



GALLATIN COUNTY

STAFF REPORT JOINT PUBLIC HEARING

TO: GALLATIN COUNTY COMMISSION AND THE BRIDGER CANYON PLANNING AND ZONING COMMISSION

FROM: CHRISTOPHER SCOTT, PLANNER

SUBJECT: COMPREHENSIVE ZONING TEXT AMENDMENTS TO THE BRIDGER CANYON ZONING REGULATIONS INCLUDING INCORPORATING THE GALLATIN COUNTY "PART 1" ZONING ADMINISTRATIVE REGULATIONS

HEARING

DATE: JUNE 17, 2021, 9:00 AM

**LOCATION: COURTHOUSE COMMUNITY ROOM
311 W. MAIN STREET, BOZEMAN, MT**

A. INTRODUCTION/BACKGROUND:

The Bridger Canyon Zoning Regulations were adopted on October 26, 1971. The Bridger Canyon Planning and Zoning Commission in March of 2010 created the Bridger Canyon Zoning Advisory Committee with the specific role of developing amendments to the Bridger Canyon Zoning Regulations. Members of the Bridger Canyon Zoning District were appointed to the committee that included members of the Bridger Canyon Property Owners Association (BCPOA), a Bridger Bowl representative, a Bridger Bowl base area property owner, a large acreage property owner, and a small acreage property owner. Over approximately 10 years the Advisory Committee met with the Gallatin County Planning Staff to propose comprehensive amendments to the Bridger Canyon Zoning Regulation. Members of the Bridger Canyon Zoning Advisory Committee were appointed by the Planning and Zoning Commission included the following members over the years:

- John Barkow
- Richard Stolfus
- Richard Clotfelter
- Deb Stratford
- Janis Eckert
- Bob Morton
- Tom Fiddaman
- Ellen Trygstad
- Kelly Wiseman
- Richard Lyon

The Advisory Committee has held 5 public community meetings at the Bridger Canyon Fire Station informing the public on the proposed amendments and receiving comments on the changes.

B. PROPOSED TEXT AMENDMENTS TO THE BRIDGER CANYON ZONING REGULATIONS. Two copies of the whole proposed Bridger Canyon Zoning Regulation are attached. One copy (Exhibit B) shows deletions to the text shown as ~~strikethrough~~, and additions shown as underline. Another copy (Exhibit C), attached, is a representative “clean” copy of the Zoning Regulations without the strikethrough and underline edits. Staff has also highlighted portions of the document where un-substantial changes were made that reflect either typos, capitalization, or missing words from defined terms. Below is summarization of the substantive proposed amendments to the Bridger Canyon Zoning Regulations:

1. Definition Section has been amended to be consistent with other County zoning regulations and the need to include new definitions to reflect ones that are missing.
2. Accessory Buildings and Structures greater than 2,400 sqft will need a CUP in the AE and RF Zoning Districts.
3. Accessory Dwelling Units (ADU) will replace Caretakers Residences and Guest Houses. ADUs will be an allowed permitted use within the AE Zoning Districts. An ADU will have specific standards such as:
 - Limited to 1,200 sqft of livable floor area.
 - Only one per parcel of record.
 - Must be located no more than 150 feet from the principal dwelling.
 - Driveway Access shall be same as principal dwelling.
 - Cannot be rented separately from the principal dwelling.
4. Building setback of 125 feet from all public road rights-of-way will now be required for both AE and RF districts.
5. Watercourse and Wetland building setbacks will be 150 feet. Watercourse will now be clearly defined. Watercourse Mitigation Plan will be an available option and consistent with the County’s subdivision regulations.
6. Standards such as height and setbacks for Solar Energy Systems which will be an allowed permitted use within the AE and RF zoning districts.
7. Hillside Standards that will now limit development on slopes that exceed 30 percent in addition to standards to limit ridgeline development as seen from the major roadways in Bridger Canyon.

8. Specific lighting standards to carry out the goal of protecting the dark skies of Bridger Canyon.
9. Home Occupation standards placed in the General Standard Section.
10. Standards on refuse storage for wildlife and aesthetic issues.
11. Incorporating the Gallatin County Commission adopted (May 21, 2019, County Commission Resolution No. 2019-047) uniform administrative rules and procedures applicable to all Gallatin County's adopted "Part 1" zoning districts.

The purpose of the Administrative Regulation is to supplement the Zoning Regulation. The Administrative Regulation includes the following administrative rules and procedures:

- Title, Adoption, and Applicability
- Definitions
- Application of Zoning Regulations
- Administration
- Non-Conforming Parcels, Uses, and Structures
- Land Use Permits
- Change of Use Permits
- Certificate of Completion
- Zoning Improvements Agreement
- Conditional Uses
- Variances
- Complaints and Enforcement
- Appeals
- Amendments

C. ZONE TEXT AMENDMENT PUBLIC HEARING NOTICE

1. Notice of the joint public hearing between the Bridger Canyon Planning and Zoning Commission was published in the *Bozeman Daily Chronicle* on May 23 and 30, 2021 and posted in four public places on May 26, 2021 within the Bridger Canyon Zoning District. Furthermore, the draft regulations were on the Gallatin County Planning Department's web site for viewing.

D. AMENDMENT CRITERIA FOR GOVERNING BODY REVIEW

1. Pursuant to Section 18.6 of the Bridger Canyon Zoning Regulations the Regulation may be amended whenever the public necessity and convenience and the general welfare require such amendment and according to the procedure prescribed by law, and this Regulation.

Pursuant to Section 18.6.2 Such amendment shall not become effective until after a public hearing has been held before the Zoning Commission, legal notice of which shall have been given in a newspaper of general circulation in the county not less than fifteen (15) days prior to date of hearing.

2. In reviewing the proposed Zone Text Amendment, the Governing Body should evaluate the proposal according to the adopted purposes and intent of the Bridger Canyon Zoning Regulations and the Bridger Canyon General Plan & Development Guide. Below is the Purpose and Intent of the Zoning Regulation and the General Plan Objectives & Property Owner's Goals of the Bridger Canyon General Plan & Development Guide.

Bridger Canyon Zoning Regulation Section 2.1 Purposes: To promote health, safety, and general welfare and to:

- a. prevent overcrowding;
- b. avoid undue population concentration;
- c. conserve property values commensurate with use;
- d. to preserve fish and wildlife habitat;
- e. to prevent soil erosion;
- f. to preserve the scenic resources;
- g. to ensure high water quality standards;
- h. to protect agriculture lands from the effects of urban encroachment;
- i. to promote business, residences, tourism and recreational uses but not to the point that they destroy the character of the area of threaten water quality, traffic, or fire safety;
- j. to encourage innovations in residential developments so that growing demands for housing may be met by greater variety in type, design and layout of tracts and by conservation and more efficient use of open space ancillary to said housing;
- k. to provide adequate open space, light, and air;
- l. to carry out the master or comprehensive plan for the Bridger Canyon Zoning District.
- m. to prevent the spread of noxious weeds.

Bridger Canyon Zoning Regulation Section 20 Intent. The intent of these regulations is not to prevent particular activities, but rather to regulate and promote

the orderly development of the area. Nor are these regulations set up to prevent the full utilization of land for grazing, horticulture, or for the growing of timber. Nothing in these regulations shall be deemed to authorize a Regulation, resolution, rule, or regulation which would prevent the full utilization of lands used for grazing, horticulture, agriculture, or for the growing of timber.

Bridger Canyon General Plan Objectives. The primary objectives of this plan are to guide future physical growth within Bridger Canyon and to protect the natural beauty and agricultural open space character of the area. In order to provide the greatest opportunities for orderly growth and to retain the environmental nature, it is essential to give intelligent forethought to the design of the area.

This plan recognizes Bridger Canyon as:

A desirable place to live and an area with an increasing growth rate.

A place of growing recreational use and demand.

An area where forest lands will continue to exert influence.

A place demanding protection of its environmental beauty and agricultural open space.

An area with strong citizen interest favoring conservation of natural resources; preservation of open space and agricultural usage; and limited, controlled growth compatible with the natural environment.

This plan has the majority support of the residents and property owners of Bridger Canyon. This plan is intended to be used as a guide both to government agencies and private enterprise. As the pressures of growth continue, the canyon residents will find it necessary to guide this growth in an orderly and logical manner through the planning and zoning process.

The Bridger Canyon property owners are interested in a general plan indicating future land uses, population density, major roads, public facilities, and suggested conservation measures required to maintain a balance between natural resources and population growth. The following includes the property owners' list of goals and development standards to the General Plan:

Property Owner's Goals

1. To maintain continuous coordination and cooperation between citizens and public and semi-public agencies operation in and around the Canyon.
2. To secure increased citizen participation in the planning process and, if necessary, to work for legislation which will offer protection from the adverse effects of urbanization.

3. To preserve and protect those environmental qualities that are resources of the zoned area.
4. To maintain high water quality standards through constant monitoring.
5. To encourage agricultural land preservation and the needs of the rancher.
6. To disseminate information on good logging practice and silviculture so that timber resources can be conserved.
7. To set limits on areas of high intensity recreational use based on access, sensitivity of surrounding uses, influence on water quality, traffic generation, fire hazard, and environmental effects.
8. To insist on attention to vegetation, sanitation, wildlife habitat, erosion, and public safety concerns for new development.
9. Elements of community design (roads, utilities, etc.) should be planned to include environmental factors in addition to usual safety and engineering considerations.
10. New residential development will be encouraged in low density tracts or clusters.
11. Residences, commercial facilities, public buildings, street signs, etc., shall be designed to fit the rural character of the area.

REQUIRED ACTIONS OF THE PLANNING AND ZONING COMMISSION:

1. **Sample Motions.** The role of the Planning and Zoning Commission is to provide a recommendation to the County Commission, who makes the final decision on the proposed zone text amendment (ZTA). The following sample motions have been provided by Staff for consideration by the Planning and Zoning Commission:
 - **Sample Motion for Approval:** Having reviewed and considered the proposed zoning regulations amendments, staff report, and public comments, in accordance with the requirements of Section 18.6 of the Zoning Regulations and Section 76-2-104 MCA, I move to recommend approval of the ZTA, with approval subject to all applicable laws, regulations and staff findings.
 - **Sample Motion for Continuance:** Having reviewed and considered the proposed zoning regulation amendments, staff report, and public comment, I move to continue the ZTA for the purpose of (explain reason for

continuance, and if applicable, specify any additional information that is being requested) until (state the date when the item will be heard again).

2. **Required Findings.** The Planning and Zoning Commission recommendation must be supported by findings related to the following determinations:
 - a. Does the public necessity and convenience and general welfare require the proposed amendments to the Zoning Regulations (Section 18.6, Bridger Canyon Zoning Regulations), and
 - b. do the proposed Zoning Regulation amendments further the health, safety, and general welfare of the people of the Gallatin County (§ 76-2-104 M.C.A.).

3. **Motion for Issuance of Recommendation Resolution.** If the Planning and Zoning Commission, after hearing and considering all public testimony, determines that the proposed zone text amendments meet the above criteria, a Resolution of Recommendation to adopt the zone text amendment may be passed (Exhibit “A”).
 - **Sample Motion:** I move to authorize the Chair of the Planning and Zoning Commission to sign Resolution No. PZ 2021-_____ for the Zone Text Amendment to be forwarded to the County Commission.

Exhibits:

- A. Draft Planning and Zoning Recommendation Resolution. 2021-
- B. Bridger Canyon Zoning Regulation (whole document) with proposed amendments edited version.
- C. Bridger Canyon Zoning Regulation (whole document) with proposed amendments clean version.

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RESOLUTION NO. PZ 2021 - _____

**A RESOLUTION OF THE PLANNING AND ZONING COMMISSION
RECOMMENDING AMENDMENTS TO THE BRIDGER CANYON ZONING
REGULATION**

This resolution was introduced by the Gallatin County Planning Department. Moved by Commissioner _____, and seconded by Commissioner _____. The resolution was adopted _____.

WHEREAS, the Bridger Canyon Zoning Regulations were adopted by the Gallatin County Commissioners on October 26, 1971, and amended thereafter; and

WHEREAS, in March 2010 the Bridger Canyon Planning and Zoning Commission created the Bridger Canyon Zoning Advisory Committee with the role of developing comprehensive amendments to the Bridger Canyon Zoning Regulation;

WHEREAS, the Bridger Canyon Zoning Advisory Committee has met on a regular basis facilitated by the Gallatin County Planning Staff to draft amendments to the Bridger Canyon Zoning Regulations;

WHEREAS, on June 8, 2017 the Bridger Canyon Planning and Zoning Commission (Planning and Zoning Commission) passed Resolution of Intention No. 2017-001 initiating the amendment process in accordance with Section 18.6.1 of the Bridger Canyon Zoning Regulations. The Resolution directed the Gallatin County Planning Department with guidance of the Bridger Canyon Zoning Advisory Committee (Advisory Committee) to prepare amendments to the Bridger Canyon Zoning Regulations;

WHEREAS, on May 21, 2019, the Gallatin County Commission adopted County Commission Resolution No. 2019-047, adopting uniform administrative rules and procedures applicable to all Gallatin County's "Part 1" zoning districts; and

WHEREAS, the Gallatin County "Part 1" Zoning Administrative Regulation applies to the Bridger Canyon Zoning District upon the County Commission's approval of an amendment to the Bridger Canyon Zoning Regulation adopting the Gallatin County "Part 1" Zoning Administrative Regulations; and

WHEREAS, the Bridger Canyon Zoning Regulations require specific amendments to adopt and recognize the Gallatin County "Part 1" Zoning Administrative Regulations as a separate document; and

WHEREAS, notice of a joint public hearing before the Planning and Zoning Commission and Gallatin County Commission was posted in four locations within the Zoning District on May 26, 2021, and published in the *Bozeman Daily Chronicle* on May 23 and 30, 2021; and

WHEREAS, on June 17, 2021, the Planning and Zoning Commission and the Gallatin County Commission held a joint public hearing on the proposed amendments to the Bridger Canyon Zoning Regulations; and

WHEREAS, Section 18, Amendments and Changes, of the Bridger Canyon Zoning Regulations provides that the Zoning Regulations may be amended whenever the public necessity and convenience and general welfare requires such amendment and according to the procedure prescribed by law and the Regulations; and

WHEREAS, Montana Code Annotated Section 76-2-104, provides that for the purpose of furthering the health, safety, and general welfare of the people of the county, the county planning and zoning commission hereby is empowered and it shall be its duty to make and adopt a development pattern for the physical and economic development of the planning and zoning district; and

WHEREAS, after the public hearing, the Planning and Zoning Commission considered public comment and staff report; and

WHEREAS, the Planning and Zoning Commission found the proposed amendments to the Bridger Canyon Zoning Regulation to be in the public interest and to promote the health safety and general welfare of the county; and

NOW, THEREFORE, BE IT RESOLVED:

1. The Planning and Zoning Commission hereby adopts a Resolution of Recommendation to amend the Bridger Canyon Zoning Regulation, as shown in the attached Exhibits.
2. In support of the Resolution of Recommendation, the Planning and Zoning Commission finds:
 - a. The proposed zone text amendments met the notice and procedural requirements of Section 18 of the Bridger Canyon Zoning Regulation and Section 76-2-106 Mont. Code Ann.; and,
 - b. The public necessity, convenience and general welfare require the proposed text amendments; and,
 - c. The proposed zone text amendments further the health, safety, and general welfare of the people of the county.

Dated this _____ day of June, 2021.

PLANNING & ZONING COMMISSION

Eric Semerad, Chair

Date

Written Testimony of Richard Lyon, 4794 Aspen Lane, Bozeman

TO THE HONORABLE COMMISSIONERS OF THE GALLATIN COUNTY PLANNING & ZONING COMMISSION:

I submit this testimony in support of the County's proposed amendments to the Bridger Canyon Zoning Regulation. I shall supplement this written testimony with oral testimony and argument at the Commission's public hearing on this matter but believe that it is important that the record include the background that has led to the proposed amendment.

THE ZONING REGULATION

Zoning for the Bridger Canyon Zoning District was adopted in 1971. This was Montana's first citizen-initiated zoning, brought about upon petition under MSA Section 76-2-101. The current Regulation is available online at tinyurl.com/vmezr4m3. The County's official zoning map that defines the District may be found at tinyurl.com/v3ntvttc.

THE ADVISORY COMMITTEE

While the Regulation has been amended fourteen times since its creation,¹ in the half-century since adoption there has never been a comprehensive review of the Regulation. I believe that everyone – District residents, the County Department of Planning & Community Development ["Planning Department"], County Commissioners, Planning & Zoning Commissioners, and the public – would acknowledge that after decades of changes in population, business dynamics, and other demographics in the County, State, and nation, a fresh big-picture look was warranted.

The County recognized this in 2010, appointing the Bridger Canyon Zoning Advisory Committee ["Advisory Committee"]. The County Commission charged the Advisory Committee with "developing an update to the Bridger Canyon General Plan & Development Guide, Bridger Bowl Base Area Plan, and the Bridger Canyon Zoning Regulation."

The County appointed as members individuals representing many of the District's interested constituencies: Bridger Bowl, the Bridger Canyon Property Owners Association ["BCPOA"], large landowners, and residents of the Bridger Bowl Base Area ["Base Area"].² Two County Planners participated throughout, organizing and administering Advisory Committee meetings. All meetings were open to the public, and interested citizens regularly participated. The County Commission appointed me to the Advisory Committee in 2013. I have been a member of the board of directors and zoning committee of BCPOA continuously from 2012 to the present.

¹ See current zoning regulation, section 21.

² Current members are County Planner Chris Scott, Janis Eckert, Tom Fiddaman; Bob Morton, Kelly Wiseman, and me.

The Advisory Committee initially determined to defer consideration of Base Area matters and not to revise the development pattern for the Zoning District of the Bridger Canyon General Plan [the "General Plan"], focusing instead on the substantive provisions that address agricultural and residential issues. The Advisory Committee met once or twice monthly from its inception through 2018, at which time a comprehensive draft of proposed amendments had been prepared. As discussed more fully below, the proposed amendment now before the Commission includes some but not all of this draft.

On June 8, 2017, upon application of the Advisory Committee and the Planning Department, this Commission unanimously approved a resolution of intent to amend the Zoning Regulation.

PUBLIC PARTICIPATION

The zoning update has encouraged public participation from its inception. Advisory Committee meetings were public. Drafts of all or part of the proposed changes have been available through the Planning Department. BCPOA has maintained a separate page on its website, bcpoa.org, dedicated to the zoning update. At this page BCPOA posted drafts, invited public comment to the County or Advisory Committee with directions on how to do so, advertised and promoted public meetings, included commentary on certain issues, and polled District residents on pertinent subjects.³ Zoning matters including the update have received extensive discussion at BCPOA board and annual meetings, which are open to the public, over the years.

The Advisory Committee and Planning Department have made sure that the public has been fully informed. There have been five public meetings held in the District, all well attended. During these meetings, Committee members including County Planners answered questions from the public and explained the rationale for changes.

In my term of service on the Advisory Committee I have personally received numerous written comments and questions and many more telephone inquiries on the zoning update, as have several of my Advisory Committee colleagues.

In summary, at all times the amendment content and process have been transparent to the public and included active public participation.

THE ADMINISTRATIVE REGULATION

The proposed amendment now before this Commission also includes an update to the administrative provisions of the current Regulation.

The Planning Department, independently of the Advisory Committee, prepared a draft of an updated administrative regulation intended to be implemented in all Section 101 districts. The Planning Department presented a proposed draft to the public on January 8, 2019. Following

³ Results from one poll, conducted in 2016, are attached as Exhibit A.

written public comment and two working sessions with this Commission, this Commission adopted the new template [the "Administrative Regulation"] on May 9, 2019; the County Commission followed on May 21, 2019. BCPOA participated actively in the revisions leading to the Administrative Regulation and endorsed its adoption.

The Administrative Regulation by its terms requires separate adoption by each Section 101 zoning district. The proposed amendment now pending before this Commission includes this District's adoption of it.⁴

THE PROPOSED AMENDMENT

As well as adopting the Administrative Regulation, the proposed amendment amends Sections 1, 3 [Definitions], 6 [Agricultural Exclusive (AE) subdistrict], 7 [Recreation/Forestry (RF) subdistrict], and 15 [General Development Standards] of the existing Regulation, renumbered 1, 3, 4, 5, and 12 respectively in the proposed amendment.

Probably the most consequential substantive revision in the proposed amendment addresses accessory dwelling units. The present regulation allows a Caretaker's Residence or Guest House as a Conditional Use in the AE subdistrict. Both these Uses have been the subject of numerous hearings, often contentious, over criteria for allowance or applicants' requests for variances, and the occasional citizen complaints over unauthorized dwelling units. In the proposed regulation,⁵ one Accessory Dwelling Unit,⁶ subject to certain restrictions,⁷ will become a Permitted Use in AE. A property owner in the AE subdistrict may construct an Accessory Dwelling Unit with only a Land Use Permit, with no hearing required.⁸ The Advisory Committee believed that this change will reduce hearings and controversy significantly.

Other substantive changes are discussed in the Planning Department's staff report.

REMAINING ISSUES

Much work remains for the Advisory Committee.

The proposed amendment does not include two subjects that the Advisory Committee considered at length and prepared draft language to propose: Planned Unit Developments

⁴ See proposed amendment, section 1.6. Text of the Administrative Regulation may be found at tinyurl.com/3fzd98sv

⁵ Proposed amendment, sections 4.2.c and 12.2.

⁶ Defined as "A separate Dwelling Unit located within the principal Dwelling Unit or in an Accessory Building." Proposed amendment, section 3.22.a. A Dwelling Unit is defined as "A Structure or portion thereof providing complete, independent living facilities for one (1) or more persons, including permanent provisions for living, sleeping, cooking, and sanitation." Section 3.22.

⁷ See proposed amendment, section 12.2.

⁸ A pre-amendment Guest House or Caretaker's Residence will remain, subject to the conditions in the Conditional Use Permit that authorized it. An owner with such a Dwelling Unit will not be entitled to a separate Accessory Dwelling Unit. Proposed amendment, section 12.2.j and k.

["PUD"] and Short-Term Rentals ["STR"].⁹ PUDs and STRs are subjects that have drawn considerable public comment during the Advisory Committee's tenure. Both are important and urgent, not only to the District but also to the County, particularly in light of its recent dramatic population growth. Both underlie the General Plan's fundamental principles of density, preservation of rural character, and limiting commercial activity to the Base Area. BCPOA considers these matters important enough to proceed by filing text amendments but would prefer a collaborative public effort with the Planning Department through the Advisory Committee.

As noted, the Advisory Committee intentionally deferred consideration of Base Area zoning issues. Understating greatly, things have changed in the Base Area. Bridger Bowl has expanded its skiing terrain and support facilities. Crosscut Mountain Sports LLC has acquired Bohart Ranch and the adjacent Crosscut property and has commenced plans to convert the property to a world-class Nordic ski and year-round recreation venue. The Bridger Pines PUD has at last begun fully to promote building and sales. A single buyer has acquired substantial acreage in the Bangtails. Population growth in the County affects each of the above issues.

Review of Bridger Bowl's General Plan and related portions of the Zoning Regulation are matters expressly enumerated in the County's charge to the Advisory Committee. The other issues that I have listed in the preceding two paragraphs are, I believe, equally important and equally urgent. All are matters upon which the citizens in this citizen-initiated zoning district should be heard.

The time has come for all interested parties to address the adequacy of the current zoning considering these radically changed circumstances. The Advisory Committee, with updated membership,¹⁰ is the place to start this exercise. I have spoken with the General Manager of Bridger Bowl, the Executive Director of Crosscut, and a representative of Bridger Pines about this. All agree with my proposal and all wish to participate.

CONCLUSION

I support adoption of the proposed amendment. BCPOA's board has authorized me to state that it unanimously supports the proposed amendment. All public members of the Advisory Committee have authorized me to state that they that they unanimously support the substantive provisions in proposed amendment.¹¹

⁹ A draft of the proposed STR section is attached as Exhibit B.

¹⁰ Crosscut, the Brask family, and Bridger Pines should be asked to nominate prospective members.

¹¹ I have not discussed the Administrative Regulation with other Advisory Committee members.

EXHIBIT A

PowerPoint Presentation that Includes Results of 2016 BCPOA Survey

[submitted separately]

EXHIBIT B

Draft of Section on Short Term Rentals

[Note that section numbers will have to be changed based upon changes in the current amendment]

3.xx Short Term Rental. A rental of a Single-Family Dwelling or Dwelling Unit on a Parcel for a fee or charge and a term of less than thirty days to persons who have another principal residence and is furnished with personal property so it can be used for immediate occupancy. A Short Term Rental is a Use of a Parcel and shall be deemed commercial Use and not residential Use in the Bridger Canyon Zoning District.

6.3 Uses Permitted After Securing Approval of a Conditional Use Permit ... Short Term Rental...

7.3 Uses Permitted After Securing Approval of a Conditional Use Permit ... Short Term Rental...

15.16 Short Term Rental. This Section 15.16 shall apply to the designated AE and RF Zoning Districts, but not to the Base Area Business or Base Area Recreational & Forestry Districts.

15.16.1 Purpose The intent of this Section 15.16 is to preserve the rural residential character and natural environment of the zoning districts to which it applies. It is further the intent to minimize impacts of tourist uses on property values, environment, wildlife, and overall public safety from fire hazards, traffic generation, and increased need for sanitation. It is further the intent to protect the health, safety and welfare of the zoning district and its residents.

15.16.2 Short Term Rental Use and Conditions

a. Entire Property; Separate Dwelling Units. Short Term Rental is restricted to rental of an entire Parcel. Without limiting the generality of the preceding sentence, the following shall apply:

i. Accessory Buildings: An Accessory Building shall not be used as Short Term Rental. For example, an Accessory Building to a primary Dwelling Unit or other Dwelling Units on a Parcel shall not be rented such that they are concurrently occupied as Short Term Rental. [Note: This needs to be included in AE and RF sections, not just STR.]

ii. Individual Rooms. Short Term Rental of individual rooms in a primary Dwelling Unit or Accessory Building are prohibited except as part of the operation of a duly licensed Bed & Breakfast Inn or Guest Ranch.

Commented [GLO1]: More?

Commented [GLO2]: Can this STR definition work without redefining Single Family Residence or Dwelling?

Commented [GLO3]: Given the new case from MTSC, do you want to try to overcome individual property covenants with an umbrella declaration of commercial?

Commented [GLO4]: Make sure on both Base Area Districts?

Commented [GLO5]: This provision is disparate to most STR codes that I have seen.

Commented [GLO7]: Maybe not....

b. Conditional Use. Short Term Rental of an entire Parcel shall be a Conditional Use, subject to the conditions set forth in Section 18.3, the following conditions, and such other conditions as the Planning and Zoning Commission may prescribe. The Conditional Use of Short Term Rental shall include the following conditions:

i. Designation of the following:

1. The owner of the Parcel and a natural person who is responsible for that owner (“Controlling Person”) who is also the person who must apply for the Conditional Use;

2. the name, address, email address, and telephone number (“Contact Information”) of the person that is responsible for everyday management of the Short Term Rental (“Contact Person”) who must also apply for the Conditional Use. The Contact Person may be a property management company.

3. If any change of the Controlling Person or Contact Person is made during the term of the Conditional Use the owner of the Parcel shall notify the Planning Director.

ii. Description of access to the property, including any easements, shared driveways, or similar means of access;

iii. A limit on the number of guests; the number of parking spaces available to guests. Onsite parking on the Parcel shall be sufficient to accommodate the guests designated for a Short Term Rental and shall be limited to the number of vehicles for which there are parking spaces.

iv. Any advertisement for a Short Term Rental shall set forth the maximum number of guests allowed and the number of parking spaces available.

v. Written proof of compliance with health, tax, fire, and any other State and County law or regulations.

vi. The Contact Information of the Contact Person shall be posted on the property in a place available to renters. The Contact Information shall also be available to the public with the Planning Director. The Contact Person shall be available to address issues regarding the property, including but not limited to complaints and alleged violations of this Regulation or the Conditional Use.

vii. If the Contact Information changes the new Contact Person shall forthwith notify each adjacent property owner that received notice of the application for

Commented [RL8]: To be added to list of Conditional Uses in AE and RF sections.

Commented [RL9]: Revise reference per new admin regs.

the Conditional Use pursuant to Section 18.3.6 (the “Adjacent Property Owners”). Such notification shall be at the expense of the owner of the Parcel.

c. A Conditional Use for Short Term Rental is subject to revocation or restrictive amendment by the Planning and Zoning Commission upon violation of any of the conditions and in the manner provided in Section 18.3.9.

d. Advertising of any Short Term Rental shall be presumptive evidence of an owner of a Parcel’s intent to lease or operate Short Term Rental. Advertisement of a Short Term Rental without grant of a Conditional Use may subject owners or their agents to enforcement action under this Regulation.

e. The Conditional Use for a Short Term Rental shall be for a fixed term not to exceed [two] years, shall not run with the land and is personal to the owner of the Parcel and his heirs or devisees.

f. No application for a Conditional Use for Short Term Rental can be made unless a natural person who owns or is a principal in an entity that owns the Parcel shall have resided in the Single Family Residence or Dwelling Unit for twenty-four months prior to the application for the CUP.

g. A Conditional Use for Short Term Rental may be renewed. Any such application shall

be filed at least thirty days prior to expiration of the Conditional Use. The Planning Director may provide an administrative determination for renewals of a Conditional Use for Short Term Rental for Parcels where there has been no violation of law, this Regulation, or any conditions since the Conditional Use was granted. All notice provisions of this Regulation and rules of the Planning and Zoning Commission for Conditional Uses shall apply for any renewal.

h. If a Conditional Use for Short Term Rental has been revoked or terminated for a Parcel for any reason, a new Conditional Use must be authorized by the Planning and Zoning Commission who shall only consider any such new application on its own merits giving no weight to any prior Conditional Use granted. Any past violations on the Parcel shall be considered as a rebuttable presumption that the renewal should not be granted.

j. The Conditional Use for Short Term Rental for any Parcel shall terminate upon:

i. A sale or other transfer of the Parcel to anyone other than a heir or devisee of an owner who is a natural person.

ii. A sale of controlling interest in any entity that owns the Parcel. that is not a natural person.

iii. A change of Controlling Person for a Parcel as defined above.

Commented [RL12]: I recall the PD reps arguing for three years or longer.

Commented [GLO13]: Has this been upheld elsewhere?

Commented [GLO14]: I have bad experiences with the Commission and rebuttable presumptions.

Commented [GLO15]: I tdon't thisk we need to qaulify to a natural person.

15.16.3 Grace Period for Pre-existing Short Term Rental Properties. Any owner of a Parcel who believes that is qualified for a nonconforming Conditional Use for Short Term Rental ("Nonconforming Applicant") shall have twelve months from the effective date of this Section 15.16 (the "Grace Period") to apply to the Planning Director to confirm the Conditional Use. Only application is made during the Grace Period, any Nonconforming Applicant shall be relieved of the requirements of Section 15.16.2(f) provided that the Property has been used as a Short Term Rental continuously for twelve months immediately prior to the effective date of this Section 15.16.

Commented [RL16]: Needs to be reviewed by counsel.

Commented [GLO17]: Could we call it registration of the nonconforming use under the grace period as a matter of right?



BCPOA Annual Meeting 2016

bcpoa.net

bczoning.wordpress.com

Agenda

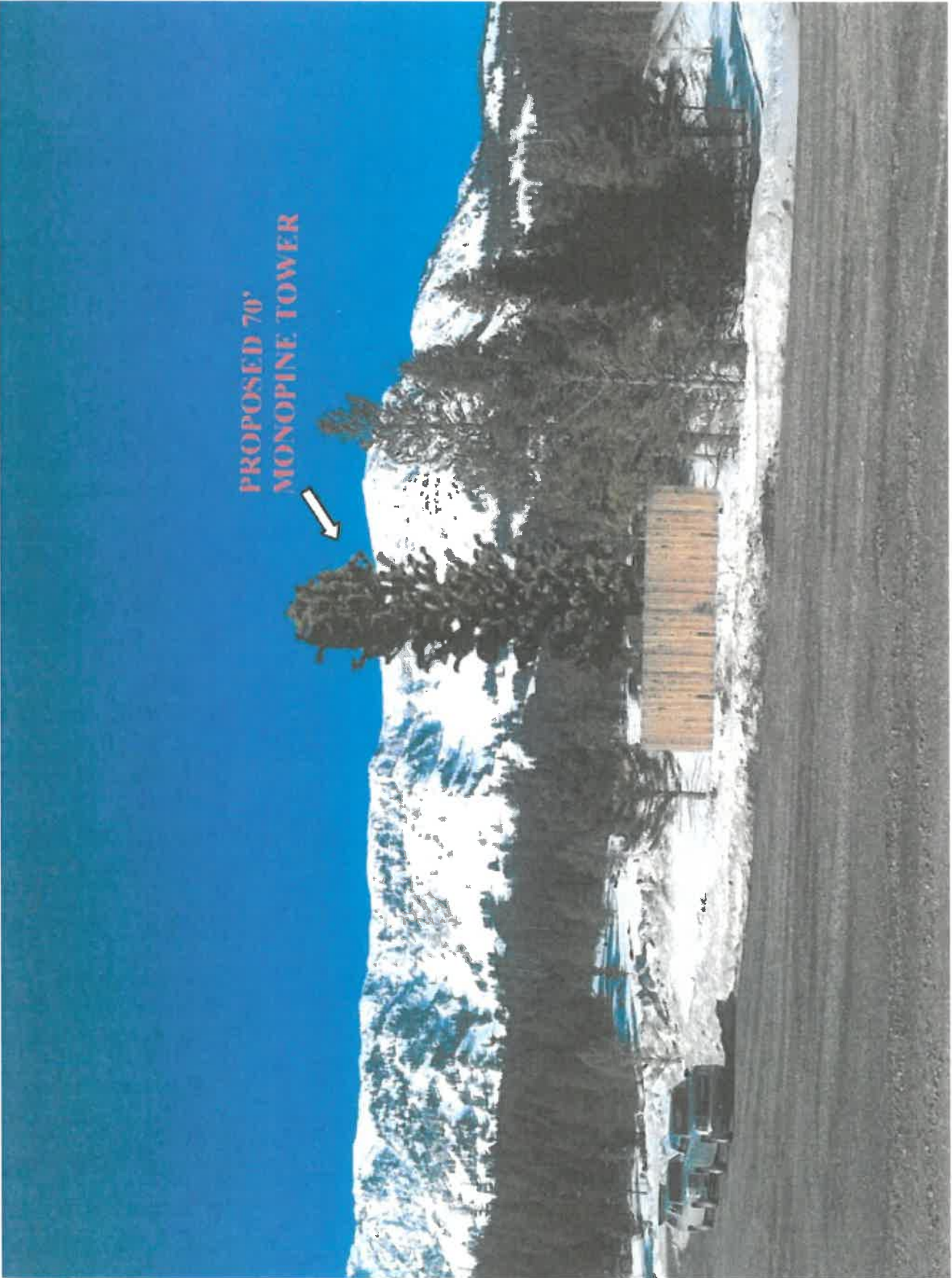
- Adopt the Agenda
- Elections
- Minutes of Annual Meeting
 - Board members
 - Review of Board work and meeting times
- Treasurer’s Report
 - Dues Reminder and requirement for voting
 - Board Chair election
- Introduction of current board members
- Election of new Directors
- Review of Year
- Canyon Groups
- Current Business
- Budworm Spraying
- Other Business

Board Members

- **Upper Canyon**
 - Sharon Erickson
 - Deb Stratford, Zoning
 - Mitch Miller, Treasurer
 - <empty seat>
- **Lower Canyon**
 - Kent Madin, Secretary
 - Phil Cory
 - Gary Sager
 - <empty seat>
- **Jackson Creek**
 - Richard Lyon
 - John Sackett (replacing Rick Anderson)
 - Fred Leopold
 - Drew Seessel
- **Chair**
 - Tom Fiddaman
- **Bridger Bowl Representative**
 - Kelly Wiseman

Some 2015-2016 Events

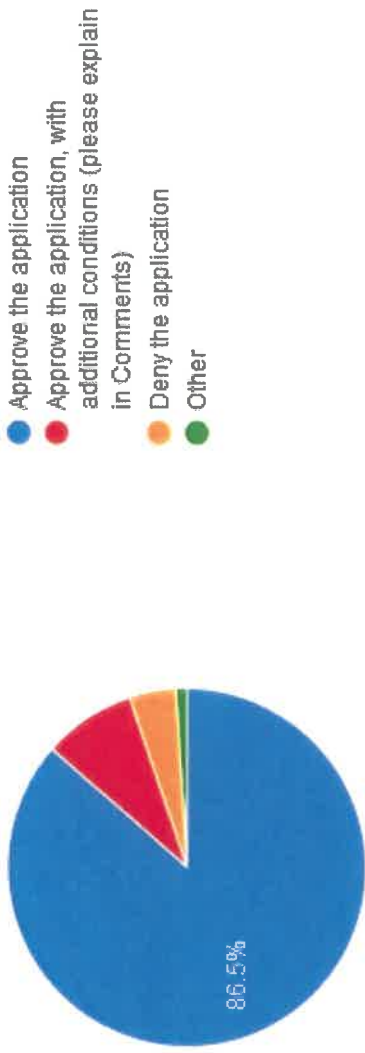
- Cell towers
- Variance appeal (ongoing)
- Zoning update public meetings
- Caretaker's residence CUP
- Accessory dwellings & short term rentals



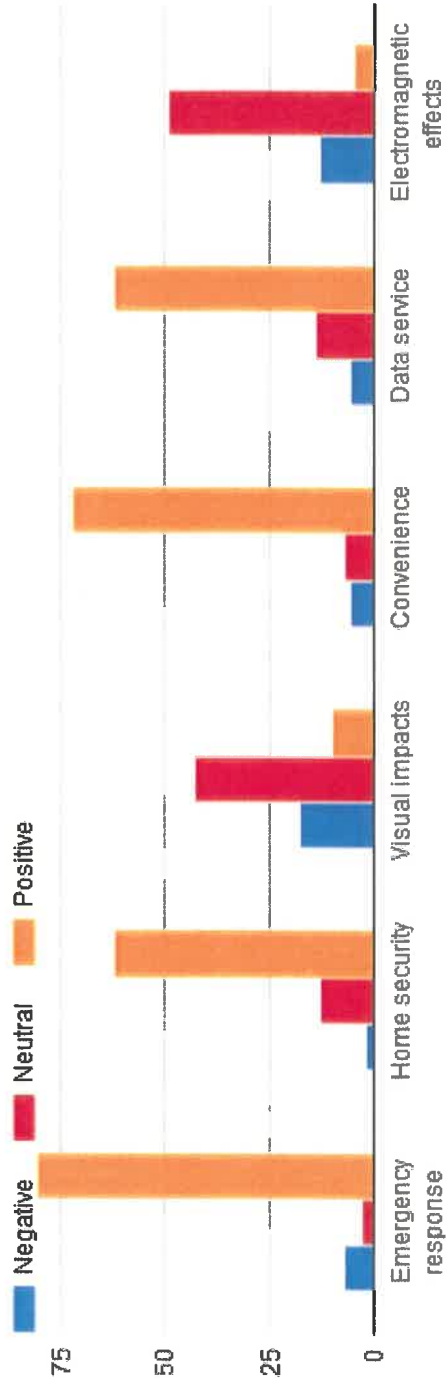
PROPOSED 70'
MONOPINE TOWER



What do you think of the proposed Cell Tower at Bridger Bowl? (96 responses)



What influences your view?



Variance Appeal

- Fall 2012: Permits sought for home addition, greenhouse, rec room and guesthouse reusing existing barns
- Barns lie within the setback protecting Bridger Creek
- Construction proceeds without permits; BCPOA files complaint
- Jan. 2013: CUPs for rec room and guesthouse approved; variances denied due to floodplain concerns
- April 2013: variances approved, based on “new information”
- May 2013: General Meeting membership approves appeal
- Early 2014: After much wrangling over the record, briefs filed
- Today: awaiting first decision **STILL!** – exploring strategy for reawakening

Issues

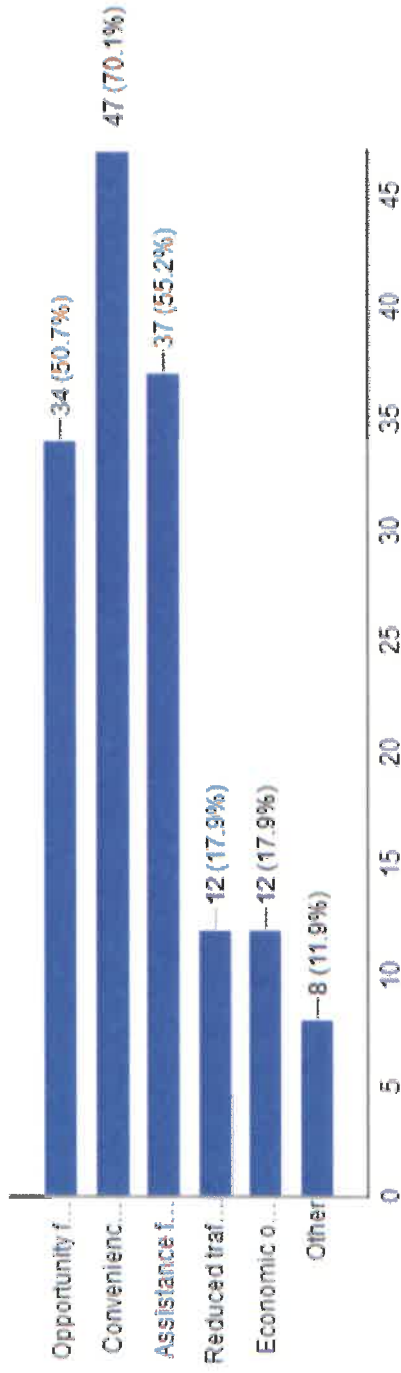
- Procedure
 - CUP appeal timing & backwards procedures
 - What is the record?
 - Written decision

- Substance
 - Commission sets aside an objective standard in favor of its preferred solution
 - False pretense of agricultural nature of residential project
 - Failure to sanction construction without permits
 - Variance standards of hardship and deprivation not met

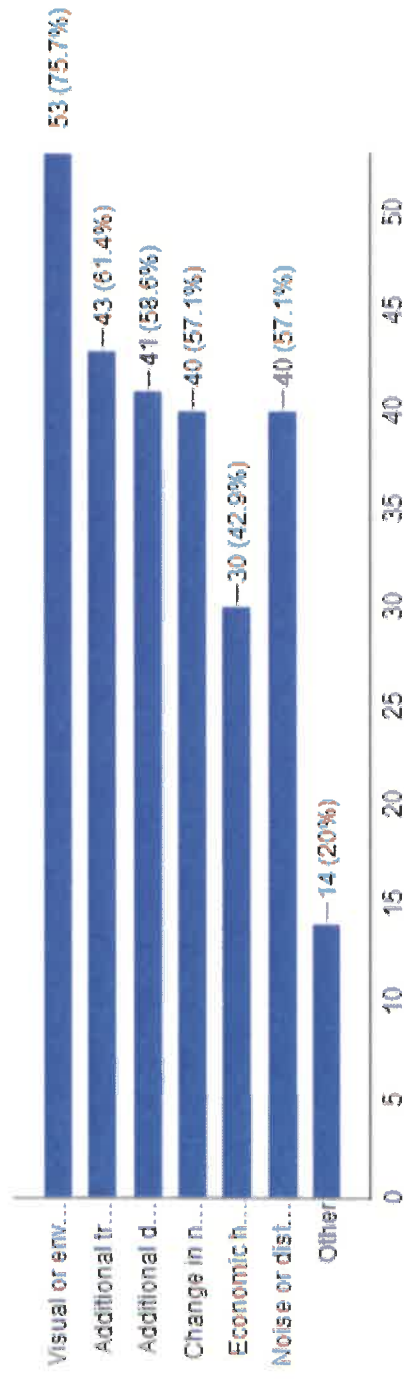
Caretaker's Residences

- Zoning Regulation:
 - 3.12 Caretaker's Residence: Dwelling unit for a person that takes care of the house or land of an owner who may be absent.
- General Plan:
 - Agricultural preservation is a primary goal which is to be accomplished by limiting development to one (1) dwelling unit per 40 acres ...
- Montana Supreme Court:
 - We hold that once a General Plan (master or comprehensive plan), ..., is adopted, the Commission must substantially comply with that planning document.
- *BCPOA vs. Bridger Canyon P&Z Commission and 360 Ranch, 1995*

What benefits shape your view on accessory dwellings? (67 responses)

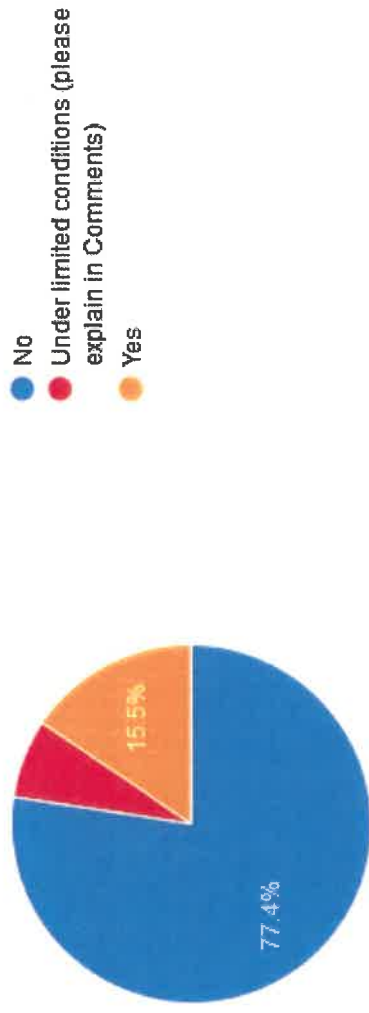


What concerns shape your view on accessory dwellings? (70 responses)



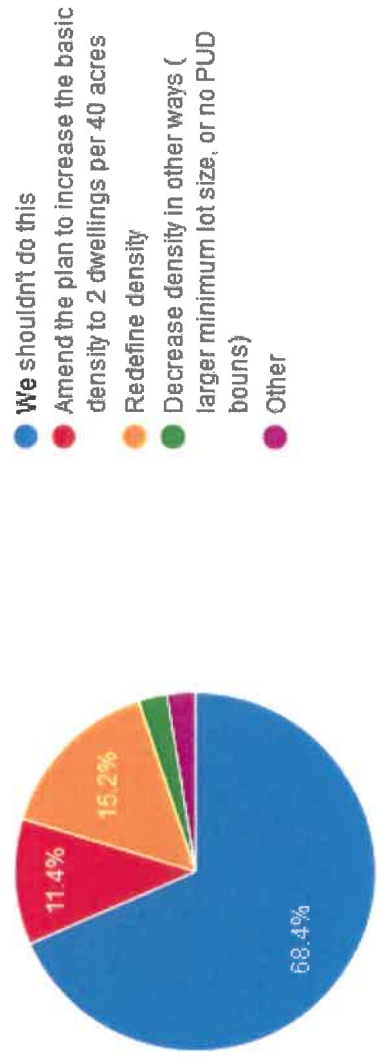
Should Accessory Dwellings be rentable, separately from the primary residence?

(84 responses)

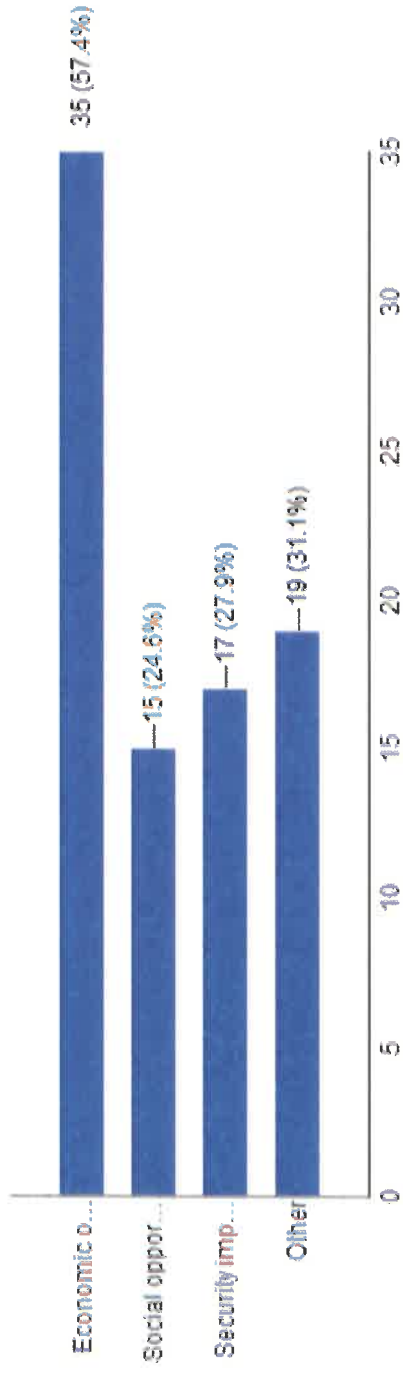


If rentable Accessory Dwellings are provided for most parcels, how should we reconcile this with the General Plan?

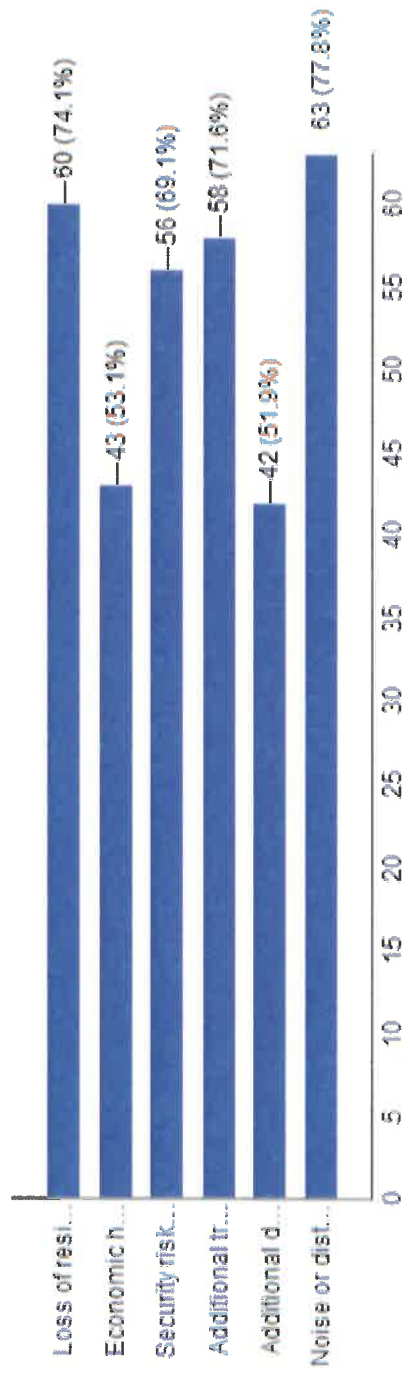
(79 responses)



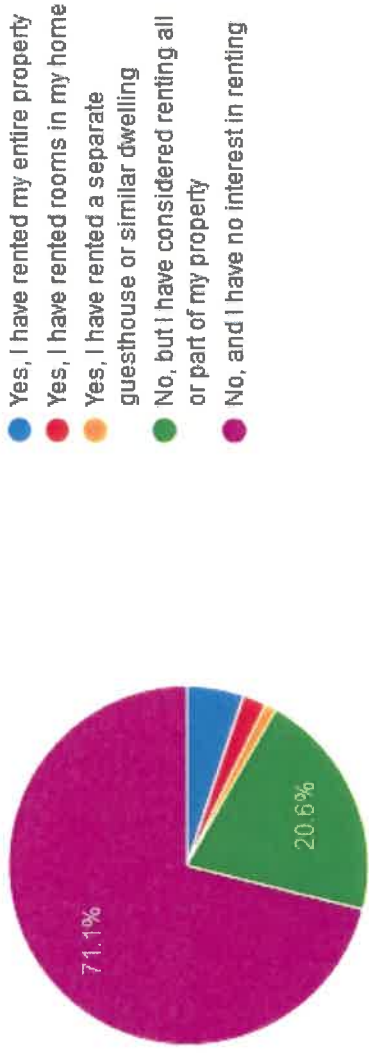
What benefits shape your view on short term rentals? (61 responses)



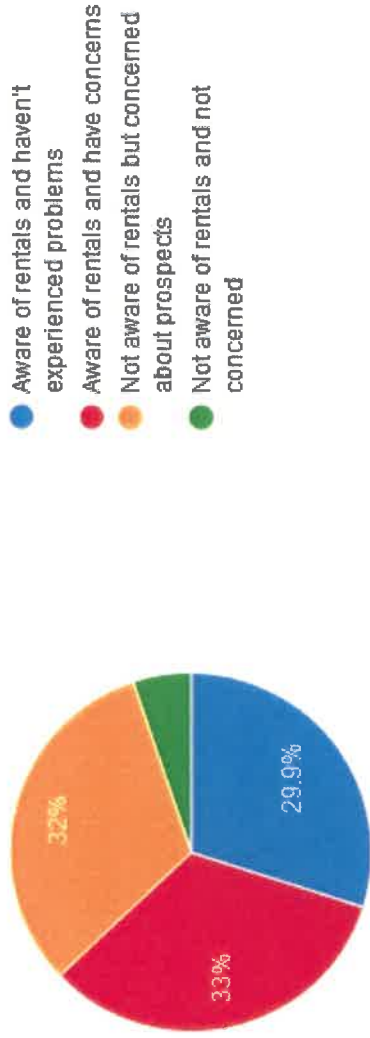
What concerns shape your view on short term rentals? (81 responses)



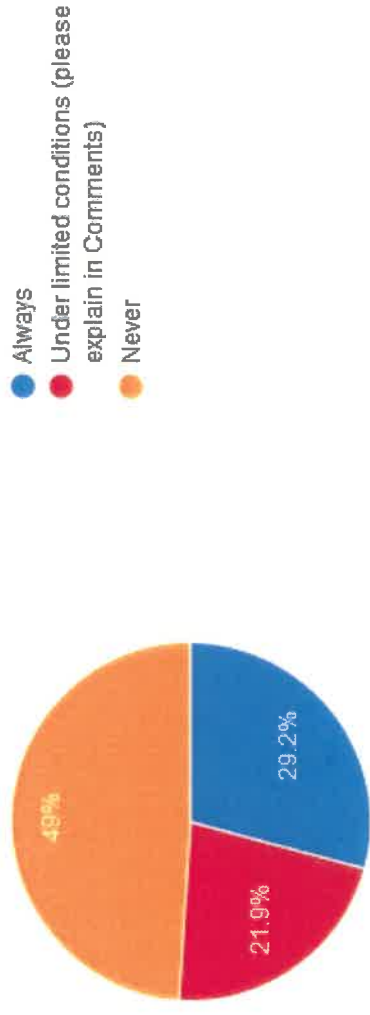
Have you rented, or considered renting, for less than 30 days? (97 responses)



How would you feel about short term rentals in your neighborhood? (97 responses)



Should short term rentals (under 30 days) be permitted in Bridger Canyon? (96 responses)



Suggested limitations:

- Less than 30 days per year
- Regulated as B&Bs only
- Small groups only (<4)
- Subject to majority approval within subdivisions
- Limited parking
- Right to revoke if problems occur

Zoning Updates

Election

Bylaws

The purpose of this corporation shall be to do everything in its power

- to preserve the rural character and the natural beauty and resources of Bridger Canyon and the State of Montana;
- to use its best efforts in guiding and directing orderly growth and development;
- to maintain, through organization, a definite influence in all matters which may affect residence or property rights and enjoyment thereof by its members; and
- to hold regular meetings for open discussions of problems of mutual interest and concern to those land owners.

BCPOA Board

- **Chairman**
 - Non-voting, except in ties
- **Directors:**
 - 4 each from Upper Canyon, Lower Canyon & Jackson Creek
 - ~ Monthly meetings (summer off, if possible) – generally first Tue. or Thu. Of each month
 - Secretary, Treasurer

Board Members (Reelect/Replace)

- **Upper Canyon**
 - Sharon Erickson (2016)
 - Deb Stratford, Zoning (2016)
 - Mitch Miller, Treasurer (2018)
 - <empty seat>
- **Jackson Creek**
 - Richard Lyon (2016)
 - John Sackett (2016, replacing Rick Anderson)
 - <empty seat>
 - Drew Seessel (2017)
- **Lower Canyon**
 - Kent Madin, Secretary (2016)
 - Phil Cory (2017)
 - Gary Sager(2017)
 - Mike Smith
- **Chair**
 - Tom Fiddaman
- **Bridger Bowl Representative**
 - Kelly Wiseman

Dates

- June 11 – Pancake Breakfast & Art Sale
- July 24 – BCHPA Schoolhouse Open House
- September 11 – Canyon Picnic
- Ongoing – check <http://bcpoa.net/calendar/>

Budworm Protocol

Other Business

Thanks!