



BOARD OF COUNTY COMMISSIONERS
YELLOWSTONE COUNTY, MONTANA
Tuesday, December 23, 2014

SUBJECT: Zone Change #652 – 6132 South Frontage Road – Quarnburg Farm
THROUGH: Candi Millar, AICP, Planning Director
FROM: Nicole Cromwell, AICP, Zoning Coordinator

REQUEST

The applicant has re-submitted a new zone change that is substantially altered from the original request from Agriculture-Open Space (A-1) to Highway Commercial (HC) on a 126.51-acre parcel of land generally located north of Elysian Road, east of East Lane and south of South Frontage Road. The new request is to zone the northern 106.51 acres of land to HC and the southern 20 acres to Neighborhood Commercial (NC). The proposed NC zone borders the entire frontage of Elysian Road. The applicant and surrounding owners came to this negotiated agreement after the Zoning Commission recommendation of denial on the original proposal but before the Board of County Commissioners reached a decision on the request. This re-submitted request must proceed through the Zoning Commission and return to the Board of County Commissioners. The Zoning Commission is forwarding a recommendation of approval on a 4-0 vote.

APPLICATION DATA

OWNER: Quarnburg Farming Corporation
AGENT: Dax Simek, P.E., Morrison Maierle, Inc.
LEGAL DESCRIPTION: Southwest ¼ of Section 18, Township 1 South, Range 26 East (LESS RY, HWY & C/S 1614, C/S 2038 & the area already zoned HC)
ADDRESS: 6132 South Frontage Road
SIZE OF PARCEL: 126.51 acres
EXISTING LAND USE: Residences and sod farm
PROPOSED LAND USE: Same with potential future commercial or mixed use development
EXISTING ZONING: A-1 & HC
PROPOSED ZONING: NC – south 20 acres and HC – north 106.51 acres

APPLICABLE ZONING HISTORY

Subject Property

Zone Change #303 – A zone change from A-1 to HC on a small section in the northeast corner of the property was approved by the County on January 31, 1981

Surrounding Properties – There have been 11 similar zone change requests in this area of Yellowstone County since 1976. One of these applications was denied, one was withdrawn, and 9 were approved. Tvetene Turf to the west submitted a Planned Development zone change in 2013 and worked with Elysian School to customize the zoning so the school could purchase property and protect the school property from encroachment of incompatible uses. Three

applications were submitted for the Hiway Acres Subdivision on the west side of East Lane. One application was denied for Lots 6 through 14. Subsequently, two applications were approved. One of those approved was for Lots 6 through 9. This zone change was approved based on the applicants filing a protective covenant on the property to require landscape screening and buffering of the adjacent residential properties on East Lane. The covenants were filed just prior to the County Commissioner's approval. Two zone changes in the Bottrell Subdivision south of Elysian School were approved and one was withdrawn. There was concern from adjoining land owners about direct access for truck traffic on to East Lane. The applicants at the time did not intend to access East Lane. Subsequent to the approved zone change, access was granted to East Lane and truck traffic uses East Lane to connect with the South Frontage Road.

CONCURRENT APPLICATIONS

None

SURROUNDING LAND USE & ZONING

NORTH: Zoning: HC & CI
Land Use: I-90 and Hogan Homestead Business Park north of I-90
SOUTH: Zoning: A-1
Land Use: Agriculture
EAST: Zoning: HC & CI
Land Use: Titan Subdivision – concrete manufacturer and similar uses
WEST: Zoning: HC, R-150 & Public
Land Use: Commercial, single family homes, and Elysian School

REASONS

The subject property is located approximately 1 mile west of the King Avenue West & I-90 interchange. The total area of the property is 126.51 acres and is most of the area of the south west ¼ of Section 18 in Township 1 South, Range 26 East. A ¼ section is typically 160 acres. The property has approximately 1,600 feet of frontage on South Frontage Road, 1,585 feet of frontage on East Lane, and 2,400 of frontage on Elysian Road. The property is bounded by Hogan's Slough on the east. The property has been used as a turf farm by Tvetene Turf as leased agricultural land. The property owners now desire to retire from agriculture and sell the property.

The owners petitioned the City of Billings to include the property in the Limits of Annexation Area for annexation within the next 5 years and this was granted in the spring of 2014. A small portion of the northeast corner of the acreage received a zone change to HC in 1981. This zone change was to accommodate the business equipment storage for the farming operation. The north half of the property has sufficient frontage on an arterial street to accommodate commercial traffic. The surrounding properties are zoned for agricultural uses, low density housing or commercial uses. The Titan Subdivision to the east is zoned HC and CI and accommodates a variety of commercial shops and businesses. A concrete manufacturer is located on the CI zoned lot. All the lots in Titan Subdivision, with one exception, access Mullowney Lane to the east, a collector street. Property to the west is zoned HC and R-150. The HC zoned property with street frontage on South Frontage Road has protective covenants that require buffering and screening of the single family homes on East Lane. Property to the south is zoned A-1 and currently used for agricultural production. A current buyer for this property is McCall Development for a new residential subdivision in the city. Southwest of the property is Elysian School, an elementary school. Elysian School District recently approved a bond ballot to expand the school in this location to accommodate the increased student enrollment from nearby subdivisions.

Elysian Road and East Lane are both designated collector streets under the Functional Classification Map for roadways administered by the City and County. A collector street is intended to carry traffic from adjacent subdivisions and property to an arterial street. A collector street can accommodate residential traffic and some commercial traffic. A collector street can be designed for primarily residential traffic or commercial traffic. The existing design for East Lane and Elysian Road does not meet current standards for residential or commercial collector street design. The pavement width on Elysian Road is 20 feet and the width on East Lane is 18 feet. The pavement on East Lane is significantly deteriorated. A minimum pavement width for a residential collector street is 40 feet and 44 feet for a commercial collector. The South Frontage Road in this area carries approximately 5,220 vehicles per day near the intersection with East Lane. Elysian Road carries approximately 870 vehicles per day. There is no traffic count data available for East Lane. The posted speed limit on South Frontage Road is 60 mph at this location. There is no posted speed limit on either East Lane or Elysian Road except at the intersection where the school zone is posted at 15 mph. East Lane is stop controlled at the intersection with Elysian Road. The current zoning of A-1 has been in effect since 1973 when the county adopted jurisdictional zoning around the City of Billings.

The applicants have owned and farmed the property since well before zoning was in place for the County. There are farm buildings and machinery storage in the northeast corner of the property and there is a manufactured home on the south west corner near the intersection of Elysian Road and East Lane. The area of property proposed for HC zoning now encompasses the northern 106.51 acres – all of the property except for the southern 20 acres that has street frontage on Elysian Road. The applicants, School District #23 (Elysian School), McCall Development and the Gary Armstrong Trust entered into a zone agreement for the property in early October (Attachment D). The agreement stipulates the south 350 feet of the property will be requested for NC zoning.

Elysian School, the first two residential properties on East Lane north of Elysian Road and the planned development of the property south of Elysian will be compatible with the proposed NC zoning. Many uses allowed in the HC zone are not allowed in the NC zone including any type of manufacturing, heavy equipment service businesses, contractor yards, personal storage warehousing, general warehousing, truck terminals, wholesale distributors and some high intensity retail businesses. The NC zone is designed to provide an area for smaller retail and service businesses tailored to serve the needs of the nearby residential community. NC also allows residential uses or mixing of retail, services businesses, offices and residential. The proposed zoning will be compatible with the area. Uses that could be allowed on the northern 106.51 acres include limited pharmaceutical manufacturing, truck stops, mining equipment storage and service, heavy construction contractors, ice plants, manufacturing plants, wholesale warehouses, large retail facilities, hotels, RV parks, truck terminals, and similar uses. It is likely the use of the HC zone will be similar to the adjacent developments in the Kelly or Titan Subdivisions. These include construction contractors in the Titan Subdivision and hotels and restaurants in the Kelly Subdivision. The Titan Subdivision has developed outside the city limits and includes low-water use facilities such as personal storage warehouses, heavy construction contractors, cement manufacturers, building material supply warehouses, forklift and machinery dealers and plumbing warehouses. The Kelly Subdivision is within the city limits and includes a new 80+room La Quinta Inn, a Kelly Inn, the Southern Empire Emporium Restaurant and Casino, and the Cracker Barrel Restaurant. The Hogan Homestead Subdivision north of I-90 is also a similar size area of HC. This property is within the city limits and includes restaurants, hotels, banks, Costco, Shopko, EMBS offices, and other service businesses. Hogan Homestead

Subdivision is bordered by King Avenue West and S 24th Street West, both multi-lane arterial streets.

The proposed zoning and potential uses of the property will need careful planning to provide the required site improvements to accommodate the volume and type of commercial, residential or mixed use traffic that may result from development. The type and volume of commercial traffic generated from the proposed HC zone cannot be predicted at this time, but it would likely require the re-construction of East Lane and improvements to the access driveways on South Frontage Road. Hiway Acres Subdivision on the west side of East Lane dedicated a 30-foot half right-of-way. Additional right of way would be required from this property to develop a collector street on East Lane. Elysian Road has no dedicated right of way but is a mid-section line road with a 60-foot road easement. Right of way would also need to be dedicated for the development of a collector street. These street dedications would not be required unless a subdivision of the property is proposed in the future. If the property is not subdivided, development of the property could still occur.

The Planning staff must consider all potential uses in both the HC zone and in the NC zone on the subject property including retail (large and small), office space, restaurants (with or without alcohol service), personal storage and multi-family uses. Some of these uses would require annexation for provision of public utilities. The current zoning allows single family dwellings and agricultural uses. The property has more than 1,600 linear feet of frontage on South Frontage Road that could accommodate at least 2 new street openings for internal street access to new developments. East Lane and Elysian Road offer more frontage and could accommodate multiple street or driveway openings.

Planning staff reviewed the revised application and forwarded a recommendation of approval for the proposed zone change based on the 11 criteria for zone changes. The Zoning Commission concurred with this recommendation. The northern 106.51 acres of the property is appropriate for HC zoning, particularly the area with access to South Frontage Road. The south 20 acres proposed for NC zoning is appropriate for residential uses, low-intensity commercial development serving this growing area of Billings, or some mixed use development with compatible residential and commercial uses. The HC zone does allow residential uses but there are few residential developments within HC zoning districts. The adjacent streets of Elysian Road and East Lane may be upgraded to accommodate the intended uses in the NC zone. The proposed zoning is compatible with the existing adjacent uses to the south and west and planned development of those adjacent parcels. The HC zone could allow the construction of other uses that is appropriate to the adjacent uses and zoning districts to the north and east.

STAKEHOLDERS

The Zoning Commission opened the public hearing on September 8, 2014, on the original zone change request (all HC zoning) and received the staff recommendation, testimony from the applicants, the agents, the Elysian School District and surrounding property owners. The Zoning Commission voted to delay action on the application to allow the applicant, agents and Elysian School officials to discuss an alternate zone change plan. The applicants proposed an alternative but could not reach an agreement with the school district in time for publication of legal notice on September 17. The Zoning Commission re-opened the public hearing on the original request on October 14, 2014 and recommended denial to the Board of County Commissioners. The BOCC held its public hearing on October 28, 2014 and delayed action on the original zone

change until November 10, 2014. Subsequently, the applicant requested to withdraw the application in order to re-submit this new zone change request.

RECOMMENDATION

The Zoning Commission voted 4-0 to recommend approval and adoption of the findings of the 11 criteria for Zone Change #652.

ZONING COMMISSION PUBLIC HEARINGS AND DISCUSSION

The Zoning Commission conducted a public hearing on December 8, 2014, and received the staff report and testimony from the applicant and surrounding property owners.

Mr. Dax Simek represents the Quarnburg Family as an agent. Mr. Simek stated the Quarnburgs met with the surrounding owners and reached a zoning agreement on November 6, 2014. The revised zoning application reflects that agreement. He stated the southern 350 feet of the property is proposed for Neighborhood Commercial zoning that will provide a significant buffer to the school and residential neighbors. Mr. Simek stated the NC zoning also allows an opportunity for multi-family development.

Mr. Blaine Poppler testified in favor of the revised zone change. He stated there are many property owners in this area preparing to annex and develop their property. He stated Elysian Road and East Lane will be improved when these developments occur. Mr. Poppler stated the NC zone is a much less intensive commercial zone and will protect adjacent uses. He stated Elysian Road will become a full width collector after annexation with boulevard sidewalks and likely a separated multi-use trail so access to Elysian School will be improved. He stated Elysian Road is not safe now for pedestrians and cyclists. He stated the northern acres are ideal for Highway Commercial users such as major retailers, warehousing, and supply. He stated Mrs. Keller at 1540 East Lane will be pleased with the street improvements once completed.

Mr. Greg McCall of McCall Development testified in favor of the revised zone change. He stated it was a challenge to reach a solution with the developers and the school. He stated he wanted to publicly thank the Quarnburg family for working with all the surrounding owners and the school to reach this solution. Mr. McCall stated the revised plan will work for the area and he is in full support.

Mr. Gary Armstrong of 1701 East Lane testified in favor of the revised zone change. He stated the zoning fits with the future plan for his property and with the existing development.

Chairman Dennis Cook closed the public hearing.

Commission member Ole Shafer moved to recommend approval of Zone Change 652 and adoption of the findings of the 11 criteria for this zone change as presented by Planning staff. The motion was seconded by Commission member Terri Welborn. The motion was approved on a unanimous vote.

PROPOSED COUNTY COMMISSION DETERMINATIONS

The Board of County Commissioners, prior to any recommendation, shall consider the following:

1. Is the new zoning designed in accordance with the Yellowstone County and City of Billings 2008 Growth Policy?

The proposed zoning does comply with the following goals of the Yellowstone County and City of Billings 2008 Growth Policy and area plans:

- Prohibit high intensity commercial development in residential areas. Provide less intensive commercial development on arterial intersections within residential neighborhoods.

This zone change would place a low intensity commercial zone adjacent to existing and planned residential homes as well as Elysian School. The HC proposed zone is located away from these areas and is compatible with the adjacent uses and zoning.

- Predictable land use decision that are consistent with neighborhood character and preferred land use patterns identified in neighborhood plans. (Land Use Element, page 6).

This zone change would allow for high intensity commercial use adjacent to existing commercial uses to the north and east and a low-intensity commercial zone adjacent to neighborhoods. This is consistent with the neighborhood character.

- Goal: New developments that sensitive to and compatible with the character of adjacent development. (Land Use Element Goal, page 6).

This property is adjacent to commercial uses to the east and north but has low intensity uses and sensitive uses to the south and west. The proposed zone is sensitive to and compatible with the adjacent development.

2. *Is the new zoning designed to secure from fire and other danger?*

The subject property is currently served by the Billings Urban Fire Service Area (BUFSA). The nearest fire station is located on S 24th Street West (FS #5), approximately 2 miles north of the subject property. The property currently pays approximately \$1,300.00 per year for structural fire protection. Both proposed zoning districts have adequate setbacks and height limits to allow firefighting and safety from public safety hazards.

3. *Will the new zoning facilitate the provision of transportation, water, sewerage, schools, parks and other public requirements?*

Transportation: The new zoning will increase traffic on all of the adjoining streets when sales of property and development occurs. It is not possible to predict the type and volume of traffic that could be generated except in a general manner. Both Elysian Road and East Lane are considered collector streets but neither is developed to these standards at this time. Elysian Road and East Lane have no posted speed limits and have about 20 feet of pavement width for two-way traffic. South Frontage Road is developed for highway type traffic including higher speeds and heavier vehicles. The County does not intend to improve either Elysian Road or East Lane in the future. If a subdivision occurs, improvements to collector street standards may be required.

Water and Sewerage: The property will be served by septic systems and an on-site water system if developed in the County. If the property is annexed, city services could be extended to the property.

Schools and Parks: The proposed zoning could have an impact on the student enrollment if residential homes or apartments are constructed. The more immediate impact is on the

school facility itself at the southwest corner of the intersection of East Lane and Elysian Road. The types and volume of commercial traffic generated by an NC zoning should be compatible with the school campus and the surrounding residential uses.

Fire and Police: The subject property is serviced by the Billings Fire Department and the Yellowstone County Sheriff's Department. Fire protection will be evaluated at the time of a development plan.

4. *Will the new zoning promote health and general welfare?*
The new zoning will allow development of property that is adjacent to commercial property to the north and east. Twenty acres of NC zoning is proposed along the southern boundary of the property. The proposed zoning adjacent to the residential uses (existing and planned) and the elementary school is compatible and will promote the general health and welfare of the residents and students. The proposed HC zoning on the northern 106.51 acres will allow the owner to sell the property for more intense commercial uses that will have access to South Frontage Road.
5. *Will the new zoning provide adequate light and air?*
The proposed zoning would require minimum setbacks, maximum building heights and maximum lot coverage. These requirements should allow adequate light and air to reach the subject property and adjacent properties.
6. *Will the new zoning effect motorized and non-motorized transportation?*
The proposed zoning itself will not generate more traffic on any of the adjacent streets. There are no pedestrian facilities in the area but South Frontage Road, East Lane and Elysian Road are all designated on-street bike routes. There are no shoulders on the pavement of East Lane and Elysian Road so the travel way for pedestrians, bicycles, and vehicles are shared. Introducing commercial traffic loads to either street could have a detrimental effect on pedestrian, bicycle, and vehicular use of these travel ways. Careful planning by a developer as well as participation in a street improvement project will be necessary to accommodate new uses on the NC zoned area.
7. *Will the new zoning be compatible with urban growth in the vicinity?*
The proposed zoning of NC is compatible with adjacent residential uses and school facilities. The proposed zoning HC is compatible with uses to the north and east.
8. *Does the new zoning consider the character of the district and the suitability of the property for particular uses?*
The subject property is in an area that has low density residential development, planned residential development and an elementary school as well as high intensity commercial uses to the north and east. The northern portion of the property is suitable for HC zoning, but not the entire parcel. The proposed 20 acres of NC on the southern portion of the property is suitable for the area given the existing uses, recent zone changes, and current development plans.
9. *Will the new zoning conserve the value of buildings?*
The new zoning will allow the development of new commercial uses throughout the property. The uses allowed in the HC zone are significantly more intense than uses allowed in the NC zone. For example, no transportation service business, warehousing or

any uses requiring outdoor storage are allowed in the NC but are allowed in the HC zone. The NC zone does not allow any restaurant with alcohol service or bars and casinos. The property is currently developed with a commercial agriculture building and a manufactured home. The manufactured home will become a legal non-conforming use of the property if the zoning is changed as proposed.

10. Will the new zoning encourage the most appropriate use of land in Yellowstone County?

The property is suitable for the proposed HC zone for the northern portion of the property. This area of southwest Billings has experienced recent growth primarily from property zoned and annexed for uses within the city. Rural commercial development is possible but many potential uses would require city water and sewer services. Property to the east close to the I-90 interchange has developed for HC uses including hotels, restaurants, gas stations and similar uses catering to the traveling public. The HC zone is intended to *“provide areas for commercial and service enterprises which are intended primarily to serve the needs of the tourist, traveler, recreationist or the general traveling public. Areas designated as Highway Commercial should be located in the vicinity of, and accessible from interstate interchanges, intersections on limited access highways, or adjacent to primary or secondary highways. The manner in which the services and commercial activities are offered should be carefully planned in order to minimize the hazard to the safety of the surrounding community and those who use such facilities.”* This is the most appropriate use of the northern portion of the property in this area of the County

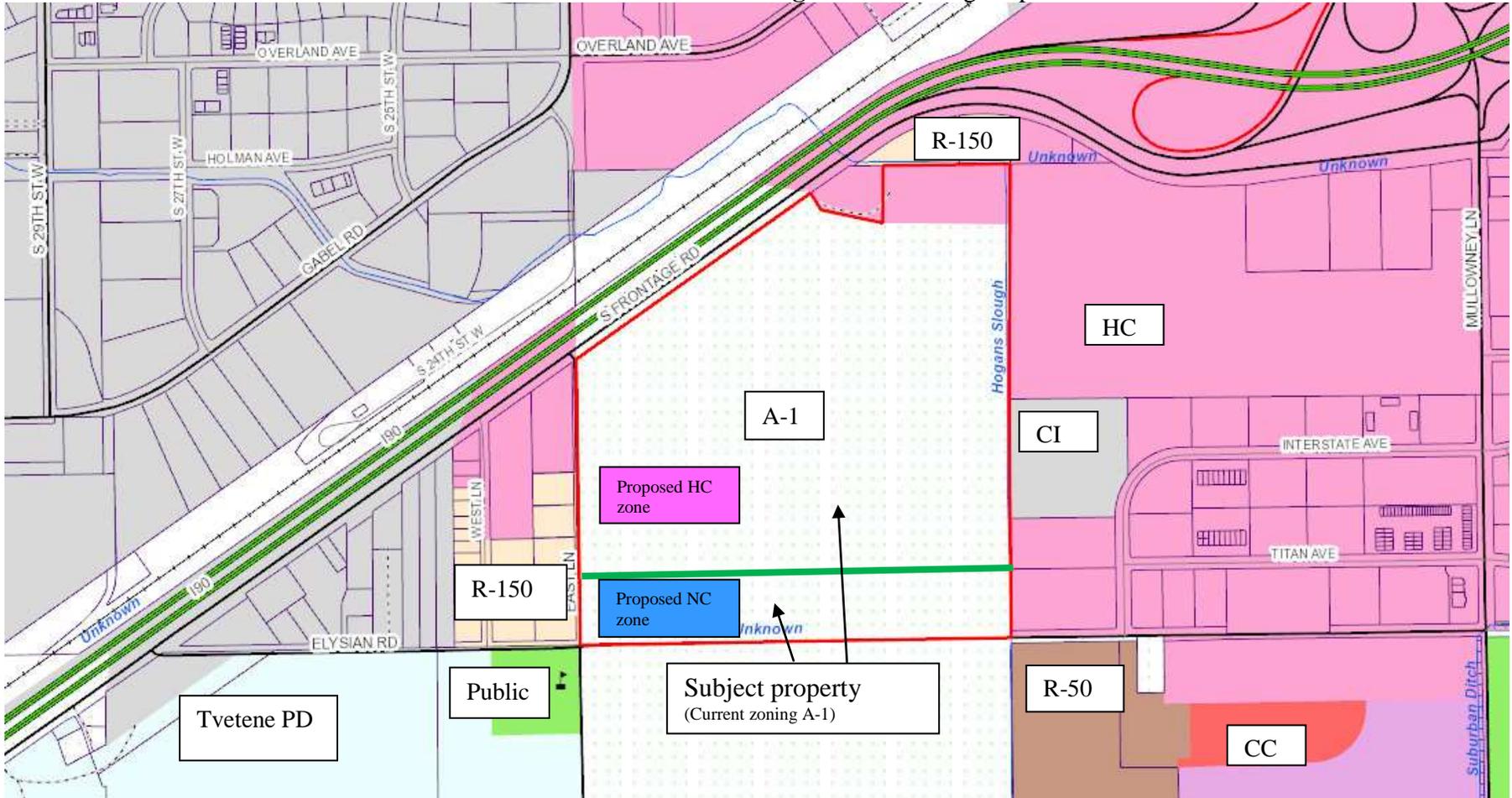
The proposed NC zoning on the southern 20 acres is the also the most appropriate use of land in this area of the County. The NC zone is intended *“for commercial centers and limited retail activities conducted in a unified development designed to serve the surrounding neighborhood with shopping facilities consisting of convenience retail and personal service establishments which secure their principal trade by supplying the daily needs of the neighboring population. Only uses serving the above purpose without undue detriment to surrounding residences should be permitted.”*

11. Will the new zoning be as compatible as possible with adjacent zoning in the City of Billings?

The proposed zoning is adjacent to the City of Billings on the east. The proposed zoning of the north half of the property is compatible with adjacent zoning. The proposed zoning of the south 20 acres is compatible with the adjacent County zoning.

- Attachment A: Zoning Map
- Attachment B: Applicant Letter & Pre-application neighborhood meeting minutes
- Attachment C: Site Photographs
- Attachment D: Zoning Agreement between applicant and surrounding owners, November 6, 2014

Attachment A - Zone Change #652 - Zoning Map



Attachment B - Zone Change #652
Applicant Letter & Pre-application neighborhood meeting minutes

Pre-application Meeting Synopsis

Yellowstone County requires that a pre-application meeting be conducted prior to the zone change application submittal. As such, a meeting was held on Monday, July 28, 2014 at 6132 South Frontage Road. Dax Simek, P.E. of Morrison Maierle, Inc. facilitated the meeting to present the proposed zone change and address any questions or concerns from those in attendance.

Eight people attended the meeting to discuss the zone change. Four of the individuals expressed concern regarding the possibility of commercial development occurring adjacent to the school and existing residential areas. They mentioned increased traffic along East Lane that could result from development of the property.

Other topics discussed included potential impact on property values and whether the property would be served by City water and sanitary sewer upon development. It was discussed that ultimately the property would likely be annexed into the City of Billings and go through a major subdivision review process due to the large size of the parcel and that this would give adjacent landowners an additional opportunity to discuss their concerns.

Overall, the tone of the meeting was very civil with some individuals wanting to know how some of the potential issues that arise from commercial and/or residential development can be mitigated.

QUARNBURG ZONE CHANGE APPLICATION - SIGN-IN LIST

Project: Quarnburg Zone Change Application - Public Meeting
Date/Time: Monday, July 28, 2014, 6:00pm
Location: 6132 South Frontage Road

NAME	ADDRESS	PHONE	E-MAIL
Brice Quarnburg	4025 3 RD AVE S	2458452	
Jane Quarnburg	4025 3 RD Ave S	245-8432	jqq@brsman.net
Joseph Quarnburg			
Clayton St. Keegan	6012 S. Frontage Rd	656-6959	
GARY ARMSTRONG	1701 EAST LN	655-4439	GRANT71@gmail.com
TAMMIE JOHNSON	1521 WEST LN	860-3918	
Wanda Morgan	1520 East Ln	690-3563	wandahenfer@hotmail.com
Dave Shidker	1470 East Ln	969-1383	DAVEZ@Quarnta.net

**Zone Change Plan
6132 South Frontage Road, Billings, MT**

The subject property located at 6132 South Frontage Road, Billings, Montana is legally described as S18, T01 S, R26 E, SW4, Less RY, HWY & C/S 1614 & C/S 2038 and the portion zoned H-C and consists of approximately 126.5 acres of farmland. The parcel is currently zoned A-1, or Agricultural - Open Space with the exception of the portion zoned H-C, or Highway Commercial, which is not included in this Zone Change Plan.

The intent of this Zone Change Plan is to re-zone the property to HC, or Highway Commercial for the entire parcel. The figure at right shows existing zoning of the subject and surrounding properties. Of note is that many of the adjoining properties are zoned Highway Commercial.

Re-zoning of the parcel with Highway Commercial will offer predictable development going forward. According to the City of Billings and Yellowstone County Unified Zoning Regulations, the Highway Commercial zoning classification is defined as: "HC – Highway Commercial: The Highway Commercial zone is intended to provide areas for commercial and service enterprises which are intended primarily to serve the needs of the tourist, traveler, recreationist or the general traveling public. Areas designated as Highway Commercial should be located in the vicinity of, and accessible from interstate interchanges, intersections on limited access highways, or adjacent to primary or secondary highways. The manner in which the services and commercial activities are offered should be carefully planned in order to minimize the hazard to the safety of the surrounding community and those who use such facilities."

In consideration of the property's location and surrounding zoning, it is appropriate to re-zone the entire parcel to Highway Commercial. Furthermore, this particular zoning designation allows for residential development, which would provide buffering opportunities adjacent to existing and proposed residential areas.

The anticipated timeline for the Zone Change Application is as follows:

- | | |
|------------------------------------|--------------------|
| • Pre-Submittal Meeting | July 28, 2014 |
| • Submit Zone Change Application | August 4, 2014 |
| • Zoning Commission Public Hearing | September 8, 2014 |
| • County Commission Public Hearing | September 23, 2014 |



LEGEND

Agricultural Open Space (County Only)	Community Commercial
Residential 15,000 (County Only)	Highway Commercial
Residential 7,500	Controlled Industrial
Residential 5,000	Public
Residential Multi-Family - Restricted	Planned Unit Development
Residential Manufactured Home	Site Area Boundary

Attachment C – Zone Change #652



Subject property – south west corner



View south and west to Elysian School

Attachment C – Zone Change #652, continued



View north from Elysian Road to I-90



View east along Elysian Road

Attachment C – Zone Change #652, continued



View north and east from access road on Elysian Road

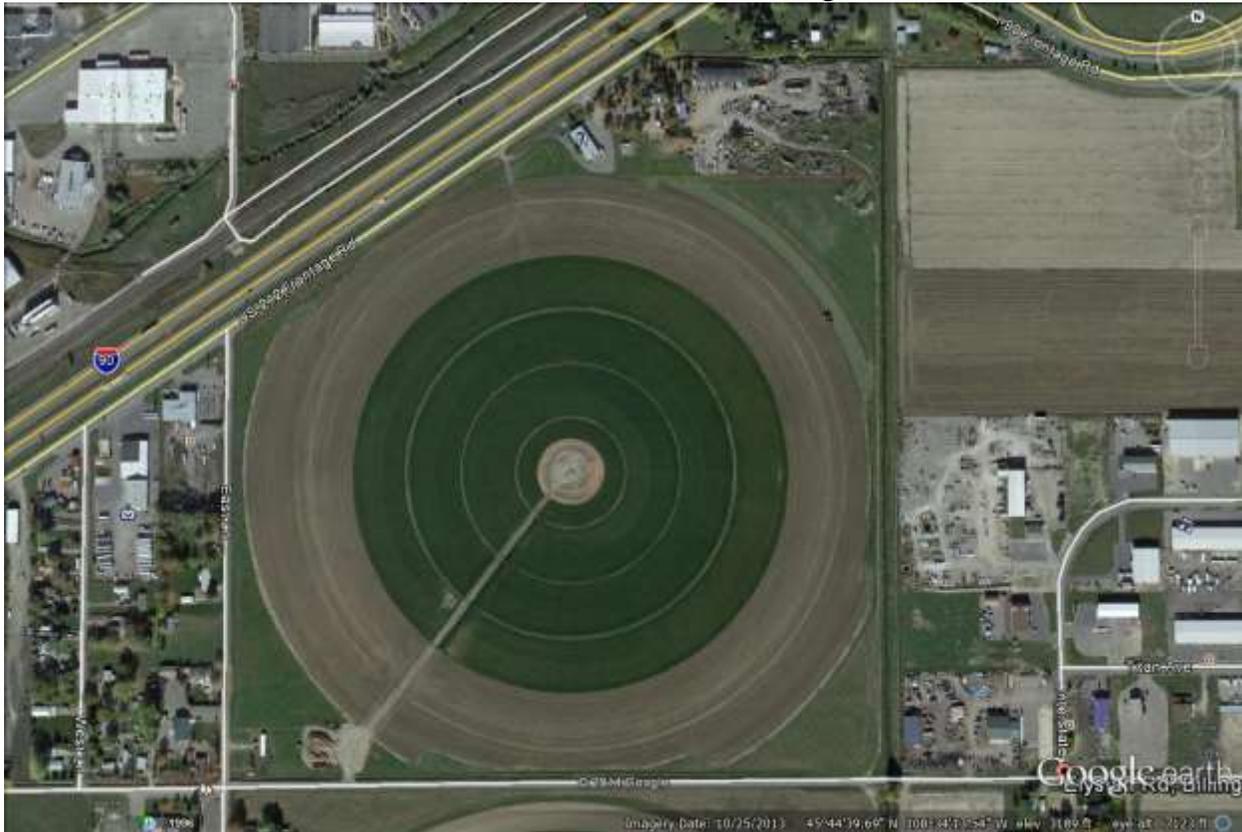


View south from South Frontage Road

Attachment C – Zone Change #652, continued



View south and east from South Frontage Road



Attachment D – Zone Change #652

ZONING AGREEMENT

The parties to this agreement are:
Quarnburg Farming Corporation (QFC), owner of the following described real property in Yellowstone County, Montana: SW1/4 of Section 18, Township 01 South, Range 26 East (less RY, Hwy, C/S 1614 and C/S 2038.

School District 23 in Yellowstone County (the School District), its board of Trustees and its Superintendent, Bob Whalen. The only school in School District 23 is Elysian School. The location of Elysian School is shown on the attached map; it adjoins the Quarnburg property on its southwest corner.

The Gary J. Armstrong Living Trust, Gary J. Armstrong Trustee (Armstrong Trust). The Armstrong Trust owns the property immediately south of the Quarnburg property; the location of the Armstrong Trust property is also shown on the attached map.

McCall Development Inc. and Greg McCall, Brad McCall, Jim McCall and Carolee McCall _____ all hereafter referred to as McCall. McCall plans to purchase the Armstrong trust property for development as a mostly residential subdivision.

In order to settle and resolve all differences and disputes among the parties over the pending Highway Commercial Zoning Request submitted by Quarnburg to the Yellowstone County Commissioners, and in consideration of the following mutual promises set forth below, the parties hereby agree as follows:

Quarnburg will request that the County Commissioners allow it to withdraw its pending Highway Commercial Zone Change Request in order to request that the South 350 feet of the Quarnburg property be zoned as neighborhood commercial and the balance be zoned as highway commercial (the QFC Amended Zone Change Request), creating a neighborhood commercial buffer for the protection of the children who attend Elysian School, for the Armstrong Trust property which McCalls intend to develop as a residential subdivision, and for the existing residences west of the neighborhood commercial buffer. The attached map shows the location of each zoning area to be requested in the QFC Amended Zone Change Request.

In exchange for Quarnburg's Amended Request, the School District, it's Trustees, Superintendent and PTO, the Armstrong

Trust, and McCall all agree to support the QFC Amended Zone Change Request, to support the QFC request to withdraw it's present zoning request, and to refrain from encouraging others to oppose the QFC Amended Zone Change Request; the School also agrees to inform the parents of children attending Elysian School that the school has reached a satisfactory agreement with QFC to buffer the school.

This Agreement may be signed in counterpart.

Dated this 6 day of November 2014.

Quarnburg Farming Corporation

Charles Quarnburg
Charles Quarnburg, President

Sharon Quarnburg Ingraham, Sec
Sharon Quarnburg Ingraham, Secretary.

McCall Development Inc.

Brad McCall
By _____

Brad McCall
Brad McCall

Greg McCall
Greg McCall

Carolee McCall

at of town - Jim McCall
Jim McCall

Gary J. Armstrong Living Trust

G. Armstrong - Trustee
Gary J. Armstrong Trustee

School District 23
By it's Board of Trustees and Superintendent

Gary Hogan
Gary Hogan, Trustee

Bryan Wilson, Trustee

Jeremy Vannatta
Jeremy Vannatta, Trustee

Brad McCall
Brad McCall, Trustee

Kelly Smith
Kelly Smith, Trustee

Bob Whalen
Bob Whalen, Superintendent

Elysian School PTO

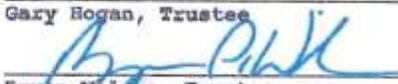
Haley Vannatta
Haley Vannatta, Presiden

~~Armstrong - Trustee~~

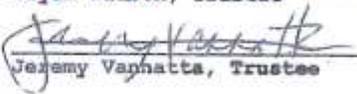
Gary J. Armstrong Trustee

School District 23
By it's Board of Trustees and Superintendent

Gary Hogan, Trustee



Bryan Wilson, Trustee



Jeremy Vannatta, Trustee

Brad McCall, Trustee

Kelly Smith, Trustee

Bob Whalen, Superintendent

Elysian School PTO

Haley Vannatta, Presiden

Change Request, to support the QFC request to withdraw it's present zoning request, and to refrain from encouraging others to oppose the QFC Amended Zone Change Request; the School also agrees to inform the parents of children attending Elysian School that the school has reached a satisfactory agreement with QFC to buffer the school.

This Agreement may be signed in counterpart.

Dated this ___ day of November 2014.

Quarnburg Farming Corporation

Charles Quarnburg, President

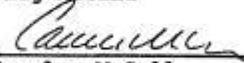
Sharon Quarnburg Ingraham, Secretary.

McCall Development Inc.

By _____

Brad McCall

Greg McCall



Carolee McCall

Jim McCall

Gary J. Armstrong Living Trust

Gary J. Armstrong Trustee