



YELLOWSTONE COUNTY ZONING COMMISSION
YELLOWSTONE COUNTY, MONTANA
MONDAY, MARCH 12, 2012

SUBJECT: Zone Change #628, Text Amendment – Lot Area Residential; References to Townhomes; Zero Lot Lines – 27-305; 27-308; 27-617 and 27-618

THROUGH: Candi Beaudry, AICP, Planning Director

PRESENTED BY: Nicole Cromwell, AICP, Zoning Coordinator, Planner II

REQUEST

This is a zone change that will amend several sections of the Unified Zoning Regulations for Billings and Yellowstone County regarding lot area requirements for dwelling units, elimination of references to townhomes or townhouses, deleting the requirement for additional side setbacks in the Residential 5,000 (R-50) zone and removing the zero lot line references. The current code can cause confusion in interpretation when multiple dwelling units exist on undivided lots. Past interpretation is that each detached “dwelling unit” requires the minimum lot area even though the detached units are not separated by a lot line. There are many unit ownership developments in Billings. Several of those developments consist entirely of single detached dwelling units and in some cases 2 single detached dwelling units on 1 undivided lot.

The proposed amendments to Section 27-308 would allow the lot area for attached or detached dwelling units to remain the same for the “two units” configuration. The amendment proposes to eliminate references to townhomes or townhouses as a specific use in response to recent legislative changes. The amendment also removes the requirement for additional side setback – 10 feet – in the R-50 zone if no alley exists. There are very few R-50 zoning districts and this additional side setback is unnecessary if the lots are well designed. The amendment proposes to eliminate allowances for zero lot lines because these are only used in reference to townhomes. The City Zoning Commission initiated this amendment on February 7, 2012, and the County Zoning Commission initiated this amendment on February 13, 2012. The City and County Zoning Regulations are unified and these standards should apply within the zoning area outside the city limits.

RECOMMENDATION

The Planning Division is recommending approval.

BACKGROUND

Lot Area for Residential Dwelling Units

The current code has caused confusion in interpretation in particular where 2 dwelling units exist on a single undivided lot. For example, a unit ownership development such as the Hampton Place Patio Homes east of Zimmerman Trail is located in a Residential 8,000 (R-80) zone. The development consists of 20 detached dwelling units. Under current interpretation, each unit

would require 8,000 square feet of land area. Under the proposed interpretation every 2 units would require 10,000 square feet of land area rather than 16,000 square feet if they exist on an undivided lot. The Hampton Place site is 145,141 square feet in undivided lot area. The proposed amendment would allow up to 28 dwelling units. This proposed amendment strongly supports the recently adopted Infill Policy since it allows land owners more efficiency in unit development and could open several vacant parcels in the R-80, R-70, R-60, R-50, RMF and RMF-R to development that may not be cost effective under current code. The proposed amendment also supports need for a variety of housing types throughout Billings since a land owner could build a combination of single dwelling units – attached or detached – without devoting additional area for the detached units.

Townhouses and Townhomes

In 2011, the legislature amended the unit ownership act to allow townhomes as a type of ownership. The primary difference between a townhome and condominium is the townhome owns the land below and the air above the dwelling unit and a condominium does not have this land and air ownership. Zoning regulations are not designed to regulate ownership but to regulate uses and structures such as building height and setback. The current definition of townhome is more aligned to an architectural style and not related to ownership. Since we cannot regulate ownership through zoning, the Planning Division proposes to eliminate townhome or townhouse as a use type in Section 27-305 and eliminate zero lot line references since these only apply under the current definition. The definition of townhome or townhouse will be updated in a future zone change (April 2012) when other legislative changes are considered for zoning code updates. Elimination of the reference to a zero lot line would not disallow a zero side setback but would require a property owner to seek and obtain a side setback variance.

Addition Side Setbacks – R-50 zone

The proposed amendments would eliminate the need for any additional side setbacks in the R-50 zone – a zone that allows single dwellings on a 5,000 square foot lot or two units on an 8,000 square foot lot. The additional side setback is required where R-50 subdivisions are platted without an alley. The additional side setback – to 10 feet on one side – was likely adopted to accommodate public utility infrastructure to run between dwelling units or to encourage R-50 subdivisions to plat alleys where utilities can be easily located. The minimum side setback of 5 feet on each side lot line is sufficient to accommodate most utilities. Many private utility companies now prefer to run adjacent to or within the street right-of-way. A well designed 5,000 square foot lot does not need additional side setback to prevent overcrowding of a lot.

ATTACHMENTS

Attachment A: Draft Resolutions

Attachment A – Draft Resolution Zone Change #628

Final Resolution 12-_____

A RESOLUTION TO AMEND THE UNIFIED ZONING REGULATIONS FOR THE CITY OF BILLINGS AND YELLOWSTONE COUNTY JURISDICTIONAL AREA BY REVISING SECTION 27-308 – AREA, YARD AND HEIGHT REQUIREMENTS – RESIDENTIAL; SECTION 27-305 – DISTRICT REGULATIONS – RESIDENTIAL; SECTION 27-617 – ZERO LOT LINE CONDITIONS; AND SECTION 27-618 ILLUSTRATION – FIGURE 5. ZERO LOT LINES – TO DELETE LANGUAGE AND TO ADD LANGUAGE TO CLARIFY THE REGULATION AND ADOPT THE REVISIONS AS AN AMENDMENT TO THE ZONING REGULATIONS.

WHEREAS, pursuant to Title 76, Chapter 2, Montana Code Annotated, the Board of County Commissioners of Yellowstone County, Montana, held a public hearing and adopted a resolution of intent on the 29th day of March, 2012, on the following proposed amendments and additions to the City of Billings – Yellowstone County Unified Zoning Regulations.

Section 1. That the Unified Zoning Regulations for the City of Billings and Yellowstone County Jurisdictional Area be amended by revising Section 27-308 as follows:

ZONING REQUIREMENTS	ZONING CLASSIFICATION DISTRICTS												
	Agricultural-Open Space	Agricultural-Suburban	Residential-15,000	Residential-9,600	Residential-8,000	Residential-7,000 Restricted	Residential-7,000	Residential-6,000 Restricted	Residential-6,000 (c)	Residential-5,000	Residential Multi-Family	Residential Multi-Family – Restricted	Residential Manufactured Home
MINIMUM LOT AREA PER DWELLING UNIT: (a) (b) (e)													
One Unit	10A	1A	15,000	9,600	8,000	7,000	7,000	6,000	6,000	5,000	6,000		6,000
Two Units <u>(attached or detached)</u>					10,000		9,600		7,000	8,000	7,000		
Three Units <u>(attached)</u>									8,500		8,500		
Four Units <u>(attached)</u>									10,000		10,000		
Five Units <u>(attached)</u>									11,500		11,500		
Six Units <u>(attached)</u>									13,000		13,000		
Seven Units <u>(attached)</u>									14,500		14,500		
Eight Units <u>(attached)</u>									16,000		16,000		
Nine Units <u>(attached)</u>									17,500				
Ten Units <u>(attached)</u>									19,000		400 each add. <u>(attached)</u> unit	1,500 each add. <u>(attached)</u> unit	
MINIMUM YARD REQUIREMENTS: (d) (e)													
Front (f)(g)	35	25	25	20	20	20	20	15	15	15	15		20
Side (h) (i) (j) (k)	15	10	10	5	5	5	5	5	5	5	5		8
Side Adjacent to Street (l)	35	25	25	10	10	10	10	10	10	10	10		10
Rear	35	25	25	20	20	20	20	20	20	20	15		20
MAXIMUM HEIGHT (m) (n)	34	34	34	34	34	34	34	34	34	34	N/A	40	34
MAXIMUM LOT COVERAGE IN PERCENT	15	25	30	30	30	30	30	40	40	40	55		30

(a) In the A-1 & A-S districts, minimum lot area figures are in Acres. All other minimum lot area figures denote square footage.

- (b) The above requirements are applicable to all structures located on a single lot. For building groups see BMCC Section 27-310(B).
- (c) In the Residential-6,000 zone, three-plexes up through ten-plexes up require Special Review approval, see BMCC Section 27-1503 or 27-1509.
- (d) For arterial setback and watercourse setback requirements, See BMCC Sections 27-602 and 27-616, respectively.
- (e) For yard setbacks on corner lots, refer to definitions of lot frontage and yard (side) in BMCC Section 27-201.
- (f) Block frontages which have buildings constructed prior to the effective date of this Resolution/Ordinance shall have a minimum twenty (20) foot front setback for all districts.
- (g) Garages and carports that have their approach from a street shall be setback a minimum of twenty (20) feet.
- (h) Required side yards shall be increased to eight (8) feet in distance from the nearest second story portion of the building, plus one (1) foot for each story in excess of two (2).
- (i) ~~Townhouses are exempt from the side yard requirements in the Residential 5,000, Residential 6,000, Residential 7,000, Residential 8,000, RMF R and RMF zoning districts. In addition, townhouses require Special Review approval, as delineated in BMCC Section 27-1503 or 27-1509.~~
- (j) ~~In the Residential 5,000 district, if no alley exists as a secondary means of access, one (1) side yard shall be increased to ten (10) feet.~~
- (k) In the Residential Manufactured Home district, a site built structure complying with the CABO One and Two Family Dwelling code, may be setback a minimum of five (5) feet from the side property line, unless the structure contains two (2) or more stories.
- (l) Front yard setbacks as required in the district shall be provided on side streets when a side street frontage exceeds one hundred and fifty (150) feet.
- (m) In the A-1 district, maximum height restrictions apply to buildings designed and constructed for human occupancy.
- (n) Where there is a change in the adjacent grade of three (3) feet or more the maximum height will be increased one (1) foot for each two (2) feet of grade change.

NOTE:

- All height and setback requirements denote feet.
- For height exceptions, see BMCC Section 27-310(F).
- For permitted projections, see BMCC Section 27-310(G)
- For setbacks for detached accessory structures, see BMCC Section 27-310(I)
- N/A = Not Applicable

Section 2. That the Unified Zoning Regulations for the City of Billings and Yellowstone County Jurisdictional Area be amended by revising Section 27-305 as follows:

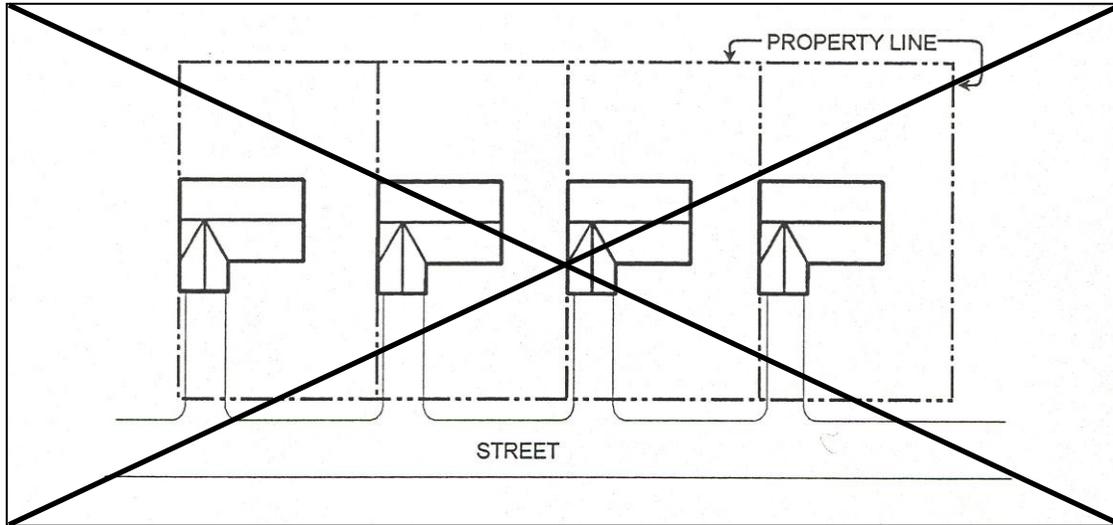
TITLES AND DESCRIPTION OF INDUSTRIES SR - SPECIAL REVIEW A – ALLOWED	Agricultural - Open Space	Agricultural - Suburban	Residential - 15,000	Residential - 9,600	Residential - 8,000	Residential - 7,000 Restricted	Residential - 7,000	Residential - 6,000 Restricted	Residential - 6,000	Residential - 5,000	Residential Multi-Family	Residential Multi-Family Restricted	Residential Manufactured Home
CONVENTS	SR	SR	SR	SR	SR		SR		SR	SR	A	A	SR
DWELLINGS: – Single-family – Two-family – Multiple-family – Manufactured Homes – Class A – Class B – Class C – Modular Homes – Townhouses (minimum 2,500 square feet) – Farm Tenant Houses	A A A SR A	A A SR SR A	A A SR SR A	A A A A	A A A A A SR	A A A A A	A A A A A SR	A A A A SR	A A SR A A SR	A A A A A SR	A A A A A SR	A A A A A SR	A A A A A

Section 3. That the Unified Zoning Regulations for the City of Billings and Yellowstone County Jurisdictional Area be amended by revising Section 27-617 as follows:

~~**SEC. 27-617. ZERO LOT LINE CONDITIONS.**~~

~~Where an individual owns two (2) adjoining lots or where the owners of the two (2) adjoining lots make legal written agreement, a zero lot line may be used for single family dwellings, but only so as to create a zero lot line on one (1) side of any lot (See BMCC Section 27-618, Figure 5).~~

Section 4. That the Unified Zoning Regulations for the City of Billings and Yellowstone County Jurisdictional Area be amended by revising Section 27-618 as follows:
FIGURE 5. ZERO LOT LINES



WHEREAS, the Board of County Commissioner received and considered the recommendations of the City/County Planning staff and the Yellowstone County Zoning Commission on the proposed amendment and additions.

NOW, THEREFORE, BE IT RESOLVED that it is the intent of the Board of County Commissioners that the above-described amendment to the Unified Zoning Regulations for the City of Billings and Yellowstone County Jurisdictional Area be adopted.

PASSED AND ADOPTED by the Board of County Commissioners of Yellowstone County, Montana, this 1st day of May, 2012.

BOARD OF COUNTY COMMISSIONERS
YELLOWSTONE COUNTY, MONTANA

John Ostlund, Chairman

James E. Reno, Member

Bill Kennedy, Member

(SEAL)
ATTEST:

Jeff Martin
Clerk and Recorder