



COUNTY OF YELLOWSTONE ZONING COMMISSION AGENDA

Monday, September 11, 2023

4:00 PM

**Miller Building, 1st Floor Conference Room
2825 3rd Avenue North, Billings, Montana**

VIDEO CONFERENCE FORMAT

NOTICE TO THE PUBLIC

****ATTENTION****

Citizens are invited to:

- Review the Agenda Packet on the City's website at: <https://ci.billings.mt.us/117/Agendas-Minutes>
- View the meeting live online at Facebook: <https://tinyurl.com/yckr478k>

Public comment will be taken only during the Public Comment periods as indicated on the agenda and during the Public Hearings, if any are scheduled, under the Regular agenda. Comments may be sent to Board via email before 10:00 AM on the meeting date. All emails received prior to this time will be read into the record for the public hearing. Comments may be submitted by:

- Mail: City/County Planning Division, 2825 3rd Ave N 4th Floor, Billings, MT 59101
 - Email: bernsb@billingsmt.gov
- Call in during the Public Comment periods as indicated on the agenda:
 - Citizens may call in during specific Public Comment periods at **406.237.6165**.
All callers will be placed in a queued system and are asked to remain on hold and be patient. Calls will be taken in the order in which they are received. Callers will be limited to 3 minutes of testimony as is customary.
Future delivery methods may be explored as best practice is learned.

Please direct questions to Brenda Berns, Planning Clerk; bernsb@billingsmt.gov or 406-247-8610. Thank you!

Call the meeting to order.

Introduction of the Yellowstone County Zoning Commission Members and Planning Department Staff.

Public Comment

Motion. Approval of the meeting minutes of July 10, 2023

The minutes of the Board meeting of Monday, July 10, 2023

Disclosure of any Conflict of Interest-Members of the Commission and Staff

Disclosure of an Outside (Ex Parte Communication)-Members of the Commission and Staff
a. The Exparte Communication Binder is available at the Sign-In and Agenda Station.

Regular Business:

- A. Opening of public hearings.
- B. Reading of rules for the procedure by which the public hearings will be conducted.
- C. Reading of notices of the public hearings on the following items:

Public Hearings:

- a. County Zone Change 720 -- 2424 S 48th St W - Agriculture (A) to General Commercial (C3) and Large Lot Suburban Neighborhood (N4) - A zone change request from Agriculture (A) to 70.63 acres of N4 and 31.15 acres of C3, on the NE ¼ of Section 28, Township 1S, Ranger 25 E, south and east of the BBWA Canal excepting C/S 1590, a 101.78-acre parcel of land. A pre-application neighborhood meeting was held on June 30, 2023 at the subject property of 2424 S 48th St W. Tax ID: D00908
Presented by: Karen Husman, Planner I.
- b. County Zone Change 721 -- Text Amendment to adopt permanent regulations for Marijuana Businesses -- In November 2021, the Board of County Commissioners (BOCC) adopted Interim Zoning Regulations pertaining to the operation of marijuana businesses within the jurisdictional zoning area of the County (4.5-mile jurisdiction surrounding the City of Billings). The BOCC extended the interim regulations for one additional year in November 2022. The interim regulations will expire on November 23, 2023. No further extension of the regulations is allowed by state law. Permanent regulations must be adopted. The Planning staff has prepared a report on its study of the impact of the land use in the County and has devised permanent regulations for marijuana businesses based on this study. The text amendment will modify Sections 27-803.C, 27-1000, 270-1005, 27-1006, 27-1009, 27-1010, 27-1400, 27-1504 and 27-1800 of the Yellowstone County Zoning Regulations (December 2020)

Other Business/Announcements

Adjournment

Following the public hearing, the County Zoning Commission will make a recommendation to the Yellowstone County Commissioners. The Board of County Commissioners public hearing will be held in Room 403A, 4th Floor of the Yellowstone County Courthouse. The Board of County Commissioners will hear all persons wishing to speak relative to the proposed zone change.

Information on the preceding item may be obtained at the Yellowstone County Planning Department, 2825 3rd Avenue North, 4th Floor. Anyone wishing to be heard on this matter may appear at this hearing. Public hearings are accessible to individuals with physical disabilities. Special arrangements for participation in the public hearings by individuals with hearing, speech, or vision impairment may be made upon request at least three days prior to the hearing. Please notify Brenda Berns, Planning Clerk, at 247-8610 or e-mail at bernsb@billingsmt.gov

County Zoning Commission

Meeting Date: 09/11/2023

Information

Subject

The minutes of the Board meeting of Monday, July 10, 2023

Attachments

YZC_2023_07_10_DRAFT



**Yellowstone County Zoning Commission
DRAFT Minutes
Monday July 10, 2023**

The County Zoning Commission met at 4:00 p.m. in the Miller Building 1st Floor Conference Room, 2825 3rd Ave. North.

		01/09/2023	02/13//2023	03/13/2023	04/10/2023	05/08/2023	06/12/2023	07/10/2023	08/14/2023	09/11/2023	10/09/2923	11/13/2023	12/11/2023
Blaine Poppler	Commissioner	x	-	-	-	1	-	E	C				
Melissa Ray Gentry	Commissioner	x	-	-	-	1	-	1	C				
Tyler Bush	Commissioner Chairman	x	-	-	-	1	-	V	C				
Todd Hewitt	Commissioner	x	-	-	-	1	-	1	C				
Open	Commissioner	-	-	-	--	-	-	-	-				

Pro Tem Chairman Gentry opened the meeting and introduced the County Zoning Commission members and Planning Division staff. Commissioner Bush is participating virtually, (V).

Staff Present: Zoning Coordinator Nicole Cromwell, Tammy Deines, Planning Clerk, Brenda Berns, Planning Clerk

Other Participants: William Jensen (ZC 717, ZC 719); Louise Jensen (YZC 717, YZC 719); Jacquelin Robinson (YZC 717, YZC 719); Randall Robinsen (YC 717, YC 719); Sandra Baer? (YC 718); Kenny L Barte (YZC 718); Lisa Schelle (YZC 718) Russ Schelle (YZC 718); Jim Smith (YZC 717), Duane Christensen (YZC 717); Florence Diede; Miranda & Rory Peck; John Halvorson, Sanderson Stewart.

Public Comment

Commissioner Gentry asked if there was anyone wishing to speak during the public comment portion of the meeting. The Public may call in during specific Public Comment periods at (406) 237-6165. All callers will be in a queued system and are asked to remain on hold and be patient. Calls will be taken in the order in which they are received. Callers will be restricted to three minutes of testimony as is customary. There were no public comments.

Exparte E-mail Communications: Letter in opposition Randall and Jacquelin Robinson Zone Change #YZC 717, #YZC 719; A petition in opposition to YZC #717by multiple property owners in Pat Dahl Subdivision. Rachel Voldseth, Erik Voldseth, Renae Mileus, Karl Myers, Julie Myers.

Motion. Approval of Minutes: May 8, 2023 (The June 12, 2023 meeting was cancelled due to a lack of applications).



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Motion

It was moved by Commissioner Hewett and seconded by Commissioner Tuss to approve the May 8, 2023 meeting minutes as submitted. The motion carried with a unanimous voice vote.

No one wished to comment regarding items not on the agenda.

Zoning Coordinator Nicole Cromwell read aloud the procedures for a public hearing.

Item #1 County Zone Change 717 – 705 Johnson Lane – CMU1, N4 and RR1 to CX A zone change request from Corridor Mixed Use 1 (CMU1 – Lots 4A and 5A), Large Lot Suburban Neighborhood Residential (N4 – Lots 1 & 2), and Rural Residential 1 (RR1 – Lot 3) to Heavy Commercial (CX), on Lots 4A, 5A and portions of Lots 1, 2 and 3 of Block 1, Fly In Subdivision. The total area for re-zoning is approximately 9.81 acres of land as shown on the application exhibit. A pre-application neighborhood meeting was held on May 11, 2023, at Lockwood High School. Tax IDs C12463 (Lot 4A), C12464 (Lot 5A) and portions of C12460 (Lot 1), C12461 (Lot 2) and C12462 (Lot 3).

REQUEST

County Zone Change 717 is a zone change request from Corridor Mixed Use 1 (CMU1) on Lots 4A and 5A to Heavy Commercial (CX) and from Rural Residential 1 (RR1 - Lot 3) and Large Lot Suburban Neighborhood Residential (N4 – Lots 1 & 2) have portions of these lots changed to CX as shown on the proposed amended subdivision for the Fly In Subdivision, generally located at 705 Johnson Lane. The properties are generally located south of the intersection of Old Hardin Rd and Johnson Lane between Johnson Lane and Mauser Street to the east. The applicant proposes to reduce the width of Lots 1 and 2 from 150 feet to 90 feet (east to west) and add this area to proposed Lot 5A-1. The applicant also proposes to have a small northwest corner of Lot 3 (59' X 65'), currently zoned RR1, also be included in the new Lot 5A-1.

RECOMMENDATION

Planning staff is recommending approval and adoption of the findings for the 11 criteria for Zone Change 717.

Discussion

Commissioner Gentry called for discussion from the Commissioners. In response to question by Commissioner Gentry, Nicole Cromwell explained buffering is normally triggered by a building or new development proposed for the property. Commissioner Hewett asked if there are restrictions on the building height or lighting. Nicole Cromwell said in general it would have to be 50 feet from a residential area and she pointed out that any new development would have to go through Planning review. She commented there are several businesses in the area that are 24-hour operations.



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In Favor

John Halverson, Sanderson Stewart, 1600 N Transtech Way, Billings, MT

Mr. Halverson provided a presentation for this application for the property located on 705 Johnson Lane. He represents the Landowner, R.L. Dunker & Sons. He pointed out I-90 and commented on upcoming future improvements and State projects. He said the reasoning for this application is that this use has been made non-conforming, making it difficult for the owner to insure the properties. The Dunkers proposed a lot line adjustment for Lot 5A which will maintain a buffer of 150' to the existing residential uses and the proposed heavy commercial use. He followed with an explanation of what made the use nonconforming and commented there was some concern voiced by the neighbors with the uses allowed within a heavy commercial zone. The primary concerns were special review uses which would have to be approved by the County Commissioners. He said the required separation distance for adult entertainment or a bar would be difficult to meet on this site. He pointed out the B3 Landscape Buffer, which is the most intense buffer at 10' deep, heavy planting of vegetation, and a full screen fence. The request is to allow the small business to continue its use and replace the building in the event of a disaster.

There were no questions for Mr. Halverson from the Commissioners.

Public Hearing

Commissioner Gentry opened the public hearing and asked if there is anyone wishing to speak regarding County Zone Change #717.

In Opposition

Jacquelin Robinson, 707 Mauser Street, Billings, MT

Ms. Robison's property faces the "Fly In Lube". She is concerned that if the buffer zone is moved it will only allow a distance of 0-ft from her property to the heavy commercial use. She stated she is asking for the "general comfort and security in their own homes". She is concerned with the potential loss of value of their home as they have been advised that the change to heavy commercial zoning could affect their property values from 10%-50%. Ms. Robison strongly opposes this zone change request. She is asking the current zoning and the buffer distance be retained. Ms. Robison provided a video depicting the current noise levels from the power station and the refinery. Commissioner Gentry asked if Ms. Robison's real estate agent is in attendance that provided the market analysis. Mr. Robison said the realtor used comparative values in the area and he wrote the recommendation with the proposed zone change in consideration.

Jim Smith, 2914 Weaver, Billings, MT

Mr. Smith asked the legal distance for buffer. Ms. Cromwell said the County can allow placement of these zoning types adjacent to residential uses, but typically good planning practices do not place these types of zoning across the street. The zoning is changed at the rear property lines, but this is not required within the County Zoning Code. The 150-ft buffer was established when the property was sold to Mr. Duncan. Commissioner Tuss asked if there is legal documentation of this agreement. Mr. Smith provided a zoning application from 2003 for this property which is also



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included in the petition packet provided to Staff. Commissioner Tuss asked if there were any Covenants. Mr. Smith was unaware of any Covenants. Commissioner Tuss noted there is a notation in the document regarding the 150-ft wide buffer zone.

William Jenson, 2920 Weaver Ave, Billings, MT

Mr. Jenson asked why the buffer should be moved as there is already enough room. He asked who will maintain the buffer zone once created.

Louise Jensen 2920 Weaver Ave., Billings, MT

Ms. Jensen is not for the zone change. She would want assurance that the adjoining business will have access to Mauser Street. Commissioner Gentry stated this would have to be approved through MDT.

Rory Peck, 2938 Alaskan Ave., Billings, MT

Mr. Peck is opposed to this zone change request. Concern with traffic and children, lack of restriction on lighting. He asked if sidewalks will be required with the heavy commercial zoning. Nicole Cromwell said there are plans for a trail along Johnson Lane as development happens. There are no plans for sidewalks along Mauser Street. If sidewalks are wanted, the neighborhood can petition the County to create a RSID.

Randall Robinson, 707 Mauser Street, Billings, MT

Mr. Robinson is a longtime resident at this property. He said he feels that Mr. Dunker wants to dump the Flying Lube as bare property is more valuable. He asked why Mr. Dunker should prosper at the expense of the neighborhoods. Mr. Robinson said there is additional traffic from the subdivisions.

Rebuttal

John Halverson, Sanderson Stewart, Billings, MT

Mr. Halverson represents applicant, R. L. Dunker and Sons. He clarified the distance between the residences on the east side of Mauser is 210 feet with the line adjustment and with the zone change it will be 150-ft. The truck stop will not be immediately across the street from residential uses. This zoning is compliant with all of the previous Master Planning in this area. The buffer zone will be triggered at the time of any development on the parcel. The sidewalk will be triggered per the appropriate portion of the compliance code. This business has been in operation for 30-years and this is the reason for zone change. Commissioner Gentry confirmed the owner of the property will maintain the buffer zone. Does the zone change and the buffer go hand in hand? This will effectively move the heavy commercial zone closer to the residential area.

Discussion

At 4:53 Pro Commissioner Gentry closed the public hearing and called for discussion. Commissioner Tuss stated she feels the concerns of the citizens are valuable.



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Commissioner Hewett said he feels this zone change will provide landscaping and the buffer zone which is more attractive. Commissioner Bush had no comments. Commissioner Tuss commented, should the Heavy Commercial zoning be denied, another request could be submitted for CMU zoning. Commissioner Tuss said there are 3 sides of residential development with lighting and drainage concerns. Nicole Cromwell said there is no lighting provision in the zoning code. Commissioner Tuss said she doesn't feel the heavy commercial zoning is not the most appropriate zoning and noted the surrounding zoning. The zone changes were intended to disincentivize heavy commercial use and noted criterion 8, 9, 10.

Motion

Commissioner Tuss made a motion and Commissioner Hewett seconded the motion recommending denial based on the findings for the 8,9,10 criteria for Zone Change #717. Criterion 8, 9, 10 Based on testimony and information provided by the developer. The proposed zoning change does not meet the character of the district and there are other options to provide the developer to recoup their investment. The value of the building is not met, and the zoning could severely impact them. Commissioner Tuss recognized there are other mixed uses in the area and said the zone change is not appropriate due to the residential areas and commercial light uses.

Discussion:

Commissioner Hewett said he doesn't like the heavy commercial next to the residential. Commissioner Gentry said she doesn't like the nonconforming use for the applicant's property. **2-2. No recommendation will be forwarded.** Commissioner Tuss, Commissioner Hewitt, Favor. Commissioner Gentry, Commissioner Bush, Against.

Zone Change #717 is denied. The Board of County Commissioners public hearing for these applications will be held on July 25, 2023, at 9:30 a.m. at 316 N 26th Street – 3rd Floor, Commissioner's Hearing Room. The Board of County Commissioners will hear all persons wishing to speak relative to the proposed Zone Changes.

Item #2. County Zone Change 718

541 Woodland Road and 2422 Old Hardin Road – NX1 and N4 to C3 – A zone change request from Mixed Residential 1(NX1 – Lots 17 & 18) and Large Lot Suburban Neighborhood Residential (N4 – Lot 19) to General Commercial (C3) on Lots 17, 18 and 19 of Meadowbrook Subdivision, a 1.9-acre parcel of land. A pre-application neighborhood meeting was held on May 18, 2023, at the subject property. Tax IDs: C04821 and C04822.

REQUEST

County Zone Change 718 is a request to change the zoning on Lots 17 & 18 (Mixed Residential 1 - NX1) and Lot 19 (Large Lot Neighborhood Residential- N4) in the Meadowbrook Subdivision to General Commercial (C3). The total area of all three lots is 1.9 acres and is located on the east side of the intersection of Old Hardin Road and Woodland Road across the street from the Little



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League ball fields. The property currently has at least three residential homes and one commercial shop building. The intent of the zone change is to allow the owner to plan for future commercial development on the property.

RECOMMENDATION

Planning staff is recommending approval and adoption of the findings for the 11 criteria for Zone Change 718.

Discussion

Commissioner Gentry called for discussion from the Commissioners. Commissioner Gentry asked if the owner wishes to continue with the campground/subdivision for rent or lease, would it include setting the buffer along the property lines according to the zoning and subdivision regulations within the Lockwood and sewer district. The floodplain will be an issue for any new building.

Public Hearing

Commissioner Gentry opened the public hearing and asked if there is anyone wishing to speak regarding County Zone Change #718.

In Favor

Greg Reid, WWC Engineering, Billings, MT

Ms. Redland represents Superior construction properties, Chris Vlahos. The applicant become aware of the noncompliance with the zoning and will forward the application for subdivision which will establish the buffer. Commissioner Tuss, the current use is RV camping on site and it is non-compliant with additional units.

In Opposition

Russ Schelle, 363 Juniper Drive, Billings, MT

Mr. Schelle said any buildup will restrict the water and it will flow into the Little League Baseball field and the properties to the south of this parcel. Dry Creek is full of grass clippings and garbage. He asked how campers can be placed into a floodway and said the traffic flow is difficult with limited views at the corner. He doesn't feel this will benefit anyone except the property owner. Mr. Schelle provided a photo of the Little League field flooding to the members of the Commission.

Sandy Barta, 362 Woodland Rd, Billings, MT

Ms. Barta commented the flood plain leaves a chance that it can flood in any given year. She is concerned with the traffic and there are kids in the area during the baseball season. She is concerned with the potential for motor homes and tents parking and public safety. She asked if the RVs and the house will have to be moved if the zoning is not approved.

Rory Peck 2938 Alaskan Ave, Billings, MT

Mr. Peck is a Little League coach and worked on the field following the flooding. He said the



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water does not have anywhere to go. There a lot of kids in May in June using the fields and he is concerned with children's safety.

Rebuttal

Greg Reid, WWC Engineering, Billings, MT

Mr. Reid stormwater permitting is required with subdivision review, along with onsite flows handled by DEQ and County Public Works. The type of traffic and number of campers do not warrant a Traffic Impact Study. The various locations vehicles will approach may be required to be moved further away from intersections under subdivision review. Mr. Reid further clarified the use of tents would be considered non-compliant. Commissioner Gentry asked if there is a background check for potential RV rental spaces. Mr. Reid said he is unaware of any restriction and would not deem necessary. Commissioner Tuss asked if the main access to the parcels come from Woodland Road. Nicole Cromwell clarified the enforcement process is through the County enforcement officer. If the applicant is denied, the County will move forward with enforcement.

Discussion

At 5:32pm Commissioner Gentry closed the public hearing and called for discussion. Commissioner Tuss commented on the transient nature of camping with people coming and going. Commissioner Gentry doesn't believe this is an appropriate use. Commissioner Hewett is sympathetic to the need for this type of use for temporary housing and the current high cost of living. Commissioner Gentry doesn't feel this is the right spot with the flood plain, which will need to be mitigated. Commissioner Hewett said the previous zone change allowed multifamily use. Commissioner Bush commented there is a need for motor home parks with the Little League Tournaments. There is a lot of existing traffic throughout the summer months, and this will not add to the traffic. Commissioner Tuss feels there is a lot of other options for camping, and it will not accommodate the volume of vehicles needed for tournament parking.

Motion

Commissioner Gentry made a motion and Commissioner Hewett seconded the motion recommending denial and adoption of the findings for the 11 criteria for Zone Change #718. Criterion 10, 4-health and general welfare allowing transient camping. 8-character of the district. No other campgrounds in the area. 10-encourage the most appropriate use of the land-next to the neighborhood and the little League Field.

**Recommendation to deny –Commissioner Hewett, Commissioner Gentry, Against.
Commissioner Tuss, Commissioner Bush, Favor.**

Discussion: There was no further discussion on the motion.

Zone Change #718 is denied. The Board of County Commissioners public hearing for these applications will be held on **July 25, 2023** at 9:30 a.m. at 316 N 26th Street – 3rd Floor, Commissioner's Hearing Room. The Board of County Commissioners will hear all persons wishing to speak relative to the proposed Zone Changes.



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Item #3. County Zone Change 719

547 Johnson Lane – from Agriculture (A) to General Commercial (C3) and Mixed Residential 1 (NX1)

REQUEST

County Zone Change 719 is a zone change request from Agriculture (A) to General Commercial (C3) and Mixed Residential 1 (NX1) for property located at 547 Johnson Lane, legally described as C/S 1901, Parcel A1 and 12.77-acre parcel of land. The land is owned by the Lockwood Fire District, and Andrew Miller of Clock Tower Hospitality and Anna Vickers of IMEG Corporation are the agents for the zone change. A pre application meeting was held on May 25, 2023, at the Lockwood High School Commons.

RECOMMENDATION

Planning staff is recommending approval and adoption of the findings for the 11 criteria for Zone Change #719.

Discussion

Chairman Bush called for discussion from the Commissioners. This property belongs to the Lockwood Fire District ...

Public Hearing

Chairman Bush opened the public hearing and asked if there is anyone wishing to speak regarding County Zone Change #719.

In Favor

Anna Vickers, IMEG, 125 North 27th Street, Billings, MT

Ms. Vickers represents the applicant and seller of the property, Lockwood Fire District No. 8, John Staley, Chief. They want to ensure the site design aligns with street design the way the streets run and allow for the buffer. Residential use was chosen as the 27' height is lower, and the design intent was for patio homes. The design aspect is waiting on the zone change request approval. Intend to move forward with subdivision if approval and will follow all subdivision regulations.

In Opposition

Rory Peck, Billings, MT

Mr. Peck would be more favorable with the potential for a hotel and it sounds like the residential use proposed will be similar. He is concern with the traffic as the only entrance is located on Enfield and there is a need for another outage to Johnson Lane.

Florence Diede, 535 Johnson Lane, Billings, MT

The fire department purchased this property from the Diedes. She asked if there will be a buffer zone provided. Does this make sense to locate housing in a flood area? She said access to the housing would include access to Mauser. The north and east end of the property had fences moved



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to accommodate sewer lines with the understanding that the lots would be accessed through Mauser Street and Enfield.

Rebuttal

Anna Vickers, IMEG, Billings, MT

Ms. Vickers the subdivision regulations will be followed. Contributions will be given for improvements per a traffic study, if required. It is difficult to address traffic currently, as there isn't a full design available. They will build to subdivision standards which means staying out of the flood plain. They must buffer for all residential zones, which include Ms. Diede's property.

Discussion

At 6:00 pm Commissioner Tuss closed the public hearing and called for discussion. Commissioner Tuss considering the surrounding area this is a reasonable request. Bush no comments.

Motion

Commissioner Gentry made a motion and Commissioner Hewitt seconded the motion recommending approval and adoption of the findings for the 11 criteria for Zone Change #719.

Discussion: There was no further discussion on the motion.

The motion carried 4-0, with a unanimous voice vote. Zone Change #719 is approved. The Board of County Commissioners public hearing for these applications will be held on July 25, 2023 at 9:30 a.m., 316 N 26th Street – 3rd Floor, Commissioner's Hearing Room. The Board of County Commissioners will hear all persons wishing to speak relative to the proposed Zone Changes.

OTHER BUSINESS

a. Announcements

- There is one vacancy on the County Zoning Commission.
- The August 14, 2023 Yellowstone County Zoning Commission meeting is canceled due to a lack of applications.

Adjournment 6:02 PM

DRAFT-To be approved by a motion at the next scheduled meeting.

--Brenda J Berns, Planning Clerk

HOMEOWNERS IN THE PAT DAHL SUBDIVISION ARE OPPOSED TO THE ZONE CHANGE AT THE FLY IN SUBD BLOCK 1 lots 5A and 4A TO HEAVY COMMERCIAL. WE ARE ALSO OPPOSED TO MOVING THE BUFFER ZONE ACROSS FROM MAUSER ST. 60 FEET CLOSER TO OUR NEIGHBORHOOD BY CHANGING PART OF LOTS 1A and 2A FROM TO HEAVY COMMERCIAL. A LIST OF THE REASONS FOR OUR OPPOSITION IS AS FOLLOWS:

We are adamantly opposed to a truck stop which would be allowed. We do not know the plans of the present owners, but we do know that if it was ever sold, new owners could do whatever they wanted and the zoning would never go back to CMU1. Heavy Commercial Zoning would be a heavy loss, in many ways, for the homeowners!

Property values would decrease and it would make it very difficult to even sell a family home. This would not "stabilize property values" as indicated in Project RE:Code and the Lockwood Growth Policy of 2016.

Noise is a problem already with the Johnson Lane intersection traffic, Casey's Corner gas station, and use of our streets for passage out of the new subdivisions south of us. We also have the often-continuous noise from the blowing out of the power plants that service the Exxon refinery. Some of us who live on Mauser St. and closer in are reluctant to open our windows at times because of the noise pollution. We also get some trucks who defy the rules and park at the Fly In area and run their trucks all night. Vibrations of homes are a real issue with heavy truck traffic.

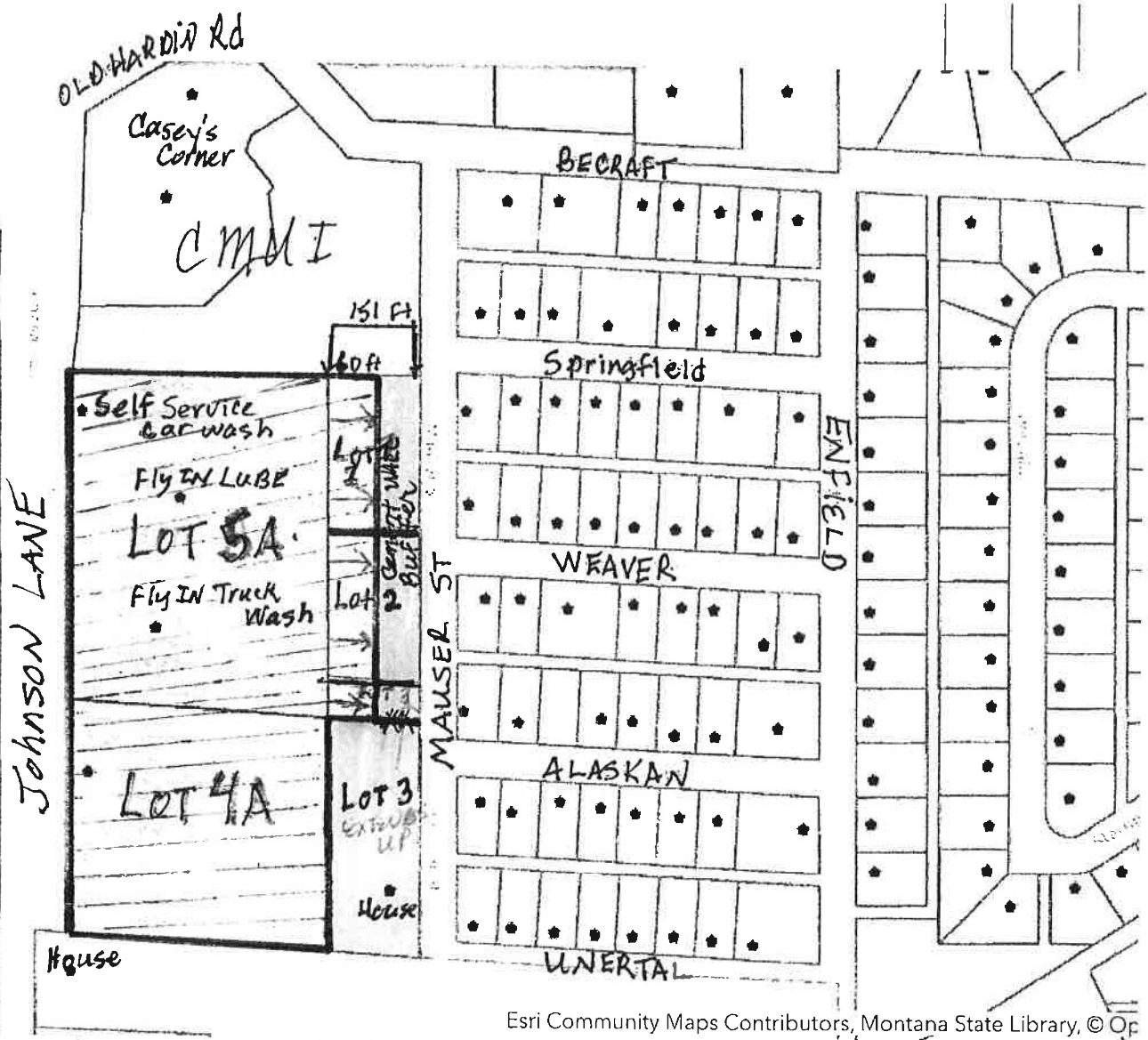
Air quality would be very detrimental if a truck stop were allowed, as well as any commercial business with truck traffic. We would not want to open our windows. Adults and children with any respiratory problems would be at high risk. This is not what we want for our communities anywhere. This an issue of Safety and Health for anyone.

Safety is a huge for children, teenagers, and adults who walk through the neighborhood up to the store at Casey's Corner or up through the intersection on their way to a friend, school, sporting event etc. The traffic would increase tremendously and be dangerous through the Johnson Lane intersection. It is already heavy!! Johnson Lane is a main school bus route for our children and this would threaten their safety. It would also be an increased safety risk for parents who drive their children to school. It would slow traffic for people who live in Lockwood. It would be an increased safety risk for people on bicycles.


More lights shining in the windows of our home that face toward Mauser St. This is already an issue. This is a disruption for comfort in our own homes.

Safety again is an issue for activities around truck stops and other 24-hour businesses. There are more transients that could wander into our neighborhood. It is well known that prostitution is found around truck stops. Our community needs to do all it can to protect neighborhoods and families from these types of activities.

Possible increase of fire or explosions from so many trucks that often carry dangerous materials.



Esri Community Maps Contributors, Montana State Library, © Op

 = Area of proposed zone change on map

PROPOSED ZONE Changes

LOTS 5A and 4A plus 60ft (of the ~~present~~ 151ft) of LOTS 1A and 2A
 plus a corner (0.08 acre) of Lot 3
 To Be Changed to **HEAVY COMMERCIAL**

Presently: Lots 5A and 4A are zoned Corridor Mixed Use 1 = CMU1
 Lots 1A and 2A are zoned Large Lot Suburban Residential = N4
 Lot 3 is Rural Residential 1 = RR1

The cement wall by Mauser St. divides the present CMU1 to give our neighborhood a BUFFER ZONE. This BUFFER ZONE was allowed in a past opposition to a proposed zone change. The new proposed zone change would bring that wall 60 feet (out of 151 ft) closer to Mauser St, and be zoned Heavy Commercial.



Comparative Market Analysis

707 Mauser Street
Billings, 59101

Tuesday, July 4, 2023

Pricing Recommendation

General Facts About Pricing...

There are certain factors that are within our control and some factors beyond our control when it comes to setting the price. Those factors within our control are: the appearance of the property, how aggressively we market the property and the price. Factors outside our control are: location of property, size and local amenities. It's important to accept those factors that are beyond our control and focus on the pricing and preparation.

A property priced at market value will attract more buyers than a home priced above market value. Consider that a competitively priced property will also attract a greater number of potential buyers and increase your opportunity for a quick sale.

Market Statistics...

Sell Price Statistics

Average Price: \$381,600
High Price: \$490,000
Median Price: \$387,400
Low Price: \$220,000

Sell Price Per Sq. Ft. Statistics

Average Price/Sq Ft: \$173
High Price/Sq Ft: \$208
Median Price/Sq Ft: \$186
Low Price/Sq Ft: \$109

Figures are based on selling price after adjustments, and rounded to the nearest \$100

Recommended Price:

Based on the comparative market analysis herein, your home should sell competitively between \$375,000 to \$400,000 based on current market trends and your zoning as is.

With the proposed zoning changes currently under review with the City of Billings to the land immediately across the street to your west side, will have a negative impact to the sale value of your home and those on your street if the zoning is changed to a heavy commercial use. Though I cannot say with certainty how much of a loss in value to your home that may represent, I suspect it could be anywhere from 10% to 50% based on what business is built on that land. For example, if a large truck stop were to be constructed there it would bring nonstop traffic, noise and visual pollution. This could be worse case scenario and impact your home value severely.



The property owners in Pat Dahl Subdivision and along Enfield Street that face this subdivision are opposed to the zone changes at 705 Johnson and across the street from Mauser St. as indicated in the particulars of "County Zone Change 717". We are adamantly opposed to Heavy Commercial zoning, and to moving our buffer zone 60 feet closer to our neighborhood. We are opposed for all the reasons we have written out for you to hear and read. We understand the owner states he needs to come into "compliance" with the new zoning codes of 2020, but we request the county allow the owner some other option other than Heavy Commercial.

NAME ADDRESS

- 1 Daniel Kavanagh 2913 WEAVER AVE
- 2 Robert M. Anderson 620 ENFIELD ST.
- 3 Doreen Hansen 625 ENFIELD ST
- 4 William Lutz Kelly 647 Enfield St
- 5 Bruce Ruhl 707 Enfield St.
- 6 Duke Bost 727 Enfield St
- 7 Ramsey Siles 735 ENFIELD ST.
- 8 Joseph Bollinger 2907 Unertal Ave
- 9 [Signature] 2913 Unertal Ave
- 10 Danielle Jordan 2913 Unertal Ave
- 11,12 Mrs & Mrs Stason 2919 Unertal Ave
- 13 Erik Lilleberg 2925 Unertal Ave
- 14 NATHAN SATKAN 2931 UNERTAL AVE
- 15 Jamie Herbert 2937 Unertal Ave
- 16 Stan Anderson 696 Enfield St
- 17 Ed Rahn 641 Enfield St
- 18 Steph Piranti 633 Enfield St
- 19 Brett Rollins 701 Enfield ST

The property owners in Pat Dahl Subdivision and along Enfield Street that face this subdivision are opposed to the zone changes at 705 Johnson and across the street from Mauser St. as indicated in the particulars of "County Zone Change 717". We are adamantly opposed to Heavy Commercial zoning, and to moving our buffer zone 60 feet closer to our neighborhood. We are opposed for all the reasons we have written out for you to hear and read. We understand the owner states he needs to come into "compliance" with the new zoning codes of 2020, but we request the county allow the owner some other option other than Heavy Commercial.

	NAME	ADDRESS
20	Jim Smith	2914 WEAVER AVE
21	Heshia Swenson	2914 Springfield Ave
22	Cacey Swenson	2914 Springfield Ave
23	Jenna Smith	2914 Weaver Ave
24	Hugh Fisher	633 Mauser St.
25	John Smith	2913 ALASKAN AVE
26	Monica Purkey	2914 Alaskan Ave
27	Dougart	2925 Alaskan Ave.
28	Delmy Hoenig	2929 ALASKAN AVE
29	Minda Peck	2938 Alaskan Ave
30	Ben May	2932 Weaver Ave
31	Bob Wiermbe	2975 Weaver Ave.

Signatures
Letters

The property owners in Pat Dahl Subdivision and along Enfield Street that face this subdivision are opposed to the zone changes at 705 Johnson and across the street from Mauser St. as indicated in the particulars of "County Zone Change 717". We are adamantly opposed to Heavy Commercial zoning, and to moving our buffer zone 60 feet closer to our neighborhood. We are opposed for all the reasons we have written out for you to hear and read. We understand the owner states he needs to come into "compliance" with the new zoning codes of 2020, but we request the county allow the owner some other option other than Heavy Commercial.

NAME ADDRESS

- 32 John J. Olson 2926 Springfield Ave Bldgs
- 33 Joyce A. Olson 2926 Springfield Ave, Bldgs Bldg Mt 59101
- 34 Kelly Thronburg 2931 Springfield Ave Bldgs 59101
- 35 Clayton Thronburg 2931 Springfield Ave Bldgs 59101
- 36 Travis Sabo 2919 SPRINGFIELD AVE BILLINGS 59101
- 37 Lani Sabo 2919 SPRINGFIELD AVE BILLINGS MT 59101
- 38 Jacob Foss 2913 Springfield Ave Billin SMT
- 39 Damon Foss 2913 Springfield Ave Billin SMT
- 40 Heather Pastien 2932 Springfield Ave Bldgs Mt, 59101
- 41,42 Rick & Holly Beaman 2950 Springfield Ave Bldgs Mt, 59101
- 43 ~~Vernon~~ Danice Thomas, 2937 Springfield Ave Bldgs 59101
- 44 Vernon Thomas, 2937 Springfield Ave, Bldgs, 59101

The property owners in Pat Dahl Subdivision and along Enfield Street that face this subdivision are opposed to the zone changes at 705 Johnson and across the street from Mauser St. as indicated in the particulars of "County Zone Change 717". We are adamantly opposed to Heavy Commercial zoning, and to moving our buffer zone 60 feet closer to our neighborhood. We are opposed for all the reasons we have written out for you to hear and read. We understand the owner states he needs to come into "compliance" with the new zoning codes of 2020, but we request the county allow the owner some other option other than Heavy Commercial.

NAME

ADDRESS

- 45 Robert Widdicombe 2925 Weaver 59101
- 46 Grant Kimble 2931 WEAVER 59101
- 47 Gretchen Kimble 2931 Weaver Ave. 59101
- 48 Brock Baulz 2937 Weaver 59101
- 49 STUART BOXINGTON 2943 WEAVER AVE 59101
- 50 Austin Heil 2945 Weaver 59101
- 51 Shaun Anderson 646 Enfield St
- 52 Dean Miller 2944 Weaver Ave.

Randall & Jacquelin Robinson July 5, 2023
707 Mauser St.
Billings, Montana 59101 phone (406-855-1432)

Members of the Zoning Commission
Yellowstone County Commissioners

RE: Proposed Zone Change #717

This letter is written in opposition to the proposed zone change #717 at 705 Johnson Lane. We oppose changing lots 4A and 5A, that are currently CMU1, to Heavy Commercial. We also oppose moving the present buffer zone of Lot 1A, 2A, and 3A. This would change the present buffer zone of 150 ft to 90 ft. This is a huge encroachment on our home.

We request that you leave the present zoning in place. This would allow the present owner to continue his business or to sell his land for multiple uses that would not affect our neighborhood in such a significant manner. I am sure the residents of Lockwood would enjoy more dining establishments, or other small businesses in the area. It seems changing to Heavy Commercial is only about money for the present owner.

We have lived in our home for over 40 years and have seen many changes to our once quiet area. The many reasons for our opposition are listed in the **Reasons for Opposition** that has been signed by us and presented to you. Please review.

We are both retired and have considered moving to a smaller home. This proposed zone change has come as a shock to us. We believed it was all settled in 2003. Last week we had an unbiased real estate agent from Century 21 give us a Comparative Analysis and Pricing to Sell Recommendation. Price was given "as is" -without the zone change. He also gave us an idea as to our loss in property value if changed to Heavy Commercial. He wrote that depending on the type of Heavy Commercial, our home **could lose from 10% -50% of its value and make it difficult to sell. This is devastating!!!!!! Even a loss of 10% could lose us thousands of dollars.** This loss would affect many homes in the neighborhood. We are on a fixed income and are **unable to handle this blow to our finances in our retirement.**

It is not fair that we should potentially lose thousands of dollars, or be forced to live with the multiple negative effects listed in "Reasons for Opposition". Our neighborhood should have as much value as any commercial interest.

Please hear us and consider this proposed zone change as if **you** were in our situation.

Sincerely,


Randall Robinson
Jacquelin Robinson

Dated in the month of July, 2023.

Members of the Zoning Commission and County Commissioners, and to Whom it May Concern,
Yellowstone County, Montana.

Regarding: Zone Change #717

I AM OPPOSED TO THE PROPOSED ZONE CHANGE # 717
FORTY YEARS AGO WE WERE INVOLVED IN A ZONE CHANGE THAT WE OPPOSED
BOTH SIDES AGREED TO COMPROMISES. THE CONCRETE WALL DIVIDING
THE PROPERTY AS A BUFFER WAS ONE OF THOSE COMPROMISES.

THE NEIGHBORHOOD HAS HAD TO PUT UP WITH TRUCKS IDLING ALL
NIGHT & BRIGHT LIGHT LIGHTS SHINING IN THEIR WINDOWS ALL
NIGHT. AFTER A NUMBER OF COMPLAINTS THE ISSUE WITH THE TRUCKS
IDLING HAS IMPROVED. HOWEVER THE PEOPLE THAT LIVE ON MAUSER ST
STILL HAVE TO PUT UP WITH THE INTERIOR OF THEIR HOUSES BEING
LIT UP EVERY NIGHT

THE ALLOWABLE BUSINESS AFFORDED TO THE ZONE CHANGE WOULD
EXALERBATE THESE ISSUES AND BRING THEM NINETY FEET CLOSER
THESE BUSINESSES WOULD INCREASE NOISE & AIR POLLUTION,
IT WOULD ALSO RAISE SAFETY CONCERNS TO THE NEIGHBORS

THE TRAFFIC ON MAUSER ST HAS INCREASED SIGNIFICANTLY. THIS
WOULD ONLY MAKE IT WORSE, MAUSER ST. IS NOT DESIGNED AS A
TWO LANE THROUGH FARE. AND OF COURSE THE UNSTATED ISSUE OF
LOWERED PROPERTY VALUES

Don Kawanauf
2913 WENNER AVE.

To

ZONING COMMISSION
COUNTY BOARD OF COMMISSIONERS

To Whom it may concern.

I Jim Smith which owns property listed as Block 8 lot 3 do hereby oppose the zone change at the

7th in subdivision Block 1 lots 3^A and 4^A to Heavy Commercial and also I am opposed to the moving of the Buffer zone across from MAUSER ST.

This Buffer zone has already been established when said property was sold in December of 2003.

The amount of noise and traffic is already hard to bare.

Thank you
Jim Smith
2914 Weaver

11 criteria

Dated June 29, 2023: Addressed to the Zoning Commissioners and to the County Commissioners.

Related to proposed zone change #717 located at 547 Johnson Lane. This is a response from the Pat Dahl subdivision addressing the "11 Criteria to be Used for Review of Zone Changes". The application response to the 11 criteria was written by the property owner's agent, John Halverson from Sanderson Stewart. This gentleman does not live in Lockwood. We disagree with many aspects of his assessment of the 11 criteria.

1. Is the new zoning designed in accordance with the Growth Policy?

The Lockwood Growth Policy 2016 says "The implementation of future regulations should involve all affected parties and the public in general". (We were not involved, only 150 emails were sent to residents of Lockwood out of approximately 8000 residents. It is questionable as to how many people subscribe to the Yellowstone County News). Heavy commercial zoning within 90 feet of people's homes is not something the Growth Policy suggests. Changing to heavy commercial to bring into compliance is something that is not suggested or seen in the growth policy when it involves such a large existing neighborhood. There is no suggestion in the preferred map of the Lockwood Growth policy that suggests any heavy commercial in this area of Johnson Lane.

2. Is the new zoning design to secure from fire and other dangers?

Although the area is served by the Lockwood Fire District- if it is changed to heavy commercial this presents many dangers to the adjacent existing neighborhood. If a possible truck stop were to be located there in the future, as well as other possible uses, then all the dangers listed on the page listing "Reasons for opposition" are significant reasons for increased danger to the neighborhood. **Please review that page.**

3. Will the new zoning promote public health, public safety, and general welfare?

Again, please refer to the page "Reasons for opposition" that addresses the response to this question. The response from the property owner's agent does not say a word about the existing neighborhood, but does suggest future development of that property. This is what we fear!

4. Will the new zoning facilitate the adequate provision of transportation, water, sewer, schools, parks, and other public requirements?

Again see "Reasons for Opposition" page. Public requirements stress Safety, Health, General Welfare. In addition, there could be sewer and water overload with a possible heavy commercial zone. Johnson Lane is a major school bus route and is already congested at the Johnson Lane interchange. People in Lockwood do not need more congestion to accommodate truck and commercial money interests.

5. Will the new zoning provide adequate light and air?

No-Lighting is already bright into homes especially on Mauser St. and those homes close to Mauser. Anymore 24-hour lighting erodes the right to general comfort in our own homes. As addressed in the "Reasons for Opposition" the quality of air would be eroded in our neighborhood if the land was ever sold and a truck stop was built. John Halverson, in his response to this question, does not even address our neighborhood.

6. How will the new zoning affect motorized and nonmotorized transportation?

John Halverson, in his response, does not address resident's transportation issues -only Johnson Lane. Presently it manages current use, although it can be highly congested at time. Expansion in the future could involve higher truck traffic that will affect local citizens. A new interchange would not stop more trucks from entering this area. Again, refer to the "Reasons for Opposition".

7. Will the new zoning be compatible with urban growth in the vicinity of cities and towns?

No-It would not be compatible with a change to Heavy Commercial. The property could stay CMU1 with the present 150-foot buffer zone and be more compatible with the existing homes. John Halverson's response does not address the close proximity to an existing neighborhood. A landscaping buffer would not negate or change all the reasons for moving the buffer to just 90 feet from some of the neighbor's front yards.

8. Will the new zoning conserve the value of buildings?

The response from the property owner's agent was "NEUTRAL". This is most likely because they know the zone change would decrease the value of our neighborhood's homes and the ability to even sell a home. Their response can only say it is "UNLIKELY" that Heavy Commercial 90 feet from some homes would affect property values. These statements are laughable. Anyone who believes this does not live here or spoken with unbiased real estate agents. One property owner's "value" does not override an entire neighborhoods "value".

9. ^{particular} Does the new zoning consider the character of the district and the suitability of the property for uses?

No. Again, nothing is mentioned about existing neighborhoods. It's as if we do not exist! Their response says "it will be compatible" "with zones to the north and west" but they do not mention areas directly to the east. Our neighborhood is to the direct east. This proposed zone change does not consider our homes. Heavy commercial is not suitable and not necessary. The present CUM1 is close enough, and Heavy Commercial with a smaller buffer is unacceptable to homeowners that would be affected as well as other issues that are addressed in this response.

10. Will the new zoning encourage the most appropriate use of land in Yellowstone County?

The current use of land was given to the present property owner in 2003. A buffer was established. This should be held to the zoning decisions at that time. Please review past decisions. Nothing has changed! It is very reasonable to project that this property could be sold and our neighborhood could realize all our fears for our homes. There is plenty of land in Yellowstone County for Heavy Commercial business that does not encroach upon people's homes. **For question #11.** We have more open land in this area. This zone change is not appropriate.

CORRIDOR MIXED USE 1 =CMU1

PRESENT ZONING

Long Term Care Facility
Civic Assembly
Religious Assembly
Schools-College, primary and secondary
Emergency Services
Government office or building
Hospice, Hospital, or Healthcare Facilities
Office, Clinical, Outpatient services
Shelter (like homeless?)
Adult Day Care Center
Day Care Center
Small indoor/outdoor amusement recreation center
Casino Large 10 or more gambling devices. Applicable use restrictions and special review
Animal Sales/Service/Boarding/Kennel
Animal Veterinary with boarding/small
Small Assembly, Entertainment Trade
Broadcasting Station/Studio
Business Service
Crematory and Funeral Services
Consumer Maintenance and Repair
Personal Service
Studio or Instruction Service
Restaurant with drive through and alcohol
Bar or Tavern with all beverage or wine/beer. Applicable use restriction and special review
Financial Services with Drive through or alternative services
Bed and Breakfast Inn
Hotel or Motel
Short term rental with Applicable use restriction
Business or Professional Offices
Parking Commercial-primary use Special Review
Greenhouse/Nursery
Liquor Sales
Retail Sales, general, limited
Car Wash Special Review
Vehicle Maintenance and Repair 5000 sq. Ft.
Vehicle Service Station with Convenience Store Applicable use restriction
Bus/Public Transit Terminal Passenger Train Terminal
Utilities and Public Facilities-Minor- lift station, substation, transmission lines
Land Mobil Radio& Broadcast Antennae Applicable use restriction and Special Review
Wireless Communication Facilities Applicable use restriction and Special Review
Farm Stand
Possible Location Limit= PL for Commercial Resident Facility, less than or over 8 residents. Retirement Home, Trade School, Family Day Care Home, Group Day Care Home, Boarding House
Personal Self-Storage Units with Applicable use restriction PL=Possible Location Limit

Present & Proposed Uses
Allowed

HEAVY COMMERCIAL ZONING=CX ALLOWED USES

Truck Stop
Schools-trade, vocational, primary, secondary
Emergency Services
Government Buildings/Yards/Storage
Hospice Facility
Hospital or Healthcare Facility
Shelter (homeless?) SPECIAL REVIEW NEEDED
Adult day care center
Daycare center
Group Daycare Center
Adult Entertainment APPLICABLE USE RESTRICTIONS
Amusement-Indoor and Outdoor
Casino Large SPECIAL REVIEW NEEDED
Animal Sales and Service, Animal Shelter
Animal Boarding Kennel APPLICABLE USE RESTRICTIONS
Veterinary- Large and small animals with boarding
Assembly for Entertainment or Trade up to 125,000 sq. Ft.
Cemetery or Crematorium
Broadcasting Station
Business Service
Consumer Maintenance/ Repair
Personal Service
Bar or Tavern SPECIAL REVIEW NEEDED AND APPLICABLE USE RESTRICTIONS
Restaurant without drive thru (with drive thru APPLICABLE USE RESTRICTIONS)
Craft Alcohol
Hotel or Motel
Campground/RV Park
Tourist Short Term Rental APPLICABLE USE RESTRICTIONS
Business or Professional Offices
Research or Testing Laboratories
Financial Services with or without drive thru
Parking Commercial-primary use
Retail Sales-Agricultural, Greenhouse
Retail -with or without drive thru
Large Retail
Car Wash
Vehicle Sales and Service
Vehicle Outdoor Sales Lot
Vehicle Maintenance and Repair-Major and Minor
Vehicle Service Station with Convenience Store
Auction House
Contractor Yard General trade
Industrial Sales and Service
Truck, RV, and Heavy Equipment Rental/Sales and Service
Truck Wash
Manufacturing-Artisan/craft, limited and general
Mining-Oil and Gas Field Services, Construction Sand and Gravel Mining
Outdoor Storage and personal self-service storage- APPLICABLE USE RESTRICTIONS
Trucking and Transportation Service
Warehouse, Wholesale Distribution
Agricultural Products
Air Transportation Courier and Freight Service
Bus or Taxi Maintenance and Parking Shed
Bus Public Transit
Train Passenger Terminal
Utilities and Public Facilities-Offices, buildings, yards and land. Minor lift stations, substations, pump stations
Solar Energy Facility. Tier2 has APPLICABLE USE RESTRICTIONS and Tier 3 needs a SPECIAL REVIEW
Wind Energy Conversion Systems. Tier 2 had APPLICABLE USE RESTRICTION and Tier 3 a SPECIAL REVIEW
Oil and Gas Refinery SPECIAL REVIEW
Land and Mobil Radio Broadcast Antennae. SPECIAL REVIEW
Wireless Communication Facilities
Livestock Auction Yard and Agricultural Services
Commercial Feeding Yard, Commercial Stable, Milling: Lumber

2003 Documents

County Zone Change #568

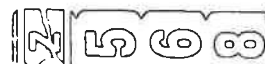
Legal Description:	Subdivision: Fly In Subdivision				
	Lot:	1-3	Block:	1	Section:
	Township:		Range:		Tax ID: C 12462 dt 3
General Location:	Mauser St.				C 12461 dt 2 C 12460 dt 1
Owner:	James McIntosh				
Agent:	Darryl Wilson, River Crossing Realty				
Fees:	Amt:	600.00	Check#	1266	Cash:
Planner:	Wyeth Friday Juliet Spalding				
Submittal Deadline:	11/3/03				
Legal Ad Taken To Paper:	11/20/03				
Property Was Posted:	11/21/03				
Surrounding Property Owners Notified:	11/21/03				
Staff Report Sent to Board Members:	12/1/03				
Applicant Notified of Meeting Date:	12/1/03				
Advisory Board Public Hearing Held:	12/8/03				
Advisory Recommendation:	Denial 5-0				
Applicant Notified of Results of Hearing:	12/9/03				
Legal Ad with Advisory Recommendation To Paper:					
Governing Board Hearing Held:	12/23/03				
Governing Board Action:	Denial 3-0				
Applicant Notified of Results of Hearing:	12/23/03				
Blue Book/ Database Entry:	1-8-04				
Map Revised/ Resolution or Ordinance sent to GIS:					

1889
1895
1896



Mauser Street
L1-3, Fly In Subdivision
James McIntosh

Denied



APPLICATION FORM

COUNTY ZONE CHANGE #560

The undersigned as owner(s), contract purchaser(s) or agent(s) of the following described property hereby request a Zone Change as outlined in the City of Billings-Yellowstone County Unified Zoning Regulations.

Present Zoning: Residential 9600

Proposed Zoning: Entryway General Commercial

Legal Description of Property: Lots 1, 2, + 3 Fly In Subdivision

Address or General Location (If unknown, contact County Public Works): MAUSER ST

Size of Parcel (Area & Dimensions): 150.3' x 938.4' Containing 3.23 acres

Present Land-Use: VACANT

Proposed Land-Use: Not known at this time

Covenants or Deed Restrictions on Property: Yes _____ No X

If yes, please attach to application

*** Additional information may be required as determined by the Zoning Coordinator in order to fully evaluate the application.

Owner(s): James L. Mc Intosh

(Recorded Owner) P.O. Box 787

(Address) Billings, MT 59103-0787

(Phone Number) _____

Agent(s): Darryl Wilson River Crossing Real Estate -

(Name) 490 N. 31st St. Suite 126, Billings, MT 59101

(Address) 256-5005

(Phone Number) _____

I understand that the filing fee accompanying this application is not refundable, that it pays for the cost of processing, and that the fee does not constitute a payment for a Zone Change. Also, I attest that all the information presented herein is factual and correct.

Signature: James L. Mc Intosh Date: 10-31-03

County of Yellowstone

ZONING COMMISSION BOARD OF ADJUSTMENT

4TH FLOOR, LIE
510 N
BILLINGS, MC
(406) 6

DENIED

See Full Board Filed
in Clerk + Records.

TO: Yellowstone Board of County Commissioners
FROM: Yellowstone County Zoning Commission
THROUGH: Ramona Mattix, AICP, Planning Director
PRESENTED BY: Juliet Spalding, Planner I
MEETING DATE: December 23, 2003
SUBJECT: Zone Change #568

YELLOWSTONE COUNTY COMMISSIONERS	
<input type="checkbox"/> APPROVED	<input checked="" type="checkbox"/> DISAPPROVED
12/23/2003	
CHAIRPERSON	
<i>[Signatures]</i>	

REQUEST AND RECOMMENDATION

A zone change from R-9600 to Entryway General Commercial. The Zoning Commission is recommending denial on a 5-0 vote.

****NOTE:** This is an application for a change in zoning only and any site plan submitted with this application is not being considered for either approval or disapproval.

BACKGROUND

This is a zone change from R-9600 to Entryway General Commercial (EGC) on Lots 1, 2 & 3 of the Fly In Subdivision. The subject property is generally located on the west side of Mauser Street south of Becraft Lane, near the Johnson Lane Interchange in Lockwood. The property currently is vacant and the owner would like to have the three subject lots rezoned to EGC so that the existing and future development to the west can expand to these parcels. For example, the applicant's letter states that the owner wishes to sell Lots 1 & 2 to the owner of Lot 5, presumably so that the Truck wash can expand east. It also states that if Lots 3 & 4 were compatibly zoned (both EGC) then it would offer a larger development opportunity.

In 1994, it was recognized that this area surrounding the Johnson Lane Interchange was in need of a master plan to direct future land use in this entryway into the City. After considerable public comment and participation, the Johnson Lane Interchange Master Plan was adopted by the Board of County Commissioners in July of 1994. The reason for the master planning process was to provide an assurance that future zoning and land use development would correspond to the intent of the Master Plan as developed through public input. As part of the Master Plan, some parcels were

recommended to be zoned Entryway Light Commercial or Entryway General Commercial, but others were intentionally recommended to be left Residential-9600 in zoning. The area that encompasses the three subject parcels was subject to a good deal of public testimony by the adjacent neighbors to the east across Mauser Street. They wanted this 150 foot wide strip of land left R-9600 zoning in order to provide a buffer from the adjacent commercial uses that would develop in the EGC zoning. Their main reasons were to preserve their property values and to maintain Mauser Street as a residential street. The resulting adopted Master Plan reflected the citizens' wishes, and recommended that this land (the subject property) be left residentially zoned.

A public hearing for this zone change request was held at the County Zoning Commission meeting on December 8, 2003. Five adjacent homeowners spoke in opposition to this zone change. In addition to the public testimony, 10 letters of opposition, and a petition of opposition signed by 56 of the residents immediately adjacent to the property were received by the Planning Department prior to the meeting (see attached). Some of the reasons for opposition that were discussed both at the public hearing and in the letters were: increased and excessive traffic on Mauser St. which is considered a residential street, excessive noise from semi trucks running at all hours of day and night, excessive lighting, increased transient population, decreased property values for adjacent residential neighborhood, safety concerns for pedestrians and children due to increased traffic, increased air pollution. The County Zoning Commission has reviewed this zone change request, and in light of the adopted Johnson Lane Interchange Master Plan, and the 12 review criteria is unanimously recommending denial of this request.

APPLICATION DATA

OWNER: James L. McIntosh

AGENT: Darryl Wilson, River Crossing Real Estate

LEGAL DESCRIPTION: Lots 1, 2 & 3, Fly In Subdivision

ADDRESS: Generally located on the west side of Mauser Street, south of Becraft Lane in Lockwood

CURRENT ZONING: R-9600

PROPOSED ZONING: Entryway General Commercial

EXISTING LAND USE: vacant

SIZE OF PARCEL: 3.23 acres

and the legal advertisement of this district with notices to all concerned has been completed. Commissioner Kennedy read the resolution into the record and opened the public hearing. Sandy Shelton, 8530 Longmeadow Drive, spoke in favor of the RSID. Hearing no further comments Commissioner Kennedy closed the hearing and brought it back to the board. Mr. Turner recommends creating the district today. Commissioner Ostlund made a MOTION to create RSID 715 & 715M, Tanglewood Lake Estates Subdivision, Commissioner Reno seconded. Passed Unanimous. B.) Return Item - Continuation to Abandon Portion of Rockwell Street and Adjacent Alley. Mr. Chuck Pietz, Survey Party Chief noted for the record there is legal access and utilities access has been provided for and at this time the Board of Viewers recommends approval with a statement of utility access placed upon the plat. Commissioner Kennedy opened the hearing. Hearing no comments Commissioner Kennedy closed the hearing on Resolution 03-155. Commissioner Reno made a MOTION to approve Resolution 03-155 as abandoning a Portion of Rockwell Street and Adjacent Alley, Commissioner Ostlund seconded. Passed Unanimous.

10:00 a.m. ZONING - A.) Resolution of Intent to Zone Change #567 - Wyeth Friday, Planner 1, noted this is a zone change from Heavy Industrial to Agricultural Suburban on a 5-acre parcel located at 3306 Coulson Road east of Johnson Lane in the Lockwood area and Zoning Commission is recommending denial on a 4-1 vote. Commissioner Kennedy opened the public hearing and hearing none or seeing none closed the hearing. After a brief discussion Commissioner Reno made a MOTION of DENIAL of Zone Change #567, Commissioner Ostlund seconded. Passed Unanimous. B.) Resolution of Intent to zone change #568. Juliet Spalding, Planner 1 noted this is a zone change from R-9600 to Entryway General Commercial with Zoning Commissioner recommending denial on a 5-0 vote. Ms. Spalding read the conditions into the record. Commissioner Kennedy opened the public hearing for proponents. Darrell Wilson, 404 31st Street spoke in favor of the zone change #568 hearing no further comments closed that portion and opened for opposition. Jackie Robinson, 707 Mauser Street, noted she did the petition for denial of the zone change and is in opposition. Hearing no further comments Commissioner Kennedy closed the hearing and brought it back to the board noting petitioners list for denial. Commissioner Ostlund made a MOTION of DENIAL of Zone Change #568 based on staff and Zoning Commission recommendation, Commissioner Reno seconded. Passed Unanimous.

LAUREL CITY/COUNTY PLANNING - Preliminary minor Plat - Wallilla Subdivision. Cal Cumin, AICP Planning Director, noted this is a one-lot, low impact subdivision located southwest of Laurel with one condition, and that the final plat meets the requirements of the State Department of Environmental Quality. Commissioner Ostlund made a MOTION approving the Preliminary Minor Wallilla Subdivision with the one condition and the findings of fact, Commissioner Reno seconded. Passed Unanimous.

FINANCE - A.) Metra Financial Report - Commissioner Reno made a MOTION to table this item until Tuesday, December 30th, 2003, Commissioner Ostlund seconded. Passed Unanimous. B.) Resolution of Intent to Create RSID 716, Dry Creek Subdivision. - Set date of the hearing for January 6th, 2004. Commissioner Reno made a MOTION to set hearing for January 6th, 2004 at 9:45 a.m., Commissioner Ostlund seconded. Passed Unanimous.

EMERGENCY & GENERAL SERVICES - Return Item - Agreement with TMC Group for the Telecommunications Study. Commissioner Reno made a MOTION to TABLE item #4 for 90 days, Commissioner Ostlund seconded. Passed Unanimous.

CEDAR PARK WATER & SEWER - Dissolution of District. Ms. Ann Yegen noted all the procedures have been followed and the district is ready for dissolution. Commissioner Reno made a MOTION to approve the Resoluton of Dissolution of Cedar Park Water & Sewer, Commissioner Ostlund seconded. Passed Unanimous.

PARKS - Dog Ordinance. Commissioner Reno made a MOTION to TABLE item #6, Dog Ordinance for information from the Sheriff's Department, Commissioner Ostlund seconded. Passed Unanimous.

COMMISSIONERS - Kairos Development Corp. Mr. Max Lenington noted this is an application for property tax abatement of an abandoned commercial property for \$363,000.00. Mr. Dan Swarz noted for the Commissioners the procedure that needs to be followed for the eventual cancellation of the taxes. Commissioner Kennedy read the letter to the Kairos Development into the record. Commissioner Reno made a MOTION to proceed with the tax abatement action, Commissioner Ostlund seconded. Passed Unanimous.

BOARD APPOINTMENTS - A.) Various Appointments and One Resignation. Commissioner Reno made a MOTION to approve the appointments and resignation, Commissioner Ostlund seconded. Passed Unanimous. B.) Board Openings. Commissioner Kennedy read the openings into the record.

CLAIMS - Batches 04-77 & 04-78. Commissioner Ostlund made a MOTION to approve the claims as submitted, Commissioner Reno seconded. Passed Unanimous.

CONSENT AGENDA - 1. CITY OF LAUREL - Resale Restriction Agreement. 2. FINANCE - A.) Selection of RSID Engineer Rotation. B.) Wells Fargo Brokerage Document Request. C.) Maintenance Request RSID 684M Woodgate Estates Subdivision Am Lot 1 1C. 3. TREASURER - A.) Property Tax Exemption for Billings Depot Inc - D12271. B.) Property Tax Assistance Requests - S02394, 1000559, D02692, A16700C, A02631. C.) First 1/2 of 2003 General Property Collections. 4. BOND FOR LOST WARRANT- Dora Cassity. 5. ATTORNEY - Title IV-E Reimbursement Contract -

APPLICABLE ZONING HISTORY

Johnson Lane Interchange Master Plan: Adopted July 12, 1994. Master Plan for the area immediately surrounding the Johnson Lane Interchange. The 3 subject parcels were identified as needing to remain R-9600 zoning.

ZC #457: Approved September 28, 1995. A County-initiated Zone Change on multiple parcels in this area (including parcels immediately to the West of the subject parcels) in order to implement the *Johnson Lane Interchange Master Plan*.

CONCURRENT APPLICATIONS

None

SURROUNDING LAND USE & ZONING

NORTH: Zoning: Entryway General Commercial
Land Use: Commercial (Exxon station)

SOUTH: Zoning: R-9600
Land Use: Single-Family Residential

EAST: Zoning: R-9600
Land Use: Single-Family Residential

WEST: Zoning: Entryway General Commercial
Land Use: Truck wash (north ½); vacant (south ½)

TWELVE CRITERIA

All Zone Changes must be reviewed in accordance with the 12 criteria set out in MCA 76-2-204. The 12 criteria and the Zoning Commission's determinations on these criteria are listed below:

1. *Is the new zoning designed in accordance with the Growth Policy?*

The new zoning **does not meet** the following goals of the 2003 Growth Policy.

- Predictable land use decision that are consistent with neighborhood character and land use patterns (p. 5).
- New developments that are sensitive to and compatible with the character of adjacent City neighborhoods and County townsites (p. 6).

2. *Is the new zoning designed to lessen congestion in the streets?*

The new zoning will generate an **increase in traffic** compared to the R-9600 zoning of the property. In addition, it would likely increase the congestion on Mauser Street, as the

properties would develop as commercial properties, with potential access onto and from Mauser.

3. *Will the new zoning secure safety from fire, panic and other dangers?*

This lot has public street frontage and is served by the Lockwood Fire Department.

4. *Will the new zoning promote health and general welfare?*

The new zoning would allow the addition or expansion of the commercial uses on these lots. The City-County Health Department noted the following: "Since Lockwood is not currently served by a public sewer system, any structure that is placed on this property, regardless of the zoning, will have to meet the requirements of Yellowstone City-County Board of Health Rule #3 which regulates on-site wastewater systems."

5. *Will the new zoning provide adequate light and air?*

The new zoning provides for sufficient setbacks for structures to allow for adequate light and air.

6. *Will the new zoning prevent overcrowding of land?*

The new zoning of Entryway General Commercial, as do all districts, has limits on the maximum percentage of lot that can be covered with structures. That maximum is 50%, versus 30% in R-9600.

7. *Will the new zoning avoid undue concentration of population?*

The new zoning of EGC would allow the development of these lots with commercial businesses.

8. *Will the new zoning facilitate the adequate provisions of transportation, water, sewerage, schools, parks, fire, police, and other public requirements?*

Transportation: The new zoning will generate an increase in traffic compared to the existing R-9600 zoning. In addition these parcels abut Mauser Street, which is designated as a local street.

Water and Sewerage: The subject property has access to community water, but not community sanitary sewer facilities. Any new development would need to use individual septic systems. These facilities will be reviewed by the Department of Environmental Quality prior to development of the property.

Schools and Parks: No significant impacts foreseen.

Fire and Police: No significant impacts foreseen.

9. *Does the new zoning give reasonable consideration to the character of the district?*

The new zoning of EGC is consistent with the zoning to the west, but it is not compatible with zoning and land uses to the east and south which are predominately R-9600. When the interchange area was rezoned based on the recommendation of the Johnson Lane Interchange Master Plan, this property was intentionally left residentially zoned in order to maintain a buffer between the commercial and highway development, and the existing residences to the east. The character of the area was taken into consideration when the master plan was adopted.

10. *Does the new zoning give consideration to peculiar suitability of the property for particular uses?*

According to the adopted Master Plan, the property may be more suitably used as a buffer between the commercial uses to the west and the residential areas to the east. Logically this buffer might be appropriate with "lighter" commercial uses (perhaps an Entryway Light Commercial use), or a mixed use (like those uses allowed in the Entryway Mixed Use zone). The current zoning would allow for single-family residential development only.

11. *Was the new zoning adopted with a view to conserving the value of buildings?*

The new zoning and resulting development may depreciate the value of the adjacent residences to the east.

12. *Will the new zoning encourage the most appropriate use of land throughout such county or municipal area?*

According to the adopted Master Plan for this area, the most appropriate use of the subject property would be residential development.



YELLOWSTONE COUNTY ZONING COMMISSION
YELLOWSTONE COUNTY, MONTANA
MONDAY, DECEMBER 8, 2003

SUBJECT: Zone Change #568
THROUGH: Ramona Mattix, AICP, Planning Director *RM*
FROM: Juliet Spalding, Planner I *JS*

REQUEST

A zone change from Residential-9600 to Entryway General Commercial on property that is generally located on the west side of Mauser Street, south of Becraft Lane in Lockwood. The Planning staff is recommending denial of this application.

APPLICATION DATA

OWNERS: James L. McIntosh
AGENT: Darryl Wilson, River Crossing Real Estate
LEGAL DESCRIPTION: Lots 1, 2 & 3, Fly In Subdivision
ADDRESS: Generally located on the west side of Mauser Street, south of Becraft Lane in Lockwood
CURRENT ZONING: R-9600
PROPOSED ZONING: Entryway General Commercial
EXISTING LAND USE: vacant
SIZE OF PARCEL: 3.23 acres

CONCURRENT APPLICATIONS

None

APPLICABLE ZONING HISTORY

Johnson Lane Interchange Master Plan: Adopted July 12, 1994. Master Plan for the area immediately surrounding the Johnson Lane Interchange. The 3 subject parcels were identified as needing to remain R-9600 zoning.

ZC #457: Approved September 28, 1995. A County-initiated Zone Change on multiple parcels in this area (including parcels immediately to the West of the subject parcels) in order to implement the *Johnson Lane Interchange Master Plan*.

SURROUNDING LAND USE & ZONING

NORTH: Zoning: Entryway General Commercial
Land Use: Commercial (*Exxon Station*) and vacant

SOUTH: Zoning: R-9600
Land Use: Single-Family Residential

EAST: Zoning: R-9600
Land Use: Single-Family Residential

WEST: Zoning: Entryway General Commercial
Land Use: Truck wash (north ½); vacant (south ½)

REASONS

This is a zone change from R-9600 to Entryway General Commercial (EGC) on Lots 1, 2 & 5 of the Fly In Subdivision. The subject property is generally located on the west side of Mauser Street south of Becraft Lane, near the Johnson Lane Interchange in Lockwood. The property currently is vacant and the owner would like to have the three subject lots rezoned to EGC so that the existing and future development to the west can expand to these parcels. For example, the applicant's letter states that the owner wishes to sell Lots 1 & 2 to the owner of Lot 5, presumably so that the Truck wash can expand east. It also states that if Lots 3 & 4 were compatibly zoned (both EGC) then it would offer a larger development opportunity.

In 1994, it was recognized that this area surrounding the Johnson Lane Interchange was in need of a master plan to direct future land use in this entryway into the City. After considerable public comment and participation, the Johnson Lane Interchange Master Plan was adopted by the Board of County Commissioners in July of 1994. The intent of the Master Plan was to provide an assurance that future zoning and land use development would correspond to the intent of the Master Plan and development and its corresponding zoning. As part of the Master Plan, some parcels were recommended to be zoned Entryway Light Commercial or Entryway General Commercial, but others were intentionally recommended to be left residential in zoning. The area that encompasses the three

subject parcels was subject to a good deal of public testimony by the adjacent neighbors to the east across Mauser Street. They wanted this 150 foot wide strip of land left R-9600 zoning in order to provide a buffer from the adjacent commercial uses that would develop in the EGC zoning. Their main reasons were to preserve their property values and to maintain Mauser Street as a residential street. The resulting adopted Master Plan reflected the citizens' wishes, and recommended that this land (the subject property) be left residentially zoned.

Planning staff has reviewed this zone change request, and in light of the adopted Johnson Lane Interchange Master Plan, and the 12 review criteria is recommending denial of this request.

RECOMMENDATION

Denial

ZONING COMMISSION DETERMINATIONS

The Yellowstone County Zoning Commission, prior to any recommendation, shall consider the following:

1. *Is the new zoning designed in accordance with the Growth Policy?*

The new zoning does not meet the following goals of the 2003 Growth Policy.

- Predictable land use decision that are consistent with neighborhood character and land use patterns (p. 5).
- New developments that are sensitive to and compatible with the character of adjacent City neighborhoods and County townsites (p. 6).

2. *Is the new zoning designed to lessen congestion in the streets?*

The new zoning will generate an increase in traffic compared to the R-9600 zoning of the property. In addition, it would likely increase the congestion on Mauser Street, as the properties would develop as commercial properties, with potential access onto and from Mauser.

3. *Will the new zoning secure safety from fire, panic and other dangers?*

This lot has public street frontage and is served by the Lockwood Fire Department.

4. *Will the new zoning promote health and general welfare?*

The new zoning would allow the addition or expansion of the commercial uses on these lots. The City-County Health Department noted the following: "Since Lockwood is not currently served by a public sewer system, any structure that is placed on this property, regardless of

the zoning, will have to meet the requirements of Yellowstone City-County Board of Health Rule #3 which regulates on-site wastewater systems.”

5. *Will the new zoning provide adequate light and air?*

The new zoning provides for sufficient setbacks for structures to allow for adequate light and air.

6. *Will the new zoning prevent overcrowding of land?*

The new zoning of Entryway General Commercial, as do all districts, has limits on the maximum percentage of lot that can be covered with structures. That maximum is 50%, versus 30% in R-9600.

7. *Will the new zoning avoid undue concentration of population?*

The new zoning of EGC would allow the development of these lots with commercial businesses.

8. *Will the new zoning facilitate the adequate provisions of transportation, water, sewerage, schools, parks, fire, police, and other public requirements?*

Transportation: The new zoning will generate an increase in traffic compared to the existing R-9600 zoning. In addition these parcels abut Mauser Street, which is designated as a local street.

Water and Sewerage: The subject property has access to community water, but not community sanitary sewer facilities. Any new development would need to use individual septic systems. These facilities will be reviewed by the Department of Environmental Quality prior to development of the property.

Schools and Parks: No significant impacts foreseen.

Fire and Police: No significant impacts foreseen.

9. *Does the new zoning give reasonable consideration to the character of the district?*

The new zoning of EGC is consistent with the zoning to the west, but it is not compatible with zoning and land uses to the east which is predominately R-9600. When the interchange area was rezoned based on the recommendation of the Johnson Lane Interchange Master Plan, this property was intentionally left residentially zoned in order to maintain a buffer between the commercial and highway development, and the existing residences to the east. The character of the area was taken into consideration when the master plan was adopted.

10. Does the new zoning give consideration to peculiar suitability of the property for particular uses?

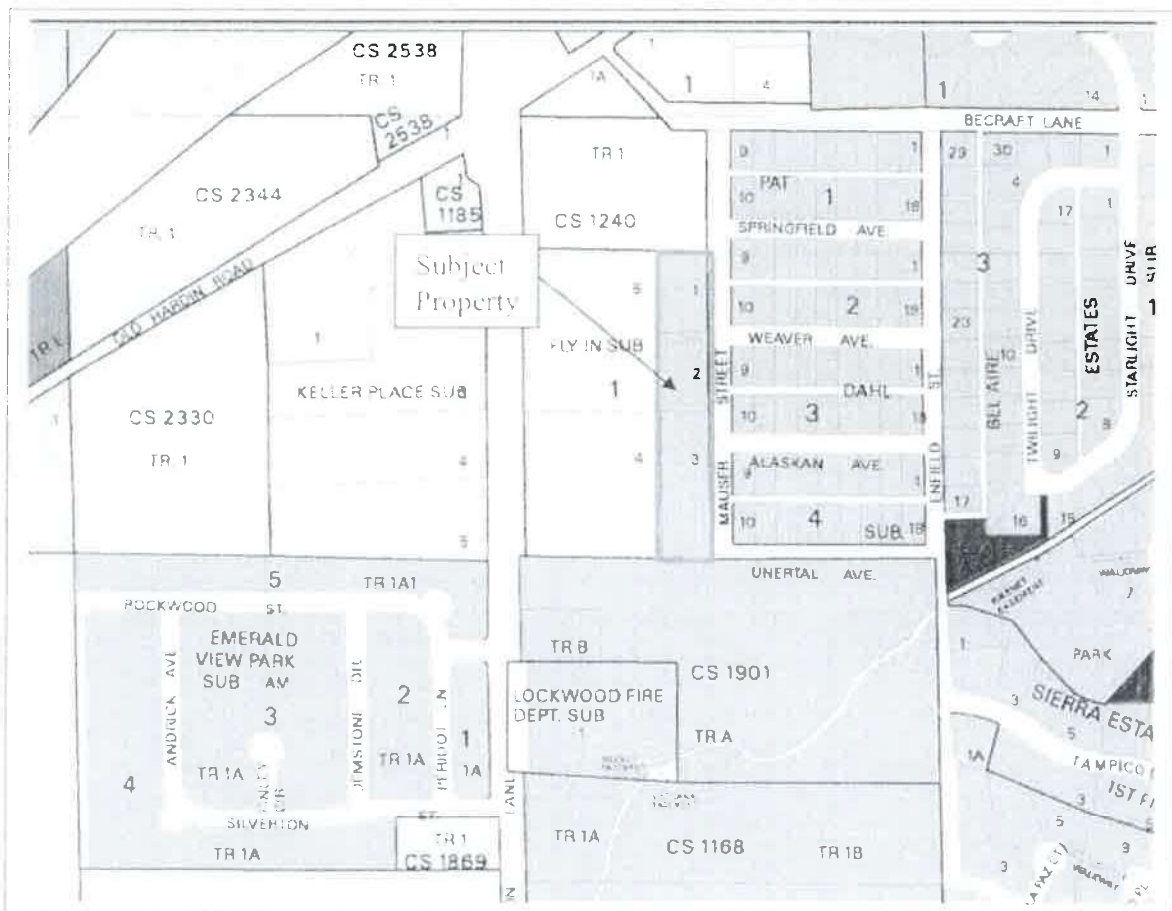
According to the adopted Master Plan, the property may be more suitably used as a buffer between the commercial uses to the west and the residential areas to the east. Logically this buffer might be appropriate with "lighter" commercial uses (perhaps a Entryway Light Commercial use), or a mixed use (like those uses allowed in the Entryway Mixed Use zone). The current zoning would allow for single-family residential development only.

11. Was the new zoning adopted with a view to conserving the value of buildings?

The new zoning and resulting development may depreciate the value of the adjacent residences to the east.

12. Will the new zoning encourage the most appropriate use of land throughout such county or municipal area?

According to the adopted Master Plan for this area, the most appropriate use of the subject property would be residential development.



County Zone Change #568

Public Input as of 12/8/03:

- Petition against the Zone Change: Signed by 56 adjacent neighbors
- Letters of opposition from people who can not attend the meeting(10):
 - Jerry and Leola Harkins (733 Mauser St.)
 - Ronna Roll (2925 Weaver Ave.)
 - Bob and Bonnie Chatriand (2914 Springfield Ave.)
 - Kris and Sara O'Bleness (2908 Alaskan Ave.)
 - Dan and Pam Kavanaugh (no address listed) *2913 Weaver*
 - Mr. and Mrs. Randall Robinson (7070 Mauser St.)
 - Mr. and Mrs. Steve Baker (2931 Weaver Ave.)
 - Jason and DeeDe Baker (no address listed)
 - Michael Ablott (2938 Springfield Ave.)
 - Stacie Heil (2945 Weaver Ave.)

Main points of opposition expressed in letters were:

- Increased and excessive traffic on Mauser St. which is considered a residential street
- Excessive noise from semi trucks running at all hours of day and night
- Excessive lighting
- Increased transient population
- Decreased property values for adjacent residential neighborhood
- Safety concerns for pedestrians and children due to increased traffic
- Increased air pollution

Stacie Heil
2945 Weaver
Billings, MT 59101

(406) 256-0549

December 6, 2003

Board of County Commissioners
members of Yellowstone County Zoning Commission
C/O Juliet Spalding
Planning & Community Services Dept.
510 N Broadway, 4th floor
Billings, MT 59101

RE: Zone Change # 568

To Whom it may Concern:

This letter is in opposition to the proposed zone change from residential 9, loco to Entryway General Commercial on Lots 1, 2, and 3 Block 1 of Flynn Subdivision.

I am a mother of two and also have a small daycare in my home. Not only will the zone change affect my children but also the children in my daycare. I see the effects as the following:

- The extra traffic could endanger the children and adults as there are no side walks.
- The property value will decrease.
- The noise and lights will cause sleep disturbances.
- More air pollution from the semi-trucks, causing a smelly odor & a lingering haze.

• Increased traffic in this area will cause more accidents and more congestion in an area that is poorly striped and only two loped. I do not want semi-trucks parked up & down my street

I have chosen to live in Lockwood as it is a wonderful place to raise a family because it has the best school and ~~is~~ also because ~~that~~ it is a rural area. If I wanted to live in a commercial area I would live in the Heights or West end. Please make your decision knowing that it will affect not only my family but also the children in my daycare

Sincerely,

Stacie Hill

RECEIVED
DEC - 4 2003
PLANNING & COMMUNITY SERVICES DEPARTMENT

RE: Zone Change # 568

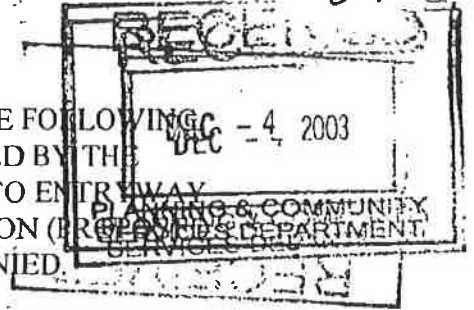
My name is Michael Abbott, property owner
at 2938 Springfield Ave Billings, MT 57101. I
Am writing in regards to County Zone change
568 to say that I am Against such
Action.

Sincerely, M. Abbott

Given to Juliet Spalding on Dec 1, 03

1064

DATED THIS DAY OF NOVEMBER 30th, 2003 WE SUBMIT THE FOLLOWING NAMES OF PROPERTY OWNERS WHO WOULD BE AFFECTED BY THE APPROVAL OF A ZONE CHANGE FROM RESIDENTIAL 9600 TO ENTRYWAY GENERAL COMMERCIAL IN OUR ESTABLISHED SUBDIVISION (P. ZONE CHANGE #568). WE ASK THAT THE REQUEST BE DENIED.



NAME

ADDRESS

Billings MT

- 1 ~~Jacqueline Robinson~~ Jacqueline Robinson 707 MAUSER ST
- 2 ~~RANDALL ROBINSON~~ ~~RANDALL ROBINSON~~ 707 MAUSER ST
- 3 Colleen Culliton Colleen Culliton 2908 Weaver Ave
- 4 Chuck Aer 2908 Weaver Ave
- 5 Mona Beeman 2919 Weaver Ave
- 6 Robert Beeman 2919 Weaver
- 7 Susan Baker 2931 Weaver Ave
- 8 Steve Baker 2931 Weaver Ave
- 9 Art W. Shy 2938 WEAVER AVE
- 10 Ruby West 2944 Weaver Ave.
- 11 DeDe Baker 2943 Weaver Ave
- 12 Jason R Baker 2943 WEAVER AVE.
- 13 Brick Bandy 2937 weaver Ave.
- 14 Kona Roll 2925 Weaver Ave
- 15 Jan Kawasugi 2913 WEAVER AVE
- 16 Jerry L. Harkins 733 Mauser
- 17 Greta K. Harkins 733 Mauser

DATED THIS DAY OF NOVEMBER 30th, 2003 WE SUBMIT THE FOLLOWING NAMES OF PROPERTY OWNERS WHO WOULD BE AFFECTED BY THE APPROVAL OF A ZONE CHANGE FROM RESIDENTIAL 9600 TO ENTRYWAY GENERAL COMMERCIAL IN OUR ESTABLISHED SUBDIVISION (PROPOSED ZONE CHANGE #568). WE ASK THAT THE REQUEST BE DENIED.

	NAME	ADDRESS
18	Kris & Sara O'Brieness	2908 Alaskan Ave.
19	Mark Miller	2913 Alaskan Ave
20	J. J. J. J.	2913 Alaskan Ave
21	April Palmer	2914 Alaskan Ave.
22	Kyle Skapp	2914 Alaskan Ave.
23	Dan Osterlin	2926 Alaskan Ave
24	Tom Osterlin	2926 Alaskan Ave
25	Gick Myers	2932 Alaskan
26	Mike Potter	2951 Alaskan
27	Lolly Potter	2951 Alaskan Ave
28	Michael Schack	2949 Weaver Ave
29	William Jensen	2970 Weaver
30	Klaus Jensen	2920 Weaver Ave
31	Sherry Seig	617 Enfield St.
32	John Seig	617 Enfield St.
33	Robert Nelson	620 ENFIELD ST.
34	Janetta Hansen	625 ENFIELD ST
35	Leslie Hansen	625 ENFIELD ST
36	William & Kelly	647 Enfield

Billings

"

DATED THIS DAY OF NOVEMBER 30th, 2003 WE SUBMIT THE FOLLOWING NAMES OF PROPERTY OWNERS WHO WOULD BE AFFECTED BY THE APPROVAL OF A ZONE CHANGE FROM RESIDENTIAL 9600 TO ENTRYWAY GENERAL COMMERCIAL IN OUR ESTABLISHED SUBDIVISION (PROPOSED ZONE CHANGE #568). WE ASK THAT THE REQUEST BE DENIED.

- | | NAME | ADDRESS |
|----|--------------------|-------------------------------------|
| 37 | Robert Chatrand | 2914 Springfield Ave. Billings, MT |
| 38 | Donnie J. Chatrand | 2914 Springfield Ave. Billings, MT |
| 39 | Christy Kramer | 2920 Springfield ave Billings 59101 |
| 40 | Jane L. Kromer | 2920 Springfield Ave Bldg 59101 |
| 41 | Joyce A. Olson | 2920 Springfield Billings 59101 |
| 42 | Paul Olson | 2926 Springfield Bldg 59101 |
| 43 | Heidi Olsson | 2937 Springfield Bldg 59101 |
| 44 | Mike Alcott | 2938 Springfield Bldg 59101 |
| 45 | Maery Kallie | 2950 Springfield Bldg 59101 |
| 46 | Darlene Thomen | 2937 Springfield Bldg 59101 |
| 47 | Derron Thomen | 2937 Springfield Bldg 59101 |
| 48 | Pammy Sean | 2943 Springfield Bldg 59101 |

Ronna M. Roll
2925 Weaver Avenue
Billings, MT 59101
(406) 259-5439



December 1, 2003

Board of County Commissioners
Members of Yellowstone County Zoning Commission
C/O Juliet Spalding
Planning & Community Services Department
510 N Broadway, 4th Floor
Billings, MT 59101

RE: Zone Change #568

To Whom It May Concern:

This letter is written to **opposition** to the proposed zone change from Residential 9,600 to Entryway General Commercial on Lots 1, 2, and 3, Block 1 of Fly in Subdivision. The subject property is generally located on the west side of Mauser Street between Springfield Avenue and Unertal Avenue, James L. McIntosh, owner and Darryl Wilson, agent.

As a single mother of three (3) children and a resident who would be directly affected by the zone change, I feel the zone change would have detrimental effects such as the following:

- Excessive traffic - Semi Trucks parking in inappropriate areas, turning around on residential streets, etc.;
- Excessive noise - Semi Trucks running all night long while residents try to sleep;
- Excessive lighting - Lights in proposed business would cause glare in existing residential subdivisions;
- Increased transient population - This is already a problem due to the operation of the Flying Lube and Flying J Truck Stop;
- Increased traffic congestion on residential streets, i.e. Beecraft Lane is a two-lane **UNSTRIPED** residential street which is a direct tributary to Mauser Street;
- Decreased property value for existing residential property;
- Danger to children and adults alike in the area. There is already a pedestrian and bike traffic problem as no sidewalks or bike trails exist. Beecraft Lane is very narrow and unlighted.

Please weigh your decisions heavily. The Lockwood Community prides itself on our "rural atmosphere". Lockwood is a quiet place to raise children and has one of the best schools in the state. We do not wish to become a "commercial" area. If we were interested in becoming commercial we would have voted to be annexed in the City of Billings and would have voted "yes" to the sewer.

There are several pieces of property already zoned "commercial" in the area that could be purchased by the petitioners without impeding on property zoned "residential". Let's use up this ground first before taking away from the residential areas. Lockwood is not in a "commercial land crunch".

As a resident of the Lockwood community I would like to ask you –

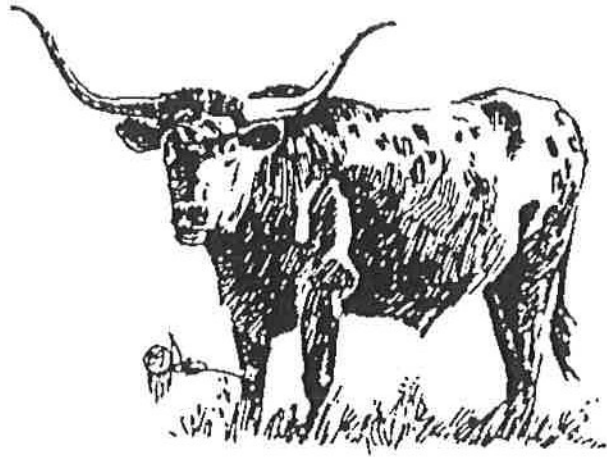
- Does the ability to make a dollar outweigh a safe and quiet neighborhood in which to raise your children?
- Would you like this sort of zone change in your neighborhood?
- Should my income level dictate the right to safe and quiet neighborhood?

Respectfully,

Ronna M. Roll
Concerned Resident

FROM THE DESK OF:

CORKY HARKINS



December 4, 2003

Board of County of Commissioners
Members of Yellowstone County Zoning Commission
% Juliet Spalding
Planning & Community Services
510 N. Broadway 4th Floor
Billings, MT 59101

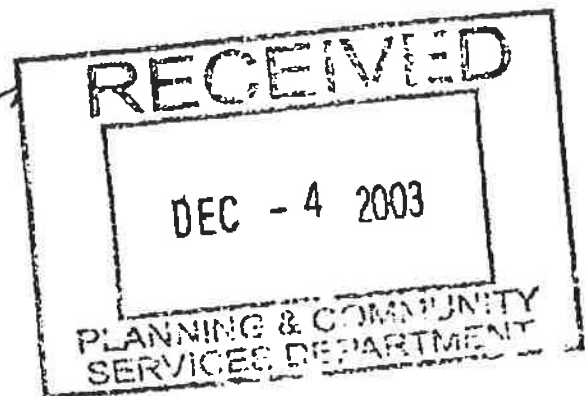
Greetings:

We are opposed to a ZONE change from Residential 9600 to entryway general Commercial on Lots 1,2, & 3, Block 1 of Fly In Sub-division.

Sincerely,

Jerry L. Harkins
Leola R. Harkins

Jerry L. Harkins
Leola R. Harkins
733 Mauser St.
Billings, MT 59101



Spalding, Juliet

From: LeolaH1542@aol.com
Sent: Sunday, December 07, 2003 7:25 PM
To: spaldingj@ci.billings.mt.us; plancsd@ci.billings.mt.us
Subject: re: County Zone Change # 568

Juliet and City-County planning Department,

We are property owners across the street from the proposed zone change.

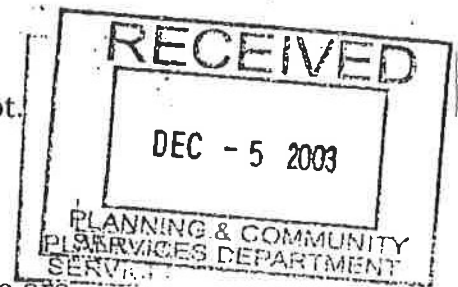
We are opposed to a zone change from RESIDENTIAL 9600 to Entryway General Commerical on lots 1, 2, & 3, Block 1 of Fly In Sub-division.

Sincerely,

Jerry L. Harkins
Leola R. Harkins
733 Mauser Street
Billings, MT 59101

December 3, 2003

Board of County Commissioners
Members of Yellowstone Co. Zoning Commission
c/o Juliet Spaulding, Planning & Community Services Dept.
510 North Broadway, 4th Floor
Billings, Montana, 59101



To Whom It May Concern;

We are property owners in the Lockwood area and we are responding to your notice sent to us, dated November 21, 2003, regarding **County Zone Change #568**. Please consider this letter as protest **against** the change from Residential 9600 to Entryway General Commercial. We live in an established neighborhood and have experienced some new residential construction in and around us that not only increases our property value, but also enhances the family neighborhoods in our area. The lots in question have access only from Mauser Street which is one of two main entries to not only our subdivision but the new one developing to the south and east of us. Residential traffic is respectful and mindful of the area and the children and residents who walk or bicycle on the streets. The increased traffic for commercial businesses in these areas constitutes a safety concern as well as additional noise and activity in our quiet neighborhood.

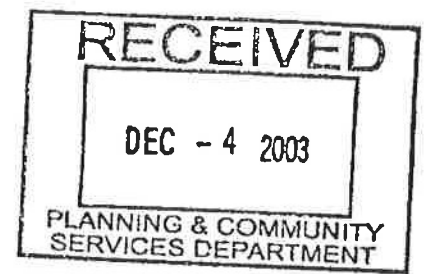
The properties in question also serve as a drainage conduit for the area which in the time of any real or significant rainfall, aids in flood control as well. This is a significant consideration for residential use of this property as well.

Again, we are **not in favor** of any zoning changes for Lots 1, 2 and 3, Block 1 of Fly In Subdivision. Thank you.

Sincerely,

Bob Chatriand
Bonnie Chatriand
2914 Springfield
Billings, Montana
59101

Board of County Commissions
Members of Yellowstone County Zoning Commission
C/O Juliet Spaulding
Planning and Community Services Department
510 N. Broadway, 4th Floor
Billings, Montana 59101
Zone Change #568



December 3, 2003

To Whom it May Concern:

We are writing in opposition to zone change #568. We are very concerned as new property owners about the value of our property declining if this request is approved. In addition to this, as parents of two small children, we are also very concerned about the increase in noise and air pollution as well as potential dangerous traffic problems. Please take these things into consideration and keep our quiet street the way it is. We hope that you will deny the request for zone change #568. Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Sara O'Brien". The signature is written in black ink and is positioned below the word "Sincerely,".

Kris and Sara O'Brien
2908 Alaskan Ave.
Billings, Montana 59101

December 2, 2003

Board of County Commissioners
Yellowstone County Zoning Commission
C/O Juliet Spalding
Planning & Community Services Dept.
510 No Broadway 4th Floor
Billings, MT 59101



Re: Zone Change Request #568

To Whom It May Concern:

We are writing this letter in opposition of the requested zoning change from Residential 9,600 to Entryway General Commercial on lots 1, 2 and 3 Block 1 of Fly-In Subdivision. We are unable to leave work early enough to attend to the meeting. This letter will serve as our voice.

As residents of Pat Dahl subdivision for the past 24 years we have weathered a few similar requests. The Planing Board and The County Commissioners have heard our voices in the past and we hope our input will be welcomed again.

In the Johnson Lane Master Plan the property in question was left Residential to afford a buffer zone to the residents of the Pat Dahl subdivision. The reasoning behind this decision has not changed.

Traffic that would be excessive to the capabilities of the road.
Excessive traffic posing a danger to neighborhood children and pedestrians.
Noise pollution that comes with a business.
Decreased property values.

The adjoining property in the Fly-In subdivision has already caused noise and air pollution to the residents of the Pat Dahl subdivision. There are trucks that idle throughout the night causing a disturbance to the residents. We do not wish to add any more to an existing problem.

We hope that once again the County Commissioners agree with the residents and our subdivision will remain the safe and quiet place it has been in the past.

Thank you for your time and consideration.

Sincerely,

Dan and Pam Kavanaugh

December 04, 2003



Board of County Commissioners
Yellowstone County Zoning Commission
C/O Juliet Spalding
Planning & Community Services Department
510 North Broadway 4 th Floor
Billings, Montana 59101

RE: Proposed Zone Change #568

Dear County Zoning Commission and County Commissioners:

We are strongly opposed to the requested zone change from Residential 9600 to Entryway General Commercial on Lots 1,2,and 3, Block 1 of the Fly in Subdivision. Our home is located at 707 Mauser St. and faces Mauser St. The view from our "picture " window is the bright red Fly In Lube Center. We have already gone through this before in 1995 when the master plan for the Johnson Lane Interchange was put in place. At that time the zoning commission and the county commissioners agreed that we would have the buffer between our homes and the new commercial changes that took effect . We attended meetings, met with the zoning board members in our homes, and put out a strong and consolidated effort to protect our neighborhood at that time. Nothing has changed since that time.

In 1995 , with the commercial zone changes that were made we lost significant value in our home. As you can see, if you will visit our neighborhood, the buffer we have is very small. If this zone request is approved we will have no buffer and therefore again significantly lose more property value. It would be very difficult to even sell our home if we choose to do so. We have lived here for 21 years--it is not fair that the homeowners should continue to lose so much for the sake of commercial expansion

* The noise is already intolerable at times, and we have to keep our windows closed more than we would like to. Trucks run all night across from our house at the Fly In Lube and also the truck wash. We have asked the owners of the Fly In Lube to please restrict this but we have been told to get off the property. We have called the sheriff department with no success.

*The traffic in our area is becoming more congested. Our children are at higher risk for accidents. Our streets are not as well groomed in the winter as in town.

*All reasons for opposition to this zone change made by our neighbors either written or verbal are as important and stand as part of our reasons for opposition. Please accept our petition for those who cannot attend the meeting. The petition was 100% against for those were able to reach.

Phone:
256-3457

Mr. & Mrs. Randall K. Solomon
707 Mauser St
Billings MT 59101

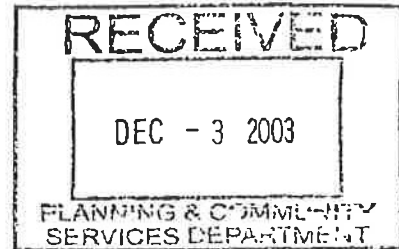
Mr. and Mrs. Steve Baker

2931 Weaver Ave.
Billings, MT 59101

Phone 256-7911

December 01, 2003

Board of County Commissioners
Members of Yellowstone County Zoning Commission
C/O Juliet Spalding
Planning and Community Services Department
510 N. Broadway, 4th Floor
Billings, MT 59101



Regarding: Zone Change #568

To Whom it May Concern,

As residence of the Pat Dahl subdivision we strongly disapprove of the request for the zone change from Residential to Entryway General on Lots 1,2, and 3, Block 1 of the Fly in Subdivision.. We have lived in this area for over 10 years and have seen many change, but none as detrimental as this requested zone change. There are many reasons why this zone change should be disapproved. i.e.

- * Excessive traffic in a small residential area. The road are unfit to handle the weight for large commercial trucks. Not but three years ago they were unpaved. The country came in and laid surplus blacktop over the gravel road. The roads do not have sidewalks, gutters, and they are unpainted. Making this a hazard for anything or anyone on the roads. Especially during school hours, we have a school bus stop on the Mauser/ Weaver.
- * Noise is another issue. We have way to many semis parked in our areas already. On cold nights we can hear the trucks run all night at times it can be deafening.
- * Decreased property values. As a tax payer in the country I strongly opposing any action of this type to change residential to commercial. There seems to be lack of vision when it comes to allowing commercial properties to invade in the residential areas in Lockwood. There are many adequate spaces available that do not encroach in the residential areas. Planning is essential to the growth of Lockwood.

We strongly encourage you to deny the Zone Change requested. If we wanted Lockwood to become so commercialized, the residence of Lockwood would have passed the sewer plan years ago.

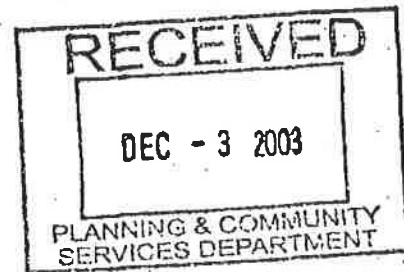
We hope this letter stands as a clear-cut indication of how strongly we feel that this zone change would impact our neighborhood. My wife and I are unable to attend this meeting, due to the fact that we are both employed and are unable to take off to attend this meeting. WE HOPE THIS LETTER WILL STAND STRONGLY IN OUR PLACE!

Please feel free to contact me or my wife if you have any questions regarding the letter.

Mr. and Mrs. Steve Baker

December 2, 2003

Board of County Commissioners
Yellowstone County Zoning Commission
C/O Juliet Spalding
Planning & Community Services Dept.
510 No Broadway 4th Floor
Billings, MT 59101



RE: Zone Change Request #568

To Whom It May Concern:

We are writing this letter in opposition of the requested zoning change from Residential 9,600 to Entryway General Commercial on Lots 1,2 and 3, Block 1 of Fly-In Subdivision. This property is located on the west side of Mauser Street, between Springfield Avenue and Unertal Avenue. James L. McIntosh is the owner of this property and his agent is Darryl Wilson.

The Pat Dahl Subdivision, located next to the area that is being considered for commercial zoning, is directly impacted by any changes that are made to the surrounding area. Our family moved to this area because it was a closed subdivision. Since our move to this subdivision, more residential areas have opened up. This has adversely impacted our neighborhood with the number of large trucks and heavy equipment that are constantly moving up and down the streets of our once quiet neighborhood. The roads are being torn-up; the daily traffic has become a serious danger due to excessive speed.

The idea of making the area west of Mauser a commercial area has us very upset. We deal with the noise from the Flying J, Blue Basket and Fly-In Lube now, but because of the open field between those businesses, and us, it is bearable. At the time we moved, we were well aware of the surrounding businesses and made a choice to live here despite that. Now we chose to make it known that enough is enough. Lockwood is a quiet place, and if we truly desired more business in our area, we would have overwhelmingly passed the Lockwood Sewer vote the first time around. As you know, that measure has failed three (3) times, and is still getting shoved down our throats.

Our subdivision is full of families. We enjoy the fact that we can go for quiet neighborhood walks with our children and pets. We like the fact that we know who our neighbors are and that we all look out for each other. If this zoning request is passed, the problems that commercial areas are plagued with will become our problem. Due to our location close to the interstate, transients are already a problem, but fortunately they very rarely venture into our neighborhood and we would like it to stay that way. We are also afraid that the increased traffic is going to put our children in serious jeopardy. We are not willing to stand by and let one of our children become a statistic because someone is

more interested in making money. There are several other areas in Lockwood that could be used commercially and are already zoned for that purpose. Leave our neighborhood out of it.

It would be very detrimental to our neighborhood to allow this zone change to take place. The impact of this type of change is negative in every aspect, increased traffic, noise level, transients, potential decrease in property value to residents, as well as environmental problems caused by the change, as we have a lot of wildlife that would also be negatively impacted due to the land be gobbled up by buildings, parking lots, or whatever else this individual has in mind for our "backyard." Would you like to have this happen in your backyard? Please consider this when making your decision and vote no on the request for this zone change.

Thank you for your time and consideration.

Sincerely,

Jason & DeeDe Baker
Concerned Residents
Pat Dahl Subdivision

□

County Zoning Commission

Meeting Date: 09/11/2023

SUBJECT: County Zone Change 720 - 2424 S 48th St. - A to C3 and N4

THROUGH: Karen Husman

PRESENTED BY: Karen Husman

Information

REQUEST

County Zone Change 720 -- 2424 S 48th St W - Agriculture (A) to General Commercial (C3) and Large Lot Suburban Neighborhood (N4) - A zone change request from Agriculture (A) to 70.63 acres of N4 and 31.15 acres of C3, on the NE ¼ of Section 28, Township 1S, Ranger 25 E, south and east of the BBWA Canal excepting C/S 1590, a 101.78-acre parcel of land. A pre-application neighborhood meeting was held on June 30, 2023 at the subject property of 2424 S 48th St W. Tax ID: D00908

Presented by: Karen Husman, Planner I.

RECOMMENDATION

Planning Division recommends approval of the N4 zone district and denial of the C3 zone district for Zone Change 720 and adoption of the 11 criteria detailed in the summary section of this memo. Denial of the C3 request will leave the 31.15 acres zoned agricultural.

APPLICATION DATA

OWNER: Dan Marsich

AGENT: Scott Worthington, In Site Engineering

LEGAL DESCRIPTION: NE ¼ of Section 28, Township 1S, Ranger 25 E, south and east of the BBWA Canal excepting C/S 1590

ADDRESS: 2424 S. 48th St. W

SIZE OF PARCEL: 101.78-acre

EXISTING LAND USE: Ag/ Residential Single Family

PROPOSED LAND USE: Residential and commercial

EXISTING ZONING: Ag- 10 acres and over

PROPOSED ZONING: N4-Large Lot residential and C3- General Commercial

CONCURRENT APPLICATIONS

None

APPLICABLE ZONING HISTORY

In attachments.

SURROUNDING LAND USE & ZONING

NORTH: Zoning: RR1

Land Use: Large lot residential

SOUTH: Zoning: Unzoned

Land Use: Large lot residential

EAST: Zoning: A-Agriculture 10 acres & over

Land Use: Agricultural

WEST: Zoning: Unzoned

Land Use: Agriculture and residential

BACKGROUND

The subject property is located at Neibauer Rd. and 48th Street West. This request, if approved, will create approximately 31 acres of C3 to the east of the BBWA ditch and the easterly portion is proposed to be approximately 70 acres of N4 allowing large lot residential. The current zoning of Agriculture (A) allows one residential dwelling unit per 10 acres. The majority of this property has been used for agriculture purposes.

The proposed zoning of N4 is intended for large lot residential neighborhoods primarily with single family homes. Characteristics include wide, large lots and attached garages often located on the front facade of the home. Individual lot sizes for the N4 zone can vary but must be between 15,000 square feet and one acre. This type of development pattern is similar to the residences nearby and does not create development challenges. The zone would be suitable, therefore staff has recommended approval.

The West Billings Plan and 2008 Growth Policy address the desire for nodal development. The West Billings Plan encourages commercial nodes at intersections of arterial streets. Although a portion of the proposed C3 zone is adjacent to an intersection of two arterial streets, the proposed zone is not a desirable commercial node location because it is not in character with the area and lacks improvements. The intersection allows through traffic moving east to west and is a 2 way stop for north and southbound traffic. Further, approval of the C3 zone district as proposed is considered spot zoning. Spot zoning occurs when a new zone would be wholly surrounded by dissimilar zones. In other words, spot zoning would be a commercial zone surrounded in whole by residential zones. Spot zoning would not be one type of residential zone wholly surrounded by a different type of residential zone. Spot zoning is frequently cause for compatibility concerns. Spot zoning, should not be used as a singular means of denying a zoning request as spot zoning may be ruled invalid as an "arbitrary, capricious and unreasonable treatment." This application creates a situation where the proposed C3 zone would be wholly surrounded by residential and agricultural zones. To reiterate, spot zoning should not be a singular means to deny a request, instead the findings of the criteria as a whole should guide the action on the application.

SUMMARY

The Yellowstone County Zoning Commission, prior to any recommendation, shall consider the following:

1. Is the new zoning designed in accordance with the Yellowstone County 2008 Growth Policy?

Goal; Predictable land use decisions that are consistent with neighborhood character and preferred land use patterns identified in neighborhood plans.

The potential uses with a C3 zone are currently limited for this property due to its location in the County. It is important for the Commission to consider the many uses allowed in C3 zoning that could occur on this property long term and whether they fit in with the neighborhoods in the area. Some of those more intense uses include: convenience store with fuel pumps, car wash, RV or auto dealer, auto repair, and hotels and motels, construction sand and gravel mining, and personal self storage. The proposed C3 zoning is not consistent with the character of the area and the preferred land use patterns in the residential areas nearby and adjacent to the subject property. This area of the County has agriculture to the west side and a variety of low density residential uses to the north, south and east. The West Billings Plan considers the development of commercial nodes at the intersections of arterial streets. Although the West Billings Plan recommends commercial nodes, this location due to its rural nature and limited services and infrastructure is not suitable for commercial development. The N4 zone district is compatible with the surrounding residential uses and zone. The adjacent parcels to the south and west are currently unzoned, and are developed with large lot single family homes.

Goal: New developments that are sensitive to and compatible with the character of adjacent development.

This property is adjacent to agricultural and residential uses. The intended N4 uses are compatible to surrounding development and is compatible with the surrounding residential uses and zoning. The adjacent parcels to the south and west are currently unzoned, and developed with large lot residential uses. There are no commercial uses and zoning nearby. The closest commercial uses are approximately ½ mile from the subject property (L1), the Musser Brothers Auction yard at 4372 Neibauer Rd. and Mountain West Storage southeast of the parcel at 2815 S. 48th Street. The proposed C3 zone would not be sensitive to the character of adjacent development because all the surrounding development are large lot residential, and uses allowed under C3 zoning are limited due to lack of sufficient infrastructure as noted above; uses like personal self storage would not need city services and could possibly be a business at this location. The more intense uses allowed in the C3 district would impact the neighboring property with the possibility of increases in commercial traffic, noise and lighting by an operation that are not compatible with the residential uses in the area. There is no guarantee of what type of business can operate at this location except for the allowed uses under the C3 zone district. The negative affects of some allowed uses in the C3 district should be considered when reviewing this application.

2. Is the new zoning designed to secure from fire and other danger?

The subject property is currently served by the Billings Urban Fire Service Area (BUFSA). The nearest fire station is located on at 24th Street West and King Avenue (Station #5) approximately five miles north and east of the subject property. Any future subdivision of land may require additional on-site water supply for fire protection. The existing and proposed zoning requires building separations, setbacks, and height limits that should provide security from fire or other public safety emergencies. These siting requirements are found in Section 27-400-2.

3. Will the new zoning facilitate the provision of transportation, water, sewerage, schools, parks and other public requirements?

Transportation: Development under the new zoning will increase traffic on Neibauer Rd. and 48th Street West. The level of traffic increase will be dependent on the development of the proposed zoned parcel. The N4 residential development and C3 development would increase at different levels depending on the type of commercial uses developed. Generally each additional dwelling will create approximately 9 new trips per day.

Water and Sewerage: The property will be served by septic systems and on-site water (cisterns or wells). City of Billings' public utilities are not available and are not intended to be extended to this area for more than 5 years.

Schools and Parks: The proposed zoning would impact two schools as it develops, Canyon Creek Elementary and Middle school and West High School.

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 a development plan. At the time this report was submitted, no comments were received from Fire or Sheriff's departments.

4. Will the new zoning promote health and general welfare?

The zoning itself is not expected to have a negative effect on the health and general welfare of the area. County zoning regulations require landscape buffering for commercial uses. Further, the new zoning, like all zones regulates setbacks, height and other site and building characteristics in order to ensure the safe and orderly development. This is not unique to the C3 and N4 zones, but instead is promoted by all districts. The C3 zoning has the potential to have some negative affects on health and welfare depending on the uses that are established, some commercial uses allowed could produce light, noise and/or odor that could affect neighboring residential uses.

5. Will the new zoning provide adequate light and air?

The proposed zoning will require minimum setbacks, maximum building heights and maximum lot coverage. These requirements, found in Section 27-400-2 allow adequate light and air to reach the subject property and adjacent properties. Similar to criteria four, the C3 zone regulates site and building characteristics to ensure safe and orderly development, however commercial uses allowed under the C3 have a greater latitude to build larger buildings. The C3 zone allows up to 50% lot coverage and a max of 60 foot height for buildings, this along with the minimum rear setback of 10 feet create compatibility challenges to the neighboring residential N4 that allows 30% maximum lot coverage and 34 foot maximum building height.

6. Will the new zoning effect motorized and non-motorized transportation?

The proposed zoning itself will not generate more traffic on any of the adjacent streets, however, future development will. Pedestrian traffic in the area is limited due to high speed arterials, no pedestrian facilities, and large-lot residential development. The areas to the north and west are zoned for low density residential neighborhoods, and an agricultural zone to the east. It is likely since the intersection is only a 2 way stop as development occurs improvements will be needed over time.

7. Will the new zoning be compatible with urban growth in the vicinity?

This area of the county does not have urban growth in the vicinity. The existing development patten is single family residential and agricultural uses. The proposed C3 zone is not compatible with the surrounding residences as uses allowed would not be compatible. The proposed N4 zoning and development is consistent with the residential growth in the area.

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 is primarily large lot residential subdivisions and agricultural. The West Billings Plan considers the development of commercial nodes at the intersections of arterial streets. Although the West Billings Plan recommends commercial nodes, this location, due to its rural nature and lack of infrastructure it is not suitable for commercial development. Further, the placement of the C3 zone is considered spot zoning because it is wholly surrounded residential and agricultural uses. Spot zoning frequently creates compatibility challenges. The N4 zone district is compatible with the surrounding residential uses and zone. The adjacent parcels to the south and west are currently unzoned, and are developed with large lot single family homes.

9. Will the new zoning conserve the value of buildings?

The new zoning itself is not expected to alter the value of any buildings in the area. It is not known if its proximity to potential commercial property will affect the value of residential buildings. Valuations are typically based on improvements to the individual properties themselves. The new zoning will allow the development of new commercial and residential uses adjacent to agricultural and residential uses. The new residential uses should have no impact on surrounding properties. Any development of the property will need to meet the site development requirements in the zoning code, including landscaping, screening, building heights and setbacks.

10. Will the new zoning encourage the most appropriate use of land in Yellowstone County?

The proposed C3 zoning does not encourage the most appropriate use of land in this area of the County. Given the existing development and the fact the commercial zone would be wholly surrounded by low density residential there are compatibility concerns. The property is suitable for some of the uses allowed in the C3 zoning district, however without access to public utilities, many of the higher intensity uses could not be developed. The proposed N4 zoning encourages the

most appropriate uses for the land. The property is suitable for the proposed N4 residential development. This is an appropriate use of land in this area of the County and will encourage similar development to what is already in this part of the County.

11. Will the new zoning be as compatible as possible with adjacent zoning in the City of Billings?

The proposed zoning is not close to the City limits of Billings.

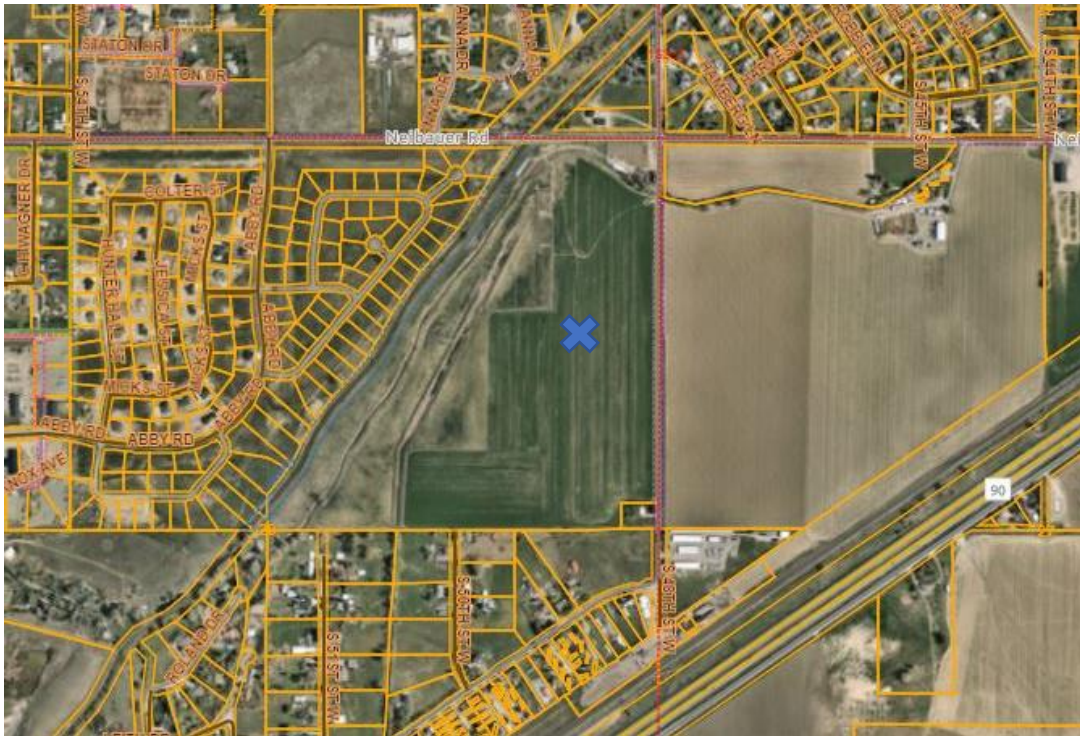
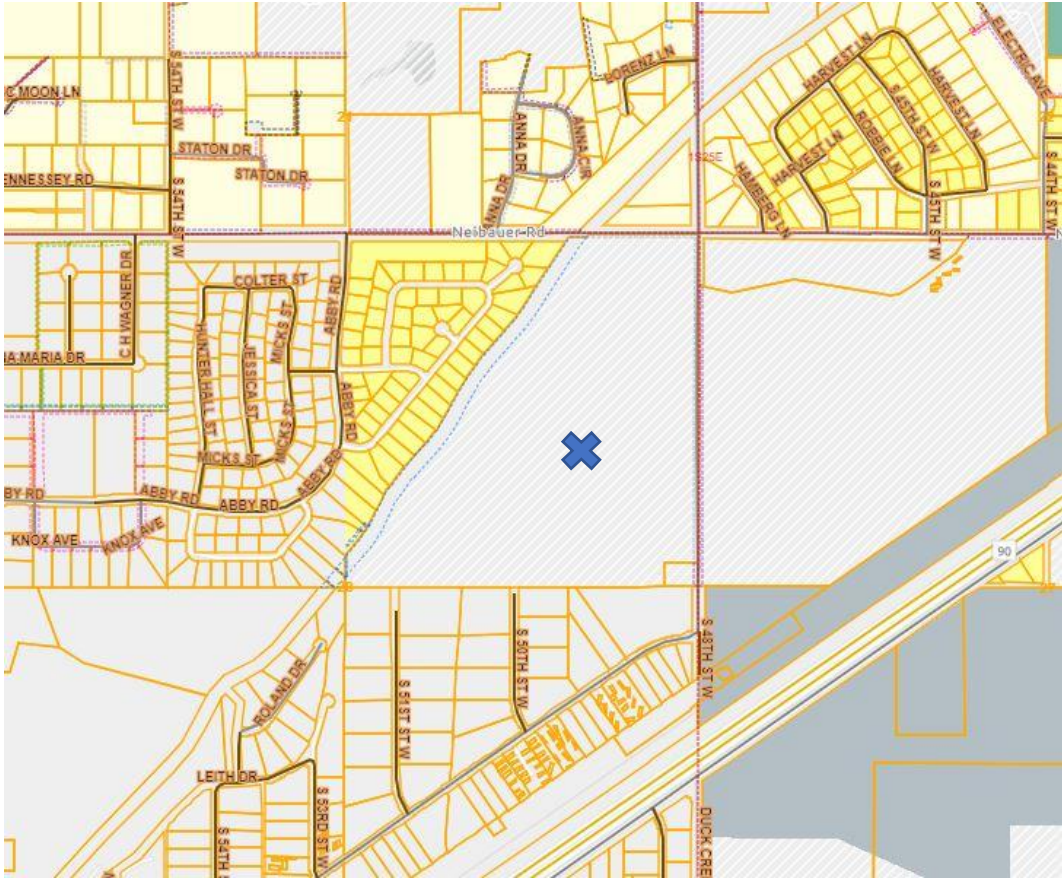
RECOMMENDATION

Planning Division recommends approval of N4 zone district and denial of the C3 zone district for Zone Change 720 and adoption of the 11 criteria. Denial of the C3 request will leave the 31.15 acres zoned agricultural.

Attachments

Zoning Map & Site Photos
Application & Applicant Letter
Site Plan
Neighborhood Meeting Info
History

Zoning Map & site photos



Zoning Map & site photos



Looking west



Looking west from the intersection of 48th & Neibauer

Zoning Map & site photos



South from Neibauer





Looking south from Neibauer across the subject property

Zoning Map & site photos



South from the Northeast corner of the property at the BBWA ditch bridge

Application & Applicant letter

APPLICATION FORM

COUNTY ZONE CHANGE County Zone Change # 720 - Project # PZX-23-00143

The undersigned as owner(s) of the following described property hereby request a Zone Change as outlined in the Yellowstone County Unified Zoning Regulations.

Present Zoning: A - Agriculture 10 acres and over

Proposed Zoning: N4-Large Lot Suburban Neighborhood (70.63 Ac) & C3-General Commercial (31.15 Ac)

Property Tax ID # D00908 COUNTY COMMISSIONER DISTRICT #

Legal Description of Property: That portion of the NE 1/4 of S. 28, Township 1 South Range 25 East, South & East of BBWA Canal, less C.O.S. 1590.

Address or General Location (If unknown, contact County Public Works): 2424 S 48TH ST W

Size of Parcel (Area & Dimensions): 101.78 Acres (see map for dimensions)

Present Land-Use: Agriculture and one single family residence

Proposed Land-Use: 70.63 acres of residential and 31.15 acres of commercial use

Covenants or Deed Restrictions on Property: Yes No x

If yes, please attach to application

*** Additional information may be required as determined by the Zoning Coordinator in order to fully evaluate the application.

Owner(s): James D. Wang 4804 Verde Ln. (Recorded Owner) Rosemary 3371 Pipestone Dr

(Address) (406) 855-7349 (406) 591-1850 (Phone Number) (email)

Agent(s): Scott Worthington, P.E. w/ In Site Engineering, P.C. (Name) 4231 Creekwood Dr, Billings, MT 59106 (Address) (406) 591-4355 siteproscott@gmail.com (Phone Number) (Email)

I understand that the filing fee accompanying this application is not refundable, that it pays for the cost of processing, and that the fee does not constitute a payment for a Zone Change. Also, I attest that all the information presented herein is factual and correct.

Signature: Date: 7/27/23

(Recorded Owner)



**County Zone Change Application
101.78 Acres
LOCATED IN THE
NE 1/4 OF SECTION 28, T1S, R25E, PMM,
YELLOWSTONE COUNTY, MONTANA**

Prepared for:

**LORENZ CONSTRUCTION, LLC &
MARSICH INVESTMENTS, INC.**

Prepared by:

**Scott Worthington, P.E.
In Site Engineering, Inc.
4231 Creekwood Dr
Billings, MT 59106**

July 21, 2023

Application & Applicant letter

A. Legal Description

A zone change is requested by this application for land Located in the NE 1/4 of Section 28, T1S, R25E, P.M.M., Yellowstone County, Montana, which is more particularly described as follows:

A tract of land being that portion of the Northeast Quarter of Section 28, Township 01 South, Range 25 East, P.M.M. that is situated South and East of the B L & I Canal (a.k.a. B.B.W.A. canal) less and excepting Certificate of Survey 1590 in Yellowstone County, Montana. Said tract contains 101.78 acres ±.

The proposed zoning of the land described above is as shown on the map exhibit in Section B.

B. Zone Change Map Exhibit

A map of the proposed zone change areas is attached showing the dimensions, acreage, and location of each newly proposed zoning district as well as the zoning and land uses of all adjacent tracts.

C. Present and Proposed Zoning Classifications

The present zoning of all the land for which a zone change is requested is A - Agriculture 10+ Acres. The proposed zoning is as shown on the map exhibit referred to in Section B, which include the following zoning districts:

N4 – Large Lot Suburban Neighborhood (70.63 Acres)

C3 – General Commercial (31.15 Acres)

D. Certified List of Property Owners within 300' of the Zone Change Boundary

A list, certified by the Yellowstone County Clerk and Recorder, of names, addresses, and legal descriptions of the owners of property within a radius of 300 feet of the exterior boundary of the proposed zone change, is attached.

E. Gummed Mailing Labels

Gummed mailing labels with names and mailing addresses of all of the property owners indicated on the certified list referenced in Section D, above, are attached to this application.

F. Name and Address of Land Owner & Agent

The owners of the land for which the zone change is requested are:

LORENZ CONSTRUCTION, LLC &

MARSICH INVESTMENTS, INC.

Application & Applicant letter

The owner's Agent is:

In Site Engineering, P.C.
c/o Scott Worthington, PE, President
4231 Creekwood Dr.
Billings, MT 59106

G. Payment of all applicable fees

A payment of applicable fees will be done in the Citizen Access online system.

H. Signed Statement

A signed statement is included in the cover of this report affirming the pre-application neighborhood meeting was conducted as required, and the zone change application is based on material presented at the meeting. A copy of the meeting notice, materials provided to the surrounding property owners, a brief synopsis of the meeting results, a roster of the persons attending the meeting, and written minutes of the meeting are included with the signed statement.

Application & Applicant letter

Explanation of Proposed Zone Change's Consistency with Yellowstone County's Growth Policy, Zone Change Criteria, and Compatibility with Existing or Planned Developments in the Area

The proposed zoning of this application is consistent with the primary goals and objectives of the Yellowstone County Growth Policy Statement and Growth Guidelines because it promotes orderly growth and is consistent with adjacent land uses.

Nearly 70% of the land will be zoned N4 – Large Lot Suburban Neighborhood, which is the same as the land on the other side of the BBWA canal. This land is well-suited to support residential use on large lots with individual wells and septic systems. Storm water can also be handled with a proposed storm drain and detention system that can be accommodated on the Applicant's land. This zone change will provide housing in a variety of options to fill the current demand and will enable the development of an attractive, livable community. Parkland will be provided that will meet the residents' needs for open air and recreation. Sidewalks will be installed on both sides of all new streets. All of these improvements will be installed to Yellowstone County standards, secured by the Applicants, and the zoning will allow such to move forward. The land is within 5 miles of Fire Station 7 on 54th Street West, so emergency services are readily available. It is within Canyon Creek School District 4 for Elementary and Middle School (Canyon Creek Elementary, Canyon Creek Middle School) and School District 2 for High School (West High School) which has planned for growth.

The other 30% of the land is adjacent to the BBWA canal and an excavated land drain, and the water table is high enough in these areas that residential use is not supported. However, this land is suitable for general commercial purposes. The Applicants are in contact with the owner of a local landscaping business wanting to buy land in the proposed commercial zone which is well suited for that purpose. For example, the land in which there is a high water table, which cannot support septic systems, can still support certain aspects of a landscape business such as a commercial greenhouse or a yard in which to maintain nursery stock. The area on which general commercial zoning is proposed is also well suited for such because of its connection to two intersecting principal arterial streets: South 48th Street West and Neibauer road, which serve as a commercial node. The proposed commercial use is also compatible with other existing commercial uses in close proximity, such as the existing storage units on 48th Street West just a few hundred feet from the southeast corner of the proposed zone change. It should also be noted that an industrial use, Simplot Grower Solutions, also exists on Danford Road near its intersection with S. 48th Street West, not far from this tract.

In conclusion, this zone change will provide for a new orderly development that is compatible with existing area neighborhoods and land uses. It will provide new streets for safe and effective traffic circulation, not only for cars, school buses, and emergency vehicles, but also for

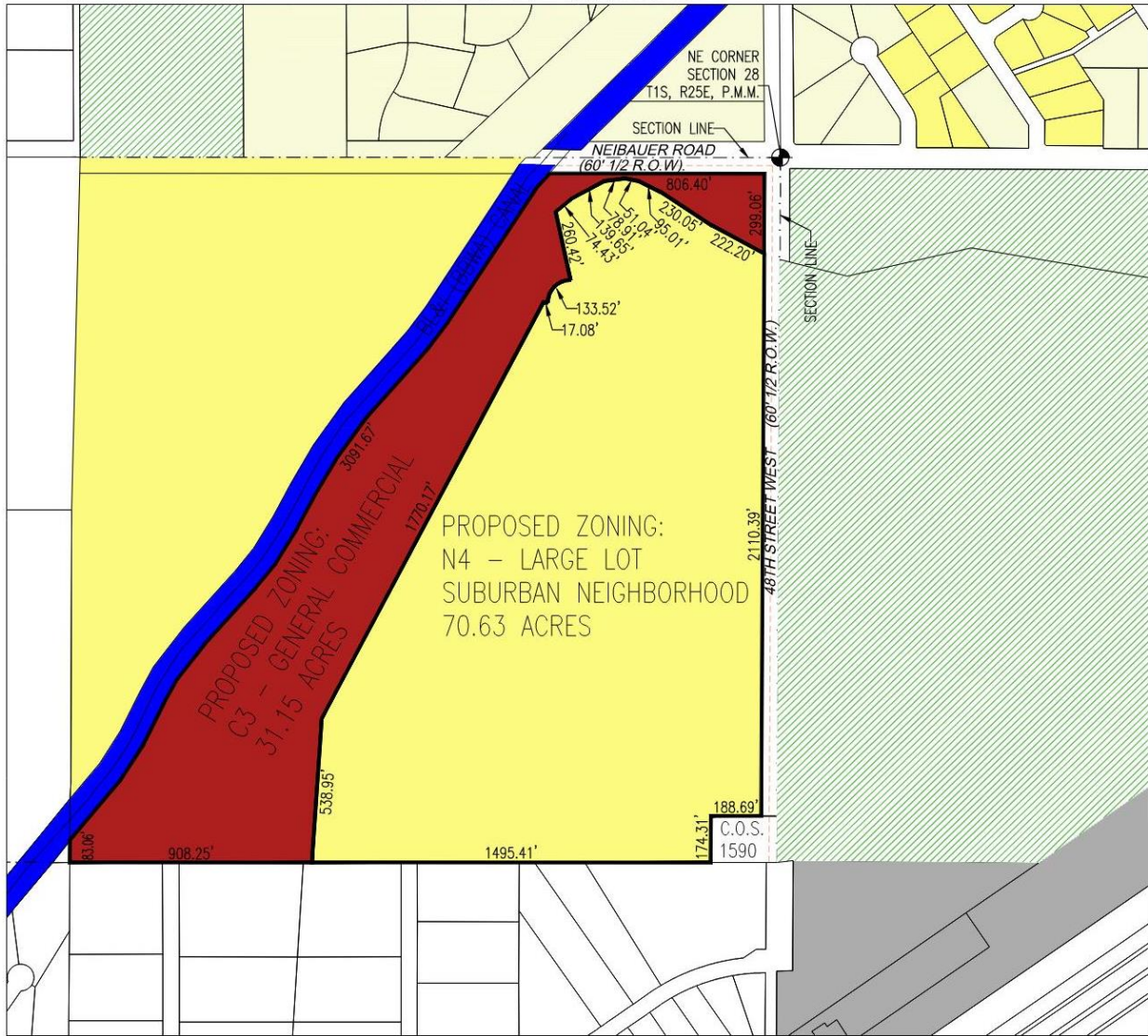
Application & Applicant letter

pedestrians and other non-motorized traffic with sidewalks throughout to encourage walking and recreation. The parkland will also provide open space.

The construction of the infrastructure for the development subsequent to this zone change will bolster the local economy by providing engineering, architectural, landscaping, and construction jobs. The neighborhood will attract individuals and families who are a part of the local work force and enhance the socio-economic fabric and stability to the community. The new land uses will also increase the County's tax base and would be expected to conserve and enhance the value of adjacent properties.

Site Plan/Proposed Zoning

PROPOSED ZONING MAP

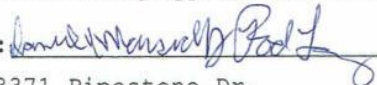


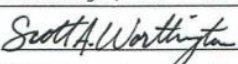
Neighborhood meeting information

Pre-Application Statement of Owner(s) or Agent(s)

The owner(s), contract purchasers (if any) and agents (if any) are required to submit this completed form and any attachments along with a completed zone change application packet, including any required fees, for a zone change to be processed by the Planning Division.

1. **Present Zoning:** A-Agriculture
2. **Written description of the Zone Change Plan** including square footage or acres of proposed new zoning: 70.63 Acres N4-Large Lot Suburban Neighborhood
31.15 Acres C3-General Commercial (see attached)
3. **Subject Property Map:** please attach to this form
4. **Legal Description of Property:** That portion of the NE 1/4 of S. 28, Township 1 South, Range 25 East, South & East of BBWA Canal, less C.O.S. 1590.
5. **Roster of persons who attended the pre-application neighborhood meeting:** please attach to this form see attached
6. **A copy of the meeting notice.** please attach to this form see attached
7. **A brief synopsis of the meeting results.** please attach to this form see attached
8. **The undersigned affirm the following:**
 - 1) The pre-application neighborhood meeting was held on the 30th day of June, 2023
 - 2) The zone change application is based on materials presented at the meeting.

Owner (s):  Telephone: (406) 591-1850
Address: 3371 Pipestone Dr. Email: rodlorenz@wtp.net
Billings, MT 59102-6941

Agent (s):  Telephone: (406) 591-4355
Address: 4231 Creekwood Dr Email: siteproscott@gmail.com
Billings, MT 59106

Neighborhood meeting information

In Site Engineering, P.C.

4231 Creekwood Dr
Billings, MT 59106

ph. 406.591.4355
siteproscott@gmail.com

June 22, 2023

Dear Neighbor,

In Site Engineering, P.C. is writing to inform you, on behalf of Lorenz Construction, LLC and Marsich Investments, Inc., of a zoning pre-application neighborhood meeting being held on Friday, June 30, 2023 at 6:00 PM to on the subject property at 2424 S. 48th Street West.

The purpose of the meeting is to discuss modifications to the zoning of neighboring property located south of Neibauer Drive, west of 48th Street West, southeast of the BBWA canal, and north of the Canyon Creek Acreage Tracts Subdivision. The owners are requesting re-zoning of the property within the boundary shown on the attached exhibit, which is legally described as follows:

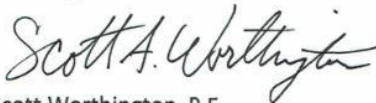
That portion of the Northeast Quarter of Section 28, Township 01 South, Range 25 East, P.M.M. that is situated south and east of the B L & I Canal (a.k.a. B.B.W.A. canal), south of the Neibauer Road Right-of-Way, and west of the S. 48th Street West Right-of-Way, less and excepting Certificate of Survey 1590 in Yellowstone County, Montana. Said zoning area contains 101.78 acres ±.

The property is currently zoned in the County as A: Agriculture 10 acres and over. The zoning proposal to Yellowstone County is to change the current zoning of the land described above to the following categories (illustrated on the enclosed exhibit):

<u>Zone</u>	<u>Area</u>
N4- Large Lot Suburban Neighborhood	70.63 Acres (69.4%)
C3- General Commercial	31.15 Acres (30.6)
Total Area:	101.78 Acres

The owners and engineer will be present at the meeting and look forward to discussing the proposed zoning with you.

Sincerely,

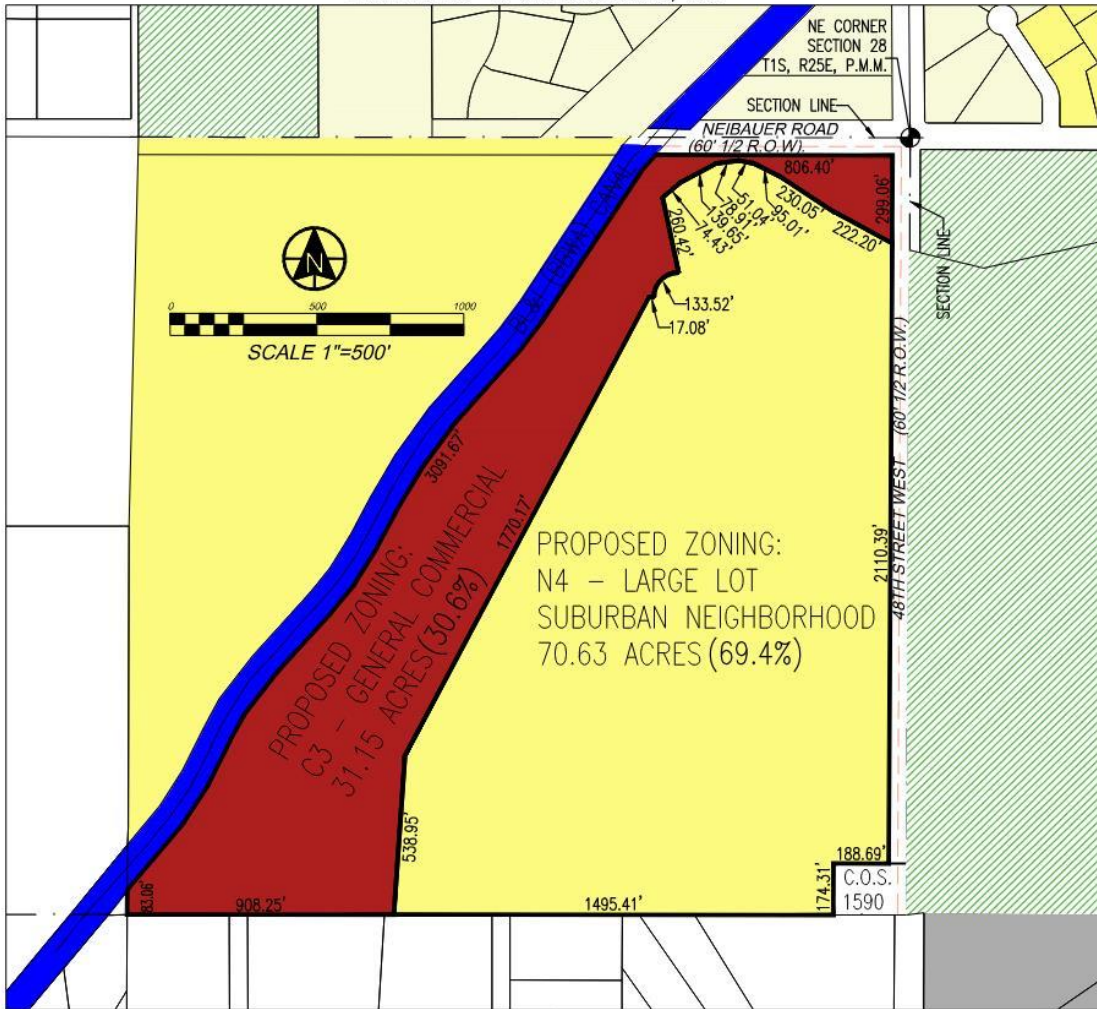


Scott Worthington, P.E.
Principal, In Site Engineering

S. 48TH STREET WEST & NEIBAUER ROAD PROPOSED ZONING MAP

A TRACT OF LAND MORE PARTICULARLY DESCRIBED AS THAT PORTION OF THE NORTHEAST QUARTER OF SECTION 28, TOWNSHIP 01 SOUTH, RANGE 25 EAST, P.M.M. THAT IS SITUATED SOUTH AND EAST OF THE B L & I CANAL (A.K.A. B.B.W.A. CANAL), SOUTH OF THE NEIBAUER ROAD RIGHT-OF-WAY, AND WEST OF S. 48TH STREET WEST ROAD RIGHT-OF-WAY, LESS AND EXCEPTING CERTIFICATE OF SURVEY 1590 IN YELLOWSTONE COUNTY, MONTANA. ZONING AREA = 101.78 ACRES

PREPARED FOR: LORENZ CONSTRUCTION, LLC & MARSICH INVESTMENTS, INC.
PREPARED BY: IN SITE ENGINEERING, P.C.



LEGEND

- | | |
|-------------------------------------|-----------------------------------|
| A - AGRICULTURE | RR3: RURAL RESIDENTIAL |
| N4: LARGE LOT SUBURBAN NEIGHBORHOOD | L1: LIGHT INDUSTRIAL |
| C3: GENERAL COMMERCIAL | UNZONED (OUTSIDE COUNTY BOUNDARY) |

NOTES: -EXISTING ZONING IS AGRICULTURE
-TOTAL ZONE CHANGE AREA = 101.78 ACRES

Neighborhood meeting information

Zoning Pre-application Neighborhood Meeting

For 101.78 acres located south of Neibauer Road, west of 48th Street West, north of Canyon Creek Acreage Tracts Subdivision, and southeast of the BBWA canal

Meeting Date: Thursday, 6/30/2023

Meeting Time: 6:00 PM

Meeting Location: On the subject site (2424 S. 48th Street West)

Meeting Attendees:

Name: _____ Address: _____ email: _____

Ren + Janice Tran than

Jerry Tricker

Lane Perrine 28125 51st

Chris Fischer

2312 S. 48th StW

Chris F @ AlliedCADIT.com

Marian Carpenter

mariah @ blackdogcoffeehouse.com

Kris Carpenter 2324 S 48th StW

Kris.Carpenter@me.com

Jeff & Kelly Wilson 4845 Dawford Dr. Sufor@aol.com

GREG NEIBAUER D+L NEIBAUER TRUST 4546 NEIBAUER

Gerald Gilbert

Markay Marsich (owner/applicant)

David N. Marsh (owner/applicant)

Steve Stephenson (owner/applicant)

Red Lorenz (owner/applicant)

Scott Worthington, In Site Engineering (Engineer/Agent)

Neighborhood meeting information

Neighborhood Meeting for Proposed County Zone Change

101.78 Acres at 48th Street West and Neibauer Road

6/30/2023

Meeting Minutes

Pre-application neighborhood meeting held Friday, June 30, 2023 at the site. Introductions were made: Rod Lorenz with Lorenz Construction, LLC as owner/applicant, Dan and Markay Marsich and Steve Stephenson with Marsich Investments, Inc. as owners/applicants, Scott Worthington with In Site Engineering, PC as engineer/agent, and neighboring residents as listed on the attached roster. Neighbors expressed concerns about impacts on the quality and quantity of their well water. Scott replied that during the application process with the Department of Natural Resources and Conservation (DNRC) and the Department of Environmental Quality (DEQ), that analysis and modeling would be done to show that water is physically and legally available in order to appropriate it for the new use and to demonstrate that the new drain fields would not degrade the groundwater. He also said that this particular aquifer in the hydrogeological terrace in which this land is situated is conductive and yields a reliable quantity and quality of water. Neighbors expressed concerns about crime. Rod replied that he was working to clean up the property in its existing state to deter crime and that through zoning, development would proceed in an orderly manner that would also discourage crime. Neighbors expressed concerns about access and traffic and a desire for traffic from the new development to not go through their neighborhood streets. Scott replied that the residential property would have 2 accesses on 48th Street West and that the commercial property would have accesses on Neibauer Road, 48th Street West, or through internal streets within the new development. Neighbors wanted to know the character of the new residential development. It was explained that there would be approximately 56-57 single family lots averaging just under an acre in size, providing room for an individual well and septic system on each, meeting all of the setback (spacing) requirements of the DEQ. Neighbors asked why commercial zoning was requested for part of the land. Rod replied that he has a buyer under contract to purchase about half of the commercial acreage for a landscape business. He stated that the high water table in the areas designated as commercial would not allow for homes with drain fields but would be conducive to commercial uses such as a landscaping business, contractor yard, and shops/storage, and that an office could be situated near 48th Street West and Neibauer Road where it could be served by a well and drain field. Scott also replied that the intersection of principal arterial streets (48th Street West and Neibauer Road) provide a natural node for commercial use. Scott also stated that the zoning code calls for buffering requirements on new commercial projects along their interface with existing residential uses. Scott concluded the meeting by saying that zoning is the first step in the development process followed by application for subdivision with Yellowstone County and the DEQ, as well as obtaining a groundwater right permit from the DNRC. He also stated that neighbors would receive notices of public hearings with respect to this application with the Zoning Commission and Board of County Commissioners. The meeting was adjourned and the owners made themselves available after the meeting for further individual discussions / questions.

APPLICABLE ZONING HISTORY

SUBJECT PROPERTY	Zone Change	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
None					
SIMILAR PROPERTY	Zone Change	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
4745 Hesper	484	11/4/97	A-1 to CC	N	
4745 Hesper	645	9/9/13	A-1 to CC	Y	
48 th & Hesper	684	2/5/18	A-1 to CC & A-S	Y	
Lt 104A SCFF	700	5/2020	A1 to A-S & CC	Y	
Grand & 62ns	705	7/27/2021	RR1 to C3 & N4	N	
Woodland rd. - Johnson Ln	717	7/25/2023	CMU, RR1 N4 to CX	N	
Old Hardin Rd	718	8/8/2023	N4 to C3	Y	

□

County Zoning Commission

Meeting Date: 09/11/2023

SUBJECT: Zone Change 721 - Text Amendment to adopt permanent regulations for Marijuana Businesses

THROUGH: Nicole Cromwell

PRESENTED BY: Nicole Cromwell

Information

REQUEST

County Zone Change 721 -- Text Amendment to adopt permanent regulations for Marijuana Businesses -- In November 2021, the Board of County Commissioners (BOCC) adopted Interim Zoning Regulations pertaining to the operation of marijuana businesses within the jurisdictional zoning area of the County (4.5-mile jurisdiction surrounding the City of Billings). The BOCC extended the interim regulations for one additional year in November 2022. The interim regulations will expire on November 23, 2023. No further extension of the regulations is allowed by state law. Permanent regulations must be adopted. The Planning staff has prepared a report on its study of the impact of the land use in the County and has devised permanent regulations for marijuana businesses based on this study. The text amendment will modify Sections 27-803.C, 27-1000, 270-1005, 27-1006, 27-1009, 27-1010, 27-1400, 27-1504 and 27-1800 of the Yellowstone County Zoning Regulations (December 2020)

RECOMMENDATION

Planning staff recommends approval of the draft regulations and adoption of the findings of the ten review criteria.

APPLICATION DATA

Not Applicable

CONCURRENT APPLICATIONS

Not Applicable

APPLICABLE ZONING HISTORY

Not Applicable

SURROUNDING LAND USE & ZONING

Not applicable

BACKGROUND

Most of the existing interim zoning regulations are proposed to become part of the permanent zoning regulations. There are several specific changes staff is recommending based on findings from the report on Marijuana Businesses in Yellowstone County. First, staff is recommending to remove the required separation distance from a residential zone and a marijuana dispensary, cultivation location or processing facility. There have been few reported calls for public safety services at any of the marijuana business locations in the County, and few, if any, reported complaints to the Planning Division or Code Enforcement Division. The anticipated impacts from these businesses did not materialize, so staff believes the separation to residential zones is unnecessary especially when considering other allowed uses in the zoning code that do not require separation distances. Second, Planning staff and County legal staff are recommending the County Commissioners act on a resolution to provide a definitive sunset date for locations and marijuana uses that are in non-commercial zone districts, or in zone districts where the specific marijuana business type is not allowed. In March 2023, the County Commissioners adopted a resolution putting these business owners on notice that their ability to operate may not extend beyond the expiration of the interim zoning regulations (Attached Resolution 23-25). Staff is also recommended that locations that do not meet the required 600-foot separation to churches, schools, public parks with playgrounds and other named protected uses, could continue as legally nonconforming uses with the ability to re-establish if necessary through a special review process. The re-establishment might be required if the location were to burn down or need a major renovation. Staff is not recommending this legal nonconforming status be applied to businesses located in residential zones or in neighborhood zone districts. These businesses are prohibited and commercial enterprise of any kind beyond a home occupation is not allowable in residential and neighborhood districts. Lastly, and related to the sunset resolution, is a proposal to allow cultivation-only in the Agriculture zone district. This may allow some businesses to keep the cultivation portion of the current business going, while moving the retail sales or manufacturing to another location.

The state now issues licenses for each type of marijuana related activity - cultivation, dispensary, manufacturing, transporting or testing laboratories. For example, a dispensary is no longer required to grow all its own product. The dispensary could purchase from a grower or could purchase from a processor who manufactures consumer products from marijuana. Yellowstone County has a handful of cultivation-only operations that sell marijuana to in-state dispensaries and

processors. An analysis of available information on marijuana businesses in Yellowstone County indicates a high level of compliance with zoning and land use regulations. Some locations outside zoning are not in what would be considered commercial areas or on arterial roads where some level of commercial activity is expected. The County Commissioners and County Code Enforcement received some complaints early-on about these locations, but the complaints have not persisted over the last two years. Planning staff has gathered information on existing business from a variety of sources. The Department of Revenue Cannabis Control Division does not publish all information on license holders. The division publishes the "location" which could be a city, town, county or general place name, the name of the licensed business and the phone number on the license application. The state does not provide the street address of the business, the name of the license holder or other information. The state law restricts the information that can be made public by the agency. Planning staff has been providing licensees with letters of zoning compliance for nearly two years. Our zoning conformance applications require a business name, an owner name, the exact location of the business and the nature of the business at each location. Staff can match this information with the state-provided information to get a more complete picture of the marijuana business activity in the county.

There are seven locations within the zoning jurisdiction of the county that are not in the correct zoning to operate a marijuana business. Three are located in the Agriculture (A) zone, three are in Rural Residential (RR) zones and one is in the Neighborhood Mixed Use (NMU) zone. These are not considered legal nonconforming uses of land. If any or all of these locations were to be abandoned or damaged through fire, they could not be re-established at those locations in those zone districts. Six of the locations never inquired with the Planning office prior to establishing their business in an incorrect zone district. One was established prior to the County's adoption of the interim zoning regulations and did receive a written notice of compliance with the zoning at the time. This is the location in the Neighborhood Mixed Use (NMU) zone at the intersection of Shiloh Road and Central Avenue. Since the County did not have zoning regulations related to marijuana businesses at the time (early in 2021), and the zone district allowed retail businesses, Planning approved this location. These locations have several options available to bring the location into conformance. First, the owner could apply for a zone change to a district that allows the existing use. Zone changes need to meet the county's 11 review criteria to be approved. Not all of these locations are appropriate for commercial zoning. Secondly, the businesses in the Agriculture zone (A) could modify the type of license at the facility to a cultivation license and move the retail and processing license to a conforming location. Third, the businesses could obtain by purchase or lease a new location in a conforming zone district or outside the county's zoning jurisdiction. Twenty-eight percent of the existing 57 locations in Yellowstone County are outside the zoning jurisdiction. Finally, the businesses can propose an amendment to the pending permanent regulations to allow continuation of the businesses in these zone districts.

There are several locations in the zoning jurisdiction located in a correct zone district that may not meet the required 600-foot separation distance to a church, public school, public park with a playground, a day care center, a youth center or a behavioral health clinic. The listed uses are considered protected uses in the interim zoning and in the proposed permanent code. Marijuana businesses located within the 600-foot protected area around these uses would be considered legally nonconforming uses. The proposed permanent code would allow these locations to continue and to have the ability to re-build or re-establish the use in the future if for some reason the building or structure was damaged. This re-build would only be available through a special review application to the Board of County Commissioners. In this way, the initial investment to establish a business in a commercial zone district is preserved. The locations that are not within the correct zone districts are not afforded the same protection. The Rural Residential and Agriculture zone districts generally do not allow retail businesses of any kind.

Planning staff will present to the Board of County Commissioners an updated study to support the proposed permanent regulations for marijuana businesses in the County's jurisdictional zoning area on October 3rd. Seven of the existing 57 locations in Yellowstone County will need to take positive action to remain at their current locations, or seek new locations for their businesses. Sixteen locations are outside the County's zoning jurisdiction. The remaining 24 locations are within the correct zoning districts for the business activity. There are 424 licensed dispensaries state-wide in counties where the 2020 ballot initiative was approved. Planning staff recommends approval of the proposed zoning text amendments related to marijuana businesses in the county. The study has informed the proposed final regulations and findings have been prepared to support the proposed regulations.

RECOMMENDATION

The Yellowstone County Zoning Commission, prior to making a recommendation to the County Commissioners, shall consider the following:

1. Is the new zoning designed in accordance with the Growth Policy?

The County Growth Policy supports:

Land Use

- Predictable land use decisions that are consistent with neighborhood character and preferred land use patterns identified in neighborhood plans

- New developments that are sensitive to and compatible with the character of adjacent neighborhoods and County townsites

Economic Development

- Coordinated economic development efforts that target business recruitment, retention, and expansion
- Attractive and accessible communities
- Preserve and sustain the rural community centers
- Provide citizens with greater financial stability

Natural Resources

- Protection of groundwater, surface water, riparian areas, air quality, and productive agricultural land

Public Facilities and Services

- Protect public lives and property
- Predictable and timely development review procedures

The proposed final regulations will help make the proposed uses more predictable and will remove the uncertainty on where these businesses may locate. The state rules (2022) requiring positive approval for compliance with local zoning regulations has helped prevent the improper location of some marijuana businesses. Locations outside the county's zoning boundary may locate anywhere provided there are no private covenants or restrictions on the proposed use. The current state law has only allowed existing licensed locations to expand. The limitation was extended by the 2023 legislature until July 1, 2025.

2. Is the new zoning designed to secure from fire and other danger?

The proposed final regulations will help secure property from fire and other danger by requiring that any new marijuana business that sells, transports or processes marijuana be located in a commercial zone district. Some manufacturing processes use chemicals that may be hazardous. Ensuring these businesses are in commercial or industrial zones will help public safety services respond to an incident with the appropriate equipment and staff. Locations outside of commercial zone district may delay response times and responders may not have the right equipment when they do arrive.

3. Will the new zoning facilitate the provision of transportation, water, sewerage, schools, parks and other public requirements?

Transportation - The proposed final rules should not have any effect on the transportation system in the County.

Water and Sewer - The proposed regulations should not have an effect on the provision of water and sewer services in the County. Many retail locations in the county are located in Lockwood where a public water and sewer district already exists. There are limited locations where access to consistent water supply for cultivation is available. Cultivation in Agriculture zone districts can have more access to non-potable water for grow operations.

Schools and Parks - Adoption of the proposed final regulations will help protect public parks and public schools from the intrusion of these uses close to areas primarily used by children.

Public Safety Services - Adoption of the final regulations will provide predictability for first responders within the zoning jurisdiction around the Billings city limits.

4. Will the new zoning promote health and general welfare?

The proposed final regulations limit the effect of locating these businesses within the county zoning jurisdiction by providing separation distances from sensitive uses and limiting the businesses to compatible zone districts such as C3, CX, I1 and I2. The businesses may also be allowed within the CMU1 and CMU2 zone districts so long as the separation distances can be met. This will promote the health and general welfare.

5. Will the new zoning provide adequate light and air?

Although the regulations are not site specific, the general setbacks and building siting standards in each of the districts where the use may be located allow for adequate light and air around each structure. The additional building separation to a protected use may also provide a benefit.

6. Will the new zoning effect motorized and non-motorized transportation?

The proposed text will not have any effect on the transportation network in the county. Most of the zones where the use is allowed are developed commercial areas with streets that can handle this type of traffic.

7. Will the new zoning be compatible with urban growth in the vicinity?

Urban growth is typically related to the City of Billings. The city has different regulations that apply to marijuana businesses. The City does not allow dispensaries of marijuana within the city limits. It has been observed that several adult

use sales marijuana businesses have located next to the city limits to provide better access to city residents and be located on streets with more average daily traffic. These businesses do not have access to other city services such as water and sewer or police response. Most are located with the urban fire service area and the Billings Fire Department would be the responding agency. Lockwood, which has municipal services and opportunity for urban growth also has several marijuana businesses and those businesses are served by the Lockwood Fire District.

8. Does the new zoning consider the character of the district and the suitability of the property for particular uses?

The proposed final regulations limit the retail and processing marijuana businesses to zone districts that are either commercial or industrial. The regulations propose to allow cultivation in the Agriculture zone district in addition to the commercial and industrial zones. The character of these districts and uses makes marijuana businesses suitable for these areas provided the separation distances can be met.

9. Will the new zoning conserve the value of buildings?

The proposed regulations recognize the existence of legally nonconforming businesses and illegal business locations. A legally nonconforming use has to be 1) established prior to the adoption of the interim zoning regulations and 2) legal in the zone district where it was located at the time. Retail marijuana (dispensaries) located in non-commercial or non-industrial zone district do not qualify as legally nonconforming locations since no retail business is allowed in the residential zones of the County and only limited retail businesses are allowed in the Agriculture zone. Most of these businesses are directly related to agricultural pursuits such animal services and crop production. Seven of the 57 existing locations in Yellowstone County are not located in a zone that is conforming to the final regulations. Only one location, 4028 Central Avenue, is in a zone district (NMU) that allows some retail businesses.

10. Will the new zoning encourage the most appropriate use of land in Yellowstone County?

The final regulations will encourage the most appropriate locations for marijuana businesses in the county. The proposed regulations do not include all commercial zone districts such as Neighborhood Office (NO) or Neighborhood Mixed Use (NMU). These two zones are intended to be in proximity to or within residential neighborhoods.

11. Will the new zoning be as compatible as possible with adjacent zoning in the City of Billings?

The proposed final regulations are as compatible as possible with the city's zoning for marijuana businesses. The County cannot enforce the city's adopted 1,000-foot separation requirement for dispensaries and protected uses including residential zone districts. Conversely, the City cannot enforce the County's regulations on separation distances.

RECOMMENDATION

Planning staff recommends the approval of the draft regulation and adoption of the ten review criteria.

Attachments

Draft permanent regulations for Marijuana businesses Yellowstone County

Site Photos and Posted Locations

Cannabis Locations in Yellowstone County 2023

YELLOWSTONE COUNTY BOARD OF COUNTY COMMISSIONERS

Resolution No. 23-_____

Resolution of Intent to Modify Yellowstone County Zoning Regulations as to Marijuana Businesses

WHEREAS, Section 76-2-206 of the Montana Code Annotated gives a board of county commissioners the authority to enact interim zoning regulations for an emergency that involves public health, safety, morals or general welfare. The interim regulations are meant to allow the board to have time to study the situation to formulate a permanent plan to deal with the situation. To enact interim zoning regulations, a board needs to pass a resolution of intent, set a public hearing, give notice of the public hearing, make copies of the interim regulations available to the public, hold a public hearing, allow public comments at the hearing, consider public comments and other information at the hearing, pass a resolution and initiate a study of the situation to determine how the board should deal with the situation. The interim regulations can last for up to one year and can be extended for an additional year.

WHEREAS, Yellowstone County was concerned about the production, processing, sale, transportation and testing of marijuana products in Yellowstone County. On November 23, 2021 the County enacted interim zoning regulations to limit where marijuana may be produced, processed, sold, transported and tested to non-residential areas. *Yellowstone County Board of County Commissioners Resolution No. 21-93*. On November 22, 2022, the County extended the interim regulations for one additional year pending adoption of permanent regulations. *Yellowstone County Board of County Commissioners Resolution No. 22-99*. On March 7, 2023, the County passed a resolution as to the enforcement of the interim regulations. *Yellowstone County Board of County Commissioners Resolution No. 23-25*. The County has completed a study on the sale of recreational marijuana and developed proposed permanent regulations on the sale of recreational marijuana. *Yellowstone County Study on Marijuana business in the Zoning jurisdiction; Yellowstone County Proposed Zoning Regulations on Marijuana businesses*. The County would like to enact the regulations.

WHEREAS, Section 76-2-205 of the Montana Code Annotated gives a board of county commissioners the authority to enact zoning regulations. To enact zoning regulations, a board needs to hold a public hearing after receiving the Zoning Commission recommendation, provide notice of the public hearing, make the regulations available to the public, receive public comments, consider public comments at the public hearing, pass a resolution of intent, publish notice of the resolution of intent, make the regulations available to the public, receive public comments, consider the public comments and pass a resolution to enact the regulations.

WHEREAS, on August 11, 2023, the Planning Division published a notice of the County Zoning Commission hearing scheduled for September 11, 2023, and the Board of County Commissioners hearing scheduled for October 3, 2023 and made the draft regulations available to the public and interested parties for review and comment. The Planning Division placed a notice of the pending regulations in 5 different locations within the County, and placed the regulations on their webpage. From August 11, 2023 through October 3, 2023, the Clerk and Recorder made copies of the proposed modifications available to the public at his office. On October 3, 2023, the Board held a public hearing on the modifications. The Board received the Zoning Commission's recommendation on the draft regulations, heard public comments and considered the public comments at the hearing and written public comments submitted prior to the hearing. The Board believed it would be in the best interest of the public to adopt the proposed regulations.

NOW THEREFORE, BE IT RESOLVED,

The Yellowstone County Board of County Commissioners passes this resolution of intent to modify Yellowstone County's Zoning Regulations to regulate marijuana businesses. Attached are a copy of the regulations.

The Board orders the Yellowstone County Clerk and Recorder to publish notice of the resolution of intent, to provide copies of the resolution of intent and regulations to the public at his office, to post a copy of the resolution of intent and regulations on the County's website, receive written comments and provide the comments to the Board after the 30-day comment period has expired. After the 30-day comment period has expired, the Board will consider the comments and pass a resolution that either does or does not modify the regulations.

Passed and Adopted on the 3rd day of October 2023.

BOARD OF COUNTY COMMISSIONERS
YELLOWSTONE COUNTY, MONTANA

John Ostlund, Chair

Donald W. Jones, Member

ATTEST:

Mark Morse, Member

Jeff Martin, Clerk and Recorder

ZONING REGULATIONS FOR THE YELLOWSTONE COUNTY JURISDICTIONAL AREA RELATED TO THE SALE, PRODUCTION, PROCESSING, TRANSPORTATION AND TESTING OF MARIJUANA AND MAIRJUANA RELATED BUSINESSES BY REVISING SECTIONS 27-803.C, 27-1000, 27-1005, 27-1006, 27-1009, 27-1010, 27-1400, 27-1504, AND 27-1800

Section 1. That the Zoning Regulations for the Yellowstone County Jurisdictional Area be amended by revising Section 27-803.C.1 - Use Table for Urban Districts – Planned Neighborhood Developments to add certain marijuana uses with restrictions (PR) to the Table 27-800.2 under the COMMERCIAL Use Category – Retail Sales and Office; INDUSTRIAL, WHOLESALE AND STORAGE - Manufacturing, Assembly, or Processing and Warehousing and Storage Services

Table 27-800.2: Permitted PrimaryUses	Residential							Mixed-Use and Commercial				Additional Standards	
	N3	N2	N1	NX1	NX2	NX3	RMH	NO	NMU	CMU1	CMU2		
	Key: P = Permitted, PL = Location Limits in Zone District, PR – Applicable Use Restrictions, SR = Special Review												
Retail Sales													
Commercial Greenhouse/Nursery									SR	P	P		
Liquor Sales									P	P	P		
Marijuana Dispensary - Medical										PR	PR		27-1005.Q
Marijuana Dispensary – Adult Use										PR	PR		27-1005.Q
Marijuana Dispensary – Combined Use										PR	PR		27-1005.Q
Retail, Limited with drive-thru									SR	P	P		27-1009
without drive-thru									P	P	P		
Office													
Business or Professional								P	P	P	P		
Research and Testing Laboratories											SR		
Marijuana Testing Laboratory											PR		27-1006.C
Manufacturing, Assembly, or Processing													
Artisan/Craft									PL	PL	PL		27-1006
Marijuana Cultivation (Indoor Only)										PR	PR		27-1006.C
Marijuana Processing/Manufacturing										PR	PR		27-1006.C
Warehouse and Storage Services													
Personal Self-Service Storage										PRPL	PRPL		27-1006
Warehouse													27-1006
Marijuana Transportation and Temporary Storage											PR		27-1006.C

Section 2. That the Zoning Regulations for the Yellowstone County Jurisdictional Area be amended by revising Section 27-1000 - Use Table – to add certain marijuana related uses with restrictions (PR) to Table 27-1000.1 under the COMMERCIAL Use Category – Retail Sales.

The amended table shall read as follows:

Table 27-1000.1: Primary Uses in BaseZone Districts	AG	Residential				Commercial		Industrial		Public					Additional Standards
	Key: P = Permitted, PL = Location Limits, PR = Applicable Use Restriction SR = Special Review														
	A	RR1	RR3	N4	R- RMH	C3	CX	I1	I2	P1	P2	P3 Civ	P3 Ed	P3 Med	
Retail Sales															
Retail, Agricultural						P	P								
Commercial Greenhouse					P	P	P								
Marijuana Dispensary - Medical					PR	PR	PR	PR						27-1005.Q	
Marijuana Dispensary – Adult Use					PR	PR	PR	PR						27-1005.Q	
Marijuana Dispensary – Combined Use					PR	PR	PR	PR						27-1005.Q	
Retail, Limited with drive-thru					P	P								27-1009	
without drive-thru					P	P									
Retail, General with drive-thru					P	P								27-1009	
without drive-thru					P	P									
Retail, Large-Format					P	P	P								

Section 3. That the Zoning Regulations for the Yellowstone County Jurisdictional Area be amended by revising Section 27-1000 - Use Table – to add the following marijuana uses with restrictions (PR) to Table 27-1000.1 under the INDUSTRIAL, WHOLESale AND STORAGE Use Category – Manufacturing, Assembly, or Processing
The amended table shall read as follows:

Table 27-1000.1: Primary Uses in BaseZone Districts	AG	Residential				Commercial	Industrial		Public					Additional Standards	
	Key: P = Permitted, PL = Location Limits, PR = Applicable Use Restriction SR = Special Review														
	A	RR1	RR3	N4	R-RMH	C3	CX	I1	I2	P1	P2	P3 Civ	P3 Ed		P3 Med
Manufacturing, Assembly, or Processing															
Artisan/Craft						P	P	P	P						27-1006
Limited						P	P	P	P						
General						SR	P	P	P						
Heavy								SR	P						27-1006
Marijuana Cultivation (Indoor Only)	PR					PR	PR	PR	PR						27-1006.C
Marijuana Processing/Manufacturing						PR	PR	PR	PR						27-1006.C

Section 4. That the Zoning Regulations for the Yellowstone County Jurisdictional Area be amended by revising Section 27-1000 - Use Table – to add the following marijuana uses as allowed (P) to the Primary Use Table (Table 27-1000/.1) under the INDUSTRIAL, WHOLESALE AND STORAGE Use Category – Warehousing and Storage Services

The amended table shall read as follows:

Table 27-1000.1: Primary Uses in BaseZone Districts	AG	Residential				Commercial	Industrial			Public			Additional Standards		
	Key: P = Permitted, PL = Location Limits, PR = Applicable Use Restriction SR = Special Review														
	A	RR1	RR3	N4	R-RMH	C3	CX	I1	I2	P1	P2	P3 Civ		P3 Ed	P3 Med
Warehouse and Storage Services															
Outdoor Storage						PR	PR	PR	PR						27-1006
Personal Self-Service Storage						PR	PR	PR	PR						27-1006
Trucking and Transportation Service							P	P	P						
Marijuana Transportation and Temporary Storage							P	P	P						27-1006.C
Warehouse, Wholesale and Distribution							P	P	P						27-1006
Agricultural Products							P	P	P						
Chemical Products								PR	P						
Petroleum Products								PR	P						

Section 5. That the Zoning Regulations for the Yellowstone County Jurisdictional Area be amended by revising Section 27-1000 - Use Table – to add the following marijuana uses as allowed (P) to the Primary Use Table (Table 27-1000.1) under the under the COMMERCIAL Use Category - Office

Table 27-1000.1: Primary Uses in BaseZone Districts

	AG	Residential				Commercial		Industrial		Public					Additional Standards
	Key: P = Permitted, PL = Location Limits, PR = Applicable Use Restriction SR = Special Review														
	A	RR1	RR3	N4	R-RMH	C3	CX	I1	I2	P1	P2	P3 Civ	P3 Ed	P3 Med	
<u>Office</u>															
Business or Professional						P	P								
Research and Testing Laboratories						P	P	P	P						
<u>Marijuana Testing Laboratory</u>						<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>						<u>27-1006.C</u>

Section 6. The Zoning regulations for the Yellowstone County Jurisdictional Area be amended by adding the following language to Section 27-1005 - Standards for commercial uses:

27-1005.Q. Marijuana Dispensaries: The following standards apply to all marijuana dispensaries within the County jurisdictional zoning area.

1. Separation distances.

(a) All marijuana dispensaries shall be separated by 600 feet from religious institutions, primary and secondary educational facilities, public parks that contain a children's playground or playfield, day care centers, youth centers, behavioral health facilities ("protected use" as defined in subsection 27-1802.G) as measured from the exterior of the occupied building space of the marijuana dispensary to the property line of the protected use.

(b) Required separations are not subject to reduction, adjustment, or variance and dispensaries shall not be approved within the distances specified.

(c) Existing facilities that do not meet this required separation will be considered nonconforming uses and will be regulated by Section 27-1500 (Nonconformities) of this code.

2. Combining Marijuana Uses.

(a) A marijuana dispensary may not be combined with another marijuana use, such as a transportation, cultivation, testing laboratory or manufacturing facility, unless the required separation distances can be met for the dispensary use.

(b) All marijuana uses are considered Primary Uses for the purposes of zoning.

3. Marijuana Businesses - The definitions contained in Titles 15, 16, and 50, MCA, shall apply to this code except where the resolution provides a different definition in Section 27-1803, or the context of this code makes it clear that the statutory definition does not apply.

Section 7. The Zoning regulations for the Yellowstone County Jurisdictional Area be amended by adding the following language to Sec. 27-1006 Use Standards for INDUSTRIAL, WHOLESale AND STORAGE

27-1006.C. Marijuana Cultivation, Processing/Manufacturing & Transporters.

1. Separation distances.

(a) All marijuana cultivation, processing and manufacturing facilities shall be separated 600 feet from religious institutions, primary and secondary educational facilities, public parks that contain a children's playground or playfield, day care centers, youth centers, behavioral health facilities ("protected use" as defined in subsection 27-1802.G) as measured from the exterior of the occupied building space of the marijuana cultivation operation or marijuana processing/manufacturing to the property line of the protected use.

(b) Required separations are not subject to reduction, adjustment, or variance and cultivators, processors and manufacturers shall not be approved within the distances specified.

2. Enclosed structure required.

- (a) All marijuana cultivation shall be done inside of an enclosed structure and not outdoors. Such structure will be outfitted with the best available odor control technology.
- (b) All marijuana manufacturing and processing shall be done within an enclosed structure. Such structure will be outfitted with the best available odor control technology.

3. Transporters and Storage.

- (a) Marijuana transporters are allowed to store in transit shipments of marijuana for short periods of time, not to exceed 30 days. Products may be temporarily stored either in secured vehicles/trailers or within an enclosed structure or warehouse. Separation distances do not apply to marijuana transporters.

4. Marijuana Businesses - The definitions contained in Titles 15, 16, and 50, MCA, shall apply to this code except where the resolution provides a different definition in Section 27-1803, or the context of this code makes it clear that the statutory definition does not apply.

Section 8. Add the following section to 27-1009.M.4 – Home Occupations (Accessory Uses).

27-1009.M. Home occupations. The planning division recognizes that the restrictions set forth in this section do not anticipate all possible types of home occupations. Therefore, the following policies have been adopted to guide the planning division in the enforcement of this section:

.....

4. Prohibited uses. The following types of uses will not be approved as home occupations:

- (a) Uses involving large or oversized goods or materials;
- (b) Automobile, lawn mower, or other engine repair, welding, or machine shops unless the service is offered only at the customer's location (mobile service);
- (c) Uses where other employees visit the site, such as operating/dispatch offices for contractors, offices for businesses having employees who are not occupants;
- (d) Uses involving more than household quantities of volatile liquids or materials; ~~or~~
- (e) Uses involving the grooming, breeding, or boarding of animals; ;

or

(f) Uses involving marijuana including but not limited to the dispensaries, sales, cultivation, testing, manufacturing, transporting or temporary storage of marijuana.

Section 9. Add the following section to 27-1010 – Temporary Uses.

27-1010.A. Temporary Uses in Nonresidential Zone Districts

4. No temporary use shall include the dispensing or sale of any marijuana products including but not limited to live plants, seeds, processed or dried marijuana, marijuana edibles, extracts, waxes or oils.

Section 10. Add the following language to section 27-1402.B and section 27-1402.C

27-1402.B. Sign permit required.

1. New signs. A sign permit shall be required to erect, place, modify the size or shape, allow the continued placement, or convert any portion of a sign, including a conversion from temporary to permanent or from non-EMD to EMD unless otherwise provided in this article. Permits submitted for marijuana businesses shall provide proof of compliance with state sign regulations along with a completed sign permit application.
2. Existing signs. Changes to existing signs that are made nonconforming by the 2020 zoning code update require a sign permit and are subject to section 27-1403, Nonconformities. Changes to existing signs for marijuana businesses shall comply with state sign regulations.
3. Sign permit exemptions. The following activities shall not require a sign permit, provided that these exemptions shall not be construed as relieving the owner from the responsibility to comply with the provisions of this zoning code or any other County law or ordinance, and any related state sign regulations:
 - (a) Changing of the advertising copy or message on an existing approved painted or printed sign, marquee, changeable copy sign or a similar approved sign whether electrical, illuminated, electronic changing message display or non-illuminated painted message which are all specifically designed for the use of replaceable copy;
 - (b) Painting, repainting, cleaning or other normal maintenance and repair of a sign not involving structural changes. Replacement of or a change of a plastic sign face will be included as an exempt operation;
 - (c) Changes in the content of show window displays and permitted temporary signs.

27-1402.C. Exemptions. The following signs, items, and operations shall not require a sign permit, but shall be undertaken in conformance with this article, and all adopted building code(s):

.....

4. Public signs.

- (a) Official public signs approved by a governmental body with jurisdiction over issues such as traffic safety, pedestrian safety, schools, railroads, or public notice, as well as signs required by the Manual of Uniform Traffic Controls.
- (b) Signs and notices required to be displayed, maintained, or posted by law or by any court or governmental order, rule, or regulation, including any notices required for marijuana businesses.
- (c) Government signs and notices provided for the convenience and safety of the community.

Section 11. Amend Section 27-1501.C and 27-1504.C to delete language and add the following language:

27-1501.C Illegal Status and Code Violations

Nothing in this article shall be interpreted as authorization for or approval of a continuance of the use of a structure or premises in violation of the zoning regulations in effect at the time of the effective date of this Zoning Code. ((*Marijuana dispensaries, processors or cultivators established within residential or neighborhood zone districts including Neighborhood Mixed Use (NMU) or*

Neighborhood Office (NO) districts shall not continue in operation after month/day, 2024. Marijuana dispensaries or processors located within an Agriculture zone district shall not continue in operation after month/day, 2024.)* this compliance provision will be contained within a separate Resolution for the County Commissioners

27-1504.C.3 Demolition, Destruction, or Obsolescence

(a) Where nonconforming use status applies to: (1) a structure specific to a use (such as a gas station), or (2) structure and land in combination specific to a use, (such as an automobile dealership) removal or destruction of the structure shall presumptively eliminate the nonconforming status of the land and reconstruction shall be done in compliance with this Zoning Code. ~~a structure specific to a use or structure and land in combination specific to a use, removal or destruction of the structure shall eliminate the nonconforming status of the land.~~

1. Destruction for the purpose of this subsection is defined as damage to an extent of more than 50 percent of the replacement cost at time of destruction.
2. The operation of a noncompliant residential use located in an RR1, RR3, N4,RRMH, or any residential zone in a PND district shall not be terminated regardless of the amount of damage or destruction suffered by the structure in which the use is operated.
3. The operation of a nonconforming non-residential structure specific to a use or structure and land in combination specific to a use shall be terminated unless the property owner seeks Special Review approval (See Section 27-1622) to reestablish the destroyed structure or structure and land use within six months of the date of the event(s) that caused the destruction. In addition to the decision criteria in Section 27-1622.D, the zoning commission and Board of County Commissioners shall also consider:
 - i. Whether changes, over time, to the surrounding area or neighborhood make reestablishment of the structure and use or structure, land and use detrimental to nearby residents or property values;
 - ii. Whether the use and specific structure or use, specific structure and land became nonconforming because of the actions of the property owner; or
 - iii. Whether the use and structure or use, structure and land were subject to distance requirements (“separated use”) from other uses (“protected uses”) and became non-conforming only when a protected use in a structure specific to that use (such as a religious assembly in its own building) or structure and land specific to that use (such as a primary school) were established within the distance restricted area after the documented establishment of the separated use.

Section 12. Amend Section 27-1803 to add the following language:

27-1803. Definitions

B: *B terms:* Add the following after “Bed and Breakfast Inn” and before “Billboard Sign”

Behavioral Health Facility: means a facility or a distinct part of a facility licensed or certified by the State of Montana as a mental health center, a substance use disorder provider, a residential treatment facility, or a residential treatment center that provides treatment to children or adults with a mental or substance use disorder.

M: *M terms*: Add the following after “Manufacturing” terms and before “Marquee”

Marijuana: means all plant material from the genus Cannabis containing tetrahydrocannabinol (THC) or seeds of the genus capable of germination. The term does not include hemp, including any part of that plant, including the seeds and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3% on a dry weight basis, or commodities or products manufactured with hemp, or any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other products.

Marijuana Cultivation: means a location where growing, harvesting and drying marijuana occurs and where marijuana is packaged and labelled in a natural or naturally dried form that has not been converted, concentrated, or compounded. Cultivated marijuana is for sale to dispensaries but not for direct sale to consumers.

Marijuana Dispensary – Medical Use: means a location or premises from which a medical marijuana provider or marijuana products provider is approved by the state and local government to dispense marijuana or marijuana products solely to a registered cardholder.

Marijuana Dispensary – Adult Use: means a location or premises from which an adult-use provider or adult-use marijuana products provider is approved by the state and local government to dispense marijuana or marijuana products to a consumer.

Marijuana Dispensary – Combined Use: means a premise from which a medical marijuana provider or medical marijuana products provider and adult-use provider or adult-use marijuana products provider is approved by the state and local government to dispense marijuana or marijuana products to a registered cardholder or to a consumer.

Marijuana Product: means a product that contains marijuana and is intended for use by a consumer by a means other than smoking. The term includes but is not limited to edible products, ointments, tinctures, marijuana derivatives, and marijuana concentrates.

Marijuana Processing/Manufacturing: means the conversion or compounding of marijuana into marijuana products, marijuana concentrates, or marijuana extracts and packaging, repackaging, labeling, or relabeling marijuana products for sale to dispensaries but not for direct sale to consumers.

Marijuana Testing Laboratory: means a location that provides 1) testing of representative samples of marijuana and marijuana products and 2) provides information regarding the chemical composition, the potency of a sample, and the presence of molds, pesticides, or other contaminants in a sample.

Marijuana Transportation: means the packaging, transportation and delivery of processed marijuana, or marijuana products to or from marijuana dispensaries, testing laboratories, or cultivation facilities. This definition does not include any transportation from a dispensary to its consumers or cardholders.

Y: *Y Terms* Add the following after “Yard sign” terms and before “Youth foster home”

Youth Center: means any public or private facility that is primarily used to host

recreational or social activities for minors, including, but not limited to, private youth membership organizations or clubs, or social service teenage club facilities. Examples, of youth centers are Boys and Girls Clubs, Audubon Centers, zoos, children’s museums and similar facilities.

PASSED AND ADOPTED as ZONING REGULATIONS by the Board of County Commissioners of Yellowstone County, Montana, this 7th day of November 2023.

BOARD OF COUNTY COMMISSIONERS
YELLOWSTONE COUNTY, MONTANA

John Ostlund, Chairman

Mark Morse, Member

Don Jones, Member

(SEAL)
ATTEST:

Jeff Martin
Clerk and Recorder

Zone Change 721 – Permanent Marijuana Regulations
Site Photos - Posting and Locations



Other 4 public locations
posted with notice:

- 1) Planning Dept Lobby
2825 3rd Ave N, 4th Floor
- 2) BOCC office 316 N
26th St – 3rd Floor
- 3) Senior Center at 360 N
23rd St
- 4) County Courthouse
Lobby – 217 N 27th St

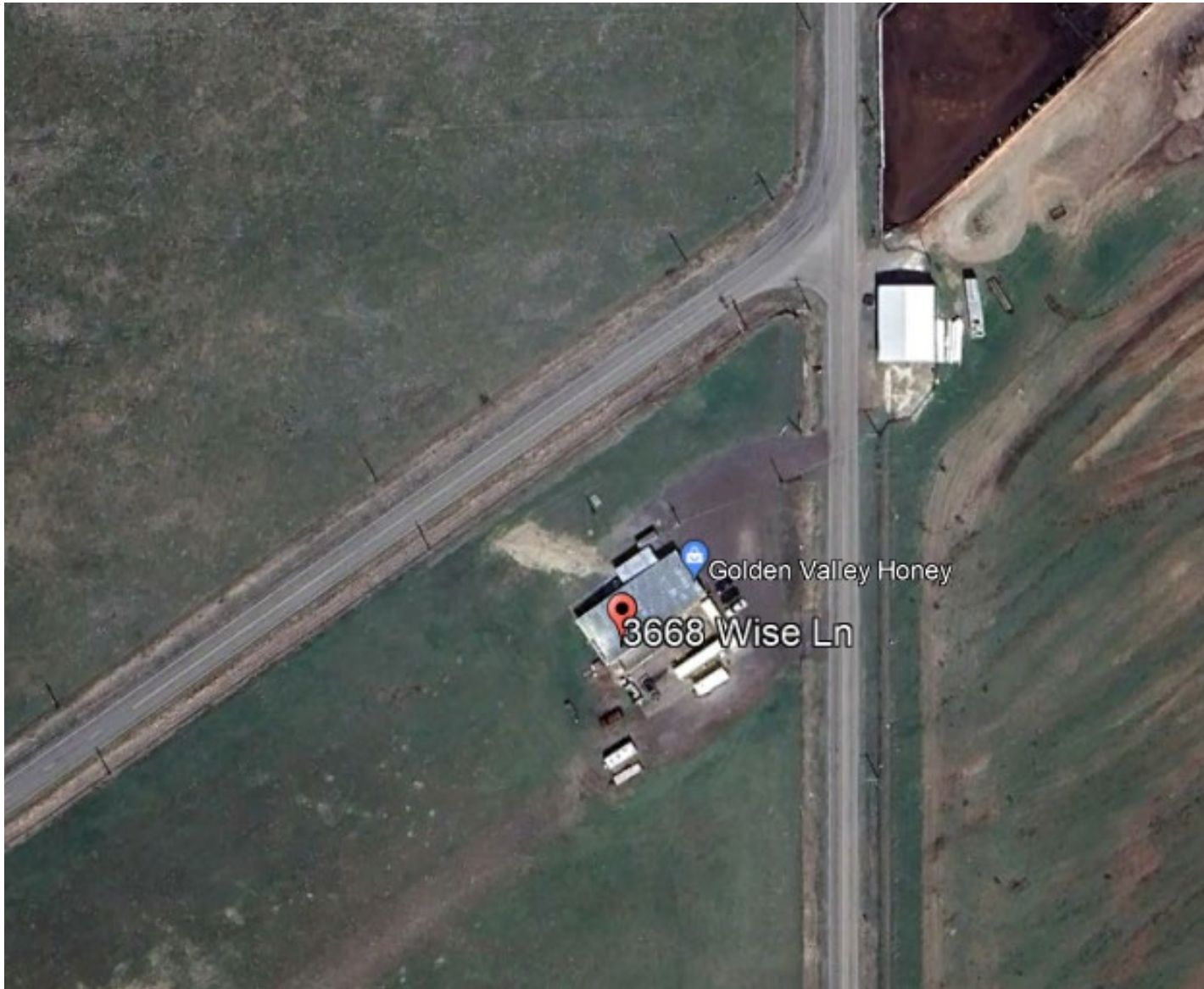
2550 3rd Ave N – County property

1 of 5 posted locations for the public notice of pending zoning regulations

Locations in Nonconformign zone districts (seven)



(1) Enlighten – RR3 zone – Cultivation only



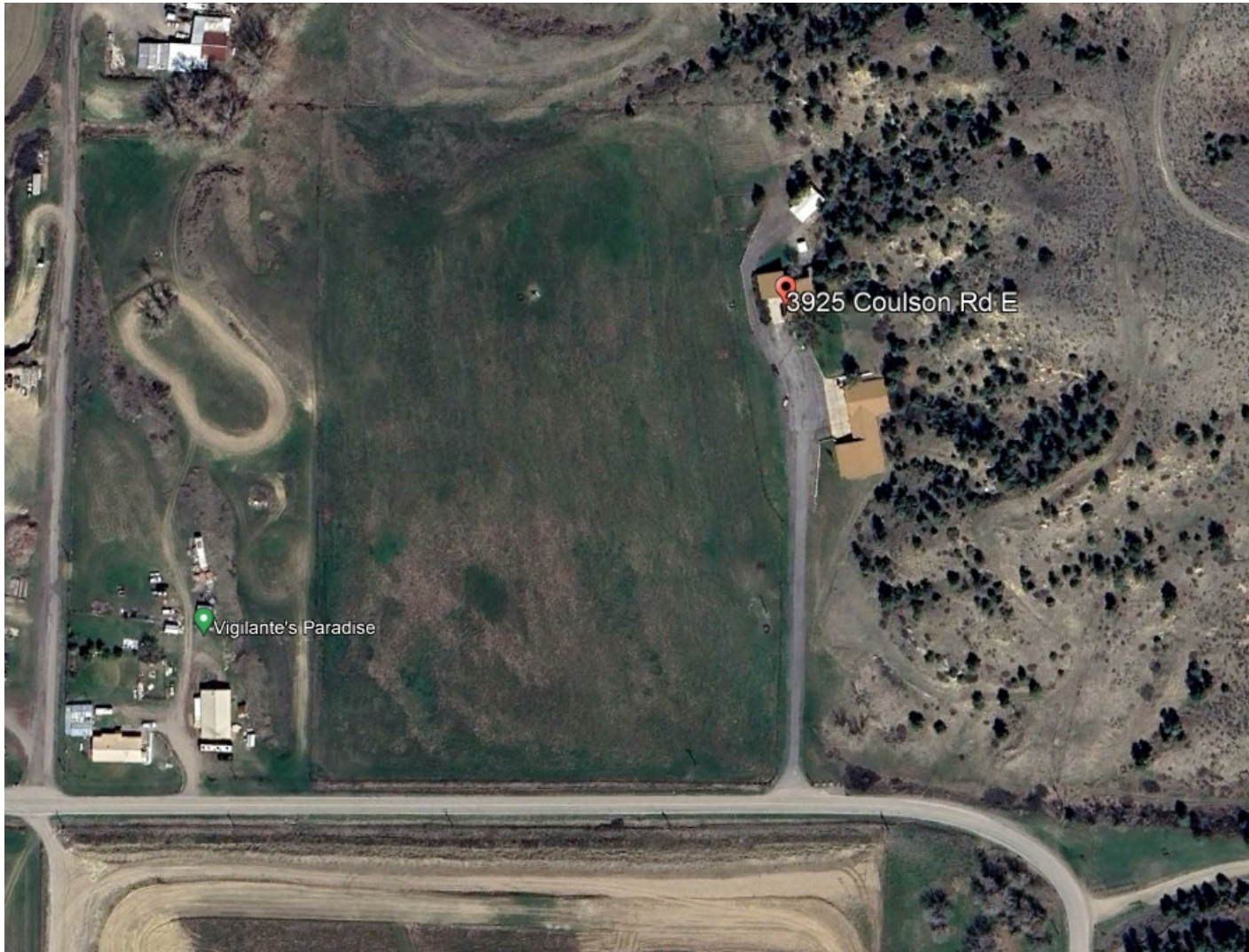
(2) Golden Vally Honey – Agriculture zone - Dispensary, Cultivation, and Manufacturing



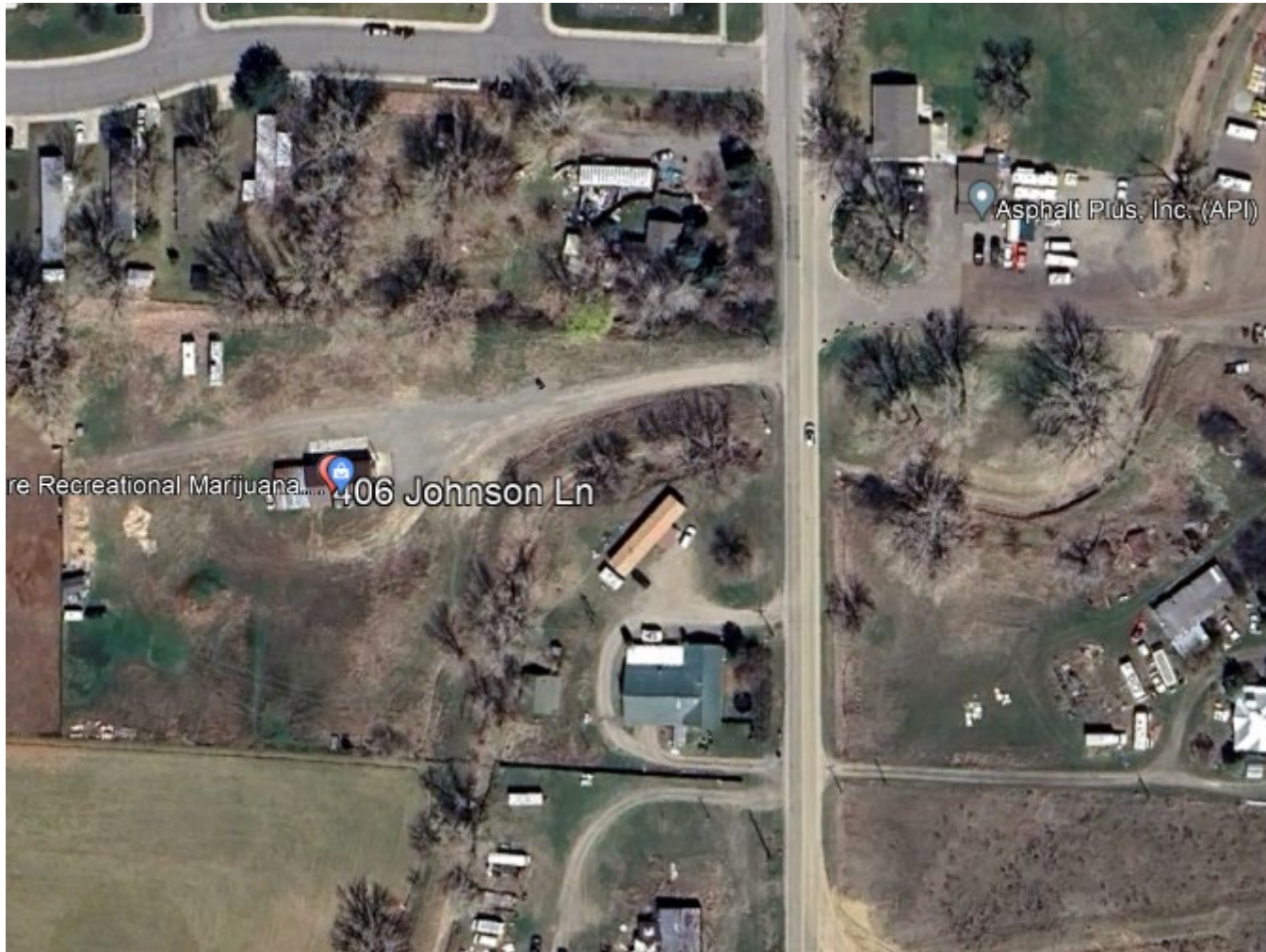
(3) Granite Peak Distributing – NMU zone – Dispensary and Cultivation



(4) Laughing Forest – Agriculture zone – Dispensary and Cultivation



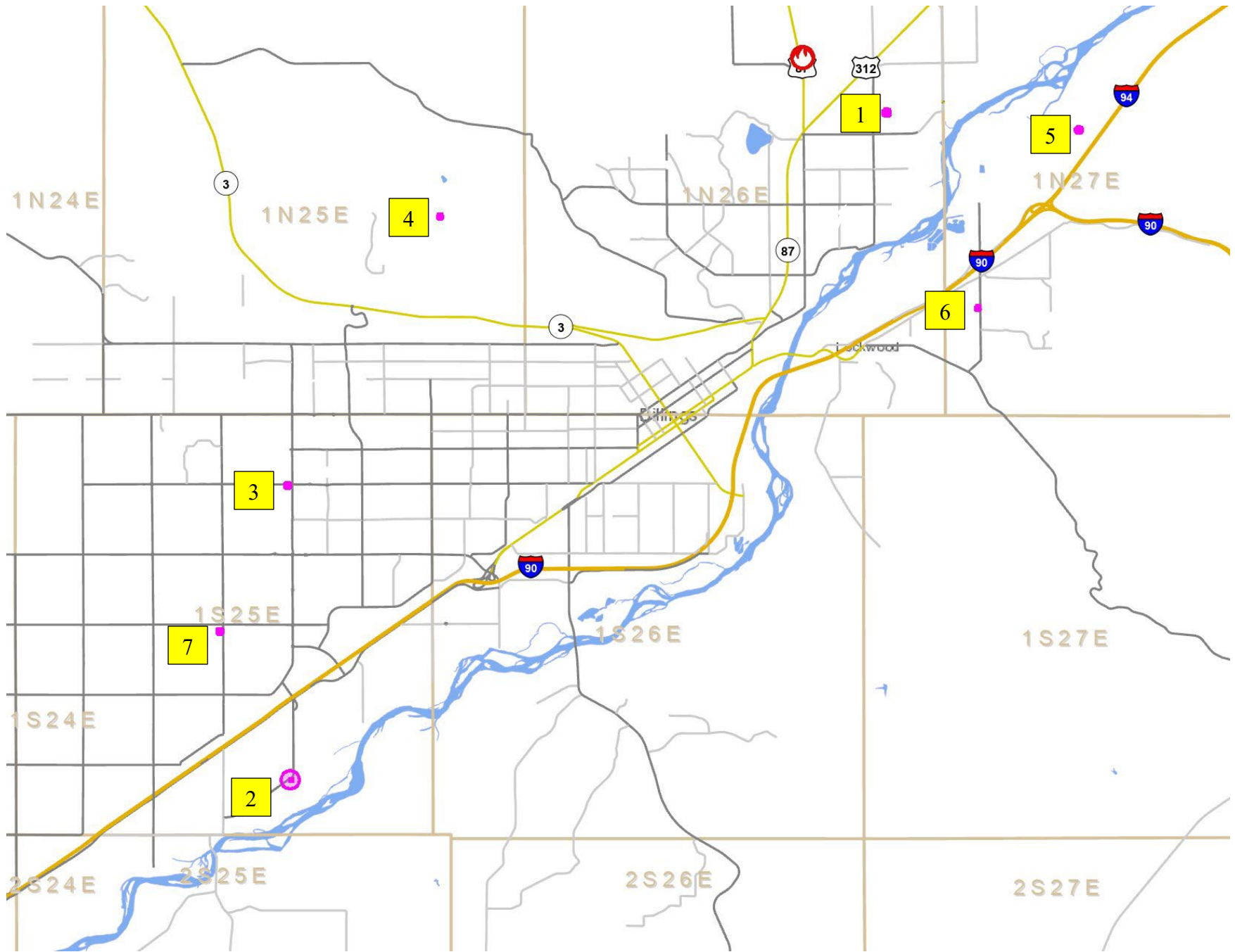
(5) Lighthouse Organics – Agriculture zone – Dispensary, Cultivation, and Manufacturing



(6) North Coast Cure – RR3 zone – Dispensary and Cultivation



(7) The Green Bee – RR1 zone – Dispensary, Cultivation, and Manufacturing



All Cannabis in YC 2023

Business Name	Zoned or Unzoned	Location	Location Zoned	Zoning	Conforming Zone
312 Cannabis	Zoned	211 N 9th St	211 N 9th St	I1	Yes
312 Cannabis	Unzoned	3954 HIGHWAY 312	NA		
406 Essence of Safe Access	Zoned	2601 Overland Ave Suite 1	2601 Overland Ave Suite 1	CX	Yes
406 Organix	Unzoned	13213 US Highway 87 N	NA		
Big Sky Dispensary	Unzoned	1934 Highway 212 S	NA		
Big Sky Releaf	Unzoned	7800 Shorey Rd	NA		
Bloom Montana	Zoned	131 Brickyard Lane	131 Brickyard Lane	I1	Yes
B-Town Buds	Zoned	2150 Coulson Rd	2150 Coulson Rd	I2	Yes
Collective Elevation	Unzoned	4949 Danford Dr	NA		
C4 (Comfort Care Cannablis Company)	Zoned	1431 Old Hardin Rd	1431 Old Hardin Rd	CX	Yes
Chronic Caregivers	Unzoned	7534 ALDERSON AVE	NA		
Elevated LLC	Zoned	1827 Old Hardin Rd	1827 Old Hardin Rd	CX	Yes
Elevated LLC	Zoned	6522 S Frontage Rd	6522 S Frontage Rd	I1	Yes
Enlighten LLC	Zoned	1745 Mary St	1745 Mary St	RR3	No
Frosteez	Zoned	3205 N Frontage Rd	3205 N Frontage Rd	CX	Yes
Frosteez	Zoned	5055 Jellison Rd	5055 Jellison Rd	CX	Yes
Golden Valley Honey	Zoned	3668 Wise Lane	3668 Wise Lane	A	No
Granite Peak Distributing	Zoned	4028 Central Ave	4028 Central Ave	NMU	No
Herb Doc	Unzoned	3028 S 53rd St W Unit 5	NA		
High Mountain Marijuana	Zoned	309 Erie Drive	309 Erie	I1	Yes
High Mountain Marijuana	Zoned	7440 Entryway Drive	7440 Entryway Dr	CX	Yes
HOLISTIC RELIEF BY DESIGN	Zoned	2860 Old Hardin Rd	2860 Old Hardin Rd	CMU1	Yes
HOLY GRAIL BOTANICALS L.L.C.	Unzoned	6143 Victoria Ln	NA		
HOMETREE	Zoned	3044 Hesper Rd	3044 Hesper Rd	I1	Yes
IDEAL NATURALS	Zoned	316 Reynolds St	316 Reynolds St	I1	Yes
IDEAL NATURALS LLC	Unzoned	4656 Highway 312	NA		
LAUGHING FOREST	Zoned	2221 Trails End Rd	2221 Trails End Rd	A	No
LIGHTHOUSE ORGANICS LLC	Zoned	2750 Old Hardin Rd	2750 Old Hardin Rd	CMU2	Yes
LIGHTHOUSE ORGANICS LLC	Zoned	3925 Coulson Rd	3925 Coulson Rd	A	No
LIONHEART CANNABIS BILLINGS DISPENSARY	Zoned	6400 S Frontage Rd	6400 S Frontage Rd	C3	Yes
Mountain Organics	Zoned	918 Cerise Rd	918 Cerise Rd	I1	Yes
Montana Advanced Caregivers	Zoned	917 3rd Ave N	917 3rd Ave N	I1	Yes
Montana Advanced Caregivers	Zoned	1401 S 32nd St	1401 S 32nd St	I1	Yes
Montana Advanced Caregivers	Unzoned	11010 S Frontage Rd	NA		
Montana Advanced Caregivers	Zoned	1101 Maggie Lane	1101 Maggie Lane	CX	Yes
Magic City ReLeaf	Zoned	6612 S Frontage Rd	6612 S Frontage Rd	I1	Yes
MariMint	Unzoned	9 S 89th St W	NA		
MariMint	Zoned	720 3rd Ave N	720 3rd Ave N	I1	Yes
MariMint	Zoned	1419 Old Hardin Rd	1419 Old Hardin Rd	CX	Yes
MariMint	Zoned	1415 S 32nd St W	1415 S 32nd St W	I1	Yes
MEDICINE CREEK CAREGIVERS	Zoned	1744 Mullowney Lane	1744 Mullowney Lane	CX	Yes
MONTANA FLOWER SHOPPE	Unzoned	4487 Christensen Rd	NA		
MONTANA MEDICINE MAN	Unzoned	8717 Trailblazer Ave	NA		
MOUNTAIN ORGANICS	Unzoned	2405 S 70th St W	NA		
My Buddies Cannabis	Zoned	400 Erie Dr	400 Erie Dr	I1	Yes
North Coast Cure	Zoned	406 Johnson Lane	406 Johnson Lane	RR3	No
Seed of Life Labs	Zoned	5702 Stearns Circle	5702 Stearns Circle	CX	Yes
Seed of Life Labs	Zoned	41 Sugar Ave	41 Sugar Ave	I1	Yes
Sensicare	Zoned	1020 Hannon Rd	1020 Hannon Rd	I1	Yes
Silverleaf	Zoned	412 Sugar Ave	412 Sugar Ave	I1	Yes
Stink Blossom	Zoned	1031 Highway 87 East	1031 Highway 87 E	CX	Yes
That One Place	Zoned	5055 Jellison Rd Unit 5	5055 Jellison Rd	CX	Yes
The Green Bee	Zoned	1604 S 48th St W	1604 S 48th St W	RR1	No
The Patch LLC	Unzoned	4487 Christensen Rd	NA		
Uncle Bucks	Zoned	206 Reynolds	206 Reynolds	CX	Yes
Yellowstone Buds	Zoned	1310 Highway 87 E	1310 Highway 87 E	CX	Yes
Yellowstone Cannabis	Unzoned	4212 Highway 312	NA		