



## COUNTY OF YELLOWSTONE ZONING COMMISSION AGENDA

Monday, April 8, 2024

4:00 PM

Miller Building, 1<sup>st</sup> Floor Conference Room  
2825 3<sup>rd</sup> Avenue North, Billings, Montana

### NOTICE TO THE PUBLIC

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: [plnonline@billingsmt.gov](mailto:plnonline@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. All meetings and official activities of the MPO are held in buildings and locations that comply with accessibility standards according to the Americans with Disabilities Act (ADA). A TTY number for the hearing impaired, 406-657-3079, is available upon request. 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 the Planning Division Office, at 406-247-8610.

Call the meeting to order.

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

Public Comment

Approval of Minutes:

The minutes of the Board meeting of January 8, 2024

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:

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

Public Hearings:

- County Zone Change 723 - RR1 to C3** - This is a zone change request for property generally located at 1604 S 48th St West. This is the location of the Green Bee Dispensary (marijuana cultivation and retail sales) and for Yellowstone Basin Construction. The current zoning is Rural Residential 1 (RR1). Neither use on the property is conforming to the current zoning. The proposed zoning is General Commercial (C3). The property is legally described as C/S 2224 Parcel 2B, of amended Lot 2, a 2-acre parcel of land. The intent of the zone change is to allow two existing businesses to continue in conformance with the County zoning. The County Commissioners adopted a resolution in October 2023 (Res. No 23-116) that requires this marijuana dispensary location to come into conformance with County zoning on or before October 3, 2024. This requires either a zone change or a relocation of the dispensary to a conforming zone district.

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 for these applications will be held on **April 23, 2024, at 9:30 a.m. at 316 N 26<sup>th</sup> Street -- 3<sup>rd</sup> Floor, Commissioner's Board Room**. 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 the Planning Division Office at 406-247-8610 or [plnonline@billingsmt.gov](mailto:plnonline@billingsmt.gov)

**County Zoning Commission**

**Meeting Date:** 04/08/2024

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**Information**

**Subject**

The minutes of the Board meeting of January 8, 2024

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**Attachments**

Minutes of January 8, 2024

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**Yellowstone County Zoning Commission  
Monday, January 8, 2024  
To Be Approved by Motion**

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

	Position	01/08/2024	02/12/2024	03/11/2024	04/08/2024	05/13/2024	06/10/2024	07/08/2024	08/12/2024	09/09/2024	10/14/2024	11/11/2024	12/09/2024
<b>Blaine Poppler</b>	Commissioner	X											
<b>Melissa Ray Gentry</b>	Commissioner	X											
<b>Tyler Bush</b>	Commissioner Chairman	X											
<b>Todd Hewitt</b>	Commissioner	A											
<b>Morgan Tuss</b>	Commissioner	X											

Chairman Tyler Bush opened the meeting and introduced the County Zoning Commission members and Planning Division staff.

Commissioners participating virtually: None

**Staff Present:** Nicole Cromwell, Zoning Coordinator; Brenda Berns, Planning Clerk; Tate Johnson, Planner

**Other Participants:** Anna Vickers, IMEG, Mikel Flanagan; Crystal Burkett; Kathy Shaffer; Jeff Felstad

**Public Comment**

Chairman Tyler Bush 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 queue and are asked to remain on hold and be patient. Calls will be taken in the order in which they are



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received. Callers will be restricted to three minutes of testimony as is customary. There were no public comments.

**Motion. Approval of Minutes:** November 13, 2023

**Motion**

It was moved by Commissioner Poppler, seconded by Commissioner Tuss to approve the November 13, 2023 meeting minutes as submitted. The motion was carried with a unanimous voice vote.

Disclosure of any Conflict of Interest-Members of the Commission and Staff. There was none.

Disclosure of Outside (Ex Parte Communication) Members of the commission and Staff. There were two items submitted as Ex Parte Communications for Zone Change 722.

**Public Hearing**

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

**Item #1: County Zone Change 722** - Collier Road - Agriculture (A) to Rural Residential 3 (RR3)

**Request**

Zone Change 722 is a request to change zoning from Agriculture (A) to Rural Residential 3 (RR3) on a 206.2-acre parcel of un-platted land described as NW1/4 and the NESW1/4 of Section 4, Township 2 South, Range 26 East; and the E1/2NE1/4 of Section 5, Township 2 South, Range 26 East, Less C/S 2156 and C/2331. The property is partially outside the jurisdictional zoning boundary. This un-zoned land will remain un-zoned. The property is generally located east of Collier Crest Subdivision and north of Secret Valley Drive. The area outside the zoning jurisdiction is about 40 acres. A preapplication neighborhood meeting was held on November 9, 2023, at the Valley Bible Church at 3603 O'Shea Circle, at 5:30 pm.



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

**Recommendation**

Planning staff is recommending approval and adoption of the findings of the 11 criteria for Zone Change 722.

**Background**

This is a zone change request to facilitate the development of a subdivision for rural residential homes with lots of at least 3 acres but may range up to 9.9 acres in area. The current zone allows residential homes on lots of at least 10 acres in area. The existing zone - Agriculture - is intended to be land that is primarily used for agricultural pursuits with residential use as an accessory to agricultural uses. The parcel is on the southern border of the county's 4.5-mile zoning jurisdictional boundary. Approximately 40 acres of the total parcel is outside the zoning boundary and will not be affected by the zone change. The total area included in the zone change request is 206.2 acres

Planning staff has reviewed the application is forwarding a recommendation of approval based on the 11 criteria for zone changes.

Meets the goals of the County Growth Policy & the 11 review criteria

- New development will require approval of subdivision, site plans and zoning compliance permits
- RR3 zoning is adjacent to the east and to the west



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

- Zone Change Review Criteria;

- (1) Whether the new zoning is designed in accordance with the growth policy;
- (2) Whether the new zoning is designed to secure from fire and other dangers;
- (3) Whether the new zoning will facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements;
- (4) Whether the new zoning will promote public health, public safety and general welfare;
- (5) Whether the new zoning will provide adequate light and air;
- (6) Whether the new zoning will effect motorized and non-motorized transportation;
- (7) Whether the new zoning will promote compatible urban growth;
- (8) Whether the new zoning considers the character of the district and the peculiar suitability of the property for particular uses;
- (9) Whether the new zoning will conserve the value of buildings;
- (10) Whether the new zoning will encourage the most appropriate use of land in Yellowstone County; and
- (11) Will the new zoning be as compatible as possible with the adjacent zoning in the City of Billings

**Applicant Representative**

Applicant's Agent, Anna Vickers, IMEG.

Ms. Vickers stated they chose Rural Residential 3 (RR3) zoning as it was seemed most appropriate.



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Rural Residential 3 is defined:

- The RR districts are intended for single-family homes, with or without agricultural uses. In addition to residential homes, small-scale agricultural uses may be allowed including stables, livestock and agricultural crops raised for personal use. Basic setback and height parameters apply with a range of allowed lot areas defined by “-1” and “-3”, meaning RR-1 has a minimum lot size of 1 up to 3 acres, and RR-3 has a minimum lot size of 3 up to 10 acres. Accessory barns are allowed.

Ms. Vickers compared the current Agriculture Zoning definition:

- Agricultural use: The use of a tract of land for the production of plants, animals or horticultural products for commercial purposes, including but not limited to: forages; grains and feed crops; dairy animals and dairy products; poultry and poultry products; beef cattle, sheep and swine; bees and apiary products; trees and forest products; fruits, nuts and berries; vegetables; or nursery, floral, ornamental and greenhouse products. Agriculture use shall not include commercial greenhouses and those lands which are used for recreational purposes, suburban residential acreages, rural home sites and yard plots whose primary function is for residential or recreational purposes even though such properties may produce or maintain some of those plants or animals listed in the foregoing definition. This definition shall include equipment and/or facilities necessary to prepare agricultural products for transport to market but shall not include equipment and/or facilities for the processing of a raw agricultural product into a value-added agricultural product.

### **Discussion**

There was discussion addressing concerns with the distance to services, fire hydrants, and onsite water cisterns. Concerns were also discussed regarding the provision for water and wells in the area, however the quality/quantity is unknown. Commissioner Poppler asked about the average home site size. Ms. Vickers stated that is not known yet, the surveying has not been completed.



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**Public Hearing**

**Chairman Tyler Bush opened the public hearing and asked if there is anyone wishing to speak regarding County Special Review 335.**

**In Opposition**

**Mikel Flanagan, Billings** - Mr. Flanagan stated he is opposed to this project and was concerned with the size and number of new homes that would be constructed. He said there is already a traffic congestion problem and believes it is a safety concern. Water quality is currently affected, which will have a greater impact with construction. There have been fires in the valley and 30,000 gallons of water would not touch it. People reside below the subject property, which would appear to be an issue with sewer and or septic systems. My property is 20+ acres, as well as my neighbors, there are a few RR1 lots but they have been established for quite some time. With each snow, residents run off the road, with more drivers on the road it will not be safe without gravel, guard rails, and/or lighting. Mr. Flanagan expressed concerned with water runoff and the potential for flooding, which has occurred in years past. If we had more guarantees or more information as to what is going to be built, I would be more supportive of this zone change.

**Crystal Burkett, Secret Valley** - Ms. Burkett stated that her property is directly bordering the subject property and will be affected. I am unsure if the zone change is right since the developer would need to install curbs and gutters per subdivision regulations. I am concerned with the potential for multi-family units which would increase the number of residents per lot, further impacting the resources. Ms. Burkett expressed concerns for roads, rainwater run-off, increased garbage, increased rodents, and disruption of natural habitation of local wildlife.



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**Kathy Shaffer; Basin Creek** - I am opposed to this zone change, as I believe there aren't any hard rules. If we pass the zone change, I believe the lots should each be 10-acres. There are no safe routes for children to walk to school, they currently share the small road with motorists, and it is unsafe. Ms. Shaffer is concerned about the type of structures that will be built and would like the CCR to specifically state what is allowed.

**Jeff Felstad 4840 Vandaveer** - Mr. Felstad is concerned with the infrastructure, specifically Blue Creek school adding students and questioned if the Fire Department has the ability to handle the additional homes. Mr. Felstad expressed concern with the landfill and providing fresh water.

**In Rebuttal**

Ms. Vickers stated IMEG works with Yellowstone County and MDT regarding traffic, and look at peak hours and traffic flows. The information is shared with the developer and goes through a review process. A RSID is prepared and corresponded with all the local agencies regarding studies of traffic, water, wastewater, sewage, and wildlife.

**Discussion**

Commissioner Tuss stated that she heard the concerns regarding traffic, water run-off, and sewage. The County roads are probably not adequate to have additional drivers, however with growth there comes the need to expand. RR3 is being requested, which is more desirable than heavy industrial or commercial. The restrictions in RR3 are well appropriate for the area.

**Motion**

**Motion made by Commissioner Gentry, seconded by Commissioner Tuss recommending approval with conditions, based on the eleven (11) review criteria for Zone Change 722. The Motion was carried with a unanimous voice vote.**



**Yellowstone County Zoning Commission  
Monday, January 8, 2024  
To Be Approved by Motion**

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

**County Zone Change 722 recommendation for approval is granted.** The Board of County Commissioners public hearing for these applications will be held on January 23, 2024 at 9:30am at 316 N 26<sup>th</sup> Street – 3<sup>rd</sup> Floor, Commissioner’s Hearing Room.

**Other Business:** There is no other business.

Adjourned: 5:15PM

Draft – To be approved by a motion at the next scheduled meeting.

*Brenda J Berns, Planning Clerk*

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**County Zoning Commission**

**Meeting Date:** 04/08/2024

**SUBJECT:** Zone Change 723 - 1604 S 48th St W - RR1 to C3

**THROUGH:** Nicole Cromwell

**PRESENTED BY:** Nicole Cromwell

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**Information**

**REQUEST**

**County Zone Change 723 - RR1 to C3** - This is a zone change request for property generally located at 1604 S 48th St West. This is the location of the Green Bee Dispensary (marijuana cultivation and retail sales) and for Yellowstone Basin Construction. The current zoning is Rural Residential 1 (RR1). Neither use on the property is conforming to the current zoning. The proposed zoning is General Commercial (C3). The property is legally described as C/S 2224 Parcel 2B, of amended Lot 2, a 2-acre parcel of land. The intent of the zone change is to allow two existing businesses to continue in conformance with the County zoning. The County Commissioners adopted a resolution in October 2023 (Res. No 23-116) that requires this marijuana dispensary location to come into conformance with County zoning on or before October 3, 2024. This requires either a zone change or a relocation of the dispensary to a conforming zone district.

**RECOMMENDATION**

The planning staff is recommending approval and adoption of the proposed findings of the 11 review criteria for the zone change.

**APPLICATION DATA**

**OWNER:** J. Doucette and J. Brosovich

**AGENT:** Neil Kiner, Second Nature Consulting and Green Bee Dispensary

**LEGAL DESCRIPTION:** C/S 2224 Parcel 2B

**ADDRESS:** 1604 and 1644 S 48th St W

**CURRENT ZONING:** RR1

**EXISTING LAND USE:** Green Bee Dispensary and Yellowstone Basin Construction - and one residence

**PROPOSED USE:** Same

**SIZE OF PARCEL:** 2 acres

**CONCURRENT APPLICATIONS**

None.

**APPLICABLE ZONING HISTORY**

There is no zone change history for the subject property. The property was originally zoned Agriculture (A) in the county in 1973. In 2020, the County adopted new zoning regulations and maps to correspond to the new zone districts. The subject property was updated from Agriculture (A), which requires a 10-acre minimum lot area and a primary use for agriculture, to the Rural Residential 1 (RR1) zone district. The RR1 zoning district allows residential uses on lots of 1 acre up to 2.99 acres. The lots to the north and west of the subject property were also updated to RR1. This appeared to be an appropriate zoning district given the size of the property and the actual development on the property at the time. Several property improvements were done between 2019 and the present to build and remodel structures for commercial uses. The existing home is still used as a residence. The residence is not occupied by either the owner or the agent. Similar zone change requests for property on arterial streets with adjacent rural residential uses are summarized in a zone history table attached to this report.

**SURROUNDING LAND USE & ZONING**

**NORTH:** Zoning: RR1

Land Use: Vacant rural residential lot

**SOUTH:** Zoning: Planned Development - underlying Neighborhood Commercial (PD-NC)

Land Use: Land Design and Canyon Creek Nursery

**EAST:** Zoning: Agriculture (A)

Land Use: Farmstead and grazing land

**WEST:** Zoning: RR1

Land Use: Rural residential dwelling

**BACKGROUND**

The parcel is owned by Jeremiah Doucette and Jake Brosovich. Two businesses occupy the property: Yellowstone Basin

Construction (Jake Brosovich) and The Green Bee, a marijuana cultivation and dispensary owned by Neil Kiner (agent). The parcel was purchased from Larry Armstrong in 2018 when it was zoned Agriculture-Open Space (A-1). Mr. Armstrong sold the property after Land Design and the Canyon Creek Nursery, directly south of the subject property, received its zone change from A-1 to Planned Development with underlying zoning of Neighborhood Commercial.

The dispensary was established some time in 2018 or 2019, with the construction company locating equipment and storage on the property soon afterward. It is unknown whether the existing home is occupied. Between 2018 and 2021, the state of Montana did not require any local approval or notice of compliance with local regulations for marijuana sales or cultivation. The state law was changed following a successful ballot initiative in November 2020, to legalize the adult use of marijuana for any reason. In 2021, the state began to require local confirmation that marijuana uses were in an approved location. At that time, the County had a resolution in place that restricted marijuana "storefronts" (Res 11-71) based on previous state law provisions for cultivation and sales of medical marijuana.

In September 2021, the County decided it was important to have local zoning regulations to guide where marijuana businesses could or could not be located, acknowledging the existing 2011 resolution was no longer effective. The County Commissioners adopted "interim zoning regulations" in November 2021. Interim zoning is intended as a placeholder while the issue is studied, and final regulations can be crafted. There is a two-year time limit for interim regulations to be in place. The County adopted final zoning regulations in November 2023. The County also adopted a "sun-setting" resolution (23-116) for locations in the County that were noncompliant with zoning districts. This location is one of the six locations named in the resolution that are in noncompliant zone districts. The deadline for compliance with zoning districts is October 3, 2024.

The West Billings Neighborhood Plan was adopted by the County Commissioners and the City Council in 2001. In addition, the County adopted a county-wide growth plan in 2008. Both plans have goals and objectives that apply to this request for a zone change. Two parcels north of Hesper Rd on both sides of S 48th St West have been approved for commercial zoning in the last 10 years. This includes the storage unit parcel at 1455 S 48th St W, and the vacant parcels on the west side of S 48th St W in the Whitehorse Subdivision. Both properties were updated in the 2020 zoning update from Community Commercial to Heavy Commercial (CX) based on the existing use and planned uses on those parcels. The West Billings Plan encouraged the location of commercial zones and use at intersections of arterial streets. Hesper and S 48th St W are both designated arterial streets. The 2008 County growth plan indicated the need to provide predictable land use decisions based on the compatibility of uses with consideration of the character of the location and adjacent uses. A retail business and a construction firm are both allowed uses in the C3 zone, and may be compatible with the adjacent uses. It appears the owners have installed a vegetative buffer yard where the rear of the property adjoins the residential lots to the north and west. Compatibility is best maintained when new construction or uses are approved through the County Zoning Compliance permit system.

The new C3 zone district requires building and siting standards that will require attention to detail along the property boundaries, the street frontage and within any parking areas for customers. The new zoning code takes into account the adjacent development and zoning for any required landscaping and screening. Any new construction or site development requires a zoning compliance permit and an approved landscaping plan. The applicant has no immediate plans for any new development of the site.

The planning staff has reviewed the application and the eleven review criteria for zone changes in the County. Planning staff finds the proposed zoning conforms to the adopted growth policy for this area and will be compatible with the adjacent zoning and uses. Several surrounding property owners have objected to the zone change even though the County did not receive any prior complaint about the uses of the property prior to the application for the zone change.

## **SUMMARY**

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

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

The proposed zoning does comply with the following goals of the Yellowstone County 2008 Growth Policy and area plans:

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

This zone change would allow for two existing commercial businesses to conform to zoning in a location along an arterial street. The uses allowed within the proposed zone are appropriate at this location given the site development restrictions and the other requirements for commercial zones adjacent to residential zones. This is consistent with the West Billings Neighborhood Plan and the neighborhood character and the 2008 County Growth Policy.

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

This property is adjacent to commercial uses to the south and within 500 ft of a major arterial intersection. The intended uses are compatible with some of the surrounding uses.

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 at 54th Street West and Grand Avenue (Station #7) about 3.9 miles north and west of the subject property. The fire service is likely aware of the cultivation and processing facility for the Green Bee. The state licensing division requires compliance with state building and fire codes for these locations.

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 not increase traffic on 48th Street West and Hesper Road. There is no proposed new development, just retention of the existing businesses. There is a concrete parking pad in front of the retail business and most of the construction storage and parking is the rear of all structures.

**Water and Sewerage:** The property will be served by a septic system 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 not have any impact on schools or parks. The zoning does not anticipate any residential development and no parks are within the vicinity of the property.

**Fire and Police:** The subject property is serviced by the Billings Fire Department (BUFSA) and the Yellowstone County Sheriff's Department. No new development is planned at this time.

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

The new zoning will allow existing development of property to conform to the zoning district. It is adjacent to an existing commercial use (south) and within 500 feet of the intersection of two arterial streets in the County. Residential uses are to the north and west of the subject property. The zoning is not expected to have a negative effect on the health and general welfare of the area.

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

The proposed zoning would require minimum setbacks, maximum building heights and maximum lot coverage. The maximum building height in the C3 zoning district is 60 feet, although a structure of this height would require more fire protection than is currently available. These requirements should allow adequate light and air to reach the subject property and adjacent properties.

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

The proposed zoning itself will not generate more traffic on any of the adjacent streets.

Pedestrian traffic in the area is limited due to high-speed arterials, no pedestrian facilities, and large-lot residential development. The 2017 Bikeway and Trail Master Plan Update indicates 48th Street West and Hesper Road should provide separated and shared use paths and/or on-street bike lanes when they are reconstructed or modified in the future.

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

The proposed zoning is compatible with nearby urban zoning and development. However, lack of water and sewer infrastructure is likely to limit the types of development that may be supported on the property in the C3 zoning district. The proposed zoning and development are consistent with 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 agricultural with a few small residential subdivisions, Land Design and Canyon Creek Nursery (south) and personal warehouse storage to the northeast. The property is suitable for C3 uses with access directly from an arterial street and no right of way connection to neighborhood uses. The two commercial uses of the property have existed for several years and have not resulted in complaints from adjacent owners.

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

The new zoning will allow the commercial and residential uses to conform to the zoning district. This will conserve the investment made in these commercial structures. No new structures or development are contemplated at this time. Placing the existing uses in the correct zone will add more predictability to the area.

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

The property is suitable for some of the uses allowed in the C3 zoning district. Without access to public utilities, many of the higher intensity uses could not be developed such as restaurants. The C3 zoning for this location adjacent to the Canyon Creek Nursery and Land Design office is an appropriate use for the land. Certain uses that generate high traffic such as restaurants and retail uses are not possible at this location without annexation and the provision of public water and sewer. The property is suitable for the existing development. This area has been zoned agricultural and residential since 1973. This is an appropriate use of land in this area 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 close to the City of Billings and is compatible with the typical urban development close to an arterial intersection.

#### **RECOMMENDATION**

The planning staff is recommending approval and adoption of the proposed findings of the 11 review criteria for the zone change.

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#### **Attachments**

Zoning Map and Site Photos ZC 723

Chart of Zoning History for ZC 723

Application and Letter ZC 723

Pre-application Info ZC 723

Public comments ZC 723

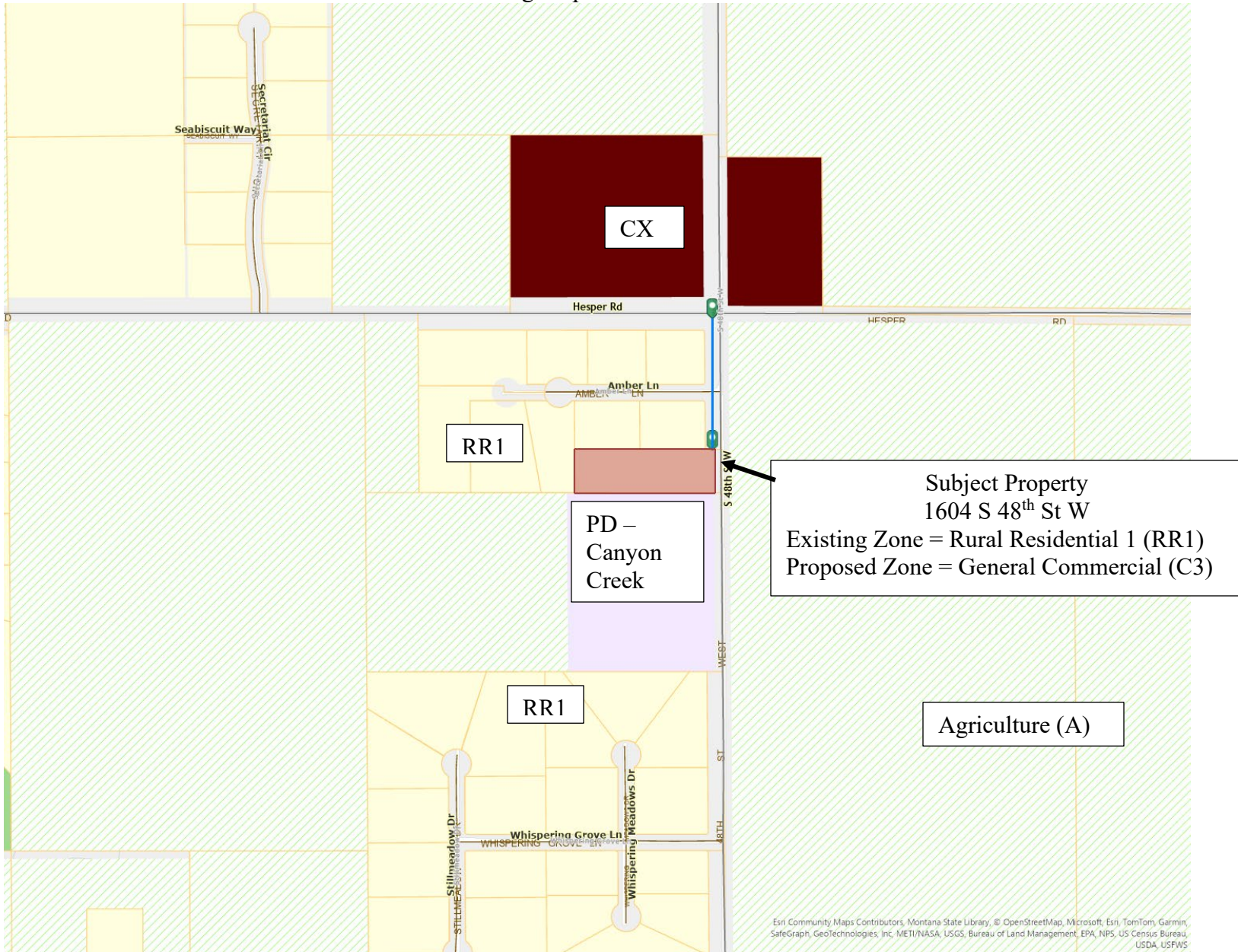
BOCC Resolution 23-25

BOCC Resolution 23-116 Sunsetting Nonconforming Locations

BOCC Resolution 11-71 - Medical Marijuana Storefronts

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Zone Change 723 – 1604 S 48<sup>th</sup> St W – RR1 to C3  
Zoning Map and Site Photos









Subject Property view from S 48<sup>th</sup> St W



View of The Green Bee retail building



View north on S 48<sup>th</sup> St West



View south on S 48<sup>th</sup> St W



View east across S 48<sup>th</sup> St W



View to the northwest of the subject property



View south and west from Amber Lane to subject property

APPLICABLE ZONING HISTORY  
**Zone Change 723 – 1604 S 48<sup>th</sup> St W – RR1 to C3**

<b>SUBJECT PROPERTY</b>	<b>Zone Change</b>	<b>DATE</b>	<b>FOR</b>	<b>APPROVED (Y/N)</b>	<b>ADDITIONAL DATA</b>
1604 S 48 <sup>th</sup> St W	None				Zone was Agriculture-Open Space (A-1) 2020 update to Rural Residential 1 (RR1)
<b>COUNTY DISTRICTS</b>	<b>Zone Change</b>	<b>DATE</b>	<b>FOR</b>	<b>APPROVED (Y/N)</b>	<b>ADDITIONAL DATA</b>
150 Garden Avenue	656	4/28/2015	R150 to CC	Yes	2020 Update zone is C3
159 Garden Avenue	661	7/28/2015	R150 to CC	Yes	2020 Update to RR3
Rimrock & 62 <sup>nd</sup> St W	667	12/29/2015	R96 to CC	Yes	2020 Update to CMU1 (annexed)
3329 Driftwood Lane (former Lockwood Fire Station)	670	4/5/2016	R96 to CC	Yes	2020 Update to Heavy Commercial (CX)
743 Calhoun Lane	678	4/4/2017	R96 to EGC	Yes	2020 Update to CMU1 (annexed)
Whitehorse Subdivision S 48 <sup>th</sup> St & Hesper Rd	684	2/5/2018	A-1 to CC	Yes	2020 Update to CX
Canyon Creek Nursery & Land Design 1670 and 1730 S 48 <sup>th</sup> St W	685	2/6/2018	A-1 to PD-NC	Yes	Same zoning – PD zones not updated with 2020 amendments
2821 Highway 87 N	694	6/29/2019	R96 to HC	Yes	2020 update to C3
1093 Lincoln Lane	698	1/2/2020	R96 to CC	Yes	2020 update to CMU1
Grand Ave & 62 <sup>nd</sup> St W	700	6/2020	A-1 to CC	Yes	2020 update to C3
Grand Ave & 62 <sup>nd</sup> St W	705	2/27/2021	RR1 to C3	No	Expansion of C3 zone denied
2919 Old Hardin Rd	706	1/4/2022	CMU1 to CMU2	Yes	Bretz RV expansion
8522 S Frontage Rd	715	6/27/2023	A to Light Industrial (I1)	Yes	New industrial development west edge of zoning jurisdiction
705 Johnson Lane	717	9/12/2023	CMU1, N4 & RR1 to CX	Yes	Existing truck service and wash station
541 Woodland Rd	718	9/12/2023	NX1 & N4 to C3	Yes	Allow development of an RV park
547 Johnson Lane	719	8/29/2023	A to C3 and NX1	Yes	New development on land surrounding new Lockwood Fire Station
S 48 <sup>th</sup> St W and Neibauer Rd	720	10/3/2023	A to C3 and N4	Yes & C3 Withdrawn	Applicant withdrew C3 portion of request

**COUNTY APPLICATION FORM**

**COUNTY ZONE CHANGE** County Zone Change # 723 - Project # PZX-24-00098

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: RR1

Proposed Zoning: C3,

Property Tax ID # D00769D

COUNTY COMMISSIONER DISTRICT #1 John Ostlund

Legal Description of Property: S21, T01 S, R25 E, C.O.S. 2224, PARCEL 2B, AMD L 2 (2.00 AC)

Address or General Location (If unknown, contact County Public Works): 1604 South 48th Street West; Billings, MT 59106

Size of Parcel (Area & Dimensions): 2 Acres

Present Land-Use: Commercial - Yellowstone Basin Construction & Green Bee co-lease the parcel

Proposed Land-Use: Maintain present use

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

Owner(s) Jeremiah Doucette  
(Record Owner)

2409 Nina Clare Rd; Billings, MT 59106

(Address)

(406) 670-6097

(Phone Number)

doucette@bresnan.net

(email)

Agent(s): Neil Kiner  
(Name)

1432 Teton Ave; Billings, MT 59102

(Address)

(406) 850-0461

(Phone Number)

neil@secondnature.consulting

(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: Neil Kiner Digitally signed by Neil Kiner  
Date: 2024.02.27 10:50:43 -07'00' Date: \_\_\_\_\_  
(Record Owner – Digital Signature Allowed)



Yellowstone County Commissioners and Staff.

I am respectfully requesting a zone change on county parcel, located at 1604 South 48<sup>th</sup> Street West. This request is to change from the current Rural Residential designation to a C3 zone designation. I will briefly explain why our request for zone change has been submitted.

The Green Bee began leasing the property at 1604 South 48<sup>th</sup> St. West in September of 2018, signing a five year lease with the property owner. Prior to signing the lease, Neil Kiner spoke with Nicole Cromwell about locating a medical cannabis business at said property. Nicole affirmed that the property was located in the county and zoned A-S, Agriculture Suburban. As such, she said the use was allowed by right, as she considered medical cannabis providers to be a home occupation. This allowed for retail operations to exist legally on this parcel at that time. The production and manufacturing aspects of the business were also allowed by right through the definition of agricultural uses. No zoning restrictions were in place for cannabis sales or production. This is the information provided to Neil Kiner in 2018.

The lease was signed and the business was established on the property.

On November 10 of 2020, the county commissioners adopted a new regulating ordinance, known as Re-Code (effective as of 12/15/2020). At that time, a revised zoning map was adopted. This map changed the zoning of the parcel at 1604 South 48<sup>th</sup> St. West – from Agriculture-Suburban to Rural Residential. No communication from the county was received by us, as renters and users of this property. There was no publicly posted sign or other notice of this zone change in 2020. Upon the covert adoption of the revised zoning, we have been zoned out of compliance, and are now being told we are considered an illegal business. But nothing about our operation or site has changed since we were considered a legal, conforming business.

Relocation of the business is not a feasible option. We have actively sought suitable property, but have only found that it takes well more than \$1,000,000 in cash to find a new location for the business.

We are seeking a zone change to be allowed to continue business activities as we have in the past 5 years. We have faithfully relied upon information provided to us by city/county planning staff to invest in this property and establish this business on this property.

Warmly,

Neil Kiner

**YELLOWSTONE COUNTY**

**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 on-line and any attachments along with a completed zone change application form, including any required fees, for a zone change to be processed by the Planning Division.

- 1. Present Zoning: Rural Residential 1 - RR1 \_\_\_\_\_
- 2. Written description of the Zone Change Plan including square footage or acres of proposed new zoning: Subject Parcel is 2 acres.

\_\_\_\_\_  
\_\_\_\_\_

- 3. Subject Property Map: please attach to this form
- 4. Legal Description of Property: S21, T01, R25E, C.O.S. 2224, Parcel 2B Amd L:2 (2 ac) \_\_\_\_\_
- 5. Roster of persons who attended the pre-application neighborhood meeting: please attach to this form
- 6. A copy of the meeting notice. please attach to this form
- 7. A brief synopsis of the meeting results. please attach to this form
- 8. The undersigned affirm the following:
  - a) The pre-application neighborhood meeting was held on the 22, day of February , 2024.
  - b) The zone change application is based on materials presented at the meeting.

**Owner (s):** Jeremiah Doucette

Telephone: (406) 670-6097

Address: 2409 Nina Clare Rd.; Billings, MT 59102

Email: doucette@bresnan.net

**Agent (s):** Neil Kiner

Telephone: (406) 850-0461 \_\_\_\_\_

Address: 1432 Teton Ave; Billings, MT 59102

Email: neil@secondnature.consulting



Feb. 22, 2024

Green Bee Zone Change.

Print Name

Neil Kiner.

Brian Duke 861-9002

KARA DUKE

Steve Redinger (letter left)

Connie Paulson

Randy Paulson

Cecilia Samuelson



**Zone Change Request Pre-Application Neighborhood Meeting Feedback**  
5:00 pm February 22, 2024 – Meadowlark Brewery

Attendees:    Brian & Kara Duke -            4852 Amber Lane  
                  Randy & Connie Paulson       4860 Amber Lane  
                  Curt Samuelson                        4824 Amber Lane  
  
                  Stever Redinger                        4845 Amber Lane  
   Steve was not in attendance, but wrote letter

Brian spoke most frequently. He started by saying he enjoys visiting with our gardener. They maintain a good relationship, often visiting and playing with dogs. He then spoke about the smell of cannabis and asked that more effort be provided by the Green Bee in odor control.

Kara spoke briefly about purchasing their home in 2018 and their need to preserve the value of the home and property. Neil spoke and explained that this zone change is also an effort to preserve the value of the businesses utilizing the property.

Randy and Connie mentioned that a piece of loose plastic on the greenhouse often flaps in the wind and they would appreciate that being trimmed off.

Neil thanked everyone for their attendance.

Respectfully Submitted,

Neil Kiner

**Steve Redinger**



4845 Amber Lane  
Billings, Montana 59106-3777  
(406) 698-2904  
*sadlem@bresnan.net*

---

February 12, 2024

RE: Requested Zone Change Parcel ID 03092621117010000

To Whom It May Concern:

I am out of town and unable to attend the informational meeting held on February 22, pertaining to this parcel. However I wish to voice my disapproval of this request to change the zoning to C3, as I do not believe that doing so fits with the neighborhood and would detract from the peaceful enjoyment of my property at 4845 Amber Lane.

Thank you.



Steve Redinger

**Erika Guy**

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**From:** wapiti375@bresnan.net  
**Sent:** Wednesday, March 6, 2024 9:04 PM  
**To:** BOCC  
**Subject:** Green Bee Zoning Request

County Commissioners,

My name is Brian Duke. I live at 4852 Amber Lane, Billings, MT 59106. I am reaching out to you in regard to the Green Bee Marijuana operation at 1644 48th Street West. The property is next to mine and is owned by Jay Doucette and is leased by Neil Kiner for his marijuana grow operation and store front. Mr. Kiner has reached out to myself and my neighbors with regards to zoning changes that have occurred and zoning changes he is requesting. I have serious concerns about this operation, as it produces a very pungent odor that is very displeasing to my family and my guests. He claims to have proper ventilation, but the odor is very persistent. I also do not understand how his tax structure is of any benefit to our Elder Grove School District. As well, I do not understand how his business storefront is able to meet guidelines with being a garage that does not even have a bathroom. Mr. Kiner met with a group of us recently and took notes to turn in for the zoning request. My wife and I and two of our neighbors in attendance are adamantly opposed to this business and its proximity to our neighborhood. I would like this email to be a record of my opposition to this business and zoning request.

I can be available for comment at any time and would like to be notified if there will be a comment period for this zoning request.

Thank you,

Brian T. Duke  
4852 Amber Lane  
Billings, MT 59106  
406-861-9002

**Erika Guy**

---

**From:** randycon1984@gmail.com  
**Sent:** Thursday, March 7, 2024 4:02 PM  
**To:** BOCC  
**Subject:** Green Bee Zoning Change Request

County commissioners,

My name is Randy Paulson. I live at 4805 Amber Lane, Billings MT, 59106. I am reaching out to you regarding the Green Bee Marijuana operation at 1644 48th St West. The property is across the street from my wife and I, and is owned by Jay Doucette and is leased by Neil Kiner for his marijuana grow operation and storefront. Mr. Kiner reached out to everyone on our street with regards to his zoning change request. We had a casual meeting where we and two other neighbors met with him and his wife to voice our concerns. We have serious concerns about this operation. They claim to have proper ventilation, but the smell is VERY strong and long lasting. When this happens, you can't really be outside, it is that strong. We also don't believe they have a restroom in the storefront ( which is really just a garage ). They have piles of dead plants outside, and other debris. We are concerned for the value of our property, and also wonder if the business is contributing to the taxes for Elder Grove School. I would like this email to be a record of my strong opposition to this business and zoning change request. If possible, I would like to be notified if there will be a comment period at any county commissioner meetings.

Thank you for your time,

Randy Paulson  
4805 Amber Ln  
Billings, MT 59106  
406.208.9357

YELLOWSTONE COUNTY BOARD OF COUNTY COMMISSIONERS

Resolution No. 23- 25

Resolution on Interim Zoning Regulations on the Sale of Recreational Marijuana Exemption

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 comment at the hearing, consider public comment 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, Montana held a referendum on the recreational sale of marijuana. *Montana I-90, Marijuana Legalization Initiative (2020)*. Montana approved the recreational sale of marijuana. The referendum allowed time between the approval of the referendum and the sale of recreational marijuana. Yellowstone County was concerned about the sale of recreational marijuana. The County enacted interim zoning regulations to limit the sale of recreational marijuana to non-residential areas. *Yellowstone County Board of County Commissioners Resolution No. 21-93*. A marijuana provider filed a complaint seeking an injunction on the implementation of the regulations by the County. *Green Bee et al v. Billings and Yellowstone County Planning Division, Montana Thirteenth Judicial District Court, DV 21-1589*. A court issued a temporary injunction. The County filed a motion to vacate the injunction. Because of the injunction, the Yellowstone County Attorney's Office began to issue zoning compliance letters. The Planning Department usually provides zoning compliance letters. The County Attorney's Office provided the letters to providers who did not comply with the regulations. The County Attorney's Office provided letters to (NUMBER) providers who did not comply with the regulations. Attached is a list of the providers who received the letters. The temporary injunction expired. The case has been dismissed. The court never issued an order to permanently enjoin the County from the enforcement of the regulations. The County never entered into an agreement with the provider that it would not enforce the regulations. The County Attorney's Office issuance of zoning compliance letters created a difficult situation in which the County now has recreational marijuana providers that violate the regulations. The County reenacted the regulations pending adoption of permanent regulations. *Yellowstone County Board of County Commissioners Resolution No. 22-99*. The County is developing permanent regulations. The County anticipates that the permanent regulations will be similar to the interim regulations. The County anticipates the permanent regulations will allow the providers who do not comply with the interim regulations who received letters from the County Attorney's Office to continue the sale of recreational marijuana for a set time before they have to comply with the regulations.

NOW THEREFORE, BE IT RESOLVED,


The Yellowstone County Board of County Commissioners orders the providers who received letters from the Yellowstone County Attorney's Office and those listed in the attachment, that they were in compliance with the interim zoning regulations of the sale of recreational marijuana when they were not in compliance may continue to sell recreational marijuana while the interim regulations are in effect. The Board anticipates it will adopt permanent regulations similar to the interim regulations and the permanent regulations will contain a provision that will allow the providers who received letters from the County Attorney's Office that they were in compliance with the interim zoning regulations of the sale of recreational marijuana when they were not in compliance may continue to sell recreational marijuana for a set time (24 months after the adoption of permanent regulations) before they will be required to be in compliance with the regulations. The Board orders the City of Billings / Yellowstone County Planning Department to provide the providers with a copy of this resolution to provide them with notice of the situation. The Board orders the County Attorney's Office to cease issuing zoning compliance letters for the sale of recreational marijuana and the Planning Department to enforce the regulations except as noted in this resolution.

Passed and Adopted on the 7<sup>th</sup> day of March 2023.

BOARD OF COUNTY COMMISSIONERS  
YELLOWSTONE COUNTY, MONTANA

  
John Ostlund, Chair

  
Mark Morse, Member

  
Donald W. Jones, Member

ATTEST:  
  
Jeff Martin, Clerk and Recorder

Attachment:  
List of Nonconforming Recreational Marijuana Providers

**YELLOWSTONE COUNTY BOARD OF COUNTY COMMISSIONERS**

Resolution No. 23-116

**Resolution to Allow Time for Compliance with Marijuana Zoning Regulations**

WHEREAS, Montana held a referendum on the recreational sale of marijuana. *Montana I-90, Marijuana Legalization Initiative (2020)*. Montana approved the recreational sale of marijuana. Yellowstone County enacted interim zoning regulations on the sale of marijuana. *Yellowstone County Board of County Commissioners Resolution No. 21-93*. The County extended the regulations. *Yellowstone County Board of County Commissioners Resolution No. 22-99*. The County allowed providers in violation of the regulations who received letters from the Yellowstone County Attorney’s Office that they complied with the regulations when they did not comply to continue to sell recreational marijuana while the regulations were in effect. *Yellowstone County Board of County Commissioners Resolution No. 23-25*. The County is in the midst of the process to enact permanent zoning regulations on the sale of marijuana. *Yellowstone County Board of County Commissioners Resolution No. 23-105*. The permanent regulations will supersede the interim regulations. The County regulations will limit the sale of recreational marijuana to land zoned for commercial or industrial use. Several of the providers who received letters from the County Attorney’s Office that they complied with the interim regulations when they did not comply will not be in compliance with the permanent regulations. The providers are on land zoned for other than commercial or industrial use. The use of the land for the sale of any product, including marijuana, violates the zoning on the land. The County does not want to force these providers to immediately stop the sale of marijuana. The County wants to give these providers a reasonable amount of time to relocate onto land that will comply with the permanent zoning regulations.

WHEREAS, on October 3, 2023, the Yellowstone Board of County Commissioners passed a resolution of intent to allow more time for compliance with the marijuana zoning regulations and set a public hearing on the resolution for October 24, 2023. *Yellowstone County Board of County Commissioners Resolution No. 23-104*. On October 6, 2023, the Yellowstone County Clerk and Recorder mailed the resolution of intent and the notice of public hearing to the providers potentially affected by the permanent regulations. On October 6, 2023 and October 13, 2023, the Clerk and Recorder published notice of the public hearing in the Yellowstone County News. On October 24, 2023, the Board held a public hearing on the resolution. The Board heard comments on the Resolution. The Board determined that it would be in the best interest of the public to adopt the resolution.

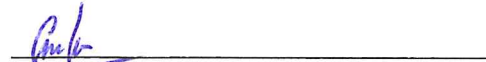
NOW THEREFORE, BE IT RESOLVED,

The Yellowstone County Board of County Commissioners allows the marijuana providers who received letters from the Yellowstone County Attorney’s Office that they complied with the interim regulations when they did not comply and will not comply with the permanent regulations to continue to operate at their locations until October 3, 2024. After October 3, 2024 the businesses in part or in whole will need to conform to zoning regulations. Providers may continue to operate the portions of their business which are compliant with the zoning regulations but would not be able to operate portions like dispensing, growing, manufacturing or other uses that are not permitted by zoning in the zone district in which the business is located. Attached is a list of the providers. The Board orders the Yellowstone County Clerk and Recorder to provide the providers with a copy of this resolution to give them notice of the situation.

Passed and Adopted on the 24<sup>th</sup> day of October 2023.

BOARD OF COUNTY COMMISSIONERS  
YELLOWSTONE COUNTY, MONTANA

  
John Ostlund, Chair

  
Mark Morse, Member

  
Donald W. Jones, Member

ATTEST:

  
Jeff Martin, Clerk and Recorder

List of Providers

1. Enlighten LLC – RR3 Zone – 1745 Mary Street
2. Golden Valley Honey – A Zone– 3668 Wise Lane
3. Laughing Forrest – A Zone - 2221 Trails End Road
4. Lighthouse Organics – A Zone - 3925 Coulson Road
5. North Coast Cure – RR3 Zone – 406 Johnson Lane
6. The Green Bee – RR1 Zone – 1644 S 48<sup>th</sup> Street West

## YELLOWSTONE COUNTY BOARD OF COUNTY COMMISSIONERS

Resolution No. 11- 71

### **Resolution to Adopt Yellowstone County Medical Marijuana Providers Regulations**

WHEREAS, the 2011 Montana Legislature passed the Montana Marijuana Act, Senate Bill (SB) 423, with most sections effective July 1, 2011, which extensively changes the regulation of medical marijuana, including the option granted to local governments to prohibit storefront medical marijuana facilities to operate beyond July 1, 2011 and to protect the public health, safety, or welfare;

WHEREAS, the Yellowstone County Board of County Commissioners has deemed it appropriate to use its legislative discretion pursuant to Section 13 of Senate Bill 423 to immediately prohibit medical marijuana providers and marijuana-infused providers from operating as storefront businesses beyond July 1, 2011;

WHEREAS, the Montana Legislature has enacted Section 45-9-109, MCA that affords schools and their children special protective status from the illegal distribution of dangerous drugs;

WHEREAS, there are prohibitions against selling alcoholic beverages and conducting gambling operations within defined distances of certain properties that are afforded special protections in Montana; (Section 27-612 (a) and (c) of the Unified Zoning Regulations of the City of Billings and Yellowstone County Jurisdictional Area; Section 16-3-306, Montana Code Annotated, Section 23-5-171, Montana Code Annotated.

WHEREAS, the Yellowstone County Board of County Commissioners has deemed it appropriate to use its legislative discretion pursuant to Section 13 of Senate Bill 423 to immediately prohibit medical marijuana providers and marijuana-infused providers from operating within 1,000 feet of a school, daycare center, child care center, school-leased property, public recreation center or public park, church, synagogue or other place of worship or youth center beyond July 1, 2011;

WHEREAS, the Yellowstone County Board of County Commissioners has determined that enactment of the prohibition against marijuana provider and marijuana-infused provider storefronts in the County and the prohibition against these operations to operate within 1,000 feet of schools, daycare centers, child care centers, school leased property, public recreation centers or public parks, churches, synagogues or other places of worship or youth centers to be necessary to protect and preserve the public peace, health, safety and welfare, the Yellowstone County Board of County Commissioners has determined this resolution is necessary to implement these prohibitions pursuant to the authority found in SB 423, Section (13) Parts (1) and (2);

WHEREAS, on Tuesday August 2, 2011, the Yellowstone County Board of County Commissioners passed a resolution of intent to adopt Yellowstone County Medical Marijuana Providers Regulations and set a public hearing on the Regulations for Tuesday August 16, 2011. On Tuesday August 2, 2011, the Yellowstone County Clerk and Recorder posted the Regulations

and made copies of it available to the public. On Thursday August 4, 2011 and Thursday August 11, 2011, the Clerk and Recorder published notice of the public hearings in the *Billings Outpost*. On Tuesday August 16, 2011, the Board held a public hearing on the Regulations. The Board heard comments on the Regulations. The Board determined that it would be in the best interest of the public to adopt the Regulations.

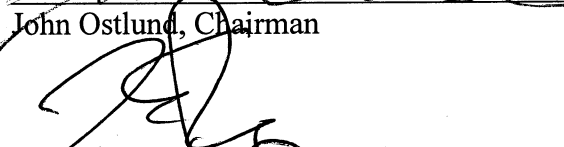
NOW THEREFORE, BE IT RESOLVED,

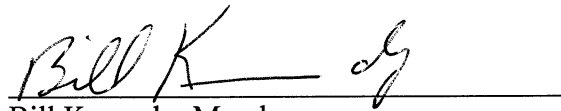
The Yellowstone County Board of County Commissioners adopts Yellowstone County Medical Marijuana Providers Regulations to regulate medical marijuana providers within Yellowstone County. Attached is a copy of the Regulations. The Regulations shall be effective immediately and shall continue until otherwise amended or repealed.

Passed and Adopted on the 16 day of August 2011.

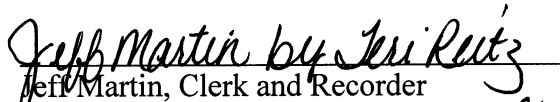
BOARD OF COUNTY COMMISSIONERS  
YELLOWSTONE COUNTY, MONTANA

  
John Ostlund, Chairman

  
James E. Reno, Member

  
Bill Kennedy, Member

ATTEST:

  
Jeff Martin, Clerk and Recorder  
Deputy Clerk &  
Recorder

## **Yellowstone County Medical Marijuana Providers Regulations**

### Authority and Purpose

Pursuant to Senate Bill 423, Section 13 (2011), the Montana Legislature has given a board of county commissioners the authority to regulate medical marijuana providers within a county. Pursuant to the authority granted to it by the Legislature, the Yellowstone County Board of County Commissioners has enacted the Yellowstone County Medical Marijuana Providers Regulations to protect the public health, safety and welfare of the people in the County through the regulation of medical marijuana providers.

### Prohibitions

- (1) As authorized in Section 13(2), of the Montana Marijuana Act, passed by the 2011 Montana Legislature, no individual, entity, establishment, group or company previously operating a medical marijuana business within Yellowstone County and outside the incorporated cities and towns located within the County shall operate a storefront to provide marijuana or marijuana-infused products to registered cardholders. Such individuals, entities, establishments, groups or businesses shall cease operating any storefront facility that provides marijuana or marijuana-infused products to registered cardholders after the adoption of this resolution.
- (2) For purposes of these regulations, the storefront prohibition shall include the following:
  - (a) There shall be no signs or calling attention to the medical marijuana provider's business either on the business premises or visible from a public road, sidewalk or right-of way.
  - (b) There shall be no display, evidence or activity apparent from the exterior of any sign, building or structure visible from a public road, sidewalk or right-of-way.
  - (c) Nothing in these regulations shall otherwise prohibit the advertising of the marijuana provider's business as otherwise provided for by law.
- (3) A medical marijuana provider shall not operate within a 1,000 feet of schools, daycare centers, child care centers, school leased property, public recreation centers or public parks, churches, synagogues or other places of worship or youth centers within Yellowstone County.

### Penalty

A court may enjoin a person from conduct found to be in violation of the regulations. A court may not impose any criminal sanctions for a violation of the regulations. Nothing in these regulations prohibit criminal prosecution otherwise governed by Title 45, Chapter 9, Montana Code Annotated or any other provision of State or Federal law.

### Enforcement

The Yellowstone County Code Enforcement Officer shall be primarily responsible for the enforcement of the regulations—however, the County Sheriff shall have jurisdiction in addition to the County Code Officer. Regulation complaints shall be forwarded to the Code Enforcement Officer. The Code Enforcement Officer shall investigate the complaints. If the Code Enforcement Officer

finds probable cause to believe that a violation has occurred, he may at his discretion either issue a warning to the person that advises the person to correct the situation or request the Yellowstone County Attorney's Office file a civil complaint to force the person to comply with the regulations. The Code Enforcement Officer shall provide the Yellowstone County Attorney's Office with the assistance it needs to successfully prosecute any civil complaint.

### Jurisdiction

The regulations apply to all of Yellowstone County outside the jurisdictional limits of all incorporated cities and towns within Yellowstone County.

### Definitions

"Day care center" or "child care center" means a person, association, or place, incorporated or unincorporated, that provides day care for 13 or more children on a regular or irregular basis or for children suffering from illness. The term includes a family day-care home, a day-care center, a group day-care home, or other facility providing care in a child's home for the purpose of meeting registration requirements for the receipt of payments provided in Section 52-2-713, MCA. The term does not include any those operations listed in Section 52-2-703 (4)(a) and (b).

"Marijuana" has the meaning provided in 50-32-101.

"Marijuana-infused product" means a product that contains marijuana and is intended for use by a registered cardholder by a means other than smoking. The term includes but is not limited to edible products, ointments, and tinctures.

"Marijuana-infused products provider" means a Montana resident who meets the requirements of [§§ 1 – 23 of S.B. 423 (2011)] and who has applied for and received a registry identification card to manufacture and provide marijuana-infused products for a registered cardholder. The term does not include the cardholder's treating or referral physician.

"Provider" means a Montana resident 18 years of age or older who is authorized by the department to assist a registered cardholder as allowed under [§§ 1 – 23 of S.B. 423 (2011)]. The term does not include the cardholder's treating physician or referral physician.

"Public Park" or "Park" means publicly owned open spaces designed for recreational activities that are characterized by unique scenery or other natural features of an aesthetic, historical, geological, archaeological or scientific nature or are designated as a "Park" by any governmental agency or are designated as such on a public record.

"Registered premises" means the location at which a provider or marijuana-infused products provider has indicated the person will cultivate or manufacture marijuana for a registered cardholder.

"Registered cardholder" or "cardholder" means a Montana resident with a debilitating medical condition who has received and maintains a valid registry identification card.

"Storefront" shall mean any commercial establishment, structure, vehicle, or building that is accessible or visible from a public road, sidewalk or right-of-way.

“School” means an institution for the teaching of children that is established and maintained under the laws of the state of Montana at public expense or is privately funded and licensed, certified or accredited by the State of Montana.

“Youth center” means any facility that’s primary purpose is to provide for a place of gathering of minors for recreation or social activities.

### History of Adoption

#### *Chronology*

Resolution of Intent – August 2, 2011

1<sup>st</sup> Publication and Posting of Notices for Public Hearing – August 4, 2011

2<sup>nd</sup> Publication of Notices of Public Hearing – August 11, 2011

Public Hearing and Resolution – August 16, 2011

#### *Resolution Documents*

Regulations

Resolution of Intent

Minute Meetings for Resolution of Intent

Notice of Public Hearings

Affidavit of Publication and Posting of Hearings

Minute Meetings for Hearing, Vote and Resolution

Resolution

### Prior Medical Marijuana Regulations

The Yellowstone County Board of County Commissioners has not adopted a prior Yellowstone County Medical Marijuana Providers Regulations

### Applicable Montana Code Annotated

Senate Bill 423, Section 13 (2011)

(1) To protect the public health, safety, or welfare, a local government may by ordinance or resolution regulate a provider or marijuana-infused products provider that operates within the local government’s jurisdictional area. The regulations may include but are not limited to inspections of locations where marijuana is cultivated or manufactured in order to ensure compliance with any public health, safety, and welfare requirements established by the department or the local government.

(2) A local government may adopt an ordinance or resolution prohibiting providers and marijuana-infused products providers from operating as storefront businesses.

Passed and Adopted on the 16 day of August 2011. Effective Immediately.

BOARD OF COUNTY COMMISSIONERS  
YELLOWSTONE COUNTY, MONTANA

[Signature]  
John Ostlund, Chairman

[Signature]  
James E. Reno, Member

[Signature]  
Bill Kennedy, Member

ATTEST:

[Signature]  
Jeff Martin, Clerk and Recorder  
*Deputy Clerk & Recorder*

State of Montana                    }  
  ss.  
County of Yellowstone            }

On August 16, 2011, John Ostlund, Bill Kennedy and James E. Reno, members of the Yellowstone County Board of County Commissioners, and Jeff Martin\*, the Yellowstone County Clerk and Recorder, acknowledged to me that they executed the attached Yellowstone County Medical Marijuana Providers Regulations on behalf of Yellowstone County in their official capacities as Board Members and the Clerk and Recorder. \**by Jeri Reitz, Deputy Clerk & Recorder*

[Signature]  
Printed Name: Vicki L. Archer  
Notary Public for the State of Montana  
Residing at Montana  
My commission expires: 10/01/14

