



**Yellowstone County Zoning Commission
 Monday, April 8, 2024
 To Be Acted on by Motion on June 10, 2024**

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
Blaine Poppler	Commissioner	X	C	C	1								
Melissa Ray Gentry	Commissioner	X	C	C	1								
Tyler Bush	Commissioner Chairman	X	C	C	A								
Todd Hewitt	Commissioner	A	C	C	1								
Morgan Tuss	Commissioner	X	C	C	1								

Commissioner Gentry 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

Other Participants: Neil Kiner, Applicant’s Agent

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 queue 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.



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Approval of Minutes: January 8, 2024

Motion

It was moved by Commissioner Hewitt, seconded by Commissioner Tuss to approve the January 8, 2024, 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 was one item submitted as Ex Parte Communications for Zone Change 723.

Public Hearing

Zoning Coordinator, Nicole Cromwell read aloud the procedures for a public hearing. The County Commissioners will meet on April 23, 2024 at 9:30 AM for the public hearing for Zone Change 723.

Item #1: 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 conforms to the current zoning. The proposed zoning is General Commercial (C3). The property is legally described as C/S 2224 Parcel 2B, 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 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.

Request

Rural Residential 1 (RR1) to General Commercial (C3) 1604 S 48th St W. Owners are J. Doucette and J. Brosovich; Agent is Neil Kiner.

Recommendation



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Planning staff has reviewed this application and 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 site plans and zoning compliance permits.
- Two established commercial uses – a construction company and a marijuana cultivation and dispensary.
- Marijuana use is subject to County resolution requiring zoning compliance by October 4, 2024.

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, sewage, 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 affect 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's Representative



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Applicant's Agent, Neil Kiner stated he is a landscape architect and part owner of the Green Bee. In the Fall of 2018, he was asked to open a cannabis facility on the property. Mr. Kiner contacted the City regarding marijuana regulations and believes there have been a lot of moving parts over the years. The County adopted RECODE and much later, he learned of the zone change on the property from Agriculture to RR1. This change then made the property nonconforming for the type of business. There has been discussion regarding purchasing the property, however the zone change needs to be completed before proceeding.

Questions:

Commissioner Tuss asked if they sell both recreational and medical marijuana. Mr. Kiner affirmed they do.

Commissioner Poppler asked if there are any CCR's with the property. Mr. Kiner stated he was unaware. Mr. Kiner mentioned that he has personally met with all the neighbors to discuss their concerns. The business operations are subject to State regulations, and their business license is renewed annually. Therefore, obtaining approval for this zone change is crucial for them to sustain their business activities.

Public Hearing

Commissioner Gentry opened the public hearing and asked if there is anyone wishing to speak regarding Zone Change 723.

In Favor

Andy Saur 911 Miles Ave Billings - Mr. Saur stated he works for the Green Bee and described some of the changes they are making so the appearance of the building is aesthetically pleasing to the neighbors and public. The costs are high, and Mr. Saur explained they are spending over \$100k just on the cultivation of the product.



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In Opposition

Brian Duke 4852 Amber Lane, Billings - Mr. Duke affirmed his ownership of the property directly adjacent to the one in question. Mr. Duke stated that when their property was purchased in 2018, the neighboring property was up for sale. At that time, it boasted lush green grass, trees, and a well-maintained watering system, presenting an aesthetically pleasing appearance. However, the current state is quite different, with oil drums and discarded plant material scattered on the ground. The presence of potentially unidentified chemicals raises apprehensions about their potential seepage into the neighborhood's water supply. Examining the proposed zoning change, Mr. Duke has concerns regarding the management of the wastewater. Mr. Duke believes the lack of transparency concerning the cultivation process for the proposed crop adds to these worries, as the specific chemicals used, and their potential long-term impacts remain uncertain. The property in question operates as a storefront, yet it appears to lack essential amenities such as public restrooms. Moreover, the ventilation system is notably inadequate, leading to unpleasant odors, particularly during summer evenings when the scent of 'skunk weed' permeates the area to the extent that opening windows becomes untenable. I believe this type of business is ill-suited for our neighborhood, and consequently, I oppose the proposed zoning change. Our home represents a significant investment, and we have put our savings into it. The approval of this zoning change could jeopardize that investment, which forms the bulk of our funds for our retirement plans.

Kara Duke 4852 Amber Lane, Billings – Ms. Duke noted that customers frequently traverse their residential street in search of the dispensary's location. Additionally, she expressed concerns about the odor and appearance of the subject property, emphasizing the inability to enjoy their own home.

Curt Samuelson 4824 Amber Lane, Billings – Mr. Samuelson stated his property backs up to the subject property. His home was built in the 1990's and at that time, he considered the neighboring property to be well maintained and attractive. However, Mr. Samuelson expressed concerns with the current state of the subject property, as well as the smell and bad air quality the dispensary produces. While he can live with it, his daughter has medical issues that do not allow her to visit the property without medical complications.



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Amy Samuelson 151 S. 38th St W - Ms. Samuelson stated her parents purchased the property for country living in their retirement. Ms. Samuelson believes the odors cause health and lung issues. Ms. Samuelson also believes this type of business should not be in a residential neighborhood.

Randy Paulson 4805 Amber Lane, Billings –Mr. Paulson stated he acquired his residence in 2000 and expressed opposition to the proposed zoning change, primarily citing the degraded condition of the property under consideration. He finds the pervasive odor particularly distressing and questions why this specific business emits such unpleasant smells when other similar operations do not. Mr. Paulson mentioned being unable to utilize his home's fresh air system due to the odor. Additionally, he raised concerns about the unsightly litter scattered across the property, deeming it both concerning and aesthetically displeasing. The greenhouse structure, supported by flapping straps that generate considerable noise in the wind, also contributes to his apprehensions. Overall, there is apprehension that the proposed changes could lead to a decline in property values within the neighborhood.

In Rebuttal

Neil Kiner stated the smell is organic and not a harmful chemical. Mr. Kiner believes the chemicals people put into their home gardens are more powerful.

Discussion

Commissioner Poppler raised concerns about the absence of a public restroom for customers at the subject property. In response, Mr. Kiner mentioned that while there are three restrooms in the house situated on the same property, they are not designated for public use. Commissioner Poppler then inquired about the presence of a septic tank, to which Mr. Kiner clarified that there is indeed a septic tank system for the house, but the garage lacks water access and does not connect to the septic system.

Commissioner Gentry inquired about the water source, asking if there was a well. Mr. Kiner elaborated that there are two wells on the property—one for irrigation purposes and the other for the house. He added that



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their water consumption is approximately 1,000 gallons per week, which is notably less than the typical residential lawn's water usage.

Further, Commissioner Gentry questioned whether there are any regulatory requirements from the DEQ or EPA regarding the cultivation activities. Mr. Kiner responded that there are currently no such requirements. However, he mentioned that inspections are conducted and affirmed their willingness to engage with other agencies should any questionable issues arise.

Readdress to the Board

Anthony Saur stated, additionally, they have acquired a filtration system to address odor issues, with the filtered water being recirculated back into the tank rather than reintroduced into the soil. However, challenges have arisen, such as difficulty in customers locating the business, due to restrictions on signage placement.

Discussion

Commissioner Tuss raised concerns about the unique challenges faced by cannabis businesses, particularly regarding land use issues as new industries emerge. She acknowledged the difficulties inherent in this type of business and expressed skepticism about the board's role in implementing spot zoning. Furthermore, she questioned the rationale behind locating such a business within a residential neighborhood. Commissioner Tuss also expressed uncertainty regarding how the proposed business aligns with the Growth Policy's objectives concerning air quality, urban growth, and the preservation of buildings. She questioned whether the conversion of a residential structure into a retail frontage is the most appropriate use of the land, noting potential incompatibility with the surrounding area.

Commissioner Gentry expressed concerns that the subject property was established in the County without consideration for the homes around it and how it might affect them.

Commissioner Poppler stated he agrees that the subject property may harm the residential property values.



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Motion

Motion made by Commissioner Tuss, seconded by Commissioner Hewitt recommending Denial of Zone Change 723 based on the amended (11) review criteria as stated during the discussion. The Motion was carried with a unanimous voice vote.

Other Business: There is no other business.

Adjourned: 5:30PM

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

Brenda J Berns, Planning Clerk