BOARD OF COUNTY COMMISSIONERS
YELLOWSTONE COUNTY, MONTANA
Tuesday, October 29, 2013

SUBJECT:	Zone Change #646 – 5347 Central Avenue
THROUGH:	Candi Millar, AICP, Planning Director
FROM:	Nicole Cromwell, AICP, Zoning Coordinator

REQUEST
The applicant is requesting a zone change request from Agriculture-Open Space (A-1) to Residential 15,000 (R-150) on an 80-acre parcel of land, Tracts A and B, C/S 2209. The property is generally located at 5347 Central Avenue south of Legacy Subdivision (city), west of Wells Gardens Estates (county) and north of Central Avenue. The applicant conducted a pre-application neighborhood meeting on August 19, 2013, at Sanderson Stewart, 1300 N Transtech Way. The owner is Brown Development, LLC, and Sanderson Stewart is the agent. The Zoning Commission conducted a public hearing on October 15, 2013, and is forwarding a recommendation of approval on a 3-0 vote.

APPLICATION DATA

OWNER:	Brown Development, LLC
AGENT:	Lauren Waterton, Sanderson Stewart
LEGAL DESCRIPTION:	C/S 2209, Tracts A and B
ADDRESS:	5347 Central Avenue
SIZE OF PARCEL:	80 acres
EXISTING LAND USE:	1 single family dwelling, agricultural and accessory buildings
PROPOSED LAND USE:	Same with possible future development of a residential subdivision
EXISTING ZONING:	A-1
PROPOSED ZONING:	R-150

APPLICABLE ZONING HISTORY
Subject Property
None

<u>Surrounding Properties</u>
Seven surrounding properties have applied for similar zone changes from A-1 to R-150 or A-S, including Wells Garden Estates, Granite Park, and Oak Ridge Estates. One zone change was withdrawn and 6 were approved.

SURROUNDING LAND USE & ZONING

NORTH:	Zoning:	R-96
	Land Use:	Legacy Subdivision (city) developing subdivision
SOUTH:	Zoning:	R-150 & A-1
	Land Use:	Granite Park Subdivision (county)
EAST:	Zoning:	R-150
	Land Use:	Wells Garden Estates (county)
WEST:	Zoning:	A-1
	Land Use:	Agricultural land

REASONS

The subject property is located north of Central Avenue and west of the intersection of 52nd Street West and Central Avenue. The property is adjacent to 1 city subdivision and 2 county subdivisions of similar zoning and development density. The proposed zoning could allow the owner to plat lots of 20,000 square feet (approximately ½ acre) if a community water supply or community waste water system is provided. The proposed zoning could allow lots less than 20,000 square feet but state and local environmental regulations require a larger area. The property is developed with 1 single family dwelling and several agricultural buildings that support the current farming activities. The applicant intends to provide up to 93 lots for residential single family homes through a subsequent subdivision application. A subdivision will require construction of access roads, installation of water services and septic systems, as well as providing protection from fire hazards and preservation of water rights and access to nearby agricultural water users. To the west are active agricultural lands.

Fifty-Second Street West is a proposed collector street as identified on the Functional Classification Map adopted as part of the Transportation Plan. Dovetail Avenue, north and east of the subject parcel, is another collector street for the surrounding subdivisions. There are no traffic counts available for this section of 52nd Street West. This section of Central Avenue east of 56th Street West had traffic counts in 2013 of 1,230 vehicle trips per day. Central Avenue just west of the Shiloh intersection has 4,000 vehicle trips per day in 2013. The posted speed limit of Central Avenue at this location is 55 mph. There is a proposed long range bikeway that connects the subdivision to the north, Legends West, to Central Avenue and points further south. The property is not within any regulated flood plain. The subject property is not within the limits of annexation for the City of Billings for the next 5 years. The West Billings Neighborhood Plan indicated this area of the County should develop as low density residential subdivisions or as agricultural uses.

A neighborhood meeting was conducted by the applicant on August 19, 2013, at Sanderson Stewart at 1300 N Transtech Way. The minutes of the meeting are included as Attachment B. The applicant shows in the meeting minutes that issues of concern are the irrigation ditch that runs parallel to 52nd Street West, building height and allowed exterior colors. The owner stated the irrigation ditch will most likely be placed in a pipe below ground to develop the street and height restrictions and exterior colors were contemplated for the new subdivision. The proposed and current zoning provides a maximum height of 34 feet for residential buildings. The Planning Division was contacted by Terry Ackerman of Hazelnut Drive with concerns about the new subdivision and the zone change application. Ms. Ackerman's letter of concern and Planning Staff's reply are in attachment B.

Planning staff reviewed the 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 the staff recommendation. The property is adjacent to an arterial street (Central Avenue) and is in an area west of the city limits not anticipated to be annexed in the near future. There are similar zoning districts adjacent to the east and south. The property is outside any mapped flood plain. Permits for any new drain fields and zoning compliance will be assured prior to any new residential construction on the site. The applicant is proposing a major county subdivision and site specific impacts and design features from the subdivision will be mitigated during the subdivision review process before the Yellowstone County Board of Planning and Board of County Commissioners. There are adjacent residential subdivisions of similar density with R-150 zoning in place including Granite Park south of Central Avenue and Wells Garden Estates and Oak Ridge Estates to the east. The proposed zoning will be identical to the adjacent zoning to the east and south. The West Billings Neighborhood Plan anticipated low density residential development and agricultural uses in this area. The proposed zoning conforms to the goals and policies of the neighborhood plan and the 2008 Growth Policy.

The Zoning Commission concurred with the staff recommendation based on the testimony received and the 11 criteria for zone changes.

RECOMMENDATION
The Zoning Commission voted 3-0 to recommend approval of Zone Change #646.

ZONING COMMISSION PUBLIC HEARING AND DISCUSSION
The Zoning Commission conducted a public hearing on this application on October 15, 2013. The applicant's agent, Bryan Alexander from Sanderson Stewart, was in attendance to testify in favor of the proposed zone change. No other testimony was received at the public hearing.

Chair Dennis Cook closed the public hearing. Member Ole Shafer made a motion to recommend approval to the County Commissioners and it was seconded by Vice Chair Al Littler. The motion carried with a 3-0 vote.

RECOMMENDATION
The Zoning Commission recommends approval of Zone Change #646 on a 3-0 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 complies with the following goals of the Yellowstone County and City of Billings 2008 Growth Policy and area plans:

   - Goal: 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 additional area for single family dwellings adjacent to existing uses that are similar to the surrounding development in the area.

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

This property is adjacent to similar residential subdivisions of homes on lots of 20,000 square feet up to 1 acre.

2. *Is the new zoning designed to secure from fire and other danger?*
The subject property is currently served by BUFSA and the Yellowstone County Sherriff. The nearest fire station is Fire Station #7 at 54th St West and Grand Avenue 1.75 miles north of the subject property. Development of the property for additional dwelling units will be reviewed by County agencies at the time of subdivision application.

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 52nd Street West, a collector street and Central Avenue, a principal arterial street. The current daily traffic averages between 1,230 and 4,000 trips per day. If the subdivision creates more than 500 additional trips per day, a traffic accessibility study will be required as part of the subdivision application. If the property were developed to the proposed density of 93 new single family dwellings, then an additional 930 vehicle trips would be an average increase in traffic on these two streets. This increase will warrant a traffic study.

Water and Sewerage: The property will be served by a proposed community water supply and individual septic systems. Riverstone Health and the MT DEQ will ensure all new systems are installed and constructed to protect the public health and local ground water.

Schools and Parks: The property is within Billings School District #2. Elementary students would attend Central Heights Elementary at 120 Lexington Drive (east of 24th St West). It would be anticipated there might be an impact on the school system depending on the number and type of dwellings constructed. The development would increase demand for parks. The owner may propose during subdivision review to provide a subdivision park or cash-in-lieu of a park for the new subdivision. There several neighborhood and community parks in the area both in the city and county.

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 subdivision application.

4. *Will the new zoning promote health and general welfare?*
The new zoning will allow development of a large acreage property for several single family dwellings. There is similar development to the north, south and east. Property

improvements will require approval of all new water and waste water systems that will ensure public health.

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 52nd Street West and Central Avenue. The proposed subdivision will add to the existing traffic. The posted speed limit is 55 mph and traffic entering or stopped to turn on to adjacent property can cause traffic congestion. Central Avenue and 52nd Street West do not have sidewalks and there is a plan to create a bike path connection from the north to south through or adjacent to this property. The specific traffic and pedestrian facilities will be designed during the subdivision application process.

7. *Will the new zoning be compatible with urban growth in the vicinity?*
The proposed zoning is compatible with nearby developments. The closest urban development is adjacent to the north (Legacy Subdivision). Legacy Subdivision is a lower density urban neighborhood with lots from 9,600 square feet to 20,000 square feet.

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 existing single family development and is in character with those uses. The property is suitable for single family uses given its location in proximity to similar subdivisions.

9. *Will the new zoning conserve the value of buildings?*
The new zoning allows single family dwellings. The value of existing buildings on the site and in the surrounding subdivisions will be conserved by similar zoning and development.

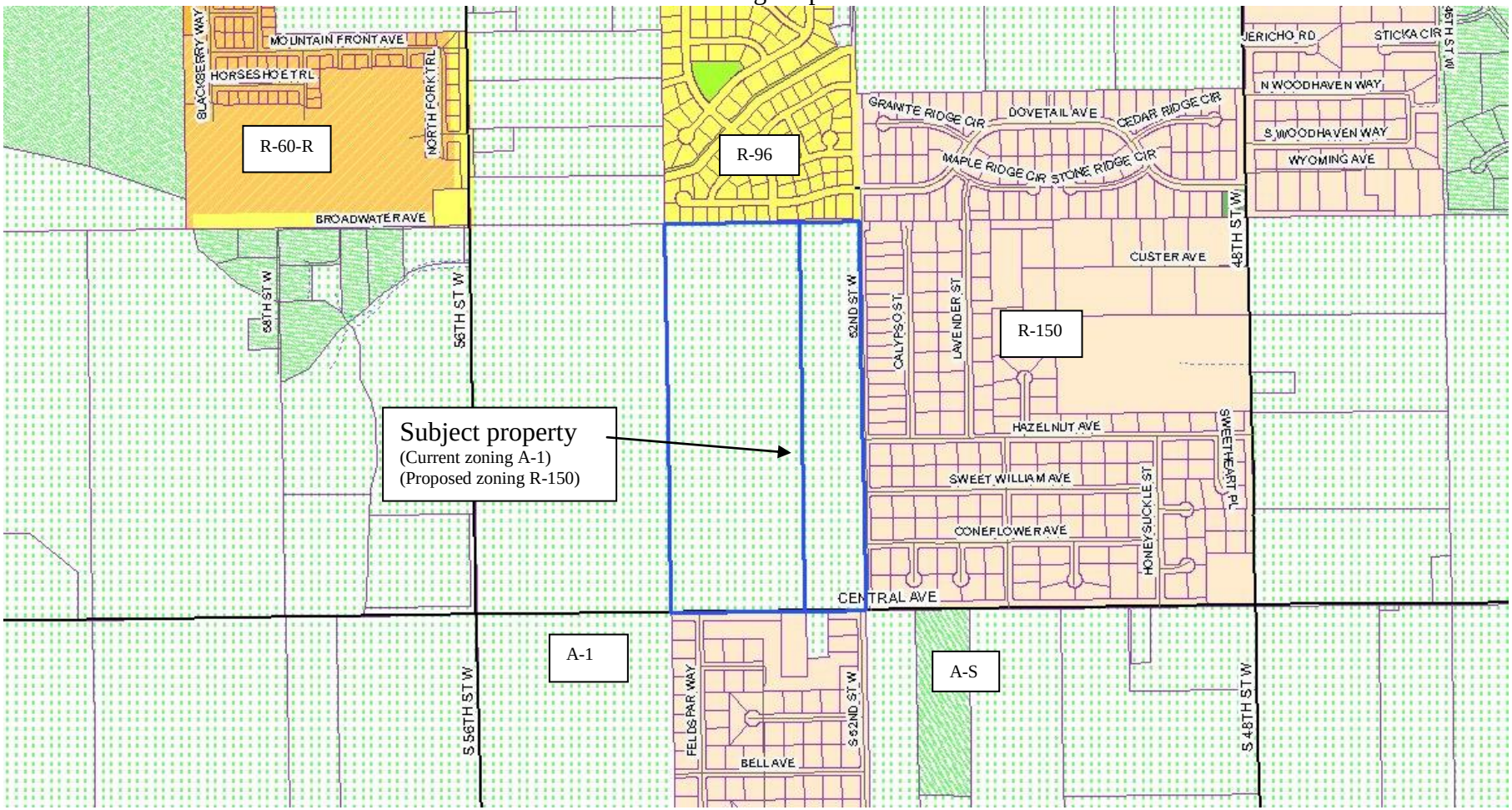
10. *Will the new zoning encourage the most appropriate use of land in Yellowstone County?*
The property is suitable for residential development at the proposed density.

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 and the proposed zoning is a similar density and compatible with this subdivision.

Attachment A: Zoning Map
Attachment B: Applicant Letter, pre-application neighborhood meeting minutes, letter from Terry Ackerman
Attachment C: Site Photographs

Attachment A - Zone Change #646

Zoning Map



Attachment B - Zone Change #646

Applicant Letter, pre-application neighborhood meeting minutes and Letter from T. Ackerman

WHISPER CREEK ESTATES SUBDIVISION
TRACTS A AND B COS 2209
ZONE CHANGE APPLICATION FROM AGRICULTURAL OPEN
TO R-15000

STATEMENT OF PROPOSAL

Brown Development, LLC owns approximately 80 acres on the west side of Billings, on the north side of Central Avenue at 52nd Street West. The owner would like to create a subdivision of approximately 93 residential lots within the 80 acres. In order to do so, a zone change from Agricultural Open to R-15000 is requested. The site is located approximately 1.25 miles from the Billings city limits. The site is bordered on the west by irrigated farmland, on the north by Vintage Estates Subdivision and on the east by Wells Garden Estates Subdivision. Central Avenue borders the site to the south. The topography of the site is generally very flat, sloping to the south at less than one percent. The site is currently used as irrigated cropland. A similar development of residential lots is located to the east and south of this site.

RESPONSES TO APPLICATION QUESTIONS

1A. In what ways is your proposal consistent with the goals and policies of the adopted Growth Policy?

The primary goals and objective of the 2008 Growth Policy are divided into eight primary elements. The applicable goals are described below.

Land Use Element

Goal 1. Predictable land use decisions that are consistent with neighborhood character and land use patterns.

The land use of the proposed R-15000 zoning will be compatible and predictable with the surrounding neighborhood character. To the north of this property is the Vintage Estates Subdivision, located within the City of Billings, and zoned R-9600. To the east is the Wells Garden Estates Subdivision and zoned R-15000. To the south is the Granite Park Estates Subdivision and zoned R-15000. The proposed zone change is consistent with the neighborhood character and land use patterns and would create predictable land use in the area.

Goal 2. New developments that are sensitive to and compatible with the character of adjacent City Neighborhoods and County Townsites.

The R-15000 Zone District is compatible with the surrounding area and fits the type of land use patterns in the vicinity. This portion of the County is a mix of agricultural property, City

zoned subdivision and suburban-type County subdivisions. The proposed zone change to R15000 is compatible with the surrounding area and the changing character of the West end.

Goal 3. Growth management tools available to rural townsites.

The project area is located within the City of Billings Zoning Jurisdiction and is adjacent to the City limits to the north of this property. The R-15000 is intended to provide for low density, single family residential development

Goal 4. Contiguous development focused in and around existing population centers separated by open space.

As the City of Billings continues to grow to the west, the properties in the area are transitioning from agricultural to suburban and even urban type development. The property is located in areas of residential development.

Goal 5. Affordable housing for all income levels dispersed throughout the City and County.

The new R-15000 zoning would allow create more housing choices on the west end of Billings. Although there are single family homes available on the west end of Billings, there are few affordable options available for Billings working class on the west end. This zoning designation would increase the availability of housing in the area.

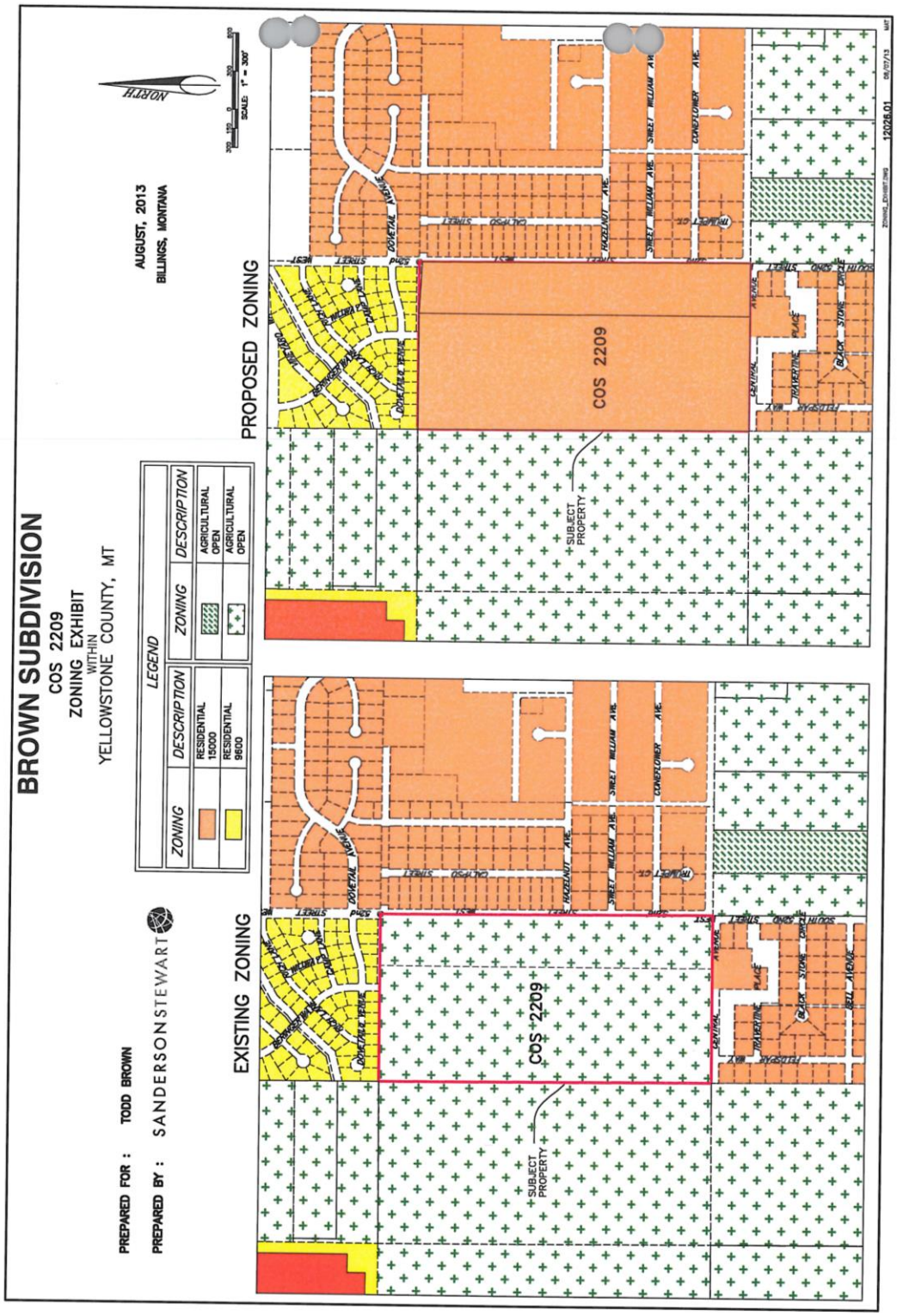
Goal 6: More housing and business choices with each neighborhood.

The new R-15000 zoning would allow increase housing choices. This zoning would increase the availability of housing on Billings west end.

1B. Explain your need for the intended zone change and why the property cannot be used under the existing zoning. Explain how the new zoning will fit in with the existing zoning and land uses of the immediate area.

The AS zoning would provide the density at a rural level of one unit per two acres. The owner is seeking to subdivide the property into 93 lots. Lots will be approximately one-half acre in size with over 18 acres of park and open space. The subdivision will fit into the existing development pattern in the neighborhood.

The current zoning allows one unit per 10 acres. The new zoning would allow single-family residence development, consistent with the zoning and development pattern within the area. As the west end in Billings continues to grow, additional land for residential purposes is needed.


BROWN SUBDIVISION
COS 2209
ZONING EXHIBIT
WITHIN
YELLOWSTONE COUNTY, MT
AUGUST, 2013
BILLINGS, MONTANA
PREPARED FOR : TODD BROWN
PREPARED BY : SANDERSONSTEWART
NORTH
SCALE: 1" = 300'
LEGEND
ZONING
DESCRIPTION
RESIDENTIAL 15000
RESIDENTIAL 9600
AGRICULTURAL OPEN
EXISTING ZONING
PROPOSED ZONING
COS 2209
SUBJECT PROPERTY
12028.01

BROWN DEVELOPMENT PROPERTY, CERTIFICATE OF SURVEY NO. 2209
NEIGHBORHOOD ZONE CHANGE MEETING
AUGUST 19, 2013
5:30 P.M. – SANDERSON STEWART CONFERENCE ROOM
1300 N. TRANSTECH WAY, BILLINGS

NAME	ADDRESS	PHONE	EMAIL
Terry Doble	5155 Cineflower	652 6601	doble85@Beesnet.net
Bruce Peterson	11 W. 52nd St	860-1660	auzziepaws@aol.com
Lauren Waterton	Sanderson Stewart		
Jon Tripp	410 Calypso ST.	655-3310	jonttripp@gmail.com
Bryan Alexander	Sanderson Stewart		

P:12026.01_Brown_Zone_Change_Sign_In

(08/19/13)

Zone Change Application

COS 2209

Neighborhood Meeting Minutes

August 19, 2013 5:30PM

Attendees:

Bryan Alexander – Sanderson Stewart

Lauren Waterton – Sanderson Stewart

Todd Brown – Brown Development, LLC (Applicant)

Neighborhood Property Owners (sign in sheet attached)

The meeting was called to order by Bryan Alexander. Bryan described the purpose of the meeting and gave a general overview of the area, including existing zoning, proposed zoning and description of the project.

Bryan noted that approximately 93 lots are proposed with lot sizes between 18,000 sf and 41,000 square feet.

Water for the new residences will be provided by a new public water system within the subdivision. Wastewater will be via individual on-site septic systems.

The neighbors were generally in favor of the proposal.

There was discussion regarding the alignment of 52nd St. West and the open ditch that currently runs parallel to it. It is anticipated that the ditch will be buried in a pipe the length of the development along the eastern property line.

The neighbors asked if there are going to be height restrictions within the project. Todd Brown stated that it is contemplated, but not finalized. It was also mentioned that houses with neutral exterior colors would be preferred.

There were no other comments.

The meeting was adjourned at 6:15pm

From: Terry Ackerman [mailto:tiackerman@aol.com]
Sent: Sunday, September 15, 2013 10:05 PM
To: Deines, Tammy
Subject: County Zone Change #646 - 5347 Central Avenue

Ms. Deines,

I received a letter dated 913/2013 from your department indicating the county commission will consider the rezoning associated with Zone Change #646 on Tuesday October 15th at which time your department will recommend to the commissioners whether or not to approve the request.
My neighbor recently attended a meeting on the proposed zoning change and indicated there were only 3 neighborhood home owners present. At the presentation some preliminary infrastructure designs were shown but it was indicated they were subject to change.
The letter recently received provided an 11 point criteria your department uses to evaluate the request. The response attached by Brown development is too generic and provides no development plan for roads, water, traffic considerations, power distribution, school impact, etc. information.
At what point in the process are these considered? It was indicated that the "alley" called 52nd street will be a main egress into the new development and will connect with existing roads within the Wells subdivision roughly bounded by 48st on the East, Central Avenue on the south, 52nd alley on the West and Hazelnut on in the Middle north area. Your map fails to show that the only 52nd Alley to 48th Street connecting street between central avenue and King Avenue is Hazelnut. It was indicated by maps shown (at the Brown meeting I assume) that it is intended to pass traffic from the new development through Hazelnut Ave. None of these streets were constructed for pass through. They are too narrow, they are falling apart (original paving was not very good (take a walk down Hazelnut sometime), have no curbs or sidewalks and at best can handle existing traffic. If two cars are parked on either side of the street, you cannot pass.
Additionally, there are two significant irrigation ditches running north to south that service the fields to the south of Central Avenue, how will they be maintained if a new road is placed on the existing alignment. Will all utilities be underground? Will the new area be septic? Where will they get water? Has there been a hydrologic study performed to ensure the existing area wells won't be compromised?
A small portion of the area under consideration touches city zoned land according to the map you included. Is this development area to be annexed prior to construction? The 93 new homes indicated in your note will add 200 to 400 new children to the area, what schools will they go to?
I suspect there are many more specific questions home owners have. The zoning question you included and the proponent's responses to the applications questions unfortunately are very general.
Do the above type of questions get answered before you make your recommendations?
Thanks,

Terry Ackerman
5148 Hazelnut Ave.
Billings, MT 59106

From: Cromwell, Nicole
Sent: Monday, September 16, 2013 12:30 PM
To: 'tiackerman@aol.com'
Cc: Deines, Tammy
Subject: FW: County Zone Change #646 - 5347 Central Avenue

Dear Ms. Ackerman,
Thank you for your letter regarding Zone Change #646. As you noted below, the Zoning Commission makes a recommendation to the County Commission regarding the requested zoning. Many of the issues you have brought forth below are dealt with at the time a subdivision is submitted for review and consideration. The zoning establishes allowed land uses, required building setbacks, maximum heights and minimum lot area for each residence. The 11 criteria we use to evaluate the requested zone change are not intended to study or analyze definitive impacts on agricultural water users and facilities, septic system placements or design or provisions for drinking water. The zoning does not guarantee a development can occur with a specific design or layout of streets or accesses to adjacent property. The property is located south of Vintage Estates subdivision that is within the city limits. The city Limits of Annexation does not anticipate accepting a petition for annexing this property within the next 5 years since city utilities cannot be extended below Vintage Estates for many years. The transportation plan for the streets in the area indicates 52nd Street West as a collector street and this should be the main access to and from the new subdivision to Central Avenue. Connected street systems are important to provide alternative access points to a new neighborhood but should not provide the main access. Again, this level of detail will be reviewed at the subdivision application stage. The subdivision process also has a public hearing process before the Yellowstone County Board of Planning and the County Commissioners consider conditions of approval.
The subdivision process will include a detailed review of all of the concerns you have stated below including water, waste water, agricultural water users and facilities, access to adjacent property, fire and police services and impacts on services including schools and road conditions in the area.
Again, thank you for your letter. I have forwarded this to the County Zoning Commission and will include this with the report to the County Commissioners.
Sincerely yours,
Nicole Cromwell, AICP
Zoning Coordinator
Code Enforcement Supervisor
406-247-8662
New office address as of August 26, 2013 is:
- 2825 3rd Avenue North
- 4th Floor, Miller Building
- Billings, MT 59101

Attachment C – Zone Change #646

Site Photographs

Subject Property

52nd Street West north from Central Avenue

Attachment C – Zone Change #646, continued

Site Photographs

Subject Property

View west along Central Avenue

Attachment C – Zone Change #646, continued

Site Photographs

View east and south along Central Avenue

View south across Central at Granit Park Subdivision