles in the subdivision review process to provide buffering, and address traffic and safety.

Chairman Cook asked if there was anyone else wanting to speak in favor or against Yellowstone County Zone Change #673. There was none. Chairman Cook closed the public hearing at 5:23 p.m. and called for a motion.

**Motion**

**Commissioner Wittman made a motion and it was seconded by Commissioner Littler to forward a recommendation of denial of Yellowstone County Zone Change #673 based on the 11 criteria for zone changes.**

**Discussion**

Chairman Cook called for discussion on the motion. Commissioner Ray said Code Enforcement needs to address the issues and it is up to the citizens to bring this to their attention.

Commissioner Littler said he is unsure whether the eleven criterion were addressed and the need for infill development supersedes what was presented. He commented on the need for a buffer zone and said the plan should have included this. He stated the housing needed but not with the high crime. Housing is needed for all income levels but to continue with what is going on with Cherry Creek is not wise.

Chairman Cook called for a vote on the motion.

<b>Name</b>	<b>Favor</b>	<b>Against</b>	<b>Abstain</b>
Chairman Cook	X		
Commissioner Boucher	X		
Commissioner Littler	X		
Commissioner Ray	X		
Commissioner Wittman	X		

**The motion passes with a unanimous vote, 5-0.**

Chairman Cook called for other comments or discussion from the Commissioners. There was none. He stated the County Zoning Commission is an advisory Board. This item will be heard by the Board of County Commissioners on April 26, 2016, Room 403A, and Yellowstone County Courthouse.

**\*\*There will be no Yellowstone County Zoning Commission meeting in May due to the lack of applications.**

**Adjournment:** The meeting adjourned at 5:26 p.m.



**Yellowstone County Zoning Commission  
Minutes for the Meeting of  
Monday, April 11, 2016**

**ATTEST: Approved by a motion on Monday, June 13, 2016**

