



Community Development and Planning Lewis and Clark County

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STAFF REPORT

Date: April 9, 2026

To: Planning and Zoning Commission (PZC)

From: Phillippe Gonzalez, Planner II

RE: Text Amendments – Special Zoning District No. 43

Applicant: Lewis and Clark County
316 North Park Avenue
Helena, MT 59601

PLANNING AND ZONING COMMISSION HEARING: Thursday, April 16, 2026 --- 5:30 p.m.

BOARD OF COUNTY COMMISSIONER HEARING: Tuesday, April 28, 2026 --- 9:00 a.m.

I. **EXECUTIVE SUMMARY:**

Lewis and Clark County Community Development and Planning (CDP) is proposing amendments to the regulations for Special Zoning District (SZD) No. 43 to amend the Non-conforming Uses section to allow for the expansion of non-conforming uses, subject to the issuance of a Conditional Use Permit (CUP), and to remove the Special Restrictions section and any definitions associated with this section under the Definitions section.

II. **REQUEST:**

Proposed amendments to the regulations of SZD No. 43.

III. **RECOMMENDATION:**

Approval.

IV. **LOCATION:**

SZD No. 43 is located north of the City of East Helena, south of and adjacent to Canyon Ferry Road, and east of and adjacent to Valley Drive, as shown in Figure No. 1.

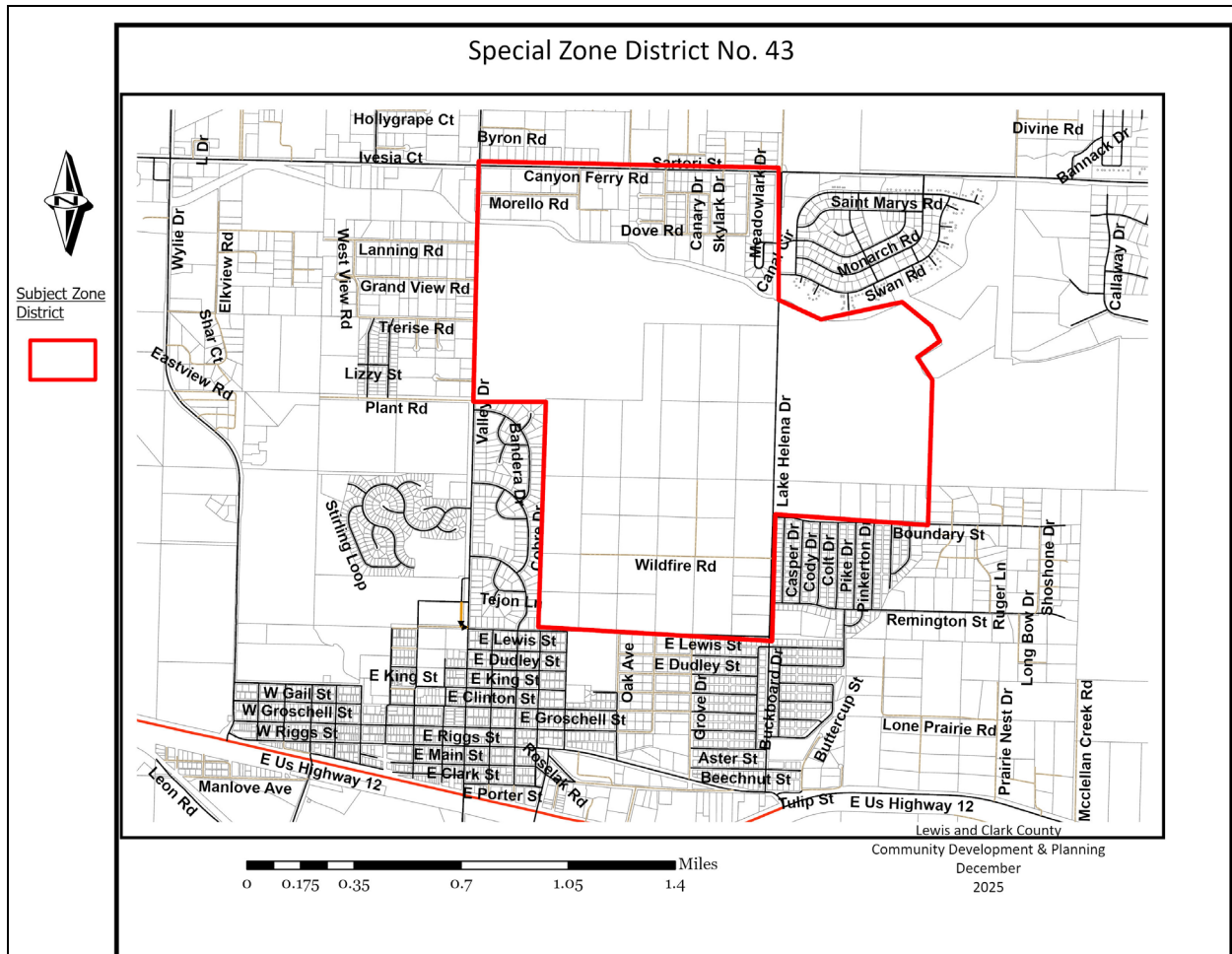


Figure No. 1

V. **EXISTING DEVELOPMENT AND USES:**

SZD No. 43 is currently developed with residential, agricultural, and some commercial and industrial uses, including a mini-storage facility, water treatment facility and a gravel pit. Uses immediately adjacent to SZD No. 43 include residential and agricultural uses, commercial gravel sales, educational facilities, and mini-storage.

VI. **GROWTH POLICY:**

According to the Lewis and Clark County Growth Policy, adopted by the Board of County Commissioners in July 2025, SZD No. 43 lies within three different land use designations on the Future Land Use Map: Rural Residential and Agriculture, Community Mixed Use, and Commercial Corridor/Industrial.

The objectives of these three designations vary as they relate to land use characteristics, density, population build-out, and connectivity. Rural Residential and Agriculture seeks low-density development with a mix of residential and agricultural land uses, Community Mixed-use seeks a mix of residential and commercial activities that support residential neighborhoods, offices, and retail, and Commercial Corridor/Industrial seeks a range of

industrial and commercial activities with an emphasis on industrial uses that may have nuisance impacts on nearby residential areas. The diversity of the three Land Uses designations is primarily a result of the large area that SZD No. 43 occupies.

Additionally, 2025 County Growth Policy Land Use Policy and Tools section of the document, makes a recommendation to “Review and Modernize Citizen initiated Zoning” (Policy 9.2) Further it states... “to review and identify regulations that are outdated or difficult to administer as well as align with current planning goals and streamline the zoning process.”

VII. BACKGROUND/STAFF ANALYSIS

CDP Staff has proposed amendments to the Non-conforming Uses, Special Restrictions, and Definitions sections.

1. Non-Conforming Uses

Non-conforming structures and uses are the lawful uses of structures or land in existence prior to the adoption of regulations for SZD No. 43, but following the adoption of these regulations, do not conform to the provisions for this District. CDP Staff proposes to amend the following language under the Non-conforming Uses section to allow for the expansion of a non-conforming use, subject to the issuance of a Conditional Use Permit, which is a permit containing conditions of approval and is granted by the Board of County Commissioners (BoCC) (NOTE: Additions have been **BOLDED** and underlined, and deletions are shown with a strikethrough):

NON-CONFORMING STRUCTURES AND USES

These are the **structures and** uses of structures or land lawfully used or occupied prior to the effective date of this resolution ~~that which~~ do not conform to the ~~use~~ regulations for this district:

- The lawful use of land or a structure existing at time of the adoption of this resolution may be continued even though such use does not conform to the district provisions thereof.
- ~~The non-conforming use of land or structures shall not be expanded either on the same or adjoining property.~~
- If the non-conforming use of land or structures, existing at the time of this resolution became effective, is discontinued for a period of six (6) months, then that use shall conform to the uses allowed in the district in which it is located.
- Changes Permitted to Non-Conforming **Structures and** Uses:
 1. Routine maintenance and repair or those modifications required by applicable permit requirements for health and safety and/or health and safety codes shall

- be permitted.
2. **A non-conforming use may be expanded, subject to a Conditional Use Permit, within the confines of the lot or parcel of land upon which it is located or on lands adjacent to this use under the same ownership at the time the original resolution for the district became effective.**
 3. ~~A non-conforming building or structure may be enlarged, extended, reconstructed, or structurally altered if said building or structure is changed to completely conform with these regulations.~~ A building or structure conforming with respect to use, but non-conforming with respect to height, setback, or lot coverage, may be altered or extended if the alteration or extension does not further deviate from these regulations.
 4. ~~Where an existing building or use is located entirely within the setback area, that building or use may be expanded to the rear of the property away from the setback line.~~

SZD No. 43 Statement of Intent (Purpose)

The SZD No. 43 Statement of Intent (Purpose) seeks to “protect single-family dwelling units and associated agricultural land uses, while promoting and preserving the rural-residential atmosphere of the area and enhancing the aesthetic character and property values of the area.”

CDP Staff believes that the proposed changes to the non-conforming uses section will allow for the review of an expansion of a non-conforming use through the CUP process, which will allow for input from the PZC and a decision by the BoCC, to sufficiently ensure the protection of the goals and values described under the Statement of Intent (Purpose). Conditions of approval can be required as a part of the approval process to ensure impacts related to the expansion can be properly mitigated.

Part 1 Zoning Districts (Citizen-initiated)

Currently, Lewis and Clark County has 35 Part 1 (citizen-initiated) zoning districts. Of those 35 districts, 19 do not allow for the expansion of non-conforming uses or structures and 3 allow for a change in non-conforming status with provisions, with 2 of the 3 containing a process that requires a PZC recommendation and BoCC approval. There is currently only 1 Part 1 zoning district that requires the issuance of a CUP to allow for a change in non-conforming status or the expansion of a non-conforming use.

Part 2 Zoning Districts (County-initiated)

The Part 2 Helena Valley Zoning Regulations (HVZR) currently allows for the expansion of non-conforming uses subject to the issuance of a CUP (HVZR Section 18).

Both the Fort Harrison Urban Growth Area Zoning District (FHUGA) and the Fort Harrison Rural Growth Area Zoning District (FHRGA) have limitations regarding the expansion of non-conforming uses. According to Section 1.8 of both sets of regulations,

the only changes allowed to non-conforming structures and/or uses are routine maintenance and repair, or those modifications required by the applicable health and safety codes, and enlarging, extending, reconstructing, or structurally altering a non-conforming structure if said structure is changed to completely conform to the regulations, (FHUGA Section 1.8 and FHRGA Section 1.8).

2025 Growth Policy

The Growth Policy is a non-regulatory, long-range planning document that illustrates how Lewis and Clark County should grow over the long term. It does not directly address the expansion of non-conforming uses within Part 1 zoning districts.

2. Special Restrictions

The Special Restrictions section, for SZD No. 43, was included in the original petition to establish regulations for this District. At the time, CDP Staff recommended against including this language, as it is unnecessary. Unless a use is included under the Permitted or Conditional Uses sections, it is not allowed. The CDP therefore proposes to remove the following language under the Special Restrictions section (NOTE: Deletions are shown with a strikethrough):

SPECIAL RESTRICTIONS

- ~~Casinos*~~
- ~~Hazardous substance disposal/storage*~~
- ~~Hazardous waste disposal*~~
- ~~Industrial uses*~~
- ~~Landfills*~~
- ~~Large scale commercial*~~
- ~~Large scale retail*~~
- ~~Machinery storage*~~
- ~~Mining activities*~~
- ~~Mobile home courts/parks*~~
- ~~Salvage/Junk yards*~~
- ~~Truck storage*~~

* Indicates definition

SZD No. 43 Statement of Intent (Purpose)

The SZD No. 43 Statement of Intent (Purpose) seeks to, “protect single-family dwelling units and associated agricultural land uses, while promoting and preserving the rural-residential atmosphere of the area and enhancing the aesthetic character and property

values of the area.”

CDP Staff believe that the proposed removal of the Special Restrictions section would have no impact regarding the goals and values described under the Statement of Intent (Purpose).

Part 1 Zoning Districts (Citizen-initiated)

Currently, there are no Part 1 zoning districts that include a list of prohibited land uses under a Special Restrictions section or any other section. CDP Staff believes that such a section is unwarranted, as only those uses listed as Permitted or Conditional are allowed. In addition, having such a section can invite confusion as to why certain prohibited uses are listed, while others are not.

Part 2 Zoning Districts (County-initiated)

The HVZR does not contain a list of Special Restrictions for land uses. Under Exclusion of Uses in Section 205, the regulations state, “Uses not specifically listed, or reasonably similar to those uses listed, in any particular zone district shall be deemed to be excluded from the particular zone district.” (HVZR Section 205)

Both the FHUGA and FHRGA contain a list of prohibited uses; however. These Districts do not have permitted or conditional uses, as all uses are allowed, with the exception of those uses that are expressly prohibited. (FHUGA Section 2.4.b and FHRGA Section 2.4.b)

2025 Growth Policy

The Growth Policy is a non-regulatory, long-range planning document that illustrates how Lewis and Clark County should grow over the long term. It does not directly address the need for a list of excluded land uses within zoning districts.

3. Definitions

CDP Staff seeks to remove all uses listed under the Special Restrictions section (See No. 2 above) from the Definitions section.

SZD No. 43 Statement of Intent (Purpose)

The SZD No. 43 Statement of Intent (Purpose) seeks to, “protect single-family dwelling units and associated agricultural land uses, while promoting and preserving the rural-residential atmosphere of the area and enhancing the aesthetic character and property values of the area.”

CDP Staff believes that the proposed removal of definitions listed under the Special Restrictions section, if the Special Restrictions section itself is eliminated, would have no impact regarding the goals and values described under the Statement of Intent (Purpose).

Part 1 Zoning Districts (Citizen-initiated)

CDP Staff recommends that the definitions for terms contained under the Special Restrictions section be removed, as there is no need to define terms that are not contained in the regulations. All Part 1 zoning districts have been reviewed and none contain definitions for uses not listed in the regulations.

Part 2 Zone Districts (County-Initiated)

The HVZR, FHUGA, and FHRGA do not define terms that are not listed in their regulations.

2025 Growth Policy

The Growth Policy is a non-regulatory, long range planning document that illustrates how Lewis and Clark County should grow over the long term. It does not address whether terms not contained in a regulatory document should be defined in that document or not.

VIII. PUBLIC COMMENTS

See attachment B.

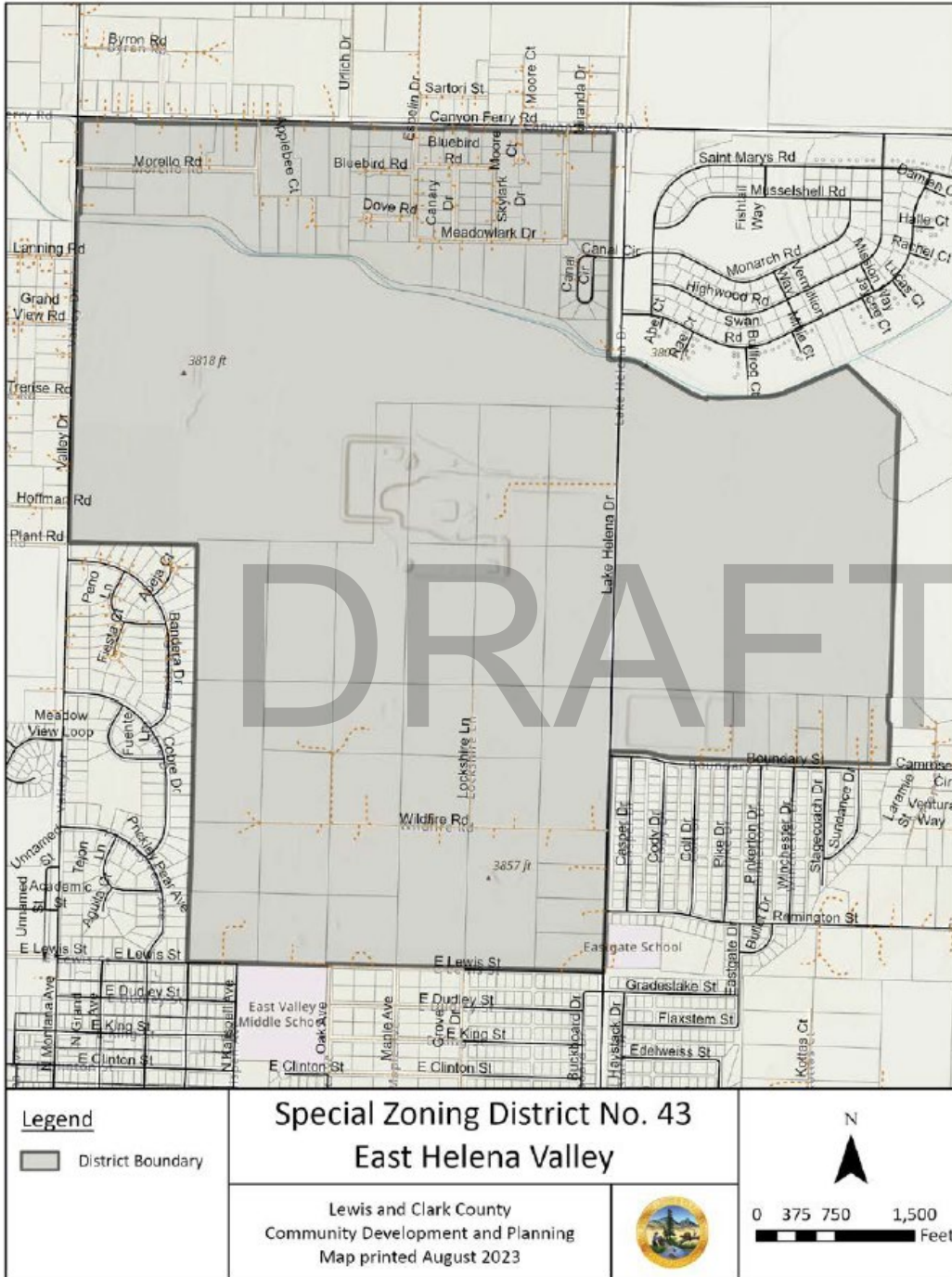
IX. SUMMARY

Following CDP Staff analysis of the proposed amendments to the regulations for SZD No. 43, it has been determined that all proposed amendments will be in compliance with the District's Statement of Intent (Purpose) and the 2025 Lewis and Clark County Growth Policy. The proposed amendments to the Non-conforming Use section; however, are only similar to the regulations for a few other Part 1 zoning districts and the HVZR. These amendments differ from the requirements of the remainder of the Part 1 zoning districts, and both the FHUGA and FHRGA. The proposed amendments regarding the removal of the Special Restrictions section and all definitions for terms under that section will bring the regulations into conformity with all Part 1 zoning districts and the HVZR. The FHUGA and FHRGA regulations differ from all other zoning regulations in Lewis and Clark County, as all uses are allowed with only a few uses prohibited. Based on the overall analysis, CDP Staff is recommending approval of all proposed amendments to SZD No. 43.

X. ATTACHMENTS

- a. Draft Text Amendments
- b. Public Comment

ATTACHMENT A



STATEMENT OF INTENT (PURPOSE)

The purpose of this district is to accommodate and protect the use of single-family dwelling units and associated agricultural land uses while promoting and preserving the rural-residential atmosphere of the area and enhancing the aesthetic character and property values of the area.

PERMITTED USES

- Agricultural/Horticultural/Silvicultural uses*
- Day care facilities*
- Dwellings, duplex*
- Dwellings, single-family*
- Educational Facilities, Primary and Secondary *
- Guest houses*
- Home occupations*
- Livestock
- Manufactured/Modular detached single-family dwellings on permanent foundations*
- Nurseries, landscaping materials
- Parks and publicly owned recreational facilities
- Water storage and treatment facilities
- Wastewater treatment facilities*

CONDITIONAL USES

- Bed and Breakfast establishments*
- Cafes (deli, coffee shop, bagel shop, etc.)*
- Churches and other places of worship*
- Community center buildings operated by a non-profit agency
- Dwellings, family hardship*
- Golf courses
- Golf driving ranges
- Professional and business offices*

SPECIAL RESTRICTIONS

- ~~Casinos*~~
- ~~Hazardous substance disposal/storage*~~

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- ~~Hazardous waste disposal*~~
- ~~Industrial uses*~~
- ~~Landfills*~~
- ~~Large scale commercial*~~
- ~~Large scale retail*~~
- ~~Machinery storage*~~
- ~~Mining activities*~~
- ~~Mobile home courts/parks*~~
- ~~Salvage/Junk yards*~~
- ~~Truck storage*~~

* Indicates definition

BULK REQUIREMENTS

MINIMUM LOT AREA:

One acre with individual water and individual wastewater

One-half acre with public water and/or public wastewater

MINIMUM LOT WIDTH: 100 feet

SETBACKS:

MINIMUM REQUIREMENTS FOR PRINCIPAL STRUCTURE:

FRONT:	10 feet
SIDE:	10 feet
SIDE CORNER:	10 feet
REAR:	10 feet
FROM ACCESS EASEMENT:	10 feet

MINIMUM REQUIREMENTS FOR DETACHED ACCESSORY STRUCTURES:

FRONT:	10 feet
SIDE:	10 feet
SIDE CORNER:	10 feet
REAR:	5 feet
FROM ACCESS EASEMENT:	10 feet

MAXIMUM BUILDING HEIGHT: 30 feet

PERMITTED LOT COVERAGE: 40%

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MAXIMUM FENCE HEIGHT:

FRONT:	6 feet
SIDE:	6 feet
REAR:	6 feet

NON-CONFORMING LOTS

These lots of record filed with the Clerk and Recorder's Office on the effective date of this resolution, that do not meet the lot area and width requirements of the district in which it is located are defined as non-conforming lots. Notwithstanding other limitations imposed by this resolution, structures permitted in this district may be erected on any single lot of record on the effective date of this resolution.

NON-CONFORMING STRUCTURES AND USES

These are the structures and uses of structures or land lawfully used or occupied prior to the effective date of this resolution ~~that which~~ do not conform to the use regulations for this district:

- The lawful use of land or a structure existing at time of the adoption of this resolution may be continued even though such use does not conform to the district provisions thereof.
- ~~• The non-conforming use of land or structures shall not be expanded either on the same or adjoining property.~~
- If the non-conforming use of land or structures, existing at the time of this resolution became effective, is discontinued for a period of six (6) months, then that use shall conform to the uses allowed in the district in which it is located.
- Changes Permitted to Non-Conforming Structures and Uses:
 1. Routine maintenance and repair or those modifications required by applicable permit requirements for health and safety and/or health and safety codes shall be permitted.
 2. **A non-conforming use may be expanded, subject to a Conditional Use Permit, within the confines of the lot or parcel of land upon which it is located or on lands adjacent to this use under the same ownership at the time of the original resolution before the district became effective.**
 - ~~3. A non-conforming building or structure may be enlarged, extended, reconstructed, or structurally altered if said building or structure is changed to completely conform with these regulations. A building or structure conforming with respect to use, but non-conforming with respect to height, setback, or lot coverage may be altered or extended if the alteration or extension does not further deviate from these regulations.~~
 - ~~4. Where an existing building or use is located entirely within the setback area, that building or use may be expanded to the rear of the property away from the setback line.~~

VALIDITY/SEVERABILITY CLAUSE

Should any section, subsection, sentence, or clause of this resolution be held invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the remaining portions of this resolution. The Board of County Commissioner hereby declares that it would have adopted such section,

subsection, sentence or clause irrespective of the fact that one or more of such portions may be declared invalid.

ENFORCEMENT

PENALTY FOR VIOLATION:

Any person or corporation, whether owner, lessee, principal agent, employee, or otherwise, who violates any provisions of these regulations or permits any such violation or fails to comply with any of the requirements thereof, or who erects, constructs, reconstructs, alters, enlarges, converts, moves, or uses any building or uses any land in violation of any detailed statement or plans submitted by him and approved under the provisions of these regulations, is subject to a fine of \$25.00 for each violation. Each day of continued violation after notification shall constitute a separate, additional violation.

USE OF AVAILABLE REMEDIES AUTHORIZED:

In the event that any building or structure is erected, reconstructed, altered, converted, or maintained, or any building, structure, or land is used in violation of these regulations, the proper legal authorities of the Board of County Commissioners, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, maintenance, or use, to restrain, correct, or abate such violation, to prevent the occupancy of such building, structure or land, or to prevent an illegal act, conduct, business, or use in or about such building, structure or land. At a minimum, violators will be required to restore property to original condition.

OTHER

LIGHTING:

Any exterior lighting shall be arranged and shielded so that the light source can not be seen from adjacent roads or property and so that no direct beam illuminates other private property or public roads, and shall not be visible from beyond the property lines.

PARKING REQUIREMENTS

Bed and Breakfast establishments	2 spaces for the resident family or manager plus 1 space per room rented plus 1 space for every 2 outside employees of maximum shift
Cafes	1 space per 4 seats plus 1 space per food and beverage employee on maximum shift. Drive through windows must be provided with 5 stacking spaces per window
Churches and other places of worship	1 space per 5 seats or 40 square feet of churches or other places gross floor area used for assembly of assembly purposes, whichever is greater
Community center buildings (non-profit)	1 space per 5 seats or 40 square feet of gross floor area used for assembly purposes, whichever is greater

Day Care Facilities	1 space per 10 supervised children or adults plus 1 for every employee per maximum shift
Educational Facilities	
Kindergarten through junior high schools	1 space per employee and faculty member, but not less than assembly facility area requirements of 1 space per 4 seats
High schools	1 space for every 4 students plus 1 space per staff member
Colleges and technical schools	1 space for every 2 students plus 1 space for each Staff member
Golf courses	3 spaces per hole of main course
Professional and business offices	1 space per 400 square feet of gross floor area (Note: Offices not providing customer services: 1 space per 4 employees, but not less than 1 per 400 square feet of gross floor area)

VARIANCE PROCESS

Where, owing to special conditions, a literal enforcement of the zoning regulations would result in unnecessary hardship to a landowner, the landowner may request a variance from the regulations. Such request will be considered at a noticed public hearing by the Planning and Zoning Commission, which will make a recommendation to the Board of County Commissioners. The Board of County Commissioners shall have the power to authorize variances which are not contrary to the public interest and which are not detrimental to neighboring properties.

PROCEDURE FOR CONDITIONAL USE PERMIT

- A.) No structure, building or land shall be used, constructed, altered, or expanded where a Conditional Use Permit is specifically required by the terms of these regulations until a Conditional Use Permit for such use has been authorized and issued by the Board of County Commissioners.
- B.) Structures or buildings devoted to any use, which is permitted under the terms of these regulations, subject to the securing of a Conditional Use Permit, may be altered, added to, enlarged, expanded, or moved from one location to another on the lot only after securing a new Conditional Use Permit.
- C.) Application
 - 1) Application for a Conditional Use Permit may be made by the owner of the affected property or by his designated agent on a form that may be obtained from the County Planning and Development Office.
 - 2) The completed application and fee as set by the Lewis and Clark County Board of Commissioners shall be submitted to the County Planning and Development Office. Said fee is not refundable.

D.) Procedures for Consideration

- 1) After acceptance by the Zoning Administrator or his designee, the completed application shall be transmitted to the staff of the Planning and Development Office for their review and evaluation.
- 2) The Zoning Administrator shall set a date for a public hearing and publish a public notice which advertises said hearing before the Planning and Zoning Commission at least once in a newspaper of general circulation in the community at least 15 days prior to the meeting of the Planning and Zoning Commission at which the application is to be considered.
- 3) The Zoning Administrator shall also mail written notice to all adjacent property owners within the zoning district not less than 15 days prior to the date of formal review by the Planning and Zoning Commission.
- 4) Written comments from adjacent property owners shall specifically state how the granting of the Conditional Use Permit would adversely or injuriously affect their personal or legal interests.
- 5) The Planning and Zoning Commission shall consider the application at its next regular meeting following the public notice process.
- 6) The Planning and Zoning Commission shall then forward a recommendation to the Board of County Commissioners.
- 7) The Board of County Commissioners shall consider the application at a meeting scheduled.

E.) Approval of Application and Granting of Conditional Use Permits

Upon rendering a decision to grant a Conditional Use Permit, the Board of County Commissioners shall notify the applicant of their decision, and the Board shall issue a Conditional Use Permit with stipulations, itemized in brief on the face of the permit. The application and all subsequent information, correspondence, evaluations, recommendations, and decisions shall be placed on permanent file in the Planning and Development Office.

F.) Termination and Transferability

Once granted, the Conditional Use Permit, with its terms and conditions, shall:

- 1) Run with the lot, building, structure, or use and shall not be affected by change of ownership.
- 2) Terminate twelve (12) months from the date of authorization if commencement of authorized activity has not begun:
 - (a) Unless otherwise specified in the conditions of approval, or
 - (b) Unless the applicant can demonstrate and maintain a continuous effort in good faith (preparing financing, securing state or federal permits, undertaking engineering and design, etc.) in commencing the activity.

G.) Denial of Application

In the event an application is denied by the Board of County Commissioners, no re-submittal of an application for a Conditional Use Permit may be made for one (1) year from the date of said denial, unless sufficient new evidence or conditions are offered to the Zoning Administrator to demonstrate to him/her that circumstances have altered and that further consideration of the application is warranted. In such an event, the resubmitted application shall follow the same procedures as the

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original, and shall be treated as a new application.

H.) Criteria Required for Consideration of a Conditional Use Permit.

1) A Conditional Use Permit may be granted only if the proposal, as submitted, conforms to all of the following general Conditional Use Permit criteria, as well as to all other applicable criteria that may be requested.

(a) Site Suitability.

That the site is suitable for the use. This includes:

- (i) Adequate usable space,
- (ii) Adequate access, and
- (iii) Absence of environmental constraints.

(b) Appropriateness of Design.

The site plan for the proposed use will provide the most convenient and functional use of the lot with regard to the intent of the regulations. Consideration of design should include:

- (i) Parking scheme,
- (ii) Traffic circulation,
- (iii) Open space,
- (iv) Fencing, screening,
- (v) Landscaping,
- (vi) Signage, and
- (vii) Lighting.

(c) Availability of Services and Facilities.

The following services and facilities are to be available and adequate to serve the needs of the use as designed and proposed:

- (i) Sewer,
- (ii) Water,
- (iii) Storm water drainage,
- (iv) Fire protection,
- (v) Police protection, and
- (vi) Streets.

(d) Immediate Neighborhood Impact.

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That the proposed use will not be detrimental to surrounding neighborhoods in general. Typical negative impacts that extend beyond the proposed site include:

- (i) Excessive traffic generation,
- (ii) Noise or vibration,
- (iii) Dust, glare, or heat,
- (iv) Smoke, fumes, gas, or odors, and
- (v) Inappropriate hours of operations.

I.) Burden of Proof.

The burden of proof for satisfying the aforementioned criteria shall rest with the applicant. The granting of a Conditional Use Permit is a matter of grace, resting in the discretion of the Board of County Commissioners and a refusal is not the denial of a right, conditional or otherwise.

J.) Board of County Commissioners Decision Based on Findings.

Every decision of the Board of County Commissioners pertaining to the granting, denial, or amendment of a request for a Conditional Use Permit shall be based upon "Findings of Fact", and every Finding of Fact shall be supported in the records of its proceedings. The conditions in Section H as they relate to matters, which the Board of County Commissioners is empowered to review under these regulations, shall be construed as a limitation on the power of the Board of County Commissioners to act in the matter of issuance of Conditional Use Permits. A mere finding or recitation of the enumerated conditions, unaccompanied by findings of specific fact, shall not be deemed in compliance with these regulations.

DEFINITIONS

Agriculture: The science and art of farming; work or business of cultivating the soil, producing crops, and raising livestock.

Bed and Breakfast Establishment: A single-family detached dwelling containing, in addition to living accommodations for the resident manager, individual sleeping rooms without cooking facilities for the purpose of providing to the general public for compensation, lodging, bathroom facilities, and breakfast only to overnight patrons.

Cafes (deli, coffee shop, bagel shop, etc.): A building designed to be used for public services, licensed with the State of Montana, not to exceed 5,000 square feet.

Casino: ~~A room or rooms in which legal gaming is conducted, or an establishment, whose use or activity includes gaming, either in the form of gaming machines, (video poker, keno, etc.) card games, or other licensed gaming activity.~~

Church: A building designed and used for public worship by any religious body.

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Conditional Use: A use which may be permitted in one or more districts as defined in these regulations but which, because of size, technological processes or equipment, or because of the exact location with reference to surroundings, streets and existing improvements, or demands upon public facilities, requires a special degree of control to make such uses consistent with and compatible to other existing or permissible uses in the same district or districts. Conditional uses do not include uses that are special exceptions or that require the issuance of a variance.

Conditional Use Permit: The documented evidence of authority granted by the Board of Adjustment to locate a conditional use at a particular location.

Day Care Facilities: A specialized program or facility that provides care for children from infants through preschool age, usually within a group framework, either as a substitute for or an extension of home care, being licensed with the State of Montana; or a specialized program or facility that provides care for handicapped or dependent children or adults as a substitute for or an extension of home care, being licensed with the State of Montana.

Dwelling, duplex: A building designed for occupancy by two families under one roof with a common wall separation.

Dwelling, family hardship (family declaration): A family declaration is a contract between the County and a property owner that temporarily permits an additional non-permanent dwelling for an immediate family member (parent, child, and grandparent) on a lot for reasons of hardship. The temporary occupancy cannot include any sale, rent, lease, other conveyance, or any compensation, consideration, or in kind service. The family declaration contract has a two-year term and must be renewed at the end of the two years if the hardship continues. When the contract or the hardship ends, the family declaration is voided and the non-permanent structure must be removed. The temporary use is not transferable to another family member or any other person. The procedure for creating a family declaration is as follows:

- Applicant makes an appointment with the Permit Coordinator to set up a pre-application conference.
- Applicant provides documents to support the family declaration request. Such documentation may include: deed of the property, certificate of survey, covenants, birth certificates, or marriage licenses.
- Pre-application conference: Applicant explains the hardship that warrants the request and discusses proposal with the County Planning and Environmental Health staff.
- If the hardship is deemed valid, Planning staff will prepare a family declaration contract for the Applicant. The Planning Department may require the contract contain conditions for approval.
- The contract must be notarized and returned to the Permit Coordinator.
- The family declaration and any other required documents (such as DEQ approvals) shall be filed with the Clerk and Recorder's Office.

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- Upon permitting the temporary use, the applicant may place one additional non-permanent dwelling on the property.
- When the hardship for which the family declaration ends, the family declaration is void and the non-permanent structure must be removed.
- The non-permanent structure may be permitted to remain, provided the additional development right is approved by the governing body through the complete subdivision process, as outlined in Chapter IV.

Dwelling, single-family: A building designed for occupancy by one family and its resident domestic employees.

Educational Facility, Primary or Secondary: A place and/or building, or portion thereof, that is used or is intended for use as a preschool, elementary, junior high, high school, college or technical school.

Guest house: A detached structure, which is accessory to a one family dwelling, which shall be used and/or designed for use primarily by guests and/or servants. One guesthouse is allowed per tract of record. The following criteria must be met:

- serves as a secondary use that is clearly subordinate to the principal dwelling on the same lot;
- has under 1,000 square feet of living space;
- is occupied no more than 90 total days in any given calendar year;
- has no permanent kitchen or cooking facilities (such as a stove, refrigerator, or sink or water line located outside of a bathroom);
- has no more than two bedrooms;
- has the same address as the principal dwelling;
- the above restrictions are placed on the deed;
- the subject lot is one acre or more in size; and
- there is sufficient area on the lot for an additional principal drain field and replacement area as required by DEQ and the Environmental Health Department.

~~Hazardous Substance Disposal/Storage: Defined in M.C.A. 50-30-201~~

~~Hazardous Waste Disposal: Defined in M.C.A. 75-10-403~~

Home Occupation: Any occupation or activity carried on as an accessory use by a member of the immediate family who resides within a dwelling unit. The occupation or activities shall not be detrimental to the use, peaceful enjoyment, economic value of the surrounding properties or general area. Nor shall such activities

Special Zoning District No. 43: East Helena Valley

cause objectionable noise, vibration, fumes, odors, dust, glare or physical activity. The following criteria must be met:

- is conducted entirely within the dwelling or an accessory building;
- is clearly incidental and secondary to the use of the dwelling for residential purposes;
- does not use more than one-third of the total square footage of the dwelling (the total allowable square footage of the dwelling will also apply to an accessory building);
- does not employ more than one non-resident of the dwelling; and
- vehicle trips directly associated with the use shall not exceed an average of ten per day on a weekly basis, including deliveries.

Horticulture: The cultivation of a garden, orchard, or nursery; the cultivation of flowers, fruits, vegetables, or ornamental plants.

~~Industrial uses: Any particular branch of production, esp. manufacturing, any large scale business activity manufacturing productive enterprises collectively, esp. as distinguished from agriculture, silviculture, or horticulture.~~

~~Landfill: The disposal of garbage, rubbish, etc. by burying it under soil or earth or on earth.~~

~~Large scale commercial: Any building designed for commercial use with a total area larger than 5,000 square feet.~~

~~Large scale retail: Any building designed for retail with a total area larger than 5,000 square feet.~~

~~Machinery storage: Any machinery not in use and stored for a period longer than one week.~~

~~Mining activity: The extraction and or processing of material extracted from the ground.~~

~~Mobile Home Court/Park: A tract of land which is specifically designed, intended and maintained for locating mobile homes and/or travel trailers, and which is owned by one party who rents or leases lots to individual tenants. Two (2) or more mobile homes, or mobile homes and travel trailers, upon one (1) tract constitutes a mobile home court/park.~~

Manufactured/Modular Dwelling: Housing built on a chassis designed and constructed for transportation to a site for installation and use when connected to required utilities. Also referred to as “mobile home” or “modular home”. The term as herein used is defined as a dwelling with all of the following characteristics:

- Designed for long term occupancy and containing sleeping accommodations, a flush toilet, a tub or shower bath, and kitchen facilities, with plumbing and electrical connections provided for attachment to outside systems.

Special Zoning District No. 43: East Helena Valley

- Designed to be transportable on temporary wheels, a flat bed, or some other type of trailer, but not on its own chassis.
- Designed without a permanent frame or undercarriage so that it can be placed on a permanent foundation prior to occupancy.
- Eligible for long term amortized mortgage financing.
- That the factory construction is able to meet or exceed the uniform building codes.
- That the dwelling unit, when completed, shall not be less than twenty (20) feet in width and contain a minimum of 800 sq. ft. (ground floor) exclusive of porches, patios and garages.

Permitted Use: A use permitted, provided it conforms to all requirements and regulations in the said zoning district.

Professional and business offices: A building designed and used for private and public services not exceeding 5000 square feet in size.

~~Salvage/Junk Yard: Place and/or building, or portion thereof, that is used or is intended for selling, exchanging, storing, cleaning, packing, processing, or otherwise handling salvage materials.~~

Setback: The horizontal distance required between the right-of-way or property line, whichever is closest, and the building line.

Front: A yard extending between side lot lines across the front of a lot.

Rear: A yard extending between side lot lines across the rear of a lot.

Side: A yard extending from the front yard to the rear yard across the side of a lot.

Side Corner: Side yard setback used when side yard lies adjacent to public access easement or right-of-way for a road

Silviculture: The care and cultivation of forest trees; forestry.

Special Restrictions: A use expressly prohibited in said zoning regulations.

~~Truck storage: Any semi truck, dump truck, water truck, chemical truck, etc. not in use and stored for a period longer than one week.~~

Wastewater Treatment Facility: The process of removing contaminants from waste water, both runoff (effluents) and domestic. It includes physical, chemical and biological processes to remove physical, chemical and biological contaminants. Its objective is to produce a waste stream (or treated effluent) and a solid waste or sludge suitable for discharge or reuse back into the environment.

From: [Anita and Ray Lincoln](#)
To: [Phil Gonzalez](#)
Subject: Zoning district 43
Date: Saturday, March 28, 2026 11:43:03 AM

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Phil, this is my letter to object to the planning dept, and also we are mailing it to all of our neighbors we can find. Anita Lincoln 406-439-0965

March 27, 2026

To all of our neighbors...

If you remember back to 2008, our area was enclosed by "Special Zoning District No. 43". The Statement of Intent (Purpose) for this zoning is as follows:

The purpose of this district is to accommodate and protect the use of single-family dwelling units and associated agricultural land uses while promoting and preserving the rural-residential atmosphere of the area and enhancing the aesthetic character and property values of the area.

This was also brought up again in 2012, by Helena Sand and Gravel, the current owners of the gravel pit in our area. And the Montana Supreme Court agreed that our zoning district met with the requirements of state law and complied with the 2004 Lewis and Clark Country Growth Policy to be "rural residential".

Now, this is the important part... The Lewis and Clark County Planning and Zoning Commission is proposing to amend the text of our Special Zone District #43. They want to remove ALL of the "Special Restrictions" in our zoning that will directly affect our rural residential area.

The restricted items are Casinos, Hazardous Substance Disposal/Storage, Hazardous Waste Disposal, Industrial Uses, Landfills, Large Scale Commercial, Large Scale Retail, Machinery Storage, Mining Activities, Mobile Home Courts/Parks, Salvage/Junk Yards, and Truck Storage.

If we want to continue our lives in our homes and on our property as a rural residential area, there is no known reason to remove these restrictions. Also, at this time, it is unknown who is really requesting to have this done. We chose to live in this area because of where we are and how it has been established. We can't imagine if a casino or a landfill or a wrecking yard were to be allowed among our homes.

The County is sending letters to residents, and is holding a public hearing on **Thursday, April 16, 2026, at 5:30pm**. PLEASE, PLEASE attend this meeting. You can also email your comments to Phil Gonzalez at pgonzalez@lccountymt.gov or the county at planning@lccountymt.gov. You can also call them at 406-447-8374, or Phil at 406-447-8371.

Thank you for reading this, and share it with your friends and neighbors.

Sincerely, Anita & Ray Lincoln, our email is zoning43@tuta.com

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<https://tuta.com/free-email>

From: [Brian Roberts](#)
To: [Phil Gonzalez](#); [County Planning Mail](#)
Subject: Special Zone District #43
Date: Tuesday, April 7, 2026 6:00:23 PM

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I am against removing all the "special restrictions " in the zoning that will affect my residential area. I believe the gravel pit behind my house at 3580 Applebee Rd in E. Helena is trying to expand all the way up to my, and my neighbors fence line.

From: [Dave White](#)
To: [Phil Gonzalez](#)
Subject: Special Zoning District No. 43
Date: Friday, April 3, 2026 8:59:09 AM

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"The purpose of this district is to accommodate and protect the use of single-family dwelling units and associated agricultural land uses while promoting and preserving the rural-residential atmosphere of the area and enhancing the aesthetic character and property values of the area."

I quote this not because I think you are unfamiliar with it, but so that you know that *I* know what it says. I do not want even the *possibility* of "casinos, hazardous substance disposal/storage, hazardous waste disposal, industrial uses, landfills, large scale commercial, large scale retail, machinery storage, mining activities, mobile home courts/parks, salvage/junk yards, or truck storage"

Please follow the Open Lands Program's objectives; "...protecting drinking water sources and ground water quality; protecting water quality in and along rivers and streams; *_/_conserving working farm, ranch and forest lands; protecting wildlife areas; preserving open lands and natural areas;/_* providing for recreation; and managing growth and development".

DO NOT CHANGE OUR SPECIAL ZONING DISTRICT where my family lives and our grand children play.

Please do not "fix" something that is NOT broke.

David White
2978 Canal Circle
East Helena MT

From: [Q Curtiss](#)
To: [County Planning Mail](#)
Cc: [Phil Gonzalez](#)
Subject: Proposed amendment district 43
Date: Friday, April 3, 2026 8:13:28 PM

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I am writing this email to express my concerns with the proposed zoning amendments to district 43.

My main question is; what is the end game? What is being considered to be developed in that area that they feel they have to remove all of the special restrictions?

My husband & I have property in that zone & enjoy it as it is, as a rural residential area. I love being able to watch the deer and antelope, and other wildlife, from the kitchen window. We would not appreciate it to be turned into a landfill, anything to do with hazardous waste, large scale commercial/retail, etc.

We would appreciate if you would respect the wishes of those that live in the area and leave it as it is meant to be, a rural residential area.

Thank you,
Glen & Q Curtiss

[Yahoo Mail: Search, Organize, Conquer](#)

From: [Jonett Berg](#)
To: [Phil Gonzalez; County Planning Mail](#)
Subject: Special Zoning District 43
Date: Wednesday, April 8, 2026 2:01:22 PM

Some people who received this message don't often get email from pastorvberg@msn.com. [Learn why this is important](#)

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I am contacting you regarding the proposal to Remove Zoning Restrictions on our Special Zone District 43. I am opposed to removal of the restrictions.

My understanding is that the restrictions that are under consideration for removing are: Casinos, Hazardous Substance or waste disposal or storage, Industrial uses, Landfills, Large scale commercial, large scale retail, machinery storage, mining activity, Mobile Home courts or parks, salvage/ junk yards and truck storage.

All of these things will degrade our property values and should not be allowed. There are many more areas around our valley that would be open or suitable for these types of operations. They do not belong in residential areas.

We already have mining operations, junk/salvage yards, commercial operations and casino near by. We do not need more.

Sincerely,
Jonett Berg,
Homeowner in Zone 43

From: [Kathy Burlinson](#)
To: [Phil Gonzalez](#)
Subject: Special zoning district No. 43
Date: Thursday, April 2, 2026 2:27:39 PM

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My name is Kathy Burlinson and I am a resident in this zoning district. I don't know who is requesting a change in the "Special Restrictions " in our zoning but I am against changing anything. I chose to build and live in this area 30 years ago as it is more of a rural area. I was against the newer Helena Sand and Gravel pit as it is just across the irrigation canal from my home. I do get noise and dust from it. I do not want any casinos, junkyards, or any of the restricted items in the area where I live. I feel a change in the "Special Restrictions " would, in a way, be pushing me from my home. I am emailing in lieu of being at the meeting as I have a scheduled surgery planned. Again, I am hoping the special zoning for our district is not changed.
Sent from my iPhone

From: [Logan Jackson](#)
To: [Phil Gonzalez](#); [County Planning Mail](#)
Subject: Proposed Amendment of Special Zone District #43 Public Comment
Date: Wednesday, April 1, 2026 5:17:09 PM

You don't often get email from kloganjackson@gmail.com. [Learn why this is important](#)

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Good evening,

I live at 3730 Meadowlark Dr, East Helena, MT 59635. I want to make vocal opposition to the proposed amendments. This proposal is antithetical to why we bought our property and are choosing to raise our children here. The suggestion to allow mining, casinos, landfills, hazardous waste storage, mobile home parks, etc, is repugnant and short sided. As mining is mentioned it certainly brings into question the interest of foreign companies that are mining in many areas around our property already. We want to keep this area rural residential. I am going to be traveling and unavailable during your meeting or I would attend in person. Please consider this my public comment and opposition to the proposed amendments. I am available for any follow up questions that may arise 406-603-0750.

Best Regards,
Ken L Jackson

From: [Kim D.](#)
To: [Phil Gonzalez](#)
Subject: Proposed text amendments zoning district 43
Date: Wednesday, April 1, 2026 5:54:01 PM

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Hello,

My name is Kim Dodd and I'm writing to voice my concern about the proposed text amendments in the regulations for special zoning district 43. I grew up in this district and now have the pleasure of also living here as an adult, making me close to a 30 year resident of zoning district 43, including nearly 20 years before it was officially created in 2008.

As such, I am extremely concerned about the possibility of the county removing the special restrictions language and allowing restricted items such as hazardous waste disposal/storage, hazardous substance disposal, industrial uses, landfills and the like in zoning district 43.

Mr. Gonzalez, the quarry may be in the middle of the zone, but the surrounding area is filled with family homes. My children live here. Their friends live here. This is not the place for landfills or wrecking yards, or hazardous substance disposal. And I would like to point out that in the inception of zoning district 43, the entire point of its creation was to "accommodate and protect the use of single family dwelling units and associated agricultural land uses while promoting and preserving the rural-residential atmosphere of the area and enhancing the aesthetic character and property values of the area".

I would argue that removing the district's special restrictions is antithetical to the point of the district itself, and frankly, it's also morally and custodially irresponsible for the county to do so. This change would not benefit the residents of the district in any way. Which leads me to wonder, who exactly wants this? Because my neighbors and I don't.

Thank you for your time,

Kim Dodd

From: [Simon Taylor](#)
To: [Phil Gonzalez](#)
Subject: Amendments District 43 comments
Date: Monday, April 6, 2026 4:53:35 PM

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Dear Mr. Gonzalez and Members of the Planning and Zoning Commission,

I am a resident living near Special Zoning District No. 43, and I am writing to firmly oppose any proposed text amendments that would weaken, loosen, or remove the existing protections within this district.

Let me be direct: this community already lives with the consequences of inadequate industrial oversight. We are in an EPA Superfund site. That is not a statistic — that is my neighborhood, my property, and my family's health. The damage from past mining and industrial activity is ongoing and real. Any regulatory change that makes it easier for industrial uses to take hold here — or harder to remove the ones that shouldn't be here — is unacceptable.

The three sections up for amendment are not minor housekeeping. Non-conforming Structures and Uses, Special Restrictions, and Definitions are the backbone of this district's protections. Loosening non-conforming use rules lets violations persist indefinitely. Softening Special Restrictions removes the teeth that keep industrial activity out. Vague definitions are tools that attorneys and developers use to push projects through that the community never intended to allow.

Beyond the health impact, this affects my property value directly. District 43 was created because residents invested in this area with the expectation that it would remain residential and agricultural. Any rollback of these protections undermines that expectation and the financial investment every homeowner here has made.

I urge the Commission to:

1. Reject any amendment that weakens or removes the prohibition on industrial and mining uses.
2. Tighten — not loosen — non-conforming use rules so incompatible uses are phased out, not locked in.
3. Make definitions more precise and protective, not more open to interpretation.

We are already living with the cost of getting this wrong once. I will not stand by while the regulations that protect us are quietly eroded. I expect the Commission to stand firmly with the residents of this district.

Sincerely,

Simon Taylor
1142 E Lewis St, East Helena, MT 59635

From: [Tim and Dorothy Cail](#)
To: [Phil Gonzalez](#); zoning43@tuta.com; [Tim and Dorothy Cail](#); [Alex Dodd](#)
Subject: Special zoning district no. 43
Date: Thursday, April 2, 2026 2:13:55 PM

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Mr. Gonzalez,

I wish to state my opposition to the rezoning of special zoning district number 43. The removal of the restrictions will greatly endanger quality of life in our residential area. After Helena Sand And Gravel has removed all of the gravel that they can reach above the water table. They now want to store hazardous waste just above the water table, which will endanger the water supply of everyone living to the north of this area. I brought this up years ago when Helena Sand And Gravel originally proposed dumping the contaminated soil overburden back into the pit after they were done. This overburden contains high levels of zinc, arsenic, and lead, and at that time would also endanger our water supply if this was allowed to be done.

Sincerely, Timothy C Cail

Special Zoning District NO. 43: East Helena Valley Robert and Vicky Byrd

April 6, 2026

Subject: Public Comment: Opposition and Request for Clarification on Proposed Amendments to Special Zoning District #43

To: Lewis and Clark County Planning and Zoning Commission and Board of County Commissioners,

I am writing as a resident of the East Helena Valley within Special Zoning District #43 regarding the proposed text amendments currently under consideration.

While I understand these changes have been described as “cleanup,” a review of the draft regulations raises significant concerns about both the intent and the practical impact of the proposed revisions.

Most notably, the proposal removes the entire “Special Restrictions” section, which currently serves as the only explicit prohibition of high impact uses such as casinos, hazardous waste disposal, landfills, industrial uses, and large-scale commercial activity. Eliminating this section introduces uncertainty as to whether these uses remain prohibited, or whether they could be considered allowable through interpretation or conditional use processes.

At the same time, the proposed language expands the ability for non-conforming uses to be enlarged or extended through the Conditional Use Permit (CUP) process. This appears to introduce a pathway for uses that are currently incompatible with the district’s rural-residential character to expand over time.

Given that the stated purpose of Special Zoning District #43 is to “accommodate and protect single-family dwellings and associated agricultural land uses while preserving the rural-residential atmosphere,” these proposed changes raise serious concerns about consistency with that intent.

Accordingly, I respectfully request clear and direct answers to the following:

1. What is the specific policy intent behind removing the “Special Restrictions” section, beyond general “cleanup”?
2. If uses such as casinos, landfills, hazardous waste facilities, and industrial operations are not intended to be allowed, where are they explicitly prohibited under the revised language?
3. Has the County Attorney reviewed whether removal of this section creates ambiguity or potential for unintended interpretation?
4. Who initiated or requested these amendments? Were they brought forward by County staff, elected officials, or in response to a private applicant or proposed development?
5. Have there been any pre-application discussions, development inquiries, or external stakeholders involved that relate to uses previously listed under “Special Restrictions”?

Special Zoning District NO. 43: East Helena Valley Robert and Vicky Byrd

6. How does allowing expansion of non-conforming uses through a Conditional Use Permit align with protecting the rural-residential character of this district?
7. What safeguards exist to prevent incremental expansion of uses that may negatively impact surrounding residential and agricultural properties?
8. Under the proposed regulations, could high-impact uses, such as industrial operations, landfills, or similar uses, be considered through a Conditional Use Permit or other discretionary process?

Residents of this district rely on clear, enforceable zoning protections to maintain the character, safety, and property values of our community. Removing explicit prohibitions while increasing reliance on discretionary approval processes shifts that protection away from residents and introduces avoidable risk and uncertainty.

Transparency is essential in this process. I respectfully request full disclosure of the origin, intent, and potential implications of these changes, including identification of any individual, business, or entity that requested, initiated, or stands to benefit from these amendments, before any recommendation is made. At a minimum, I urge the Commission to pause and not advance these amendments until:

- The legal and practical impacts are clearly defined,
- Residents have a full and transparent understanding of the changes, and
- Explicit protections consistent with the district's purpose are maintained.

Thank you for your consideration and for your service to our community. I look forward to your response.

Sincerely,

Robert Vicky Byrd

Robert and Vicky Byrd
3685 Wildfire Road
East Helena, MT 59635
406-439-3259
vicky@mntnurses.org

From: [wendy jackson](#)
To: [Phil Gonzalez](#)
Subject: Public Comment on Proposed Amendment
Date: Sunday, April 5, 2026 1:41:10 PM

You don't often get email from jacksonw079@gmail.com. [Learn why this is important](#)

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I am writing to express my opposition to the proposed amendment of the Special Zone District #43 East Helena Valley.

The proposed removal of all “special restrictions” in our zoning area would allow mining, casinos, landfills, and other establishments to fundamentally change the character and landscape of our community. I believe this would be to the detriment of the area and its residents. As a homeowner in this area, residing at 3720 Meadowlark Dr, East Helena, MT 59635, I wish to officially state my strong opposition to this proposed amendment.

Sincerely,
Wendy Jackson