

CITY OF CODY
PLANNING, ZONING AND ADJUSTMENT BOARD
WEDNESDAY, NOVEMBER 25, 2014
CITY HALL COUNCIL CHAMBERS

MEETING AGENDA

REGULAR MEETING: 12:00 P.M. (Noon)

1. Call to Order by Chair Justin Lundvall
2. Roll Call, excused members
3. Pledge of Allegiance
4. Approval of Agenda
5. Approval of Minutes of the November 12, 2014 – Regular Meeting.
6. **TABLED ITEM**
 - A. Rezone review: Consider and develop recommendation for rezone request from Ed Higbie for 4.0 acres located south of Cougar Avenue and east of Shadow Mountain Subdivision to Residential “B”.
7. P&Z Board Matters (announcements, comments, etc.)
8. Council Update: Steve Miller
9. Staff Items:
Move December 23rd Board meeting to December 16th.
10. Adjourn

The public is invited to attend all Planning, Zoning and Adjustment Board meetings. If you need special accommodations to participate in the meeting, please call the City office at (307) 527-7511 at least 24 hours in advance of the meeting.

City of Cody
Planning, Zoning and Adjustment Board
Wednesday, November 12, 2014

A regular meeting of the Cody Planning, Zoning and Adjustment Board was held in the Council Chambers of City Hall in Cody, Wyoming on Wednesday, November 12, 2014 at 12:00 PM

Present: Justin Lundvall-Chairperson; Robert Senitte; Buzzy Hassrick; Kim Borer; Brad Payne; Mark Musser; Justin Ness; Sandra Kitchen, Deputy City Attorney; Steve Miller, Council Liaison; Todd Stowell, City Planner; Utana Dye, Certified Engineering Technician II.

Absent: Justin Ness and Mark Musser.

Chairperson Justin Lundvall called the meeting to order at 12:00 PM, followed by the pledge of allegiance.

Kim Borer made a motion, seconded by Robert Senitte, to approve the agenda. Vote on the motion was unanimous, motion carried.

Brad Payne made a motion, seconded by Buzzy Hassrick, to approve the minutes for the October 28, 2014 meeting. Vote on the motion was unanimous, motion carried.

NEW BUSINESS:

A public hearing for the Special Exemption Request to reduce the front setback requirement at 1050 Park Avenue began at 12:01 p.m. Public hearing closed at 12:02 p.m.

Todd Stowell presented the staff report for the Special Exemption Request to reduce front setback requirement at 1050 Park Avenue.

Brad Payne made a motion, seconded by Buzzy Hassrick, for the Special Exemption Request to reduce front setback requirement at 1050 Park Avenue as presented, noting the following:

1. That proper notice of the special exemption public hearing was provided by advertising in the Cody Enterprise and by certified mail to all property owners within 140 feet at least ten days before the hearing.
2. That the Planning and Zoning Board may grant special exemptions that are reasonable and harmless deviations from the zoning ordinance as determined by the standards outlined in Section 10-14-2, City of Cody Code.
3. That the Planning and Zoning Board has held a public hearing as required and has considered all comments pertaining to the request; and,
4. That the points identified in the staff report and at the Board meeting are adequate to set forth the reasoning why the criteria of 10-14-2(B)(2) are met.

Vote on the motion was unanimous, motion carried.

A public hearing for the Greenwing Addition Plat Amendment request to remove the 20-foot buffer limitations at 310 Robert Street began at 12:06 p.m. Public hearing closed at 12:17 p.m.

Two residents spoke.

Maureen Murphy who lives at 2955 Kent Avenue spoke about the drainage on Robert Street. She had concerns that if the berm was removed there would be more of a drainage issue.

Paul Boone who lives at 2850 Kent Avenue spoke about the drainage issues.

Todd Stowell presented the staff report for the Greenwing Addition Plat Amendment request to remove 20-foot buffer limitations at 310 Robert Street.

Kim Borer made a motion, seconded by Robert Senitte, to recommend to Council the Plat Amendment for Greenwing Addition buffer with the following conditions: To allow the removal of the berm on Lot 15, but still require that the buffer remain in place with no buildings within the buffer, and for no open storage taller than six (6) feet in height.

Vote on the motion was unanimous, motion carried.

A public hearing for the rezone request for 4.0 acres located south of Cougar Avenue and immediately east of Shadow Mountain Subdivision to Residential "B" zone (multi-family) began at 12:44 p.m. The public hearing closed at 12:49 p.m.

Todd Stowell presented the staff report for the rezone request for 4.0 acres located south of Cougar Avenue and immediately east of Shadow Mountain Subdivision to Residential "B" zone (multi-family).

Kim Borer made a motion, seconded by Brad Payne, to recommend to Council the rezone for 4.0 acres located south of Cougar Avenue and immediately east of Shadow Mountain Subdivision to Residential "B" zone (multi-family) subject to the execution of a development agreement by the property owner to abide by the density and building type restrictions of the "medium-density residential" master plan designation—meaning no more than four attached units per building, and no more than 32 dwelling units on the 4.0 acres.

Buzzy Hassrick and Robert Senitte voted against the motion. Kim Borer, Justin Lundvall, and Brad Payne voted in favor of the motion. Motion failed.

Brad Payne made a motion, seconded by Kim Borer, to table the item until the next meeting.

Vote on the motion was unanimous, motion carried.

Todd Stowell presented the staff report for the Burger King restaurant remodel at 1902 Mountain View Drive.

Buzzy Hassrick made a motion, seconded by Kim Borer, to approve the request for the Architectural and Sign plan review for the remodel of Burger King located at 1902 Mountain View Drive, with encouragement that landscaping be improved.

Vote on the motion was unanimous, motion carried.

Approved Signs by Staff: None

P&Z Board Matters: None

Council Update: None

Staff Items: None

Robert Senitte made a motion, seconded by Buzzy Hassrick, to adjourn the meeting.
Vote on the motion was unanimous, motion carried.

There being no further business to come before the board, Chairperson Justin Lundvall adjourned the meeting at 1:22 PM.

Utana Dye
Certified Engineering Technician II

**CITY OF CODY
PLANNING, ZONING AND ADJUSTMENT BOARD
STAFF REPORT**

MEETING DATE:	NOVEMBER 12, 2014	TYPE OF ACTION NEEDED	
AGENDA ITEM:		P&Z BOARD APPROVAL:	
SUBJECT:	REQUEST FROM THE HIGBIE FAMILY REVOCABLE LIVING TRUST TO REZONE 4.0 ACRES TO RESIDENTIAL "B". ZON 2014-01	RECOMMENDATION TO COUNCIL:	X
PREPARED BY:	TODD STOWELL, CITY PLANNER	DISCUSSION ONLY:	

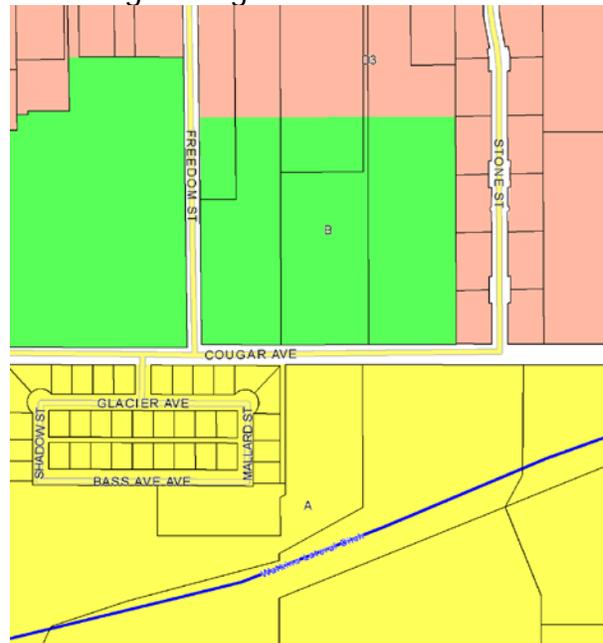
PROJECT DESCRIPTION:

Ed Higbie, on behalf of the Higbie Family Revocable Living Trust, has submitted an application to rezone 4.0 acres from Residential "A" to Residential "B". The property is located on the south side of the Cougar Avenue right-of-way, immediately east of the Shadow Mountain subdivision. The subject property is currently vacant and zoned Residential "A", which zone allows one and two-family dwellings, as well as some forms of day care, home business, and civic uses.

Existing Conditions:



Existing Zoning:



<i>DIRECTION</i>	<i>EXISTING USE</i>	<i>ZONING</i>
North	Primarily undeveloped.	Residential B
East	Vacant.	Residential A
South	Sunset Elementary above hillside.	Residential A
West	Shadow Mountain subdivision, park	Residential A

PROCEDURE:

The following section is found in the City of Cody code.

10-5-1: CITY COUNCIL AUTHORITY:

The city council may by ordinance at any time, on its own motion or petition, or upon the recommendations by the planning and zoning commission, amend, supplement or change the regulations or districts herein or subsequently established; provided, however, that a public hearing shall first be held in relation thereto, after one publication of notice of the time, place and purpose of such hearing, in an official newspaper, at least fifteen (15) days prior to such hearing. (1960 Compilation § 26-115; amd. Ord. 86-5; Ord. 87-3)

The public hearing has been advertised to occur with the Planning and Zoning Board, based on the thought that many of the details can be worked through before it is considered by the city council.

LEGAL STANDARD OF REVIEW:

The rezoning of land is a legislative action, and therefore subject to the “reasonably debatable” standard of legal review, as opposed to a “preponderance of evidence” standard. In other words, if the decision-makers find that there is at least one good reason that the rezone application should be approved or denied, then that is sufficient to justify their decision, and the court will typically uphold it. This method allows the decision-makers to give weight to the components of the evidence they believe most important, based on their values and values of the community.

REVIEW CRITERIA:

The Cody zoning ordinance does not have specific criteria outlined for granting or denying rezone requests. The following general standards for zoning are found in Wyoming state law, Section 15-1-601(d). Note that the standards are in the context of initially adopting an overall zoning plan for a community, yet they can still provide guidance for reviewing site specific proposals, so they are referenced here.

(d) All regulations shall be made:

(i) In accordance with a comprehensive plan and designed to:

Staff Comment: The City adopted a new comprehensive plan (a.k.a. master plan) this past year. Per the master plan “The Future Land Use Map...will be the guide for future zoning and development within the City.” The portion of the Future Land Use Map for this area is below. The dark yellow area that designates this property and the property to the east is “Medium-Density Residential”, which is for “residential neighborhood development with an average density of eight dwelling units per gross acre.” The types of housing contemplated for medium-density residential areas include “single-family detached homes, two family homes (a.k.a. duplexes), common wall units (two attached single-family units), and townhouses or stacked dwellings of up to four attached units.” The City has not yet created a zone to implement the medium-density residential designation described in the master plan.

Future Land Use Map:



The notable differences between the medium density designation in the master plan and the Residential B zoning district requested, are that the Residential B zoning district allows more density and effectively no limitation on the number of units in a building (e.g. apartment buildings). However, the information that the applicant has shared with staff indicates that his contemplated development plan is within the parameters of the medium density designation outlined in the master plan. He describes his intent for a cul-de-sac development consisting of duplexes, four-plexes, and maybe tri-plexes.

The master plan states, "While rezone applications may be submitted for consideration after adoption of this plan, the City Council maintains the responsibility to rezone properties in compliance with the Future Land Use Map only when they are satisfied that sufficient zoning controls are in place to ensure land use compatibility and compliance with all pertinent components of the master plan and applicable state statutes." To address the differences between what the Residential "B" zone would typically allow, versus what the medium-density designation and the applicant contemplate, staff recommends use of a development agreement to restrict future development of the property to the medium-density standards.

(A) Lessen congestion in the streets;

Staff Comment: Cougar Avenue is not presently constructed along the frontage of this property, other than as a gravel maintenance/emergency access road. The construction of Cougar Avenue to a paved standard is viewed as a prerequisite to development of the subject property. This will address the dust concerns that some of the neighbors have identified.

The developed portion of Cougar Avenue typically operates without significant traffic congestion. The exception would be during school drop-off/pick-up times immediately in front of the middle school. As many parents drive their children to school, additional congestion will result from any residential development in the city or neighboring county areas—therefore the impact is not specific to this rezone. If anything, the proximity of the development to the school means that middle school children from this subdivision are more likely to walk instead of ride, and the overall trip lengths are minimized compared to more distant locations (think reduced gas expenses and reduced time behind the wheel).

It is also pointed out that the congestion analysis is not a comparison to no development, but the difference between existing zoning and proposed zoning. Based on the layout of the vacated portion of the Shadow Mountain subdivision that previously existed for this property, 24 dwelling units were previously planned on the subject property under the Residential A standards. The latest plan that the applicant discussed with staff would result in 24 to 28 units, although up to 32 units would be permitted under the 8 unit per acre guidance of the master plan.

(B) Secure safety from fire, panic and other dangers;

Staff Comment: Slightly increased density due to the Residential “B” zoning, limited to the medium-density residential definition of the master plan, is not expected to disproportionately increase fire, panic, or other physical dangers.

(C) Promote health and general welfare;

Staff Comment: Rephrased, would the zoning contemplated be an asset to the community? Based on local and national trends and demographic projections, attached housing configurations are growing in demand. While historically attached housing made up only a small fraction of new construction, in the last few years it has steadily increased market share and now constitutes half of all new dwellings in the city (based on 2012 and 2013 building permit data). The current zoning of the property would allow duplex development. The rezone desired by the developer would allow more options for configuration—specifically 3- and 4-plex configuration.

(D) Provide adequate light and air;

Staff Comment: Both the Residential “A” and Residential “B” zones limit lot coverage to 50%. Maximum building height in Residential “A” is 28 feet, where Residential “B” is 35 feet. The primary method of providing adequate light and air is through building setbacks. In this instance, there is also a 20-foot wide alley that separates the subject property from the residential lots to the west.

(E) Prevent the overcrowding of land;

Staff Comment: What constitutes “overcrowding” is subject to personal interpretation, but as far as measuring it by the capacity of the utility and public systems, the systems are adequate to serve the contemplated medium-density

scenario.

(F) Avoid undue concentration of population;

Staff Comment: Again, this is subject to personal interpretation, yet it is not thought that population would be overly concentrated if the medium-density restrictions of the master plan are followed.

(G) Facilitate adequate provisions for transportation, water, sewerage, schools, parks and other public requirements.

Staff Comment: This is believed to apply more to the overall zoning plan for the city, rather than an individual property. Nevertheless, the physical ability to readily extend transportation, water, and sewer systems to the property does exist. Impacts for parks and other public facilities are addressed at the time of subdivision through land dedication, or fee in lieu.

(ii) With reasonable consideration, among other things, of the character of the district and its peculiar suitability for particular uses;

Staff Comment: It is interpreted that this language primarily refers to the creation of zoning districts and the particular types of development that should be permitted within each zone. In addition, it could refer to how well the proposed zone reflects what is already in the area. Admittedly, the adjacent development to the west is single-family residential in character. However, across the street is the potential for Residential B development of apartment complexes. The medium-density scenario contemplated is between the two extremes.

(iii) With a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the city or town; and

Staff Comment: In the present case, the immediate concerns of the single-family neighborhood are likely at odds with the developer's intent of creating a residential neighborhood with a variety of housing options, as contemplated in the master plan. However, there is an apparent demand for the type of housing the owner intends to develop on this property. If there are statements that the rezone will negatively affect the value of neighboring buildings, staff may agree if the rezone were to mean apartment complexes, but with the medium-density limitations suggested and the isolated configuration of the planned development, it is doubtful that any significant changes to neighboring property values would occur.

(iv) With consideration given to the historic integrity of certain neighborhoods or districts and a view to preserving, rehabilitating and maintaining historic properties and encouraging compatible uses within the neighborhoods or districts, but no regulation made to carry out the purposes of this paragraph is valid to the extent it constitutes an unconstitutional taking without compensation.

Staff Comment: This property and surrounding properties do not include any buildings of significant historic character. The present integrity of the neighboring subdivision will

be preserved, as the contemplated development is physically removed and isolated traffic-wise from the Shadow Mountain subdivision.

OTHER:

Significant Changes:

When reviewing rezones it is beneficial to consider whether there has been a change in circumstances since the property was designated with its current zone, and whether there is a public need for the type of zoning requested.

The property was annexed into the city as part of the northeast Cody annexation in January 1986. It was zoned Residential "A" on June 2, 1986. Since that time there have been two major master plan updates, construction of the middle school, and new utility extensions to the area.

Proximity to Like Zoning:

The subject property is directly across the street from a Residential B zone. Therefore, it is clearly an extension of the zone, as opposed to an isolated "spot zone".

Development Constraints:

It is noted that the National Wetlands Inventory map shows potential wetlands at the northwest and southern ends of the property. The presence or absence of these wetlands will need to be verified by a qualified professional prior to any physical development of the property.

Public Hearing:

Please note that this staff report was prepared without the benefit of the information that will be provided at the public hearing. All public comment needs to be considered. If the owners of more than 20% of the lots within 140 feet of the rezone area object to the rezone, it cannot be made effective without the vote of $\frac{3}{4}$ of the city council (6 of the 7 council members).

ATTACHMENTS:

Application, public comments.

ALTERNATIVES:

Recommend approval or denial of the requested rezone.

RECOMMENDATION:

The City Planner recommends a favorable recommendation for the rezone, subject to the execution of a development agreement by the property owner to abide by the density and building type restrictions of the "medium-density residential" master plan designation—meaning no more than four attached units per building, and no more than 32 dwelling units on the 4.0 acres.



Roy Holm, PE & LS
Paul Blough, LS

HOLM, BLOUGH and COMPANY

CONSULTING ENGINEERS AND LAND SURVEYORS
1402 Stampede Ave., Cody, WY 82414
(307) 587-6281
Fax 587-6282

June 19, 2009
Job No. 09-092

ED HIGBIE

LEGAL DESCRIPTION OF A PORTION OF THAT PORTION OF SHADOW MOUNTAIN SUBDIVISION THAT HAS BEEN VACATED

A portion of that portion of the Shadow Mountain Subdivision that has been vacated as shown on the plat of said vacation recorded as Document No. 2003-12227 and filed in Plat Cabinet "G" at page 151 of the records of the Clerk and Recorder of Park County, Wyoming and located within the City of Cody, Park County, Wyoming and being more particularly described as follows:

Beginning at the northeast corner of said vacated Shadow Mountain Subdivision; thence South $00^{\circ}22'10''$ East along the easterly line thereof, a distance of 548.58 feet to the southeasterly corner thereof; thence South $60^{\circ}53'17''$ West along the southerly boundary of said vacated Shadow Mountain Subdivision, a distance of 333.30 feet to a point on the east line of the Ted Ebert Park, if said east line were extended southerly; thence North $00^{\circ}23'05''$ West along said extended line, a distance of 83.78 feet to the southeast corner of that portion of said Ted Ebert Park as conveyed to the City of Cody by the quitclaim deed recorded as Document No. 2004-741 of the deed records of said Park County Clerk and Recorder; thence continuing North $00^{\circ}23'05''$ West along said east line Ted Ebert Park, a distance of 142.45 feet to a corner thereof; thence North $42^{\circ}41'23''$ East, a distance of 29.28 feet to the east line of the alley lying easterly of Lots 12 through 15 of the Shadow Mountain Subdivision as shown on the plat thereof filed in Plat Cabinet "F" at page 84 of said records, if said east line were extended southerly; thence North $00^{\circ}23'05''$ West along said extended east line and the true east line of said alley, a distance of 462.37 feet to the south line of Cougar Avenue; thence North $89^{\circ}52'23''$ East along said south line Cougar Avenue, a distance of 272.43 feet to the point of beginning.

Said parcel of land contains 4.01 acres, more or less, and is subject to all easements and/or rights of way which have been legally acquired.

Modification in any way of the foregoing legal description terminates all liability of the surveyor who prepared that description.

Response Letter from Owner of Neighboring Property:

(Responses may be submitted in any written format. The following form is provided for your



Dear Planning and Zoning Board Members:

I am familiar with the rezone proposal by Ed Higbie as described above. I am the legal owner of 2937 Glacier Ave
(Address or property location)

I have NO OBJECTION to the Plat Amendment Request.

Name: _____

Address: _____

Comments: _____

I OBJECT to the Plat Amendment Request:

Name: Roy Carson

Address: 2937 Glacier Ave Cody Wyo

Specific Reason(s) for Objection: It will increase Traffic by High Speeds Like before, with the gates it's maintained, and Not ~~used~~ used as a Race Strip AND the dust is Unbearable!

If you would like to receive a copy of the Planning and Zoning Board agenda materials for this request, please provide your email address: E-mail address: _____

P.S. The city police would make good money on Speeding tickets, If they open the Street up to Stone + 33rd streets

double car 5 speeding on Stone they love it!

advance. The Planning and Zoning Board will consider all comments in their recommendation to the City Council on the matter.

Response Letter from Owner of Neighboring Property:

(Responses may be submitted in any written format. The following form is provided for your convenience.)

Dear Planning and Zoning Board Members:

I am familiar with the rezone proposal by Ed Higbie as described above. I am the legal owner of 808 Mallard St
(Address or property location)

I have NO OBJECTION to the Plat Amendment Request.

Name: _____

Address: _____

Comments: _____

I OBJECT to the Plat Amendment Request:

Name: Luis F. Martinez

Address: 808 Mallard St.

Specific Reason(s) for Objection: to much Traffic especially with the middle school being so close. Also property values would go down. Area would look better if left

If you would like to receive a copy of the Planning and Zoning Board agenda materials for this request, please provide your email address: E-mail address: luis-martinez 7@hotmail.com

as a residential Area.

X

Information regarding the request is available by contacting the Community Development Dept. in City Hall, or calling (307) 527-7511. Everyone is welcome to comment. If hearing assistance is needed, please call 527-7511, 24 hours in advance. The Planning and Zoning Board will consider all comments in their recommendation to the City council on the matter.

Response Letter from Owner of Neighboring Property:

(Responses may be submitted in any written format. The following form is provided for your convenience.)

Dear Planning and Zoning Board Members:

I am familiar with the rezone proposal by Ed Higbie as described above. I am the legal owner of ^{LAND} ADJACENT TO AND
(Address or property location)
EAST OF HIGBIE PROPERTY

I have NO OBJECTION to the Plat Amendment Request.

Name: HOLM VIEW Addition
Address: 1003 LODGEPOLE CT Powell WY 82435
Comments: _____

I OBJECT to the Plat Amendment Request:

Name: _____
Address: _____
Specific Reason(s) for Objection: _____

If you would like to receive a copy of the Planning and Zoning Board agenda materials for this request, please provide your email address: E-mail address: _____

Dear Planning and Zoning Board Members:

I am familiar with the rezone proposal by Ed Higbie as described above. I am the legal owner of 819 MALLARD
(Address or property location)

I have NO OBJECTION to the Plat Amendment Request.

Name: PEGGY NEEF
Address: 27 LANE 19 P.O. BOX 1312 CODY, WY 82414
Comments: HE OWNS IT ... AS LONG AS HE FOLLOWS CITY ORDINANCES, HE'S GOOD TO GO

I OBJECT to the Plat Amendment Request:

Name: _____
Address: _____
Specific Reason(s) for Objection: _____

If you would like to receive a copy of the Planning and Zoning Board agenda materials for this request, please provide your email address: E-mail address: _____

NEIGHBOR NOTICE MAP

Black Outline-Notice Area.

Green-Favorable response.

Pink-Objection to rezone.

