



LINCOLN COUNTY MONTANA

309839 BOOK: PF PERM/FILES PAGE: 15159 Pages: 7

STATE OF MONTANA LINCOLN COUNTY

RECORDED: 03/20/2024 11:31 KOI: RESOLUTION

CORRINA BROWN CLERK AND RECORDER

FEE: \$0.00 BY: Oleisha Sterkison deputy

FOR: LINCOLN COUNTY BOARD OF COMMISSIONERS 512 CALIFORNIA AVE,

RESOLUTION 2024-14

A Resolution of Intent to Adopt a County Zoning District

THE BOARD OF COUNTY COMMISSIONERS FOR LINCOLN COUNTY, MONTANA FINDS:

- WHEREAS, pursuant to Section 76-2-201, MCA, a County Commission that has adopted a growth policy is authorized to adopt zoning regulations for all or parts of its jurisdictional area for the purpose of promoting public health, safety, morals, and general welfare; and
- WHEREAS, the Lincoln County Commission adopted a Growth Policy on December 4, 2019, for Lincoln County. The jurisdictional area of the Growth Policy is all of Lincoln County, excluding the incorporated City of Libby, the City of Troy, Town of Rexford; and Town of Eureka; and
- WHEREAS, the Lincoln County Commission has Subdivision Regulations, most recently updated July 8, 2020; and
- WHEREAS, the Lincoln County Commission at the behest of area residents, directed the Lincoln County Planning Board on August 30, 2023, to create a zoning district for the Lower Yaak to promote public health, safety, morals and general welfare; and
- WHEREAS, pursuant to Section 76-2-203, MCA, zoning regulations must be made in accordance with the growth policy and designed to secure safety from fire and other dangers; and
- WHEREAS, pursuant to Section 76-2-203, MCA, zoning regulations must promote public health, public safety and general welfare; and
- WHEREAS, pursuant to Section 76-2-203, MCA, zoning regulations must promote the adequate provisions of transportation, water, sewerage, schools, parks and other public requirements; and
- WHEREAS, pursuant to Section 76-2-203, MCA, the County Commission in adopting zoning regulations shall consider the reasonable provisions of adequate light and air; the effect on motorized and nonmotorized transportation systems; compatible urban growth in the vicinity of cities and towns that at a minimum must include the areas around municipalities; the character of the district and its peculiar suitability for particular uses; and conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area; and



LINCOLN COUNTY MONTANA

WHEREAS, over the course of four regularly scheduled meetings, the Lincoln County Planning Board took public comment, reviewed proposed provision, and made edits through a robust discussion.

WHEREAS, on January 16, 2024, the Lincoln County Planning Board, at a regularly noticed meeting, considered zoning boundaries and regulations and made a recommendation to the County Commission in the form of text and boundary for the district; and

WHEREAS, pursuant to Section 76-2-205, MCA, notice of a public hearing for the proposed zoning district boundaries and regulations was posted on January 27, 2024, in six public places in Lincoln County as well as published in The Western News on January 30 and February 6 describing the boundaries and general intent; and

WHEREAS, pursuant to Section 76-2-205, MCA the Lincoln County Commission made the following findings of fact:

1. The proposed zoning boundaries and regulations are consistent with the Lincoln County Growth Policy in that the 2019 Growth Policy states that the County should:
 - a. *“provide for a level of predictability of future land use patterns in growing areas of Lincoln County” (Goal 8); and that it should.*
 - b. *“explore developing density regulations (or other measures) in areas of the County not conducive to dense residential or commercial development – e.g. areas with high wildfire risk, areas with productive agricultural lands, areas located far away from existing infrastructure and services, etc. (Goal 8.3); and*
 - c. *“facilitate and support private landowner’s interest in developing citizen-initiated measures for regulating land use patterns in individual neighbourhoods in the County” (Goal 8.4); and*
2. The proposed zoning boundaries and regulations will have no negative impact on the ability of the district to secure safety from fire and other dangers and will increase security from fire and other dangers by *lessening incompatible uses of land next to each other, limiting certain uses and density of homes; and*
3. The proposed zoning boundaries and regulations will promote the public’s health, safety and general welfare by *lessening incompatible uses of land next to each other, limiting housing density and having other minimum standards to limit impacts; and*
4. The proposed zoning boundaries and regulations will facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements by *lessening incompatible uses of land next to each other and limiting certain uses and density of homes, thereby encouraging more dense development near population centers; and*
5. The proposed zoning boundaries and regulations will reasonably provide for adequate light and air by *limiting building density of homes and restricting commercial and industrial uses; and*
6. The proposed zoning boundaries and regulations will not have an effect on motorized and nonmotorized transportations systems as *lessening incompatible uses of land next to each other, limiting certain uses and density of homes; and*
7. The proposed zoning boundaries and regulations will provide for compatible urban growth in the vicinity of cities and towns and the area around municipalities by *supporting appropriate rural density in this area; and*
8. The proposed zoning boundaries and regulations will preserve the character of the district and its peculiar suitability for particular uses by *applying standards consistent with the character of the district and its current development pattern of rural residential uses; and*



LINCOLN COUNTY MONTANA

9. The proposed zoning boundaries and regulations will conserve the value of buildings and encourage the most appropriate uses of land throughout the jurisdictional area by *applying standards consistent with the current development pattern of the district and providing clear and reasonable standards*; and

WHEREAS, pursuant to Section 76-2-205, MCA the Lincoln County Commission shall publish notice of passage of this resolution of intention once a week for two weeks in a newspaper of general circulation within the county; and

WHEREAS, pursuant to Section 76-2-205, MCA the Lincoln County Commission shall receive written comment to the proposed zoning boundaries and regulations for 30 days after first publication of notice, from persons owning real property within the district whose names appear on the last-completed assessment roll of the county.

NOW THEREFORE, the Lincoln County Commission hereby adopts this Resolution of Intention to adopt the zoning district boundaries and regulations attached hereto and incorporated herein as Exhibit A. The zoning district boundaries and regulations are available from the Lincoln County Planning Office and are on file with the Lincoln County Clerk and Recorder. Within 30 days after the public comment period the Lincoln County Commission will hold a regularly noticed meeting and may in its discretion adopt or not adopt the resolution creating the zoning district boundaries and regulations.

END OF RESOLUTION

Approved as to Form:

Marcia Boris, County Attorney

Date presented to the Board March 20, 2024 Approved Disapproved [] Amended []

Adopted this 20th day of March, 2024.

LINCOLN COUNTY BOARD OF COMMISSIONERS

Josh Letcher, Chair

ATTEST:

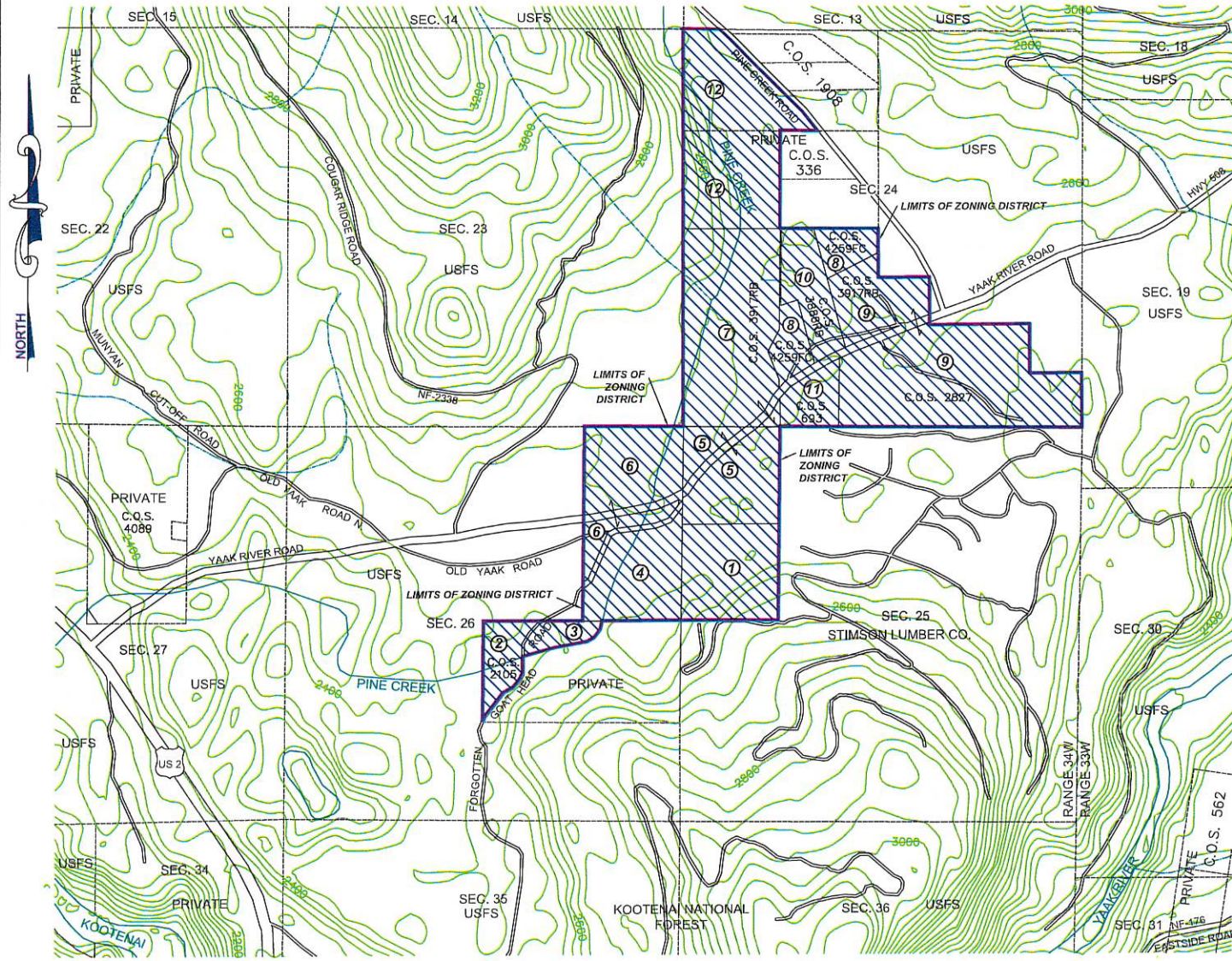
Corrina Brown, Clerk of the Board

LOWER YAAK ZONING DISTRICT

In Sections 24, 25, & 26 of Twp. 33 N., R. 34 W., P.M.M.

For: Pine Creek Community for Sensible Growth

Date: February 2023



PROPERTIES SUBJECT TO ZONE DISTRICT

PARCEL NO.	OWNERSHIP	LEGAL DESCRIPTION
①	LEON D. BROWN REVOCABLE TRUST	SW 1/4 NW 1/4 Sec. 25, Twp. 33 N., R. 34 W., P.M.M. Book 375 Page 521
②	PAUL D. JOHNSON REVOCABLE TRUST	Parcel A C.O.S. 2105 Sec. 26, Twp. 33 N., R. 34 W., P.M.M. Book 356 Page 321
③	EDWARD T. PEDERSEN	Sec. 26, Twp. 33 N., R. 34 W., P.M.M. Book 52 Page 846
④	JAMES E. & NANCY K. HIGHT	Sec. 26, Twp. 33 N., R. 34 W., P.M.M. Book 290 Page 638
⑤	INVESTMENT FOUNDATION LLC.	Sec. 25, Twp. 33 N., R. 34 W., P.M.M. Book 387 Page 534
⑥	INVESTMENT FOUNDATION LLC.	Sec. 26, Twp. 33 N., R. 34 W., P.M.M. Book 387 Page 534
⑦	INVESTMENT FOUNDATION LLC.	Tract 2 C.O.S. 3917RB Sec. 24, Twp. 33 N., R. 34 W., P.M.M. Book 387 Page 534
⑧	MATT C. & TONI M. FRANKE	Parcel D C.O.S. 4259FC Sec. 24, Twp. 33 N., R. 34 W., P.M.M. Book 351 Page 247
⑨	MATT C. & TONI M. FRANKE	Parcel B-2 C.O.S. 4259FC Parcel C C.O.S. 3886RB Sec. 24, Twp. 33 N., R. 34 W., P.M.M. Book 356 Page 97
⑩	ROBERT BITTNER	Parcel A-1 C.O.S. 3886RB Sec. 24, Twp. 33 N., R. 34 W., P.M.M. Book 385 Page 650
⑪	BRIAN & SHANNON MCLAUGHLIN	C.O.S. 693 Sec. 24, Twp. 33 N., R. 34 W., P.M.M. Book 377 Page 492
⑫	JONAN FARMS, LLC	SW 1/4 NW 1/4 & Tract 2B1, Sec. 24, Twp. 33 N., R. 34 W., P.M.M. Book 271 Page 412

LEGEND

- LIMITS OF ZONING DISTRICT
- DENOTES OWNERSHIP TIE

Graphic Scale:



(1 inch = 1000 ft.)

LOWER YAAK ZONING DISTRICT

Created _____

SECTION I – APPLICABILITY

This Zoning District applies to the following property:

The SW ¼ NW Sec. 25, Twp. 33 N., R. 34 W. P.M.M. Book 375 Page 521, Parcel A C.O.S. 2105 Sec. 26, Twp. 33 N., R. 34 W., P.M.M. Book 356 Page 321, Sec. 26, Twp. 33 N., R. 34 W., P.M.M. Book 52 Page 846, Sec. 26, Twp. 33 N., R. 34 W., P.M.M. Book 290 Page 638, Sec. 25, Twp. 33 N., R. 34 W., P.M.M. Book 387 Page 534, Sec. 26, Twp. 33 N., R. 34 W., P.M.M. Book 387 Page 534, Tract 2 C.O.S. 3917RB Sec. 24, Twp. 33 N., R. 34 W., P.M.M. Book 387 Page 534, Parcel D C.O.S. 4259FC Sec. 24, Twp. 33 N., R. 34 W., P.M.M. Book 351 Page 247, Parcel B-2 C.O.S. 4259FC Parcel C C.O.S. 3886RB Sec. 24, Twp. 33 N., R. 34 W., P.M.M. Book 356 Page 97, Parcel A-1 C.O.S. 3886RB Sec. 24, Twp. 33 N., R. 34 W., P.M.M. Book 385 Page 650, and C.O.S. 693 Sec. 24, Twp. 33 N., R. 34 W., P.M.M. Book 377 Page 492, SW ¼ NW ¼ Tract 2B1, Sec. 24, Twp. 33 N., R. 34 W., P.M.M. Book 271 Page 412 of Lincoln County, Montana

SECTION II – USES

Permitted uses

1. Single-family dwellings
2. Accessory dwelling unit, not to exceed (1) dwelling unit per legal lot of record;
3. Accessory buildings;
4. Horticulture
5. All livestock must be maintained in fenced area, so as not to wander unto neighboring parcels, or within 200 feet of Pine Creek.

Prohibited uses

1. Any commercial uses;
2. Any industrial uses;
3. Mobile homes, trailers, campers, tents or any structure temporary in character shall not be used as a primary residence, except on a temporary basis up to six (6) months in duration, which can be extended to another six (6) months, for a total of twelve (12) months, if the landowner is building a home on their property;
4. Trailers and RVs may not be used as accessory buildings. NOTE: Shipping Containers that are well-maintained may be used as an accessory building if they are not visible to adjacent property owners.
5. Schools.

SECTION III – SPACE AND BULK REQUIREMENTS

1. Maximum permitted density: 1 primary dwelling unit per 20 acres
2. Placement of Structures (Setbacks):
 - a. Structures must be set back at least 100 feet from side, front and rear adjacent properties and Highway 508 right-of-way.

SECTION IV – DEVELOPMENT STANDARDS AND GENERAL REGULATIONS

1. **Definitions.** Applicable definitions of terms contained below shall apply to this Zoning District, unless otherwise defined herein.
 - a. Accessory Building – A detached building, excluding a second dwelling unit, the use of which is customarily incidental to that of the main building, or to the main use of the premises, and located on the same lot with the main building or use.
 - b. Agricultural - All aspects of farming or ranching including the cultivation or tilling of soil; dairying; the production, cultivation, growing, harvesting of agricultural or horticultural commodities; raising of livestock, bees, fur-bearing animals or poultry; and any practices including, forestry or lumbering operations, including preparation for market or delivery to storage, to market, or to carriers for transportation to market.
 - c. Commercial – means use of land for the primary purpose of buying, selling or trading of retail or wholesale merchandise or services that specifically attracts vehicular traffic to the property, including institutional or recreational. Does not include home occupations.
 - d. Industrial - means the use of land primarily for the purpose of manufacturing, production, fabrication or assembly processes and ancillary services that require the regular use of heavy equipment or semi-trailers; and that produces offensive odor or noise that prevents neighboring property owners from enjoying their own property.
 - e. Single Family Dwelling- A building designed to be occupied exclusively by one single family.
 - f. Accessory Dwelling Unit - A dwelling unit which is incidental and accessory to the primary residence. The accessory dwelling unit (hereinafter “ADU”) must conform to the following standards: 1) have a gross square footage no greater than 1,000 square feet.
 - g. Non-Conforming Use – The lawful use of land or structures that existed prior to adoption of this Zoning District.

SECTION V – NONCONFORMING LOTS, USES AND STRUCTURES

1. Nonconforming Lots of Record – Buildings in conformance with this Zoning District may be constructed on a lot that does not meet the minimum lot size requirement, if the lot was legally created prior to the adoption of this Zoning District.
2. Nonconforming Structures – A lawful structure that existed prior to the adoption of this Zoning District which could not be built under this district due to restrictions on lot size, dwelling size, setbacks or other such restrictions, may continue to exist and may be replaced if destroyed by fire or other natural disaster. Nothing in these regulations are intended to prohibit the expansion or replacement of structures existing at the adoption date of this Zoning District.
3. Nonconforming Uses- A legal non-conforming use is an existing use of the land at the time these regulations were adopted, the use of which does not conform to these regulations. No such nonconforming use shall be enlarged or increased or extended to occupy a greater area of land than was occupied at the effective date of this district. If a nonconforming use of land ceases for any reason for a period of one hundred eighty (180) days, subsequent use of the land shall conform to these regulations.

SECTION VI – VIOLATIONS

If a violation of these regulations occurs, or is alleged to have occurred, any person may file a written complaint to the County Zoning Office/Planning Board stating the causes and basis of the alleged violation. The Zoning Officer shall record and investigate the complaint. If it is determined that any of the provisions are being violated, the zoning officer shall submit a written report to the Office of the County Attorney for appropriate legal action.

SECTION VIII – SEVERABILITY CLAUSE

In the event any section, part, term clause or provision contained in the Zoning District regulation is held by any court to be invalid, illegal, unconstitutional or otherwise unenforceable, then, nevertheless, all other and remaining sections, parts terms, clauses and provisions thereof and hereof shall continue and remain in force and effect.