

Zoning Survey Results – 14.2 Repeal

The following survey was sent to the Bridger Canyon email list on Feb. 6th, 2019, and the last of 56 responses was received on Feb. 9th. The list contains 388 addresses, so the response rate was about 14%. Typically BCPOA receives 80-100 responses to a survey; the lower response rate is possibly due to the abstract nature of the question.

Introduction

When the Bridger Canyon Zoning district was created in 1971, it included a provision consolidating the density rights on adjacent parcels that are below the minimum lot size, if held by a common owner:

14.2 Building Sites Which do Not Conform to the General Regulations.

- a. In any district, notwithstanding other limitations imposed by this Regulation, structures permitted in said district may be erected on any single lot of record on the effective date of this Regulation. Such lot must be in separate ownership. A lot of record that does not meet lot area or lot width requirements must still meet other requirements of the district. If two (2) or more lots and portion of lots with continuous frontage in single ownership are of record at the time of adoption or amendment of this Regulation, and if all or part of the lots do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of this Regulation. Where lots are larger than required by this Regulation, said lots may be subdivided into smaller lots except no parcel may be divided so as to create a lot smaller in lot width or lot area than required by this Regulation.

This only affects parcels that were adjacent and in common ownership as of 1971. It does not affect PUDs like Bridger Hills or Jackson Creek Hills. The same provision exists in at least one other district (Sypes Canyon).

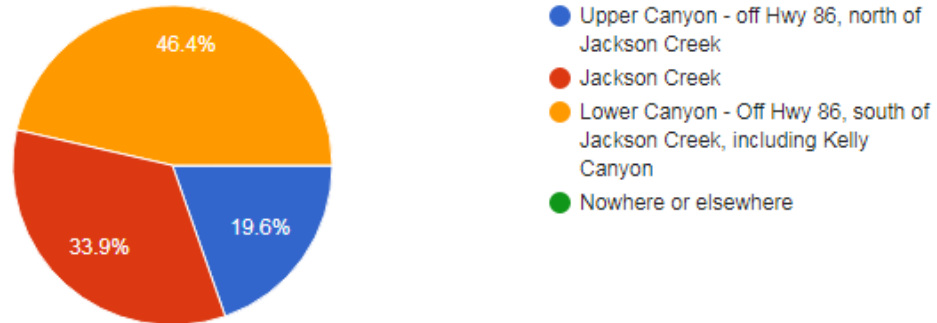
BCPOA identified 134 parcels under the minimum size as of 1971. The county narrowed that to 67 in common ownership, of which 24 are potentially subject to 14.2 today. These numbers are all minimum values, because they are based on electronic records. More parcels may exist on paper records that have not been digitized. Also, some parcels that were subject to 14.2 may have been developed anyway, due to the lack of an administrative procedure for identifying them.

The Planning Department now proposes to repeal 14.2. This could allocate density rights to parcels that were formerly not developable.

Where do you own property in Bridger Canyon?

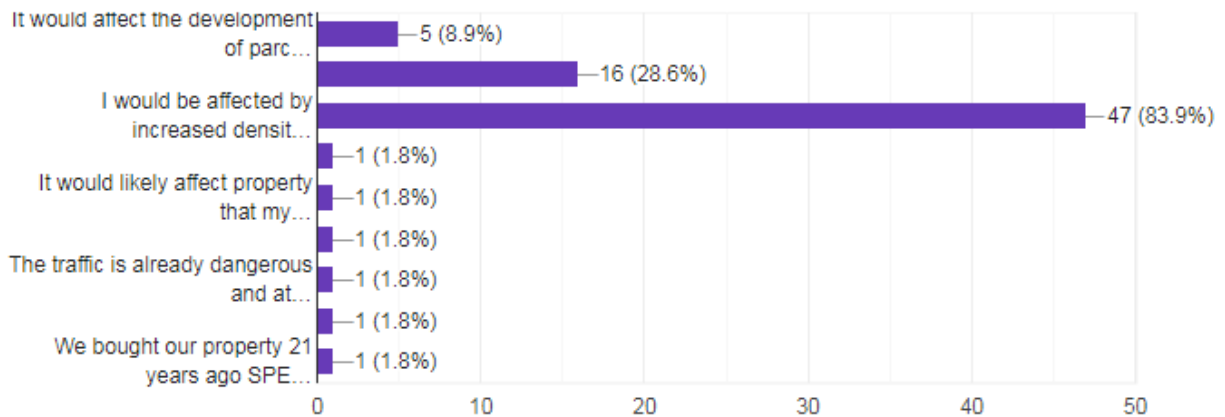


56 responses



How do you think the repeal of 14.2 might affect you?

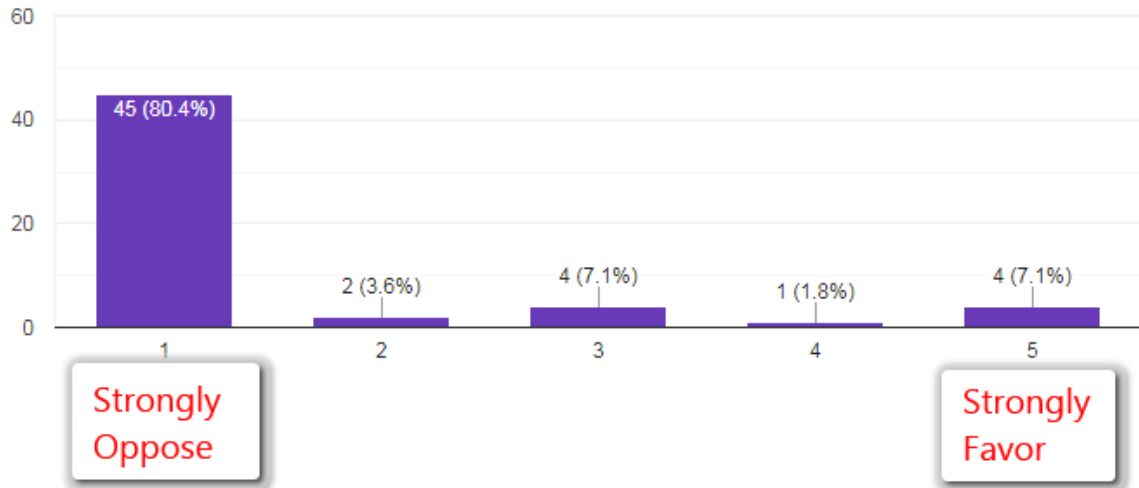
- It would affect the development of parcels I own.
- I would be affected by development on nearby parcels.
- I would be affected by increased density in Bridger Canyon in general.
- Other...



On balance, do you favor repeal of 14.2?



56 responses



Written Comments (26):

NO! Stop development in at least one area of the county. Bridger Canyon can't handle all of the people it has now, if this is repealed you will have more and more people and development. Leave it be.

This should be repealed.

Who wants more density in Bridger Canyon? NOBODY.. Unless you are a developer. Keep 14.2.

There are a number of reasons BC is a highly sought place to live and raise kids. One is the stated density was fixed in perpetuity, so do not break a promise many people used as their basis to BC to spend their lives in like us.

We are worried about how more density would effect wildlife.

The lower density of development in Bridger Canyon is crucial to maintain its character. Repeal of 14.2 is a slippery slop to change that.

Affordable housing is difficult to find, this may help. As long as traffic improvements are made I think more houses close to the mouth of tthe Canyon would be OK

This would appear to start the beginning of the degradation of the Bridger Canyon Zoning. The minimum tract size has been 40 acres, other than in a PUD, and should be maintained. Letting homes be built on smaller tracts will increase crowding in some areas, have a negative impact on wildlife and put more vehicles on major roads in the Canyon.

I first saw Bridger Canyon in 1974 driving with friends up to Bridger Bowl. We all remarked on what a nice area it was. When I found a place I could afford here I jumped at the opportunity. Now after ten years I realize why the place has stayed so nice. I also realize that the zoning is a key element and that changing that would be compounding a mistake already made.

Really bad idea. Bridger Canyon already is the last place with any open space near Bozeman (I'm including property that has been given the green light for development but hasn't yet started). I strongly urge the Planning Dept to UPHOLD THE ORIGINAL 1971 ZONING LAWS and not allowing any change to the original intent. I actually believe they should not have the right to do this.

I'm not sure if a repeal of 14.2 is the correct thing to do. Maybe a revision would be more appropriate to maintain the vision of our zoning (low density) while recognizing that some of these non conforming parcels may have been sold and built on over the years. Either way having the public weigh in with their testimony is critical to the process.

The explanation at the beginning of this survey seems deliberately vague to mislead people. You should have a link to a map of parcels affected so people will know what is going on. Shawn at the county office says that repealing this clause will actually PRESERVE the building rights of small parcels grandfathered in the original zoning from 1971. Whereas, keeping the clause will potentially eliminate at least 24 small parcels from having a building right as a separate piece of property. BUILDING RIGHTS MUST BE PRESERVED for small parcels. As a member of the Bridger Canyon community at the time of the 1971 zoning, I know the original understanding was that ALL small parcels existing at that time would have building rights. Any attempt by new residents to "reinterpret" the rules to eliminate that understanding is WRONG.

We own property, 2 parcels, (xxxx Jackson Creek Road), at the junction of Bridger Canyon Road and Jackson Creek Road as well as the property that the old Community Church is on. We also own x parcels on Kelly Canyon Road where our residence is (xxxxx Kelly Canyon Road). The above choices will not let me indicate two different locations.

I'm curious as to what is driving this with the county. Are there owners of the parcels involved who have been lobbying? Given the value of land in BC, I understand their motives, but wonder if there are specific parcels this is targeting. Obviously the county's 24 parcels are less troubling than BCPOA's map, especially since the majority of them seem to back to public land or are in fact inholdings. It's hard to make an informed opinion without knowing exactly how many additional homes this would allow.

I bought in Bridger Canyon because of the Zoning Ordinance. The Zoning gives me peace of mind and insures that, as a citizen, I can enjoy the protected beauty of the canyon and the wildlife, the reason I live here. People who want less development have rights too and Nature has a right to exist for its own sake and our sanity. The Zoning is as it should be.

Please do not repeal section 14.2 for the following reasons: 1) increased density adds traffic, pollution, and increased water consumption; 2) reduces wildlife habitat and increases human pressure on wildlife; 3) repeal of this section is a slippery slope to gutting our Zoning District, the only thing that stands between the Canyon and rampant development; 4) repeal disregards the long hard work and many, many hours a few gave to preserve and protect a very special space in perpetuity for the benefit of all: owners, fellow Bozeman residents, and visitors alike.

Lots should not be divided into smaller lots that don't meet the requirements of the regulation. The repeal would raise the possibility of density increases.

If the spirit of low zoning and viewshed maintenance can still be achieved post repeal, then we should defer to property owner rights. Otherwise, we should keep 14.2 in place.

The mouth of the Canyon is already somewhat protected by existing PUD's. This should not be altered in the new zoning considerations.

We bought property in Bridger Canyon because we liked the zoning, and that we knew our views would be protected. We LOVE our peace and quiet and open space. I say NO on the repeal.

Most residents of Bridger Canyon purchased property in the canyon and paid a premium for it due to the strict zoning laws prohibiting dense development. Repeal of 14.2 would negatively impact the residents of the canyon financially (current and future home value) and aesthetically. I oppose it strongly.

I strongly oppose repeal of 14.2. The density in Bozeman is already oppressive and Bridger Canyon is an exception because of 14.2. We live in Bridger Canyon BECAUSE of 14.2 - the repeal of 14.2 would adversely affect our property values, the wildlife which we enjoy so much, the traffic, and our overall experience. DO NOT ALLOW THIS TO HAPPEN.

Residents in the Canyon in 1971 were wise to think ahead of future development that would surely come to this beautiful area and make restrictions that required 40 acres for a building site. Now the attempt to

make changes that will open the door for smaller building sites ----Bridger Canyon will be ruined by taking away the safety net of 40 acres--simply stated.

We bought our property 21 years ago SPECIFICALLY because of the tight zoning that would prevent the crowding of Bridger Canyon, the roads, natural resources, and facilities. Please leave Bridger Canyon rustic and healthy. We do not want to become more densely populated as Bozeman has become. We paid top dollar to be PROTECTED from such density. Please leave us with the current zoning of 40 acres per parcel and the mentioned subdivisions as is. I strongly favor more acreage per parcel, if I read the Strongly Favor correctly to mean not to lessen the 40 acreage zoning in Bridger Canyon and the other areas also affected.

Any change to Bridger Canyon Zoning that would increase density and crowding will harm the quality of life in the Canyon. Many of us bought homes in the Canyon with the understanding that the existing zoning was permanent. Even those who do not live in the Canyon value the open land and beauty, particularly as Bozeman becomes more crowded. Any change allowing higher density and exceptions opens the door for even further changes allowing more building and density. Our Canyon is a precious resource, and we should act to protect it and not allow changes in zoning that help destroy this valuable resource for wildlife and all to enjoy. Zoning should continue to limit development that favors the interest of a few over the rights of many. I don't think most of us would want the boundaries of Yellowstone changed to allow development. Bridger Canyon is our "national" park. The growth of Bozeman is already impacting the Canyon as the ski traffic has increased. We should be guardians of this precious land and not supporters of developers. I favor anything that limits development and feel we betray sacred trust in making any changes to zoning that allow development. NO to Development.

This is not in keeping with Bridger Canyon in any way. Do not repeal!!

Appendix – Background

The following text was provided after the survey questions were answered:

The county initiative to repeal 14.2 has come about outside the usual zoning update process (see <https://bczoning.wordpress.com/>).

The process started with an adjacent landowner's complaint concerning development of a small, very narrow parcel along Bridger Canyon Road. Until last year, the parcel was thought to be aggregated with an adjacent parcel, and the two have been taxed as a single entity, at least since records began. This is exactly the kind of situation that 14.2 originally targeted.

BCPOA joined in the complaint. The investigation revealed that the Planning Department had issued a Land Use Permit for the new home on the disputed tract. It evidently did so, and even advised the owner to seek the permit, without considering the implications of 14.2.

The complaint remains unresolved, pending resolution of 14.2 and some additional issues that turned up in the enforcement investigation. Meanwhile, the Planning Department proposed to repeal 14.2, which would resolve the density rights portion of the complaint. The repeal of 14.2 was inserted into a set of amendments that were already scheduled to be heard, implementing BCPOA's settlement of the Petty appeal with the county.

BCPOA requested that the hearing on 14.2 be deferred until it could be properly reviewed, and understood that this was acceptable. But at the December Planning & Zoning hearing, the Planning Department opposed the delay, so the repeal went forward without any real discussion. Flawed evidence was presented, indicating that 14.2 was purely administrative in nature, that its repeal would have little or no effect, and (really straining credibility) that the repeal was unrelated to the complaint.

Fortunately, zoning amendments are a two-step process, requiring separate approvals by the Planning and Zoning Commission and then the County Commission. BCPOA asked the county Commissioners to return the matter to the P&Z for proper discussion, which they agreed to do.

So, on Feb. 14th, the P&Z Commission will again consider the matter of the repeal of 14.2. Repeal will essentially create new density rights on a modest (but not precisely known) number of parcels, with attendant benefits to the owners, and impacts on adjacent landowners. This may also mean that new density rights are created, which have essentially evaded separate taxation for the last 48 years. The administrative effort required to identify such parcels will be eliminated.

Further Comments (14):

The count done by the county is incorrect. It did not count the Brown's southern half of tract 2, or the northern half of tract 2 (our property, attached to tract 1). Your original count has to be more accurate than theirs. While of course we would not, we could, in theory, build a long narrow house just like the Browns are, exactly 50 feet away from their house. The 2 houses would be just staring at each other, like a subdivision. There goes the charm and atmosphere of Bridger Canyon... Tom, thanks for your work on this matter. Xxxx xxxx

I am adamantly against the repeal for the obvious reasons: 1. The process by which the Planning Commission utilized, per description, was not conducted in good faith ... I am concerned that if allowed, it will establish a precedent that may lead to further density considerations. 2. The repeal benefits few at the expense of others. We purchased our parcel in Bridger Canyon specifically due the density limitations. While Bozeman has grown dramatically over the last 20 years, Bridger Canyon has remained relatively pristine and consistent with its character for many decades. Although this repeal is in theory impacting only relatively small portion of the land area, it serves as an incremental step away from the serenity and character that is Bridger Canyon.

Stand Firm

Resolution of individual disputes should be negotiated individually, not by changing rules that impact everyone in the canyon. Thank you BCPOA.

The repeal of 14.2 would cover the mistake originally made by the PLanning Department in permitting construction of a new home where none should have been build. It's apparently too difficult for them to follow Bridger Canyon Zoning so they just want to eliminate key provisions to make their life easier.

See comment above.

This is so WRONG on so many levels, hard to respond without cussing!!

This de facto increase in density would be a detriment not only to adjacent parcels, but to Bridger Canyon as a whole.

You must preserve small parcel property rights. Period.

Reading this summary of events is all the more reason to defend our Zoning District against the onslaughts of developers, oops, I mean the P& Z Comission.

Tom, I can not say how much I am against giving the county more density rights for more taxation. The county planning office has systematically lessened the quality and strength of our zoning regulations form its inception. They want an easy fix for their absolute malfeasance tell them NO! Hell No!

How will we deal with all the traffic? The Canyon will never be the same and the reasons we live here will disappear: wildlife watching, quiet neighborhoods, and beautiful scenery.

14.2 was put in for a reason and should not be removed at the whim of one landowner.

I do not favor development of small parcels of land that are adjacent to another property or anywhere else in the Canyon. Bridger Canyon is beautiful because of the tight zoning laws that were initiated to protect the land, resources, and the properties on 40 acres, except where subdivisions were grandfathered in. PLEASE do not allow for building smaller parcels that have not been determined to be legal.

Comments via Email:

1.

I do not support removing 14.2 from our zoning documents. Zoning provides predictability. Changing the zoning to support more density in locations presently not build-able affects neighbors who expected to NOT have development next to them.

The General Plan reflects the overall intent of zoning to protect specific characteristics of the zoning district, and this is clearly stated to protect wildlife and wildlife habitat by carefully balancing how and where building is permitted. Bridger Canyon is a recognized wildlife corridor, by residents, scientists, and government agencies. Increasing development by removing 14.2 is contrary to the zoning. Adding density stresses wildlife.

Increasing density also strains water capacity. New wells impact groundwater. The geology in Bridger Canyon is necessarily varied due to the many catastrophic events geologically. Weather patterns are changing. Groundwater is important to present residents. I think the originators of our zoning were concerned about this, and designed zoning that would allow for development, but in a limited way to maximize well and groundwater longevity.

2.

14.2 is basically pointless because landowners, such as myself, who own two nonconforming lots that are adjacent.....may not be able to build per current zoning; however, zoning cannot prevent landowners from selling each lot separately or even simply changing the ownership. Once the ownership is changed 14.2 no longer applies. Each lot has its own building right once ownership is changed. Most comments I read seem to come from a very uneducated group of bias canyon residents, probably exactly the "results" you intended to get ahead of next weeks meeting regarding 14.2. I'd appreciate you adding my comments to the main email.