City of Helena

CONSOLIDATED HELENA & LEWIS AND CLARK COUNTY PLANNING BOARD AGENDA

June 16, 2020
6:00 p.m.
Helena Civic Center Auditorium (enter at the southern entrance)
340 Neill Avenue Helena, MT

This meeting can also be attended electronically. Electronic participants will be able to see PowerPoint presentations and hear the meeting. Electronic participants will also be able to provide verbal comment to the Planning Board. Electronic participation is available via Zoom at the following Web address: https://zoom.us/j/99177077614

Those without a computer can attend the meeting via telephone with audio only and will also be able to provide verbal comment to the Planning Board by calling any of the telephone numbers listed below and entering the Meeting ID Number 991 7707 7614

+1 669 900 6833
+1 253 215 8782
+1 346 248 7799
+1 929 205 6099
+1 301 715 8592
+1 312 626 6799

Or find your local number at: https://zoom.us/u/abE8vFrHKB

MEETING AGENDA

A. **Establish Quorum**

B. **Introductions**

C. **Public Meeting Ground Rules**

The Planning Board will consider ground rules for their public meetings.

D. **Helena Valley Zoning Regulations and Map**

The Planning Board will consider making a recommendation to the Lewis and Clark Board of County Commissioners on County-initiated zoning regulations and map boundaries for the Helena Valley Planning Area as described and depicted in the Lewis and Clark County Growth Policy Update 2015.

E. **Other Business**

F. **Next scheduled meeting**

G. **Public comment on any public matter within the jurisdiction of the Consolidated City and County Planning Board that is not on the agenda.**

H. **Adjournment**

For additional information on agenda items please contact krutherford@lccountymt.gov or sreinhardt@helenamt.gov

Persons with disabilities requiring accommodations to participate in the County's meetings, services, programs, or activities should contact Emily Lindquist, as soon as possible to allow sufficient time to arrange for the requested accommodation, at any of the following: (406) 447- 8316; TTY Relay Service 1-800-253-4091 or 711; elindquist@lccountymt.gov; 316 N Park, Room 303, Helena, MT 59623.

Persons with disabilities requiring accommodations to participate in the City's meetings, services, programs, or activities should contact the city's ADA Coordinator, Sharon Haugen, as soon as possible to allow sufficient time to arrange for the requested accommodation, at any of the following: Phone: (406) 447- 8490; TTY Relay Service 1-800-253-4091 or 711; Email: citycommunitydevelopment@helenamt.gov; Mailing Address & Physical Location: 316 North Park Avenue, Room 445, Helena, MT 59623.

Community Development and Planning
Lewis and Clark County

316 N. Park Ave. Room 230 Helena, MT 59623
Phone: 406-447-8374 Fax: 406-447-8398
e-mail: planning@lccountymt.gov

STAFF REPORT

Date: June 11, 2020
To: Consolidated City and County Planning Board
From: Greg McNally, Planner III

RE: PUBLIC MEETING GROUND RULES FOR CONSOLIDATED CITY AND COUNTY PLANNING BOARD MEETINGS

Applicant:
Membership of the Consolidated City and County Planning Board

Planning Board Meeting: **Tuesday, June 16, 2020, 6:00 p.m.**

EXECUTIVE SUMMARY:
At prior volunteer board member training events sponsored by the Board of County Commissioners, the concept and value of ground rules for public meetings has been described by the Trainor, Dan Clark, MSU Extension, Local Government Center. Some Planning Board (Board) members have inquired if the City or County have ever utilized ground rules formally and if not, could the Board do so. Ground rules are the general rules for conduct that participants are expected to follow in a public meeting. Including ground rules in agenda materials and/or reciting them at the beginning of meetings will alert all participants (Staff, Board members, and the general public) that they share a role in ensuring that an orderly meeting can occur. Lewis and Clark County Community Development Planning Staff have worked in consultation with the City of Helena Planning Staff to develop ground rules for the Board's consideration.

REQUEST:
Approval of Exhibit A: Consolidated City and County Planning Board Ground Rules for Public Meetings

STAFF RECOMMENDATION:
Approval.

ATTACHMENTS:
Exhibit A: Consolidated City and County Ground Rules for Public Meetings

EXHIBIT A:
Consolidated City and County Planning Board Ground Rules for Public Meetings

Following are the proposed ground rules to be included in all public meeting agendas moving forward:

1. Cell phones should be turned off or silenced.
2. All participants will treat others with dignity, civility, and respect at all times.
3. Private or side conversations should take place outside the meeting room.
4. During the public comment portion of the meeting, the public is encouraged to voice or express comments directly to the Planning Board regarding the agenda item.
5. When speaking, please begin by stating your name and address to the Planning Board.
6. When speaking, if a member of the public has already voiced or expressed a comment that you agree with, you may simply state that you agree with that person's comment instead of restating the full comment.
7. If you wish to speak more than once, you may do so only after all other persons wishing to speak have been heard, and only with the permission of the Chair or a majority of the Board.
8. Public comments made during this meeting will be summarized in the minutes and become a component of the official public record. The minutes will be forwarded to the Board of County Commissioners and the City Commission as applicable.

Community Development and Planning
Lewis and Clark County

316 N. Park Ave. Room 230 Helena, MT 59623
Phone: 406-447-8374 Fax: 406-447-8398
e-mail: planning@lccountymt.gov

STAFF REPORT

Date: June 11, 2020
To: Consolidated City and County Planning Board
From: Greg McNally, Planner III
Peter Italiano, Director

RE: HELENA VALLEY PLANNING AREA PART-2 ZONING REGULATIONS and MAP

Applicant:
Lewis and Clark County

Planning Board Meeting: **Tuesday, June 16, 2020 @ 6p.m.**

EXECUTIVE SUMMARY:

The request before you is the culmination of much work completed by many since the adoption of the 2015 update to the Growth Policy. At the direction of the County Commissioners, Staff has been out in the community meeting with the public and listening to their concerns. Even as the County was in the process of adopting the Part-2 Zoning for Fort Harrison, which culminated in Q1 of 2019, the dialogue about moving forward with a process to bring Part-2 Zoning into the entire Valley had begun. County representatives began getting feedback from organizations and leaders such as the local the Chamber, Realtors, Builders, and Economic Development groups beginning in early 2019. By the summer of 2019, a very robust process of public outreach to garner feedback regarding ways to address the five key issues identified in the 2015 Growth Policy update was then underway.

Looking back to the concept of process, brings one to the County's well written 2015 Growth Policy update. That two-volume strategic visioning policy document is the groundwork for this zoning proposal. Many long hours with high levels of public participation resulted in that 2015 update document. Specifically, the 2015 Growth Policy update identifies five key issues which need further attention in the Valley are as follows: Water, Wastewater, Roads, Flooding, and Fire. This proposal, the County Initiated Part-2 Zoning for the Helena Valley Planning Area (HVPA), is designed to provide the County with additional growth management tools necessary to better address the five key issues into the future.

REQUEST:

Approval of the Resolution (Exhibit-A) for the Recommendation, to the Board of County Commissioners, for the adoption of the regulations and establishment of the zoning districts for the Lewis and Clark County - Helena Valley Planning Area, as set forth in the April 14, 2020 draft (Exhibit-B); along with the proposed minor amendments document (Exhibit-C.)

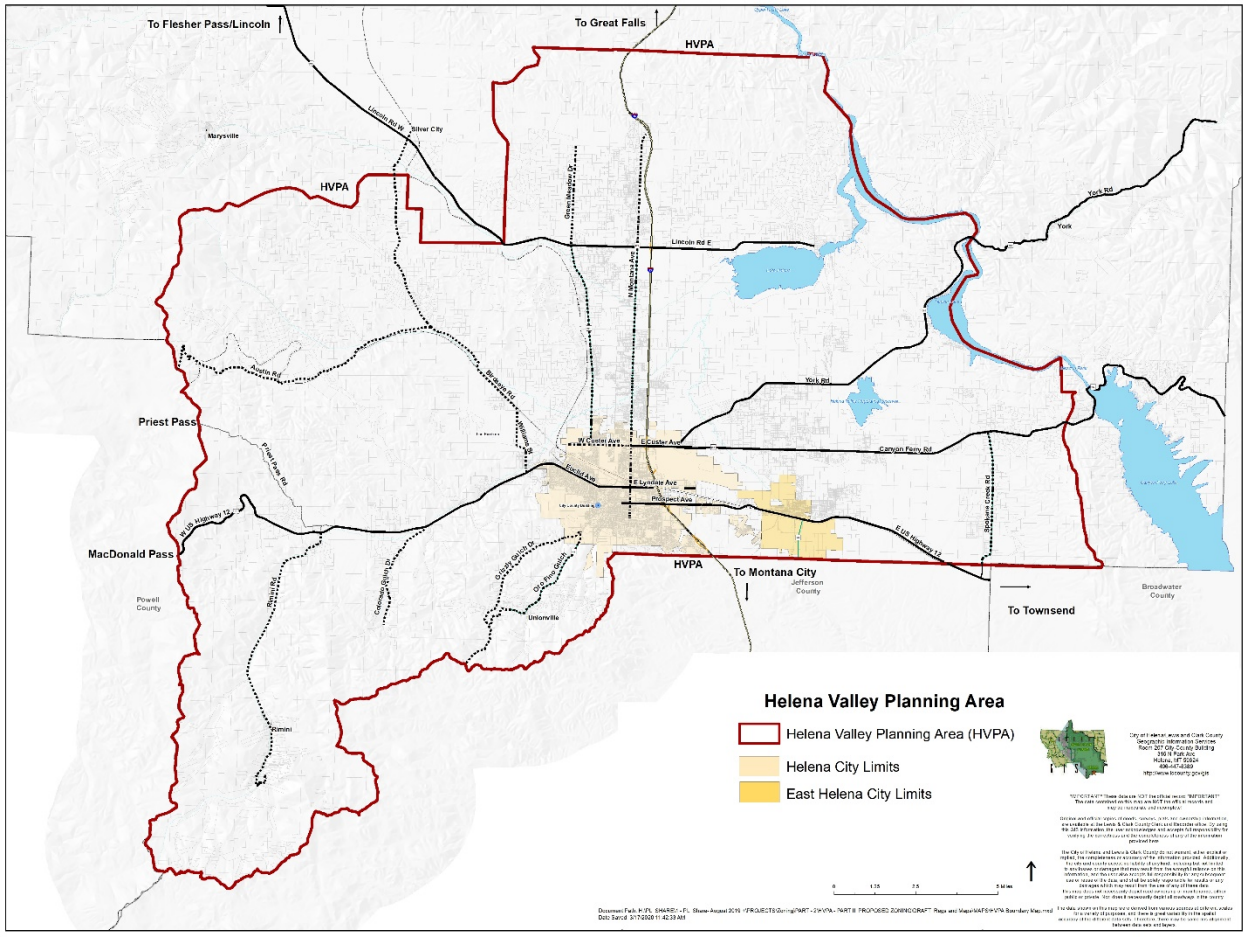
STAFF RECOMMENDATION:

Approval.

LOCATION:

The proposed County Initiated Part-2 Zoning Regulations encompass the vast majority of the Helena Valley Planning Area more or less as identified in the 2015 updated County Growth Policy, see Figure 1, below.

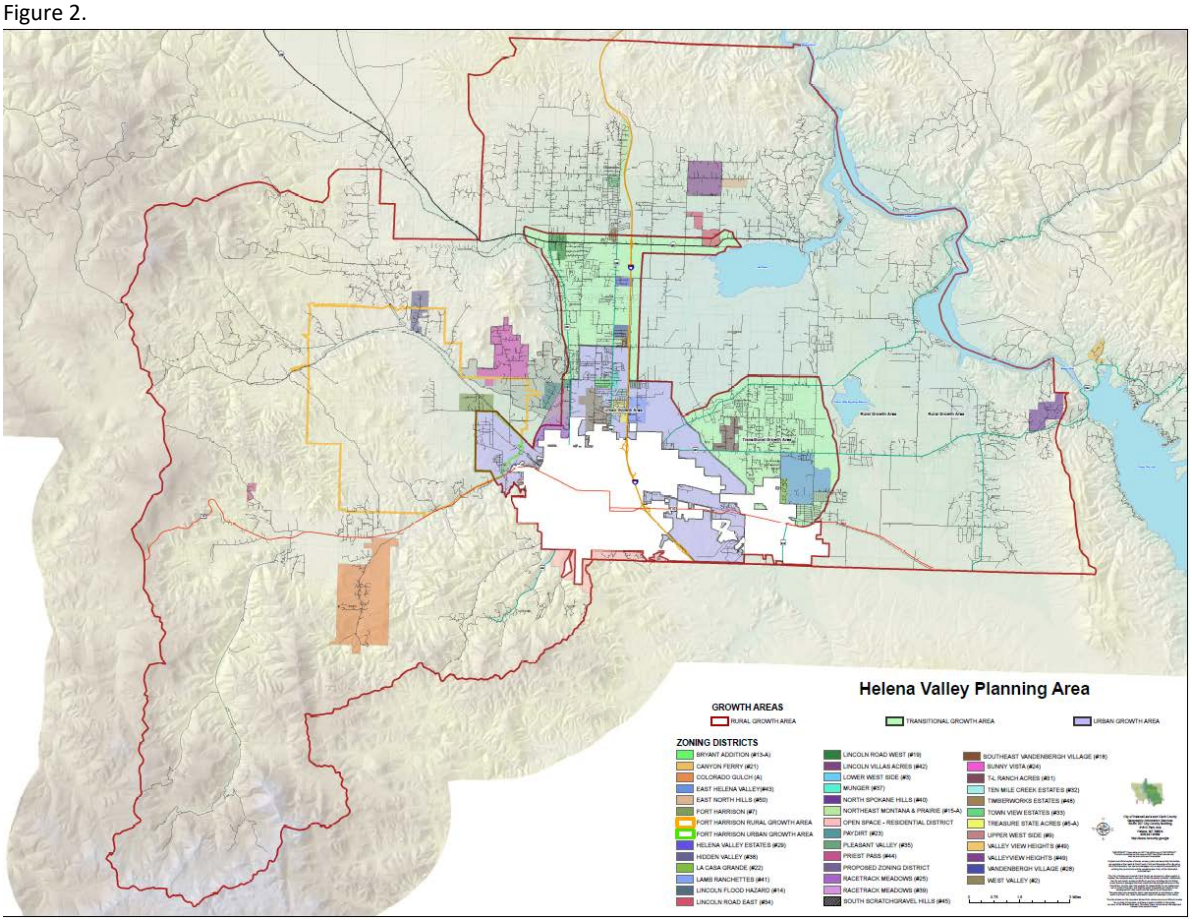
Figure 1.



EXISTING DEVELOPMENT AND USES:

The Helena Valley Planning Area represents a varied area with a mix of private and public lands of approximately 380 square miles. Within the Valley, there exists much land already zoned. Approximately 35 separate areas exist as Part-1 Zoning, along with 2 areas of Part-2 Zoning at and around Fort Harrison. None of those areas will be directly affected by the adoption of these proposed Part-2 regulations. See Figure 2 below for a graphic depiction.

Figure 2.



Adjacent Uses:

North – The area northerly and towards the west is part of the Marysville - Canyon Creek Planning Area. The area northerly more or less proximal to Interstate 15 is part of the Craig - Wolf Creek Planning Area, as depicted in the Growth Policy.

East – The area immediately to the east is part of the Canyon Ferry Planning Area, as depicted in the Growth Policy.

South – The area to the south lies within Jefferson County and is fully zoned with a mix of residential and industrial uses.

West – The area to the west lies within Powell County and is fully zoned with 160 acre minimum parcel sizes.

PROJECT DESCRIPTION:

As set forth in Section, 76-2-201, Montana Code Annotated (MCA) these proposed zoning regulations and districts are for the purpose of promoting public health, safety, morals, and general welfare. Further, these regulations will provide another tool for the County to use in addressing the impacts associated with growth management.

These regulations establish boundaries for the districts, establish minimum lot sizes, list a variety and types of allowable uses; and establish development standards. They also include provisions for administration, appeals, variances and enforcement of the regulations; as set forth in the attached draft documents.

PROPOSED ZONE DISTRICTS:

The following three districts represent the primary land-use zones proposed. As noted within the zoning regulation document, other sections exist, but none are geographically tied to the land as are these three (3) areas.

Rural Residential Mixed-Use.

The purpose of this District is to provide for lower density residential development, along with an opportunity for continued agricultural activities, within the rural areas of the Helena Valley. Also, on a limited basis, to provide areas for non-residential uses in balance with residential development and agricultural activities as an integral part of the community providing essential services and employment opportunities.

Urban development within this district is strongly discouraged. Expansion of urban development into rural areas is a matter of public concern because of the challenges in satisfactorily addressing the impacts associated with the five key issues identified in the Growth Policy. The key issues, (fire, water, wastewater, roads, and flooding) along with the potential for conflicts between agricultural and urban activities support the lower development intensity levels of the Rural Residential Mixed-Use zone district. This district is distinguished by its low density driven by a 10 acre minimum lot size.

Suburban Residential Mixed-Use.

The Suburban Residential Mixed-Use zone districts are coincident with the Transitional Growth Areas (TGAs) identified within the 2015 Growth Policy update. They lie between the Urban Growth Areas, where the availability of public utilities and services will support higher density development. The Rural Growth Areas where the combined development constraints of water availability, poorer road conditions, and rural fire protection require limitation of development density. Because water availability is not a significant constraint in the TGAs, the Suburban

Mixed-Use Districts will support density levels higher than the rural area but lower than the urban areas.

While the boundaries for the Suburban Residential Mixed-Use Zone District(s) have been proposed herein as depicted on the Zoning Map, the detailed regulations will be presented with a future amendment. The target density should be a minimum of 4 units per acre for single family residential uses and higher for multi-family units.

Urban Residential Mixed-Use.
The purpose of this district is to achieve a consistent and well-ordered land use pattern compatible with the adjacent municipalities and at the highest levels of development intensity in the HVPA. As noted in the 2015 Growth Policy update, this area will be compatible with the UGA Density Control Policy 1.1— "Adopt zoning that matches to the greatest extent possible adjacent zoning in the City of Helena and that follows their Growth Policy recommendations for the Urban Standards Boundary." Likewise, while the boundaries for the Urban Residential Mixed-Use Zone District has been proposed herein as depicted on the Zoning Map, the detailed regulations will be presented with a future amendment. The target density should be a minimum of 4 units per acre for single family residential uses and higher for multi-family units.

CRITERIA FOR ESTABLISHING ZONING REGULATIONS:

1. According to Section 76-2-203(1), MCA, zoning regulations must meet the following criteria and guidelines:

(a) made in accordance with the growth policy;
The 2004 Lewis and Clark County Growth Policy identified five areas of the County for additional area-specific planning efforts. The Helena Valley Planning Area (HVPA) was one of these areas. In 2015, Lewis and Clark County updated the Growth Policy with the "Helena Valley Area Plan". This project, the HVPA Part-2 County-Initiated Zoning, falls within the boundaries of this planning area and fully supports the relevant sections of the Growth Policy. As depicted on the Future Land Use Map, the HVPA Part-2 County-Initiated Zoning boundaries are consistent with the Urban Growth Area, Transitional Growth Area, and Rural Growth Area boundaries that were established in the 2015 Growth Policy update.

The regulations of the Rural Residential Mixed-Use District respects the tenets identified in the 2015 Growth Policy update to use lower development density and intensity levels to help ameliorate the infrastructure concerns. It represents the area with the lowest level of development density.

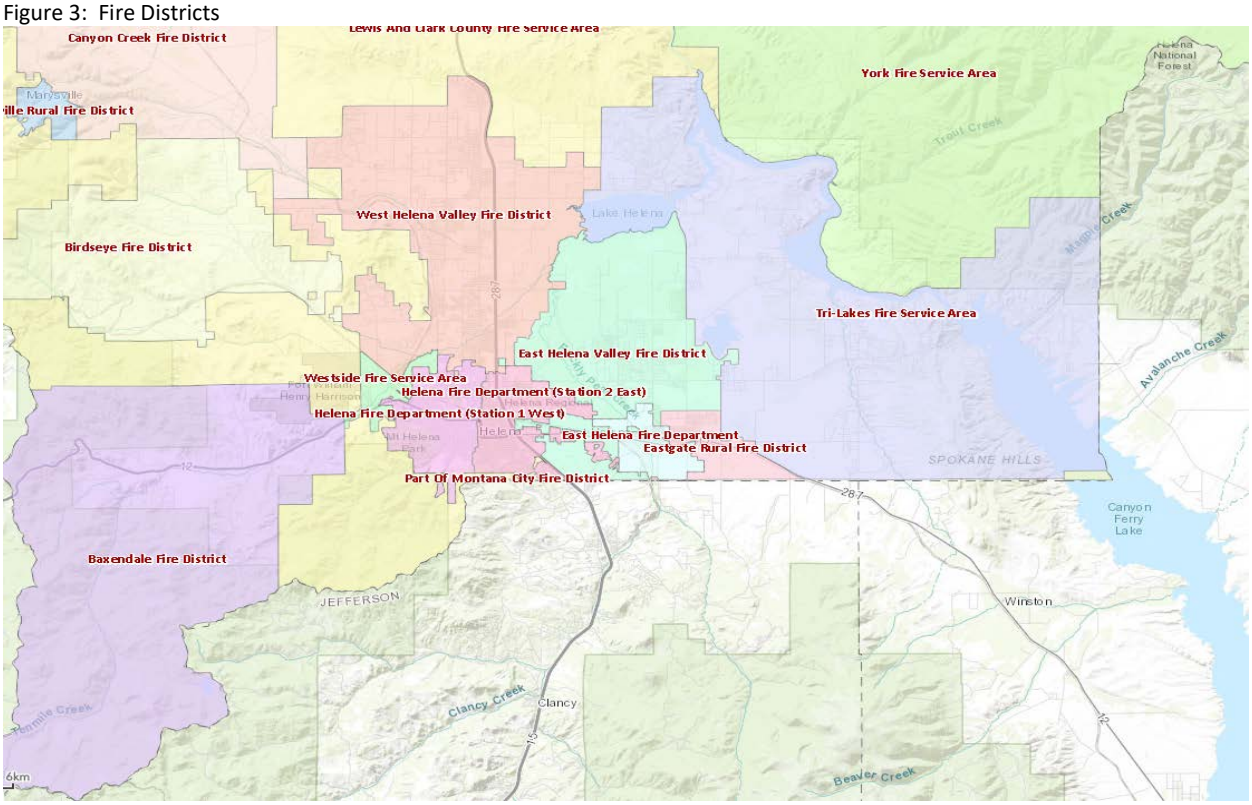
As the regulations are written for both the Urban Mixed-Use District and the Suburban Mixed-Use District, Staff will ensure they are likewise sensitive and compatible with the 2015 Growth Policy update.

(b) (i) secure safety from fire and other dangers;

The area shown on the proposed HVPA Part-2 County-Initiated Zoning map is served by the following fire departments. See Figure 3 below.

- Baxendale Fire District
- Westside FSA
- Birdseye Fire District
- West Helena Valley Fire District
- Lewis and Clark County FSA
- York FSA
- Tri-Lakes FSA
- East Helena Valley Fire District
- Eastgate Rural Fire District
- Helena Fire Department
- East Helena Fire Department
- Part of Montana City Fire District

Figure 3: Fire Districts



The proposed Rural Residential Mixed-Use District would maintain low-density rural development in the area served by the volunteer fire departments and therefore should not increase service calls beyond the capacity of the fire districts. Properties located within the proposed Urban and Suburban Districts are located in areas that are planned for more intense

and higher density development where those fire districts are better equipped to handle that type of development.

(b) (ii) promote public health, public safety, and general welfare; and

The proposal to reduce development intensity levels through low density (i.e. 10 acre lot minimums) will promote the public health, safety and general welfare of the community. With lower density comes lower transportation impacts and less conflicts on the road system, especially in the rural area of the valley where road conditions may be less than optimal. As the regulations are written for the Suburban and Urban districts, Staff will look to the direction in the 2015 Growth Policy update to focus on infrastructure and performance standards as the primary tools to ensure the promotion of the public health, safety and general welfare of the community.

(b) (iii) facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.

In 2009, the City of Helena and Lewis and Clark County adopted a memorandum of understanding (MOU) for extending infrastructure for development. The MOU noted that urban density development with City services is the most efficient use of the land and provides essential services most effectively and at the lowest long-term cost. Following adoption of the MOU, the City updated their Growth Policy and established an Urban Standards Areas boundary on the future land use map. Properties within the boundary were identified as suitable for future connection to City services and potential annexation into the City. According to the MOU, properties within the area would be developed with City standards for water, wastewater, storm water and transportation. The Helena Valley Area Plan established an Urban Growth Area that reflected the boundaries of the City's urban standards area. The proposed Urban Mixed-Use District boundary respects the Urban Growth Area boundaries. The proposed Suburban Mixed-Use District boundary respects the Transitional Growth Area boundaries. As the detailed regulations for both the Urban and Suburban Mixed-Use Districts are written, Staff will ensure consistency with both the MOU and Growth Policy. Properties within the proposed Rural Residential Mixed-Use District will have a minimum lot size of 10 acres and would be served by individual wells and septic systems.

2. According to the Section 76-2-203(2), MCA, In the adoption of zoning regulations, the board of county commissioners shall consider:

(a) reasonable provision of adequate light and air; and

The proposed Rural Residential Mixed-Use District regulations provide for a low level of development intensity vis a vis a minimum parcel size of 10 acres. As such, the effective floor area ratios or lot coverages will be de minimis which will ensure reasonable provision of light and air. As the regulations are written for the Suburban and Urban districts, Staff will look to the direction in the 2015 Growth Policy update to focus on infrastructure and performance standards as the primary tools to ensure the provision of adequate light and air is met.

(b) the effect on motorized and non-motorized transportation systems; and

As noted in the 2015 Growth Policy update, Infrastructure Improvement Policy 2.1 suggests that the County establish the Urban Growth Area (i.e. the Urban Residential Mixed-Use District) as the top priority for funding any road or other transportation improvements (motorized or non-motorized) and partner with the City and State to facilitate those improvements. As the regulations are written for the Urban Residential Mixed-Use districts, Staff will look to the direction in the 2015 Growth Policy update to focus on infrastructure enhancement strategies as the primary tool to ensure future growth has a positive effect on the motorized and non-motorized systems. Likewise, Staff will focus on performance enhancement strategies as the primary tool to ensure future growth, in the Suburban Residential Mixed-Use districts, has a positive effect on the motorized and non-motorized systems. As previously noted, the lower density proposed for the Rural Residential Mixed-Use District will minimize any negative effect of growth on the rural area transportation systems.

(c) compatible urban growth in the vicinity of cities and towns that at a minimum must include the areas around municipalities; and

The City of Helena Growth Policy was adopted in 2011 and is expected to be amended later this month. The proposed Urban and Suburban Residential Mixed-Use Districts both have boundaries which respect the City of Helena's planning efforts. As the detailed regulations for both districts are written, Staff will closely coordinate with the City to ensure compatibility.

(d) the character of the district and its peculiar suitability for particular uses; and

In order to address concerns regarding future development pressures, the Rural Residential Mixed-Use District requires a minimum lot size of 10 acres. This approach to minimized development intensity levels, along with an appropriately designed Conditional Use Permit process, will ensure that future growth is suitable for the particular uses and consistent with the character of the district.

(e) conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area.

The proposed Urban and Suburban Residential Mixed-Use Districts both have boundaries which respect the planning efforts of the municipalities along with a unique mix of infrastructure constraints in the TGA areas. As the detailed regulations for both districts are written, Staff will work with the municipalities and public to help to conserve the value of buildings and encourage the most appropriate use of the land.

The Rural Residential Mixed-Use District boundary is consistent with the Rural Growth Area (RGA) boundary identified in the 2015 Growth Policy update. This district comprises the majority of the land area in the HVPA and will be characterized predominately by the lowest levels of development intensity and low-density residential development and agriculture. The 10-acre minimum lot size is compatible with the RGA and will help to conserve the value of buildings and encourage the most appropriate uses of the land. Some of the constraints identified in the Helena Valley Area Plan which support the low-density development in the RGA follow:

- Modeling has indicated that groundwater levels would be dropping in some parts of the Valley if not for the low-density of development (10-acre lots.)
- Much of the road network of the Helena Valley Planning Area was not designed to accommodate hundreds of new subdivisions with thousands of homes, and there are no resources to rebuild them.
- The current rural fire protection system relies on convoys of volunteer-driven tank trucks with 1500 gallons of water and 10 minutes of firefighting capacity rather than a piped water system with unlimited amounts as is available in the City.
- Areas of high and high-to-extreme fuel hazards represent a constraint to development in the wildland urban interface.

(3) Zoning regulations must, as nearly as possible, be made compatible with the zoning ordinances of nearby municipalities.

The City of Helena Growth Policy was adopted in 2011 and is expected to be amended later this month. The proposed Urban and Suburban Residential Mixed-Use Districts both have boundaries which respect the City of Helena's planning efforts. As the detailed regulations for both districts are written, Staff will closely coordinate with the City to ensure compatibility.

PUBLIC COMMENTS:
A rather voluminous assortment of public comment is attached hereto as Exhibit D, which represents such comment vectors as: telephone contacts, emails, written letters and questionnaire forms, as well as input from the listening sessions.

PUBLIC OUTREACH and NOTICE:
Outreach and Notice efforts far exceeded the requirements of Section 76-2-205, MCA.
In fact, MCA does not specify any sort of outreach, notice, nor the holding of a public hearing for the Consolidated City and County Planning Board. Section 76-2-204 MCA, states as follows: "…Role of planning boards… The board of county commissioners shall require the … city-county planning board to recommend boundaries and appropriate regulations for the various zoning districts. The … city-county planning board shall make written reports of their recommendations to the board of county commissioners…"

As part of the efforts which were far above and beyond anything required, Staff held myriad meetings over many months with a wide array of governmental and non-governmental organizations. Likewise, there were "listening sessions" throughout the Helena Valley specifically located in a geographically diverse manner to afford the citizens maximum ease of participation.

Regarding the noticing of this process, beyond the aforementioned plethora of meetings throughout the Valley, Staff also worked very closely with the County's Communications and

Community Outreach Coordinator to effectuate a very robust level of notice to the public. Such efforts included multiple postings on the County Website and Social Media platforms, Press Releases and on-camera interviews with the local print and televised media. Also, the Board of County Commissioners held two meetings in February of 2020 wherein Staff provided a public status update on this project. Possibly most notable and in recognition of the added challenges due to the COVID-19 pandemic, it was decided to relocate this Planning Board meeting to the Civic Center to maximize safety and public participation. Further exceeding notice requirements, over 13,000 postcards were mailed out throughout the Helena Valley to try and reach everyone directly affected to the maximum extent practicable.

ATTACHMENTS:

Exhibit 1: Resolution of Recommendation

- Exhibit A (to the Resolution): April 14, 2020 Draft Zoning Regulations, which includes the map
- Exhibit B (to the Resolution): June 11, 2020 Draft Amendments to Exhibit-A

Exhibit 2: Public Comment Information

RESOLUTION 2020 - 01

A RESOLUTION OF THE CONSOLIDATED CITY AND COUNTY PLANNING BOARD TO RECOMMEND BOUNDARIES AND APPROPRIATE REGULATIONS FOR THE VARIOUS ZONING DISTRICTS FOR PART-2 COUNTY INITIATED ZONING IN THE HELENA VALLEY

WHEREAS, the Board of County Commissioners (Board) has required that the Consolidated City and County Planning Board (Planning Board) make recommendations regarding County Initiated Part-2 Zoning in the Helena Valley as set forth in Section 76-2-204, MCA; and

WHEREAS, the Planning Board is authorized, as set forth in Section 76-2-204, MCA to make recommendations to the Board; and

WHEREAS, on May 19, 2020 the Planning Board held a public work session regarding the April 14, 2020 draft of the proposed Helena Valley Part-2 regulations; and

WHEREAS, on June 16th, 2020 at the Civic Center in Helena, MT, the Planning Board held a public meeting to take comments from the public specific to the establishment of the proposed Zone Districts and Regulations as presented by County Staff; and

WHEREAS, the Planning Board held additional public meetings, continued over from the aforementioned June 16th meeting, and which additional meetings were held on _____, also in the Civic Center wherein the Planning Board accepted additional public comment; and

WHEREAS, the Planning Board public meetings were also hosted via the ZOOM meeting technology to afford members of the public the opportunity to participate in the public meetings without being physically in attendance during this time of the COVID-19 pandemic; and

WHEREAS, public comment was captured live and displayed during the meetings wherein each speaker was given an opportunity to confirm their comments were accurately portrayed; and

WHEREAS, the draft zoning map of the various districts and the regulations presented at the public meetings of the Planning Board were the same version as uploaded onto the County Website and otherwise made available to the public, and which regulations were dated April 14, 2020 and which map was dated April 13, 2020 (both attached hereto as Exhibit – A); and

WHEREAS, in addition to the above noted regulations dated April 14, 2020, a "strikethrough / underlined" document dated June 11, 2020 (attached hereto as Exhibit – B) depicting some non-substantive revisions to the aforesaid regulation document was also uploaded to the County Website and otherwise made available to the public; and

WHEREAS, the Planning Board had ample time to carefully and thoroughly review and consider the draft zoning regulations, draft map, and Staff proposed revisions thereto prior to the public meetings; and

WHEREAS, the Planning Board has had ample time to carefully and thoroughly review and consider the draft zoning regulations, draft map, and proposed "strikethrough/underline" revisions thereto during the public meetings; and

WHEREAS, the Planning Board has had ample time to carefully and thoroughly review and consider the all public comments and other information obtained through the public meeting process; and

WHEREAS, the Planning Board adopted findings regarding the regulations and zoning districts; and

WHEREAS, the Planning Board took action on a recommendation to the Board regarding the proposed regulations and zoning districts.

NOW THEREFORE BE IT RESOLVED by the Planning Board:

That the Planning Board does hereby recommend to the Lewis and Clark County, MT, Board of County Commissioners the boundaries and regulations for the various zone districts as presented by Staff and which regulations document is dated April 14, 2020, and which map is dated April 13, 2020, along with a "strikethrough / underlined" document dated June 11, 2020 (attached hereto as Exhibit – B) which depicts some non-substantive revisions to the aforesaid regulation document.

PASSED AND APPROVED BY THE PLANNING BOARD on this _____ Day of _____, 2020.

LEWIS AND CLARK COUNTY
CONSOLIDATED CITY AND COUNTY PLANNING BOARD:

_____
Dr. Gregory Thomas, Chair

Attest:

_____
Paulette DeHart, Clerk to the Board

Attachments:

Exhibit-A (April 14, 2020 Draft Helena Valley Zoning Regulations and April 13, 2020 Draft Zoning Map)

Exhibit-B (June 11, 2020 "strikethrough / underlined" revisions document)

EXHIBIT A
ZONING REGULATIONS
HELENA VALLEY

An Implementation Element of the
Lewis and Clark County Growth Policy

DRAFT --- APRIL 14, 2020

Adopted ?????, 2020
RESO 2020-???, Recorded in Book ????, Pages ????

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SECTION 1 ADMINISTRATIVE PROVISIONS AND PROCEDURES

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101 Intent

This document shall be known as the Helena Valley Zoning Regulations and is adopted pursuant to the enabling authority of Title 76, Chapter 2, Part 2, Montana Code Annotated to promote the public health, safety, morals, and general welfare of the community. These regulations have been established for the area known as the "Helena Valley Planning Area" as defined in the Lewis and Clark County Growth Policy Update – 2015, Volume 1 - Key Issues, and Volume 2 -Helena Valley Area Plan (Growth Policy); and as depicted on the map referenced in
Appendix – A.

To achieve the above stated goals, these regulations shall govern, but are not necessarily limited to, such issues as the height and size of buildings and structures, the size of yards and open space, the density of population, and the location and use of buildings, structures and land for trade, industry, residence or other purposes in a manner consistent with the goals and objectives of the Growth Policy.

102 Conflicting Provisions

Whenever a provision of these Regulations, and any other law, ordinance, resolution, rule, Part-2 zoning, or regulation of any kind (other than Part-1 zoning), contain any restriction covering any of the same, or substantially the same, subject matter, whichever restriction is more restrictive or imposes a higher standard or requirement shall govern. However, wherever a Part-1 zone district is overlaid by Part-2 zoning, that Part-2 zoning shall have no effect whatsoever on the area of the Part-1 zoning; until and unless such Part-1 zoning may be repealed.

Unless otherwise specified, references within these Regulations to Lewis and Clark County agreements, plans, codes, ordinances, manuals, and other regulations shall refer to the version most recently approved or amended by the County.

103 Existing Permits, Easements, Development Guides, or Other Approvals

These Regulations are not intended to abrogate, annul, govern, or prevail over any permits, easements or agreements approved prior to the effective date of these Regulations; except as otherwise noted above herein in Section 102.

104 Jurisdiction

These Regulations shall apply to all land (existing or future parcels) within the unincorporated area of Lewis and Clark County, Montana known as the Helena Valley Planning Area and as depicted on the zoning map referenced in these regulations.

105 Fees

The Board of County Commissioners (BoCC) shall establish and adopt a schedule of fees to be paid by the applicant/developer to defray the expenses of the County in the review and hearing of all proposed actions relative to these Regulations.

106 Calculation of Time Period for Public Notice

When calculating the time period for publishing or posting a public notice or providing mailed notice to abutting (and other) landowners of a public hearing, the day of publishing, posting, or mailing will not be counted in the total number of days required. The day of the hearing shall be counted toward the total number of days required for the notification period. References to "days" in public notice requirements are to calendar days unless otherwise expressly stated.

107 Amendment of the Zoning Regulations - Procedure

107.01 Initiating Amendments. An amendment to the text of the regulations or to the designation of zoning districts (the zoning map) may be initiated by the BoCC, the Zoning Administrator, the Planning Board, or one or more residents or landowners within the jurisdictional area of the Regulations. The amendment procedure will be as provided in Section 76-2-205, MCA, and as otherwise set forth herein.

107.02 Application Requirements. When an amendment is proposed by anyone other than the BoCC, Planning Board or Zoning Administrator, the applicant must notify the Zoning Administrator and request a pre-application meeting. At the pre-application meeting, the Zoning Administrator will discuss the necessary information regarding the proposal, the application form and its submittal requirements, fees, timeline, and address any questions regarding the overall petition process to amend the regulations. The Submittal requirements shall include, but not be limited to:

107.02.1 A letter signed by at least one landowner within the jurisdictional area of the proposed amendment;

107.02.2 A scaled vicinity map of the affected area(s) and surrounding 1 mile area, clearly identifying the location of the property (when applicable);

107.02.3 A legal description of the boundaries of the proposed amended map area (when applicable);

107.02.4 A description of the existing land-use of the affected and all adjacent areas (when applicable);

107.02.5 A description of the anticipated impact upon all adjacent properties (when applicable);

107.02.6 Cite any previous request for a zone change or variance involving the parcel, as well as any action taken on previous requests.

107.02.7 A statement from the applicant which addresses the following considerations:

(a) explains how the proposed amendment is in accordance with the Growth Policy;

(b) explains how the proposed amendment is designed to:(i) Secure safety from fire, and other dangers; (ii) Promote public health, public safety, and general welfare; (iii) Facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements; and

(c) explains how the proposed amendment addresses (i) the reasonable provision of adequate light and air; (ii) the effect on motorized and non-motorized transportation systems; (iii) compatible urban growth in the vicinity of cities and towns that at a minimum must include the

areas around municipalities, as applicable; (iv) the character of the district and its peculiar suitability for particular uses; (iv) conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area; and (v) as nearly as possible, is made compatible with the zoning ordinances of nearby municipalities.

107.02.8 Application fee (available from the CDP)

107.03 Determination of Complete Application. The Zoning Administrator shall determine whether the application and supporting materials are complete and sufficient. When an application is determined to be incomplete or insufficient, the Zoning Administrator shall provide written notice to the applicant indicating what information must be submitted for the review to proceed.

107.04 Planning Board Meeting. When the application is determined to be complete and sufficient, the Zoning Administrator shall schedule a public meeting before the Planning Board and provide public notice in accordance with the notice requirements set forth in Section 76-2, MCA.

107.05 Staff Report. The Zoning Administrator shall prepare a staff report that describes the proposed amendment and gives consideration to the amendment criteria set forth in Section 107.

107.06 Planning Board Meeting and Consideration. The Planning Board shall conduct a public meeting on the proposed amendment and, after considering the application, the staff report, public comments, the amendment criteria, these Regulations and all other relevant information, shall make a recommendation to the BoCC. The Planning Board shall provide a written report of its recommendation to the BoCC.

107.07 Board of County Commissioners' Hearing. Following receipt of the Planning Board's Recommendation, the Zoning Administrator shall convey the Planning Board's recommendation and public testimony to the BoCC and the BoCC shall schedule a public hearing and provide public notice in accordance with Section 108. At the hearing, the BoCC shall provide an opportunity for the public to be heard.

107.08 Resolution. After the public hearing, the BoCC and shall give consideration to the application, the staff report, the recommendation from the Planning Board, public comments, the amendment criteria, these Regulations and all other relevant information and may make such revisions or amendments to the proposed amendment as it deems proper. The BoCC may pass a Resolution of Intention to amend these regulations. If the BoCC passes a Resolution of Intention, the BoCC shall publish notice of passage of the Resolution of Intention in accordance with the requirements of Section 76-2-205(5).

107.09 Final Action. Following the 30-day period prescribed in Section 76-2-205(5) and in accordance with the relevant portions therein, the BoCC may, within 30 days thereafter, adopt a resolution amending these Regulations and promptly notify the applicant of its determination.

107.10 Amendment Criteria. For all requests to amend these Regulations, the following criteria and guidelines shall apply:

107.10.1 Zoning amendments shall be made as follows:

(a) In accordance with the Growth Policy;

(b) To secure safety from fire and other danger;

(c) To promote public health, safety and general welfare; and

(d) To facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements.

107.10.2 In reviewing and making recommendations or decisions on zoning amendments, the Zoning Administrator, Planning Board and BoCC shall also consider:

(a) The reasonable provision of adequate light and air;

(b) The effect on motorized and non-motorized transportation systems;

(c) Compatible urban growth in the vicinity of cities and towns that at a minimum must include the areas around municipalities;

(d) The character of the zoning district and its peculiar suitability for particular uses;

(e) Conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area; and

(f) Compatibility with zoning regulations of nearby municipalities.

107.11 Effective Date of Zoning Regulation Amendments
Amendments approved by the BoCC shall become effective immediately upon approval of a resolution of adoption by the BoCC.

108 Public Notice Requirements For Amendments

108.01 Notice Procedure.

108.01.1 For actions to amend the Regulations and/or the Zoning Map pursuant to Section 107, post a notice in at least five (5) public places at least forty-five (45) days prior to a public hearing, in compliance with Section 76-2-205(1), MCA.

108.01.2 Publish a notice once a week for two (2) weeks in a newspaper of general county circulation, with at least six (6) days separating each publication.

108.02 Notice Content.

108.02.1 Public notice shall contain:

(a) A brief statement of the type of application being sought or action being proposed, and for proposed or amendments to zoning regulations the general character of those proposed regulations;

(b) The location of the subject property, or the boundaries of a proposed or amended zoning district;

(c) The date, time, and place of the public hearing or other action; and

(d) A statement that the application or proposed action is on file for public inspection at the Community Development and Planning Office and, for proposals to create or amend a zoning district under Section 107, the application or proposed action shall also be available for review at the Lewis and Clark County Clerk and Recorder office.

109 Violations

If any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or land is used in violation of these Regulations, the County, as set forth in Section 76-2-211 MCA, in addition to other remedies, may institute any appropriate action or proceedings to:

109.01 prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use;

109.02 restrain, correct, or abate a violation;

109.03 prevent the occupancy of the building, structure, or land; or

109.04 prevent any illegal act, conduct, business, or use in or near the premises.

109.05 For the purposes of enforcing the above noted subsections 109.01 – 109.04, the County shall attempt to obtain voluntary compliance at least 30 days before filing a complaint for a violation of this part that is subject to the penalties as noted in Section 110 herein, and in MCA Title 76, Chapter 2, Part 2.

109.06 The BoCC may appoint enforcing officers to supervise and enforce the provisions of the zoning regulations.

110 Penalties

A violation of these regulations is a misdemeanor and shall be punishable by a fine not exceeding $500 or imprisonment in the county jail not exceeding 6 months or both pursuant to Section 76-2-211, MCA. Each day constitutes a separate violation.

111 Zoning Administrator

The Board of County Commissioners shall appoint a Zoning Administrator to administer and enforce the provisions of these Regulations. It shall be the duty of the Zoning Administrator and the Zoning Administrator's designees to:

111.01 Enforce the provisions of these regulations;

111.02 Keep records of all zoning proceedings;
111.03 Accept and process applications and fees in accordance with these Regulations;
111.04 Update the Regulations as approved by the Board of County Commissioners;
111.05 Interpret the Regulations and zoning district boundaries consistent with the intent of the Regulations and statutory authority;
111.06 Issue such permits as may be approved by the Board of County Commissioners, the Board of Adjustment, or otherwise, and ensure compliance with such permits;
111.07 Investigate allegations of non-compliance or violations of these Regulations;
111.08 Make such recommendations to the Planning Board or Board of County Commissioners for amendments to these Regulations; and
111.09 Take such other actions as are needed or appropriate to carry out the terms of these Regulations.

112 Severability

If any portion of these Regulations is held to be invalid or unconstitutional by a court of competent jurisdiction, that portion is to be deemed severed from the Regulations and in no way affects the validity of the remainder of the Regulations.

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SECTION 2 GENERAL REQUIREMENTS AND EXCEPTIONS

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201 Zone Districts

The following zoning districts are hereby established to implement these Regulations:
Urban Residential Mixed-Use Zone District (UR)
Suburban Residential Mixed-Use Zone District (SR)
Rural Residential Mixed-Use Zone District (RR)
Fort Harrison Urban Growth Area Zone District (FHUGA)
Fort Harrison Rural Growth Area Zone District (FHRGA)

202 Overlay Districts

In order to recognize special areas, and to afford flexibility in development design within the Helena Valley Planning Area, the following overlay district is hereby established:

- Planned Unit Development Overlay District (PD)

203 Incorporation of Maps

The location and boundaries of the zone districts hereby established by these Regulations are shown on the "Helena Valley Zone District Map of Lewis and Clark County", hereafter referred to as the Zoning Map, incorporated herein and made a part hereof.

204 Zone District Boundaries

District boundaries are shown on the Zoning Map. However, where uncertainty exists as to the boundaries of a district, the following rules shall apply:

204.01 A boundary indicated as approximately following the center line of a street, highway, streambed, railroad right-of-way, or alley shall be construed to follow such center line.

204.02 A boundary indicated as approximately following the right-of-way or easement line of a street, highway, or alley shall be construed to follow such right-of-way line or easement, and in the event of a change in such R-O-W or easement line the zoning boundary shall be construed as moving with the R-O-W or easement line.

204.03 A boundary indicated as approximately following platted lot lines shall be construed to follow such lot lines.

204.04 A boundary indicated as parallel to or an extension of features indicated in subsections 204.01 - 204.03 above shall be so construed. Distances not specifically indicated on the official Zoning Map shall be determined by the scale of the map.

204.05 Disputes concerning the exact location of any district boundary line shall be decided by the Zoning Administrator.

204.06 All streets, alleys, public ways, waterways and railroad rights-of-way, if not otherwise specifically designated, shall be deemed to be in the same zone / classification area as the property immediately abutting upon such streets, alleys, public ways, waterways and railroad rights-of-way.

204.07 Where the centerline of a street, alley, public way, waterway or railroad right-of-way serves as a district boundary, the zoning/classification of such areas, unless otherwise

specifically designated, shall be deemed to be the same as that of the abutting property up to the centerline.

205 Exclusion of Uses

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.

Uses listed in any particular zone district shall be deemed to be excluded from any other zone district, unless such use is specifically listed in the other zone district.

206 Inclusion of a Use Not Listed

Uses not listed may be interpreted for inclusion in a specific zone district by the Zoning Administrator when such use is reasonably similar to those uses listed.

Uses not specifically listed, or not reasonably similar to those uses listed, or not interpreted for inclusion by the Zoning Administrator, in a specific zone district, may be added to the appropriate zone district upon the approval by the BoCC in accordance with the procedure set forth herein in Section 107.

207 Community Decay and Litter

All land must be in compliance with the Lewis and Clark County *Ordinance to Control Community Decay* (Document No. 3152137), as amended, and *Ordinance No. 2013-01: An Ordinance to Control Litter in Lewis and Clark County and Establishing Procedures for its Enforcement* (Document No. 3247987), as amended, on file with the Lewis and Clark County Clerk and Recorder.

208 Minimum Area

208.01 The area of a lot required for the purpose of complying with the provisions of these Regulations shall not be included as part of the area required for another lot.

208.02 A minimum lot area shall not be required for utility service facilities, telecommunication facilities, or major facilities of a public utility and telecommunication facilities.

208.03 Lots conforming to the minimum lot area requirements of a zone district that are reduced in land area due to land acquisition by a governmental entity shall be considered conforming to the minimum lot area requirements of the specific district for principal uses, accessory uses, conditional uses, and special exception uses, as if its size had not been reduced.

208.04 Lots approved to be created through the exemption process as listed in Section 76-3-207, MCA shall comply with all aspects of these regulations, including but not limited, to lot size.

208.05 Lots approved to be created through the exemption process as listed in Section 76-3-201, MCA shall comply with all aspects of these regulations, however, are exempt from the zone district minimum lot size.

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SECTION 3 DEFINITIONS

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301 Rules of Construction

301.01 The particular controls the general.

301.02 In case of any difference of meaning or implication between the text of this Ordinance and the captions for each section, the text shall control.

301.03 The words "shall", “must”, and “will” are always mandatory, and not merely directory. The word "may" is permissive.

301.04 Words used in the present tense include the future, unless the context clearly indicates the contrary.

301.05 Words used in the singular number include the plural, and words used in the plural number include the singular, unless the context clearly indicates the contrary.

301.06 A "building" or "structure" includes any part thereof. A "building or other structure" includes all other structures of every kind, regardless of similarity to buildings.

301.07 The phrase "used for," includes "arranged for," "designed for," "intended for," "maintained for," and "occupied for."

301.08 The word “lot” includes the words “tract of record” or “parcel”.

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302 Definitions

Unless specifically defined in this section, or otherwise determined by the BoCC, words or phrases used in these regulations shall be interpreted so as to give them the meaning they have in common usage in the English language, and to give these regulations their most reasonable application.

Abandoned: The relinquishment of property, or a cessation of the use of the property, by the owner or lessee without any intention of transferring rights to the property to another owner or of resuming the use of the property.

Abutting: Having a common border with or separated from such a common border by a (public and/or private) right-of-way, alley, or easement (for such features including but not necessarily limited to, streets, railroads, or irrigation canals.) When a common border is simply via a corner-to-corner connection, the subject lot and/or parcel shall be deemed to be abutting, adjacent, or adjoining. *(also see "adjacent" and "adjoining")*

Accessory Structure: A subordinate structure detached from but located on the same lot as the principal structure, the use of which is incidental and accessory to that of the principal structure.

Accessory Use: A use naturally and normally incidental to, subordinate to and devoted exclusively to the principal use.

Adjacent: Having a common border with or separated from such a common border by a (public and/or private) right-of-way, alley, or easement (for such features including but not necessarily limited to, streets, railroads, or irrigation canals.) When a common border is simply via a corner-to-corner connection, the subject lot and/or parcel shall be deemed to be abutting, adjacent, or adjoining. *(also see "adjoining" and "abutting")*

Adjoining: Having a common border with or separated from such a common border by a (public and/or private) right-of-way, alley, or easement (for such features including but not necessarily limited to, streets, railroads, or irrigation canals.) When a common border is simply via a corner-to-corner connection, the subject lot and/or parcel shall be deemed to be abutting, adjacent, or adjoining. *(also see "adjacent" and "abutting")*

Agriculture: For the purposes of these Zoning Regulations, MCA Sections 41-2-103 and 81-8-701, as amended, shall rule.

Agricultural Activities, Youth-Oriented: Special activities oriented toward children and held for educational, instructional, or recreational purposes, including but not necessarily limited to 4-H.

Airport: Any area of land (including buildings and water bodies) designed for the landing, take-off, loading, unloading, or parking, of aircraft (fixed-wing or rotary) for business or commercial purposes and generally

intended for both public and private use, including all necessary facilities for passenger and cargo loading, fixed based operations (FBOs), maintenance and fueling facilities and housing of aircraft.

Airstrip: An area designed for the landing or take-off of aircraft (fixed-wing or rotary) for the benefit of the landowner/lessee and not to be used for commercial purposes. Generally, as a paved, graveled, or dirt surface for a non-FAA sanctioned airport operation.

Alteration: A Change or rearrangement of the structural parts in the existing facilities or an enlargement by extending the sides or increasing the height or depth or moving a building or structure from one location or position to another.

Animal Boarding: See Kennel.

Animal Hospital, Veterinary Clinic: Provides medical care of animals, including office space, medical labs, appurtenant facilities, and enclosures or kennels for animals under the immediate medical care of a veterinarian, including pet clinics, dog and cat hospitals, and animal hospitals.

Animal Shelter: A place that temporarily houses stray animals and may include a crematorium.

Animal Therapeutic Facility: Therapy that involves individuals interacting with animals, most frequently, but not limited to, horses using specially trained therapists that work with the individual and the animal. Such therapy may be beneficial to people with a variety of special needs, including but not limited to, children with autism. Examples are therapeutic horseback riding or hippotherapy.

Animated Sign: A class of signs, utilizing electronic, mechanical, or computer technology (and/or any combination thereof), and with the capability of a changeable display of graphic images or message content. (see Changeable Copy, Digital, Electronic Sign)

Annexation: The process by which land in an unincorporated area becomes part of a nearby municipality.

Applicant: Any person, firm or corporation, or other entity that proposes an application under these regulations; often also referred to as an Authorized Representative.

Approach: The point where a driveway meets a road or where a road intersects another road.

Batch Plant, Concrete, Mortar, or Asphalt: A site, together with its accessory facilities, where sand, gravel, cement and various petroleum derivatives are compounded to manufacture concrete, mortar or asphalt. (not a Temporary Batch Plant)

Bed and Breakfast: A private, owner- or manager-occupied residence that is used as a private residence but in which: 1. breakfast is served and is included in the charge for a guest room; and 2. the number of daily guests served does not exceed 18.

BOA: An appointed board authorized under MCA Title 76, Chapter 2, Part 2 with the authority to hear and decide administrative appeals and variances from the requirements of these regulations.

BoCC: The Board of County Commissioners of Lewis and Clark County; sometimes referred to as the "governing body".

Boarding/Rooming House: A building in which separate sleeping rooms are rented that provide sleeping accommodations for three or more persons on a weekly, semimonthly, monthly, or permanent basis, whether or not meals or central kitchens are provided but without separated cooking facilities or kitchens within each room, and whose occupants do not need professional nursing or personal-care services provided by the facility.

Borrow Site: A site used for the extraction of earthen materials such as sand, gravel, rock, dirt, etc., where the material is removed from the legally described site and characterized by a short-term operation and a limited quantity of earthen material.

Buffer (Waterbody): Buffers for waterbodies are not additional setback distances, but rather the portion of the setback that is designated to remain undisturbed. Buffers are areas where all natural vegetation, rocks, soil, and topography shall be maintained in their original state, or enhanced by the additional planting of native plants. Buffer distances are measured on a horizontal plane.

Buffer Area: An area of land established to separate and protect one type of land use from another, to screen from objectionable noise, smoke or visual impact, or to provide for future public improvements or additional open space.

Building: A structure, including its projections and extensions, constructed for support, shelter, or enclosure of persons, animals, chattels, or property of any kind.

Building Envelope: The designated area of a lot within which a structure(s) can be built and which is depicted or described on a certificate of survey, plat, covenant, deed, or other document filed or recorded with the Lewis and Clark County Clerk and Recorder.

Building Height: The vertical distance above a reference datum measured to the highest point of the coping of a flat roof, the deck line of a mansard roof, and for a pitched or hipped roof, the average height of the highest gable. The reference datum is either of the following, whichever yields a greater height of building:

1. The elevation of the highest adjoining sidewalk or ground surface within a five (5) foot horizontal distance of the exterior wall of the building when such sidewalk or ground surface is not more than ten (10) feet above lowest grade.
2. An elevation ten (10) feet higher than the lowest grade when the sidewalk or ground surface described in Subsection 1 of this definition is more than ten (10) feet above lowest grade.
3. The height of a stepped or terraced building is the maximum height of any segment of the building.

Bulk Requirements: Include, but are not limited to, the standards that regulate the minimum area of a lot, the setback from lot lines for all structures, the maximum height of all structures, and the cumulative permitted lot coverage for all structures.

Camp/Retreat Center: A centrally managed facility that provides full service lodging, dining, or cooking facilities, and on-site recreational activities for overnight guests or members. A camp/retreat center may include an organized program of activities such as hunting, fishing, nature study, arts, Nordic skiing, snowmobiling, boating, rafting, horseback riding, hiking, and/or pack trips. A camp/retreat center may

also include corporate or religious retreats or conference facilities. Activities shall be provided on-site to the extent possible. Adjacent lands and waterways may be used to supplement on-site activities if proper licenses, permits, and/or agreements are obtained.

Campground: A place, publicly or privately owned, used for camping where persons may camp, secure tents, or park individual recreational vehicles for camping and sleeping purposes. (see Recreational Vehicle Park)

Cemetery: A place and/or building, or portion thereof, that is used, or is intended, for the interring / burial of the deceased; and such associated uses including columbarium's, crematories, and mausoleums.

Centralized Wastewater Treatment System: See Wastewater Treatment System, Centralized.

Centralized Water System: See Water System, Centralized.

Certificate of Survey (COS): A drawing of a field survey prepared by a registered land surveyor for the purpose of disclosing facts pertaining to boundary locations and parcel features.

Changeable Copy Sign: A class of signs, utilizing electronic, mechanical, or computer technology (and/or any combination thereof), and with the capability of a changeable display of graphic images or message content. (see Animated, Digital, and Electronic Sign)

Church: See Worship Facility.

Clinic, Dental or Medical: A facility licensed and used for the provision of medical, dental, surgical or mental health care of the sick or injured, but excluding therefrom inpatient and overnight accommodations.

Cluster Development: A grouping of lots designed to concentrate building sites onto a smaller area in order to reduce capital and maintenance costs for infrastructure through the use of concentrated public services and utilities, while allowing other lands to remain undeveloped.

Community Center: A building, or portion thereof, used for short term and intermittent meetings or gatherings of individuals that are generally open to the public for purposes of recreation, sharing information, entertainment, socializing, or similar activities, and includes fraternal, social or civic clubs, lodges, and union halls.

Community Residential Facility:

Community Residential Facility (Type I): A community residential facility serving twelve (12) or fewer individuals.

Community Residential Facility (Type II): A community residential facility serving thirteen (13) or more individuals.
Includes the following:

1. A facility licensed by a governmental agency and providing care on a twenty four (24) hour a day basis and as defined by State law:
    a. A community group home for developmentally, mentally, or severely disabled persons that does not provide skilled or intermediate nursing care.

b. A youth care facility in which substitute care is provided to youth, including youth foster homes, kinship foster homes, youth group homes, youth shelter care facilities, childcare agencies, and transitional living programs, but excluding youth assessment centers.
c. An adult foster family care home.
d. A halfway house operated in accordance with regulations of the Montana department of public health and human services for the rehabilitation of alcoholics or drug dependent persons.
e. An assisted living facility.

2. A maternity home, including administrative offices, services for childcare, counseling, classroom training, independent living training, and support groups.

Conditional Use: A use that may be allowed in a specified zone district(s) if the use meets certain requirements. However, without the additional requirements of the Conditional Use process, it would likely not be appropriate throughout the zoning district.

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

Condominium: A legal form of individual ownership with unrestricted right of disposal of one or more units in a multiple unit project with the land and all other parts of the project held in common ownership or use with owners of the other units. The term does not include a townhome, a townhouse, a community land trust, or a housing unit located on land belonging to a community land trust.

Consolidated City and County Planning Board: (CCCPB), also see “Planning Board”.

Conservation Easement: An easement or restriction, running with the land and assignable, whereby an owner of land voluntarily relinquishes to the holder of such easement or restriction any or all rights to construct improvements upon the land or to substantially alter the natural character of the land or to permit the construction of improvements upon the land or the substantial alteration of the natural character of the land, except as this right is expressly reserved in the instruments evidencing the easement or restriction as defined by Sections 76-6-101 through 76-6-110 and Sections 201 through 212, M.C.A. A conservation easement may also prohibit the further subdivision, division, or development of the open space lots or parcels, as provided for in Sections 70-17- 201 through 70-17-206 and 76-3-509 M.C.A

County: Lewis and Clark County, Montana

Day Care Facility:
A facility which provides daily care and supervision of children or handicapped, disabled, or elderly adults, not related by blood or marriage, and not the legal ward of the attendant adult. A day care facility shall be in compliance with State regulations and, if required by the State, must be registered or licensed.

Adult Day Care: A place that provides supplemental care for up to twelve (12) adults on a regular basis, operated by a public or private entity.

Day Care Center: A place that provides supplemental care for thirteen (13) or more individuals on a regular basis.

Family Day Care: A private residence or other structure in which supplemental care is provided on a regular basis for six (6) or fewer children.

Group Day Care: A private residence or other structure in which supplemental parental care is provided on a regular basis for seven (7) to twelve (12) children.

Density: The number of units per area of measure. For example, the number of dwelling units per acre.

Department: The Lewis and Clark County Community Development and Planning Department (CDP)

Developer: An owner, or any person authorized by the owner, who intends to improve or to construct improvements upon the owner's property.

Digital Sign: A class of signs, utilizing electronic, mechanical, or computer technology (and/or any combination thereof), and with the capability of a changeable display of graphic images or message content. (see Animated, Changeable Copy, and Electronic Sign)

Driveway: An access point onto a road that services a residential or non-residential parcel of land; it is not a street or roadway.

Dwelling Unit: Any building, or portion thereof, designed to provide complete, independent, and permanent living facilities for one family.

Easement: A right to use land, other than as a tenant, for a specific purpose; such right being held by someone other than the owner who holds title to the land. An easement may be for either public or private benefit. An easement is not the same as a setback.

Educational Facility (Higher Education): A place and/or building, or portion thereof, for colleges, universities, community colleges, and vocational schools.

Educational Facility (K-12): A place and/or building, or portion thereof, for pre-schools, elementary, middle/junior high, or high schools, colleges, and vocational schools.

Electronic Sign: A class of signs, utilizing electronic, mechanical, or computer technology (and/or any combination thereof), and with the capability of a changeable display of graphic images or message content. (see Animated, Changeable Copy, and Digital Sign)

Equipment Rental: Rental equipment and supplies, such as hand tools, party equipment, lawn care, yard equipment, trucks, vertical lifts, forklifts, backhoes, heavy equipment, and modular buildings.

Existing Licensed Premises: Licensed premises that were licensed, or which had a pending application before the Montana Department of Revenue, for the retail sale of alcoholic beverages for on-premises consumption prior to the enactment of these zoning regulations and which have continuously operated under said license(s).

Extractive Industries: Operations involving the removal and processing of natural accumulations of sand, rock, soil, gravel, and/or any mineral. The site may also include areas for commercial operations (retail or wholesale) of the sand, rock, soil, gravel, or any mineral.

Family: One or more persons related by blood, marriage, or adoption, and/or a group of persons, not related by blood or marriage, living together as a single housekeeping unit in a dwelling unit.

Funeral Home: A place and/or building, or portion thereof, used or intended for the care and preparation of human dead for burial; the term includes mortuaries and may include a crematorium.

Garage:

Private - A building, or portion thereof, including carports, in which motor vehicles used by the landowners, resident tenants, or their guests, are stored or kept.

Public - A building, or portion thereof, other than a private garage, used for the parking of automobiles; and may include above and below ground structured parking.

General Repair: A place and/or building, or portion thereof, that is used or is intended for the repair of consumer goods such as shoes, bicycles, appliances, business equipment, small engine repair such as lawn mowers and snowblowers, and the like; the term does not include repair of vehicles or industrial equipment.

General Sales: A place and/or building, or portion thereof, that is used or is intended for retail sale of a diverse product line; the term includes grocery stores, warehouse retail outlets, comparison shopping stores, full-line department stores, and the like.

General/Professional Services: A place and/or building, or portion thereof, that is used or is intended for providing professional and personal care services where customers come to the property for the service, including services such as engineering, accounting, legal, architectural, surveying, medical, dental, real estate, insurance, photography, fitness, weight loss, postal, hairstyling, pet grooming, copying and printing, and laundry and dry-cleaning services.

Glare: The sensation produced by a light source that is sufficiently brighter than the level to which the eyes are adapted causing annoyance, discomfort, or loss in visual performance and visibility (disability glare). The magnitude of glare depends on such factors as the size, position, brightness of the source and on the brightness level to which the eyes are adapted.

Greenhouse/plant nursery: A place and/or building, or portion thereof, used for the propagation, cultivation or growing of nursery stock such as flowers, bulbs, plants, trees, shrubs or vines, may include wholesale and retail sales of product propagated, cultivated, or grown.

Gravel Pit: See Extractive Industries.

Grade: The elevation of the finished surface of the ground.

Growth Policy: The Lewis and Clark County Growth Policy, as may be amended from time to time by the Board of County Commissioners.

Health Care Facility: All or a portion of an institution, building, or agency, private or public, excluding federal facilities, whether organized for profit or not, that is used, operated, or designed to provide health services, medical treatment, or nursing, rehabilitative, or preventive care to any individual. The term includes chemical dependency facilities, critical access hospitals, end-stage renal dialysis facilities, home health agencies, home infusion therapy agencies, hospices, hospitals, infirmaries, long-term care facilities, intermediate care facilities for the developmentally disabled, medical assistance facilities, mental health centers, outpatient centers for primary care, outpatient centers for surgical services, rehabilitation facilities, residential care facilities, and residential treatment facilities. (MCA)50-5-101(26)(a).

Heliport: Any area used by helicopters for commercial or business purposes, including landing and take-off, passenger and cargo loading, maintenance and fueling facilities.

Home Occupation: See Section 16.

Hospital: See Health Care Facilities.

Hotel: A building or structure kept, used, maintained as, or advertised as to be a hotel, motel, inn, motor court, tourist court, or public lodging house; and a place where sleeping accommodations are furnished for a fee to transient guests, with or without meals.

Indoor Entertainment, Sports, and Recreation: A place and/or building, or portion thereof, that is used for indoor activities such as movie theaters, dance halls, theaters for performing arts, bowling alleys, skating rinks, billiard and pool halls, arcades, rifle and pistol ranges, athletic clubs, courts and training centers, and gyms.

Industrial Uses: The activities predominantly connected with manufacturing, assembling, processing, or storing of products.

> Industrial, Heavy: The processing or manufacturing of materials or products predominantly from extracted or raw materials; storage of or manufacturing processes using flammable or explosive materials; or storage of or manufacturing processes that potentially involve hazardous or offensive conditions. Typical uses include motor vehicle assembly, oil refineries, textile production, sawmills, post and pole plants, log yards, asphalt and concrete operations, and primary metal processing.
>
> Industrial, Light: The manufacturing of finished products or parts, predominantly from previously prepared materials, including assembly, processing, fabrication, treatment, packaging, incidental storage, sales, and distribution of such products, but excluding basic industrial processing. Typical uses include assembly of computers and electronics, testing and production laboratories, packaging of premade goods, furniture production, metal fabrication, apparel manufacturing, printing, and publishing.

Infrastructure: Public facilities and services that typically include, streets, sewers, water, schools, police and fire buildings, libraries, hospitals, parks, trails, etc. to serve public demand and safety.

Instructional Facility: A place that prepares students for jobs in trades or professions, including vocational schools, or offers training, instruction, or tutelage in areas such as performing arts and sciences.

Kennel: A building, enclosure, or portion of any premises in or at which domesticated animals over the age of six (6) months are boarded, are kept for hire or for sale, or are kept or maintained by any person other than the owners thereof, or a building, enclosure, or portion of any premises in or at which five (5) or more dogs over the age of six (6) months are kept or maintained. (see Animal Boarding)

Landscape: Improvement to an area of land by the planting of a combination of trees, shrubs and ground covers.

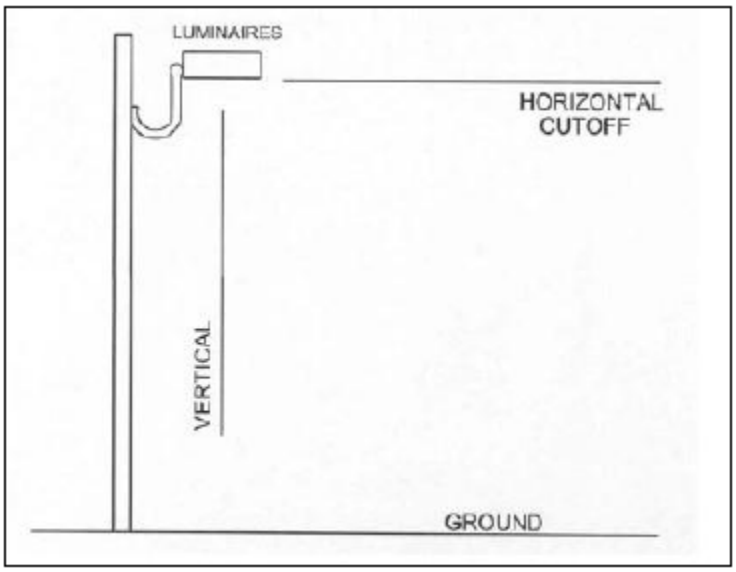
Land Use: As the context would indicate, (1) the development that has occurred on the land; (2) development that is proposed on the land; or (3) the use that is permitted on the land under an adopted and legally enforceable regulatory framework.

Land Use, Accessory: Any land use that is clearly incidental and subordinate to and customarily found with a principal land use.

Land Use, Principal: The dominant land use of a parcel of land.

Light Fixture: A complete lighting unit (luminaire) consisting of a lamp or lamps and ballasting (when applicable) together with the parts designed to distribute the light, to position and protect the lamps, and to connect the lamps to the power supply.

Light Fixture - Full Cutoff: A luminaire light distribution where zero candela intensity occurs at an angle of 90 degrees above nadir, and at all greater angles from nadir.



Light Glare: The sensation produced by a light source that is sufficiently brighter than the ambient lighting level to which the eyes are adapted causing annoyance, discomfort, or loss in visual performance and visibility. The magnitude depends on such factors as the size, position, brightness of the source; and the

brightness of the ambient lighting level, which is generally defined as all available light surrounding a subject sign at any point in time with the subject sign light source extinguished.

Light Pollution: Any adverse effect of manmade light, including but not limited to, light trespass, up-lighting, the distraction to the eye, or any manmade light that diminishes the ability to view the night sky.

Light Source: Artificial light emitted directly from a fixture lamp, lens, or mirror. Light which is reflected after leaving the fixture does not constitute a light source.

Light Trespass: Any form of artificial illumination emanating from a light fixture that penetrates other property and creates a direct glare source that exceeds 0.5-foot-candles in a vertical plane at the subject property line.

Loading Area, off-street: An off-street space generally located at or near a building entrance to allow service pickups and deliveries by commercial vehicles.

Lot: See Tract of Record.

Lot, Corner: A lot at the junction of and fronting on two (2) or more intersecting streets.

Lot, Double-Fronted or Through: A lot having frontage on two (2) more or less parallel streets.

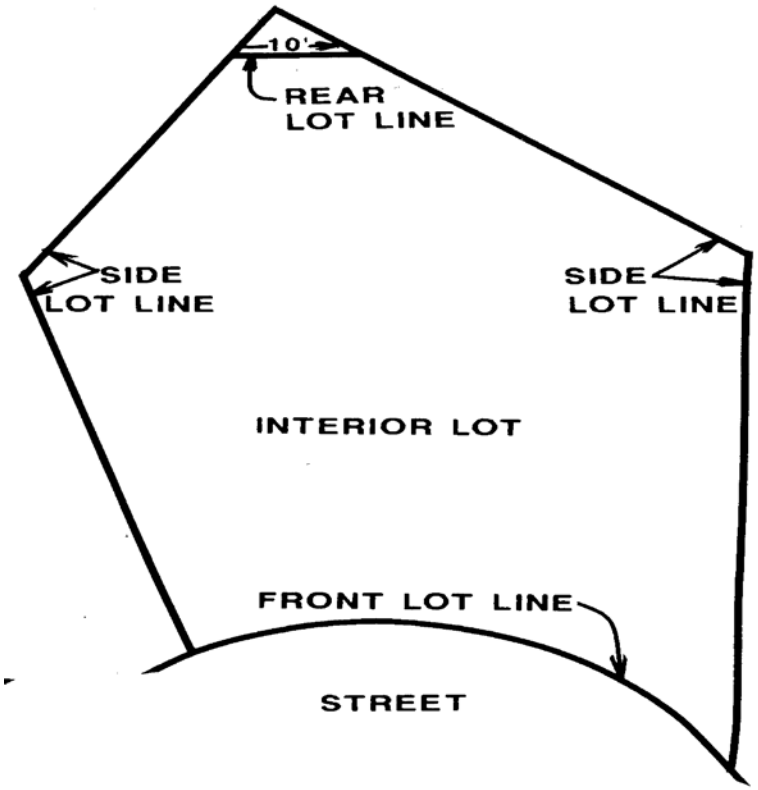
Lot, Flag: A lot with access provided by a narrower corridor from a street to the larger bulk area of the lot.

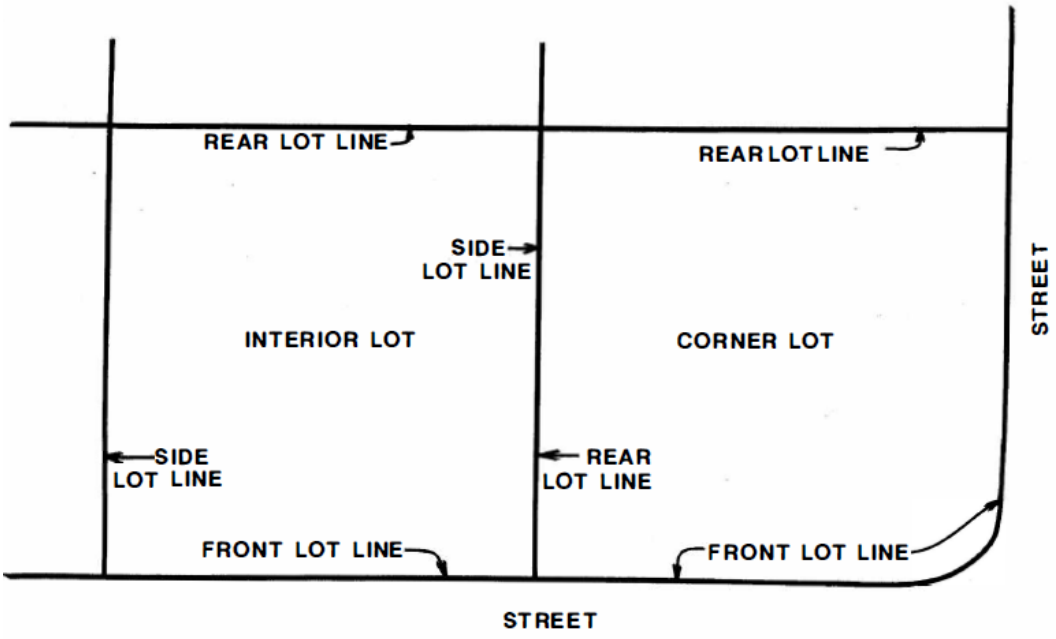
Lot, Interior: A lot that abuts only one (1) street.

Lot Line: Any boundary of a lot. The classification of lot lines are:

> Front: The lot line bounding a lot that is adjacent to any street. On a corner lot or double-fronted lot, each lot line separating the lot from a street is considered a front lot line. (See Lot Line Diagrams)
>
> Rear: The lot line opposite and most distant from the front lot line; however, for corner lots the rear lot line may be any lot line not abutting a street. For triangular, pie-shaped, or irregularly-shaped lots the rear lot line shall be deemed to be a line within the lot having a length of 10-feet, parallel to and most distant from the front lot line for the purpose of determining required setbacks. (See Lot Line Diagrams)
>
> Side: Any property boundary line which is neither a front lot line nor rear lot line. (See Lot Line Diagrams)

Lot Line Diagrams





M.C.A.: Montana Code Annotated or MCA (State of Montana statutes.)

Manufactured Home: A dwelling for a single household, built offsite in a factory on or after January 1, 1990, that is placed on a permanent foundation, is at least 1,000 square feet in size, has a pitched roof and siding and roofing materials that are customarily, as defined by local regulations, used on site-built homes, and is in compliance with the applicable prevailing standards of the United States department of housing and urban development at the time of its production. A manufactured home does not include a mobile home or housetrailer, as defined in Section 15-1-101, MCA.

Manufactured/Mobile/Modular Housing Sales: The on-site display and sale of mobile homes, modular homes, and manufactured housing.

Medical Marijuana Dispensary: Premises, approved by the Montana Department of Health and Human Services, from which a provider of marijuana infused products dispenses marijuana related products to a registered medical marijuana cardholder.

Medical Marijuana Grow Operation: An enterprise or facility engaged in growing medical marijuana for commercial purposes.

Medical Marijuana Provider: A person licensed by the Montana Department of Health and Human Services to assist a registered cardholder as allowed under Montana Code Annotated. The term does not include the cardholder's treating physician or referral physician. (MCA)50-46-302 (18).

Metes and Bounds: A method of describing or locating real property; metes are measures of length and bounds are boundaries; this description starts with a well-marked point of beginning and follows the boundaries of the land until it returns once more to the point of beginning

Mini-Storage Facility: See Storage Facility, Self-Service.

Mobile Home: Forms of housing known as "trailers", "housetrailers", or "trailer coaches" exceeding 8 feet in width or 45 feet in length, designed to be moved from one place to another by an independent power connected to them, or any trailer, housetrailer, or trailer coach up to 8 feet in width or 45 feet in length used as a principal residence.

Mobile Home Park: A parcel of land that has been planned and improved for the placement of mobile and/or manufactured homes for residential use.

Mobile Home Space: The designated portion of a mobile home park designed for the accommodation of one mobile or manufactured home, and its accessory structure(s) for the exclusive use of the occupants.

Modular Home: A sectional, pre-fabricated dwelling unit residence set on a permanent foundation on the subject parcel, that consists of multiple modules or sections which are manufactured in a remote facility. A modular home does not include a manufactured or mobile home.

Motel: See Hotel.

Motor Vehicle Graveyard: A collection point, established by a County, for junk motor vehicles prior to their disposal. (75-10-501(7), MCA)

Motor Vehicle Wrecking Facility: A facility buying, selling, or dealing in four or more vehicles a year, of a type required to be licensed, for the purpose of wrecking, dismantling, disassembling, or substantially changing the form of the motor vehicle; or a facility that buys or sells component parts, in whole or in part, and deals in secondhand motor vehicle parts. A facility that buys or sells component parts of a motor vehicle, in whole or in part, is a motor vehicle wrecking facility whether or not the buying or selling price is based upon weight or any other type of classification.(MCA)75-10-501(8) (a).

Noise Level (Ambient): The average equivalent sound level (LEQ) occurring during a six-minute period as measured with a sound level measuring instrument. The ambient noise level shall be determined with the noise source at issue silent, and in the same location and approximate time as the measurement of the noise level of the source at issue.

Non-Residential Use: Any use not requiring or providing facilities for individuals to live on the premises including uses of property or land containing or suitable for agricultural, commercial, recreational, or industrial purposes rather than private dwellings.

Noxious Weed: Any exotic plant species established or that may be introduced in the state which may render land unfit for agriculture, forestry, livestock, wildlife or other beneficial uses or that may harm native plant communities and that is designated by the Montana Department of Agriculture or by a weed management district.

Ordinary High Water Mark: The line that water impresses on land by covering it for sufficient periods to cause physical characteristics that distinguish the area below the line from the area above it. Characteristics of the area below the line may include, but not be limited to, the deprivation of the soil of substantially all terrestrial vegetation and destruction of its agricultural value. A flood plain adjacent to surface waters is not considered to lie within the surface water's high water marks.

Outbuilding: An accessory building or accessory portion of a principal or conditionally permitted building(s) to be used only for the shelter or storage of vehicles or other personal property owned or operated by the landowner.

Outdoor Sports and Recreation: A place and/or structure, or portion thereof, that is used or is intended for outdoor entertainment of all types; the term includes swimming pools, tennis courts, golf courses, golf driving ranges, paintball fields, firearms ranges, archery ranges, and the like.

Outdoor Entertainment: Leisure activities, usually organized and enjoyed with a gathering of others that may use equipment and take place at prescribed places, sites, or fields for outdoor spectator type uses or events, including, but not limited to, racetracks, motocross courses, sports arenas, concerts, and zoos.

Owner of Record: The person or persons who are listed in the official County records as the legal owners of a tract of record.

Parcel: See Tract of Record.

Parent Parcel: The original tract or tracts of record from which new parcels are created.

Park: A place and/or building, or portion thereof, that is used or is intended for recreational activities for use by the general public; the term includes developed and undeveloped areas and neighborhood recreation centers.

Parking Lot: An open area, other than a public right-of-way, used for off-street parking of motor vehicles.

Parking Space, Off-Street: A space located off of any travel right-of-way / easement that is available for parking a motor vehicle.

Permitted Use: Any use authorized alone or in conjunction with another use under a specified zoning classification and subject to the limitations of the regulations of such classification. (see Principal Use)

Person: Any individual, corporation, governmental agency, business trust, estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal entity.

Planned Unit Development: A tract of land developed as an integrated unit. The Planned Unit Development (PUD) is often also referred to simply as a Planned Development (PD.) They are unique and based upon a plan which allows for flexibility of design, setting, and density not otherwise possible under the prevailing zone district regulations.

Planning Board: The Consolidated City and County Planning Board, created pursuant to MCA Title 76, Chapter 1, Part 1.

Plat: A graphical representation of a subdivision; and includes, but is not limited to the terms, Preliminary, Amended, and Final, as all such terms are more particularly defined within MCA and the most current adopted Subdivision Regulations of Lewis and Clark County, Montana.

Principal Building: A building in which the primary use of the lot/parcel on which the building is located is conducted.

Principal Use: The dominant, main, or primary use of a parcel of land. (see Permitted Use.)

Propane Distribution/Storage Facility: Any facility where the primary function is to store liquid petroleum gas prior to further distribution, where liquid petroleum gas is received by cargo tank motor vehicle, railroad tank car, or pipeline, and distributed by portable container delivery, by cargo tank motor vehicle, or through gas piping.

Public Facilities: Infrastructure and associated improvements including water facilities, wastewater facilities, fire protection facilities, law enforcement facilities, parks and streets.

Public Services: Services and facilities provided to the general community by government or quasi-public entities. Examples include roads and bridges, emergency services, schools and libraries, water and wastewater treatment systems, and solid waste disposal.

Recreational Vehicle (RV): A vehicular type unit primarily designed as temporary living quarters for recreation, camping, or travel use that either has its own motor power or is mounted on or towed by

another vehicle; and which can be operated independently of utility connections and designed to be used principally as a temporary dwelling for travel, recreation and vacation. The term includes, but is not limited to, travel trailers, camping trailers, truck campers, and motor homes.

Recreational Vehicle Park: See Campground.

Recreational Vehicle Space: A designated portion of a recreational vehicle park designed for the placement of a single recreational vehicle.

Recycling Facility: A place and/or building, or portion thereof, that is used or is intended for collecting and/or processing recoverable materials prior to shipment to others who use those materials to manufacture new products; typical types of recoverable materials include glass, newspaper, metal, and plastic; the term shall not include a junk yard.

Registered Architect: An individual licensed to practice architecture in Montana.

Registered Professional Land Surveyor: An individual licensed to practice surveying in Montana.

Registered Professional Engineer: An individual licensed to practice engineering in Montana.

Regulation: That which is required, unless an explicit exception is made.

Regulations: The Lewis and Clark County Helena Valley Zoning Regulations.

Renewable Energy Facility: A site, together with its accessory facilities, where energy is generated using renewable resources. Such site may include but are not limited to solar farms, wind turbines, or geothermal facilities.

Research and Development Facility: A place and/or building, or portion thereof, that is intended to be used in the research and testing activities associated with discovering new or improved products, methods, processes, or services.

Residence:

> Single-Dwelling Unit Residence: A single building situated on one lot that contains one dwelling unit for residential occupancy by one family.
>
> Two-Dwelling Unit Residence: A single building situated on one lot that contains two (2) dwelling units for occupancy by two (2) families living separately from each other, also known as a Duplex-Dwelling Unit Residence, or two buildings situated on one lot that each contain one dwelling unit for occupancy by one family.
>
> Multiple-Dwelling Unit Residence: A single building containing three (3) or more dwelling units for occupancy by three (3) or more families living separately from each other.

Residential Use: Any use of a residence by its occupants as a regular and consistent place of abode, which is made one's home as opposed to one's place of business and which has housekeeping and cooking facilities for its occupants only.

Restaurant: A place and/or building, or portion thereof, that is used or is intended for the preparation and sale of food and beverages primarily for immediate consumption on the premises, and where consumption of beer, wine, or other liquors, if any, is clearly secondary and subordinate to the sale of food and beverages; the term does not include a grocery store with a food service section.

Retail: An establishment where the principal use is the selling or renting of goods or merchandise to the general public for personal or household consumption, and rendering of services incidental to the sale of such goods.

Rezoning: A revision of the Helena Valley Zone District Map.

Right-of-Way: That land which the Montana Department of Transportation, County or City has title to, or right of use, for public roads and appurtenances, including utilities; a strip of land dedicated or acquired for public use as public way.

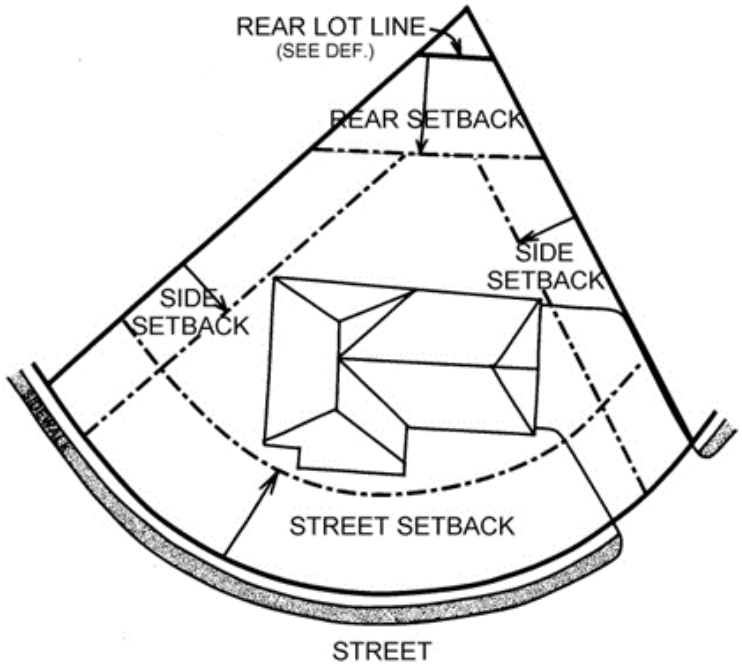
Riparian Area: Defined by the University of Montana's Riparian and Wetland Research Program as the "green zone" which lies between channels of flowing water and uplands, and which serves several functions, including the following: water storage and aquifer recharge; filtering of chemical and organic wastes; sediment trapping; bank building and maintenance; flow energy dissipation; and primary biotic production. Riparian areas provide important habitat for many species of wildlife.

Satellite Earth Station: A telecommunication facility consisting of multiple satellite dishes for transmitting and receiving signals from orbiting satellites.

School: See Education Facility (Higher Education/K-12)

Setback: The required minimum horizontal distance between the location of structures or uses and the related front, side, or rear lot line measured perpendicular to such lot line; except when adjacent to the right-of-way, the measurement shall be from the closest right-of-way line.

> Front: A setback (sometimes called a Street Setback) extending across the full width of the lot and parallel to the right-of-way line, measured perpendicular to the right-of-way line.
>
> Rear: A setback extending across the full width of the lot and parallel to the rear lot line, measured perpendicular to the rear lot line; except that on pie shaped lots, a chord is to be drawn at a length of 10' in order to establish the rear lot line for the purpose of setback measurement as shown in the image below.
>
> Side: A setback extending from the front lot line to the rear setback and parallel to the side lot line, measured perpendicular to the side lot line.



Setback (Waterbody): The distance measured on a horizontal plane from the ordinary high-water mark within which the structures and uses listed below are not allowed.

1. Any type of structure related to residential, commercial, and industrial uses;
2. Manufactured and prefabricated structures;
3. Septic tanks and septic tank drainfields;
4. Barns, feed lots, and corrals;
5. Communication towers; and
6. Road, road rights-of-way and driveways that are within the setback and buffer area and are parallel to the watercourse.

Staff: Lewis and Clark County employees with a role in reviewing or administering the provisions contained herein.

State: The State of Montana.

Storage Facility, Self-Service: A place and/or building, or portion thereof, which is divided into individual spaces and is used or is intended as individual storage units that are rented, leased, or owned; the term includes a tract of land used to store vehicles that are not for sale or trade. Also known as mini-storage or mini- warehousing. An on-site manager/caretaker may reside at the facility.

Structure: Any permanent or temporary object that is constructed, installed or placed by man, the use of which requires a location on a parcel of land; it includes buildings of all types, bridges, in-stream structures, wholesale business tanks, fences, decks, swimming pools, towers, poles, pipelines, transmission lines, smokestacks, signs and other similar objects.

Subdivision: A division of land or land so divided that it creates one or more parcels containing less than 160 acres that cannot be described as a one-quarter aliquot part of a United States government section,

exclusive of public roadways, in order that the title to the parcels may be sold or otherwise transferred and includes any re-subdivision and a condominium. The term also means an area, regardless of its size, that provides or will provide multiple spaces for rent or lease on which recreational camping vehicles or mobile homes will be placed.

Subject land: Real property which is the subject of the regulations set forth herein.

Surveyor: See Registered Professional Land Surveyor.

Telecommunications Facility: A facility and all elements thereof, including but not limited to support towers, antennas, and accessory equipment buildings, that together facilitate communication by the electronic transmission of telephone, radio, television, internet, wireless, or microwave impulses of an FCC licensed carrier, but excluding those used exclusively for private radio and television reception, private citizen's band, amateur radio communications.

Townhome: Property that is owned subject to an arrangement under which persons own their own units and hold separate title to the land beneath their units, but under which they may jointly own the common areas and facilities. Also referred to as townhouse.

Tract of Record: An individual parcel of land, irrespective of ownership, that can be identified by legal description, independent of any other parcel of land, using documents on file in the records of the County Clerk and Recorder's office. (See Lot and Parcel)

Utility Sites: Parcels of land and necessary improvements specifically designed and used to provide a public or quasi-public service, subject to special governmental regulations. Such services would typically include, but are not limited to, water tanks, electrical substations, gas pipelines, and communications facilities.

Vehicle Fuel Sales: Retail sale of gasoline, kerosene, diesel, or other motor fuels, including accessory sale of convenience foods and goods, light maintenance activities, and minor repairs.

Vehicle Repair: A place for maintenance, service, and repair of vehicles, including tires, transmissions and brakes, bodywork and painting, upholstery, engine repair, and overhauls.

Vehicle Sales and Rental: Buying, selling, exchanging, selling on consignment, renting, or leasing of new or used vehicles, including snowmobiles, motorcycles, all-terrain vehicles, recreational vehicles, trailers, and watercraft.

Wastewater Treatment System, Centralized: A shared, multi-user, public, or municipal wastewater treatment system.

Wastewater Treatment System, Individual: Any form of wastewater treatment system that serves or is intended to serve one service connection.

Water System, Centralized: A shared, multi-user, public, or municipal water system.

Water System, Individual: Any form of water system that serves that serves or is intended to serve one service connection.

Wind Energy Conversion System: Any mechanism including blades, rotors or other moving surfaces designed for the purpose of converting wind energy into mechanical or electrical power. Towers, tower bases, guy wires and any other structures necessary for the installation of small wind energy conversion systems are also included.

Worship Facility: A building designed and used for public worship by a religious body, group, sect, or organization, but not including church residences and private schools.

Zoning Administrator: The Director of the Lewis and Clark County Community Development and Planning Department (CDP) unless another person is appointed by the Board of County Commissioners.

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SECTION 7 Rural Residential Mixed-Use (RR)

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701 Intent

To provide for lower density residential development within the rural areas of the Helena Valley; along with an opportunity for continued agricultural activities. Also, on a limited basis, to provide areas for non-residential uses in balance with residential development and agricultural activities as an integral part of the community providing essential services and employment opportunities. Non-residential development within this district should be permitted in compact centers rather than in extended strips of development along roadways to provide for orderly development, minimized traffic congestion, and to provide for safe pedestrian movement.

Urban development within this district is strongly discouraged. Expansion of urban development into rural areas is a matter of public concern because of the challenges in satisfactorily addressing the impacts associated with the five key issues identified in the Growth Policy. Those key issues, fire, water, wastewater, roads, and flooding; along with the potential for conflicts between agricultural and urban activities support the lower development intensity levels of the Rural Residential Mixed-Use zone district. Development or use of land in this district is permitted only in accordance with the provisions herein.

702 Principal Uses

Only one principal use is allowed on each parcel. The following principal uses are allowable in the Rural Residential Mixed-Use District:

702.01 Agriculture

702.02 Apiculture

702.03 Community Residential Facility – Type-I

702.04 Community uses:

- Education Facility
- Library
- Open space/trails
- Park
- Public Facilities (without outdoor training)

702.05 Day-care Facility

702.05.01 Adult Daycare

702.05.02 Family Daycare

702.05.03 Group Daycare

702.06 Forestry

702.07 Horticulture

702.08 Residence

- A single dwelling unit residence per parcel
- A two – dwelling unit residence per parcel

702.09 Septic Waste and Domestic Sludge Application

702.10 Silviculture

702.11 Telecommunication facility

702.12 Temporary Use

702.13 Utility Site

702.14 Worship Facility

703 Accessory Uses

Each permitted accessory use shall be customarily incidental to the principal use established on the same parcel; be subordinate to and serve such principal use; be subordinate in area, extent, and purpose to such principal use; and contribute to the comfort, convenience, or necessity of users of such principal use.

The following uses shall be allowed only when a principal use has already been established on the parcel:

703.01 Accessory Uses and Buildings
703.02 Home occupations, in compliance with Section 16, of these Regulations.
703.03 Temporary Uses, in compliance with Section 15 of these Regulations.

704 Conditional Uses

The following uses are permitted, upon approval of a Conditional Use Permit by the BoCC, in accordance with Section 14, of these Regulations:

704.01 Airstrip
704.02 Aircraft hangars when in association with properties within or adjoining an airstrip
704.03 Animal hospital, veterinary clinic
704.04 Batch Plant (concrete, mortar, or asphalt; not including temporary batch plants)
704.05 Bank/financial institution
704.06 Bar/lounge
704.07 Bed and breakfast establishment.
704.08 Building materials - wholesale/retail
704.09 Camp and retreat center
704.10 Cemetery
704.11 Community Residential Facility, Type-II
704.12 Contractor's storage yard
704.13 Daycare Center
704.14 Equipment rental
704.15 Extractive Industries
704.16 Funeral Home
704.17 General/Professional Services
704.18 General Repair
704.19 Greenhouse/plant nursery
704.18 Health Care Facility
704.19 Heliport
704.20 Hotel (including conference or convention facilities)
704.21 Industrial (must not emit unusual or excessive amounts of dust, smoke, fumes, gas, noxious odors, or noise beyond the parcel boundary)
704.22 Indoor Entertainment, Sports, and Recreation
704.23 Jail/Correctional Facility
704.24 Kennel
704.25 Medical Marijuana Dispensary
704.26 Medical Marijuana Grow Operation
704.27 Medical Marijuana Provider
704.28 Motor Vehicle Graveyard
704.29 Motor Vehicle Wrecking Facility
704.30 Motorized vehicle/equipment - service/repair and incidental sales

704.31 Outdoor Sports and Recreation
704.32 Outdoor Entertainment
704.33 Parking lot - public or private
704.34 Propane distribution/storage facility
704.35 Public Facilities (with outdoor training)
704.36 Recycling facility/solid waste transfer facility
704.37 Renewable Energy Facilities
704.38 Research and development facility
704.39 Residence
- Multiple – Dwelling Unit Residence per parcel

704.40 Restaurant
704.41 Retail
704.42 Satellite Earth Station
704.43 Storage Facility, Self Service
704.44 Vehicle Fuel Sales
704.45 Vehicle Repair
704.46 Vehicle Sales and Rental
704.47 Warehouse
704.48 Water/Wastewater Treatment Facility

705 Special Exception Uses

The following uses are allowed in addition to an established principal use, an accessory use, or conditional uses:

705.01 Agricultural
705.02 Apiculture
705.03 Community Residential Facility – Type-1
705.04 Day Care Facility
705.05 Forestry
705.06 Horticulture
705.07 Silviculture
705.08 Telecommunication facility

706 Minimum Lot Area

The minimum parcel size shall be 10.0 Acres. However, in order to permit creative and environmentally sensitive site design, smaller parcel sizes may be permitted through the use of a Cluster Design as detailed below.

706.01 Cluster Lot Design

The purpose of this section is to encourage alternative design techniques that efficiently make use of land and water resources; protect environmentally sensitive areas, natural features and soils of agricultural importance; and promote cost savings in infrastructure development and maintenance. Clustering development allows for the creation of lots smaller than the minimum lot sizes established in these regulations, with the balance of the property maintained in open space.

706.01.1 The minimum size of parcels to be developed is the effective minimum size allowable under the Administrative Rules of Montana adopted by the Montana Department of Environmental Quality under Title 76, Chapter 4, MCA.

706.01.2 Apart from any parcel that will remain as undeveloped open space, the maximum size of each parcel to be developed in a cluster development is two (2) acres.

706.01.3 To reduce the potential for groundwater depletion due to the concentration of wells, the maximum number of parcels to be developed in a cluster development is ten (10). Additional non-clustered lots can be included in a subdivision plan for a cluster development to achieve the maximum density allowed under the Rural Residential Mixed-Use District as shown in Figure 1.

706.01.4 The minimum amount of land preserved in a cluster development is equal to the base density of ten (10) acres per parcel, minus the area in new lots planned for development. For example, an 80-acre parcel can be divided into eight (8) lots (80 acres ÷ a base density of 10 acres per lot).

In the 80 acre example below in figure 1, each of the 8 cluster lots is one acre in size as allowed under DEQ rules for water and wastewater. The 9th parcel, 72 acres in size, is to be preserved as open space and/or a resource use(s). Under this development scenario, approximately 90 percent of the parcel is maintained in open space, and the need for road construction is minimized

The 160 acre example below in figure 1, shows a second example of development of a 160-acre parcel. A 160-acre parcel of land can be divided into sixteen lots planned for development (160 acres ÷ a base density of 10 acres per lot). Each of the ten cluster lots (the maximum number of cluster lots allowed) planned for development is two acres in size. An added six non-clustered lots of 10 acres each are allowed on the parcel being subdivided to achieve the full development potential of the quarter section of land. The 17th parcel, 80 acres in size, is to be preserved as open space and/or a resource use(s). Under this development scenario, approximately half of the parcel is maintained in open space, and the need for road construction is minimized.

Numerous other combinations and configurations are possible so long as they comply with the provisions for cluster development and the density restrictions.

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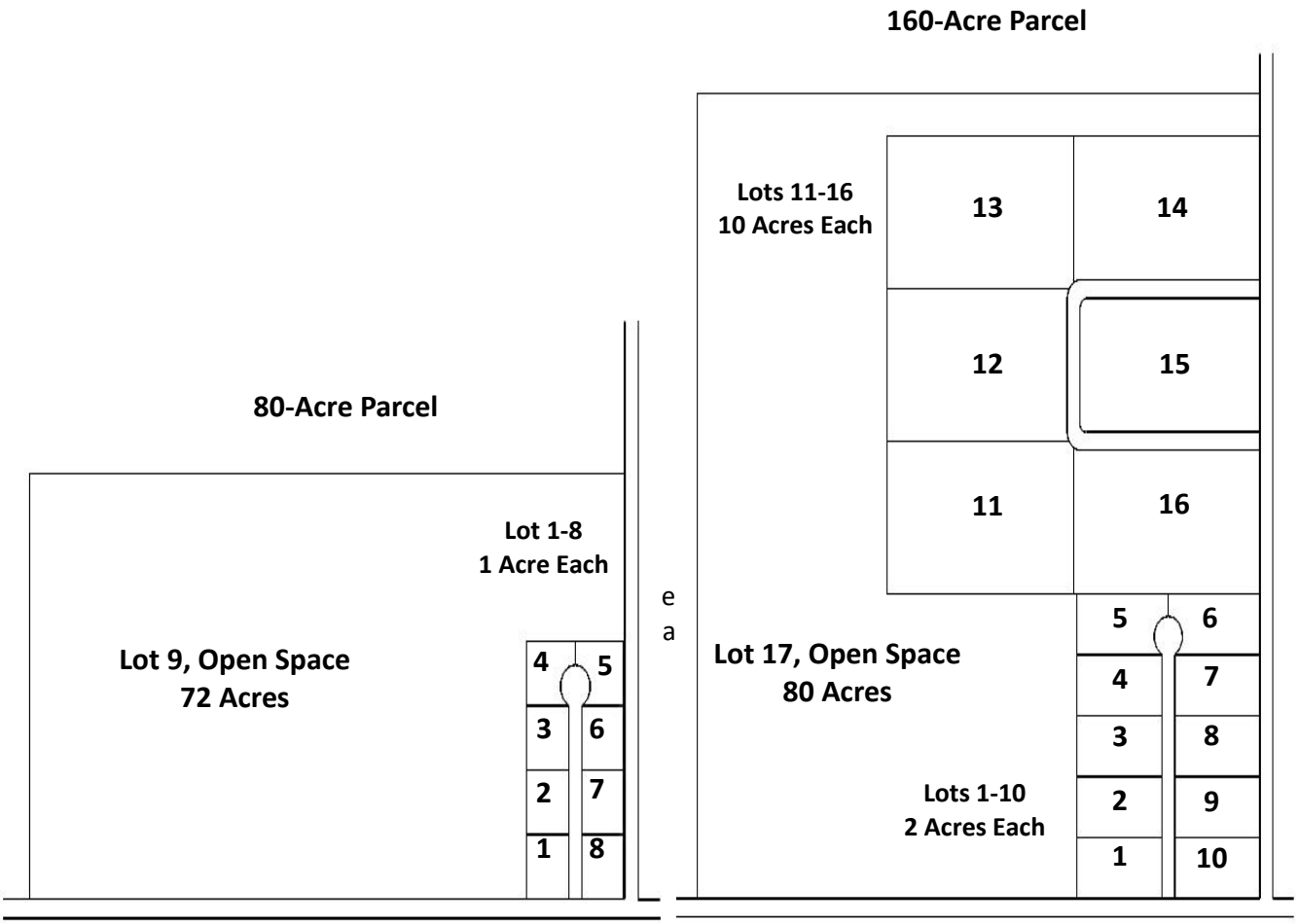

Figure 1 – Alternative layouts for clustered development (for illustrative purposes only, as many other scenarios are possible.)

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706.02 Open Space Standards

The land preserved in open space and/or a resource use(s) must:

706.02.1 Be maintained on a long-term basis through a irrevocable covenant prohibiting further subdivision, division, or development of the open space and/or resource use parcel. Revocation of said covenant requires approval by the Lewis and Clark County Board of Commissioners (BoCC). Revocations may be considered if zoning and/or development constraint conditions no longer require density to be limited on the subject property;

706.02.2 Be accessible via a road and/or trail easement filed with the Lewis and Clark County Clerk and Recorder's office;

706.02.3 Be identified on a final subdivision plat or certificate of survey (COS) (for exemptions from subdivision). The Final Plat or COS shall include a notation as to the official recordation location of the revocable covenant;

706.02.4 Include a plan for ongoing use and maintenance as open space and/or a resource use(s) that includes provisions to manage vegetation and noxious weeds, and that may be amended by the BoCC in consultation with parties owning title to the land;

706.02.5 When present, include environmentally sensitive areas such as wetlands, streams, floodplains or riparian areas; agricultural soils (prime farmland); wildlife habitat; rare, threatened or sensitive plants; and scenic resources such as hillsides or forested areas; and,

706.02.6 Be located adjacent to the one or more lots to be developed.

707 Maximum Gross Density

The gross density shall not exceed 1 Parcel per 10 Acres.

708 Minimum Setbacks

708.01 Principal Use: (also apply to Special Exception Uses)

Front: 25 feet.
Side: 25 feet.
Rear: 25 feet.

708.02 Accessory Use:

Front: 25 feet.
Side: 15 feet.
Rear: 15 feet.

708.03 Conditional Use:

Same as Principal unless otherwise defined with the CUP

708.04 Waterbody Setbacks and Buffers:
Protection of surface water resources can be accomplished through setback and buffer zones to encourage development away from critical water resources.

708.04.1 Applicability and Water Course Descriptions
Setbacks and buffers are horizontal distances from the ordinary high water mark, and are designated as follows:

Water Course Designation	Setback	Buffer
Type I	250 feet	100 feet
Type II	200 feet	75 feet
Type III	100 feet	50 feet
Type IV	50 feet	no buffer

Setback and buffer areas are applicable from the boundaries of wetlands identified by the County, the Army Corps of Engineers, DEQ, U.S. Fish and Wildlife Services, DNRC or FWP. Setback and buffers areas from wetland boundaries may not contain structures and improvements, except for those for educational or scientific purposes.

For the purposes of this section, water courses subject to these regulations shall include the following:

a. Parcels within 250 feet of the ordinary high water mark of type I water courses. This is defined as the Missouri River (excluding the reservoirs).
b. Parcels within 200 feet of the ordinary high water mark of type II water courses, generally defined as all main tributaries of type I water courses.
c. Parcels within 100 feet of the ordinary high water mark of type III water courses, generally defined as all tributaries of type II water courses; all intermittent streams; Missouri River Reservoirs; Lake Helena; Helena Valley Regulating Reservoir; and wetlands (as defined by the current edition of the Federal Manual for Identifying and Delineating Wetlands).
d. Parcels within 50 feet of type IV water-courses, which for these purposes are considered the Helena Valley Irrigation District canals, Prickly Pear Water Users canals, and ditches or canals specifically designed to specifically carry irrigation water.

708.04.2 Structures and uses prohibited under the setback and buffer standards include the following:

a. any type of building and accessory structure related to residential and non-residential uses;
b. manufactured and prefabricated buildings or accessory structures;
c. septic tanks and septic tank drain fields;
d. barns, feed lots, and corrals;
e. communication towers; and
f. roads, road easements, road rights-of-way and driveways that are within the setback and buffer area and are parallel to the watercourse.

708.04.3 All setbacks must extend to the edge of adjacent wetlands and the 100-year floodplain, if designated. In cases where identified wetlands or the 100-year flood plain extend beyond the setback, the setback width will be extended accordingly.

708.04.4 The buffer is required on 75% of the linear footage along the affected water bodies. The maximum lineal footage allowed as part of this 25% is 100 feet. Docks, walkways, lawns or other improvements not otherwise prohibited by these regulations are allowed on the remaining 25% of the footage. Property owners are encouraged, however, to keep the entire shoreline in a natural state.

708.04.5 Equipment and infrastructure directly related to agricultural production (e.g., pumps, irrigation equipment, hay storage and harvesting facilities, canals, and storage sheds less than 150 square feet in floor area and under 10 feet in height) are exempt from the setback and buffer requirements.

708.04.6 Structures and infrastructure related to water-related recreation such as docks, boat ramps, fishing access sites, and boat houses are exempt from the setback and buffer requirements (providing they are in the 25% of linear frontage area open to such development).

708.04.7 Fencing is exempt from the setback and buffer requirements.

708.04.8 Public trails along a stream, river, lake, or wetland may be constructed within the required buffer zones, provided they are solely for non-motorized use, and subject to the following provisions:

a. trails shall not be constructed within 15 feet of the ordinary high water mark of a stream, river, lake, or wetland. Existing trails inside this zone will be considered to be a legal, non-conforming use;
b. construction of trails shall follow the natural topography to the maximum extent feasible to prevent excessive cut and fill; and
c. natural vegetation shall be retained to the maximum extent possible.

708.04.9 Nothing in this Waterbody Setbacks and Buffers section shall prohibit repairs or improvements to existing roads, ditches, utilities or utility lines, bank maintenance, or stream stabilization/enhancement measures otherwise allowable under federal or state laws. The following uses or activities are authorized to occur within the setback and buffer area:

a. a utility line;
b. roads, road easements, road rights-of-way and driveways that are perpendicular to the watercourse and within the setback are permitted;
c. an outlet for stormwater facilities;
d. an agricultural use or activity that is not a new agricultural building or addition to an existing building;
e. an existing legal, non-conforming structure, use, or activity;
f. an activity that is required in an approved noxious weed control plan; and/or

g. an activity related to the planting of native vegetation.

708.04.10 Routine maintenance of existing dwellings or accessory structures would be allowed inside the setback. Expansions or improvements of up to 50% of the total square footage of the dwelling or accessory structure are permitted, provided they do not encroach any further into the setback, and meet other applicable regulations.

709 Encroachments (Setbacks)

709.01 Utility distribution lines and related equipment may be located within a required setback.

709.02 Fences and walls are not allowed in the front setback.

710 Building Height

Maximum building height: 35 feet

The maximum building height shall not apply to belfries, cupolas, penthouses or domes not used for human occupancy, roof-mounted church spires, chimneys, skylights, ventilators, water tanks, silos, parapet walls, cornices, antennas, utility poles and necessary mechanical appurtenances usually carried above the roof level.

710.01 The height of an antenna shall be no greater than the distance to the nearest lot line.

711 Street Standards

Construction of streets shall be in accordance with the Lewis and Clark County, Montana Public Works Manual.

712 Parking Standards

All non-residential parking requirements shall be as established in the Institute of Transportation Engineers (ITE) parking standards established in that document entitled "Parking Generation Manual, 5th Edition, 2019" or as otherwise set forth herein. All calculations are rounded up to the nearest whole number. The following minimum number of off-street parking spaces shall be provided under this zoning district:

712.01 Community Residential Facility (Type I): 2 spaces for each 1,000 square feet of gross floor area.

712.02 Educational Facility (K-12): 1 space for each 3 employees, plus 5 spaces.

712.03 Educational Facility (Higher Education): 0.19 spaces per student.

712.04 Day Care Facility: 1 space for every 2 employees, plus 2 additional parking spaces, plus 1 loading space for every 8 clients.

712.05 Public Facility: 4 spaces per 1,000 square feet of gross floor space.

712.06 Funeral Home; Worship Facility: 1 space for every 4 seats.

712.07 Vehicle Fuel Sales: 1 space for each 2 employees, excluding spaces to serve the gas pumps.

712.08 Bank Financial Institution (Walk-in Only): 0.63 spaces per 1,000 square feet of gross floor area.

712.09 Bank Financial Institution (Walk-in with Drive-up): 4.23 spaces per 1,000 square feet of gross floor area.

712.10 Health Care Center; Animal Hospital; Veterinary Clinic: 4.11 spaces per 1,000 square feet of gross floor area.

712.11 Administrative Government Agency; Bus Terminal (if operated by a Government Agency); Public Safety Facility: 3.84 spaces per 1,000 square feet of gross floor area.

712.12 Crematorium; General Repair; Light Industrial; Vehicle Repair; Vehicle Services: 1.59 spaces per 1,000 square feet of gross floor area.

712.13 Vehicle Sales and Rental: 2.1 spaces per 1,000 square feet of gross floor area.

712.14 Equipment Rental: 2.1 spaces per 1,000 square feet of gross floor area.

712.15 Hotel: 0.89 spaces per room

712.16 Indoor/Outdoor Entertainment, Sports, and Recreation; Outdoor Concerts and Theatrical Performances: 0.26 spaces per seat.

712.17 Specialized Food Production; Artisan Shop (with Production and Manufacturing): 1.59
s paces per 1,000 square feet of gross floor area.

712.18 Community Residential Facility (Type II): 1 space for each 3 dwelling units.

712.19 Residence: 2 spaces for each residential dwelling unit.

712.20 Kennel or Other Animal-Related Services; General/Professional Services; General Retail Sales: 4.1 spaces per 1,000 square feet of gross floor area.

712.21 Bed and Breakfast; Camping and Retreat Center: 1 space for each room for rent, plus 2 additional spaces if a portion of the building is used as a single dwelling unit residence.

712.22 Other Uses: For any other use not specifically mentioned or provided for in this Section, the Zoning Administrator shall determine the standards to be applied for parking, using as a guide the listed use which most closely resembles the use proposed.

713 Lighting Standards

It is the purpose and intent of these regulations to encourage lighting practices and systems that will minimize light pollution, glare, and light trespass, while maintaining nighttime safety, utility, and security.

713.01 Residential Outdoor Lighting

All exterior light fixtures shall be of a full-cutoff design; except as otherwise permitted

below.

713.02 Commercial Outdoor Lighting
All light fixtures shall be of a full-cutoff design. Light fixtures attached to a pole may not exceed a height of thirty-four (34) feet from the ground to the bottom of the fixture. Any existing fixtures out of compliance with this regulation shall be brought into conformance at the time of the replacement of the pole or fixture.

713.03 Feature Lighting
Monuments, natural terrestrial features, and buildings may be illuminated by upward directed light, providing that the light beam is narrowly focused so as not to exceed the width and height upon the object being illuminated; and the light is directed on the feature being lit and not directly upwards.

713.04 Signs
Illuminated signs shall be illuminated in such a manner that the light therefrom shall shine only on the sign or on the property on which it is located and shall not shine onto any other property, in any direction, except by indirect reflection.

713.05 Communication Towers
Lighting for towers and structures shall comply with the minimum mandates contained in the appropriate Federal Communications Commission (FCC) or Federal Aviation Administration (FAA) regulations or other State requirements. The more restrictive requirements shall apply in the event of a conflict between the regulations.

713.06 Exemptions

713.06.1 Fixtures producing two thousand eight hundred fifty (2,850) average lumens (equivalent of a 150-watt incandescent bulb) or less.

713.06.2 American Flag illumination

713.06.3 Temporary Construction Sites
Lighting for nighttime security, provided the owner submits a lighting mitigation plan for approval that includes the duration, number, location, and height of each light source, and hours of operation.

713.06.4 Seasonal Lighting
Seasonal lighting used for the celebration of commonly acknowledged holidays and special events.

713.06.5 Emergency Lighting
Lights used during emergencies or by police, fire, public works and/or public utility personnel in their official duties are exempt from these regulations.

713.07 Prohibited Lighting
The following types of lights are prohibited within the Rural Residential Mixed-Use Zone District.

713.07.1 The installation of any mercury vapor light fixture, lamp or replacement bulb for use as an outdoor light. Lighting that could be confused for a traffic control

device.

713.07.2 Lighting designed for the creation of sky glow to attract attention (whether stationary or moving), in excess of the lighting used to provide safety, security, and utility.

713.07.3 When projected above a horizontal plane, beacons, laser source lights, strobe lights, or any similar high intensity light used for promotional or entertainment purposes.

713.07.4 Any lamp or bulb when not within a luminaire and which is visible from the property boundary line of the parcel on which it is located, except for landscape ornamental lighting with total per source level not exceeding an average of 2,850 lumens.

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SECTION 8 Suburban Residential Mixed-Use (SR)

The Suburban Residential Mixed-Use Zone District is hereby adopted.
Its boundaries are as depicted on the Zoning Map. Detailed regulations to be adopted with a future amendment.

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SECTION 9 Urban Residential Mixed-Use (UR)

The Urban Residential Mixed-Use Zone District is hereby adopted.
Its boundaries are as depicted on the Zoning Map. Detailed regulations to be adopted with a future amendment.

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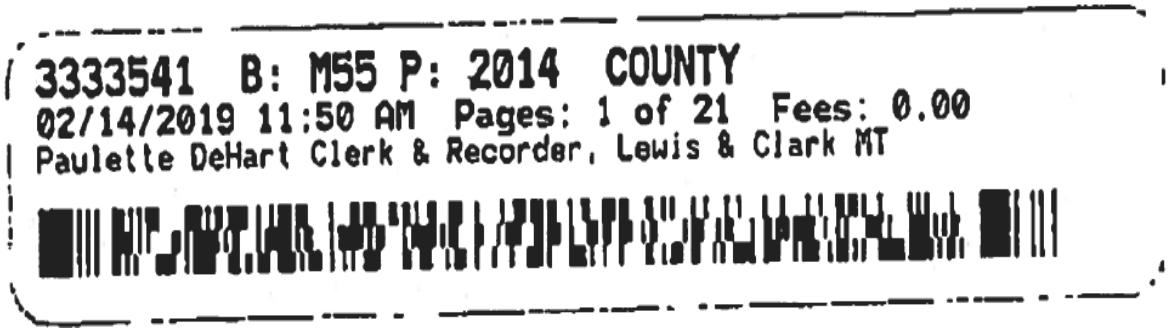
SECTION 10 Fort Harrison Rural Growth Area District (FHRGA)

The Fort Harrison Rural Growth Area Zone District was previously approved, and its regulations can be found at Resolution 2019-20 recorded with the Lewis and Clark County Clerk and Recorder at document number 3333541 (see below.)

Nothing contained within these Helena Valley Zoning Regulations apply to the existing Fort Harrison Rural Growth Area District regulations, and vice versa.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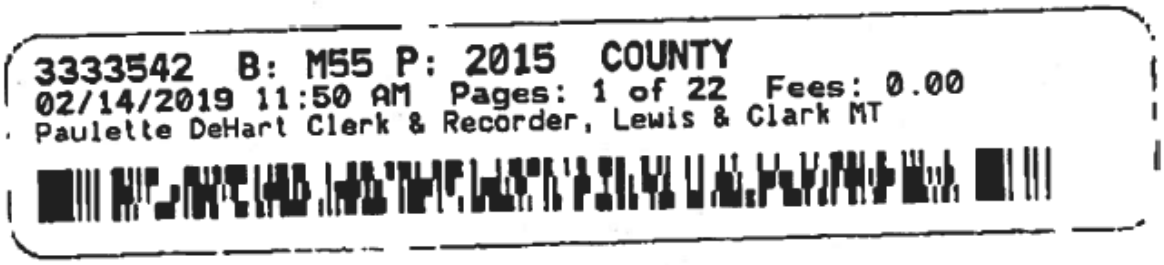
SECTION 11 Fort Harrison Urban Growth Area District (FHUGA)

The Fort Harrison Urban Growth Area Zone District was previously approved and, its regulations can be found at Resolution 2019-21 recorded with the Lewis and Clark County Clerk and Recorder at document number 3333542 (see below.)

Nothing contained within these Helena Valley Zoning Regulations apply to the existing Fort Harrison Rural Growth Area District regulations, and vice versa.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SECTION 12 RESERVED.

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SECTION 13 **RESERVED.**

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SECTION 14 CONDITIONAL USES and PERMITS

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1401 Intent

To provide for uses in specific zone districts when such uses may possess unique and special characteristics which otherwise may not be ordinarily compatible with all spects of the zone districts in question. To provide a public process which affords the County and the public a way to satisfactorily address any impacts of the use. To establish procedures for the review of Conditional Use Permits (CUP) by the the County Community Development and Planning Department (CDP) and the Board of Adjustment (BOA) with an opportunity for the public to participate.

1402 Criteria for Consideration of a Conditional Use Permit

A CUP may be approved only if the BOA finds and concludes that the proposed use satisfactorily addresses the criteria set forth in Section 1402.01 In reaching its conclusions, it will assess the applicant's information; however, the burden of proof for satisfying the approval standards shall rest wholly with the applicant, and not the BOA. The granting of a CUP rests in the discretion of the BOA and a refusal is not the denial of a right, conditional or otherwise.

No structure, building or land shall be used, constructed, altered, or expanded where a CUP is specifically required by the terms of these regulations until a CUP or CUP Amendment for such use has been authorized by the BOA and issued by the Zoning Administrator.

Structures or buildings devoted to any use which is permitted under the terms of these regulations, subject to the securing of a CUP, may be altered, added to, enlarged, expanded, or moved from one location to another on the parcel only after securing a new or amended CUP.

The BOA may establish lesser setbacks than those required and heights greater than those allowed in the underlying zone district, if the BOA determines that adequate buffering is or will be provided to mitigate such concerns as noise, visual, dust, or other social or environmental impacts. The burden of proof is on the applicant to demonstrate such adequate mitigation measures.

A CUP may be permitted on nonconforming parcels when such use is permitted, as a CUP, in the zone district to which the parcel conforms in size.

1402.01 Approval Criteria

Each CUP application shall demonstrate how the proposal will satisfactorily address the following five (5) approval criteria.

1402.01.1 Site Suitability

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

- adequate usable space; and
- adequate access; and
- absence of adverse environmental constraints.

1402.01.2 Appropriateness of Design

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

- parking scheme; and
- traffic circulation; and
- open space; and
- fencing, screening; and
- landscaping; and

- signage; and
- lighting.

1402.01.3 Availability of Public 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:

- sewer; and
- water; and
- storm water drainage; and
- fire protection; and
- police protection; and
- streets.

1402.01.4 Immediate Neighborhood Impact

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

- excessive traffic generation; and
- noise or vibration; and
- dust, glare, or heat; and
- smoke, fumes, gas, or odors; and
- inappropriate hours of operations.

1402.01.5 Growth Policy

The proposed development will be consistent with the Growth Policy.

1403 Approval Conditions

The BOA may impose conditions of approval where such conditions are necessary or appropriate to ensure a CUP meets the criteria set forth in Section 1402.

1404 Decision Based on Findings

Every decision of the Board of Adjustment pertaining to the granting, denial, or amendment of a request for a CUP shall be based upon "Findings of Fact". Each Finding of Fact shall be supported in the records of the proceedings. The criteria set forth in Section 1402 as they relate to matters, which the BOA is empowered to review under these regulations and MCA, shall be construed as a limitation on the power of the BOA to act in the matter of approval / denial of a CUP. A mere finding or recitation of the enumerated conditions, unaccompanied by findings of specific fact, shall not be deemed in compliance with these regulations.

1405 Length of Approval

A CUP shall be valid for a duration of time specified by the BOA or until the land use changes, is revoked, or is terminated, whichever occurs first. The CUP may transfer with the transfer of the land.

1406 Standards and Additional Requirements for Conditional Uses

When the proposal lies within a Planned Unit Development (PUD) overlay, the Development Plan for said PUD overlay shall set forth the Conditional Uses and any additional requirements therein. In the absence of a PUD, the Conditional Uses shall be as set forth within the specific zone district applicable to the proposed project site.

The following uses are listed as Conditional Uses below and are subject to additional requirements as noted:

1406.01 Airstrip

- Minimum setback for landing area: 200' from the sides of the landing strip, and 400' from the ends.
- The landing field shall be for the exclusive use of the landowner and guests.
- Any commercial use, flight training, ground school, or sales, are prohibited.
- Aircraft noise at the parcel boundaries may not exceed 78 db(A) for more than 5 minutes in a 1-hour period.
- The FAA shall be notified regarding approval of airspace.
- The landing strip shall be oriented such that aircraft landing and takeoff do not pass directly over dwellings not owned by the landowner, schools, churches, or other places of public assembly.
- Minimum setback from existing residences (except landowner's): 1/2 mile from either end of the runway.
- A management plan shall be submitted with the application that addresses the following:
  - type and use of aircraft for which the facility is intended;
  - number of planes to be stationed on the site;
  - frequency of flights and diagram of flight patterns; and
  - hours of operation.

1406.02 Animal Hospital / Veterinary Clinic

- provided that such uses are located at least 100 feet from all parcel lines

1406.03 Extractive Industries

Requirements contained in this section shall not exempt the owner or operator of an extractive industry from compliance with the Montana Open Cut Mining Act, 82-4-401, et seq., M.C.A., as administered by the Montana Department of Environmental Quality, but shall be in addition to the requirements of said Act.

1406.03.1 Operational Requirements

- The site of an extractive industry shall be of sufficient size and dimensions to accommodate the proposed operations. Consideration shall be given to noise, light, dust, smoke and vibration and how they affect adjoining properties. Blasting operations shall be restricted to Monday through Friday between the hours of 8:00 A.M. and 5:00 P.M. Pockets and stagnant pools of water resulting from surface drainage shall either be:
- Sprayed to eliminate breeding places for mosquitoes and other insects. Method and chemical uses shall be approved by the Montana State Department of Agriculture; or
- Drained to prevent the creation of such breeding places.

1406.03.2 Off-street parking areas adequate for all employees' vehicles and trucks shall be provided.

1406.03.3 Plan for Development of the Site.

The plan to be submitted with the application for a CUP shall include a plan for the development of the subject property which shall consist of two phases: the exploitation phase and the re-use phase.
When such a plan is also required by the Open Cut Mining Act, the submitted plan must include all information required by the Department of Environmental Quality for such an application.

- Exploitation Phase

A. The plan for the exploitation phase should show the proposed development as planned in relation to surrounding property within 300 feet and shall include topographic surveys and other materials indicating existing conditions, including soil and drainage and the conditions, including drainage, topography and soil which shall exist at the end of the exploitation phase. Contour intervals for topography shall be five (5) feet in areas where slope is less than ten (10%) percent.

B. The plan for the exploitation phase shall demonstrate the feasibility of the operation proposed without creating hazards or causing damage to other properties. This plan shall also show the different stages of exploitation, where and how traffic will be handled, where equipment will be operating, the location and dimension of structures, the manner in which safeguards will be provided, including those for preventing access by children and other unauthorized persons to dangerous areas. The final stage of this plan shall indicate how the project is to be finished in accordance with the plan for re-use.

- Re-Use Phase

  The plan for the re-use phase shall indicate how the property is to be left in a form suitable for re-use for purposes permissible in the district, relating such re-uses to uses existing or proposed for surrounding properties. Among items to be included in the plan are feasible circulation patterns in and around the site, the treatment of exposed soil or subsoil, including measures to be taken to replace topsoil or establish vegetation in excavated areas in order to make the property suitable for the proposed re-use and treatment of slopes to prevent erosion. In such a re-use plan, intermittent lakes shall be allowed, provided that such lakes are deep enough to sustain a species of game fish approved by the Montana Department of Fish, Wildlife and Parks. Such fish should have the capacity of feeding on insects and mosquito larvae, thereby eliminating an insect and mosquito breeding area.

1406.04 Greenhouse Nursery

The following may be restricted based upon compatibility with the surrounding land uses:

- Location, size, height and use of structures;
- Number of vehicle trips;
- Lighting and hours of operation;

- Location and type of materials stored outside; and
- Wholesale/Retail sale of items.

1406.05 Heliport

- The FAA shall be notified regarding approval of airspace
- A management plan shall be submitted with the application that addresses the following:
  - type and use of aircraft for which the facility is intended;
  - number of helecopters to be stationed on the site;
  - frequency of flights and diagram of flight patterns; and
  - hours of operation.

1406.06 Industrial Uses

Must not emit unusal or excessive amounts of dust, smoke, fumes, gas, noxious odors, or noise beyond the parcel boundary.

1406.07 Jail/Correctional

Security for the facility may include barb, electric, or concertina wire when located a minimum of 6' 6" in height measured from the ground level outside the fence.

1406.08 Kennel

Provided that all uses are located at least 100 feet from all parcel lines.

1406.09 Satellite Earth Station

A report describing the satellite earth station shall be included with the application. The report shall include the following:

- Discussion of proposed number, height, and types of satellite dishes to be accommodated
- Description of output frequency, number of channels and power output per channel for each proposed antenna
- A letter from the applicant stating that an intermodulation study, if required, has been conducted and concludes that no interference problems are predicted
- A plan for the use and estimated life of the proposed telecommunication facility
- Statement that the proposed facility will be in compliance with all FCC and FAA regulations, and applicable federal requirements including, but not limited to, those associated with the National Environmental Protection Act (NEPA) as amended.

1406.10 Storage Facility, Self Service

The BOA may require the applicant present a plan that indicates how Outdoor Storage Areas will be screened/concealed/blended from the adjoining lands when such adjoining lands are in a residential use.

1407 Submittal Prerequisite

The applicant shall attend a presubmittal meeting with the Zoning Administrator to discuss their CUP proposal, the submittal process, and requirements for a new CUP or an amendment to an exisiting CUP. Within 15 days of the presubmittal meeting, the Zoning Administrator shall provide a written summary of the meeting.

A proposed amendment to an existing CUP may be considered in accordance with the procedures identified in the Amendment Section 1416 herein. An amendment to a CUP shall be considered through an administrative process when the Zoning Admnistrator determines that the change does not represent a substantial increase in the intensity of the use or impacts to the neighborhood. This type of amendment shall be referred to as a CUP Administrative Amendment.

If the Zoning Admiistrator determines that the proposed amendment to an existing CUP does represent a substantial increase in the intensity of the use or impacts to the neighborhood, the proposed amendment shall be subject to the same submittal and process requirements as required for a new CUP application. This type of amendment shall be referred to as a CUP Amendment. When making the determination, the Zoning Administrator shall consider the proposed degree of change to the site improvements and management plan as reflected on the approved Plan Exhibit, with specific consideration for potential increased impacts to the surrounding community.

The applicant may appeal the Zoning Administrator's determination on the amendment process for an existing CUP to the BOA in accordance with Section 20 (Appeals.)

1408 Submittal Process

The following shall apply to a new CUP or a CUP Amendment. The application shall be submitted only after the presubmittal meeting(s) has been completed and the applicant has received the written Staff comment summary from the presubmittal meeting. For a request for a CUP, or a CUP amendment, the submittal is processed as follows:

1408.01 The applicant shall submit the required submittal information to the CDP. The submittal shall be reviewed by the Planner assigned the project and a determination of completeness shall be made within 21 days. The applicant shall be notified in writing if the submittal is incomplete, and any inadequacies shall be specifically identified. An incomplete submittal will not be processed.

1408.02 Once the submittal is determined complete, staff will notify the applicant in writing of the number of copies of the submittal information required for distribution to referral agencies.

1408.03 If the referral agencies elect to comment, they may comment within 30 days from the date the referral packets were mailed or electronically distributed, unless the applicant grants, in writing, an extension of no more than 30 days.

All referral agency comments shall be provided by the Planner to the applicant. The applicant shall be given an opportunity to address the comments of all referral agencies by identifying in writing the extent to which the project has been revised in response to the comments. The applicant is strongly encouraged to provide the Planner with a written response. The applicant is encouraged to meet with the referral agencies and the Planner to address any concerns.

1408.04 The Planner will review the referral agency comments, discuss the concerns with the applicant, schedule a public hearing before the BOA, notify the applicant in writing of the hearing date and time, and prepare a staff report for the BOA. The Planner will provide the public notice for the hearing as set forth herein.

1408.05 The BOA shall evaluate the CUP request, staff report, referral agency comments, applicant responses, and public comment and testimony, and shall approve, approve with conditions, table for further study, or deny the CUP request. The BOA's action shall be based on the evidence presented, public comment, compliance with the adopted County standards, regulations, policies, and other guidelines.

1408.06 If denied by the BOA, a resubmittal of a CUP request for the same or substantially same request, as determined by the Zoning Administrator, shall not be accepted within 1 year of such denial. The applicant may appeal the decision, in writing, to the BOA pursuant to the Section 20 (Appeals) of these Regulations. The submittal of a new application and processing fee shall be required to pursue another proposed CUP.

1408.07 Following approval by the BOA, the applicant shall submit a signed Plan Exhibit to the CDP. The Planner shall verify that all conditions of approval have been met and all technical corrections have been satisfactorily made, prior to the Zoning Administrator's execution of the approval certificate on behalf of the BOA. The applicant shall submit the final signed Plan Exhibit no later than 90 days from the date of BOA approval, unless the BOA allows for a longer period of time as part of its approval. The Zoning Administrator may grant a one-time extension of no more than an additional 90 days. Further extensions shall be submitted for the BOA's consideration.

1409 Withdrawal of an Application

A request to withdraw an application shall be submitted, in writing, to the Planner. Once withdrawn, the submittal of a new application and processing fee shall be required in order to re-initiate the application; and such re-initiation shall be considered and processed as a new application.

1410 Submittal Requirements

The following submittal requirements shall apply to all applications for a new CUP.

1410.01 Completed application (available from the CDP)

1410.02 Application fee (available from the CDP)

1410.03 Proof of ownership that includes an updated or current title insurance policy or title commitment, or other acceptable form of title verification, no more than 6 mo. days old from the date of application.

1410.04 A notarized letter of authorization from the landowner permitting a representative to process the application, when applicable.

1410.05 Narrative to describe the following:

- General project concepts;
- Zoning of the land and compliance with the zone district requirements and any additional requirements for the CUP review as defined in this Section 14;
- Define overall impacts of the proposed use on the adjoining lands;
- Compliance with the Growth Policy;
- Compliance with appropriate agency regulations and any other necessary

permits; and

- How the proposal satisfactorily address the approval criteria set forth in Section 1402, herein.

1410.06 Plan Exhibit *(per 1411, herein)*
Plan Exhibit (11"X17" reduction) shall be required for the BOA public hearing packets; however, larger format plans (i.e. 24”x36” etc.) may be required if needed for clarity purposes.

1410.07 Development Reports, unless waived by the Zoning Administrator in consultation with the County Engineer:

- Drainage Report and Plan;
- Utility drawings(s);
- Off-site improvement plans, as required;
- Engineering construction drawings; and
- Traffic Impact Study.

An improvements agreement may be required to identify and financially secure the improvements and other commitments required as part of the CUP approval.

1410.08 Other detailed technical studies, including but not limited to environmental, noise, and wildlife, based upon the scale and impact of the application, as may be necessary to demonstrate compliance with the approval standards.

1410.09 Documentation of capacity from the authority having jurisdiction.

1411 Plan Exhibit
For a CUP or a CUP amendment (Section 1416 herein), a Plan Exhibit shall consist of both a Site Plan and Management Plan as required herein.

1411.01 All or portions of the required Site Plan elements may be waived by the Zoning Administrator if it is determined that the CUP review will occupy an existing structure with no exterior modifications, no site modifications, or will not otherwise require significant public or private improvements:

- Scaled Site Plan;
- Landscape Plan;
- Grading and Drainage Plan; and
- Lighting Plan.

1411.02 A Management Plan shall be provided that addresses all aspects of the day-to-day operation of the CUP. The degree of detail will depend upon the specific use. The following items shall be included, at a minimum, in the plan. The Management Plan shall be appended to the Site Plan Exhibit prior to final approval.

1411.02.1 Number of clients/customers expected daily or weekly

1411.02.2 Hours of operation - whether the use is seasonal and the number of days of the week

1411.02.3 Number of employees

1411.02.4 Required outside storage/parking/loading areas

1411.02.5 Permit requirements from other state, federal or local agencies

1411.02.6 Method of providing fire protection

1411.02.7 Other operational elements necessary to address the potential impacts for the specific special use

1411.03 Plan Exhibit Title

The plan exhibit title shall include the name and legal description of the proposed development along with the address, site acreage (both for the CUP area and total site when different), and project file number. The business name shall not appear in the official title.

1411.04 Plan Exhibit Approval Certificate

Provide either a corporate/limited liability corporation (LLC) or individual approval certificate on the first sheet of the plan set, as follows.

APPROVAL CERTIFICATE

THE CONDITIONAL USE PERMIT (CUP) AS DEPICTED HEREON WAS APPROVED BY THE BOARD OF ADJUSTMENT
ON _____ _____, 20_____.

_____
Zoning Administrator for the Board of Adjustment

- The CUP is subject to review as defined by the Board of Adjustment as part of its approval, to ensure compliance with the approval standards and conditions of approval.
- Construction shall commence pursuant to the CUP review within 3 years from the date of approval, or within the extended effective approval period, otherwise the CUP shall terminate.
- The CUP shall terminate when the use of the land changes or when the time period established by the Board of Adjustment through the approval process expires. The owner shall notify the Planning Division of a termination of the use. When the Plannng Division is notified of a termination of use or observes that the use has been terminated during the annual review, a written notice of termination shall be sent to the landowner.

The undersigned as the owner or owner's representative of the lands described herein, hereby agree on behalf of itself, its successors and assigns to develop and maintain the property described hereon in accordance and compliance with this approved CUP Plan Exhibit and the Helena Valley Zoning Regulations.

By: _____(Signature)_____

Title: _____

Date: _____

An initialed secondary approval block is required on all subsequent Plan Exhibit sheets:

Approval Certificate

Planning _____
Initials/Date

Owner/Rep. _____
Initials/Date

1412 Public Notice Requirements

The following requirements shall apply to a CUP and CUP amendment.

1412.01 WRITTEN NOTICE

At least 15 days prior to the BOA hearing, Staff shall mail a written notice of the hearing by first-class mail to the address of each abutting landowner as such address is shown in the records of the County. The notice shall read substantially the same, as the published notice also required by this section.

The person completing the mailing of the written notice shall execute a certificate of mailing. Such certificate shall read as follows:

CERTIFICATE OF MAILING

I, _____, hereby certify that a true and correct copy of the attached written notice was placed in the U.S. mail, first-class, postage prepaid this _____ day of _____, 20___, and addressed as follows:
(attach *list of addresses as needed*)

_____
(*signature of person completing the mailing*)

In the event the notice was not mailed to an abutting landowner or otherwise failed to comply with the written notice required in this section, the landowner who did not receive such complying notice may waive such notice by submitting a notarized written waiver to CDP prior to the hearing.

1412.02 PUBLISHED NOTICE

At least 15 days prior to the BOA hearing, Staff shall:

- publish a notice in at least 1 publication of a daily or a weekly legal newspaper of general circulation, printed or published in whole or in part in the County; and
- obtain a publisher's affidavit of said published notice prior to the hearing.

1412.03 POSTED NOTICE

At least 15 days prior to the BOA hearing, Staff shall post a notice on the land for which the CUP is requested.

NOTICE OF PUBLIC HEARING BEFORE THE BOARD OF ADJUSTMENT

This land shall be considered for a Conditional Use Permit for a (*insert specific use*) in the _____ zone district. The public hearing is (*date*), in the Commissioners' Hearing Room, 316 N. Park Ave., Helena, MT at (*time*). For more information call County Planning, 406-447-8374

File No./Name:_____

1412.03.1 An affidavit of sign posting shall be submitted by the person who posted the sign for the file in the Planning Division prior to the hearings. The sign(s) shall be photographed by the person who posted them and attached to the affidavit as follows:

(*attach photo here*)
(*sign lettering must be legible in photo*)

I, (*person posting sign*), attest that the above sign was posted on (*date*) abutting (*name of street*).

_____(*signature*)_____ File No./Name: _____

1413 Post Approval

1413.01 Anniversary Date Reviews

Approved CUPs shall be field inspected by Staff for compliance with the terms and approval conditions of the CUP on every third anniversary; however the BOA may set a different rate for the frequency of reviews based upon the scope and magnitude of the use.

1413.02 Termination of Use

1413.02.1 Construction pursuant to approval of a CUP shall be commenced within three (3) years from the date of the BoCC's approval, unless otherwise specified, or the approval shall terminate. The Zoning Administrator may grant an extension of time, for good cause shown, upon a written request by the applicant.

1413.02.2 The Zoning Administrator may grant time extensions to the effective period of a CUP, not to exceed a total of three (3) years beyond the date of original approval, upon written request by the applicant. As necessary, the Zoning Administrator may include additional conditions with the time extension in order to ensure that the CUP remains in compliance with BOA's approval.

Time extensions in excess of the 3 years noted above, may be requested by the applicant for consideration by the BOA at a public meeting.

1413.02.3 Where a CUP brings an existing use into compliance with applicable regulations, or is designed to correct a Notice of Violation, all improvements depicted on the CUP exhibit shall be completed within six months of approval, unless otherwise approved by the BoCC.

1413.02.4 A CUP shall terminate when the use of the land changes or when the time period established by the BOA through the approval process expires, whichever occurs first. The owner shall notify the Zoning Administrator of a termination of the use. When the Zoning Administrator is notified of a termination of use or observes that the use has been terminated, a written notice of termination shall be sent to the landowner.

1413.02.5 The termination notice is appealable, in writing, to the BOA pursuant to Section 20 (Appeals) of these Regulations.

1413.03 Revocation

If noncompliance with the approved Plan Exhibit or conditions of approval is demonstrated, the Zoning Administrator shall contact the landowner and provide 30 days to cure the non-compliance. Failure to cure the noncompliance within the 30 day period may give rise to revocation of the permit by the BOA. The BOA may consider revocation of the CUP at a public meeting. Written notice shall be provided to the landowner and/or lessee at least 15 days prior to the scheduled BOA meeting.

1414 Inactive Files

Files that become inactive, because the applicant has not responded to Staff's request for information or otherwise action in the process, for a period of more than 6 months, shall become void and the resubmittal of a new application and fees shall be required to pursue the CUP request. After 5 months of inactivity, Staff shall notify the applicant in writing that the application will become void within 30 days. If the applicant fails to submit the required additional information or request a hearing date within 30 days, Staff shall notify the applicant in writing that the application is void. This provision shall apply to all CUP applications on file with the CDP upon the effective date of adoption and any application thereafter. The Zoning Administrator may grant an extension of time, of no more than 6 months, upon a written request by the applicant.

1415 Post Denial Application

If denied by the BOA, a resubmittal of the same or substantially same CUP application shall not be accepted within 180 days from the date of denial by the BOA; or in the event of litigation, from the date of the entry of the final judgment. However, if evidence is presented to the Zoning Administrator showing that there has been a substantial change in physical conditions or circumstances, the Zoning Administrator may reconsider the CUP sooner than the above noted 180 days. A new application and processing fee shall be required.

1416 CUP Amendments

1416.01 Amendment of an Approved CUP - BOA

An amendment to an approved CUP may be considered in accordance with the procedures identified in the Section 14 herein for a new CUP.

1416.02 Amendment of an Approved CUP - Administrative

When an exsiting CUP is proposed for a minor modification, it may be considered for an Administrative CUP Amendment by the Zoning Administrator as follows:

1. Upon receipt of a complete application as set forth in Section 1408 herein, the Zoning Administrator shall prepare a notice containing the pertinent facts to the application and shall have said notice served by first class mail upon property owners within 150 feet of the subject property. The notice shall provide a reasonable period of time, not less than 21 days, for interested parties to submit comments on the proposed activity. Within 15 days of the end of the comment period a written determination shall be mailed to the applicant approving or denying the Administrative Amnendment to the CUP.

2. The application and format used for the submittal of the Administrative CUP shall be the same as found in Section 1408 herein for CUP applications. All information required for the application shall be supplied by the applicant. The evaluation criteria for this Administrative Permit shall be supplied by the applicant. The criteria for this Administrative Permit shall be the same criteria as outlined in Section 1402 herein. If there is no written public opposition and the project meets the criteria, the project will be approved. The Zoning Administrator shall issue an CUP Administrative Amendment, with or without conditions of approval, which will be indicated on the face of the permit.

3. When written opposition from the property owners within 150 feet of the property subject to the request are received prior to the end of the comment period and the expressed concerns of the opposition cannot be resolved by the applicant, the Administrative Conditional Use Permit will be scheduled for the next available Board of Adjustment meeting for a decision. The applicant shall be responsible for all additional information and filing fees required.

4. If the Administrative Conditional Use Permit is denied by the Zoning Administrator the denial may be appealed. This appeal shall be made in accordance with Section 20 (Appeals) herein. The appellant is responsible for all information and additional filing fees required.

1416.03 Title and Approval Certificate

The project title for all CUP amendments shall be consistent with the original title; except that it shall also identify it as an amendment (i.e. 1st Amendment.)

The following approval certificate shall accompany the required Plan Exhibit for a CUP amendment.

CUP Amendment Approval Certificate

1st (Administrative—if applicable) Amendment to File # _____ is hereby amended this ____ day of ____, 20____. The CUP continues to meet all approval criteria and is subject to all original conditions of approval, unless specifically noted hereon.

_____
Zoning Administrator for the Board of Adjustment

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SECTION 15 TEMPORARY USES

-Section Contents-

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1502 General Requirements.....15-2

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1501 Intent

To provide for the regulation of temporary and seasonal uses such as, but not limited to, temporary construction offices, temporary sales offices, produce stands, Christmas tree lots, firework stands, central to seasons, holidays, special events, or development/construction projects. Temporary uses have defined commencement and termination dates.

1502 General Requirements

1502.01 Temporary uses shall comply with all accessory use setback requirements of the district.

1502.02 Temporary uses must be connected to approved water and sewer utilities, where appropriate.

1502.03 Parcels with a temporary use(s) must have an approach permit or permits (when such approach permit is required or when an acceptable existing approach permit exists) issued by the appropriate agency (Montana Department of Transportation, City of East Helena, City of Helena, or Lewis and Clark County) before the temporary use can commence.

1502.04 All parking associated with temporary uses must be off-street.

1502.05 Temporary structures associated with the temporary use(s) must be removed from the parcel within 60 days of inactive use. Temporary structures shall be deemed inactive when not in use for a period of 14 consecutive days.

1502.06 Vegetation on the parcel disturbed due to the temporary use(s) must be restored to same condition as pre-disturbed state within 60 days of inactive use of the temporary use(s) and the removal of temporary structure(s). Temporary use(s) shall be deemed inactive when not in use for a period of 14 consecutive days. The Zoning Administrator may extend the 60 days if seasonal conditions prevent vegetation restoration.

SECTION 16 HOME OCCUPATIONS

-Section Contents-

1601 Intent.....16-2
1602 Home Occupation.....16-2
1603 Home Occupation Criteria.....16-2

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1601 Intent

To provide for the operation of limited commercial activities within residential uses. The standards for home occupations herein are intended to ensure compatibility with other permitted uses and with the residential character of the neighborhood, plus a clearly secondary or incidental status in relation to the residential use of the main building as the criteria for determining whether a proposed accessory use qualifies as a home occupation.

1602 Home Occupation

Any business or activity conducted on the property that is clearly accessory and incidental to the use of the residence for residential purposes.

1603 Home Occupation - Criteria

A home occupation must not:

1603.01 Involve more than the equivalent of two (2) persons, who work on the site but do not live in the residence.

1603.02 Create noticeable glare, noise, odor, vibration, smoke, dust, or heat at or beyond the property line(s.)

1603.03 Generate more than an average of ten (10) additional vehicle trips per day on a weekly basis, including deliveries.

1603.04 Have no exterior advertising of the home occupation.

1603.05 Such home occupation use shall comply with all other applicable County codes, health regulations, or any other local, state or federal regulation. The permission granted or implied by this Section shall not be construed as an exemption from any such regulation.

SECTION 17 RESERVED.

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SECTION 18 NONCONFORMING USES, STRUCTURES and LAND

-Section Contents-

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1803 Changes Permitted to Nonconforming Structures and Uses 18-2
1804 Establishment of Dates 18-3
1805 Nonconforming Lot 18-3
1806 Boundary Lines 18-3

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1801 Intent

To recognize the lawful use of land and/or structures existing at the time of the adoption of these Regulations that do not conform to these Regulations as set forth herein. The continuation of and limited development of nonconforming uses and/or structures is intended to prevent hardship and to allow the useful economic value of the land and/or structures to be realized.

1802 Nonconforming Uses, Structures, and Land

1802.01 If, at the time of adoption of these regulations or of any amendments thereto, or at the time a zoning district to which these regulations are applied is created, any lot, structure, or building being used in an otherwise lawful manner that does not conform to the use provisions of these regulations, or if any structure or building was located or erected in an otherwise lawful manner that does not conform to the setbacks, height limit, or parking and loading provisions of these regulations, such use of such location or erection shall be deemed to be a non-conforming use and may continue in the manner and to the extent that it existed or was being used at the time of adoption of these regulations. Such non-conforming status will run with the parcel, building, or use and shall not be affected by changes in ownership.

1802.02 Whenever the on-site construction has begun for any building, for which a building permit has been issued by the authorized issuing agency or if a building permit is not required, prior to the adoption or amendment of these regulations, or creation of a zoning district to which these regulations apply, and the construction/erection of which is in conformity with the plans submitted and approved for such building permit, but does not conform to the provisions of these regulations, such building shall be considered non-conforming.

1803 Changes Permitted to Nonconforming Structures and Uses

1803.01 Routine maintenance and repair, or those modifications required by applicable health and safety codes shall be permitted. Likewise, expansions such as covered wheelchair ramps, lifts, and handicap accessible rest rooms, which are needed to meet requirements of the Americans with Disabilities Act (ADA), shall be allowed.

1803.02 A nonconforming structure (whether due to dimensional or use issues) located either partially or entirely within the setback area, may be expanded in a direction away from the affected setback.

1803.03 A nonconforming use located either partially or entirely within the setback area, may be expanded subject to an appropriate Conditional Use Permit.

1803.04 Whenever a nonconforming structure is moved, it shall conform to the provisions of the district in which it is located after the move.

1803.05 No conforming structure or use will be allowed to revert to a nonconforming use.

1803.06 If any nonconforming use and/or structure is abandoned, deserted, or caused to be discontinued, voluntarily or by legal action, (for any reason other than as noted herein in Section 1803.07) for a period of more than 180 days, any subsequent use of such land or structure(s) shall conform to the provisions of these Regulations and as thereafter amended.

1803.07 A nonconforming structure or use that is destroyed or substantially damaged by fire, flood, or other natural disaster may not be restored as a nonconforming structure or use unless initiation of the restoration process occurs within twenty-four (24) months of the damage having occurred.

1803.07.1 Said restored structure or use shall occupy the same physical footprint and must be used for the same purpose(s) as the original nonconforming structure or use; unless the restoration brings the structure or use either more, or fully, into compliance with these regulations.

1803.07.2 A nonconforming structure or use shall be considered to be substantially damaged when the cost of restoring the structure or use to its before-damage condition would exceed 50 percent of the market value of the structure or use before the damage occurred.

1804 Establishment of Dates

The Zoning Administrator shall determine, to the maximum extent practicable, the applicable date(s) relative to nonconforming status based on substantiating evidence from the applicant and any other historical records or documents.

1805 Nonconforming Lot

In each zoning district all structures and/or uses whether as Principal, Accessory, Conditional Uses, or Special Exception Uses may be erected/placed/developed on any nonconforming lot which was lawfully of record before these Regulations were adopted or amended. However, all development occurring on a nonconforming lot after the adoption of these regulations shall conform with all other provisions of these Regulations.

1806 Boundary Lines

Boundary line relocation of a nonconforming lot, that is not subject to aggregation, is permitted where the relocation would either create a conforming lot, or not result in the addition of a nonconforming lot unless all bulk requirements can be met, or fully merge the nonconforming lot with an adjacent parcel.

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SECTION 19 VARIANCE STANDARDS AND PROCEDURES

-Section Contents-

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1901 Intent

A variance may be requested for relief from certain provisions of these Regulations, when such request will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of the resolution will result in unnecessary hardship and so that the spirit of the resolution shall be observed and substantial justice done.

1902 Variance Limitations

1902.01 Variances shall be limited to hardships resulting from lot size, shape, topography, height of structures, minimum setbacks, or other circumstances over which the applicant has no control.

1902.02 A variance for the following shall be strictly prohibited:

- Use - A variance for a use not listed within the zoning regulations applicable to the property in question; or
- Incongruent Purposes - A Variance authorizing any action which would be contrary to the purpose and intent of these regulations.

1903 Variance - Approval Criteria

A variance shall be granted by the Lewis and Clark County Board of Adjustment (BOA) only upon the finding of the following:

1903.01 The applicant has provided reasonable and adequate evidence that the variance request is not a self-imposed hardship which can be rectified by means other than relief through a variance; and

1903.02 The need for a variance results from physical limitations or unique circumstances related to the lot or parcel on which the variance is requested; and

1903.03 Approval of the variance will not have a substantial adverse impact on neighboring properties or the public; and

1903.04 Granting of the variance will observe the spirit of these regulations and provide substantial justice; and

1904 Procedure for Variance

1904.01 The applicant shall discuss the variance informally with CDP Staff to go over the procedures and submittal requirements.

1904.02 The applicant shall submit the following to the CDP:

1904.02.1 A completed application form *(available from the CDP).*

1904.02.2 Documentation of ownership (such as a general or warranty deed, option to buy or buy-sell agreement) of the land which is the subject of the variance.

1904.02.3 Application fee *(available from the CDP).*

1904.02.4 A site plan, when applicable, indicating how the variance relates to the affected land. The site plan shall be drawn to scale including the height and

setbacks of all existing and proposed structures and any other information requested by the CDP.

1904.02.5 A scaled vicinity map with a north arrow that, clearly shows the property in question, with its zoning, along with the zoning of the adjacent 1-mile radius area.

1904.02.6 An explanation in narrative form explaining the requested variance and how it meets the criteria in Sections 1902 and 1903 herein.

1904.03 When an application is submitted, Staff shall determine whether the application and supporting materials are complete and sufficient. When an application is determined to be incomplete or insufficient, Staff shall provide written notice to the applicant indicating what information must be submitted for the review to proceed.

1904.04 Once the submittal is determined to be complete and sufficient, Staff shall submit the application to the appropriate referral agencies, schedule the variance hearing before the BOA, and notify the applicant of the date and time of the public hearing.

1904.05 Prior to the hearing, Staff will provide legal notice as set forth in Section 1906 herein.

1904.06 The CDP Staff shall prepare a report to the BOA that describes the proposed variance and provides an evaluation of the request relative to the variance criteria noted herein.

1904.07 Conditions may be attached to the approval of any variance in accordance with the following:

1904.07.1 Conditions shall be designed to ensure compliance with one or more specific requirements of these or other applicable adopted regulations; and/or

1904.07.2 Conditions shall be directly related to any anticipated impacts of the applicant's proposal; and/or

1904.07.2 Conditions shall be roughly proportional to any anticipated impacts of the applicant's proposal.

1904.08 The BOA shall conduct a public hearing on the proposed variance.

1904.09 The BOA shall evaluate the application, the staff report, and public testimony; and then shall approve, conditionally approve, table for further study, or deny the variance based on the evidence presented in compliance with the applicable criteria.

1904.10 As part of the BOA's deliberative process in making their decision, it will adopt findings and conclusions in support of its decision.

1905 Public Notice Requirements

In calculating the time period for public notification, see Section 108 of these Regulations.

1905.01 MAILED NOTICE

At least 15 days prior to the BOA hearing, written notice by first-class must be mailed to each property owner of record immediately adjoining the land included in the variance request.

The notice shall indicate:

- the date, time and location of the hearing;
- an explanation of the variance;
- the general location of the land that is the subject of the request;
- the file name and number; and
- that questions should be directed to the CDP

Staff completing the mailing of the written notice shall execute a certificate of mailing. Such certificate shall read as follows:

CERTIFICATE OF MAILING

I , _____, hereby certify that a true and correct copy of the attached written notice was placed in the U.S. mail, first-class, postage prepaid this ____ day of _____, 20___, and addressed as follows:
(attach list of addresses if necessary)

_____
(signature of person completing the mailing)

In the event written notice to an abutting landowner is not properly given/received as required in this Section, the landowner who did not receive such notice may waive such notice by submitting a written notarized waiver to the CDP prior to the hearing.

1905.02 PUBLISHED NOTICE

At least 15 days prior to the BOA hearing, notice shall be given by publication in a newspaper of general circulation in the County.

The notice shall indicate:

- the date, time and location of the hearing;
- an explanation of the variance;
- the general location of the land that is the subject of the request;
- the file name and number; and
- that questions should be directed to the CDP (state name of Planner and email.)

1905.03 Additional public notice may be required by the Zoning Administrator.

1906 Decision

Construction pursuant to approval of a variance must be initiated within one (1) year from the date the variance was approved and must be completed within three (3) years; otherwise the variance approval shall terminate. The Zoning Administrator may grant an extension of time, for good cause shown, upon a written request by the applicant. Such time extension (for either or both initiation or completion of the field work) shall not exceed one (1) year.

If denied by the BOA, a resubmittal of the same or substantially same variance application shall not be accepted within one (1) year from the date of denial by the BOA or in the event of litigation, from the date of the entry of the final judgment. However, if evidence is presented to the BOA showing that there has been a substantial change in physical conditions or circumstances, the BOA will reconsider the variance. A new application and processing fee shall be required.

1906.01 The Zoning Administrator shall notify the applicant of the BOA decision within 30 days.

1906.02 The notification shall include the following:

- The decision of the BOA;
- The findings that support the BOA decision;
- Any adopted conditions of approval;
- A reminder of the approval time validity; and
- A statement that the BOA decision may be appealed to the Court of Record.

1907 Administrative Variance

As an option available to the landowner, the Zoning Administrator shall have the authority to grant Administrative Variances of up to a 25% adjustment in the zoning requirements for those items listed in 1902.01, without going to the BOA. The applicant shall submit the fee and the information required herein to the Zoning Administrator. Staff shall notify abutting landowners of the request. Such notification shall be either a notice of the variance request sent by certified mail, return receipt requested, at least 15 days prior to the Zoning Administrator's consideration of such request; or the applicant may obtain a signed statement from the abutting landowners clearly stating that they were notified of the variance request and submit these signatures with the application.

The procedure for an Administrative Variance shall substantially follow that of Section 1904 herein; however, without the need for the hearing before the BOA.

A decision by the Zoning Administrator to deny such variance may be appealed to the BOA in accordance with the procedure in Section 20 (Appeals). A written appeal shall be submitted by the applicant to the Zoning Administrator within 30 days of such denial.

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SECTION 20 APPEAL STANDARDS AND PROCEDURES

-Section Contents-

2001 Intent 20-2
2002 Appeals Limitations 20-2
2003 Appeals – Approved Criteria 20-2
2004 Procedure for an Appeal 20-2
2005 Public Notice Requirements 20-3
2006 Decision 20-4

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2001 Intent

An appeal to the Board of Adjustment (BOA) may be taken by any person aggrieved by the decision of the Zoning Administrator based upon or made in the course of the administration or enforcement of the provisions of these Regulations in accordance with Title 2, Chapter 2, Part 2, Montana Code Annotated (MCA.)

2002 Appeals Limitations

An appeal must be made in writing and submitted to the Community Development and Planning Department (CDP) within 30 days of an administrative decision.

2003 Appeals - Approval Criteria

2003.01 An appeal shall be granted only upon the finding that the Zoning Administrator has erred in the interpretation or application of the Zoning Regulations.

2003.02 An appeal may be granted provided that no substantial detriment to the public good is created and that the intent and purpose of these regulations are not impaired.

2003.03 The concurring vote of three (3) members of the BOA shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Administrator.

2004 Procedure for an Appeal

2004.01 The applicant shall discuss the appeal informally with CDP Staff to discuss the procedures and submittal requirements.

2004.02 The applicant shall submit the following to the CDP:

2004.02.1 A completed application form *(available from CDP);*

2004.02.2 Application fee *(available from CDP); and*

2004.02.3 An explanation in narrative form explaining the appeal request and how the Zoning Administrator has erred in the interpretation.

2004.03 The submittal shall be reviewed for completeness and the applicant notified of any inadequacies. An incomplete submittal shall not be processed.

2004.04 Once the submittal is determined to be complete, CDP Staff shall submit the application to the appropriate referral agencies and schedule the appeal before the BOA and notify the applicant of the date and time of the public hearing.

2004.05 Prior to the hearing, CDP Staff will provide legal notice as set forth in Section 2005 herein.

2004.06 The BOA shall evaluate the application, staff report and public testimony, and shall approve, conditionally approve, table for further study, or deny the appeal based on the evidence presented, and compliance with the applicable criteria.

2005 Public Notice Requirements

In calculating the time period for public notification, see Section 106 of these Regulations.

2005.01 MAILED NOTICE

At least 15 days prior to the BOA hearing, written notice by first-class must be mailed to each property owner of record immediately adjoining the land included under the appeal.

The notice shall indicate:

- the date, time and location of the hearing;
- an explanation of the appeal;
- the location of the land (as applicable) that is the subject of the request *(distance and direction from nearest major intersection),*
- the file name and number; and
- that questions should be directed to the CDP.

The CDP Staff completing the mailing of the written notice shall execute a certificate of mailing. Such certificate shall read as follows:

CERTIFICATE OF MAILING

I, _____, hereby certify that a true and correct copy of the attached written notice was placed in the U.S. mail, first-class, postage prepaid this ____day of _____, 20___, and addressed as follows:

(list of addresses)

_____
(signature of person completing the mailing)

In the event written notice to an abutting landowner is not properly given/received as required in this Section, the landowner who did not receive such notice may waive such notice by submitting a written notarized waiver to the CDP prior to the hearing.

2005.02 PUBLISHED NOTICE

At least 15 days prior to the BOA hearing, notice shall be given by publication in a newspaper of general circulation in the County.

The notice shall indicate:

- the date, time and location of the hearing;
- an explanation of the appeal;
- the general location of the land that is the subject of the request;
- the file name and number; and
- that questions should be directed to the CDP (state name of Planner and email.)

2005.03 Additional public notice may be provided as appropriate.

2006 Decision

2006.01 The Zoning Administrator shall notify the applicant of the BOA decision within 30 calendar days.

2006.02 The notification shall include the following:

- The decision of the BOA;
- The findings that support the BOA decision;
- Any adopted conditions of approval;
- A reminder of the approval time validity; and
- A statement that the BOA decision may be appealed to the Court of Record.

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SECTION 21 Planned Unit Development Overlay District (PD)

The Planned Unit Development Overlay Zone District is hereby adopted. Detailed regulations to be adopted with a future amendment.

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SECTION 22 **RESERVED.**

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SECTION 23 RESERVED.

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SECTION 24 SUBDIVISION EXEMPTIONS; VESTED RIGHTS

-Section Contents-

2401 Intent.....24-2
2402 Subdivisions and Exemptions.....24-2
2403 Private Agreements 24-2
2404 Termination.....24-2

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2401 Intent

This section defines vested rights relating to specific approvals and recorded documents approved and/or recorded prior to the effective date of these Regulations.

2402 Subdivisions and Exemptions

For subdivisions or exemptions from the Montana Subdivision and Platting Act and the Lewis and the Clark County Subdivision Regulations, as amended, a vested right to proceed with the creation of one or more new parcels of land shall be established by obtaining a letter of sufficiency, from the Zoning Administrator or designee, for a subdivision application, or concept approval for the use of an exemption from subdivision review as such may be deemed acceptable by the Survey Review Committee, prior to the date of adoption of these regulations.

2403 Private Agreements

Adoption of these regulations does not nullify easements, covenants, and/or similar private agreements, but where any such easement, covenant, and/or agreement imposes requirements less restrictive than those adopted herein, the requirements of these regulations apply.

2404 Termination

Any right to carry out the preliminary plat of a subdivision or approval of an exemption from subdivision review which was submitted or approved prior to the adoption of these regulations shall terminate upon the expiration of any such approvals unless extended by prior approval by the Board of County Commissioners.

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SECTION 25 Board of Adjustment

-Section Contents-

2501 Board of Adjustment 25-2
2502 Membership 25-2
2503 Powers 25-2
2504 Operations 25-2

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2501 Board of Adjustment

The Lewis and Clark County Board of Adjustment (BOA) exists by statutory authority in accordance with Montana Code Annotated 76-2-221.

2502 Membership

2502.01 The BOA shall consist of five (5) members appointed by the Board of County Commissioners.

2502.02 BOA members shall serve without compensation, other than reimbursement for approved budgeted expenditures incurred in carrying out the functions of the BOA.

2502.03 BOA members shall be appointed for a term of 2 years.

2503 Powers

2503.01 The powers and duties of the BOA, including hearing Conditional Use Permits, Variances, and Appeals, are set forth in Sections 76-2-221 through 76-2-228, M.C.A., and as also set forth in these Regulations in Sections 14, 19, and 20.

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SECTION 26 Consolidated City and County Planning Board

-Section Contents-

2601 Planning Board 26-2
2602 Powers 26-2

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2601 Planning Board

The City of Helena and Lewis and Clark County Consolidated City and County Planning Board (CCCPB), formed pursuant to Section 76-1-101, et seq., shall have the powers and duties as set forth in this section.

The CCCPB for Lewis and Clark County may also be referred to as the "Planning Board".

2602 Powers

2602.01 In addition to its powers and duties as may be set forth in its governing documents and statutory authority, the Consolidated City and County Planning Board shall hold public hearings and make recommendations to the Board of County Commissioners on all matters relating to the creation and amendment of zoning districts and the regulations to be enforced therein.

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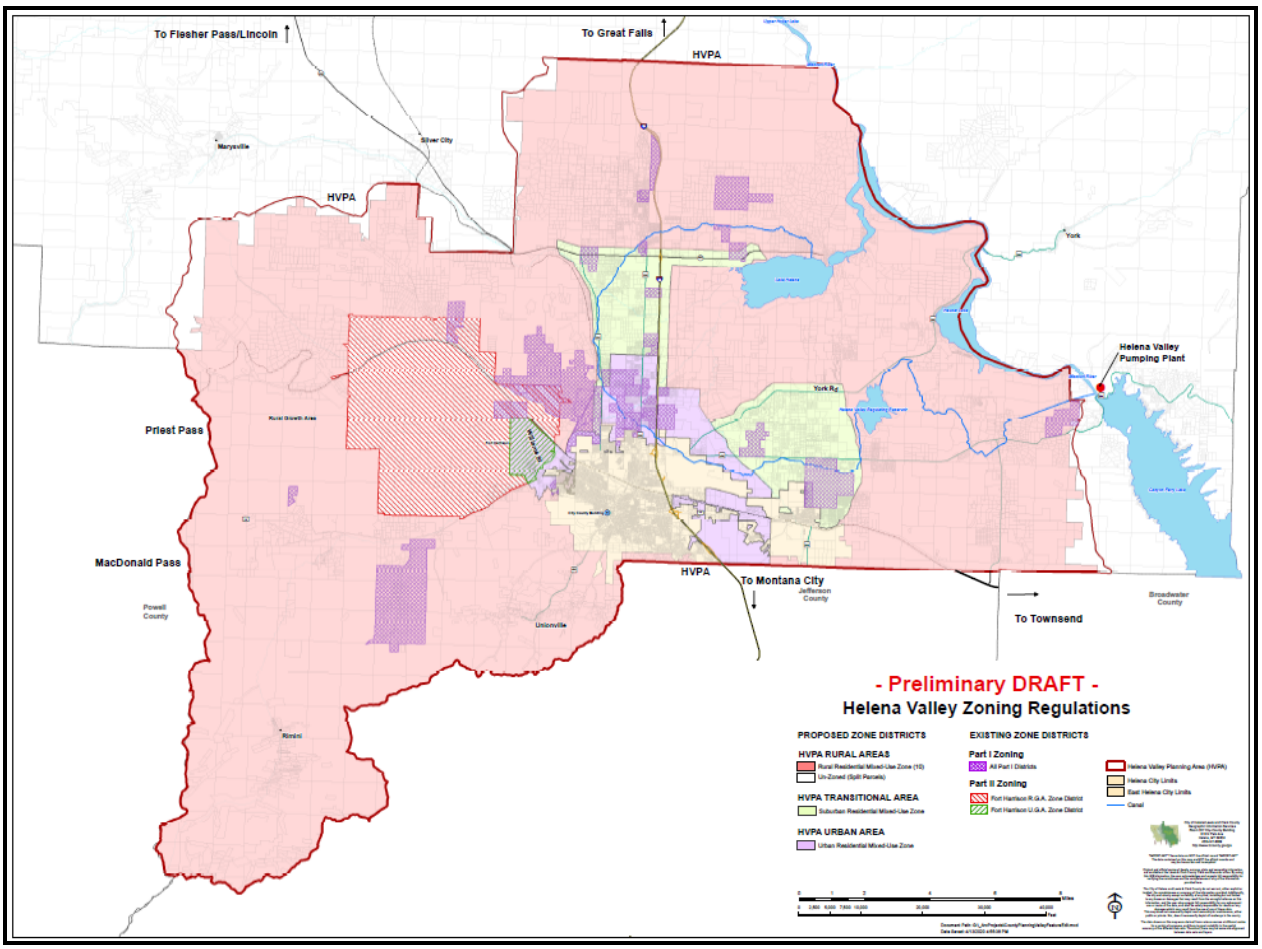
APPENDIX - A Helena Valley Zoning Regulations District Map

The official Helena Valley Zoning Regulations map can be accessed on-line at the following location: https://www.lccountymt.gov/cdp/zoning.html.

An unofficial version of the map is shown below:



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APPENDIX – B Citizen Initiated (Part -1) Zoning Districts

The enclosed existing Part-1 zoning documents were each previously approved as shown within each such document. Their inclusion here is merely for the convenience of the user of this document and their existing status in no way is affected by the adoption of these Helena Valley Zoning Regulations. Nothing contained within each of these Part-1 zoning documents apply to these Helena Valley Planning Area (Part-2) Zoning Regulations or the existing Fort Harrison (Part-2) regulations, and vice versa.

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APPENDIX – C Planning and Zoning Commission (Part-1 Zoning Only)

The Lewis and Clark County, MT Planning and Zoning Commission exists by statutory authority in accordance with 76-2-102 MCA. It has no purview over these Part-2 zoning regulations for the Helena Valley, or for the Fort Harrison Part-2 zoning districts, and its reference is merely contained here for convenience purposes relative to the Part-1 zoning regulations contained in Appendix-B herein.

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EXHIBIT B:

Proposed Amendments to the April 14, 2020 DRAFT Helena Valley Zoning Regulations, June 11, 2020

The proposed amendments are presented with a page number, chapter, and section to facilitate review. Amendments to the April 14, 2020 DRAFT Helena Valley Zoning Regulations proposed by Community Development and Planning Staff (Staff) are in colored underlined text (underlined text), while proposed deletions are indicated with colored strikethrough text (~~strikethrough text~~). Staff has added explanatory notes after most proposed changes or groups of changes indicated by *[italic text in brackets].* Staff recommends that the proposed amendments be reviewed in consultation with the April 14, 2020 DRAFT Helena Valley Zoning Regulations which are available online at https://www.lccountymt.gov/cdp/zoning.html.

GENERAL AMENDMENTS APPLICABLE TO ALL SECTIONS

The following amendments are recommended to be applied to all of the April 14, 2020 DRAFT Helena Valley Zoning Regulations as described below to provide greater consistency in the presentation of the Regulations:

1. When referring to the Helena Valley Zoning Regulations with the word "Regulations", the word Regulations should be capitalized.

2. When referencing a specific section of Montana Code Annotated, the reference should be presented consistently as in: "Section 76-2-204, MCA".

3. All bullets and dashes should be replaced with alpha or numeric references such as "(a), (b), (c), etc." or "(1), (2), (3), etc." to improve the ability to reference lists in the Regulations. Furthermore, each item in a list should have the first word capitalized and end with a semicolon with the exception of the second to last which should end with a semicolon and the word "and" and the last item which should end with a period.

4. Where the Regulations include a number of a unit of measure such as "5 days", "3 years", or "25 feet", the text should be amended to also include that number spelled out and the number shown in parenthesis such as "five (5) days", "three (3) years", or "twenty-five (25) feet".

5. All Section headings above the "Section Contents" and Appendix headings should be consistently presented in ALL CAPS and bold print. For Example, "SECTION 2 GENERAL REQUIREMENTS AND EXCEPTIONS".

[STAFF NOTES: Additional specific recommended amendments are presented below per Section and, in some cases, may include those general amendments as described above.]

SECTION 1: ADMINISTRATIVE PROVISIONS AND PROCEDURES

Page 1-2, April 14, 2020 DRAFT Helena Valley Zoning Regulations

101 Intent

This document shall be known as the Helena Valley Zoning Regulations (Regulations) and is adopted pursuant to the enabling authority of Title 76, Chapter 2, Part 2, Montana Code Annotated (MCA) to promote the public health, safety, morals, and general welfare of the community. These regulations have been established for the area known as the "Helena Valley Planning Area" as defined in the Lewis and Clark County Growth Policy Update – 2015, Volume 1 - Key Issues, and Volume 2 -Helena Valley Area Plan (Growth Policy); and as depicted on the map referenced in Appendix – A.

To achieve the above stated goals, these regulations shall govern, but are not necessarily limited to, such issues as the height and size of buildings and structures, the size of yards and open space, the density of population, and the location and use of buildings, structures and land for trade, industry, residence or other purposes in a manner consistent with the goals and objectives of the Growth Policy.

103 Existing Permits, Easements, Development Guides, or Other Approvals

These Regulations are not intended to abrogate, annul, govern, or prevail over any permits, easements or agreements approved prior to the effective date of these Regulations~~;~~, except as otherwise noted ~~above herein~~ in Section 102.

104 Jurisdiction

These Regulations shall apply to all land (existing or future parcels) within the unincorporated area of Lewis and Clark County, Montana known as the Helena Valley Planning Area and as depicted on the zoning map referenced in these ~~r~~Regulations.

[STAFF NOTES ON PROPOSED CHANGES: Changes suggested by Planning Board member to introduce common abbreviations, correct grammar, provide clear references, and to utilize abbreviations consistently.]

Page 1-3, April 14, 2020 DRAFT Helena Valley Zoning Regulations

107.01 Initiating Amendments. An amendment to the text of the regulations or to the designation of zoning districts (the zoning map) may be initiated by the BoCC, the Zoning Administrator, the Consolidated City and County Planning Board (Planning Board), or one or more residents or landowners within the jurisdictional area of the Regulations. The amendment procedure will be as provided in Section 76-2-205, MCA, and as otherwise set forth herein.

[STAFF NOTES ON PROPOSED CHANGES: Changes suggested by Planning Board member to introduce common abbreviations.]

Page 1-3 and 1-4, April 14, 2020 DRAFT Helena Valley Zoning Regulations

107.02 Application Requirements. When an amendment is proposed by anyone other than the BoCC, Planning Board or Zoning Administrator, the applicant must notify the Zoning Administrator and request a pre-application meeting. At the pre-application meeting, the Zoning Administrator will discuss the necessary information regarding the proposal, the application form and its submittal requirements, fees, timeline, and address any questions regarding the overall petition process to amend the regulations. The ~~S~~submittal requirements shall include, but not be limited to:

107.02.1 A letter signed by at least one landowner within the jurisdictional area of the proposed amendment;

107.02.2 A scaled vicinity map of the affected area(s) and surrounding 1 mile area, clearly identifying the location of the property (when applicable);

107.02.3 A legal description of the boundaries of the proposed amended map area (when applicable);

107.02.4 A description of the existing land-use of the affected and all adjacent areas (when applicable);

107.02.5 A description of the anticipated impact upon all adjacent properties (when applicable);

107.02.6 ~~Cite~~ A description of any previous request for a zone change or variance involving the parcel, as well as any action taken on previous requests.

107.02.7 A statement from the applicant which addresses the following considerations:

(a) ~~e~~Explains how the proposed amendment is in accordance with the Growth Policy;

(b) ~~e~~Explains how the proposed amendment is designed to:(i) Secure safety from fire, and other dangers; (ii) Promote public health, public safety, and general welfare; (iii) Facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements; and

(c) ~~e~~Explains how the proposed amendment addresses (i) the reasonable provision of adequate light and air; (ii) the effect on motorized and non-motorized transportation systems; (iii) compatible urban growth in the vicinity of cities and towns that at a minimum must include the areas around municipalities, as applicable; (iv) the character of the district and its peculiar suitability for particular uses; (iv) conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area; and (v) as nearly as possible, is made compatible with the zoning ordinances of nearby municipalities.

107.02.8 Application fee (available from the Lewis and Clark County Community Development

and Planning Department (CDP)).

[STAFF NOTES ON PROPOSED CHANGES: Changes suggested by Planning Board member to correct capitalization and be consistent in the use of lists.]

Page 1-4, April 14, 2020 DRAFT Helena Valley Zoning Regulations

107.04 Planning Board Meeting. When the application is determined to be complete and sufficient, the Zoning Administrator shall schedule a public meeting before the Planning Board and provide public notice in accordance with the notice requirements set forth in Section 76-2-204, MCA.

107.07 Board of County Commissioners' Hearing. Following receipt of the Planning Board's ~~R~~recommendation, the Zoning Administrator shall convey the Planning Board's recommendation and public ~~testimony~~ comment to the BoCC and the BoCC shall schedule a public hearing and provide public notice in accordance with Section 108. At the hearing, the BoCC shall provide an opportunity for the public to be heard.

107.08 Resolution. After the public hearing, the BoCC ~~and~~ shall give consideration to the application, the staff report, the recommendation from the Planning Board, public comments, the amendment criteria, these Regulations and all other relevant information and may make such revisions or amendments to the proposed amendment as it deems proper. The BoCC may pass a Resolution of Intention to amend these regulations. If the BoCC passes a Resolution of Intention, the BoCC shall publish notice of passage of the Resolution of Intention in accordance with the requirements of Section 76-2-205(5), MCA.

107.09 Final Action. Following the 30-day period prescribed in Section 76-2-205(5), MCA and in accordance with the relevant portions therein, the BoCC may, within 30 days thereafter, adopt a resolution amending these Regulations and promptly notify the applicant of its determination.

[STAFF NOTES ON PROPOSED CHANGES: Changes suggested by Planning Board member to correct capitalization and to be consistent in the citation of MCA.]

Page 1-5, April 14, 2020 DRAFT Helena Valley Zoning Regulations

107.11 Effective Date of Zoning Regulation Amendments

Amendments approved by the BoCC shall become effective immediately upon approval of a ~~r~~Resolution of ~~a~~Adoption by the BoCC.

[STAFF NOTES ON PROPOSED CHANGES: Changes suggested by Planning Board member to correct capitalization.]

Page 1-6 and 1-7, April 14, 2020 DRAFT Helena Valley Zoning Regulations

109 Violations

If any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or land is used in violation of these Regulations, the County, as set forth in Section 76-2-211, MCA~~,~~ in addition to other remedies, may institute any appropriate action or proceedings to:

109.01 ~~p~~Prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use;

109.02 ~~r~~Restrain, correct, or abate a violation;

109.03 ~~p~~Prevent the occupancy of the building, structure, or land; or

109.04 ~~p~~Prevent any illegal act, conduct, business, or use in or near the premises.

109.05 For the purposes of enforcing the above noted subsections 109.01 – 109.04, the County shall attempt to obtain voluntary compliance at least thirty (30) days before filing a complaint for a violation of this part that is subject to the penalties as noted in Section 110 ~~herein~~, and in ~~MCA~~ Title 76, Chapter 2, Part 2, MCA.

109.06 The BoCC may appoint enforcing officers to supervise and enforce the provisions of these ~~the zoning r~~Regulations.

110 Penalties

A violation of these regulations is a misdemeanor and shall be punishable by a fine not exceeding $500 or imprisonment in the county jail not exceeding 6 months or both pursuant to Section 76-2-211, MCA. Each day constitutes a separate violation.

111 Zoning Administrator

The ~~Board of County Commissioners~~ BoCC shall appoint a Zoning Administrator to administer and enforce the provisions of these Regulations. It shall be the duty of the Zoning Administrator and the Zoning Administrator's designees to:

111.01 Enforce the provisions of these ~~r~~Regulations;

111.02 Keep records of all zoning proceedings;

111.03 Accept and process applications and fees in accordance with these Regulations;

111.04 Update the Regulations as approved by the ~~Board of County Commissioners~~ BoCC;

111.05 Interpret the Regulations and zoning district boundaries consistent with the intent of the Regulations and statutory authority;

111.06 Issue such permits as may be approved by the ~~Board of County Commissioners~~ BoCC, the Board of Adjustment, or otherwise, and ensure compliance with such permits;

111.07 Investigate allegations of non-compliance or violations of these Regulations;

111.08 Make such recommendations to the Planning Board or ~~Board of County Commissioners~~ BoCC for amendments to these Regulations; and

111.09 Take such other actions as are needed or appropriate to carry out the terms of these Regulations.

[STAFF NOTES ON PROPOSED CHANGES: Changes suggested by Planning Board member to correct capitalization, be consistent in the use of lists, to introduce common abbreviations and to be consistent in the citation of MCA.]

SECTION 2 GENERAL REQUIREMENTS AND EXCEPTIONS

Page 2-2 and 2-3, April 14, 2020 DRAFT Helena Valley Zoning Regulations

202 Overlay Districts

In order to recognize special areas, and to afford flexibility in development design within the Helena Valley Planning Area, the following overlay district is hereby established:

- (a) Planned Unit Development Overlay District (PD)

204.01 A boundary indicated as approximately following the center line of a street, highway, streambed, railroad right-of-way (R-O-W), or alley shall be construed to follow such center line.

206 Inclusion of a Use Not Listed

Uses not listed may be interpreted for inclusion in a specific zone district by the Zoning Administrator when such use is reasonably similar to those uses listed.

Uses not specifically listed, or not reasonably similar to those uses listed, or not interpreted for inclusion by the Zoning Administrator, in a specific zone district, may be added to the appropriate zone district upon the approval by the BoCC in accordance with the procedure set forth ~~herein~~ in Section 107.

208.04 Lots approved to be created through the exemption process as listed in Section 76-3-207, MCA shall comply with all aspects of these ~~r~~Regulations, including but not limited, to lot size.

208.05 Lots approved to be created through the exemption process as listed in Section 76-3-201, MCA shall comply with all aspects of these ~~r~~Regulations, however, are exempt from the zone district minimum lot size.

[STAFF NOTES ON PROPOSED CHANGES: Changes suggested by Planning Board member to correct capitalization, replace all bullets in lists with (a), (b), (c), etc., and to introduce common abbreviations.]

SECTION 3 DEFINITIONS

Page 3-2, April 14, 2020 DRAFT Helena Valley Zoning Regulations

301.02 In case of any difference of meaning or implication between the text of these Regulations ~~this Ordinance~~ and the captions for each section, the text shall control.

[STAFF NOTES ON PROPOSED CHANGES: Changes identified by Planning Board member to reference a resolution and not an ordinance.]

Page 3-3, April 14, 2020 DRAFT Helena Valley Zoning Regulations

Agriculture: For the purposes of these Zoning Regulations, ~~MCA~~ Sections 41-2-103 and 81-8-701, MCA, as amended, shall rule.

Page 3-4, April 14, 2020 DRAFT Helena Valley Zoning Regulations

Alteration: A ~~C~~change or rearrangement of the structural parts in the existing facilities or an enlargement by extending the sides or increasing the height or depth or moving a building or structure from one location or position to another.

Board of Adjustment (BOA): An appointed board authorized under ~~MCA~~ Title 76, Chapter 2, Part 2, MCA with the authority to hear and decide administrative appeals and variances from the requirements of these regulations.

Board of County Commissioners (BoCC): The Board of County Commissioners of Lewis and Clark County; sometimes referred to as the "governing body".

Page 3-6 and 3-7, April 14, 2020 DRAFT Helena Valley Zoning Regulations

Cemetery: A place and/or building, or portion thereof, that is used, or is intended, for the interring / burial of the deceased.~~; and such associated uses including~~ A cemetery may include associated uses such as columbarium's, crematories, and mausoleums.

Community Residential Facility:

Community Residential Facility (Type I): A community residential facility serving twelve (12) or fewer individuals.

Community Residential Facility (Type II): A community residential facility serving thirteen (13) or more individuals.

Includes the following:

1. A facility licensed by a governmental agency and providing care on a twenty four (24) hour a day basis and as defined by State law:
   (a). A community group home for developmentally, mentally, or severely disabled persons that does not provide skilled or intermediate nursing care.
   (b). A youth care facility in which substitute care is provided to youth, including youth foster homes, kinship foster homes, youth group homes, youth shelter care facilities,

childcare agencies, and transitional living programs, but excluding youth assessment centers.

(c). An adult foster family care home.

(d). A halfway house operated in accordance with regulations of the Montana ~~d~~Department of ~~p~~Public ~~h~~Health and ~~h~~Human ~~s~~Services for the rehabilitation of ~~alcoholics or drug dependent persons~~ persons dependent on drugs and/or alcohol.

(e). An assisted living facility.

2. A maternity home, including administrative offices, services for childcare, counseling, classroom training, independent living training, and support groups.

Conditional Use: A use that may be allowed in a specified zone district(s) if the use meets certain requirements. However, without the additional requirements of the ~~C~~conditional ~~U~~use process, it would likely not be appropriate throughout the zoning district.

Conservation Easement: An easement or restriction, running with the land and assignable, whereby an owner of land voluntarily relinquishes to the holder of such easement or restriction any or all rights to construct improvements upon the land or to substantially alter the natural character of the land or to permit the construction of improvements upon the land or the substantial alteration of the natural character of the land, except as this right is expressly reserved in the instruments evidencing the easement or restriction as defined by Sections 76-6-101 through 76-6-110 and Sections 201 through 212, MCA ~~M.C.A~~. A conservation easement may also prohibit the further subdivision, division, or development of the open space lots or parcels, as provided for in Sections 70-17- 201 through 70-17-206 and 76-3-509, MCA. ~~M.C.A~~

[STAFF NOTES ON PROPOSED CHANGES: Changes suggested by Planning Board member to introduce common abbreviations, correct grammar and capitalization, provide clear references to utilize abbreviations consistently, and to be consistent in the citation of MCA.]

After "Conservation Easement", insert the following definition for Correctional Facility:

Correctional Facility: Includes prisons and jails for the detention of persons awaiting trial or sentenced as punishment for criminal offenses, including youth detention facilities.

[STAFF NOTES ON PROPOSED CHANGES: Changes suggested by Planning Board member to insert definition.]

Page 3-7 and 3-8, April 14, 2020 DRAFT Helena Valley Zoning Regulations

Day Care Facility:
A facility which provides daily care and supervision of children, or persons with a disability ~~handicapped, disabled~~, or elderly adults, not related by blood or marriage, and not the legal ward of the attendant adult. A day care facility shall be in compliance with State regulations and, if required by the State, must be registered or licensed.

Group Day Care: A private residence or other structure in which supplemental ~~parental~~ care is provided on a regular basis for seven (7) to twelve (12) children.

Density: The number of units per area of measure~~.~~, ~~F~~for example, the number of dwelling units per acre.

Department: The Lewis and Clark County Community Development and Planning Department (CDP).

Educational Facility (K-12): A place and/or building, or portion thereof, for pre-schools, elementary, middle/junior high, or high schools~~, colleges, and vocational schools~~.

[STAFF NOTES ON PROPOSED CHANGES: Changes suggested by Planning Board member to utilize language more commonly used today, correct capitalization, and to remove unnecessary language.]

Page 3-9, April 14, 2020 DRAFT Helena Valley Zoning Regulations

Garage:

Private - A building, or portion thereof, including carports, in which motor vehicles used by the landowners, resident tenants, or their guests, are stored or kept.

Public - A building, or portion thereof, other than a private garage, used for the parking of automobiles~~;~~. ~~and~~ A public garage may include above and below ground structured parking.

General Repair: A place and/or building, or portion thereof, that is used or is intended for the repair of consumer goods such as shoes, bicycles, appliances, business equipment, small engine repair such as lawn mowers and snowblowers, and the like~~;~~. ~~t~~The term does not include repair of vehicles or industrial equipment.

~~Glare: The sensation produced by a light source that is sufficiently brighter than the level to which the eyes are adapted causing annoyance, discomfort, or loss in visual performance and visibility (disability glare). The magnitude of glare depends on such factors as the size, position, brightness of the source and on the brightness level to which the eyes are adapted.~~

Greenhouse/~~p~~Plant ~~n~~Nursery: A place and/or building, or portion thereof, used for the propagation, cultivation or growing of nursery stock such as flowers, bulbs, plants, trees, shrubs or vines, may include wholesale and retail sales of product propagated, cultivated, or grown.

[STAFF NOTES ON PROPOSED CHANGES: Changes suggested by Planning Board member to introduce correct grammar and capitalization and remove a definition that is already included under "Light Glare".]

Pages 3-10, 3-11, and 3-12, April 14, 2020 DRAFT Helena Valley Zoning Regulations

Health Care Facility: All or a portion of an institution, building, or agency, private or public, excluding federal facilities, whether organized for profit or not, that is used, operated, or designed to provide health services, medical treatment, or nursing, rehabilitative, or preventive care to any individual. The term includes chemical dependency facilities, critical access hospitals, end-stage renal dialysis facilities, home health agencies, home infusion therapy agencies, hospices, hospitals, infirmaries, long-term care facilities, intermediate care facilities for the developmentally disabled, medical assistance facilities, mental health centers, outpatient centers for primary care, outpatient centers for surgical services, rehabilitation facilities, residential care facilities, and residential treatment facilities. ~~(MCA)50-5-101(26)(a).~~

After "Instructional Facility", insert the following definition for Jail:

Jail: See Correctional Facility.

Kennel: A building, enclosure, or portion of any premises in or at which domesticated animals over the age of six (6) months are boarded, are kept for hire or for sale, or are kept or maintained by any person other than the owners thereof, or a building, enclosure, or portion of any premises in or at which five (5) or more dogs over the age of six (6) months are kept or maintained. (see Animal Boarding)

Loading Area, ~~o~~Off-street: An off-street space generally located at or near a building entrance to allow service pickups and deliveries by commercial vehicles.

[STAFF NOTES ON PROPOSED CHANGES: Changes suggested by Planning Board member to insert definition, correct capitalization, and to be consistent in the citation of MCA.]

Page 3-14 and 3-15, April 14, 2020 DRAFT Helena Valley Zoning Regulations

Manufactured Home: A dwelling for a single household, built offsite in a factory on or after January 1, 1990, that is placed on a permanent foundation, is at least 1,000 square feet in size, has a pitched roof and siding and roofing materials that are customarily, as defined by local regulations, used on site-built homes, and is in compliance with the applicable prevailing standards of the United States ~~d~~Department of ~~h~~Housing and ~~u~~Urban ~~d~~Development at the time of its production. A manufactured home does not include a mobile home or housetrailer, as defined in Section 15-1-101, MCA.

Medical Marijuana Provider: A person licensed by the Montana Department of Health and Human Services to assist a registered cardholder as allowed under Montana Code Annotated. The term does not include the cardholder's treating physician or referral physician. ~~(MCA)50-46-302 (18).~~

Motor Vehicle Graveyard: A collection point, established by a c~~County~~, for junk motor vehicles prior to their disposal. ~~(75-10-501(7), MCA)~~

Motor Vehicle Wrecking Facility: A facility buying, selling, or dealing in four or more vehicles a year, of a type required to be licensed, for the purpose of wrecking, dismantling, disassembling, or substantially changing the form of the motor vehicle; or a facility that buys or sells component parts, in whole or in

part, and deals in secondhand motor vehicle parts. A facility that buys or sells component parts of a motor vehicle, in whole or in part, is a motor vehicle wrecking facility whether or not the buying or selling price is based upon weight or any other type of classification.~~(MCA)75-10-501(8)(a).~~

[STAFF NOTES ON PROPOSED CHANGES: Changes suggested by Planning Board member to insert definition, correct capitalization, and to be consistent in the citation of MCA.]

Outdoor Sports and Recreation: A place and/or structure, or portion thereof, that is used or is intended for outdoor entertainment of all types; the term includes swimming pools, tennis courts, golf courses, golf driving ranges, paintball fields, firearms ranges, archery ranges, and the like.

Outdoor Entertainment: Leisure activities, usually organized and enjoyed with a gathering of others that may use equipment and take place at prescribed places, sites, or fields for outdoor spectator type uses or events, including, but not limited to, racetracks, motocross courses, sports arenas, concerts, and zoos.

[STAFF NOTES ON PROPOSED CHANGES: The definitions of Outdoor Sports and Recreation and Outdoor Entertainment should be alphabetized.]

Pages 3-16 and 3-17, April 14, 2020 DRAFT Helena Valley Zoning Regulations

After "Parking Space, Off-Street", insert the following definitions for Part 1 Zoning and Part 2 Zoning:

Part 1 Zoning: Zoning adopted pursuant to the enabling authority of Title 76, Chapter 2, Part 1, Montana Code Annotated.

Part 2 Zoning: Zoning adopted pursuant to the enabling authority of Title 76, Chapter 2, Part 2, Montana Code Annotated.

Planning Board: The Consolidated City and County Planning Board, created pursuant to ~~MCA~~ Title 76, Chapter 1, Part 1, MCA.

Plat: A graphical representation of a subdivision; and includes, but is not limited to the terms, Preliminary, Amended, and Final, as all such terms are more particularly defined within MCA and the most current adopted Subdivision Regulations of Lewis and Clark County, Montana.

After "Principal Use", insert the following definition for Prison:

Prison: See Correction Facility.

Recycling Facility: A place and/or building, or portion thereof, that is used or is intended for collecting and/or processing recoverable materials prior to shipment to others who use those materials to

manufacture new products~~;~~. ~~t~~Typical types of recoverable materials include glass, newspaper, metal, and plastic~~;~~. ~~t~~The term shall not include a junk yard.

Renewable Energy Facility: A site, together with its accessory facilities, where energy is generated using renewable resources. Such sites may include but are not limited to solar farms, wind turbines, or geothermal facilities.

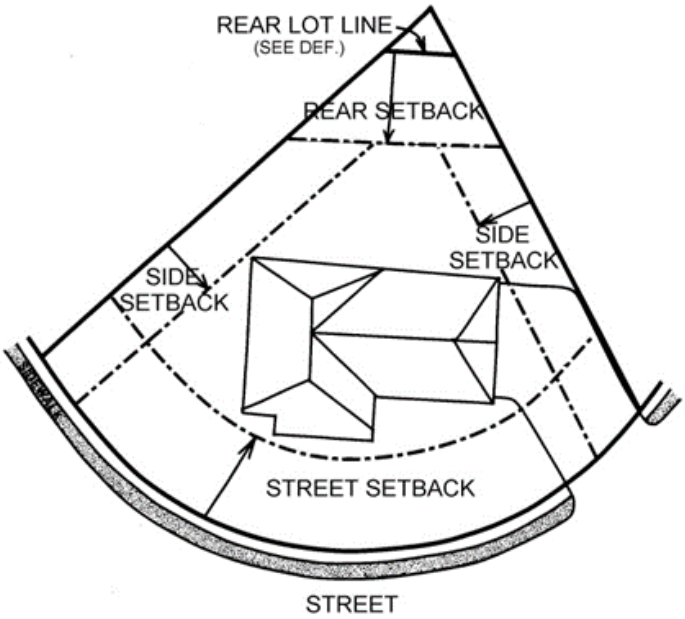
[STAFF NOTES ON PROPOSED CHANGES: Changes suggested by Planning Board member and Staff to insert definitions, correct grammar and capitalization, and to be consistent in the citation of MCA.]

Pages 3-18 and 3-19, April 14, 2020 DRAFT Helena Valley Zoning Regulations

Restaurant: A place and/or building, or portion thereof, that is used or is intended for the preparation and sale of food and beverages primarily for immediate consumption on the premises, and where consumption of beer, wine, or other liquors, if any, is clearly secondary and subordinate to the sale of food and beverages~~;~~. ~~t~~The term does not include a grocery store with a food service section.

> Front: A setback (sometimes called a Street Setback) extending across the full width of the lot and parallel to the right-of-way line, measured perpendicular to the right-of-way line. (See Setback Diagram)
>
> Rear: A setback extending across the full width of the lot and parallel to the rear lot line, measured perpendicular to the rear lot line; except that on pie shaped lots, a chord is to be drawn at a length of 10' in order to establish the rear lot line for the purpose of setback measurement ~~as shown in the image below.~~ (See Setback Diagram)
>
> Side: A setback extending from the front lot line to the rear setback and parallel to the side lot line, measured perpendicular to the side lot line. (See Setback Diagram)

SETBACK DIAGRAM



[STAFF NOTES ON PROPOSED CHANGES: Changes suggested by Planning Board member to correct capitalization and grammar. A reference to the Setback Diagram is added for clarity and a label is added to the Setback Diagram.]

Pages 3-19 and 3-20, April 14, 2020 DRAFT Helena Valley Zoning Regulations

Staff: Lewis and Clark County employees with a role in reviewing or administering the provisions contained ~~herein~~ in these Regulations.

Subject ~~l~~Land: Real property which is the subject of ~~the~~ these ~~r~~Regulations ~~set forth herein~~.

Telecommunication~~s~~ Facility: A facility and all elements thereof, including but not limited to support towers, antennas, and accessory equipment buildings, that together facilitate communication by the electronic transmission of telephone, radio, television, internet, wireless, or microwave impulses of an FCC licensed carrier, but excluding those used exclusively for private radio and television reception, private citizen's band, amateur radio communications.

[STAFF NOTES ON PROPOSED CHANGES: Changes suggested by Planning Board member to correct capitalization and to provide clear references.]

SECTION 7 RURAL RESIDENTIAL MIXED USE

Page 7-2, April 14, 2020 DRAFT Helena Valley Zoning Regulations

701 Intent

To provide for lower density residential development, along with an opportunity for continued agricultural activities, within the rural areas of the Helena Valley~~; along with an opportunity for continued agricultural activities~~. Also, on a limited basis, to provide areas for non-residential uses in balance with residential development and agricultural activities as an integral part of the community providing essential services and employment opportunities. Non-residential development within this district should be permitted in compact centers rather than in extended strips of development along roadways to provide for orderly development, minimized traffic congestion, and to provide for safe pedestrian movement.

Urban development within this district is strongly discouraged. Expansion of urban development into rural areas is a matter of public concern because of the challenges in satisfactorily addressing the impacts associated with the five key issues identified in the Growth Policy. Those key issues~~,~~ (fire, water, wastewater, roads, and flooding)~~;~~ along with the potential for conflicts between agricultural and urban activities support the lower development intensity levels of the Rural Residential Mixed-Use zone district. Development or use of land in this district is permitted only in accordance with the provisions herein.

702 Principal Uses

Only one principal use is allowed on each parcel. The following principal uses are allowable in the Rural Residential Mixed-Use District:

702.01 Agriculture

702.02 Apiculture

702.03 Community Residential Facility – Type-I

702.04 Community ~~u~~Uses:

- 702.04.01 Education Facility
- 702.04.02 Library
- 702.04.03 Open space/trails
- 702.04.04 Park
- 702.04.05 Public Facilities (without outdoor training)

702.05 Day-care Facility

702.05.01 Adult Daycare

702.05.02 Family Daycare

702.05.03 Group Daycare

702.06 Forestry

702.07 Horticulture

702.08 Residence

- 702.08.01 A single dwelling unit residence per parcel
- 702.08.02 A two – dwelling unit residence per parcel

702.09 Septic Waste and Domestic Sludge Application

702.10 Silviculture

702.11 Telecommunication ~~f~~Facility
702.12 Temporary Use
702.13 Utility Site
702.14 Worship Facility

[STAFF NOTES ON PROPOSED CHANGES: Changes suggested by Planning Board member to correct grammar and capitalization and be consistent in the use of lists.]

Pages 7-3, 7-4, and 7-5, April 14, 2020 DRAFT Helena Valley Zoning Regulations

703 Accessory Uses

Each permitted accessory use shall be customarily incidental to the principal use established on the same parcel; be subordinate to and serve such principal use; be subordinate in area, extent, and purpose to such principal use; and contribute to the comfort, convenience, or necessity of users of such principal use.

The following uses shall be allowed only when a principal use has already been established on the parcel:

703.01 Accessory Uses and Buildings
703.02 Home ~~o~~Occupations, in compliance with Section 16, of these Regulations.
703.03 Temporary Uses, in compliance with Section 15 of these Regulations.

704 Conditional Uses

The following uses are permitted, upon approval of a Conditional Use Permit (CUP) by the Board of County Commissioners (BoCC), in accordance with Section 14, of these Regulations:

704.01 Airstrip
704.02 Aircraft ~~h~~Hangars when in association with properties within or adjoining an airstrip
704.03 Animal ~~a~~Aospital, ~~v~~Veterinary ~~c~~Clinic
704.04 Batch Plant (concrete, mortar, or asphalt; not including temporary batch plants)
704.05 Bank/financial institution
704.06 Bar/lounge
704.07 Bed and ~~b~~Breakfast ~~e~~Establishment.
704.08 Building materials - wholesale/retail
704.09 Camp~~ and~~ / ~~r~~Retreat ~~c~~Center
704.10 Cemetery
704.11 Community Residential Facility, Type-II
704.12 Contractor's storage yard
704.13 Daycare Center
704.14 Equipment ~~r~~Rental
704.15 Extractive Industries
704.16 Funeral Home
704.17 General/Professional Services
704.18 General Repair
704.19 Greenhouse/~~p~~Plant ~~n~~Nursery
704.18 Health Care Facility

704.19 Heliport
704.20 Hotel (including conference or convention facilities)
704.21 Industrial (must not emit unusual or excessive amounts of dust, smoke, fumes, gas, noxious odors, or noise beyond the parcel boundary)
704.22 Indoor Entertainment, Sports, and Recreation
704.23 Jail/Correctional Facility
704.24 Kennel
704.25 Medical Marijuana Dispensary
704.26 Medical Marijuana Grow Operation
704.27 Medical Marijuana Provider
704.28 Motor Vehicle Graveyard
704.29 Motor Vehicle Wrecking Facility
704.30 Motorized vehicle/equipment - service/repair and incidental sales
704.31 Outdoor Sports and Recreation
704.32 Outdoor Entertainment
704.33 Parking ~~l~~Lot - public or private
704.34 Propane distribution/storage facility
704.35 Public Facilities (with outdoor training)
704.36 Recycling ~~f~~Facility/solid waste transfer facility
704.37 Renewable Energy Facilities
704.38 Research and ~~d~~Development ~~f~~Facility
704.39 Residence
- 704.39.01 Multiple – Dwelling Unit Residence per parcel

704.40 Restaurant
704.41 Retail
704.42 Satellite Earth Station
704.43 Storage Facility, Self Service
704.44 Vehicle Fuel Sales
704.45 Vehicle Repair
704.46 Vehicle Sales and Rental
704.47 Warehouse
704.48 Water/Wastewater Treatment Facility

705 Special Exception Uses

The following uses are allowed in addition to an established principal use, an accessory use, or conditional uses:

705.01 Agricultural
705.02 Apiculture
705.03 Community Residential Facility – Type-1
705.04 Day Care Facility
705.04.01 Adult Daycare
705.04.02 Family Daycare
705.04.03 Group Daycare
705.05 Forestry
705.06 Horticulture
705.07 Silviculture
705.08 Telecommunication ~~f~~Facility

706.01.4 The minimum amount of land preserved in a cluster development is equal to the base density of ten (10) acres per parcel, minus the area in new lots planned for development. For example, an 80-acre parcel can be divided into eight (8) lots (80 acres ÷ a base density of 10 acres per lot).

In the 80 acre example below in ~~f~~Figure 1, each of the 8 cluster lots is one acre in size as allowed under DEQ rules for water and wastewater. The 9th parcel, 72 acres in size, is to be preserved as open space and/or a resource use(s). Under this development scenario, approximately 90 percent of the parcel is maintained in open space, and the need for road construction is minimized

The 160 acre example below in ~~f~~Figure 1, shows a second example of development of a 160-acre parcel. A 160-acre parcel of land can be divided into sixteen lots planned for development (160 acres ÷ a base density of 10 acres per lot). Each of the ten cluster lots (the maximum number of cluster lots allowed) planned for development is two acres in size. An added six non-clustered lots of 10 acres each are allowed on the parcel being subdivided to achieve the full development potential of the quarter section of land. The 17th parcel, 80 acres in size, is to be preserved as open space and/or a resource use(s). Under this development scenario, approximately half of the parcel is maintained in open space, and the need for road construction is minimized.

Numerous other combinations and configurations are possible so long as they comply with the provisions for cluster development and the density restrictions.

[STAFF NOTES ON PROPOSED CHANGES: Changes suggested by Planning Board member to introduce common abbreviations, correct grammar and capitalization, be consistent in the use of lists, and to utilize abbreviations consistently.]

Page 7-7, April 14, 2020 DRAFT Helena Valley Zoning Regulations

706.02 Open Space Standards

The land preserved in open space and/or a resource use(s) must:

706.02.1 Be maintained on a long-term basis through a ~~Irrevocable~~ revocable covenant prohibiting further subdivision, division, or development of the open space and/or resource use parcel. Revocation of said covenant requires approval by the ~~Lewis and Clark County Board of Commissioners (~~BoCC~~)~~. Revocations may be considered if zoning and/or development constraint conditions no longer require density to be limited on the subject property;

706.02.2 Be accessible via a road and/or trail easement filed with the Lewis and Clark County Clerk and Recorder's office;

706.02.3 Be identified on a final subdivision plat or certificate of survey (COS) (for exemptions from subdivision). The ~~Final Plat~~ final subdivision plat or COS shall include a notation as to the official recordation location of the revocable covenant;

706.02.4 Include a plan for ongoing use and maintenance as open space and/or a resource use(s) that includes provisions to manage vegetation and noxious weeds, and that may be amended by the BoCC in consultation with parties owning title to the land;

[STAFF NOTES ON PROPOSED CHANGES: Changes suggested by Planning Board member and Staff to require a revocable covenant for added flexibility, and to utilize abbreviations and phrases consistently.]

Pages 7-8, 7-9, and 7-10, April 14, 2020 DRAFT Helena Valley Zoning Regulations

708.04.1 Applicability and Water Course Descriptions

Setbacks and buffers are horizontal distances from the ordinary high water mark, and are designated as follows:

Water Course Designation	Setback	Buffer
(a) Type I	250 feet	100 feet
(b) Type II	200 feet	75 feet
(c) Type III	100 feet	50 feet
(d) Type IV	50 feet	no buffer

Setback and buffer areas are applicable from the boundaries of wetlands identified by the County, the Army Corps of Engineers, Department of Environmental Quality (DEQ), U.S. Fish and Wildlife Services, Department of Natural Resources and Conservation (DNRC) or Montana Fish, Wildlife and Parks (FWP). Setback and buffers areas from wetland boundaries may not contain structures and improvements, except for those for educational or scientific purposes.

For the purposes of this section, water courses subject to these regulations shall include the following:

(a)~~.~~ Parcels within 250 feet of the ordinary high water mark of type I water courses. This is defined as the Missouri River (excluding the reservoirs).
(b)~~.~~ Parcels within 200 feet of the ordinary high water mark of type II water courses, generally defined as all main tributaries of type I water courses.
(c)~~.~~ Parcels within 100 feet of the ordinary high water mark of type III water courses, generally defined as all tributaries of type II water courses; all intermittent streams; Missouri River Reservoirs; Lake Helena; Helena Valley Regulating Reservoir; and wetlands (as defined by the current edition of the Federal Manual for Identifying and Delineating Wetlands).

(d)~~.~~ Parcels within 50 feet of type IV water-courses, which for these purposes are considered the Helena Valley Irrigation District canals, Prickly Pear Water Users canals, and ditches or canals specifically designed to specifically carry irrigation water.

708.04.2 Structures and uses prohibited under the setback and buffer standards include the following:

~~a.~~ (a) ~~a~~Any type of building and accessory structure related to residential and non-residential uses;
~~b.~~ (b) ~~m~~Manufactured and prefabricated buildings or accessory structures;
~~c.~~ (c) ~~s~~Septic tanks and septic tank drain fields;
~~d.~~ (d) ~~b~~Barns, feed lots, and corrals;
~~e.~~ (e) Telecommunication ~~towers~~Facilities; and
~~f.~~ (f) ~~r~~Roads, road easements, road rights-of-way and driveways that are within the setback and buffer area and are parallel to the watercourse.

708.04.8 Public trails along a stream, river, lake, or wetland may be constructed within the required buffer zones, provided they are solely for non-motorized use, and subject to the following provisions:

~~a.~~ (a) ~~t~~Trails shall not be constructed within 15 feet of the ordinary high water mark of a stream, river, lake, or wetland. Existing trails inside this zone will be considered to be a legal, non-conforming use;
~~b.~~ (b) ~~c~~Construction of trails shall follow the natural topography to the maximum extent feasible to prevent excessive cut and fill; and
~~c.~~ (c) ~~n~~Natural vegetation shall be retained to the maximum extent possible.

708.04.9 Nothing in this Waterbody Setbacks and Buffers section shall prohibit repairs or improvements to existing roads, ditches, utilities or utility lines, bank maintenance, or stream stabilization/enhancement measures otherwise allowable under federal or state laws. The following uses or activities are authorized to occur within the setback and buffer area:

~~a.~~ (a) ~~a~~A utility line;
~~b.~~ (b) ~~r~~Roads, road easements, road rights-of-way and driveways that are perpendicular to the watercourse and within the setback are permitted;
~~c.~~ (c) ~~a~~An outlet for stormwater facilities;
~~d.~~ (d) ~~a~~An agricultural use or activity that is not a new agricultural building or addition to an existing building;
~~e.~~ (e) ~~a~~An existing legal, non-conforming structure, use, or activity;
~~f.~~ (f) ~~a~~An activity that is required in an approved noxious weed control plan; and/or
~~g.~~ (g) ~~a~~An activity related to the planting of native vegetation.

[STAFF NOTES ON PROPOSED CHANGES: Changes suggested by Planning Board member to introduce common abbreviations, correct capitalization, and be consistent in the use of lists.]

Page 7-10, April 14, 2020 DRAFT Helena Valley Zoning Regulations

709.02 Fences and walls in excess of forty-two (42) inches in height are not allowed in the front setback.

[STAFF NOTES ON PROPOSED CHANGES: Change suggested by City Planning Staff member.]

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712.12 Crematorium; General Repair; Light Industrial; Vehicle Repair~~; Vehicle Services~~: 1.59 spaces per 1,000 square feet of gross floor area.

712.17 Specialized Food Production; Artisan Shop (with Production and Manufacturing): ~~1.59 s paces~~ 1.59 spaces per 1,000 square feet of gross floor area.

713.01 Residential Outdoor Lighting
All exterior light fixtures shall be of a full-cutoff design~~;~~ except as otherwise permitted below.

[STAFF NOTES ON PROPOSED CHANGES: Changes suggested by Planning Board member to correct grammar and spacing.]

SECTION 10 FORT HARRISON RURAL GROWTH AREA DISTRICT (FHRGA)

Page 10-1, April 14, 2020 DRAFT Helena Valley Zoning Regulations

The Fort Harrison Rural Growth Area Zone District was previously approved, and its regulations can be found at Resolution 2019-20 recorded with the Lewis and Clark County Clerk and Recorder's office at document number 3333541 (see below~~.~~).

[STAFF NOTES ON PROPOSED CHANGES: Changes suggested by Planning Board member to correct punctuation and use consistent language.]

SECTION 11 FORT HARRISON URBAN GROWTH AREA DISTRICT (FHUGA)

Page 11-1, April 14, 2020 DRAFT Helena Valley Zoning Regulations

The Fort Harrison Urban Growth Area Zone District was previously approved and, its regulations can be found at Resolution 2019-21 recorded with the Lewis and Clark County Clerk and Recorder's office at document number 3333542 (see below~~.~~).

Nothing contained within these Helena Valley Zoning Regulations apply to the existing Fort Harrison ~~Rural~~ Urban Growth Area District regulations, and vice versa.

[STAFF NOTES ON PROPOSED CHANGES: Changes suggested by Planning Board member and Staff to correct punctuation and use consistent language.]

SECTION 14 CONDITIONAL USE PERMIT

Page 14-1, April 14, 2020 DRAFT Helena Valley Zoning Regulations

GENERAL PROVISIONS

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1402 Criteria for Consideration of a Conditional Use Permit 14-2
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STANDARDS AND ADDITIONAL REQUIREMENTS

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SUBMITTAL PROCESS AND REQUIREMENTS

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1408 Submittal Process 14-7
1409 Withdrawal of a~~n~~ Conditional Use Permit Application 14-8
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[STAFF NOTES ON PROPOSED CHANGES: Changes suggested by Planning Board member to match section titles in the document.]

Pages 14-2 through 14-7, April 14, 2020 DRAFT Helena Valley Zoning Regulations

1401 Intent

To provide for uses in specific zone districts when such uses may possess unique and special characteristics which otherwise may not be ordinarily compatible with all ~~spects~~ aspects of the zone districts in question. To provide a public process which affords the County and the public a way to satisfactorily address any impacts of the use. To establish procedures for the review of Conditional Use Permits (CUP) by the ~~the~~ County Community Development and Planning Department (CDP) and the Board of Adjustment (BOA) with an opportunity for the public to participate.

1402 Criteria for Consideration of a Conditional Use Permit

A CUP may be approved only if the BOA finds and concludes that the proposed use satisfactorily addresses the criteria set forth in Section 1402.01 In reaching its conclusions, ~~it~~ the BOA will assess the applicant's information; however, the burden of proof for satisfying the approval standards shall rest wholly with the applicant, and not the BOA. The granting of a CUP rests in the discretion of the BOA and a refusal is not the denial of a right, conditional or otherwise.

No structure, building or land shall be used, constructed, altered, or expanded where a CUP is specifically required by the terms of these regulations until a CUP or CUP Amendment for such use has been authorized by the BOA and issued by the Zoning Administrator.

Structures or buildings devoted to any use which is permitted under the terms of these regulations, subject to the securing of a CUP, may be altered, added to, enlarged, expanded, or moved from one location to another on the parcel only after securing a new or amended CUP.

The BOA may establish lesser setbacks than those required and heights greater than those allowed in the underlying zone district, if the BOA determines that adequate buffering is or will be provided to mitigate such concerns as noise, visual, dust, or other social or environmental impacts. The burden of proof is on the applicant to demonstrate such adequate mitigation measures.

A CUP may be permitted on nonconforming parcels when such use is permitted, as a CUP, in the zone district to which the parcel conforms in size.

1402.01 Approval Criteria

Each CUP application shall demonstrate how the proposal will satisfactorily address the following five (5) approval criteria.

1402.01.1 Site Suitability

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

- (a) ~~a~~Adequate usable space; ~~and~~
- (b)~~a~~Adequate access; and

- (c) ~~a~~Absence of adverse environmental constraints.

1402.01.2 Appropriateness of Design

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

- (a) ~~p~~Parking scheme; ~~and~~
- (b) ~~t~~Traffic circulation; ~~and~~
- (c) ~~o~~Open space; ~~and~~
- (d) ~~f~~Fencing, screening; ~~and~~
- (e) ~~l~~Landscaping; ~~and~~
- (f) ~~s~~Signage; and
- (g) ~~l~~Lighting.

1402.01.3 Availability of Public 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:

- (a) ~~s~~Sewer; ~~and~~
- (b) ~~w~~Water; ~~and~~
- (c) ~~s~~Storm water drainage; ~~and~~
- (d) ~~f~~Fire protection; ~~and~~
- (e) ~~p~~Police protection; and
- (f) ~~s~~Streets.

1402.01.4 Immediate Neighborhood Impact

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

- (a) ~~e~~Excessive traffic generation; ~~and~~
- (b) ~~n~~Noise or vibration; ~~and~~
- (c) ~~d~~Dust, glare, or heat; ~~and~~
- (d) ~~s~~Smoke, fumes, gas, or odors; and
- (e) ~~i~~Inappropriate hours of operations.

1406 Standards and Additional Requirements for Conditional Uses

When the proposal lies within a Planned Unit Development (PUD) overlay, the ~~D~~development ~~P~~plan for said PUD overlay shall set forth the ~~C~~conditional ~~U~~uses and any additional requirements therein. In the absence of a PUD, the ~~C~~conditional ~~U~~uses shall be as set forth within the specific zone district applicable to the proposed project site.

The following uses are listed as Conditional Uses below and are subject to additional requirements as noted:

1406.01 Airstrip

- (a) Minimum setback for landing area: 200' from the sides of the landing strip, and 400' from the ends.
- (b) The landing field shall be for the exclusive use of the landowner and guests.
- (c) Any commercial use, flight training, ground school, or sales, are prohibited.
- (d) Aircraft noise at the parcel boundaries may not exceed 78 db(A) for more than 5 minutes in a 1-hour period.
- (e) The FAA shall be notified regarding approval of airspace.

- (f) The landing strip shall be oriented such that aircraft landing and takeoff do not pass directly over dwellings not owned by the landowner, schools, churches, or other places of public assembly.
- (g) Minimum setback from existing residences (except landowner's): 1/2 mile from either end of the runway.
- (h) A management plan shall be submitted with the application that addresses the following:
  - (1) ~~t~~Type and use of aircraft for which the facility is intended;
  - (2) ~~n~~Number of planes to be stationed on the site;
  - (3) ~~f~~Frequency of flights and diagram of flight patterns; and
  - (4) ~~h~~Hours of operation.

1406.02 Animal Hospital / Veterinary Clinic

- (a) ~~provided that s~~Such uses ~~are~~ must be located at least 100 feet from all parcel lines.

1406.03 Extractive Industries

Requirements contained in this section shall not exempt the owner or operator of an extractive industry from compliance with the Montana Open Cut Mining Act, 82-4-401, et seq., M.C.A., as administered by the Montana Department of Environmental Quality, but shall be in addition to the requirements of said Act.

1406.03.1 Operational Requirements

- (a) The site of an extractive industry shall be of sufficient size and dimensions to accommodate the proposed operations. Consideration shall be given to noise, light, dust, smoke and vibration and how they affect adjoining properties. Blasting operations shall be restricted to Monday through Friday between the hours of 8:00 A.M. and 5:00 P.M. Pockets and stagnant pools of water resulting from surface drainage shall either be:
- (1) Sprayed to eliminate breeding places for mosquitoes and other insects. Method and chemical uses shall be approved by the Montana State Department of Agriculture; or
- (2) Drained to prevent the creation of such breeding places.

1406.03.3 Plan for Development of the Site.

The plan to be submitted with the application for a CUP shall include a plan for the development of the subject property which shall consist of two phases: the exploitation phase and the re-use phase. When such a plan is also required by the Open Cut Mining Act, the submitted plan must include all information required by the Department of Environmental Quality for such an application.

- (a) Exploitation Phase

~~A.~~ (1) The plan for the exploitation phase ~~should~~ shall show the proposed development as planned in relation to surrounding property within 300 feet and shall include topographic surveys and other materials indicating existing conditions, including soil and drainage and the conditions, including drainage, topography and soil which shall exist at the end of the exploitation phase. Contour intervals for topography shall be five (5) feet in areas where slope is less than ten (10%) percent.

~~B.~~ (2) The plan for the exploitation phase shall demonstrate the feasibility of the operation proposed without creating hazards or causing damage to other properties. This plan shall also show the different stages of exploitation, where and how traffic will be handled, where equipment will be operating, the location and dimension of structures, the manner in which safeguards will be provided, including those for preventing access by children and other unauthorized persons to dangerous areas. The final stage of this plan shall indicate how the project is to be finished in accordance with the plan for re-use.

- (b) Re-Use Phase

  The plan for the re-use phase shall indicate how the property is to be left in a form suitable for re-use for purposes permissible in the district, relating such re-uses to uses existing or proposed for surrounding properties. Among items to be included in the plan are feasible circulation patterns in and around the site, the treatment of exposed soil or subsoil, including measures to be taken to replace topsoil or establish vegetation in excavated areas in order to make the property suitable for the proposed re-use and treatment of slopes to prevent erosion. In such a re-use plan, intermittent lakes shall be allowed, provided that such lakes are deep enough to sustain a species of game fish approved by the Montana Department of Fish, Wildlife and Parks. Such fish should have the capacity of feeding on insects and mosquito larvae, thereby eliminating an insect and mosquito breeding area.

1406.04 Greenhouse Nursery

The following items may be restricted based upon compatibility with the surrounding land uses:

- (a) Location, size, height and use of structures;
- (b) Number of vehicle trips;
- (c) Lighting and hours of operation;
- (d) Location and type of materials stored outside; and
- (e) Wholesale/Retail sale of items.

1406.05 Heliport

- (a) The FAA shall be notified regarding approval of airspace.

- (b) A management plan shall be submitted with the application that addresses the following:
  - (1) ~~t~~Type and use of aircraft for which the facility is intended;
  - (2) ~~n~~Number of ~~helecopters~~ helicopters to be stationed on the site;
  - (3) ~~f~~Frequency of flights and diagram of flight patterns; and
  - (4) ~~h~~Hours of operation.

1406.09 Satellite Earth Station

A report describing the satellite earth station shall be included with the application. The report shall include the following:

- (a) Discussion of proposed number, height, and types of satellite dishes to be accommodated;
- (b) Description of output frequency, number of channels and power output per channel for each proposed antenna;
- (c) A letter from the applicant stating that an intermodulation study, if required, has been conducted and concludes that no interference problems are predicted;
- (d) A plan for the use and estimated life of the proposed telecommunication facility; and
- (e) Statement that the proposed facility will be in compliance with all FCC and FAA regulations, and applicable federal requirements including, but not limited to, those associated with the National Environmental Protection Act (NEPA) as amended.

[STAFF NOTES ON PROPOSED CHANGES: Changes suggested by Planning Board member and Staff to correct spelling, introduce common abbreviations, and to be consistent in the use of lists.]

Pages 14-7 through 14-9, April 14, 2020 DRAFT Helena Valley Zoning Regulations

1407 Submittal Prerequisite

The applicant shall attend a ~~presubmittal~~ pre-application meeting with the Zoning Administrator to discuss their CUP proposal, the submittal process, and requirements for a new CUP or an amendment to an ~~exisiting~~ existing CUP. Within 15 days of the ~~presubmittal~~ pre-application meeting, the Zoning Administrator shall provide a written summary of the meeting.

A proposed amendment to an existing CUP may be considered in accordance with the procedures identified in the Amendment Section 1416 ~~herein~~. An amendment to a CUP shall be considered through an administrative process when the Zoning ~~Admnistrator~~ Administrator determines that the change does not represent a substantial increase in the intensity of the use or impacts to the neighborhood. This type of amendment shall be referred to as a CUP Administrative Amendment.

If the Zoning ~~Admiistrator~~ Administrator determines that the proposed amendment to an existing CUP does represent a substantial increase in the intensity of the use or impacts to the neighborhood, the proposed amendment shall be subject to the same submittal and process requirements as required for a new CUP application. This type of amendment shall be referred to as a CUP Amendment. When making the determination, the Zoning Administrator shall

consider the proposed degree of change to the site improvements and management plan as reflected on the approved Plan Exhibit, with specific consideration for potential increased impacts to the surrounding community.

1408 Submittal Process

The following shall apply to a new CUP or a CUP Amendment. The application shall be submitted only after the ~~presubmittal~~ pre-application meeting(s) has been completed and the applicant has received the written Staff comment summary from the ~~presubmittal~~ pre-application meeting. For a request for a CUP, or a CUP amendment, the submittal is processed as follows:

1408.01 The applicant shall submit the required submittal information to the CDP. The submittal shall be reviewed by the ~~Planner~~ Staff assigned the project and a determination of completeness shall be made within 21 days. The applicant shall be notified in writing if the submittal is incomplete, and any inadequacies shall be specifically identified. An incomplete submittal will not be processed.

1408.02 Once the submittal is determined complete, ~~s~~Staff will notify the applicant in writing of the number of copies of the submittal information required for distribution to referral agencies.

1408.03 If the referral agencies elect to comment, they may comment within 30 days from the date the referral packets were mailed or electronically distributed, unless the applicant grants, in writing, an extension of no more than 30 days.

All referral agency comments shall be provided by the ~~Planner~~ Staff to the applicant. The applicant shall be given an opportunity to address the comments of all referral agencies by identifying in writing the extent to which the project has been revised in response to the comments. The applicant is strongly encouraged to provide the Planner with a written response. The applicant is encouraged to meet with the referral agencies and the ~~Planner~~ Staff to address any concerns.

1408.04 The ~~Planner~~ Staff will review the referral agency comments, discuss the concerns with the applicant, schedule a public hearing before the BOA, notify the applicant in writing of the hearing date and time, and prepare a staff report for the BOA. The ~~Planner~~ Staff will provide the public notice for the hearing as set forth in Section 1412 ~~herein~~.

1408.05 The BOA shall evaluate the CUP request, staff report, referral agency comments, applicant responses, and public comment and testimony, and shall approve, approve with conditions, table for further study, or deny the CUP request. The BOA's action shall be based on the evidence presented, public comment, compliance with the adopted County standards, regulations, policies, and other guidelines.

1408.06 If denied by the BOA, a resubmittal of a CUP request for the same or substantially same request, as determined by the Zoning Administrator, shall not be accepted within 1 year of such denial. The applicant may appeal the decision, in writing, to the BOA pursuant to the Section 20 (Appeals) of these Regulations. The submittal of a new application and processing fee shall be required to pursue another proposed CUP.

1408.07 Following approval by the BOA, the applicant shall submit a signed Plan Exhibit to the CDP. The ~~Planner~~ Staff shall verify that all conditions of approval have been met and all technical corrections have been satisfactorily made, prior to the Zoning Administrator's execution of the approval certificate on behalf of the BOA. The applicant shall submit the final signed Plan Exhibit no later than 90 days from the date of BOA approval, unless the BOA allows for a longer period of time as part of its approval. The Zoning Administrator may grant a one-time extension of no more than an additional 90 days. Further extensions shall be submitted for the BOA's consideration.

1409 Withdrawal of a~~n~~ Conditional Use Permit Application

A request to withdraw an application shall be submitted, in writing, to the ~~Planner~~ Staff. Once withdrawn, the submittal of a new application and processing fee shall be required in order to re-initiate the application; and such re-initiation shall be considered and processed as a new application.

1410 Submittal Requirements

The following submittal requirements shall apply to all applications for a new CUP:~~.~~

1410.01 Completed application (available from the CDP).

1410.02 Application fee (available from the CDP).

1410.03 Proof of ownership that includes an updated or current title insurance policy or title commitment, or other acceptable form of title verification, no more than 6 mo. days old from the date of application.

1410.04 A notarized letter of authorization from the landowner permitting a representative to process the application, when applicable.

1410.05 Narrative to describe the following:

- (a) General project concepts;
- (b) Zoning of the land and compliance with the zone district requirements and any additional requirements for the CUP review as defined in this Section 14;
- (c) Define overall impacts of the proposed use on the adjoining lands;
- (d) Compliance with the Growth Policy;
- (e) Compliance with appropriate agency regulations and any other necessary permits; and
- (f) How the proposal satisfactorily address the approval criteria set forth in Section 1402~~, herein~~.

1410.06 Plan Exhibit *(per Section 1411~~, herein~~)*

Plan Exhibit (11"X17" reduction) shall be required for the BOA public hearing packets; however, larger format plans (i.e. 24"x36" etc.) may be required if needed for clarity purposes.

1410.07 Development Reports, unless waived by the Zoning Administrator in consultation with the County Engineer:

- (a) Drainage Report and Plan;
- (b) Utility drawings(s);
- (c) Off-site improvement plans, as required;
- (d) Engineering construction drawings; and
- (e) Traffic Impact Study.

1410.09 Documentation of capacity from the fire protection authority having jurisdiction.

[STAFF NOTES ON PROPOSED CHANGES: Changes suggested by Planning Board member and Staff to correct capitalization, use common language, refer to Staff consistently, provide clear references, clearly reference the fire protection authority having jurisdiction, and be consistent in the use of lists.]

Pages 14-9 and 14-10, April 14, 2020 DRAFT Helena Valley Zoning Regulations

1411.01 All or portions of the required Site Plan elements may be waived by the Zoning Administrator if it is determined that the CUP review will occupy an existing structure with no exterior modifications, no site modifications, or will not otherwise require significant public or private improvements:

- (a) Scaled Site Plan;
- (b) Landscape Plan;
- (c) Grading and Drainage Plan; and
- (d) Lighting Plan.

1411.02.1 Number of clients/customers expected daily or weekly.

1411.02.2 Hours of operation - whether the use is seasonal and the number of days of the week.

1411.02.3 Number of employees.

1411.02.4 Required outside storage/parking/loading areas.

1411.02.5 Permit requirements from other state, federal or local agencies.

1411.02.6 Method of providing fire protection.

1411.02.7 Other operational elements necessary to address the potential impacts for the specific special use.

1411.03 Plan Exhibit Title

The ~~p~~Plan ~~e~~Exhibit title shall include the name and legal description of the proposed development along with the address, site acreage (both for the CUP area and total site when different), and project file number. The business name shall not appear in the official title.

[STAFF NOTES ON PROPOSED CHANGES: Changes suggested by Planning Board member to correct capitalization and be consistent in the use of lists.]

Pages 14-11 through 14-13, April 14, 2020 DRAFT Helena Valley Zoning Regulations

1412.01 ~~WRITTEN NOTICE~~ Written Notice

At least 15 days prior to the BOA hearing, Staff shall mail a written notice of the hearing by first-class mail to the address of each abutting landowner as such address is shown in the records of the County. The notice shall read substantially the same, as the published notice also required by this section.

1412.02 ~~PUBLISHED NOTICE~~ Published Notice
At least 15 days prior to the BOA hearing, Staff shall:

- (a) ~~p~~Publish a notice in at least 1 publication of a daily or a weekly legal newspaper of general circulation, printed or published in whole or in part in the County; and
- (b) ~~o~~Obtain a publisher's affidavit of said published notice prior to the hearing.

1412.03 ~~POSTED NOTICE~~ Posted Notice
At least 15 days prior to the BOA hearing, Staff shall post a notice on the land for which the CUP is requested.

1413.02.1 Construction pursuant to approval of a CUP shall be commenced within three (3) years from the date of the ~~BoCC's~~ BOA's approval, unless otherwise specified, or the approval shall terminate. The Zoning Administrator may grant an extension of time, for good cause shown, upon a written request by the applicant.

1413.02.3 Where a CUP brings an existing use into compliance with applicable regulations, or is designed to correct a Notice of Violation, all improvements depicted on the CUP exhibit shall be completed within six months of approval, unless otherwise approved by the ~~BoCC~~ BOA.

[STAFF NOTES ON PROPOSED CHANGES: Changes suggested by Planning Board member to correct capitalization, be consistent in the use of lists, and to utilize abbreviations consistently.]

Pages 14-14 and 14-15, April 14, 2020 DRAFT Helena Valley Zoning Regulations

1415 Post Denial Application
If denied by the BOA, a resubmittal of the same or substantially same CUP application shall not be accepted within 180 days from the date of denial by the BOA~~;~~, or in the event of litigation, from the date of the entry of the final judgment. However, if evidence is presented to the Zoning Administrator showing that there has been a substantial change in physical conditions or

circumstances, the Zoning Administrator may reconsider the CUP sooner than the above noted 180 days. A new application and processing fee shall be required.

1416 CUP Amendments

1416.01 Amendment of an Approved CUP - BOA

An amendment to an approved CUP may be considered in accordance with the procedures identified in the Section 14 ~~herein~~ for a new CUP.

1416.02 Amendment of an Approved CUP - Administrative

When an ~~exsiting~~ existing CUP is proposed for a minor modification, it may be considered for an Administrative CUP Amendment by the Zoning Administrator as follows:

~~1.~~ 1416.02.1 Upon receipt of a complete application as set forth in Section ~~1408~~ 1410 ~~herein~~, the Zoning Administrator shall prepare a notice containing the pertinent facts to the application and shall have said notice served by first class mail upon adjoining property owners ~~within 150 feet of the subject property~~. The notice shall provide a reasonable period of time, not less than 21 days, for interested parties to submit comments on the proposed activity. Within 15 days of the end of the comment period a written determination shall be mailed to the applicant approving or denying the Administrative ~~Amnendment~~ Amendment to the CUP.

~~2.~~ 1416.02.2 The application and format used for the submittal of the Administrative Amendment to the CUP shall be the same as found in Section ~~1408~~ 1410 ~~herein~~ for CUP applications. All information required for the application shall be supplied by the applicant. The evaluation criteria for this Administrative Permit shall be supplied by the applicant. The criteria for this Administrative Permit shall be the same criteria as outlined in Section 1402 ~~herein~~. If there is no written public opposition and the project meets the criteria, the project will be approved. The Zoning Administrator shall issue a~~n~~ CUP Administrative Amendment, with or without conditions of approval, which will be indicated on the face of the permit.

~~3.~~ 1416.02.3 When written opposition from the property owners ~~within 150 feet of the~~ adjoining the property subject to the request are received prior to the end of the comment period and the expressed concerns of the opposition cannot be resolved by the applicant, the Administrative ~~Conditional Use Permit~~ Amendment to the CUP will be scheduled for the next available ~~Board of Adjustment~~ BOA meeting for a decision. The applicant shall be responsible for all additional information and filing fees required.

~~4.~~ 1416.02.4 If the Administrative Amendment to the CUP ~~Conditional Use Permit~~ is denied by the Zoning Administrator, the denial may be appealed. This appeal shall be made in accordance with Section 20 (Appeals) ~~herein~~. The appellant is responsible for all information and additional filing fees required.

[STAFF NOTES ON PROPOSED CHANGES: Changes suggested by Planning Board member and Staff to provide clear references, correct spelling and grammar, utilize consistent language, and to clearly indicate adjoining property owners as opposed to property owners within an arbitrary distance that may be more suited for areas of higher density.]

SECTION 15 TEMPORARY USES

Pages 15-2, April 14, 2020 DRAFT Helena Valley Zoning Regulations

To provide for the regulation of temporary and seasonal uses such as, but not limited to, temporary construction offices, temporary sales offices, produce stands, Christmas tree lots, firework stands, uses central to seasons, holidays, special events, or development/construction projects. Temporary uses have defined commencement and termination dates.

[STAFF NOTES ON PROPOSED CHANGES: Changes suggested by Planning Board member and Staff to provide missing word.]

SECTION 18 NONCONFORMING USES, STRUCTURES AND LAND

Pages 18-2 and 18-3, April 14, 2020 DRAFT Helena Valley Zoning Regulations

1802 Nonconforming Uses, Structures, and Land

1802.01 If, at the time of adoption of these ~~r~~Regulations or of any amendments thereto, or at the time a zoning district to which these ~~r~~Regulations are applied is created, any lot, structure, or building being used in an otherwise lawful manner that does not conform to the use provisions of these ~~r~~Regulations, or if any structure or building was located or erected in an otherwise lawful manner that does not conform to the setbacks, height limit, or parking and loading provisions of these ~~r~~Regulations, such use of such location or erection shall be deemed to be a non-conforming use and may continue in the manner and to the extent that it existed or was being used at the time of adoption of these ~~r~~Regulations. Such non-conforming status will run with the parcel, building, or use and shall not be affected by changes in ownership.

1802.02 Whenever the on-site construction has begun for any building, for which a building permit has been issued by the authorized issuing agency or if a building permit is not required, prior to the adoption or amendment of these ~~r~~Regulations, or creation of a zoning district to which these ~~r~~Regulations apply, and the construction/erection of which is in conformity with the plans submitted and approved for such building permit, but does not conform to the provisions of these ~~r~~Regulations, such building shall be considered non-conforming.

1803.06 If any nonconforming use and/or structure is abandoned, deserted, or caused to be discontinued, voluntarily or by legal action, (for any reason other than as noted ~~herein~~

in Section 1803.07) for a period of more than 180 days, any subsequent use of such land or structure(s) shall conform to the provisions of these Regulations and as thereafter amended.

1803.07.1 Said restored structure or use shall occupy the same physical footprint and must be used for the same purpose(s) as the original nonconforming structure or use; unless the restoration brings the structure or use either more, or fully, into compliance with these ~~r~~Regulations.

1805 Nonconforming Lot

In each zoning district all structures and/or uses whether as ~~P~~principal, ~~A~~accessory, ~~C~~conditional ~~U~~uses, or ~~S~~special ~~E~~exception ~~U~~uses may be erected/placed/developed on any nonconforming lot which was lawfully of record before these Regulations were adopted or amended. However, all development occurring on a nonconforming lot after the adoption of these ~~r~~Regulations shall conform with all other provisions of these Regulations.

[STAFF NOTES ON PROPOSED CHANGES: Changes suggested by Planning Board member to correct capitalization and provide clear references.]

SECTION 19 VARIANCE STANDARDS AND PROCEDURES

Pages 19-2 through 19-5, April 14, 2020 DRAFT Helena Valley Zoning Regulations

1902.02 A variance for the following shall be strictly prohibited:

- (a) Use - A variance for a use not listed within ~~the zoning~~ these ~~r~~Regulations applicable to the property in question; or
- (b) Incongruent Purposes - A Variance authorizing any action which would be contrary to the purpose and intent of these ~~r~~Regulations.

1903 Variance - Approval Criteria

A variance shall be granted by the Lewis and Clark County Board of Adjustment (BOA) only upon the finding of the following:

1903.01 The applicant has provided reasonable and adequate evidence that the variance request is not a self-imposed hardship which can be rectified by means other than relief through a variance; ~~and~~

1903.02 The need for a variance results from physical limitations or unique circumstances related to the lot or parcel on which the variance is requested; ~~and~~

1903.03 Approval of the variance will not have a substantial adverse impact on neighboring properties or the public; and

1903.04 Granting of the variance will observe the spirit of these ~~r~~Regulations and provide substantial justice.~~; and~~

1904.02.6 An explanation in narrative form explaining the requested variance and how it meets the criteria in Sections 1902 and 1903 ~~herein~~.

1904.05 Prior to the hearing, Staff will provide legal notice as set forth in Section 1905 ~~1906 herein~~.

1904.06 The CDP Staff shall prepare a report to the BOA that describes the proposed variance and provides an evaluation of the request relative to the variance criteria noted in Section 1903 ~~herein~~.

1905 Public Notice Requirements

In calculating the time period for public notification, see Section ~~108~~ 106 of these Regulations.

1905.01 ~~MAILED NOTICE~~ Mailed Notice

At least 15 days prior to the BOA hearing, written notice by first-class must be mailed to each property owner of record immediately adjoining the land included in the variance request.

The notice shall indicate:

- (a) ~~t~~The date, time and location of the hearing;
- (b) ~~a~~An explanation of the variance;
- (c) ~~t~~The general location of the land that is the subject of the request;
- (d) ~~t~~The file name and number; and
- (e) ~~t~~That questions should be directed to the CDP.

1905.02 ~~PUBLISHED NOTICE~~ Published Notice

At least 15 days prior to the BOA hearing, notice shall be given by publication in a newspaper of general circulation in the County.

The notice shall indicate:

- (a) ~~t~~T he date, time and location of the hearing;
- (b) ~~a~~An explanation of the variance;
- (c) ~~t~~The general location of the land that is the subject of the request;
- (d) t~~T~~he file name and number; and
- (e) ~~t~~That questions should be directed to the CDP. ~~(state name of Planner and email.)~~

1906.02 The notification shall include the following:

- (a) The decision of the BOA;
- (b) The findings that support the BOA decision;
- (c) Any adopted conditions of approval;
- (d) A reminder of the approval time validity; and
- (e) A statement that the BOA decision may be appealed to the Court of Record.

1907 Administrative Variance

As an option available to the landowner, the Zoning Administrator shall have the authority to grant Administrative Variances of up to a 25% adjustment in the zoning requirements for those items listed in 1902.01, without going to the BOA. The applicant shall submit the fee and the information required in Section 1904.02 ~~herein~~ to the Zoning Administrator. Staff shall notify abutting landowners of the request. Such notification shall be either a notice of the variance request sent by certified mail, return receipt requested, at least 15 days prior to the Zoning Administrator's consideration of such request; or the applicant may obtain a signed statement from the abutting landowners clearly stating that they were notified of the variance request and submit these signatures with the application.

The procedure for an Administrative Variance shall substantially follow that of Section 1904 ~~herein~~; however, without the need for the hearing before the BOA.

A decision by the Zoning Administrator to deny such variance may be appealed to the BOA in accordance with the procedure in Section 20 (Appeals). A written appeal shall be submitted by the applicant to the Zoning Administrator within 30 days of such denial.

[STAFF NOTES ON PROPOSED CHANGES: Changes suggested by Planning Board member to correct capitalization and be consistent in the use of lists, provide clear references, and to utilize abbreviations consistently. The reference to the Planner in 1905.02 isn't needed and Staff suggests its removal].

SECTION 20 APPEAL STANDARDS AND PROCEDURES

Pages 20-2 through 20-4, April 14, 2020 DRAFT Helena Valley Zoning Regulations

2001 Intent

An appeal to the Board of Adjustment (BOA) may be taken by any person aggrieved by the decision of the Zoning Administrator based upon or made in the course of the administration or enforcement of the provisions of these Regulations in accordance with Title 76 ~~2~~, Chapter 2, Part 2, MCA. ~~Montana Code Annotated (MCA.)~~

2004.05 Prior to the hearing, CDP Staff will provide legal notice as set forth in Section 2005 ~~herein~~.

2005.01 ~~MAILED NOTICE~~ Mailed Notice

At least 15 days prior to the BOA hearing, written notice by first-class must be mailed to each property owner of record immediately adjoining the land included under the appeal.

The notice shall indicate:

- (a) ~~t~~The date, time and location of the hearing;
- (b) ~~a~~An explanation of the variance;

- (c) ~~t~~The ~~location of the land (as applicable) that is the subject of the request *(distance and direction from nearest major intersection),*~~ general location of the land (as applicable) that is the subject of the request;
- (d) ~~t~~The file name and number; and
- (e) ~~t~~That questions should be directed to the CDP.

~~The CDP~~ Staff completing the mailing of the written notice shall execute a certificate of mailing. Such certificate shall read as follows:

2005.02 ~~PUBLISHED NOTICE~~ Published Notice

At least 15 days prior to the BOA hearing, notice shall be given by publication in a newspaper of general circulation in the County.

The notice shall indicate:

- (a) ~~t~~T he date, time and location of the hearing;
- (b) ~~a~~An explanation of the variance;
- (c) ~~t~~The general location of the land that is the subject of the request;
- (d) tThe file name and number; and
- (e) ~~t~~That questions should be directed to the CDP. ~~(state name of Planner and email.)~~

2006.02 The notification shall include the following:

- (a) The decision of the BOA;
- (b) The findings that support the BOA decision;
- (c) Any adopted conditions of approval;
- (d) A reminder of the approval time validity; and
- (e) A statement that the BOA decision may be appealed to the Court of Record.

[STAFF NOTES ON PROPOSED CHANGES: Changes suggested by Planning Board member to correct capitalization, be consistent in the use of lists, and to utilize abbreviations consistently. The reference to the Planner in 2005.02 isn't needed and Staff suggests its removal].

SECTION 24 SUBDIVISION EXEMPTIONS; VESTED RIGHTS

Top Header should be re-labled as follows: Section 24 ~~Vested Property Rights~~ Subdivision Exemption, Vested Rights

Pages 24-2, April 14, 2020 DRAFT Helena Valley Zoning Regulations

2403 Private Agreements

Adoption of these ~~r~~Regulations does not nullify easements, covenants, and/or similar private agreements, but where any such easement, covenant, and/or agreement imposes requirements less restrictive than those adopted herein, the requirements of these regulations apply.

2404 Termination

Any right to carry out the preliminary plat of a subdivision or approval of an exemption from subdivision review which was submitted or approved prior to the adoption of these regulations shall terminate upon the expiration of any such approvals unless extended by prior approval by the BoCC ~~Board of County Commissioners~~.

[STAFF NOTES ON PROPOSED CHANGES: Changes suggested by Planning Board member to correct capitalization, and to utilize abbreviations consistently.]

SECTION 25 BOARD OF ADJUSTMENT

Pages 25-2, April 14, 2020 DRAFT Helena Valley Zoning Regulations

2501 Board of Adjustment

The Lewis and Clark County Board of Adjustment (BOA) exists by statutory authority in accordance with ~~Montana Code Annotated~~ Section 76-2-221, MCA.

2503 Powers

2503.01 The powers and duties of the BOA, including hearing Conditional Use Permits, Variances, and Appeals, are set forth in Sections 76-2-221 through 76-2-228, MCA ~~M.C.A.~~, and as also set forth in these Regulations in Sections 14, 19, and 20.

[STAFF NOTES ON PROPOSED CHANGES: Changes suggested by Planning Board member to utilize abbreviations consistently.]

SECTION 26 CONSOLIDATED CITY AND COUNTY PLANNING BOARD

Pages 26-2, April 14, 2020 DRAFT Helena Valley Zoning Regulations

2601 Planning Board

The City of Helena and Lewis and Clark County Consolidated City and County Planning Board (CCCPB), formed pursuant to Section 76-1-101, et seq., MCA shall have the powers and duties as set forth in this section.

[STAFF NOTES ON PROPOSED CHANGES: Changes suggested by Planning Board member to utilize abbreviations consistently.]

APPENDIX-C PLANNING AND ZONING COMMISSION (PART-1 ZONING ONLY)

The Lewis and Clark County~~, MT~~ Planning and Zoning Commission exists by statutory authority in accordance with Section 76-2-102, MCA. It has no purview over these Part-2 zoning regulations for the

Helena Valley, or for the Fort Harrison Part-2 zoning districts, and its reference is merely contained here for convenience purposes relative to the Part-1 zoning regulations contained in Appendix-B ~~herein~~.

[STAFF NOTES ON PROPOSED CHANGES: Changes suggested by Planning Board member and Staff to provide clear references and remove the unnecessary abbreviation for Montana.]

From: County_Planning_Mail
To: caroljbridge(caroljbridge) x
Subject: RE: Comments on Helena Valley Zoning regulations
Date: Tuesday, June 9, 2020 3:41:00 PM

Carol Bridge,
Thank you for your comments. Please note that we will provide them to the Planning Board for their June 16th public meeting at the Helena Civic Center at 6:00 p.m.
Best,
Greg

Greg McNally, Planner III
Lewis and Clark County
Community Development and Planning Department
316 N. Park, Rm 230
Helena, MT 59623
(406) 447-8343 (Direct)
(406) 447-8374 (Front Office)
gmcnally@lccountymt.gov

-----Original Message-----
From: caroljbridge(caroljbridge) x <cbirdseye@mt.net>
Sent: Monday, June 8, 2020 4:04 PM
To: County_Planning_Mail <County_Planning_Mail@lccountymt.gov>
Subject: Comments on Helena Valley Zoning regulations

I received a postcard asking for commentsI on the Helena Valley Zoning regulations. I do not live in the Helena valley however am at Birdseye area.

My comment is why do these subdivisions have to have homes so close together? Is it greed or what? Does anyone look at the water aquafer from whereever or what is there. What about the existing homes, water, sewage, noise, wildlife; any consideration being given there? Lets consider breathing room for all, traffic, etc. please.

Maybe talk about affordable homes, wherever. Rent is tremendously high. Is that necessary or again, greed?

thank you for the work you do and sending this postcard to me. That is very considerate of the County

Carol Bridge

From: County_Planning_Mail
To: David and Connie Cole
Subject: RE: Proposed Helena Valley Zoning Regulations
Date: Tuesday, June 9, 2020 3:54:00 PM

Connie and David Cole,
Thank you for your comments. Please note that we will provide them to the Planning Board for their June 16th public meeting at the Helena Civic Center at 6:00 p.m.
Best,
Greg

Greg McNally, Planner III
Lewis and Clark County
Community Development and Planning Department
316 N. Park, Rm 230
Helena, MT 59623
(406) 447-8343 (Direct)
(406) 447-8374 (Front Office)
gmcnally@lccountymt.gov

From: David and Connie Cole <dccole@mt.net>
Sent: Tuesday, June 9, 2020 10:47 AM
To: County_Planning_Mail <County_Planning_Mail@lccountymt.gov>
Subject: Proposed Helena Valley Zoning Regulations

We support adoption of the draft proposed Zoning Regulations for the Helena Valley. Having consistency in land use regulations will provide critical financial security for existing landowners who moved to the valley to experience living in a rural lifestyle. Adoption of the draft Zoning Regulations will provide the needed next step to compliance with the 2015 Helena Area Growth Policy and to address the five key issues identified as residents' concerns: water, waste water, roads, fire protection and flooding. The Commissioners have made the decision that no more citizen-initiated zoning application will be approved; adoption of the draft Zoning Regulations will be the only protection offered to landowners to safeguard the value of their lands from the intrusion of high density subdivisions in their neighborhood.

Thank you for this opportunity to comment. Please keep me informed of decisions made in regard to Zoning Regulations.

Sincerely,

Connie and David Cole
6040 Ferry Dr.
Helena, MT 59602
Phone: 406-458-6240
Connie cell: 406-431-4931

Dave cell: 406-465-1787

From: County_Planning_Mail
To: Mel Griffin
Subject: RE: zoning comments
Date: Tuesday, June 9, 2020 3:40:00 PM

Mel Griffin,
Thank you for your comments. Please note that we will provide them to the Planning Board for their June 16th public meeting at the Helena Civic Center at 6:00 p.m.
Best,
Greg

Greg McNally, Planner III
Lewis and Clark County
Community Development and Planning Department
316 N. Park, Rm 230
Helena, MT 59623
(406) 447-8343 (Direct)
(406) 447-8374 (Front Office)
gmcnally@lccountymt.gov

From: Mel Griffin <melogriffin@gmail.com>
Sent: Monday, June 8, 2020 1:37 PM
To: County_Planning_Mail <County_Planning_Mail@lccountymt.gov>
Subject: zoning comments

Thank you for soliciting public comments. I really hope that zoning efforts are successful this time around. My comments are attached.

From: County_Planning_Mail
To: Janet Grinde
Subject: RE: Helena Valley zoning regulations
Date: Tuesday, June 9, 2020 3:23:00 PM

Janet Grinde,
Thank you for your comments. Please note that we will provide them to the Planning Board for their June 16th public meeting at the Helena Civic Center at 6:00 p.m.
Best,
Greg

Greg McNally, Planner III
Lewis and Clark County
Community Development and Planning Department
316 N. Park, Rm 230
Helena, MT 59623
(406) 447-8343 (Direct)
(406) 447-8374 (Front Office)
gmcnally@lccountymt.gov

From: Janet Grinde <janetgrinde@gmail.com>
Sent: Tuesday, June 2, 2020 7:46 PM
To: County_Planning_Mail <County_Planning_Mail@lccountymt.gov>
Subject: Helena Valley zoning regulations

I am a resident of the east Helena Valley. I am in favor of thoughtful and well considered zoning for the Helena Valley in order to maintain our good ground water quality and quantity, our semi rural community character and adequate roads for the amount of traffic. I am in favor of the proposed plan.

From: County_Planning_Mail
To: support@unioutsource-mail.com
Subject: RE: "Comments Sought"
Date: Tuesday, June 9, 2020 3:40:00 PM

Mr. Houtchens,
Thank you for your comments. Please note that we will provide them to the Planning Board for their June 16th public meeting at the Helena Civic Center at 6:00 p.m.
Best,
Greg

Greg McNally, Planner III
Lewis and Clark County
Community Development and Planning Department
316 N. Park, Rm 230
Helena, MT 59623
(406) 447-8343 (Direct)
(406) 447-8374 (Front Office)
gmcnally@lccountymt.gov

From: jamie <jamie7rae@gmail.com>
Sent: Monday, June 8, 2020 11:44 AM
To: County_Planning_Mail <County_Planning_Mail@lccountymt.gov>
Subject: "Comments Sought"

I do not consent to any Helena Valley Zoning Regulations.

Jamie Houtchens

From: County_Planning_Mail
To: DK
Subject: RE: Comment on Regulations
Date: Tuesday, June 9, 2020 3:45:00 PM

Richard and Dianne Klinski,
Please contact me at your earliest convenience to discuss the project you are speaking of. I am not familiar with the details of your project but would like to understand more. I can be reached at 447-8343.
Best,
Greg

Greg McNally, Planner III
Lewis and Clark County
Community Development and Planning Department
316 N. Park, Rm 230
Helena, MT 59623
(406) 447-8343 (Direct)
(406) 447-8374 (Front Office)
gmcnally@lccountymt.gov

From: DK <mzspiff@yahoo.com>
Sent: Sunday, June 7, 2020 6:13 PM
To: County_Planning_Mail <County_Planning_Mail@lccountymt.gov>
Subject: Comment on Regulations

This is more of a general statement than one referring to Zoning.
We've been working on getting a subdivision done and it's taken over 2 years. We understand that the virus closed things down but we see other agencies using Zoom to get things done, yet here we sit still waiting. We've been told that nothing has been submitted. Why hasn't there been efforts made to allow people to submit the necessary papers? And we are paying taxes for this?
We understand that some taxes go for roads and public services, but why has this end of things stopped? It seems that it's pick and choose as to who gets to work from home. We started working on this initially, in November of 2018. We've been told that it takes a while to get things done. Define "a while" please.
What do we need to do to get things moving??????
Richard and Dianne Klinski

God Forbid I Go To A Heaven Without Horses!

Community Development and Planning
Lewis and Clark County

316 N. Park Ave. Room 230 Helena, MT 59623
Phone: 406-447-8374 Fax: 406-447-8398
e-mail: planning@lccountymt.gov

M E M O R A N D U M

DATE: November 18, 2019

TO: John Novotny
FROM: Peter A. Italiano

SUBJECT: County Zoning Project

Hello John:
It was good to visit last week about your questions on the County's current efforts to bring Zoning to the Helena Valley. Attached is a copy of the Preliminary Draft Zoning Map we've been discussing around town. Please keep in mind, that at this point, it should be considered a tool for additional conversations; and certainly not set in stone. As we discussed, I will contact Jim and Sharon Foster over at the HVID and ask them to coordinate getting another meeting set for the larger land-owners in the Valley…more to follow.

As you know, the County Commissioners have directed my office to develop a zoning program for the Helena Valley; and more specifically, for the "Helena Valley Planning Area" as specifically identified within the 2015 update to the County's Growth Policy. Also, the Board has tasked my office with having the County Zoning for the Valley address the 5 key issues which the public had identified as critical during the last update to the Growth Policy. In that 2015 update, the five (5) Key Issues identified can be summarized as follows:
1) Water; 2) Wastewater; 3) Roads; 4) Fire; and 5) Flooding.

The preliminary draft zoning map lists 5 main zoning areas, each directly linked back to the 3 Planning Areas of the Growth Policy. As you know, there are also concerns regarding the issues of noxious weeds and the Right to Farm program. As such, we included in the preliminary draft zoning map an opportunity to flesh out the larger question of should we try to ensure that the agricultural lifestyle in the Valley will continue for future generations, in the face of the coming urbanization throughout the Valley?

Lastly, I also included with this memo, a copy of another document we put together – "the ABZ's of Zoning" which you may find interesting. I am looking forward to meeting face to face and hearing more about your thoughts on the future of the Valley.

From: Greg McNally
To: colleenphillips1965@gmail.com
Subject: RE: Proposed Helena Valley Zoning Regulations
Date: Wednesday, June 10, 2020 4:37:00 PM

Collen Philips,
Thank you for your comments. Please note that we will provide them to the Planning Board for their June 16th public meeting at the Helena Civic Center at 6:00 p.m.
Best,
Greg

Greg McNally, Planner III
Lewis and Clark County
Community Development and Planning Department
316 N. Park, Rm 230
Helena, MT 59623
(406) 447-8343 (Direct)
(406) 447-8374 (Front Office)
gmcnally@lccountymt.gov

From: County_Planning_Mail <County_Planning_Mail@lccountymt.gov>
Sent: Wednesday, June 10, 2020 3:31 PM
To: Greg McNally <GMCNALLY@lccountymt.gov>
Subject: FW: Proposed Helena Valley Zoning Regulations

From: Colleen Phillips <colleenphillips1965@gmail.com>
Sent: Wednesday, June 10, 2020 1:27 PM
To: County_Planning_Mail <County_Planning_Mail@lccountymt.gov>
Subject: Proposed Helena Valley Zoning Regulations

TO: Lewis and Clark County Community Development and Planning Committee
FROM: Tim and Colleen Phillips
RE: Proposed Helena Valley Zoning Regulations
DATE: June 10, 2020

Good afternoon. My husband and I own a home outside of Helena city limits (Holmberg Village Estates) and specifically purchase this home, in a housing development, with written covenants to protect our investment. However, after 15 years, we have come to understand that not everything that is written is enforceable. Unfortunately we have a neighbor, who on any given day, is in violation of at least 8 of the HOA covenants and we have no avenue of action or resolution.

I share that to say this. Tim and I purchased 20 acres in Rimini so that we could have a piece of Montana that was ours. If we can access our land, it is ours to do with what we please. It isn't worth

a great deal but as we make our way toward retirement, we enjoy packing a lunch, driving up there, taking a seat on a log and contemplating life. What project we might do, what we might build, wondering if our kids and their kids will enjoy the land as much as we do. Yes, Rimini is rough, hard to maneuver, very bumpy, set back and out of the way, but the history and the adventure lives on. It lives on because it is one of the few areas around this valley that isn't regulated and heavily zoned.

I fully understand the desire of some landowners in the North Valley to push for better zoning, I too wish for better HOA covenant enforcements. However, I do not believe Rimini and similar areas such as Marysville, Canyon Creek, York, Silver City and Wolf Creek should be pulled into this blanketed zoning restrictions and regulations.

Thank you for your time and consideration of our concerns.

Tim and Colleen Phillips

From: Greg McNally
To: mpoore49@hotmail.com
Subject: RE: Helena Valley Rezoning Regulations
Date: Thursday, June 11, 2020 1:57:00 PM
Attachments: 06-16-2020 Agenda.pdf

Mr. Poore,
Thank you for your comments. Please note that we will provide them to the Planning Board for their June 16th public meeting at the Helena Civic Center at 6:00 p.m. As to your concerns about the health and safety of the gathering of people, We have worked in tandem and with support of our Public Health Department to develop a plan for the meeting that provides for social distancing for participants. The meeting will be held in the Civic Center Auditorium to accomplish this goal. In addition, we recognize that some may not want to come to a public meeting so we are offering participants the opportunity to hear the meeting and offer verbal comment via Zoom. The attached agenda includes the information for the Zoom service.
Best,
Greg

Greg McNally, Planner III
Lewis and Clark County
Community Development and Planning Department
316 N. Park, Rm 230
Helena, MT 59623
(406) 447-8343 (Direct)
(406) 447-8374 (Front Office)
gmcnally@lccountymt.gov

From: County_Planning_Mail <County_Planning_Mail@lccountymt.gov>
Sent: Thursday, June 11, 2020 8:50 AM
To: Greg McNally <GMCNALLY@lccountymt.gov>
Subject: FW: Helena Valley Rezoning Regulations

From: Mark Poore [mailto:mpoore49@hotmail.com]
Sent: Thursday, June 11, 2020 8:29 AM
To: County_Planning_Mail
Subject: Helena Valley Rezoning Regulations

I have concerns about this meeting as per the present health situation. Will the county be responsible for the liability of gathering people together during this health crisis? I also have concerns about access to the meeting for people who do not have computer access. ie. Zoom or Skype Are we going to become a community like Bozeman where locals can't afford to live because of increase taxes and land values?
Thanks Mark Poore

From: County_Planning_Mail
To: Chris Rebo
Subject: RE: County Zoning
Date: Tuesday, June 9, 2020 3:37:00 PM

Chris Rebo,
Thank you for your comments. Please note that we will provide them to the Planning Board for their June 16th public meeting at the Helena Civic Center at 6:00 p.m. More information on the meeting can be found here:
https://www.lccountymt.gov/cdp/zoning.html
Best,
Greg

Greg McNally, Planner III
Lewis and Clark County
Community Development and Planning Department
316 N. Park, Rm 230
Helena, MT 59623
(406) 447-8343 (Direct)
(406) 447-8374 (Front Office)
gmcnally@lccountymt.gov

From: Chris Rebo <chris.rebo11@gmail.com>
Sent: Thursday, June 4, 2020 10:22 AM
To: County_Planning_Mail <County_Planning_Mail@lccountymt.gov>
Subject: County Zoning

Hello,

I'd like to take a moment to express my opposition to the county zoning plan currently being proposed. This plan is far to broad and fails to adequately address the needs of the different land owners in the Helena Valley. This current proposal needs to be tabled and we need to work together as a community to draw up a new one.

I understand there is a public meeting coming up soon. Can you please tell me when/where that is going to be?

Thank you,
Chris Rebo

RESPONSE TO CONNIE & DAVID COLE LETTER ON PART-2 ZONING

Replies below are in italics.

RE: COUNTY INITIATED ZONING IN THE HELENA VALLEY

County initiated zoning could potentially have a very positive affect on the residents of the Helena Valley. Unfortunately, the county is about thirty years too late with this initiative and has failed in the past to have the courage to implement its previous comprehensive plans and growth policies with reasonable zoning regulations. The county has left the definition of land use and development patterns to subdivision developers to determine the character of the Helena Valley.

We attended the public information meeting on zoning at the West Valley Fire Hall. The meeting grew heated and contentious, primarily regarding concerns that the county was interfering with private property rights. The county staff could have emphasized the benefits of predictability and protection of property values against the old arguments that property ownership can be better managed by individual owners exercising their property rights without government involvement. Instead, it was members of the audience who courageously faced the hostile members of the crowd to make these points in favor of zoning. The greatest investment most people make is purchasing or building their home. The chief benefit zoning offers is giving people predictability for what kind and quality of development will occur around them and to help protect the value of their investment. That crucial point wasn't made during the presentation.

There have been previous cooperative efforts by citizens working with homebuilders, realtors, and planning advocates to develop practical, workable model zoning regulations. The county officials failed to do anything with these proposals.

Zoning regulations for the Helena Valley should not set minimums for rural agricultural areas of 160 acres. You cannot save agricultural land by mandates. Large minimum parcel sizes can't assure that agricultural operations will be profitable. Farmers and ranchers need the flexibility to sell property when necessary to maintain the viability of their operations or for estate planning or leaving land to the next generation. This proposal has rightfully sparked strong and passionate opposition because the concept is unsupportable.

Over the years, there have been attempts by concerned property owners to establish reasonable citizen initiated zoning regulations for their neighborhoods that have been turned down by the county commissioners, even when the proposals were consistent with the growth policy and based on sound environmental considerations. The county hasn't supported residents when they have tried to approach zoning on a neighborhood level. This has eroded the trust and confidence many landowners have that the county will be responsive to their needs and concerns.

Now with the unworkable proposal regarding agricultural minimums of 160 acres, the county has made what could be a critical mistake of antagonizing the large rural landowners and their supporters by the complete failure to understand their operational needs. Commissioner Good-Geise has made the laudable goal of enacting county zoning before her retirement at the end of her term. Perhaps this goal would have been workable for a top-down approach to the county proposal, as it has been mandated. But, with lines of opposition now drawn in the sand, such an aggressive timeframe may no longer be achievable. We recommend that the county appoint a citizen's committee representing a wide variety of interests to develop a zoning proposal that would reflect a citizen-developed plan to present to the public. Turning the originator of the proposal from the county staff to the citizens of the county could help deflect some of the negative reactions experienced to date.

Sincerely,

Connie and Dave Cole
6040 Ferry Dr.
Helena, MT 59602

Appointment of a Citizens Committee is a County Commissioner policy; and one which has not been approved at this point. Staff is committed to moving ahead with the proposed Part-2 Zoning efforts for the Valley as requested by the Board and in-sync with the Growth Policy update of 2015.

Reply to Mr. Cook's Emails

March 2, 2020

Mr. Cook,
Thank you for your interest. At this time my best recommendation for you to stay informed about this process is our County's Website:
https://www.lccountymt.gov/home.html
At this location there is a list of "Popular Links" and one of them is "Zoning" which will take you to a page with zoning information. We will be updating that page as information becomes available to post. We do have comments that have come in and continue to come in. We have not posted the comments received on the Website; however, we have considered doing that. Let me know if you'd like to see the written comments sooner than I may be able to post them later this week.
Best,
Greg
Greg McNally, Planner III
Lewis and Clark County
Community Development and Planning Department
316 N. Park, Rm 230
Helena, MT 59623
(406) 447-8343 (Direct)
(406) 447-8374 (Front Office)
gmcnally@lccountymt.gov

From: County_Planning_Mail <County_Planning_Mail@lccountymt.gov>
Sent: Thursday, February 27, 2020 12:01 PM
To: Greg McNally <GMCNALLY@lccountymt.gov>
Subject: FW: Helena Valley zoning

From: William Cook [mailto:reho1951@yahoo.com]
Sent: Thursday, February 27, 2020 11:47 AM
To: County_Planning_Mail
Subject: Helena Valley zoning

Hello, I would like to get onto any mailing list you may have concerning the new proposed zoning for the Helena Valley. I am a strong proponent of zoning and land use regulation, and am concerned about sprawl in the Valley. Quite a few years ago I handled some land use cases while practicing law in Oregon, and was very impressed by their system.

Is there some simple way to see any written comments that have been submitted so far on the proposed valley zoning? I'd like to understand where people are coming from.

Many thanks and best regards,

Bill Cook
1129 9th Ave.
Helena, MT 59601

2/21/20

DAN EDENS
459-1373
ALBIEGUY@
YAHOO.COM

GRAVEL MINING
VS. PRT-2
ZONING ???

DISCUSSED
POSSIBLE C.U.P.
PROCESS FOR MINING

Reply to Danko Email

February 3, 2020

Hello Mr. Danko:
Thank you for reaching out and your question. Our County Website has quite a bit of information about Zoning that you may finding of interest. The easiest way to access it is via this link ------
https://www.lccountymt.gov/cdp/zoning.html

Also, specific to your question, I have copied 2 Q&A from our webpage below.
Please do not hesitate to contact either me or Greg McNally should you have more questions.

Will zoning increase my property taxes?
Property taxes are usually based on land value. Typically, land value comes from its use rather than Zoning classification. For example, land used commercially is generally higher value than land used residentially. In a commercially zoned area, a supermarket center would most likely have higher property taxes than a mini-storage facility with the same Zoning. Likewise, in a residential zone district, an area of single-family homes might have higher property taxes than an area of multi-family condominiums.

Typically, Zoning affects compatibility and neighborhood character. When Zoning effectively protects area compatibility, property values may be enhanced through resultant higher priced property sales. As property values increase, property taxes may increase. In short, the value of a property directly affects property taxes.

How will zoning affect my property values?
Zoning tends to stabilize property values, meaning it protects against values going down as much as they may increase. Zoning discourages incompatible uses of land from locating next to one another (hog farm next to residential homes). It is common to see property values increase with development regulations, rather than the misperception they decrease. Some of the highest valued areas in the United States have strong Zoning regulations.

In Montana, there are many examples where higher levels of Zoning and development regulation enhanced and stabilized property values. While both the towns of Red Lodge and Bear Creek are next door to one another, Red Lodge has much higher property values and many more layers of development oversight through Zoning. Another example is Big Sky, where property values are protected because Zoning prevents incompatible uses.

Thanks,
Peter A. Italiano, Director
Community Development & Planning
Lewis and Clark County, Montana
316 North Park Ave. – Suite 222
Helena, MT 59623
Office: (406) 447-8374
pitaliano@lccountymt.gov

-----Original Message-----
From: County_Planning_Mail <County_Planning_Mail@lccountymt.gov>
Sent: Thursday, January 30, 2020 4:17 PM
To: Greg McNally <GMCNALLY@lccountymt.gov>; Peter Italiano <PITALIANO@lccountymt.gov>
Subject: FW: Suburban property zoning change

-----Original Message-----
From: James Danko <jdanko0721@gmail.com>
Sent: Thursday, January 30, 2020 3:39 PM
To: County_Planning_Mail <County_Planning_Mail@lccountymt.gov>
Subject: Suburban property zoning change

Good afternoon my property is currently zoned rural and is proposed to be zoned sub urban mixed what is the proposed tax implication for the change in zoning. Will the taxes stay the same increase or decrease.

Regards
Jim Danko
406 202 4153 cell

Sent from my iPhone

Email from Janel Favero

February 20, 2020

Hello Ms. Favero:
Thank you for your comments, they will be provided to the Planning Board when they take up the proposed zoning project.

Thanks,
Peter A. Italiano, Director
Community Development & Planning
Lewis and Clark County, Montana
316 North Park Ave. – Suite 222
Helena, MT 59623
Office: (406) 447-8374
pitaliano@lccountymt.gov

From: bocc <bocc@lccountymt.gov>
Sent: Thursday, February 20, 2020 2:14 PM
To: Susan Good Geise <SGEISE@lccountymt.gov>; Andy Hunthausen <ahunthausen@lccountymt.gov>; Jim McCormick <jmccormick@lccountymt.gov>; Roger Baltz <rbaltz@lccountymt.gov>; Peter Italiano <PITALIANO@lccountymt.gov>; Greg McNally <GMCNALLY@lccountymt.gov>
Subject: FW: L&C County country zoning

From: janel favero <jmfavero@hotmail.com>
Sent: Thursday, February 20, 2020 12:30 PM
To: bocc <bocc@lccountymt.gov>
Subject: L&C County country zoning

To whom it may concern:

I'm writing regarding the current zoning issue in Lewis and Clark County for limiting parcel sizes.

I am a life-long horse owner and have been searching for a decent-sized parcel for at least four years. Unfortunately, the developers have talked a lot of people into believing that a "decent-sized parcel" is 1-5 acres (if they are lucky). This makes trying to find agricultural land difficult - particularly if you are looking to be a good steward to your property via pasture management and adequate watering.

You see, if you go out to many of these 5-acre lots zoned for horses, you see one of two things. An owner who has built a loafing area for their horse(s) who have a separate small pasture fenced or an owner who has only fenced their acreage and maybe thrown up some kind of lean-to shed. Most of the time, there are far more horses on those properties than the land can sustain.

In early spring, those lots may grow a little bit of forage, and depending on the rain we get, there might be something left by July. The owner with the loafing area is constantly monitoring their property to see if they can turn their horses out for a short amount of time - 2 hours max. The owner with no pasture management, no loafing area? Their horses are living on dirt scrub with maybe some weeds that the horses won't ever eat, but which will go on to propagate the entire field and the neighbor's fields for miles. Due to no true ground cover, the wind pulls the dirt through those properties, causing dirt-devils on those stronger wind days. If the horses are lucky, they get turned out in some farmer or rancher's field for "winter pasture."

I know that I'm a minority. And I think that's part of the problem. With more and more kids taught to go to the store to get sustenance, with fewer kids taking 4-H (any project in 4-H), with fewer kids who aren't able to raise livestock, we've lost sight of the food-chain that sustains our country. We've lost sight of animal stewardship. Instead of teaching kids arts, crafts, growing crops, and stewardship, they get smartphones and game systems. Instead of the joy of going outside and taking care of an animal or a row of peas, they watch TV or sit at a computer playing farming games.

Urban sprawl is taking a hold on properties across our country. I think now is the time to address it and keep those larger parcels alive, so that there will be a chance for future generations. If we part and parcel up our land of today, there will be nothing for tomorrow.

Sincerely,

Janel Favero, a horse owner who is still looking for 10-20 acres with irrigated water rights, that is not in the next five counties over.

Reply to G. Laufer Emails

Hello Mr. Laufer:
Thank you for your comments. They will be forwarded to the Planning Board for their June 16th public meeting on the proposed zoning. As a point of clarification, the 2015 Growth Policy update process is what generated the desire to bring zoning into the Valley. It is one additional tool for the County to use in addressing the impacts of development. If you have not already looked at it, the website has a link to a GIS interactive version of the map which I suspect you'll find quite useful and acceptable; for your convenience, here a link to it ---- https://arcg.is/ivTq1 Please do not hesitate to contact me should you have further questions.

Thanks,
Peter A. Italiano, Director
Community Development & Planning
Lewis and Clark County, Montana
316 North Park Ave. – Suite 222
Helena, MT 59623
Office: (406) 447-8374
pitaliano@lccountymt.gov

-----Original Message-----
From: hotrodr@mt.net <hotrodr@mt.net>
Sent: Friday, April 17, 2020 9:03 AM
To: County_Planning_Mail <County_Planning_Mail@lccountymt.gov>
Subject: zoning

Who asked for this???? Nobody that I have talked to thinks that more undesired gov't control over our properties is a good thing. The county employees pushing this are mainly concerned with justifying their salaries and protecting their non-essential jobs.

The 5 concerns your dept claims to wish to protect are already well regulated by many other gov't agencies. The landowners in these areas do not need, or desire, any additional layers of bureaucrats telling us what is "best for us". If your dept truly wanted public input, you would simply put these proposals on a ballot and let the public decide if more gov't control over our lives and properties is truly what the people want.

Here is something else that the county planning dept seems unable to comprehend-----many property buyers actively seek parcels without covenants, restrictions on use, or zoning, and will pay more for land that can be used as the owner desires, rather than the way some pencil-pushing desk jockey claims is 'for your own good".

One last note--- the map seems to be intentionally vague (even when magnified 400%) because streets and roads are not easily identified and very few show names or numbers . Typical gov't "smoke and mirrors".
Put it on a ballot
G Laufer

-----Original Message-----
From: hotrodr@mt.net <hotrodr@mt.net>
Sent: Wednesday, December 18, 2019 6:47 PM
To: Greg McNally <GMCNALLY@lccountymt.gov>
Subject: Re: zoning proposal
how do you expect to get meaningful public comment if the public has no idea what your proposal is????????????Here's my public comment----you already have processes in place to deal with wastewater, roads, water table draw down, etc. It's called subdivision review, health dept septic regs, DEQ oversite, etc. Many of us in Montana purchased our properties because there are no covenants, restrictions, or zoning. Covenants and restrictions put in place before subdivision approval allows the county to control the growth in the valley. I doubt that one single property owner in Montana believes that the govt will make better decisions about how to manage their property, though many new comers to the area would love to have the govt manage their neighbor's property. I think if they don't want to live next to my pig farm, they should build their 400k house somewhere away from it.

On 12/18/2019 1:03 PM, Greg McNally wrote:
> Thank you for your interest. At this stage in the process we do not have a draft regulation document available. At this point, our goal is to get as much public comment as possible to help us with the writing of the actual zoning code for the County Commissioners to consider in 2020. The public meetings we have scheduled for tonight and tomorrow night are the beginning of the process. In addition to these meetings, we expect to hold similar meetings in January. Thereafter, we expect to begin working on a draft regulation document that we will be posting on the County's Website. Please let me know if you have any further questions.
> Best,
> Greg>
> Greg McNally, Planner III
> Lewis and Clark County
> Community Development and Planning Department
> 316 N. Park, Rm 230
> Helena, MT 59623
> (406) 447-8343 (Direct)
> (406) 447-8374 (Front Office)
> gmcnally@lccountymt.gov
>
>> -----Original Message-----
> From: County_Planning_Mail
> Sent: Wednesday, December 18, 2019 10:56 AM
> To: Greg McNally <GMCNALLY@lccountymt.gov>
> Subject: FW: zoning proposal

>> -----Original Message-----
> From: hotrodr@mt.net [mailto:hotrodr@mt.net]
> Sent: Tuesday, December 17, 2019 1:11 PM
> To: County_Planning_Mail
> Subject: zoning proposal
>> I would like a full copy of the proposed regulations for the Helena valley.

RESPONSE TO HAMLIN EMAIL ON PART-2 ZONING

Replies below within the body of the email are in *italics*.

From: Jerry Hamlin <jerry1@hamlinconstruction.com>
Sent: Friday, April 3, 2020 4:40 PM
To: Peter Italiano <PITALIANO@lccountymt.gov>
Cc: Jim McCormick <jmccormick@lccountymt.gov>; Susan Good Geise <SGEISE@lccountymt.gov>; Andy Hunthausen <ahunthausen@lccountymt.gov>; Greg McNally <GMCNALLY@co.lewis-clark.mt.us>
Subject: Zoning

Hi Peter;

I am in receipt of your revised zoning map as of 3-27-20. It would be very helpful if we knew the following information along with the map:

1) What are allowable uses in in the large pink area? The legend shows a red area, a white area, a yellow area and a purple area. Is the pink area the red area or what?
The most current map (dated 4-13-2020) no longer shows a Yellow Zone within the Rural area. All of Rural Growth Area is now proposed as 1 zone district – the Rural Residential Mixed-Use District (save a few split-parcels along the outer perimeter of the Valley Planning Area, now shown in White. GIS has also adjusted the colors on the map and legend.

2) I have asked earlier, would still like to know how you draw your lines on the map? I have asked this question several times and all I heard you say is "that the lines are not arbitrary but are based on the Growth Plans." I would like to know if the Growth Plan lines are still where they were on the previous growth plans? If not, are you updating the road improvements made since the last plan? If not, shouldn't that be part of any zoning proposal? In my area off Canyon Ferry Road, this map seems to gloss over the areas that are developed and you include them in the same zone as the undeveloped land. For instance, why doesn't the updated maps and the other maps show Holmberg Village, Canyon Ridge as developed ground with less than 10 acres. It also doesn't talk about the improvements to Canyon Ferry Road. Shouldn't those things show up somehow in this zoning proposal? Having a significantly improved road should also improve the ability to develop that land. Are we looking for major improvements in corridors and directing development into those areas or are we just looking to make development more difficult? Why even have the ten acre minimum around a perfectly good, improved road that was designed to have additional traffic?
The boundaries of the proposed zone districts are based upon the boundaries shown in the 2015 Growth Policy Update. The Growth Policy is a high level strategic visioning document. As discussed previously, in some areas the boundaries follow easily defined corridors along existing roads i.e. the TGA astride Lincoln Road. In other areas the boundaries follow topographic constraints; and in some areas, they follow formerly written hydrologic reports such as is the case between the TGA and RGA east of Lake Helena Drive. The Growth Policy does not serve the same function as a Transportation Plan or a Plan for Existing Zoning areas. Those are tactical implementation tools of the

Growth Policy. The County Public Works department is working on an updated County Road Matrix which will look at, amongst other issues, road usage and planned maintenance into the future. That work effort is not being done in a vacuum and should the Commissioners approve the Part-2 zoning for the Valley, more work will be scheduled to revisit the County Roadway Manual as well as the Subdivision Regulations. As is already noted in the Subdivision Regulations, using regional arterial roadways for local access purposes in not desired whenever possible; and this zoning effort is not affecting that longstanding regulation.

3) As part of the plan, we should be talking about what the county is doing to come up with their matching funds to cover the road costs being paid by all developers whenever a subdivision is approved. What is the balance in those accounts now and is it "locked up" until the county figures this out? All we hear is "we just don't have the matching funds to improve the roads." Well, that certainly seems to be something you would be talking about in any zoning or planning proposal. I have heard about insufficient road funding for 30 years and it is always the same drumbeat "we don't have money to maintain the existing roads." I think it is time planning addresses that question in these kind of proceedings. Will others be getting those same answers in the next 20 years or is the county going to do something about getting a fund set up to meet those obligations? Whatever it takes, whether it be additional taxation, set asides in your budgets, bonding, cooperating with developers or whatever, continuing to ignore the problem isn't going to make the problem go away. And neither will new zoning proposals that simply restrict private property rights and ignore the real problem of roads.
County road financing is not a function of zoning regulations. How the County generates and expends public funds is a Board policy issue. The Public Works department is developing an updated road maintenance matrix. As far as what the County does with its roadway funds, please note that all County monies are extremely well documented in the County budget and all such information is available to the public upon request. Zoning is one tool in a larger land-use development toolbox; and while it may not solve 100% of all issues, in the matter of roads in the rural areas it will help by reducing density which will equate to a lower amount daily vehicle trips on the rural roads.

4) Also, we always hear about the problems in the valley for water and sewer. Are those problems from 20 years ago before all the new rules for septic tanks, DNRC and DEQ went into effect? And yes, I realize Emerald Ridge has had water problems in spite of extensive studies that were done. Some areas in the valley have older sewage problems. However, new regulations have gone into effect every year making it more and more difficult to meet the regulatory bodies requirements. This zoning will do absolutely nothing to alleviate those problems except it will add another layer of bureaucratic red tape and thousands to any development proposal. Decreasing density in new development will not answer the county's basic problems but it <u>will</u> drive up the prices of land and, eventually the lots created therefrom. This zoning plan will simply drive up the prices of housing and exclude more buyers from the market place.
The County constantly is monitoring issues attendant to Water and Wastewater. While there is no simple answer or magic bullet, the proposed zoning in the rural area will

certainly help in this area as a reduction in overall density will equate to an overall reduction in demand/impacts for both water and wastewater. Whether or not zoning, in and of itself has a direct impact on land availability hence land affordability is a hugely complex precept. Laws of supply and demand exist, yet so do market forces which play a significant role in the old adage of "location, location, location." Further exacerbating the issue, is what kind of relationship to affordability of housing is the affordability of the land? Please be advised that the County is very committed to ensuring ample affordable housing for its residents, and especially within the Valley that such be sustainable. The County has partnered with the City of Helena to hire a Housing Navigator, and although still in its infancy, some successes already exist.

5) I have heard it said that the zoning regulations will be similar to those of the Fort Harrison zoning. I have looked at their plan and regulations and find them to be completely unworkable. One part of their plan calls for an 80 acre parcel to be developed into 8 small tracts and the other 72 acres to remain undeveloped and maintained by someone. So I guess the 8 lots are supposed to be enough compensation for the 80 acres? Then, I guess the developer is supposed to maintain the remaining 72 acres as open space and take care of it. Who in their right mind would even try to do that? The private sector will never buy that and development will come to an even faster halt than it has in the last 5 years.
Not sure where you heard that the proposed Valley Zoning would be similar to that of Fort Harrison, but it will be both similar and very dissimilar in many ways. Specific to the Rural Residential Mix-Use zone district proposed, the density is similar but not necessarily regulated the same. The allowable uses are quite dissimilar. As to the Clustering diagrammatic example, please note that on the sketch, it clearly notes it is only one option. The purpose of the sketch and clustering option is to afford the development community added flexibility and options ---- it is not a mandate.

6) Please don't put out more maps without the underlying information we need to analyze what you are proposing. How are we supposed to give our yah or nay when we don't even see the total proposal? Telling us the regulations to implement this will be written later, doesn't make me sleep better at night. I would like to see the regulations, in full, before I make a decision.
Thank you for your feedback on the process we set forth. Please know that Draft Regulations (dated 4-14-2020) have been on available to the public since mid-April.

Sorry about "venting", but I have been following this zoning proposal carefully and I understand you have done away with the 160 tracts and the 20 are tracts. That is not enough until we see the whole plan including the regulations to implement the plan. Why can't we get them written in rough draft so we, the public, aren't just guessing at what you might come up with. What is allowable in the 10 acre zone? I have no idea right now even after looking at your new map. It would be helpful for you to put information on the next version of your map.

Please do not apologize for venting nor ever stop venting … as the late Margarete Mead once said – "Never doubt that a small group of thoughtful, committed citizens can change the world; indeed, it's the only thing that ever has." Your feedback and perspective is both welcomed and desired.

In summary, I am not against zoning per se if we remember it is only a tool. It has not always lived up to its promise and is often misused. In this case, I do not believe zoning will create either or memorable community or answer any of the 5 problems you seem to be wanting to fix. It will do nothing to fix the ongoing, years long issue of maintaining and upgrading county roads, (it doesn't even show any research has been done to identify roads that have been improved over the past few years in preparation for additional development) it will simply create a scarcity of lots, prices of land will skyrocket and it interferes with our God given private property rights. Furthermore, I do not believe this proposal is being used as constructive force for community good and it certainly does not foster good design or enhance a "sense of place". It simply decreases future traffic by limiting lot size. Size and density restrictions should not be called a "plan". It does nothing for the flood plain, for sewer or water, for determining water quantity or quality, or for fire protection except, once again, limit building. In addition, all of those items are covered in great detail in our current regulations. Adding yet another layer on top of our existing regulations will not make things better.

For the reasons noted, I am adamantly opposed to this current plan until we get some answers to these questions. The information presented to date is inadequate, incomplete, outdated and seems only to focus on making land more expensive by requiring larger, 10 acre lots. At a time when our country is suffering from the effects of the corona virus, at a time when everyone is being told to stay home, at a time when our economy is dropping like rock (due to the forced layoffs, business closings and shut downs,) this definitely is not the time to propose yet more regulations which will negatively effect what little we all have left. I urge you to drop this proposal until these questions are answered. Thank you for taking time to log this into your system as a protest against this zoning proposal in its current state.

Jerry Hamlin, President
Hamlin Construction & Dev., Co., Inc.
900 N. Mt. Ave. Suite A6
Helena, Montana 59601
Phone 406-459-8071
Fax 406-443-7666

December 17, 2019
Peter,
It was good talking to you today and I think by your reply that you have a pretty good understanding of my position on the zoning. Look forward to getting your updates.
Thank you
Otto

Sent from a black rotary dial phone.

On Dec 17, 2019, at 3:56 PM, Peter Italiano <PITALIANO@lccountymt.gov> wrote:

Hi Otto:
Thanks for calling earlier so we could get the facts on the table. Based on our conversation I understand that you are desirous of being able to subdivide your +/- 240 Ac. parcel in the future; and therefore you do not want your land zoned as shown on the current preliminary draft map as Ag-Conservation with a minimum parcel size of 160 Acres (i.e. density of 1unit/160 acres.)

As we discussed, the next 2 meetings (this week) we are hosting are not the end of the process in any way. Please do not worry about not being able to be at either of these meetings. We will be hosting at least 2 more meetings some time in January to get more public feedback. At this point, our goal is to get as much public comment as possible to help us with the writing of the actual zoning code for the County Commissioners to consider in 2020. I have included several images with this email (along with the links to a couple of pages on the County Website you find useful. They both will have links to the GIS Interactive Zoning Map, too.

https://www.lccountymt.gov/cdp/zoning.html

https://www.lccountymt.gov/home/news-item.html?tx_news_pi1%5Bnews%5D=458&tx_news_pi1%5Bcontroller%5D=News&tx_news_pi1%5Baction%5D=detail&cHash=7530c68929dd9a02d2e170f32ddae020

Based upon the location of your parcel and the adjacent development, if the currently proposed "Ag-Conservation" zoning is changed, it would most likely be replaced with the "Large Lot Mixed-Use" zoning which now has a suggested minimum parcel size of 10 Acres (i.e. density of 1 unit/10 acres.) We are also looking at a way to allow landowners to rezone their land to a "Planned Development" zoning to allow increased density based upon the specific impacts on services at a particular area; as we flesh those draft regulations out, I will contact you to discuss that further.

At this point, you do not need to do anything further but I would appreciate a reply to this just so I know that you both received it and that I have not misunderstood your position. I will add this information to our public comment file and as we move forward I will keep you posted as to how we are proceeding.
Thanks,
Peter A. Italiano, Director
Community Development & Planning
Lewis and Clark County, Montana
316 North Park Ave. – Suite 222
Helena, MT 59623
Office: (406) 447-8374
pitaliano@lccountymt.gov

April 17, 2020
obar1001@gmail.com
Hello Otto:
1st and foremost, I hope you and your family are well and staying safe.

Just an update, a couple of days ago we placed the most updated Draft Zoning Map on the County website along with the Draft Regulations (for your convenience I also attached them here.) Regarding your particular area in the Rural portion of the Valley, you land is now shown as 10 acre density. In fact, due to many reasons, we have proposed the entirety of the Rural area of the Valley as one same zone district --- Rural Residential with a proposed 10 acre density.

Due to several reasons regarding the wildfire issue, the previously shown 20 acre density zone was eliminated. Our plan is to look at a comprehensive update to the County Growth Policy in 2021 and part of that process will include more discussion about the wildfire issue.

Both previously shown 160 acre density zones are also off the table for now. In all likelihood, the 160 zone for private land will not return unless enough large property owners revise their position. However, I suspect that the 160 zone for the public lands (only) will be a topic discussed with the Growth Policy update. Based upon where that ends up, it's conceivable that an update to the zoning would re-address the public lands issue; assuming the Board approves zoning for the valley.

Please let me know if you have any questions or concerns and we can try to address them over the phone / email for now.

Thanks,
Peter A. Italiano, Director
Community Development & Planning
Lewis and Clark County, Montana
316 North Park Ave. – Suite 222
Helena, MT 59623
Office: (406) 447-8374
pitaliano@lccountymt.gov

Reply to Pfeiffer email

December 31,2019

Mr. Pfeiffer,
I received the email you sent to Aaron Douglas regarding zoning. Thank you for your interest in Helena Valley zoning and Happy New Year! We do not have minutes from the meetings we held in December. The meetings have included a brief presentation by our Director, Peter Italiano and myself on the draft map we have available and an interactive map tool. The presentation is followed up by questions from the audience. We provided a comment form for folks to fill out. Most took the form home and we have yet to receive any back. At this stage in the process we do not have a draft regulation document available. At this point, our goal is to hear from the public before we begin the writing of the actual zoning code for the County Commissioners to consider in 2020. The public meetings we had before Christmas are the beginning of the process. In addition to those meetings, we expect to hold similar meetings in January. Thereafter, we expect to prepare a draft regulation document that we will be posting on the County's Website. You can see the draft zoning map and use an interactive map to find your property(s) in relation to the draft map at this location:
https://www.lccountymt.gov/cdp/zoning.html

We have not yet solidified meeting dates and places for our January meetings but the format is expected to be the same as December's meetings. The best place to keep abreast of the upcoming meetings is at our County's website. You may contact me if you have additional questions.
Best,
Greg

Greg McNally, Planner III
Lewis and Clark County
Community Development and Planning Department
316 N. Park, Rm 230
Helena, MT 59623
(406) 447-8343 (Direct)
(406) 447-8374 (Front Office)
gmcnally@lccountymt.gov

From: Greg McNally
To: pullmanclint@gmail.com
Subject: RE: Zoning Regulation Comments
Date: Wednesday, June 10, 2020 4:40:00 PM

Clint Pullman,
Thank you for your comments. Please note that we will provide them to the Planning Board for their June 16th public meeting at the Helena Civic Center at 6:00 p.m.
Best,
Greg

Greg McNally, Planner III
Lewis and Clark County
Community Development and Planning Department
316 N. Park, Rm 230
Helena, MT 59623
(406) 447-8343 (Direct)
(406) 447-8374 (Front Office)
gmcnally@lccountymt.gov

From: County_Planning_Mail <County_Planning_Mail@lccountymt.gov>
Sent: Wednesday, June 10, 2020 3:31 PM
To: Greg McNally <GMCNALLY@lccountymt.gov>
Subject: FW: Zoning Regulation Comments

From: Clint Pullman <pullmanclint@gmail.com>
Sent: Wednesday, June 10, 2020 2:03 PM
To: County_Planning_Mail <County_Planning_Mail@lccountymt.gov>
Subject: Zoning Regulation Comments

The attached word document is my comment for your proposed zoning regulations. Please see that the planning board members have a chance to see it before the meeting. Thank you for your time.
Clint Pullman
406-439-8338

Reply to Steve Netshcert Emails

May 12, 2020
Hi Steve:
I really enjoyed our conversation yesterday about your below email questions. I think (hope) I was able to assuage your concerns and thought I'd take it one step further to send this to you just so you can look it over a bit more and circle back with me should you still have any concerns.

First and foremost, please do not think that the County does not support options for conservation of larger plots of land or aggregation. In fact, we have an entire program dedicated to protection of open lands. As with all aspects of land-use and growth management, the best results usually are borne out of toolboxes with the most tools; and zoning is one such tool. While with the current coarse grained approach to the entirety of the Rural Planning Area at 10ac density may look on the surface as if there is a disproportionate development rights issue, as we discussed, that is not the intent nor do I believe the proposed zoning would create such limits. In drafting the proposed regulations, the reality of the agriculture effects within the valley were carefully considered. In fact, it is why there is the "Special Exception" group of uses to ensure that a mix of uses may occur without setting up an unintentional conflict between Ag. and non-Ag. uses. Also, you'll see that the list of Conditional Uses is fairly voluminous. Again that is not by accident and is intended to afford landowners a high level of flexibility as they seek to develop their property. As we discussed briefly, one aspect of the Conditional Use review would be to ensure that grouping of desired uses do not create negative impacts. Therefore, whether the proposal is on a plot of 11ac. or 82ac. or 167ac. the list of desired uses would be looked at and impacts assessed. While it may seem logical that larger parcels would always be more appropriate for more intense development, that may not always be case. As such, there would not be a disincentive to maintain larger parcels.
Please let me know if you want to discuss some more.
Thanks,
Peter A. Italiano, Director
Community Development & Planning
Lewis and Clark County, Montana
316 North Park Ave. – Suite 222
Helena, MT 59623
Office: (406) 447-8374
pitaliano@lccountymt.gov

From: Steve Netschert <steve@realty406.com>
Sent: Monday, May 11, 2020 1:36 PM
To: Peter Italiano <PITALIANO@lccountymt.gov>
Cc: Greg McNally <GMCNALLY@lccountymt.gov>
Subject: RE: Draft Regs and Map
Thanks for the update, Peter. I have been digesting some of the draft regs. Do I understand it right, that a 20 acre parcel has as many development rights as an 80 or 160?
Doesn't seem like much of an incentive to keep larger parcels from subdivision. Just an observation. I'll keep sifting through it looking for nuggets to hopefully make it better.

From: Peter Italiano <PITALIANO@lccountymt.gov>
Sent: Monday, May 11, 2020 1:23 PM

To: Peter Italiano <PITALIANO@lccountymt.gov>
Cc: Greg McNally <GMCNALLY@lccountymt.gov>
Subject: RE: Draft Regs and Map
Hello Everyone:
I want to give you all an update regards the proposed Part-2 Zoning for the Helena Valley.

As you can all probably imagine, even though we in Montana are fairing much better than some other States on the COVID front, we are still unable to hold an actual live public meeting for the Planning Board this month. As such, we are now proposing to bring the proposed zoning project to the Planning Board at their June 16th meeting @ 6 p.m.

As the COVID situation continues to unfold, we will provide further updates on the County website should the June meeting need to be rethought. Thanks for your patience and please do not hesitate to contact me should you have any questions, whether about this notice or the draft zoning document.
Thanks,
Peter A. Italiano, Director
Community Development & Planning
Lewis and Clark County, Montana
316 North Park Ave. – Suite 222
Helena, MT 59623
Office: (406) 447-8374
pitaliano@lccountymt.gov

From: Peter Italiano <PITALIANO@lccountymt.gov>
Sent: Tuesday, April 14, 2020 5:43 PM
To: Peter Italiano <PITALIANO@lccountymt.gov>
Subject: FW: Draft Regs and Map
Hello Everyone:
First and foremost, I hope you are all doing well and staying healthy and safe these days.

As Roger Baltz, Greg McNally, and I have mentioned in the past, we would be uploading the proposed Draft Helena Valley Zoning Regulations and Map to the County's website once they were ready. While we had hoped to have them ready by April 1st, due to the current state of affairs with the COVID 19 pandemic the process of working remotely proved a bit more challenging.

In case the question still remains, we are Not bringing this draft zoning project to the Planning Board during their regularly scheduled April 21st meeting. Instead, in the interest of gaining more public comment we will present these to the Planning Board at their May 19th meeting. However, due to the ever-changing realities of the COVID 19 situation, we may need to adjust the May 19th date. Please feel free to check in with me directly (email is best at this time), or see the website (on the Home page, click "Zoning" along the left margin) for updates or try this
link https://www.lccountymt.gov/cdp/zoning.html
While the draft zoning information is on the website, to assist you with easy access and sharing options, I have attached them to this email.

Thanks,
Peter A. Italiano, Director
Community Development & Planning
Lewis and Clark County, Montana

Reply to Triple Tree

December 26, 2019

Hi Jason:
Thank you for your interest. At this stage in the process we do not have a draft regulation document available. At this point, our goal is to get as much public comment as possible to help us with the writing of the actual zoning code for the County Commissioners to consider in 2020. The public meetings we had before Christmas are the beginning of the process. In addition to those meetings, we expect to hold similar meetings in January. Thereafter, we expect to begin working on a draft regulation document that we will be posting on the County's Website. Please let me know if you have any further questions.
Best,
Greg

Greg McNally, Planner III
Lewis and Clark County
Community Development and Planning Department
316 N. Park, Rm 230
Helena, MT 59623
(406) 447-8343 (Direct)
(406) 447-8374 (Front Office)
gmcnally@lccountymt.gov

From: Jason Crawford <jcrawford@tripletreemt.com>
Sent: Friday, December 20, 2019 11:19 AM
To: Greg McNally <GMCNALLY@lccountymt.gov>
Subject: Proposed Zoning

Hi Greg,

I have reviewed the draft Helena Valley Planning Area Zoning and can find the maps on the County website but I don't see the draft Zoning Regulations. Are they available?

Thanks

Merry Christmas

Jason
Jason Crawford, PE

TRIPLE TREE
ENGINEERING
3102 Old Broadwater Lane, Helena, MT 59601
Cell: 406.461.2115
www.tripletreemt.com

REPLY to Val Jaffee RE: Part-2 Zoning

Val,
Thank you for your interest in Helena Valley zoning and Happy New Year! We do not have minutes from the meetings we held in December. The meetings have included a brief presentation by our Director, Peter Italiano and myself on the draft map we have available and an interactive map tool. The presentation is followed up by questions from the audience. We provided a comment form for folks to fill out. Most took the form home and we have yet to receive any back. At this stage in the process we do not have a draft regulation document available. At this point, our goal is to hear from the public before we begin the writing of the actual zoning code for the County Commissioners to consider in 2020. The public meetings we had before Christmas are the beginning of the process. In addition to those meetings, we expect to hold similar meetings in January. Thereafter, we expect to prepare a draft regulation document that we will be posting on the County's Website. You can see the draft zoning map and use an interactive map to find your property(s) in relation to the draft map at this location: https://www.lccountymt.gov/cdp/zoning.html

We have not yet solidified meeting dates and places for our January meetings but the format is expected to be the same. In December there were flyers posted in various public places with bulletin boards; a posting on our County's homepage and our Departments page; postings on our Facebook page; and a press release which lead to an Independent Record article and a local TV news feature. The best place to keep abreast of the upcoming meetings is at our County's website. In the future, you may contact me regarding this project.
Best,
Greg

Greg McNally, Planner III
Lewis and Clark County
Community Development and Planning Department
316 N. Park, Rm 230
Helena, MT 59623
(406) 447-8343 (Direct)
(406) 447-8374 (Front Office)
gmcnally@lccountymt.gov

RESPONSE TO ZIMMERMAN LETTER ON PART-2 ZONING

Replies below within the body of the email are in *italics*.

June 2, 2020

Lewis and ClarkCounty
316 N, Park Room 230
Helena, Montana 59623

RE: Helena Valley Zoning

Dear Commission,

I have attended many of your public hearings on the property which I own at the corner of Mill Road and Green Meadow Drive. At each of these meetings for Mill Road Mine(Kim Smith)and Helena Valley Zoning, I have repeatedly requested that my property not be zoned Residential. I have a business across the street known as Valley Farms Nursery, a Landfill Dump known as Scratch Gravel Landfill(Not currently open), a commercial water distribution system, Telephone/TV Antennas', a proposed Mine and gravel sales, a Vehicle Parts dealer, a Septic Tank Business, a church, a Commercial Rail Road, Forest vale Cemetery, and multiple storage units, along with rental property. Other business in the area includes: Russell Automotive, Horse Training, Electrical installers, Insulation installers, Land Developers, Surveyors, Appraisers, Water fire suppression business, and Real Estate Sales Offices. I would suggest the Business Rating known in Helena as B-2 Zone.

The proposed Valley Zoning will not be as fine grained as the City of Helena's zoning. The Rural Residential Mix-Use zone district will allow a multitude of non-residential uses through the Conditional Use Permit process. Uses existing prior to the adopting the zoning would be eligible for a non-conforming status, i.e. "grandfathering."

I hereby retain the rights that I currently have to operate my property to it's highest benefit to me and my heirs. I am against the zoning of the Valley Land unless: 1. Multiple Zones available for each property to choose their own as they currently do. 2. The County improve the roads, the road planning, the valley flooding situation of drainage. 3. A central water supply for the Valley be developed along with a Central Sewer lagoon system to cover the entire Helena Valley. 4. A better Police and Valley Fire Protection system be deployed. 5. Lewis and Clark County Cleans up and restores the Scratch Gravel Landfill including the Ground water Pollution coming from the landfill.

As noted above, the proposed zoning regulations will include a option of non-conforming classifications.

Given that currently you are not able to: clean the roads and maintain them, not able to keep the weeds down, not able to clean up the landfill the you currently have and the groundwater problems. Your not able to hand a flood of the valley and provide sand bags to tax payers, That cost continue to rise on shared adventures with the City of Helena, what makes you able to enforce a zone change and the uses of land that you are not currently

handling now.

Your concerns regarding maintenance efforts will be passed along to the Public Works department.

Please step back and try to handle the over use of roads currently in the Valley. Take care of the library and the schools and the dump. Thanks for allowing my thoughts to be considered.

One benefit to the proposed 10 ac. density in the Rural zone district is that lowered density will equate to lower impact on the roads in the area.

Respectfully,

Terry Zimmerman
Owner

From: County_Planning_Mail
To: Jeff Ryan
Subject: RE: Zoning
Date: Tuesday, June 9, 2020 3:29:00 PM

Mr. Ryan,
Thank you for your comments. Please note that we will provide them to the Planning Board for their June 16th public meeting at the Helena Civic Center at 6:00 p.m. As to your question, the regulations include a Nonconforming uses, Structures and Land Section (Section 18) which recognizes the lawful use of land and/or structures at the existing time of adoption and the continuation of those uses and/or structures.
Best,
Greg

Greg McNally, Planner III
Lewis and Clark County
Community Development and Planning Department
316 N. Park, Rm 230
Helena, MT 59623
(406) 447-8343 (Direct)
(406) 447-8374 (Front Office)
gmcnally@lccountymt.gov

-----Original Message-----
From: Jeff Ryan <jeffryan406@icloud.com>
Sent: Wednesday, June 3, 2020 10:32 PM
To: County_Planning_Mail <County_Planning_Mail@lccountymt.gov>
Subject: Zoning

Will existing outdoor recreation such as a shooting range used for 45 years be grandfathered in or will a conditional use permit be required

Sent from my iPhone

From: County_Planning_Mail
To: Nicholas Schreiner
Subject: RE: Planning area/boundary change
Date: Tuesday, June 9, 2020 3:34:00 PM

Mr. Schreiner,
Thank you for your comments. Please note that we will provide them to the Planning Board for their June 16th public meeting at the Helena Civic Center at 6:00 p.m. As to your question, the boundary of the zoning regulations is established in the Lewis and Clark County Growth Policy as the boundary of the Planning Area. I understand your concern for consistent application in Woodland Hills. Perhaps in a future update to the Growth Policy, we can take a closer look at the Planning Area boundary to include all of Woodland Hills.
Best,
Greg

Greg McNally, Planner III
Lewis and Clark County
Community Development and Planning Department
316 N. Park, Rm 230
Helena, MT 59623
(406) 447-8343 (Direct)
(406) 447-8374 (Front Office)
gmcnally@lccountymt.gov

-----Original Message-----
From: Nicholas Schreiner <nschreiner74@hotmail.com>
Sent: Thursday, June 4, 2020 8:56 AM
To: County_Planning_Mail <County_Planning_Mail@lccountymt.gov>
Subject: Planning area/boundary change

Hello,

Thank you for the opportunity to comment on the proposed zoning changes. I only have one suggestion for the proposal which concerns adding a section to your planning area.

As is, the planned zoning will split the Woodland Hills Homeowners Association into two different rural planning areas (mixed-use and un-zoned). I recommend that the the planning area boundary be changed to incorporate T11N, R4W, Sec. 9. I have attached an edited screen shot of the section of concern. Your current proposal will split multiple lots based on the township line and will not include 1/3 of our subdivision. Because we all have the same covenants and for consistency across the HOA, I am recommending that you incorporate all of section 9 into your plan as Rural Residential Mixed-Use Zone (10).

From: County_Planning_Mail
To: Stephen Smith
Subject: RE: Draft Helena Valley Zoning
Date: Tuesday, June 9, 2020 3:24:00 PM

Mr. Smith,
Thank you for your comments. Please note that we will provide them to the Planning Board for their June 16th public meeting at the Helena Civic Center at 6:00 p.m.
Best,
Greg

Greg McNally, Planner III
Lewis and Clark County
Community Development and Planning Department
316 N. Park, Rm 230
Helena, MT 59623
(406) 447-8343 (Direct)
(406) 447-8374 (Front Office)
gmcnally@lccountymt.gov

From: Stephen Smith <stephen@stephensmithconsulting.com>
Sent: Wednesday, June 3, 2020 10:23 AM
To: County_Planning_Mail <County_Planning_Mail@lccountymt.gov>
Subject: Draft Helena Valley Zoning

Consolidated City and County Planning Board:

I reside in the City of Helena. I also have a cabin south of Rimini, outside city limits.

I generally agree with the goal of minimizing urban type development in the greater Helena valley. Urban development is more appropriate for areas within, adjacent to, or very near to city limits.

My real concern is that the zoning area includes large areas that clearly are not part of the Helena "valley." The upper Ten Mile drainage area, up to and beyond Rimini, clearly is not part of the Helena valley. Other areas west of Helena extending to the continental divide similarly are not part of the valley. Portions of the Rural Residential Mixed-Use District (RR) zoning are not appropriate for these non-valley, mountainous areas.

A particular inconsistency relates to waterbody setbacks designed to both protect water quality and improvements (Section 708.04). In the valley, a 100-foot setback may only result in land being one or two feet above high water. In steep mountainous terrane, the same setback may reach land 10 to 50-feet above the water. Thus, applying the setback requirements to mountainous drainages where side slopes are steep exceeds goals of protecting water and improvements, but unnecessarily impacts potential land uses. My property, for example, is about 300-feet wide and includes Ten Mile Creek. About half of my property is within 100-feet of the creek. Much of the remaining property is

too steep for building. Also applying the Minimum Setbacks of 25-feet from boundaries leaves only a small portion of land available for use.

Other provisions applicable to the RR zoning are also not appropriate for rural mountainous areas.

The best way to address these issues is simply to reduce the zoning extent to only include the true Helena valley. The valley could generally be defined as areas at elevation below 4,000-feet and/or areas with average slopes of less than 5%.

I strongly disagree with including the Rimini area and other mountainous areas within the Helena Valley zoning area. I recommend that the Helena Valley Zoning area be limited to the Helena Valley only, excluding areas mostly west of the Helena valley.

Thank you.

Stephen Smith, P. E.
2008 5th Avenue, Helena, MT 59601
Phone: (406)449-6216
Cell: (406)459-3386
Email: stephen@stephensmithconsulting.com

RESPONSE TO J. HERRIN EMAILS & LETTERS ON PART-2 ZONING

The myriad correspondence you've provided has been received (as attached hereto.) Much of the voluminous information is repetitive; and also some not germane to the zoning proposal but rather instead relative to existing regulations such as the Subdivision, Roadway, and Floodplain regulations. Staff has provided the below consolidated replies in order to facilitate a more efficient and clearer understanding of the issues. Several common and repeated themes emerge once all the documents are closely reviewed; and these seem to capture the salient of those themes. Please do not hesitate to contact Greg or me should you have further questions or concerns.

1. *The Zoning Proposal is a Takings* ---

Throughout the United States the Courts have heard many takings claims over the years. The 5th Amendment of the U.S. Constitution is clear on what is and what is not a takings. Within the 5th Amendment is the Takings Clause, which says "Private property shall not be taken for a public use, without just compensation." Several prominent cases such as Nollan v. California Coastal Commssion - 1987, Lucas v. South Carolina Costal Commission – 1992, Dolan v. City of Tigard, OR - 1994, and more recently Kelo v. City of New London, CT – 2005 all provide a good look at both the complexity and reality of a takings claim.

Without writing a full and separate paper devoted to takings, suffice it to say that the construct of whether or not zoning, in and of itself, is tantamount to a takings has long been debunked. Diving a bit deeper, we see that the government is charged with the protection of the public health, safety, and welfare. Often, what one person may desire could be viewed as potentially deleterious to others. Likewise, impacts from one property may create a need for public subsidy by others. As such government has long been afforded certain police powers, which include zoning of private property.

Zoning is anything but new. Most likely, the first documented zoning was in Los Angles, CA in 1908; followed by NYC in 1916. During the 1920's the U.S. Department of Commerce developed the Model Zoning Ordinance which was intended to facilitate the States in drafting of their own enabling zoning laws.

The landmark zoning case often referenced throughout the Country derives from the U.S. Supreme Court case in 1926; Ambler Realty v. Town of Euclid, OH. In Euclid, the Courts were asked to look at the 14th Amendment to the U.S. Constitution and its protection of liberty and property. Supreme Court Justice Sutherland authored an opinion, based upon a 6-3 vote, that the "speculative" damages alleged by Ambler Realty were not sufficient to stop a local government from exercising its police powers. Based upon Euclid the common explanation has been, and in fact remains so today, that zoning does not violate the Constitution.

In looking closer to Lewis and Clark County, it must be likewise noted that zoning is certainly not new nor foreign within Montana; and in fact there are 25% of the Counties in Montana that had County Initiated Zoning at last review. Those so identified were Annaconda-Deerlodge, Butte-Silverbow, Cascade, Choteau, Daniels, Flathead, Gallatin, Granite, Jefferson, Lake,

Missoula, Park, Powell, and Yellowstone Counties. Much closer to home, is the relationship of the proposed zoning in the Valley to the 2015 Growth Policy; and its support thereof, again in-sync with MCA.

2. *This is basically a Conservation Easement without Compensation* ---
Ostensibly, it would seem from your writings that there is a belief that conservation easements are not good, are a heavy handed tool of government, or otherwise forced upon an unwilling landowner. In fact, nothing could be further from the truth. One of the premier conservation based organizations in the Country is the National Conservation Easement Database (NCED.) In looking at the website for the NCED, the following can be found:

"What is a Conservation Easement?
A conservation easement is a voluntary, legal agreement that permanently limits uses of the land in order to protect its conservation values. Also known as a conservation restriction or conservation agreement, a conservation easement is one option to protect a property for future generations. If donated, conservation easements may provide valuable tax benefits to landowners. Conservation easements keep land in private ownership, and continuing to provide economic benefits to the area. Conservation easements do not automatically make properties open to the public."

Clearly, nothing contained within the proposed zoning project is in anyway tantamount to a conservation easement.

3. *Inadequate Public Notice* ---
The notice which has been provided to the public regarding the proposed zoning not only has fully met all attendant requirements of the Montana Code Annotated (MCA), but has in fact far exceeded such. MCA affords the Board of County Commissioners the ability to have the Planning Board provide a recommendation to the Commissioners on the zoning proposal. The Planning Board action occurs at a noticed meeting. There are no special requirements, beyond the normal notification of the meeting. Nevertheless, Staff provided a USPS mailing of more than 13,000 postcards to the known addresses within the unincorporated Valley, as a courtesy notification, for the Planning Board meeting; along with information on the County's website and other social media platforms. Subsequent to the Planning Board recommendation, MCA requires that the Board review the zoning project at a Public Hearing; and with very specific notice requirements for the hearing (which will be fully met.)

Notwithstanding that Staff has and will continue to closely follow all requirements of MCA, in the interest of garnering as much valuable feedback and community input as practicable, the following "additional non-required" outreach occurred. Beginning in 2019 and following into 2020, there were 4 Listening Sessions held around the Valley spread-out in an attempt to make it as easy as possible for the most amount of public to attend. Also during that time span, Staff visited with a plethora of areas organizations, including but not limited to such groups as the

Helena Area Realtors, the Helena Building and Industry Association, the Helena Valley Irrigation District, the Helena Area Chamber of Commerce, the Helena - Montana Business Assistance Connection, and NorthWestern Energy, etc. Likewise, Staff also had many meetings with both State and Federal agencies, such as Fish Wildlife and Parks, Montana Department of Transportation, Department of Environmental Quality, and Department of Natural Resources, etc.

4. *Anti-Rural Development* ---
Your statement that "…RURAL GROWTH is evil and must be crushed…" is seemingly the antithesis of the direction of the County. Again, Mr. Herrin, this statement suggests a total mis-understanding on your part as to the direction and purpose of the proposed zoning effort. As has been offered previously, Staff continues to be very open to meeting to assist you with your review of the document. There is simply nothing in the proposed regulations to suggest rural growth is undesirable. In fact, based upon the public feedback throughout this process, the plan was modified several times in response to different user group feedback. Had the entirety of the rural area of the Valley been blanketed with 160 acre density limits (which no prior rendition ever so proposed), one might be in a better position to argue your point. Nevertheless, the County through the robust and open process of updating the Growth Policy in 2015 identified a very large portion of the overall Valley to exactly the type of growth pattern your assertion suggests is inappropriate. With the format proposed in the draft zoning regulations, there will be a plethora of flexible options for continued rural type growth to occur sustainably within the Valley.

5. *Public's Right to Vote on Zoning* ---
In accordance with the Montana Code Annotated (MCA) there is not a specific process for the public to directly vote on such issues as the approval of zoning regulations. In fact, MCA 76-2-201 states: (1) For the purpose of promoting the public health, safety, morals, and general welfare, a board of county commissioners that has adopted a growth policy pursuant to chapter 1 is authorized to adopt zoning regulations for all or parts of the jurisdictional area in accordance with the provisions of this part. Please be advised that the Board of County Commissioners is committed to ensuring any Part-2 Zoning will be in accordance with the 2015 Growth Policy as well as the MCA.

6. Invalidity of the Plan / Density Control Only ---
The assumption here is that there is a gross mis-understanding on your part by what is being proposed. As mentioned in the past, Staff continues to be very open to meeting to assist you with your review of the document. The draft zoning document (4-14-2020) is not limited in scope to merely a plan for "density control only" as you've suggested. In fact, the proposed document is a straightforward approach to the most common form of zoning, i.e. the Euclidian Model. You may want to look at the Growth Policy of 2015, specifically Figures 3.2, 3.3. and 3.4 which all discuss the interrelationship of density, performance standards, infrastructure, and

education. During the highly public, transparent, and exhaustive update process to the Growth Policy in 2015, the public was focused on each discrete area of the Valley (i.e. Rural, Transitional, and Urban) and identified unique ways, as noted in the above Figures, to address growth in each area. The proposed draft zoning project is in fact being developed in accordance with the druthers identified during the 2015 Growth Policy update.

7. <u>County must develop / hire consultants to write technical reports / impact assessments</u> ---
The County went through an analysis process of the Valley as part of the 2015 Growth Policy update. As to this zoning process, the County is closely following the procedures set forth within MCA and will continue to do so accordingly throughout the process. As identified in MCA 76-2-202 "…the board of county commissioners may…. regulate the erection, construction, reconstruction, alteration, repair, location, or use of buildings or structures or the use of land." Further within MCA 76-2-203, the "Zoning regulations must be: (a) made in accordance with the growth policy;" Please be certain that the proposed draft zoning regulations are in fact in accordance with the 2015 Growth Policy.

8. <u>Fiscal Impacts / Open Lands v. Roads</u> ---
Throughout your information is a common theme that somehow zoning of one's property automatically decreases its value. As can be imagined, property valuation is a hugely complex issue; and most certainly not tied to solely one vector such as zoning. Ironically however, it would be remiss to not point out that for the most part areas with well defined land-use regulatory frameworks tend to have higher property valuation than areas without such frameworks. Whether one looks at any or all of the following, the old adage of location, location, location seems to apply. Through sound land-use planning facilitated by appropriate zoning, land values are greatly affected in a very positive way. With zoning comes predictability; and with predictability also comes value stability and consistency. It would be hard to fathom how precipitously an area of new homes would fall with one of many possible noxious uses developed next door. Such reduction in property value directly impacts a community's overall taxable valuation and therefore its ability to offer services desired by the public.

Interestingly your letter suggests that the public's very well visioned foresight in funding an Open Lands program is somehow a "mis-step." Since the Open Lands program was established, much highly valuable land has been protected. These protections come in a wide array of approaches but all serve the values of the public insofar as their stated desire to have another tool to address impacts of growth as well as the protections of the natural environment. Over the years, myriad Open Lands programs have acknowledged the added value from appropriately protected open lands. Just as zoning itself typically affords increased predictability and therefore increased value, so too can open lands protections. One need only look at the burgeoning businesses of environmental and historic preservation tourism to see the value added benefits linked to protection of significant properties. Further, in thinking about the reduction of development impact as an offshoot to open land protection, it's easy to

see that reduced density results in reduced transportation impacts (as well as other services), which reduces the stressors already placed upon so many rural area roads, etc. As such, the public's vision to create the open lands program can be seen as a positive towards the greater rural roadway capacity issue.

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2/18/2019 L & C County Hearing before the Board of County Commissioners

John Herrin's Summary of the Most Important Information Presented by L & C County Planning Staff, BoC Commissioners, Greg McNally (Planner III).

- DEQ Dominated Subdivision Regulations fail to account for the cumulative impacts. 5 key factors concern are: Flooding, water quality from wastewater, water supply, wildland fire and roads.
- 2015 Growth Policy population growth projected to increase next 20 years (2015-2035) by 10,000 people or 4,000 homes.
- Projected 98% of the L & C County growth would occur in the Helena Valley Planning Area (HVPA).
- HVPA has problems with groundwater quality impacts, road networks and designs not adequate for the existing and future traffic, and wildland fire stressing largely volunteer fire departments.
- 2015 County brought in 5 out-of-town professional planning experts for 2 days to advise county on ideas to plan for future growth. Their recommendations were:
    - To facilitate city-urban transition area planning between city and county staff.
    - Recommended four integrated growth management tools: infrastructure improvements, education, performance standards, and density control. (see figure 3.2 of Volume 2, L & C County Growth Policy Update 2015).

Peter Italiano (Director L & C Co CD&P). Density Control

- PI Said he arrived in department about 2 years ago and the county was in the final stages of the County initiated Part II Zoning of the land around Fort Harrison Military Base. So this Part II County Initiated Zoning involving land size restrictions is not the first kick-the-can planning effort by the county.
- Back in 2006 L & C County passed Emergency Zoning {JH Note: PI misspoke -- Interim Zoning was successfully challenged in District Court (Fall 2005) because County failed to properly notice BoCC hearing and BoCC ruled without properly considering public comments. County quickly switched to EZ and K Paul Stahl (L& C Co Deputy Attorney) forced Kathy Moore to write a WQ impact report filled with fabricated crisis conclusions and Judge Sherlock in second Legal Challenge (by John Herrin, Mike Fasbender and Bill Gallagher)allowed Emergency Zoning to stand for 2 years -- required all new rural septic systems to be costly $20,000 Level II treatment systems. L&C Co newly hired hydrologist (2007) review exposing no real evidence of groundwater quality crisis stated in Kathy Moore's December 2005 report, however EZ stayed in place until 2008.}
- So Density-based Zoning is not new to L & C County.
- In the fall 2018, BoCC gave the CD&P staff a directive to craft a Zoning plan for the HVPA.
- Benefits to Zoning is property value stabilization and added predictability. Also protects public health, safety and welfare.
- Part II County initiated zoning is more comprehensive than citizen initiated Part I zoning. Example PI gave was "use classification zoning where commercial buildings would not be built next to residential homes". (Note; This is a totally useless example, but is how

- County has conducted months of outreach to various community organizations (e.g. HBIA, HRA, Irrigation District, DNRC, DEQ, NW Energy, etc.) to present this initial zoning map and plans.
- County held 4 listening session spread across the HVPA. Listening sessions were fairly well attended. County made available 1 page questionnaire with 4 subjects, that PI felt captured the major issues citizens might have regarding Zoning.
- Citizens comments were given and the essence of these comments were conveyed to the BoCC.
- L & C County initiated the listening sessions even though the Montana Codes Annotated does not require the county to hold such listening sessions.
- L & C County Zoning map is a work in progress. Based on public comments and private meetings with impact landowners, PI on February 4 identified 6 areas within the 160-acre land size designation area and those lands maybe changed to less restrictive 10-acre tract sizes (Note: JH questions the legality of this behind the scenes changes as it appears to be arbitrary and only those citizens tapped into the process through the listening sessions appear to have changed the boundary lines of the 160-tracts size Zoning area – a massive positive financial reinstatement and actually a huge net positive gain instead of a massive financial loss - a change in value for anyone moving out of the 160-acre tract size limited areas).
- The Peter I pulled up on the screen an even newer Zoning map which added a new categories entitled "Public Land Development Reserve Area (160-acre). In reviewing, this latest version of the Zoning map the Mr. Italiano and staff have created, the amount of 160-acre tracts has been expanded to near double the version shown at all 4 public meetings. The largest change is nearly all of the land in the SW portion of the HVPA (South Hills, Unionville, Grizzly Gulch, to the Ten Mile Creek headwaters & Rimini, eastern slopes of McDonald Pass, all of Priest Pass to Austin Road, then western boundary toward Marysville). Supposedly this greatly expanded Public Land Reserve area designation came after discussions with Forest Service and other agencies??
- Mr. Italiano plans to complete drafting regulations for the Zoning proposal by April.
- Plan is to present the overall plan to the Planning Broad some time in early summer.
- The have plan before the BoCC in Mid to late summer,

Susan Good Geise Comments.

- The Zoning process is lengthy and very precise. This is the time for the BoCC to listen to the public and time for the County staff to reach out to the public.
- There have been allegations that the County Commissioners were not getting feed back from Planning staff after the public meeting, but that is not true. She talked to Mr. Italiano the same night of the public meetings.
- She knows people will be speaking out in their own special interest and that is OK. They have the right to do so.
- But the three BoCC have a Job to do and that must wight the Public Interest and balance everyone property rights. Balance must be right for everyone, That is our task, Balance self interest of competing interests and property rights. Some people will be disappointed and not one will get everything they want.
- Purpose is to add predictability. What co be done to deal with 10,000 more people moving into the valley.

- Past Valentine's day, the county passed the 10-acre lot size Zoning restrictions plan surrounding the Fort Harrison Military Reservations. County held many meetings. Plain Jane 10-acre tract size plan.
- BoCC have heard from many concerned landowners expressing heat-burn over the 160-acre tract size proposed in the current Zoning proposal.
- Commissioner Good Geise is comfortable with 10-acre tract size.
- BoCC have had to deal many times with overlapping Part 1 Zoning districts with some people driven to tears. Some begging to protect there groundwater well supply.
- It's time for zoning for the HVPA.
- BoCC will have to weigh the acreage boundary issues.

Andy Hunthausen.

- Thank you planning department staff for all your work. Appreciate your hard work,
- He has been office more than 10 years.
- He is glad to hear the community members and listen to the discussion.

Peter Italiano (Director CD&P)

- County efforts at having public meetings is beyond the State Regulations.
- Developing best product.
- Durable, Good Planning.
- Looking forward to discussion.
- Not always comfortable and not always agree.
- Talk about impacts of growth, land, infrastructure.
- Going forward happy to have discussion.
- Not sure what it will be, and it is a work in progress.
- Zoning can be and is used other places. It is a good means to predictability.
- County has 50 Part I citizen initiated Zoning areas.
- Zoning offer predictability and address the 5 key categories of concern
- Community based.

Jim McCormick.

- Came into the valley with his family and from McDonald pass he could see the valley. City limits north on valley had very few farm lights even into the 1970's.
- Since 1980s the valley has seen extensive growth. Incredible and accelerating.
- That is the challenge and opportunity.
- Including all people in the valley to participate in the process.
- Start with formal meetings.
- Some want more zoning while others demand low zoning controls.
- Part 1 Zoning that are about 36 that often involve the county in disputes and conflicts.
- Resolve differences. Uncomfortable. Bound by ordinances.
- Goal is to solve problems for the greater good.
- Not all answer are what people want, but most good weight.
- He has no design or ultimate outcome. No county meeting to do this.
- I'll be here. When come to consensus that will best suited for greater good.

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"2020 Proposed Zoning – Technical Basis Failures to Disclose Report" by John W. Herrin (Private Environmental Scientist and Hydrogeologist).

February 22, 2020.

L & C County's Rational for Large to Very Large Tract-Size Restrictions on Rural Property based on Cumulative Impacts to the 5 Key Concerns Defined in the 2015 County Updated Growth Policy:

- Septic System Wastewater Impacts on **Groundwater Quality**,
- **Groundwater Supply** -- Existing and New Groundwater Well Impacts on Groundwater Elevations and the Potential for Dewatering Wells,
- **Roads.** Impacts of Additional Traffic on already Deficient Roads in the HVPA.
- **Flooding,** As it Relates to Additional Homes in the Valley,
- **Wildland Fire** Issues Relative to New Homes and Subdivisions, and

A. Overview of MBM&G HYDROLOGIC RESEARCH REPORTS FOR THE SCRATCHGRAVEL HILLS AND THE NORTH HILLS:

After the two December 2019 public hearings, Mr. Herrin read and digested the 10 plus years of water quality and groundwater supply research finding published by the Montana Bureau of Mines and Geology (MBM&G) Hydrological Investigation Reports (e.g. Scratch-gravel Hills Open-file Report 636 and North Hills Open-file Report 62B & 654) technical reports.

These three very detailed and expensive MBM&G Reports were final summary reports and hydrological investigations for the two small mountain ranges bordering the Helena valley bottomlands -- the 20 square mile Scratch Gravel Hills and the larger (52 square Mile) North Hills. Within these two more mountainous areas of the Helena valley, additional home-site development has withdrawn groundwater and area residents have been concerned about sustainability of groundwater with continued growth. Back in the mid 2000's, the Department of Natural Resources designed portions of both Hills as Temporary Groundwater Control Areas – directing staff of the DNRC & MBMG to conduct further studies to help determine existing and future impacts on groundwater quality and supply.

Based on 10 years plus of research findings and impact assessment, **I believe the State agency reports do not support the County's blanket, simplistic and overly restrictive Zoning Proposal (minimum 10-acres, 20-acres, or 160-acre in size) for all rural (est. 150,000-acres) property within the Helena Valley Planning Area.**

The purpose of the two hydrologic study areas research was to provide Lewis and Clark County and State agencies with additional groundwater quality and aquifer characteristic details that were used to defining existing and future impacts of rural development on groundwater quality and supply.

The main objectives were to "assess the sustainability of current and potential future groundwater withdrawals, the potential for impacts to senior water-rights holders from groundwater withdrawals, and the potential for impacts to groundwater quality form septic effluent".

The following is my abbreviated interpretations the MBM&G three final hydrologic system research findings:

I. Groundwater Quality – Natural and Septic Waste Impacts.

- **Although a few groundwater supply wells water samples (1 in 78 North Hills and 5 of 25 in Scratchgravel Hills) were found to exceed drinking water standards -- due to both natural sources and septic wastewater -- these cases of contamination would generally never occur under current county and State subdivision regulatory reviews coupled with proper engineering design and per-application site specific studies.**

1. North Hill Groundwater Study Area

The MBM&G collected water samples (2005-2010?) from 28 representative wells within the North Hills study area. Of the **74 total water quality samples** were collected from 25 groundwater supply wells, and **only one sample exceeded the recommended drinking water standards** – and that was for nitrate (>10mg/l). No other listed drinking water quality standard was exceeded in any of the 78 collected samples.

The fact that only one water sampled out of 78 exceeded WQ standard, is actually very good news and indicates **as a general rule, existing subdivision permitting regulations are**

working well and are adequately protecting human health. And for the one water quality sample with the elevated nitrates, it is logical to assume the homeowner was immediately informed and a course of corrective action take to upgrade or fix the suspected wastewater septic systems and/or reconfigure/repair the well in order to provide the home-owner with safe drinking water.

It is noted in both the Scratch Gravel Hills and North Hills MBM&G reports indicate nearby groundwater wells can be contaminated wastewater seepage in those areas where the underlying soils are course-textured, low organic matter, and are shallow. Another key design consideration is the connection between surface infiltration water and fractures that could carry septic waste to downgradient wells completed in fractured marine sedimentary or granitic bedrock.

As such, a site-specific septic and well design plan required of any new proposed septic systems should prevent any future problems with wastewater contamination of groundwater. L & C County also has initiated a rather vigorous septic system inspection regulations in order to facilitate all county permitted septic systems are being properly maintained.

2. Scratch Gravel Hills Well Water Quality Test Results.

For the Scratch-gravel Hills 25 domestic wells were sampled, and drinking water quality standards were exceeded for nitrate (3 sites), arsenic (1 site) and uranium (1 site) – with arsenic and uranium being naturally occurring elements near a fault zone and granitic bedrock that is unrelated to septic system pollution contamination. The one high arsenic sample was found along a know fault zone with moderately bad water quality and the high uranium test site correlated with granitic/bedrock mineralized contact zones.

As mentioned, in both MBM&G study area reports, septic systems must be carefully designed and maintained in areas where surface soils are course texture and lack fines or organic matter to adequately remove nitrate from septic system wastewater. Properly designed wastewater treatment septic systems should remove most of the nitrates before reached groundwater, but in highly fractured bedrock areas where surface infiltration can leach quickly and easily into bedrock groundwater, nitrate laden wastewater could travel towards downgradient wells and thereby contaminate a well that is either located in the wrong location, not cased deep enough, or not properly sealed.

Again, given the fact that the L & C County regulations require all new septic system applicants to unearth a backhoe test pit to a depth of 8 feet and the County Sanitarian staff must inspect the test pit and characterize site specific soil/rock profiles, with the County staff making the determination as to the final design approvals for all non-public individual or cluster septic systems, future groundwater supplies should be protected. For public wastewater treatment

systems, these systems are reviewed and approved by the professional engineering staff at MDEQ.

Under the current L & C County septic permit and subdivision review site assessment recommendations are done by the County Sanitarian staff and as such, the county must evaluate the agencies permitting and inspection processes if large-scale groundwater quality situations persist.

As such, L & C County's proposed Zoning regulations that all rural property to have to be 10, 20, or 160-acres in size has no real factual basis from a groundwater quality and human health perspective.

II. Groundwater Supply & Impacts of Current and Future Developmemt.

From 2005-2014, the MBM&G Conducted Detailed Groundwater Aquifers Hydrologic Investigations including complicated Scenario Modeling of both the North Hills and Scratch Gravel Hills. These reports included Preliminary Findings relative to Subdivision Well/Lot Densities.

The Following is John Herrin's **SUMMARY of FACTUAL FINDINGS** based on these MBM&G detailed hydrologic studies. The wide-ranging Bureau efforts included drilling many monitoring wells where important data was missing and then building reliable modeling programs to assess existing groundwater conditions within 4 distinct areas of the North Hills, and several in the Scratchgravel Hills. Then the researchers projecting future growth patterns impacts on groundwater supply and groundwater elevations/drawdown.

Using the MBM&G modeling results, Mr. Herrin took their research work to the obvious conclusion – Generally speaking, groundwater supplies are sufficient for moderately dense subdivisions (1-2 acre lot size or smaller) even in the more limited areas of the HVPA (the Granite Bedrock areas of the Scratch Gravel Hills and the Helena Valley Fault-line of the North Hills).

Future development proposals would have to conduct site-specific hydrologic investigations as per County & State Regulations, but the results will likely confirm that the vast majority of the Helena Valley buildable Rural property could support lot densities even below the worst-case blanket average of 1-2-acre lot sizes.

It is important to note, that as of 2009 there were at the 2150 total residents in the North Hills were collectively using about 7.5% of the available groundwater and even in the most dense areas north of Lincoln Road and along N Montana (Townview, Ranchview, & Northstar etc.) the percentage of use was still only 19%.

The MBM&G Open-file Report 654 (Hydrologic Investigation of the North Hills, page 342) **summary states "While there may be an overall deficit in the North Hills study area groundwater budget, it is slight, and cannot be definitively measured using a water budget. That there is a budget deficit is shown by some hydrographs (wells) that have consistent downward trends, which are localized to areas where bedrock and Tertiary aquifers are used for high-density housing developments."**

Numerical modeling can evaluate the likelihood that the aquifers can come into equilibrium with current stresses, or if the current level of development exceeds the aquifer's ability to supply water over the long term. If current development can be supported, the level of development that can be sustained will also be evaluated."

From the 1950 to the present, Lewis and Clark County, the US Geological Survey, and the Montana Bureau of Mines and Geology have been collecting detailed groundwater aquifer information on the Helena Valley Planning Area. Within the Helena Valley Planning Area, groundwater generally follows the overall landscape, with highwater elevation groundwater in higher elevation topographic areas – and all groundwater eventually flowing towards Lake Helena. And these research findings show the overall pattern and potentiometric contours of confined and unconfined aquifers are remarkably consistent over time.

Despite the interconnectedness and overall consistency of the overall HVPA groundwater aquifers, actual the site-specific depth and productivity of groundwater wells can be highly variable, and that statement is especially true of areas underlain by granitic bedrock within the Scratchgravel Hills. A few sites underlain by granite across the Scratchgravel Hills have produced very little if any water despite drilling to depths of even 500 feet. Groundwater supply from other sedimentary bedrock (e.g. The very old and hard Belt rocks) can also be a bit unpredictable but generally better than granitic bedrock sources.

The areas underlain by thicker deposits of unconsolidated colluvial and alluvial deposits generally can produce higher volumes of groundwater especially at lower elevations in the valley. These unconsolidated deposits exist in the lower elevation and valleys of the Scratchgravel Hills and most of the non-timbered areas of the North Hills.

Site specific groundwater hydrologic testing is required of all major subdivision applicants, and a subdivision application must affirmatively demonstrate that all proposed groundwater supply wells (be it individual, multi-user or public) will not deplete groundwater supply for that well or any existing wells.

Water rights lawsuits, forced MDNRC to limit water right annual with-drawls to 10-acre feet, unless the applicant purchase water rights from nearby existing water-rights leaseholders. As a

general rule, the 10-acre feet limit on new subdivision projects, would limit the number of new lots to 13, unless additional water rights are purchased. This rather new legal water-right limit has dramatically changed the tenure of all new subdivision developments further limiting growth in some areas where additional water rights can not be obtained or not obtained at a price to make a project feasible.

It is impressive to note -- and more importantly contrary to the L & C County Zoning proposal -- that both the Scratchgravel Hills and the North Hills Controlled Groundwater Study area detailed hydrologic investigations determined that even in the more restrictive hydrogeologic conditions, that both mountain ranges could support home densities in the range of 1-2-acre, and even less than 1-acre on the lower elevation slopes of both mountain valley grassland pediment deposits.

And based on metered public water supply and wastewater treatment systems, the average water use per household per day ranges from 400 to 500 gallons (average 435g/day), which includes an amount of 168 gallons is returned to groundwater via wastewater infiltration back into the groundwater (recycling).

The actual non-irrigation water use per household is only 5 gallons per day. For the green-grass covered lots of the Northstar, Skyview, Townview, and Ranchview Subdivisions – the 6 month irrigation season removes (on an annual average) 267 gallons per day from the groundwater aquifers.

In fact, **lawn and landscape irrigation makes up 98% annual groundwater consumed at each house.** As discussed below, reducing the amount of irrigation water wasted per household can have a dramatic positive affect on future groundwater supply and depletion balances in the more limited aquifer supply systems.

Even in the high-density growth of homesites in the Pumping area A (1995=130 homes, 2005=312 homes, and 2009=441 homes, projected 2014 =570 homes) the drawdown total of the 35-40 feet from the 10 high capacity public groundwater well battery.

In tota, the NW upper grassland and timbered slopes west of the Interstate covers and area of12,572 acres and has 991 homes that consumptively uses about 7.5% of the available groundwater flow in this section of the NW west of Interstate 15 North Hills. The lot size density equates to 12.6-acres per lot.

Using simplified ratios approach to the amount of available groundwater use under the North Hills, if the average lots size over the majority of the North Hill were reduced to:

- **3.2-acres, irrigation/domestic use would withdraw 30% of groundwater flow.**
- **2.1-acres/lot density consumptive use would increase to 45% of GW flow.**

However, this density would never be reached in any open free-market development future scenario given the fact that many existing lots already built on in the North Hills would not be reduced in size and many of these are already larger 10-acre or larger. SO the densities would never reach these smaller average lot size densities.

As is repeatedly mentioned through this Impact Assessment Report, all new subdivision proposals in the rural areas would have to conduct site-specific hydrogeology and aquifer pump-tests to confirm adequate water supplies and prove the development would not adversely impact existing groundwater supplies.

In addition, it should be emphasized that new landowners are being more environmental responsible and as such **new landowners likely would accept significant restrictions on irrigation usage, to significantly reduce household groundwater usage** (e.g. zero land landscape design especially in the timbered areas of the HVPA).

Plus water irrigation conservation methods such as **drip irrigation significantly reduce irrigation use of gardens and tree/shrubs.**

Eliminating nonnative green grass lawns is the biggest water conservation measure and many new landowners could easily give that up and let native grassland species come back that don't require additional irrigation water.

If new development required very small patches of or no irrigated lawns, the average **consumptive water usage per household could easily kept under a 100 gallons per household** and thereby allow a lot more houses to be built at higher densities than outlined above. And that to me is something all new upland developments in the valley should be actively considering and the County should be actively investigating instead of attempting to arbitrarily dictate one-size fits all 3 Zoning areas (10, 20, and 160-acre tract sizes).

The MBM&G **hydrologic studies of the Scratch Gravel Hills, also indicate that even in the lowest productive bedrock supply zones could provide ample and sustained groundwater supplies even at densities of 1-2 acre lot sizes if landowners in limited groundwater areas agreed to low irrigation limits, and most of the non-timbered areas could support lot densities less than 1-acre in size.**

It also should be noted in the 2013 MBM&G "Hydrologic Investigation of the Scratchgravel Hills Study Area" on page 51, "Recommendations" the report states "This study shows the Scratchgravel hills Stock and the Helena Formation (bedrock aquifers) are particularly limited in their ability to supply water to wells. Current lot sizes on these units are typically 10-acres or more, and no area-wide groundwater declines is seen at this time. Study results suggest that if

development at a **density greater that one home per 10-acre (64 homes per square mile) is proposed, target groundwater levels should be defined**. Modeling can assist in setting these targets.... **Use of models in this way should allow effective, but not overly restrictive, controls to be adopted. Monitoring would be needed to ensure that target groundwater levels are maintained."**

All new subdivisions application proposals are required to submit detailed and site-specific groundwater investigations that clearly and conclusively define adequate groundwater supply for the proposed subdivision and also adequately protect all existing water rights. All subdivision applications are required to contain these detailed groundwater system characterization and impacts reports that must be completed by competent scientists and engineers or the application can be denied by Lewis & Clark County or DEQ regulatory review staff.

It is important to note, that the very well planned and executed MBM&G groundwater reports done for the North Hills and the Scratch Gravel Hills areas are very helpful and enlightening, however they stop short of providing enough information to fully characterize the actual density of homes that should be allowed on any patch of ground outside the few select areas that the Bureau modeled in detail.

In the agencies final 2013 Summary Report "Hydrologic investigation of the North Hills Study Area" the agency conducted detailed groundwater modeling on two selects site to illustrate the extremes of development density likely in the North Hills:

- the lowest likely groundwater supply zone in the North hills was the clay rich Helena Valley Fault Zone (roughly located where the grassland give way to the timbered forest lands).
- The second modeled area was the highest housing development density -- located about 1 mile north of Lincoln Road and west of N Montana Avenue.

The MBM&G 2014 North Hill Technical Report summary states the following:

- "While there may be an overall deficit in the North Hills study area groundwater budget, it is slight, and cannot be definitively measured using a water budget. That there is a deficit is shown by hydrographs that have consistent downward trends, which are localized to areas where bedrock and Tertiary aquifers are used for high-density housing developments.

Overall, the North Hills area transmits about 13,750 acre-feet of water per year as groundwater. The range is from 12,000 to 15,000 acre-feet per year.

In total, domestics wells within the North Hills -- above the Helena Valley Irrigation Canal & valley-bottom alluvial aquifers -- withdraw about 8% of the total flow (1,070 acre-feet).

Sub-Area 2 (**North of Lincoln Road and West of N Montana) has the highest percentage of water used by wells using about 19% of the available groundwater flow,** and that is the area with the clearest evidence of falling water levels (and highest density of development).

The results of this analysis were used to constrain the groundwater model prepared for the North Hills study area (Waren and others, 2013). Numerical modeling can evaluated the likelihood that the aquifer can come into equilibrium with current stresses, or if the current level of development exceeds the aquifers ability to supply water over the long-term. If current development can be supported, the level of development that can be sustained will also be evaluated."

The MBM&G chose to drill several groundwater test wells along the **most groundwater limited area of the North Hills – the Helena Valley Fault**. Then the Bureau researchers modeled what would happen to groundwater levels under two different average density scenarios:

- 47 homes evenly spaced on a 160-acre ¼ section tract of land which works out to be **3.5-acre per lot size**. The model indicated a **cumulative drawdown would only be about 14 feet.**

- Then they modeled a scenario with **10 times the density (0.35/acre/lot) on the same North Helena Valley fault-line and the result was a drawdown of 160 feet**.
- So my mid-point calculation would indicate a lot density **of 1.6-acre would result in a drawdown of about 73'** and
- **2.45-acre lots would result in a 30 foot drop** – a likely lower limit of likely acceptable overall regional drawdown. What the MBMG modeling indicates at even in the **worst-case area** of the upper non-timbered grassland slopes of the North Hills the lower limit of density along the **Helena Valley Fault line would be 1.5-2 acre minimum lot size.**

Again, firmly stated, L & C County has no technical basis for the 10, 20 and 160-acre tract sizes and this is particularly true relative to groundwater resources. Groundwater quality and quantity resource are protected by existing county and State regulations and to say otherwise is not factual or truthful. If the county sees a real need for additional protections they should facilitate additional groundwater resource investigations to address specific issue and potential adverse impact.

The County cannot support the taking of rural land without compensation – a legal taking issue that will likely end up with L & C County and MACO having to defend an illegal administrative action plan that is unsupported technically or legally.

The County could have spent the past 2 years facilitating additional groundwater modeling research investigations, and then devise a Zoning plan or propose changes to the subdivision regulations of there is scientific evidence that affirmatively demonstrates they can use groundwater supply as basis for limiting lot sizes over large tracts of lands.

As such, it is my professional opinion that the county has **not proven a groundwater supply or water quality scientific basis for the 10-acre, 20-acre or 160-acre lots size restriction Zoning proposal.**

III. ROADS

At the 4 County sponsored listening sessions, the only real factual statements supporting the Zoning proposal relative to the 5 Key concerns given by Mr. Italiano was his statement that they had this recent subdivision up in the north hills and it did not meet county standards and it was very rough and difficult to accept as adequate to allow new development. However, he failed to give any more specifics, and the failure of existing roads is something the County cannot blamed solely on new development.

In fact, since 2007, Lewis and Clark County added a requirement that new major subdivision have to pay for engineering traffic analysis on off-site access roads and if the subdivision increases the traffic volume on that off-site road by more than 10%, then the developer must pay their market share contribution to bring that road to the current county road design standard. The County then must spend that amount of money on upgrades to that segment of road. So only new major subdivision actually subsidize and improve many existing rural road users. Also, if a subdivision has to contribute to improving off-site county roads, the county taxpayers and the general public receive the benefits without having to invest taxpayer dollars to upgrade deficient roads.

At the two December listening sessions, Mr. Italiano even lamented that one of the reasons to stop additional rural growth was the fact that Lewis and Clark County has over 536 miles of county roads and they don't have the earmarked funds to adequately maintain and upgrade these roads.

The lack of good roads in the county, and in particular good county roads -- is a decades old problem has not and is not being properly addressed either privately or by the County. Unfortunately, it appears that the County is making the claim by default that any new rural

development will cause significant future problems, but they have not produced a single bit of supporting evidence or supplied any published report findings to support this claim.
Truth is the county CD&P and BoCC have not made any effort to address the transportation issues other than to try to severely restrict rural growth via the 2020 Zoning proposal. Back in 2004-2005 I read through the Lewis and Clark County 2004 Transportation plan and attended a public meeting on newly developed L & C Transportation plan.

The main recommendation from the transportation engineers was for the county to actively facilitate the layout and construction of N-S and EW corridors over the valley to facilitate future growth in the valley. But to my knowledge the county has not been able to make much headway on basic and future growth driven roadway system improvements, largely due to a lack for money and public commitments. This community failure to implement adequate transportation network upgrades, has left the HVPA deficient to the overall detriment to this county and future generations.

Looking back in time again to sometime around 2005-2006, L & C County managers did develop an election petition to the County Voting ballot, requesting a $5,000,000 bond authority for road construction and maintenance. Unfortunately, the $5million dollar bond levee failed to pass in large part because the county did a very poor job of educating the public on the merits of the investment and did not hold any public meeting on it that I know of. And I do understand that the county by law cannot openly advocate for bonding funding, but a way around that is holding educational outreach and public hearings to spread the word and gain public support. Plus beneficiary groups could have been formed to advocate for transportation plan funding outside of the actual county itself.

A year of so later the county came back with a $500,000 road maintenance bod levee which did pass but is too small a fund to do much and certainly does not allow the county to make major roadway reconstruction upgrades that are sorely needed all over the county.

Yet several years later, an out-of-state and local environmental advocacy groups sponsored an open space bond levee. The developed and mailed out thousands of very well-designed mailers to all the citizens in the county. And this simple and low-cost effort resulted in the County voters approving a $10,000,000 open-space bond-levee.

In my opinion, this taxpayer funded open space bond levee has been the single worst county funded investment in modern times and instead that amount of bonding should have gone into our transportation systems. I've read about just about everyone of the half-doze or so open-space bond levee give ways the County has approved that merely enrich the landowner with nor real benefit the county taxpayers other than OPEN-SPACE (e.g. no additional hunting or hiking access or development or access road or parkland areas).

The only open-space land investment this county has made in the past 10 years that really had public benefits was the last one in NW L & C County afforded the citizens any real benefit back – added access to large tracts of public lands. All the other open-space payments gave the County citizen nothing in return except to keep the land out of development – which in the end just spreads growth (e.g. Gehring Ranch =$1,000.000 to raise more buffalo).

With more than 50% of the land surrounding Helena being open-space – Mount Helena the second largest city park in the US, the vast Federal forested areas managed by the BLM & USFS, state lakes & lands, and large agricultural conservations easement (e.g. Metropolitan Bar and McMaster's ranch etc.) in my humble opinion the citizen of L & C County needed improved road and transportation investments not more open space.

It is obvious, L & C County requires major transportation network improvements including connecting N-S & E-W corridors, however the County for the past 30-40 years has not gone much beyond the preliminary planning documents and did not aggressively move forward with funding solutions that result in actual on the ground transportation upgrades. By not addressing these funding and infrastructure improvements issues decades ago, the costs and logistical hurdles keep compounding with no real County plans to address the issue beyond this overly simplistic and likely illegal land grab Called Zoning 2020.

Taking of 95% of the rural land out of development with this Zoning proposal will not allow existing rural roads to be improved and this plan with drastically cut future tax revenues coming into the county so the future prospects for planning and actual road network improvements will likely be even more severely retarded.

IV. Flooding

Since the mid 2000's, all new subdivision development must affirmatively demonstrate that all flood surface water is not impeded and is safety passed through the subdivision. In addition, the subdivision is required to store the increased runoff generated by the impermeable surfaces within each lot and to create stormwater retention facilities adequate to store the hypothetical increased runoff amount generated by a 2-year 1-hour storm event. Such is not the case for older subdivisions or properties constructed in prior time periods.

In addition, county and state law preclude construction of any permanent building within the floodplain and the county even has a 200-foot setback from any active floodplain.

As such, the county has not real factual basis for requiring large to very large rural property minimum tract size restrictions relative to flooding issues or impacts to flood-prone lowlands.

V. Wildland fires.

County and State subdivision regulations require all new major subdivision developments to research and fund the writing of a complete Preliminary Plat Application and Supplement report that adequately details the existing environmental site characteristics and impacts that could be expected if the application for development is approved. As part of the Plat Application, each major subdivision applicant must adequately address wildland fire hazards and propose a mitigation plan that the local County Rural Fire Districts support.

In addition, since 2007-2008, Lewis and Clark County has required all new major subdivision to commit to installing on-site fire suppression water supply systems (either 250-750 gpm wells or 30,000 or higher static water storage structures) in the unlikely event of a wildland fire threatening the surrounding landscape. Unfortunately, the county has not backed off this on-site fire water supply storage/well requirement even though most older systems are not being properly maintained and the rural fire districts are refusing to hook up to them for concern about contaminated water and lack of maintenance.

In December 2018, I produced over 100 pages of documentation requesting the county remove this costly requirement and testified at BoCC minor subdivision rewrite hearing in Mid May 2019, and the three BoCC voted to request that the County Planning Staff to complete a detailed review of this issue by the fall of 2019. But I asked Peter Italiano on or about December 28, 2019 where he was on rewriting the subdivision regulations to remove this requirement and he said he had had to put it in the back burner because he has been so busy working on the Zoning proposal.

Given the fact that large swaths of timbered land in the Scratchgravel Hills burned in 2012 and this past fall large acreage of the North Hills burned when an explosive rifle bullet ignited the forest. As such, **the fire danger in large segments of the HVPA have been significantly reduced**. And the Forest is undertaking major effort to mitigate the spread of wildland fires especially in the Rimini and Upper Tend Mile Creek watershed. Plus the City of Helena recently announced an major fire mitigation plan is underway in the South Hills etc.

In order for L & C **County to use the wildland fire danger as justification for the 10. 20, and 160-acre Rural property lot-size restrictions**, the county **must provide solid scientific evidence** that justifies the land value takings for each tract of land that is proposed to become open-space.

The County has to **complete a very detailed and credible economic cost benefit analysis** which to date the county refuses to even consider or acknowledge that they obligation to address.

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Social-Economic Impact Analysis

2020 L & C County Zoning Proposal 2/29/2020 by John Herrin.

1. Economic Costs - Simple Math Calculation Damage to Rural Property - Takings.

Note: Source of Basic Land Sale Values came from Tim Moore of Moore Appraisal 12/28/2019.

Dry Land Agricultural Sale Price = $300/acre. Confirmed by 2/18/2020 Verbal Testimony by Mark Dehl at L & C County Board of County Commissioners Hearing on Zoning Proposal.

A low end average land price for 10-20-acre size lots in HVPA = $5,000/acre. Added value if 1-2-acre lots sold for home sites would likely be $37,500 to $85,000/acre.

- Given the fact that most land or builders buy land based on the number of homes that can be built on a property - with Zoning future land buyers will primarily looking at one home per lot and only pay a little more money for additional acreage. So whereas a buyer might pay $75,000 for a one-acre lot, they might only pay a little more if any for the added acreage in a 20-acre tract - especially if there suddenly are a lot of 20-acre tracts on the market. Under zoning the additional acreage really does not add much if any added value to the property.
- And most rural property buyers do not want a 10-20 acre size lot as it is too much land for them to maintain or keep weeds under control. As a general rule, most rural land buyers want land sizes from ¼ to 2 acres in size and any lot size greater is not what most landowner want or need.

Rough calculation of the amount of rural land in the HVPA = about 150,000-acres and assume 40,000-acres already divided into 10-acres lots on average. Leaves about 110,000-acres that could be future divided.

A. Potential Total Land Value 2020 Takings Claim Scenario #1.

Low end calculation damage in lost value if large agricultural tracts were zoned 160-acres or larger. $5,000-$300= $4,700 . $4,700 X 110,000 acres = **$517,000,000 dollars lost in value.**

B. Potential Total Land Value 2020 Takings Claim Scenario #2.

Another way to calculate lost value was given by John Navotney (2/18/2020 BoCC Zoning Hearing) backed up by another ranch/farmer -- stating the fact that their Loans with Banks could be cut in half their land value if the land was zoning by the county (equal to creating a conservation easement on the property). Under zoning, area banks would likely cut agricultural credit-lines in half (Note: which seems overly generous). Mr. Navotney also indicated that he paid more than the value of two adjacent tracts of land to add to his business, because it had more value than agricultural production would justify and if the bank cut his loan ability in half he would have to come up with $200,000 in operating capital that he does not have,

Assuming an average per-acre undeveloped lot at $5,000 X 50% = $2,500 in lost value.

Damage calculation using this alternative calculation would result in $2,500 X 110,000-acres = $275,000,000. Based on 50% lost vale for conservation easement.

C. Potential Total Land Value 2020 Takings Claim Scenario #3 - higher density rural land development.

And if the land were developed into higher density lots for resale to future home buyers, the damage to the landowner/developer would be significantly greater than $2,500-$4,700/acre.

Using the lower end value of medium density development enhanced property lost value could be $50,000/acre X 110,000-acres = $5.5 Billion dollars.

If the total end value of an acre of land were more (e.g. in higher density development) the total could be even higher.

Now all these simplistic calculations assume that every acre of land in the County's Rural designed HVPA area would be developed to a higher value -- and would not happen.

Each and every person in the rural areas would have to go to court to prove real damages and hire experts to determine the actual damages. Which would be a huge burden on the citizens, and the county creating a lot of wasted negative energy and expense for everyone, However, we should note, that if county lost in court (a high probability), then the court award plaintiff's additional damages including legal and court costs.

But what **these simplistic calculations do underscore is the general scope land that is being impacted and the scope of real-life damage this Zoning plan could have on business owners and property owners.** It also underscores the potential cumulative impacts lot size restriction could have by withdrawing land value and the future opportunity for normal growth patterns in the community.

Basic economic theory states for every dollar spent in the community compounds 5 fold as it travels through the community. So any money taken out of rural property owners, builders and trade associated trades people is money taken out of the community, with compounding negative impacts to everyone living and working here.

The county estimates that roughly 22,000 people currently live in the estimated 150,000 acres of rural land which equates to about 8,800 homes

(Note: John Herrin asked for but has not been given housing or population estimates for any of the three major rural property classifications).

Beyond just agricultural business landowners impacts, the Zoning proposal would likely significantly reduced the overall value of all current or future rural property and the negative property loss more than likely would in large part correlate with the size of the land underlying it. Larger land tracts would be more impacted than smaller ones, and lands closer to the county "Sweet Zone likely impacted the most.

Also the larger the tract size the county Zoning dictates (e.g. 10, 20, 160 -acres) the more negative the impacts would be on the underlying land value,

In a large extent, more recent land purchases would be the most vulnerable to adverse damages given their respective mortgages would likely be higher and the price of the purchased land higher.

Most recent larger tract Non-agricultural landowners purchased land with inflated property values based on the potential future value of the land were to be subdivided. Under the County large tract size Zoning proposal, the inflated prices of more recent purchases likely would not be recoverable in the short or long -term. In some cases this could put new land purchaser's in a financial bind with their lenders or in real terms especially if the market value of rural land greatly depreciates as is expected under this Zoning proposal, Future financial gains when the large tract lands are resold may not even recover the purchasers original investment when profits were almost assured without Zoning.

How many existing landowners would lose value would generally depends on the size of the property they own and the physical characteristics of the property. Many of these existing landowners with larger tracts of land, would like see the most significant drop total value.

These basic **damage calculations also help put into perspective County maybe subjecting the taxpayers and citizens to the risk of protracted legal actions and possible costly damage claims if the 2020 Zoning plan is adopted with large tract size restrictions** on rural property. The County and tax payer do not have large sums of money sitting around to defend legal actions and possibly of having to pay the legal bills of plaintiff's plus settle damage claims if the courts rule against the county on the 2020 Zoning plan to severely restrict lot sizes only on rural property in the HVPA.

2. Secondary Economic Impact of Large Tract-Size Rural Zoning on Overall HVPA Economy.

With the large -tract size restriction only on rural property, the overall growth in the Helena Valley Planning Area will be greatly surprised going forward and significantly lower future economic growth of the HVPA.

Additional damage would occur to future generations of landowner as land values climbed significantly in the Sweet Zone (driving up future home purchase prices) and land values in rural areas remained severely depressed.

And additional Economic damage would occur to overall HVPA economy as almost no rural building would be occurring on 90% pf the available undeveloped land of the HVPA. The economic impacts include a wide range of small to medium size local business such as home builders, realtors, construction trade contractors, and all Helena area business large and small.

There is no easy way to calculate the secondary impacts of this county proposal and it is beyond my limited knowledge to even venture an estimate other than to say this plan would have a very significant reduction in the future growth of the HVPA and as such a significant reduction in economic growth of the community for as long as the Zoning Lot Size restriction stand in place.

3. Other Social and Economic Impacts.

- **Schools and County Taxes.**

Recent Independent Record news articles state that the Helena school district is about $1,000,000 (Helena IR 1/29/2020) in the red and must layoff a large number of teachers, and support staff plus find other ways to trim the school district budgets to make up fir budgetary shortfalls, The primary reason is that construction of a new elementary and high school in East Helena.

But the Zoning proposal will remove a large portion of future tax income to the county and both East Helena and Helena school districts.

Taking 90% of the available land out of the future growth of the HVPA, will have significant the impacts on all future county tax revenue income into the county. The county staff are the correct party to do such an economic impact analysis, but to date the County Planning Staff and BoCC has refused citizens request to consider completing an economic impact assessment even on very basic level so it is not possible to quantify the impacts beyond a simple statement that they will be significant.

- **Cost of Land Will Increase in HVPA with Proposed Rural Zoning.**

- The cost of land in rural areas will be severely depressed as noted above.
- Land value within the L & C County targeted "Sweet Zone" (L & C County's Urban, Mixed Urban and Mixed transition) will have to go way up.
- Current undeveloped landowners will have an immediate and significant increased land value as soon as the L & C County Zoning proposal is passed.
- Prices in County Targeted "Sweet Zone" would like go up at least 10% or more that over time the increased value would greatly increase the rate the same property would have increased without Zoning.
- Fact is there is not that undeveloped land left in the county's Targeted "Sweet Zone" -- rough calculation <10,000 acres), over time this very limited land supply will begin to compound land and ultimately home priced forcing more and more people to live in Condos or apartments.
- As indicated, as land prices march upward the average size of lots will have to greatly decrease - so much for living the dream of owning land in the Big Sky State.
- Currently, the average price of Helena homes the past two years was close to $300,000 and not that many years ago the average price was around $250,000. With the Zoning Proposal, the average price is bound to go way up and therefore more county residents will be forced to live in condos, apartments or public subsidized housing.

- Affordable housing is now called homes costing less than $250,000 however most of these priced homes are smaller, many need remodeling and generally have hidden costly repair problems down the line. And less and less young people and people on fixed income can afford a mortgage on a $250,000 home and one that needs work.

    - **Lack of and Need For Affordable Housing**

- More apartments and public housing would have to be built to accommodate those citizens that could not afford to buy homes.

- 11/23/2018 IR article entitled "Employees need affordable housing" and further states "People come from Billings and Butte to work for me but can't find anywhere reasonable to live" says Terry Gauthier owner of 2 McDonald's restaurants. "Lack of people to hire impacts subcontractors, such as plumbers and electricians, more than anything else. He said waiting for subcontractors to have time for a job often adds one to two months to a house project. He could build three more homes per urea with more readily available staff." says Chuck Casteel, owner of Casteel Construction.

- The lack of employees and affordable housing is costing home buyers more money for completed housing which in turn hurts the community with higher housing costs --were additional quotes in the IR article attributed to Donna Durkel (Helena Building Industry Association).

- In Missoula housing prices jumped 30% from 2010 to 2018, but wages have not kept pace for most wage earners (IR May 6, 2018). And the percentage of income dedicated to housing increases dramatically opposite the amount people earn, making housing the largest cost to most lower income earners. Discretionary funds evaporate which leads to household instability, plus social and emotional household stress and costs to society.

    - **Growth is Limited by County Regulations.**

- Overly Restrictive Subdivision and Zoning Regulations do have a large impact on land and home prices, but with a huge influx into Montana from out-of-state buyers with large equity positions, the real estate markets are not currently severely limited by price.

  The lack of supply of affordable land in Helena is future documented in other reports cited below and the County's Zoning Plan will only severely compound the supply restriction and upward spiral of housing costs in Helena.

  As a factual backdrop lets look at the basic real estate market of western Montana and in particular the Helena RE market. In western Montana real estate has seen a impressive rise at over 4% -- rising at a rate of 30% since 2013. Bozeman tops the charts at 55% growth rate (11% a year). Helena by contrast Helena real estate price increases lagged behind the average at 16% from 2013-2018, an average annual growth rate of 3%.

  "Helena's economy continues slow grow" (IR 1/30/202) article states wages in L & C County remained flat from 2016-2018, and then spiked to 5% in 2019 largely due to

legislative cuts that impacted the 53% of the local job pool of state workers from 2017-2018. Predicted economic growth in for Helena in 2020 is 2% and 1.6% thereafter. In 2019 the work force in the County topped 34,596 people , a gain of 494 (1.4%) workers in 2019 (Source Cathy Burwell CEO of Helena Chamber of Commerce).

The main factor driving up real estate costs faster than wages, is the influx of cash-rich out-of-state buyers driving up the demand for more land and more single family housing. In recent years more out-of-state buyers are now looking at Helena are real estate market after they visit the higher priced markets of Bozeman and Missoula, looking for the rural smaller city lifestyle but still being able to afford a home with the desired ammenities.

Unfortunately, as stated above, too many long-term residents and those living on fixed incomes (elderly and lower wage earners) are being squeezed out of the home market and into rentals and public housing by the steady increase in land and home prices.

And even so, the UoM Bureau of Business Economic Research (2018) did note that the average home sales price from 2013-2018 for L & C County was less than the average for the major cities of Montana at 16% (3% a year), large attributed to "Part of the difficulty in building more in Helena is the lack of available lots and high costs of lots that could be available for builders" .

Since 2005 L & C County administrative and revised subdivision regulations have limited the availability of reasonably priced lots as the UoM researchers recognized in their report.

It is easy to document costly subdivision regulations L & C County adopted in 2005-2008 that remain in effect to this day. Starting back in 1994 with a proposed zoning plan restricting rural growth -- that solidly opposed by the citizen and finally culminating in this large tract restriction Zoning plan of 2020.

It has long been my contention, that the L & C County Community Development and Planning Department and a long series of elected Board of County Commissioners have viewed rural growth as a problem that warrants limitations. To those means it would appear that these county managers decided the best way to slow rural growth is to incorporate costly regulations or take administrative actions (e.g. $8,000,000 off-site road lawsuits) to increase the cost and limit the spread of rural subdivisions.

And collectively these regulations have slowed and limited where rural growth occurs in this county resulting in limited supply of affordable and available building lots in the HVPA. The county mandated health and safety requirements intended to limit the extent of and amount of rural growth included the following costly subdivision application requirements and now pending Zoning lot size restrictions:

- On-site fire water supply storage/wells.
- Two access/egress roads into all subdivisions.
- 2007-2009 Interim and Emergency Zoning forcing all new rural individual septic systems to meet the highest Level II treatment level costing $20,000

- Forcing all new subdivision to pay 100% cost to upgrade off-site roads.
- 2020 Zoning Regulations Rural property lot size restrictions;

These added costs are somewhat unique to L & C County subdivision regulations and as stated were incorporated to driving up rural property and overall real estate costs/prices. Specifically;

- L & C County requires all new subdivision developments to install on-site fire suppression storage whereas existing rural homes and community don't have to have any such fire water storage/supply (a takings legal argument that no one yet has challenged). Although the access to and maintenance hundreds of on-site storage/well fire suppression systems rests with the rural fire districts, they are not maintaining most of them nor will they allow their equipment use these unmaintained sources in the event of a wildland fire. The added the cost to each new lot created HVPA is generally ranges from $5,000-$10,000. With no real benefit and long-term liability to the county.

- L & C County also requires two roads into all subdivisions (A unique requirement to L & C County) and both roads must be constructed to current county road design standards. A prime example of a huge block of very expensive real estate with only one road in is the Big Sky Ski and Recreational resort. This major and Billions of dollar in real estate area only has one road and it is very steep-sided so if blocked no one goes in or out.

  So why does L & C County require two entrances? Their rational is for safety of landowners and EMS during a fire and if one road is blocked, then the secondary route is needed to protect life and property. However, using that rational Big Sky Resort should not exist. Older subdivision in Helena and Montana should be condemned or redesigned if this is a real safety threat. Nor should millions of acres of developed land in Montana, all across the US or the world where only 1 road enters a group of homes.

  Locally the Great Divide Ski area cannot be developed for a subdivision development despite the fact that the US Forest Service granted federal land for a community drainfield to Kevin and Nilla Taylor (35-year owners of the GDSR), but because of this county's unique two entrance requirement prevented them from developing the property.

  This situation is not unique to the Marysville road area, for there are many rural roads all across the county were only one main road reaching huge swaths of rural land.

  It would appear to anyone objectively looking at this two egress/ingress requirements of L & C County managers, the county main purpose for the two entrance requirement it to meet their unwritten objectives ----
  - slow or severely impede all growth in rural areas of L & C County,

- driving up rural property costs and thereby force more people to live near Helena and East Helena
- encourage growth in under-utilized city Helena & EH wastewater and water systems.

- Zoning if adopted would as discussed above have major, far-reaching and long lived impacts to the entire community. So in summary, regulations absolutely do negatively impact growth, negatively impact affordable and all housing prices thereby impacting households at all income levels.

Rcvd. From John Horn

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Development & Planning

Overview of L & C County County's Proposed 2020 Zoning Proposal - Rural Property Takings.

The rural property around Helena and East Helena represents about 150,000 of private property that could be developed and from the Census of 2000-2010 about 67% of the growth occurred in this rural area. The rural area represented about 95% of the buildable land surrounding Helena and East Helena, and the Counties plan it to force all new development into less than 10,000-acres (5%) of the land north and around Helena and East Helena.

Under the County's Zoning proposal, land values will drastically drop in all the rural property and will skyrocket in the County's targeted "Sweet Zone". With only about 10,000 acre left of undeveloped land within the County's targeted "Sweet Zone" , the availability of building lots will quickly be depleted and further limit future growth in the HVPA. In the last decade the supply of buildable lots has restricted growth and further anti-rural growth restrictions will only slow economic growth more in the greater Helena economy.

As such rural landowners -- not just agricultural landowners -- will be immediately and severely damaged that will last as long as the Zoning Lot Size restrictions prohibit new rural subdivisions. And the damages will spread like a virus throughout the community, damaging small to large business and depressing the overall community growth.

The social damage will be just as horrible. The average home price in the Helena Valley Planning Area was $250,000 just a few years ago, now exceeds $300,000. The average price will skyrocket with the severe restrictions the county Zoning will place on available land -- which is simple supply-demand economics 101 that every high school student could tell you.

Affordable housing is at a crisis level in Helena and many employers are having real difficulty in attracting and retaining workers in large part because of the high cost of housing in Helena.

With the Zoning proposal largely taking out 95% of the buildable land in the HVPA, affordable or lower cost housing will become an even worse nightmare for our slow-steady growth western community.

The County Commissioners and Planning staff refuses to slow down and really evaluate the social and economic impacts and they have refused to present the true costs of this proposal in large part because they really know down deep inside that the damage cause won't be acceptable to most county voters or landowners.

The county has refused to bring maps to any of the first three public listening session and only did so at the last January 28th listening session -- and only then when I called Rodger Blatz (County Administrator), at 3 and said his staff ignored my request on January 15 to bring 100 maps to January 23 listening session. Not one map has even been laid out in the County Planning office.

The Website is not user friendly and takes most people 15 minutes just to find the Zoning information if at all. And the county questionnaire cannot be completed on-line, so everyone must print it out and mail it in.

The **County Planning staff** at three listening sessions said they **would not send out mailers** to any of the impacted landowners. And they **also will not allow any of us vote** on this most **important land grab proposal** any county in Montana has ever considered.

The Board of County Commissioners and Planning staff keep **repeating the mantras "Predictability, land value stability and consistency " with zoning that is done all across the US.**

But almost nowhere in the US does zoning involve minimum lot size restrictions and certainly 10, 20, and 160-acre lot sizes. Nowhere in growing urban areas. Nothing like this is happening in Bozeman, Missoula, Great Falls, Billings or Butte.

Zoning is usually land-use, development type, development style restrictions etc. not property size.

The county is hiding behind these feel good generic statements are not supported by the real facts. Groundwater supply, groundwater quality, flooding, fire and road impacts are required to be addressed by State and County Regulations.

Based on my 17 years of State government and equal number of private consulting years of environmental impact and cleanup experience including 5 years working for MDEQ in the Subdivision Division Review Section (I reviewed and permitted >400 subdivision application) and having undertaken 4 subdivision permit applications -- I can state with confidence and conviction:

- the County has no valid environmental or social justification for 10-acre lots size limits other than to just Stop rural development period.

- On Monday February 24, 2020 I submitted to the Planning Staff, the BoCC, and MACO Attorney's a well-researched and point by point assessment of all 5 key concerns the county says is covered in the 2015 HVPA Growth Policy Update. The document is 13 pages long.

- The fact is the North Hills and the Scratchgravel Hills have ample groundwater to support future growth and existing subdivision regulations require the developer to prove new wells will not cause groundwater depletion or adversely impact existing wells.

- Any property with low groundwater recharge can be allowed given the inside the home consumptive use per day is only 5 gallons -- 5 gallons -- 5 gallons. Period. In low groundwater recharge areas limiting the size of or eliminating non-native grass would eliminate any concerns of groundwater depletion given the fact that the 168 gallons of average wastewater that goes to the septic systems is returned to the groundwater.

- The Mt Bureau Mines and Geology detailed studies **indicate the worst groundwater supply areas of the SG & N Hills can sustain lot size densities down to at least 1-2-acres** -- and again that is the worst locations. As of 2009, the <u>existing 1000 homes in the North Hills used only 8% of the available groundwater</u> and that include 3 large high-density

subdivisions that likely will never be repeated. And all these homes have bright green grass that eats of 98% of the consumed groundwater per house -- so reduce the irrigation by drip irrigation and native grasses and no one will go without water!!!

- So the County's excuse is -- RURAL GROWTH is evil and must be crushed. But they provide no real proof that a crisis that is not of their making is out there to be solved or that it could not be solved so other way:
    - like changing the subdivision regulations or
    - increasing taxes to fund roads and
    - add more full time EMS staff and equipment.
    - limit groundwater withdrawal if appropriate.
    - require higher levels of wastewater treatment.
    - build new road and upgrade existing ones.

- Other communities Like Bozeman, Missoula, Great Falls, Billing and Butte all are facing growth but no community is strangling their economic future by taking rural property owners land without compensation -- nor would they because they know that is a none starter for the citizens that pay the county staff and Commissioners salaries and should by law have the final vote on anything that takes away their property without compensation.

- You will find very few landowners that would want to grant such a permanent conservation easement on their property and still must pay the county taxes for basically having open-space. And damaging the overall economy of the community in the process of being so sweet and accommodating.

- Given the fact that L & C County must approve and issue Non-public septic permits to new landowners, degradation of groundwater should never occur.

- The 2012 Scratchgravel and 2019 North Hills fires have significantly reduced the overall fire danger of timbered property, but it still is the right of landowners to buy timbered property and accept the risk and take fire mitigation measures (e.g. steel siding and roofing) to significantly reduce fire lose risk. People that chose -THAT CHOSE - to live in timbered areas of the HVPA, must pay increased insurance for the right to live there. But this is the case all over the country. By the counties default reasoning everyone in Helena and all over the world should move out of their timbered and tree covered communities and move out into the barren lands (Like Nevada -Arizona - California or Mexico) or they might lose their house to a fire.

- And to address rural fire district volunteer burnout and taking them away from their real work, the county must address this issue and right now. No more stressing out our volunteers. The younger generation is not stepping forward unless they get paid. So let's get out the checkbook and fix the problem. L & C County must start hiring EMS responders staffing regional centers 24-7 and take that burden off the RFD.

- Most rural fire volunteer really like responding to help with fire suppression, but they do not want to keep responding to so manty EMS calls and especially when they should not be called in the first place. For decades, now the County planning and BoCC are negligent in not addressing the real issues with RFD and not blaming the new development for their lack of planning and real solutions. Roads.

- All subdivision greater than 5 lots, must hire an engineer to evaluate the traffic impacts to off-site roads and if there traffic would increase the average daily traffic more than 10%, then they have to pay the county for the developments pro-rata share of the cost to bring that road up to the county standards (which is very costly and the reason no major subdivision will ever happen along roads like Birdseye and Lake Helena because these deficient county roads would be too costly to for any large-scale development to make it financially viable),

    - As such, new subdivisions maybe one of the few ways rural roads are upgraded.

    - Also, the county own 2004 Transportation plan recommended the county facilitate N-S and East-West road corridors to improve future traffic flow and interconnected networks, but the county has done almost nothing to enhance the road network outside subdivision development driven improvements.

    - In 2005 the county attempted to pass a $5,000,000 bond levy for roads and they did such a poor job of informing the public of how the upgrades would be used and what that might mean to the community over time -- the citizens voted it down.

        - The next year they came back with a $500,000 bond levee which passed but was not what was needed. A band-aid on an elephant in the room.

    - As a result of no active corrective action by the L & C Managers, the 536 miles of county road continue to deteriorate. No real planning is being done by L & C County. No effort is being made to address future transportation needs in the county and how to address the backlog of upgrades and redesign needs of 536 miles of county roads and critical private roads.

    - And I know for fact that many of the mid and lower level staff in L & C County staff have been stymied and hindered from finding real solutions caused by poor decisions at the top levels of County management. The collective trauma especially hits the environmental staff and the public works engineers and workers who have seen many plans (e.g. 2004 etc. Transportation plans) written and knowing there are solutions out there that could fix problems, but a lack of vision and money stops them in their tracks before they can get going. So costly Transportation plans etc. sit on the shelves around the county gathering dust.

But we are just supposed to let the county dictate via this crazy Zoning proposal to solve our roads problems because the county managers have for decades ignored real solutions or attempted to really manage growth in a meaning and well planning manner -- which is their primary obligations.

And now the County planners and BoCC feel compelled to dictate a massive Social/Cultural/economic I upheaval the likes of which has never been seen before outside of a third world country or a totalitarian society.

The legal challenge is easy to see coming with the county targeting Rural property owners for massive damage and then unduly enriching those lucky landowners that bought open ground in the County's "Sweet Zone". This massive transfer of wealth is unprecedented in Montana and I am quite sure almost no where in the US has this Type of aggressive government taking of property been done in modern times without some form of compensation.

The Fifth Amendment to the Constitution states "private property (shall not) be taken for public use, without just compensation."

Before this Zoning plan came into the horizon, nearly all landowners in the 150,000 acres of rural property surrounding Helena and East Helena had strong feelings of financial security in knowing their land is worth money and has gained value for them over the years and decades. And most rural property owners do not want to freely given up their hard earned investment for unproven theory the Planning staff has that 10,20, 160-acre tract size restrictions that severely hamper any future plans they might have had of making wise retirement and real estate investments.

Under the Zoning proposal many rural property owners won't be able to send their children to college, or they will not be able to retire how and when they had planned for years,

Real dreams will be smashed along with real wealth.

So many more problems will be created by this Zoning proposal than are solved it is literally unthinkable and astonishing the county staff and Commissioners can't see the forest for the trees.

How could the County Managers ever see the logic in this - if they would just stop and study case law. Study the 2005-2015 12 law- suites the county had to pay out over $8 million to land-developers and concerned citizens because the Planning Staff and BoCC would not heed repeated and loud warning to stop the Taking of private property. The County since 1994 has repeatedly done unethical and harmful actions using their power to attempt to slow rural growth and this proposal is the ultimate conclusions of a 36-year history County mismanagement, abuse of power, and unethical administrative manipulation of innocent citizens, landowners and business people that make up this wonderful community.

The Planning staff could easily step-back and look at the social economic impacts given they supposedly did go to college and had to take at least basic classes on ethics, economics, real estate law, and yes planning. With even just a few thoughtful hours spent looking at the potential adverse impacts to rural property values and what their

plan would do to county taxes, the impacts to agriculture etc. etc. they should have stopped before they even put pen to paper.

It would appear that the County Planning Staff and BoCC have no understanding of how much damage their proposed plan would have on the overall economy on not only the current generations of 22,000 rural citizens, but the damage will be perpetuated and compounded throughout the entire greater Helena and Tri-county areas plus it will compound down through the generations to come or as long as the citizens tolerate the abuse.

People who currently live in the HVPA rural zones must have a voice in all this and ultimately be given a vote on it. I personally see no way in H that once every landowner is properly informed and everyone is given a vote, that any land size Zoning restrictions would be allowed. Period. End of story.

Three County Commissioners cannot legally vote to take all this land without compensation without an informed vote of all adults being impacted. To date the County staff is showing they are ruthless authoritarian leaders than have no empathy or understanding of human nature, of what the citizen of Lewis and Clark County really need and how to get there.

All three BoCC and every Planner working on this Zoning proposal should be held personally accountable for the economic and emotional damage they will unleash.

Under the County Zoning proposal, they are only targeting rural property for the massive taking and financial damage - which is why I am certain the county will be sued as a class-action lawsuit. No government ~~and~~ can discriminate and target one class of citizens and reward another class of citizens without getting sued. Why wouldn't all the rural property owners join and file a class action lawsuit against L & C County and name the BoCC personally?

The county needs to answer why they want to punish only rural property owners? Why do they feel is correct to take the life savings and investments from just rural property owners for your "Greater Good" dreamscape???? Great Good of who. Greater Good -- Why. Greater Good says who?

L & C County staff will be asked all kinds of Interrogatory and discovery questions they will not be able to answer, and they will spend the next 2-5 years being twisted into pretzels attempting to justify the unjustifiable. SO much for "Greater Good".

From 1776 to 1812, the Fledgling US colonies fought back England in two major wars to break the bounds from the rule of the British Rule. Largely over the rights of citizens to self-rule, the right to protest against to tyrants, the right to bear arms, the right to religious and personal freedom, the right to own property, the right to start a business and prosper without unethical and illegal government interference.

So, it must be said -- all most everyone opposing the County Rural Planning proposal agrees that L & C County has for decades needed progressive and reasonable growth planning and implementation -- just not this kind of zoning or planning. Smashing all rural development is absolutely not what the citizen truly need or desire, nor did they ask for despite the claims by the county to the contrary.

Back to the Past County Miss-steps let's talk about ---- Open Space .

Sometime around 2010, a well-funded out-of-state environmental organization with strong local support, advanced the idea of advancing an open-space bond levy. They came up with a slick advertising campaign and mailed out very well laid-out and flashy information fliers, and thereby convinced the unsuspecting public to vote for an open space bond levy -- $10,000,000 -- and in My opinion the worst investment the poor citizens of L & C County could have ever made. We needed $10,000,000 investments in good roads and other infrastructure to facility growth. But again L & C County managers failed to assist L & C County plan and build for the future. Not real implementation of transportation plans.

The easy open space bond money is so to get landowners only have to submit a request and show some threat of development and their application is approved. The result is a select few smart landowners have learned to ask for the government Open-space handout and most are rewarded handsomely. They win money and the citizen get nothing but air.

We get no added public access, no future income for our investment, just agricultural tax rate payments which are nothing in comparison to the added taxable value of developed land. Note: the one exception was the OSBL gift to a prime hunting-hiking access property in NW L & C County this past fall. All the other Open-Space Bond Levy payouts provide no real public benefit.

With 50% of the land around Helena being federal open-space and Mount Helena being the Second Largest City Park in the nation.

Plus, many large landowners over the past few decades have chosen to enter conservation easements where they get generous tax creates -- but the public gets not access but we do get more fresh air and green lands to admire from afar.

The County is asking us all to limit the growth our community. Limit growth to 5% of the available land for the Greater Good.

They want us to pile into the coal train, to shut up, be civil, enjoy the ride as they drive us all off the Grand Canyon just like Thelma and Louise in the 1991 Classic movie.

They tell us they only are doing this massive land grab for the Greater Good. But this great Good will end up destroying this community for as long as it is let stand. Or until we elect county commissioner who are for the people, by the people and of the people.

Our Great fore-fathers and -mothers fought the be free of English rule from 1776 to 1812 and we barely made the break several times. They fought to our freedoms.

- Most importantly our freedom to own land and to prosper free or tyranny and oppressive government interference in free commerce.

- Stand up and be counted. Tell the Board of County Commissioners and Planners that the real bosses of this community are the citizens and we will not be oppressed.

- We will not be subservient to Lords and Masters. Especially when they are not truthful and forthright with the people, honest in all administrative actions, and that act in their biased self-interest.

- The County is required to act in the best interest of this community as a whole,

- To date the County Planning Staff and BoCC appear to be so convinced that rural property is so evil they must cut off supply of rural land or this community will not survive another moment.

- In the County managers ideal world -- rural landowners would freely and willingly give up their land for the "Greater Good" of the present and future generations so we all can live in a congested city surrounded by millions and millions of acres of open space. That is their vision of our future.

Mr. Herrin:
Thank you for your continued interest in this important process regarding growth management in the Helena Valley.

Regards your opening paragraph in your below email, you are incorrect as the Board never "set a hearing date". The Board and Staff identified the 21st as the target date to take the project to the Planning Board. Likewise, Staff noted that it's goal was a release of the Draft Regulations by April 1st. As of today, no date has been set to take the draft zoning project to the Planning Board. While the law would permit the meeting to be held via an electronic platform such as Zoom, it has been decided that the project will not go before the Planning Board until we are able to hold a live public meeting again in the Chambers as we value and encourage as much public participation as possible. We look forward to May as a potential target date, but at this point it is too soon to tell. As far as making the draft regulations and revised map available to the public, it is hoped that we will be ready to do that in the next couple of days. The rest of your email will be logged along with the other comments we've received and will be addressed in the future.

Thanks,
Peter A. Italiano, Director
Community Development & Planning
Lewis and Clark County, Montana
316 North Park Ave. – Suite 222
Helena, MT 59623
Office: (406) 447-8374
pitaliano@lccountymt.gov

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From: County_Planning_Mail <County_Planning_Mail@lccountymt.gov>
Sent: Monday, April 13, 2020 10:33 AM
To: Peter Italiano <PITALIANO@lccountymt.gov>; Greg McNally <GMCNALLY@lccountymt.gov>
Subject: Fwd: Zoning Proposal Status and Website Failures

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From: John W. Herrin <2freedomrings@gmail.com>
Sent: Sunday, April 12, 2020 4:30:38 PM
To: County_Planning_Mail <County_Planning_Mail@lccountymt.gov>; John W. Herrin <2freedomrings@gmail.com>
Subject: Zoning Proposal Status and Website Failures

Dear Planning Staff,

We all are dealing with COVID 19 pandemic, but the County BoCC set a hearing date for the Zoning Proposal to be submitted to the Planning Board set for April 21. Plus the County committed to having the underlying regulations completed by April 1, 2020.

First and foremost – back over a month ago I requested to receive the written minutes if all three Broad of County Commissioners (BoCC) public hearing on the Zoning proposal. I asked the BoCC staff for these several times over the weeks following the hearings but they were not yet available and with the recent social distancing and travel restrictions, I have not visited your offices. But I still want to have these transcripts and therefore could you make sure someone sends them via email to my above email address. THANK YOU.

I have for the past 2-3 weeks been visiting the County Community Development & Planning (CD&P) department website to see what is the status of the promised written text and find out any new developments and postings. Unfortunately the only new information is the March 27, 2020 revised Zoning map wherein all the 160-acre and 20-acre lot size restriction designated zones within the rural lands have been reclassified as now being 10-acre tract size restricted land size zoning designations.

Is this the final version or are more alterations in the works or being considered?

Why hasn't the County bothered to update this website with real and update information such as:

1. A detailed explanation as to why the zoning map was changed so dramatically and supporting documentation for the entire Zoning proposal and details document the process milestones, a detailed list of all public comments and the county's response to each comment.

2. The County appears to base all their supporting facts and documentation solely on the L & C County Growth Policy Update 2015, however as can seen in the long list of comments and question outlines in this document and the in the 4 Critical Reports I submitted to the county back in February and March 2 of this year – the 2015 Growth Policy Is merely a planning tool documents and is totally insufficient technically, factually and legally to justify the taking of rural property land via the proposed Zoning proposal. Where is the facts supporting this specific Zoning proposal and in particular the greatly expand on the 2015 GP 5 key elements of cumulative impact concern -- and specifically why the County's proposed 10-acre lot-size restriction is the only valid alternative that that county can use to address these unmitigated cumulative impacts? The Growth plan is now 5 years old and the County is required to do a revise GP if it is to be used as justification of the proposed Zoning plan. Is also has to be revised to remove the obvious bias, invalid conclusions and generic statements that do not hold water.

3. The Website still lacks any real documentation supporting the Zoning regulations and in particular justification why only valid solution to address unmitigated cumulative impacts to the 5 key elements the county claims are threatened is to implements the 10-acre lot density restriction on all 150,000-acres of undeveloped land within the rural areas of the HVPA that are outside the County's favored growth target rural mixed use zone I call the "Sweet Zone" where the county wants to force all rural property growth.

4. The County's website is very hard for most citizens to quickly fond the Zoning proposal and direct links without having the negotiate the menu. Most people are very busy and can't wait to see the 5-6 items being scrolled on the front page to catch the Zoning proposal or find it hidden under the Community Planning and Development section – how many people know to look there? Several people in the listening sessions made the same comments but the county hasn't made any effort to make the Website better or user friendly for this all important major administrative action – a once in a life time proposed action that will impact the Tri-County area for decades to come.

5. The County website must have current information and daily status updates for everything happening on this very important and landmark zoning proposal. Why isn't the county planning staff posting real updates on key issues? (Note: side comment – many of the issues raised in this document have been raised by citizens and the county staff is just ignoring us like we don't matter and the county does not have been responsive to anything the citizens request as needing. The County planning staff is either not paying any attention to public comments or they are purposefully avoiding informing the public – neither excuse is acceptable).

6. On March 2, the BoCC voted to send the Zoning proposal to the Planning Broad on April 21 – that is only 10 days away and still no one knows what is going on. Also the County has made no effort to explain the changes made to the 3-4 various version of the zoning map and why the county made the changes. Immediately the County must post updates on the County Wedsite. That is why the county has to mount an serious announcement campaign and keep the County website up to date. These website updates and public announcement updates must happen given it is our citizens right to know as provided by the Montana and US constitutions.

7. The County must post public comments on the proposed Website and on a social outlet forms like Facebook as that is the modern medium of social communication. Newspapers are a dying bread and most people now get their news on the internet, ye the County has chosen to all but ignore this fact in presenting a case they have adequately informed the citizens about this proposal!!! Why haven't the planning staff made any effort to public outreach using the internet? This is not acceptable.

8. The County must provide specific details in writing (e.g. developed a defensible social-economic impact assessment analysis report) about the Zoning proposal and be very specific detailing the plan to force all rural property owners to accept the 10-acre restrictions and also be forth coming in stating that this action could result in at least a 50% reduction in their property values.

9. And the county must also address the fact that land values with the proposed rural mixed use area and with the city limits will like go up as a result of reduced available lower cost rural property and the fact in 10-20 years the amount of vacant land will be very limited and expensive. And people 10-20 years in the future will have to accept smaller and smaller home lot sizes, and more apartment/condo living housings plus more high-rise living and office buildings. In essence, Helena will resemble more urban lifestyles that many newly imported out-of-state residents were hoping to escape and surely long-term Montana residents don't want to see happened to our beautiful mountain valley surrounded by millions of acres of open-space. And as mentioned, the SE analysis must address impacts of removing 850 rural homes

from the development pool and the affects that County driven action would have on affordable housing and Tri-county businesses.

To not print the true facts and to incorporate these SE impact findings into an overall written justification document will likely merely invite legal challenges down the road for the county. The Citizens must be adequately informed as to the positive and negative impacts of every important aspect of this proposal or the county planning staff is not doing there job (see my 8 page Social Economic Impact Analysis Report).

10. The public announcement to the TV, IR and social media outlets must contain a new map of the proposal and the underlying plan specifics. This should be a full page IR advertisement on the back of the first section of the paper.

    Again this should happen more than just one day and should be very detailed and specific about the plan to force all rural property to be at least 10-acre in size and tell how many acres with the HVPA are impacted. The announcement should provide information about how to file out a comment letter on-line as I requested months ago. It should also provide a telephone number where citizens can call in and leave a voice message (see comment #6 below)

11. As mentioned by several people at the public hearing the Website is too difficult to navigated for most people and again it appears the county is attempting to hide this proposal from the public as much as possible. If the county does not make a lot better effort, these actions will be used as further evidence of bias if this matter ends up in court.

12. Please develop a hotline for citizens to make verbal comments over the phone which would greatly increase the citizen participation levels. These messages should be carefully and accurately transcribed and posted on the County Website right on the front page of the County Website.

I would like to clearly state for the record that this entire Zoning proposal and the process that has unfolded in unprecedented way of being only driven by the County Staff and BoCC not by citizens or landowners. And despite the county's planning staff and BoCC statements supporting there public announcement and out-reach efforts – in reality the process has not been fair to rural landowners nor has it fostered trust in the process, and proven the county staff and BoCC has any interest in being responsive to the public or making a real effort to adequately inform the public and especially the most impacted rural property owners.

The current 2020 Zoning proposal would nearly stop all future rural development in the Helena Valley Planning Area (HVPA), which at first was very surprising to learn, but actually follows a pattern of anti-rural growth policies and administrative rulings by L & C County's top development managers starting back in 2005. For simplicity, the top development growth managers for so some unstated reason have collectively adopted an anti-rural growth, anti-urban sprawl stance that is remarkably consistent and cumulative.

It is very apparent the County top managers since 2005 collectively have colluded to drive up the cost of rural property by using their power of administrative approvals or denials plus adding subdivision regulatory requirements that result in subdivision developers to pay for costly infrastructure improvements that other Montana counties largely don't require (e.g. two county standard road

entrances, cost sharing to improve off-site roads, on-site high-volume fire fighting water supply/storage systems that are not being maintained or used by rural fire districts, costly one-size fit-all road design standards etc. etc.). These restrictive subdivision development regulations are also really severally limiting growth and reasonable land development beyond just the Helena Valley planning area and really adversely impact landowners all the way to Augusta, Lincoln and to the county boundaries.

Many rural property owner and especially large rural agricultural landowners have been told that they in no uncertain terms will never be able to develop any land beyond a simple 5 lot minor subdivision because the long rural road leading to their property would cost to much to improve as per the county regulations, or the fire protection requirements are a deal killer or the property does not have two all season road entrances. Etc. etc.

Some of these costly anti-rural growth subdivision regulations have been successfully challenged resulting in over 10 lawsuits against the county and total legal expenses paid by the taxpayers in excess of $8 million. Money that could have been used to address one of the real planning issues this county has ignored -- and that is our increasingly underfunded county and private road system.

Having been involved in 5 lawsuits with Lewis and Clark County over the 2006-2007 Interim and Emergency Zoning and County Illegal Off-site road Subdivision denials and conditional approvals where in I fought the county for almost 10 years and won close to $900,000 in legal settlement damages – plus now since 2015 working to permit my 4th L & C County Subdivision application – I have learned a lot about the law and administrative management of Lewis and Clark County past and present. Couple that first hand experience with my 17 years of environmental impact assessment and regulatory permitting experience in working for the state of Montana and over 20 years of private contracting work I believe I can objective present the real facts of this county's 2020 Zoning proposal and the overriding history of the County's long-standing adversarial and authoritarian bias against rural growth in the county.

And it is patiently obvious that the County has adopted an Anti-rural administrative undertone spanning the last 15 years by driving up development costs, making permitting new subdivision overly expensive and difficult with actions and requirements that are not technically or environmental appropriate or justifiable. Ultimately everyone in the Helena area has for the past 15 years being paying a much inflated cost to build, purchase, own home or developable land as e result of the County's anti-rural property actions. The underlying mentality I believe started with the fact that the City of Helena had built a modern and oversized public water supply and wastewater treatment systems and the city and County managers decided that it would be best for the community to direct as much growth towards incorporating into the city and in order to make that more of reality the County should come up with anything they could come up with to force up rural property development costs. Although I can not prove this theory as being a fact, it is the way I have been able to understand the actions of the County managers back in 2005-2008 when all the lawsuits where happening for no rational reason. And the county managers just would not back down or listen to thing any of engineers, private contractors, builders, realtors, developers, and landowners were telling them was illegal and wrong – Note; Does that sound familiar?

Based on 15 year track record of the L & C County development managers using administrative rules and permitting decisions to slow rural growth by driving up the cost of rural development, but now with the proposed 10-acre lot size rural property restrictive Zoning plan puts the nail in the coffin for many small home construction business and rural landowner etc. This plan would only remove about 850 new

homes projected to be built in the rural undeveloped land (roughly 150,000 acres) surrounding Helena and East Helena.

Now spring forward to the year 2020 – The County will not listen to rural landowners, developers, realtors, contractors, builders, and the general public – that the rural lots size restriction Zoning proposal is not workable, is not fair, is targeting one segment the regulated population for economic damages and rewarding other current landowners with the East Helena and Helena. But most telling is the potential that larger landowners in the rural mixed use "Sweet" Zone greatly enriched by this proposal (see my 8 page Social Economic Impact Analysis Report and my summary report submitted preciously). This inevitable inequity of enrichment on one side of an arbitrary line and loses on the other side will most likely result in a successful legal challenge of this Zoning proposal, yet the BoCC and the Planning Staff refuse to back down or listen to reasoned counter arguments.

The 2020 rural property zoning lot size restriction plan is a final and grand plan step by the Planning Staff and BoCC is to stop or slow rural growth in the Helena Valley Planning Area (HVPA), not matter the cost. The anti-rural growth bias does not appear to extend much beyond the small inner circle of a few environmental anti-growth groups and of course the County Planning Staff and current BoCC. In other words, I suspect that this antirural growth bias likely would not be a top priority of the average L & C County landowner and registered voter.

And if you actually look into the written comments sent in by the 3,000 respondents the 2015 Growth Policy survey, the citizens were most concerned about: 728/1200 Road = 60%; 278/120 Subdivisions =23%; 255/1200 Water wells = 21%; 249/120 taxes =21%; Sewer Septic/wastewater Systems 221/1200 =17.5%; Limits 140/1200 =11.67%; Planning 125/1200 =10.4%,; Law/Lawsuits 120/1200 = 10%; traffic 83/120 = 7%; Protection/Safety/Dangerous 65/1200= 5.4%; Government/Commissioners =4.6%; Infrastructure 39/1200= 3%; Zoning 39/12200=3%. From these more realistic and unbiased comments (versus the biased and loaded Survey Written Survey Questions), it would appear the county citizens place a very low value (3%) on Zoning as solution to their problems, but 60% indicate that the county needs to invest most of their efforts at fixing and upgrading roads. The second highest comment field was subdivisions at 23%, followed by water supplies at 21% and septic wastewater at 17.5%.

But I Contend the wastewater septic system concerns are largely lies in the capable hands of the County's own Environmental Permitting and inspection staff and regulations. And I really don't know of any major issues of groundwater contamination caused by on-site wastewater treatment systems that have not or could not be corrected – but I can easily cite at least half a dozen examples of groundwater contamination caused by over application of animal fertilizer (Jim Darcy School) and too many livestock in confined corals on very course alluvial gravel lands in the Helena Valley bottom-lands. And water supplies evening the Scratchgravel Hills and the North Hills is adequate for a lot more development as long as it is not as dense as the tight developments of the Ranchview and eastside higher track-home developments along North Montana Avenue (see my 15-page Technical Impact Assessment Report submitted to the County in Mid February). Simple solutions to reducing groundwater withdrawals where a development plans higher density developments in the bedrock uplands is to permit limit irrigation landscape usage which accounts for 98% of the consumptive use of an average household.

The County staff and BoCC -- by not mailing out copies of the proposed Zoning Plan nor developing real supporting documents, or allowing the rural property owners to vote on the proposal after being adequately informed – believe they are the only citizens in this county that can decide the fate of rural property development in this county for the "Greater Good".

And on top of that the county planning staff and BoCC falsely believe they can smash and rush this through the public process by pretending to engage the public with lightly attended and poorly noticed public listening sessions and BoCC hearings in the middle of the winter. Then in 4 months push I through the Planning Board and through the BoCC by June 2020.

Based on multiple comments made all three BoCC and their action to forward the Zoning Plan to the Planning Broad on April 21, that the three County Commissioner are strongly in favor of and the driving force behind this 10-acre rural property assault on rural property rights. All three County Commissioners obviously view additional growth in the surrounding grassland and timbered undeveloped near Helena as a precious assets that should be protected no matter the cost. And none of them want the impacted landowners to really know what is going on and absolutely they do not want these landowners to have vote on the what happens to their property.

Note: I welcome an honest and direct response to these summary statements by each one of the County Commissioners as part of this information and impact assessment request letter.

A. Please address me directly and answer why you will not send out maps and written explanations of the Proposed Zoning proposal. Why would the county not want to adequately inform all landowners of the potential for lot size restrictions and the potential for future lost property value? The lame excuse the Planning staff gave that it is too costly is not valid given the county mailed out 10,000 questionares in 2015 (see comments repeated below).

B. Also please explain why the County refuses to allow each rural landowner to use his constitutionally guaranteed (one person one vote) rights of self determination that would adversely impact their wealth and property rights?

C. Also please specifically address why the county won't use the Part ! citizens initiated approach to the lot size restriction plan versus placing the burden and authority of this decision only in their hands?

D. Please explain how the County is following the State of Montana and County Regulations which require the county to hold open meetings, produce all requested records, hold open meetings, and in essence allow the public the right to know and vote on all matter that affect personal property rights and the right to protest actions that result in a inappropriate taking of assets, property and wealth.

E. Please explain why the county Planning staff refused to bring any zoning maps to any of the first three Zoning listening sessions even thought I made a specific request to do so (of the CD&P support staff and directly to Greg McNally) for the third listening session at the West Valley fire hall. The only reason the county brought maps to the final meeting is I call Rodger Blatz at 3 Pm before the last February 28th listening session and guess what there still were not enough maps made available.

F. It is obvious that the county does not really want the word to get out as to what they are planning and there is a concerted effort on the County's part to minimize all levels information and education of the citizens regarding the Zoning proposal. That include the above stated Website deficiencies, the lack of any maps either at the CD&P office (not one map in 6 visits I've made to the department), the extremely poorly written ABZs Tri-fold flier and the lack of real effort to announce the public listening sessions or BoCC hearing (despite Commissioners Hunthausen's claims of how much the county has gone overboard to inform the public) the fact that only about 150 people actually attended the listening sessions out of 7,000-10,000 rural property owners in the valley is evidence that the county's efforts were inadequate. Please correct any facts that I have wrong and please explain why the County Staff and BoCC believes there efforts to reach all citizens has been successful and a valid administrative effort.

G. Please explain why the county has not responded to my submitted to the CD&P staff and the BoCC 4 written reports that seriously challenge nearly every aspect the proposed Zoning proposal relative to the Rural lot size restriction zoning plan? Is that normal policy for the county planning department and BoCC to totally ignore major efforts on the part of the voting public, a taxpayer and educated participant in the process at every step of the process. In addition, I have testified at everyone of the 4 listening sessions and the three Board of County commissioners hearing on this zoning proposal.

   I am and every person in this county is entitled to understand every important aspect of the county supporting information and why this Zoning Rural Density restriction is the only one of 4 generic administrative options considered in the 2015 Growth Policy (page 3-3 to 3-16 Volume 2 GP). Please have your staff take the time to response to each of my 4 documents submitted to the county and this very specific question request email.

I will be the first to admit that I and others opposed to the rural property lots size restrictions have challenged the staff of the County Community Development and Planning department and the BoCC on basic procedural process matters plus issues of real technical and legal substance. And I will also recognize the fact that everyone working for the County I have spoken to either personally or in public forums have attempted to civil and not to make the differences personal, which I respect and appreciate. I have tried my best to do the same.

But that does not mean we agree with what has happened over the past 4 months relative to the multitude of County administrative short comings to date. I will attempt to clarify some of these short coming that I believe the citizens of this county justifiably must be addressed (in writing) before the actual hearing before the Planning Board takes place.

So without any other recourse I will unleash a long list of questions that the county planning staff and BoCC must address in order to move forward with this proposal. I can assure the county that these same types of questions will be used in legal discovery fact finding work by any legal action attorneys that will be busy working on court case actions against the county once and if lot-size density restriction are passed by the county.

Please consider this my formal request for the County to answer -- the best of their abilities -- all questions, concerns and fact herein presented and supported by the 4 documents I have already

provided to the county these past two months. These written responses are needed at least a few days prior to the next Planning Board hearing or the county will be called out at the hearing as being unresponsive etc. etc. The county must respond to these questions and concerns in order for all landowners & residents to be adequately informed of the planned Zoning proposal and the impacts that would likely occur as a result – the social and economic impact assessment report by the county staff or hired consultants.

Please answer in writing all the questions asked below and please be very complete and specific as possible given the gravity of Zoning proposal and the likely negative impacts to our community:

1. The county in proposing -- with the 10-acre lot size restriction of over 100,000-acre of land -- a major administrative action which is in essence a taking of private property rights and real land/assess value from only rural property owners without any way to compensate these current or future landowners for the lost assets. That by definition is a legal taking of property values which are protected under the US and more specifically the Montana Constitutions. I have already written and submitted 4 documents to the County detailing these legal concerns. Please specifically address the county official legal position relative to the taking of private property rights/assets without compensation, and the legal rational the county has for adopting lot size restrictions only on rural property when the underlying County Growth Plan 2015 Amended documents are obviously biased, untruthful, and technically unsupported by real scientific and engineering Transportation planning documents.
2. Please address the economic and social restructuring of our community the likes of which has never happened in the County nor any County in Montana. I submitted an 8 page preliminary social and economic impact assessment for the proposed three rural lot size scenario maps the county has presented from to December to the latest March 27 (10- acre rural lot size) proposal.

Peter Italiano repeatedly was asked a the December and February listening sessions if the county would conduct an social and economic impact assessment on the proposed zoning proposal. To which his repeated answer was a simple ---- NO. Then he even stated that no one had presented any information about possible economic or social impacts.

Give the county staff would not produce any impact assessment information, I developed my own assessment evaluation which I believe proves that large tract size restriction on about 90% of the undeveloped rural land in the county would severely depress land values across the entire area. Conversely land within the targeted growth areas around Helena and East Helena – I call the County's Target Sweet Zone" would see land prices significantly increase as would undeveloped, repurposed and existing homes within the two urban zones.

I also presented factual details that strongly suggest the proposed rural zoning proposal will further drive up property and housing prices in an already inflated Tri-County area and as such adversely impact affordable housing. Which, in turn would exclude more young and less wealthy people from owning a home plus further exasterbate housing challenges for area lower income workers, and increase challenges area business are already having in attracting and retaining skilled workers.

The County is hereby requested to produce a detailed, legally and technically defensible social and economic impact assessment that justifies the proposed rural property land takings – addressing each of the topics outlined above and addressed in my 8 page Social and Economic Impact assessment report. Without such documentation the county can not fairly assess and present to the Planning Board a fair assessment of the positive and negative implications and justification for the proposed rural property zoning proposal. proposed

Given the fact that I worked for the State of Montana of over 17 years mostly as an environmental scientist that had to evaluate real estate, business, municipal, and industrial development proposals plus an additional 20plus years of private consulting, rental property ownerships and remodeling, remodeling contracting and real estate development -- I am very aware of both side of the rule marking, enforcement and impact assessment process.

For instance, when the State of Montana proposes to adopt new rules they first consult the regulated community and carefully evaluate the State and Federal rules before they even begin to draft regulations. Then they develop what they consider complete set of regulations to address specific issues, and they hold multiple meeting and hearings that seek and fully address in a very open and documented process any necessary changes. The States review process seems to very fair, unbiased and well done such that in the end the final product is generally well received and works to achieve targeted and mandated objectives.

Also having been on the regulatory review side of state government – 5 years in subdivision review where I reviewed and permitted over 400 subdivision application and for nearly 10 years was a member of the coal and hardrock EIS team assessing massive development projects like Colstrip & WECO Coal Mine complex and Anaconda Minerals massive Butte -Anaconda mine complex etc – I know how much work it takes of a state permit applicant and in particular subdivision applicants to meet the County and State permitting requirements.

As an extreme example of a real and rigorous impact assessment I am amazing at the 5 years and 5-6 foot tall stack of documents that the Tintina Montana Inc/Sandfire Resources recently approve Billion dollar underground copper mine. In order for DEQ to finally approve the mine, the State hired a EIS consultant to write the Draft & final EISs -- both containing a wealth of detailed and technical information. I believe I am safe in saving that for the most part the State of Montana and DEQ in particular rarely is successfully challenged in court largely given the fact that the entire process is fair, unbiased and professional.

It is also important to note that the DEQ staff is legally required to respond to each comment and prove the State is in the right legal and technical position to approve the submittal.

Contrast the State's rule making and permitting process with that of L & C County over the past 15 years – over 10 law-suites and legal challenge costs in excess of $8 million dollars. For the past 15 years anyone challenging the county in court will be able to prove that the county has devised a series of bad administrative and rule making decisions unduly targeting rural property for costly development costs (e.g. two subdivision entrances, costly on-site fire protection storage/supply requirements, illegal off-site road improvement requirements, 2006-2008 Interim and Emergency Zoning requiring all new rural property owners to install very costly Level II on-site wastewater treatment systems – and now Rural 10-acre lot size restrictions).

Commissioner Good Geise in public hearing became upset at me for bringing these facts up during my testimony asking the county to eliminate the unwarranted and costly on-site fire protection supply and storage requirements – because she did not want to have past wrongs aired over HCTV and in front of those in attendance. But the clear facts remain, the county has a very poor record when it comes to making wise and unbiased administrative decisions, but the county managers never seem to pay the price – the county tax payer and those opposing the actions are the one that are victimized by the county's repeated anti-rural posturing and governmental abuses.

And despite Commissioner Good Geise statement that the county has a great recent legal track record and has a great legal team – the truth is the county is not on good legal footing with this proposed 2020 Zoning proposal given the fact that the lots size restrictions is not only an illegal taking actions, but is also not supported by the underlying documents (e.g. the 2015 Amended Growth Plan and the very detailed and technically solid facts found in the series of DRNC funded MBM&G Scratchgravel Hills and North Hill Groundwater Resource Investigation Reports).

To date the only document beyond the out-dated and as for mentioned house of cards contained in 2015 Growth Plan, the 2 County Transportation Plans and the MtBM&G & USGS hydrological reports – the only piece of paper the county has produced for this 2020 Zoning proposal is the overly simplistic and poorly written one-page double sided trifold document entitled "ABZ's of Zoning". This little flyer was obviously written years ago and really doesn't address this county's zoning proposal. It is very generic and non-specific to this 2020 zoning proposal. It merely has a 2"X2" partial map with no ledger and is a useless feature to have included – and shows malice and ill-intent to deceive. The text talks in very general terms much like Peter Italiano's 4 listening session talking points but really misses to point. It is a total worthless document and underscores the lack of effort, transparency, bias and shady management style that is very evident at every step the county has done starting with the extremely unprofessional, biased and distorted 2015 Updated County Growth Plan documents.

SO again it the citizens right to know what the proposal is, then hold listening sessions where the basics of a planning proposal are discussed, then develop a plan based in the real needs of the community. That was not done. Instead the citizen got the latest Version of the ANTI-RURAL growth County Staff idea of a "Greater Good" plan. "Greater Good" for who? County Staff must greatly expand on the County Commissioners repeating this mantra several times. And in fact, all BoCC at one pint or another stated that they were the only ones that could guard the chicken coup as they rest of us are biased and self serving. But I contend the opposite is the real truth.

The Citizen's and specifically the rural property owners -- either through persuasion or by legal means -- must guard the chicken coup and the County is the biased and self-serving entity in this conflict. Rural property owners are just attempting to protect their retirement and land investments which the county both fails to recognize as a valid and legal right, nor has the county planning staff or BoCC recognized the rural property owners have constitutionally protected legal rights to their land that cannot be taken away without some form of monitory compensation or at least a legal valid technical or procedurally valid justification -- which I firmly contend the county absolutely does not have in thier back pocket nor have they bother to demonstrate at any level of real depth or substance.

So now is the County Chance to clear the air and justify the taking of rural property or they need to fold up the tent and go back to the drawing board. Because what the county has put out in all four

listening sessions and the three BoCC hearing in February does not come close to passing mustard and AS SUCH THE TIME IS NOW – for the county to produce real facts about the 5 key environmental and human risk failures of the existing state and county administered subdivision regulations – and clearly show how the proposed rural property lot size (density Controls) solution is the only way to protect these 5 key factors from the dreaded URBAN SPRAWL.

The county Planning Staff and BoCC either need to produce these document well in advance of the next Planning Broad hearing or they likely will face repeated and protracted legal challenges. Despite what the L & C County Planning & legal Staff & BoCC, may feel is reality – they obviously have not stopped to objective review their position. I believe based on my having been involved in 5 different lawsuits with the county and having now spent the past 15 years attempting to steer the county in a progressive yet responsible direction – and knowing all the technical details of all 5 key elements the county is attempting to use as justifications – I can say nearly 100% confidence the county stands almost 0% chance of winning on this zoning proposal in court of law.

The end result -- the county and taxpayers will once again have to start writing big damage claim and settlement checks with nothing really accomplished by bad feelings, wasted energy and precious resources. Just think of how many good new connector roads and need upgrades to failing county roads could have been done with the wasted $8,000,000 the county's mismanagement cost this community from 2005-2015.

Why would the county staff and BoCC want to go down this kind of administrative path again just to slow rural growth. What is up with the county staff consistently viewing rural growth as something they have a moral obligation to slow or stop? I am certain that is not the real over-riding viewpoint of the majority of County voters or landowners. As has been stated repeatedly by landowners and citizens like my self poised to this specific zoning proposal – we all support the idea of managing and promoting smart growth planning and fostering rules and regulations that address real issues and move our community forward.

3. The County must respond to the repeated request to answer why it is the county planning Staff (PI) and County's?? official position that ---------- rural property landowners in the proposal rural 10-acre can not and will not be contacted with information flyers informing of this proposal given the fact that it would greatly impact their property values, the county's tax assessments and the schools etc etc.

What is the county's official reason for not sending out mailers to every impacted landowner? The heads of the county Planning and Administration plus each BoCC must address this issue in writing and must be very specific in addressing this and item 4 below. This is an absolute formal demand to produce (a detailed and very all encompassing written response). If the county does not respond to this and the other specific questions – the whole administrative process could be challenged in court – the constitutions requirement of an open and fair administrative hearing etc.

It is not acceptable for the County not to respond to specific written objections, and if the county continues to do so these facts and actions could be used against the county in any future legal action. It is also not acceptable for the county to use the excuse given -- would be too costly. That is absolutely not true especially given the gravity of the proposed land taking issues relative to rural property. This simple excuse the county staff muttered in one response to the question is not

realistic especially given the fact that the county paid to mailed out 10,000 survey questionares in 2014-2015 for the Updated Growth Policy and also hired contractors do additional consulting tasks like write up the two large format Growth Policy reports.

I will point out here, the Growth Policy is not a regulatory document and therefore has no official standing or status and as such can not be used by and of itself to justify adopting regulatory standards or regulations. But to pull it back to the cost of mailing out information to impacted landowners – nothing the county could do would be more cost affective at informing the impacted public as it is obvious that with only 150 or so people attending the listening sessions and BoCC hearings – the 7,000-10,000 or so existing rural landowners would never be informed which is not only unethical it is probably illegal.

I believe it is obvious by the way they county came to 3 of 4 meeting with not one single map to hand out to the public at the listening sessions, the fact that they have only place two small adds in the newspaper and placed a few quick TV adds out – all of which where not that affective – that the county BoCC and Planning staff are purposefully attempting to slide this proposal through the process as quickly as possible and they are trying their best to keep the public uninformed (please county staff don't pretend otherwise because your actions speak volumes).

4. The County Staff and every BoCC must address in writing and be very detailed and specific as to their position on allowing each and every rural property owner in the 10-acre restriction zone the right to vote on the zoning proposal. Also address that fact that only those rural property owners that would be impacted have the right to vote on the lot size restrictions – in other wards city and Sweet Zone landowners and voters would not be allowed to decide the economic fait of any rural property lands if they don't own land in the that zone. That is the democratic compliant way to deal with this takings issue and even then that might not stop legal challenges. Please address each sentence in detail (and consider these pre-lawsuit interrogatory and discovery questions) . The vote to approve should be a super majority (60%) just like the Part I Citizen initiated zoning proposal – which I know the BoCC strongly oppose but again is likely the only legal way this lot size restriction would ever really be adopted. Good luck in getting that passed.

5. Please explain in detail how this zoning plan was created (by whom and who crafted the zoning district parcel lines). Why where the 3-4 versions of the Zoning proposal maps changes, who dictated the changes, and who had the decision on the design layout of each version of the proposal?

6. Please explain in great detail how the zoning proposed 10-acre lot size restrictions addresses each of the 5 key critical factors the county views as not being adequately addressed by current county and state subdivision regulation. Please explain the crisis issues the county is facing that no other County in the State is facing that justifies this type of large tract size restrictions. Specifically explain why the other major cities on Montana have not approached growth near their cities as L & C County is proposing (10-acrelot size restriction on only rural property) and how have each city has managed growth to address the cumulative impacts on the 5 key elements.

7. Please explain why only L & C County has chosen to use density controls versus dealing with growth by facilitating construction of new roads and upgrading existing roads to handle growth outside of the cities as Billings, Missoula, Great Falls, Butte and Kalispell have been able to manage? Why is the HVPA so special that the county can't build an adequate road system to handle an additional approximately 850 homes spread out over the next 15 years (to 2035) across the 100,000 to 150,000 acres of undeveloped rural property? Please explain why this county has not built any new roads (outside MDT largely funded projects) and county staff members constantly complaining the lacks adequate funds to maintain their existing 500 plus miles of roads?

Who's fault is it that the county doesn't have a good road improvement mill-levee ??? Please explain why the 2005 $5million dollar road bond levee failed and what did the county staff do to plan for road improvements and what efforts did the county do beyond paying for several costly Transportation Consultant Drafted reports only to let them largely sit on the shelf and gather dust? What other administrative and community out-reach planning tools and implementation plans could the county use to address transportation issue and future growth other than lot size density restrictions??

8. Please explain – e.g. present real evidence, supporting scientific studies and report documenting -- why L & C County needs 10-acre lot size restriction on rural property to address issues of the 4 other Key factors (flooding, on-site wastewater treatment, groundwater supply and wildland fire). I know from looking at the data the county can not technically justify the 10-acre lot size controls for the first three Key factors and that fact was covered in the detail in my 15-page Technical assessment Counter narrative report submitted to the county to which the county staff has not responded as they must. So here is your staff chance at facing the facts and justifying this proposal. Respond in detail to each key element and prove the lot density restriction zoning proposal is justifiable – otherwise pack up and reinvent the plan.

9. Please define "Greater Good" and explain why the citizens should trust the BoCC to make decisions about their landowner rights and future economic futures as social and economic future of the entire community when this county past history is to ignore well reasoned arguments not to implement many of the past attaches on Rural property resulting in over $8 million in legal costs not to mention all the ill-will and wasted energy.

10. Please very carefully and completely explain the "Greater Good" benefits of the 10-acre lot size density controls versus a complete moral inventory of all the negative impacts and clearly show the benefits outweigh the negative impacts. This detailed impact assessment must be done and convincingly present showing the BoCC and planning staff have done their homework and understand all the ramifications of this proposal.

To demonstrate the county is acting for the "Greater Good" the county must complete a detailed and objective review of proposed Zoning regulations & the proposal. That means the county must undertake a through and complete moral inventory of the 2015 Updated Growth Plan, the County's Transportation plans, the MBM&G & USGS reports demonstrating why the rural property owners have to give up property rights and value to mitigate cumulative impacts that the County BoCC claim is for the "Greater Good".

To date, the county has not provided any written information supporting the staff and BoCC claims they need low Density controls on rural property because current County and State subdivision reviews & regulations are grossly inadequate leading to compounded & crisis level threshold exceedances. Yet when I stated in front of the BoCC, that the county has provided no evidence that Federal, State or local water quality limits, fires, roads, floods, or wastewater treatment systems are a major problem and exceeding health or safety standard – Commissioner Good Geise and McCormick came back with == we don't need a crisis to force these Zoning Lot Size restrictions because we are impartial and looking out for the County's "Greater Good".

Fantastic if that were true. But since the BoCC is hanging their case on this "Greater Good" argument and fact that the BoCC is asking rural landowners to freely and willingly allow the county to in essence put a conservation easement on their property, then the county is under a legal and administrative obligation to present their factual case in writing for everyone to fairly evaluate and voice their objections or support based on real facts and written documentation. To date we have seen nothing to put our hands on justifying the proposed Zoning plan other than the -- as stated earlier -- the overly generic, biased and unprofessional 2015 Updated Growth Policy.

And Commissioner Good Geise in essence at the recent February BoCC hearing made reference to the fact that the county had passed the 10-acre Part II Zoning around Fort Harrison and no one protested it or filed a lawsuit – as proof they know what they are doing was right and validated this approach to planning. The County was not legally challenged given few citizens could afford to legal bills or effort to fight the County with huge staffs and resources.

However, please remember and address the fact that this 2020 Zoning plan encompasses a much larger land area potentially causing way more negative impacts spread all across the entire Tri-county area and various segments of the business community – e.g. landowners and landowners, builder realtors, small contractors, future landowners and home buyers, lower income workers, tax-payers, civic groups etc. etc. So please address how the proposed Zoning Plan has an overwhelming positive attributes that trump and supersede private property rights and the negative landowner to community economic impacts cited in other sections of the email and detailed in my 4 other documents submitted to the county.

Commissioner Good Geise also cited the fact that Commissioners were tired of dealing with the occasional fight between overlapping Part I zoning districts and this Part II County Initiated Zoning would override and essential trump the democratically and legally adopted Part I zoning rules for all 34 or so Part I citizen initiated zoning areas. PLEASE ADDRESS =the rational that 3 BoCC could make such a far reaching decision overriding individual land-use rights and community property Zoning self-implemented Zoning in favor of "Greater Good" regulations that superseding private property and Zoning district democratic rights in favor of a dictatorship 3 person administrative action.

Further more – please clearly, convincingly, and directly address the fact that the county has no other option than to impose the large tract sizes restriction only on rural property and that option for various subsector areas within the large rural segment of the HVPA could chose to adopt Lot size restrictions if they voted to use proven and democratically based Part 1 Citizen initiated Zoning vote process.

The County must address in great detail why the Zoning Part II County initiated Zoning is the only way forward for the county and that Part I Zoning of rural land is not a valid alternative to address site specific issues like the 5 Key concerns the County cites as being a problem for unmitigated cumulative impact arguments. Please tells us why 3 county commissioners should be allowed to trump Citizen initiated Zoning across the entire rural landscape and in essence invalidate 34 Part I zoning areas and any future Part I zoning areas in the HVPA.

I will remind the county that courts and legal challenges involving administrative actions, often require a retrospective look back at the real underlying facts of the case. In this particular case, anyone challenging the county could request written documentation proving the county's chosen actions were not only legally valid, but also were the correct solution to address the problem issues. Without documentation of alternative impact assessments the county would be hard pressed to prove the Lot size density approach to dealing with future rural growth is the only valid and necessary approach the county had at it's disposal to address future growth impacts. But without adequately defining the real problems, and assessing various solutions and the positive and negative merit of each, the county can not prove the solutions they are offering solve(s) the problem(s) and that the proposed solution(s) are worth the sacrifice and are the only valid/legally acceptable path to have taken. That applies to each and every one of the 5 key elements the county staff and BoCC claim require immediate attention and corrective administrative action. And the bottom line is the real "Greater Good" the county is promising is justified at every level.

11. The County absolutely must address alternatives to the rural property 10-acre lot size restrictions – such as passing a mill levee to address deficient county road etc. To me the County long list of inadequate roads budgets are the only one of the 5 key elements that the county can really say is not being addressed by the current subdivision regulations, and the fact that the county has failed to address these deficiency's to me screams of a lack of County initiated administrative planning, priority allocation, and implementation of real corrective actions (e.g. help pass a road bond levee).

I will remind the County and anyone else reading this – that the L & C County added back in 2007-2008 additional requirement that new Subdivision development have to assess off-site road traffic impacts and must pay the county funds up-front to upgrade off-site roads if their development would increase the traffic load by more than 10% (see 2015 GP Vol 2 Page 3-10). So subdivision applicants are helping to address deficient off-site roads when few if any other road users contribute their fair share outside of RID assessments. So new subdivisions applicants – outside of the once every 10 year MDT major road reconstructions projects in the county – are the major reason county and off-site roads are being upgraded. So rural subdivision developments should receive credit where credit is due and the county should be encouraging more rural development to fix roads not opposing it at every turn.

But the 2015 Growth Plan page 3-10 in recognizing the fact that subdivision applicants are the one bright spot in addressing local deficient roads – but then they go on the traditional county illogical bashing argument I have heard from many County officials over the years that the roads are still deficient and by implication there is a major unresolved issue – the road still don't meet current county standards (Note: most notably Commissioner Mike Murray's famous oral testimony in the Christian Case and the Hamlin Construction Off-site road cases where he unflinchingly said if the developer doesn't pay 100% of the improvement costs they should not be allowed to develop the

property – which is a totally irrational and illegal position to take and resulted in the county having to pay out over $3.2 million in damages in just those to court cases).

But I contend this consistent posturing towards the idea is impractical and lead to countless litigations that were not warranted or necessary. Look at the real world examples – the literally millions of miles of rural roads all over the country and the world and citizens form collective associations (RIDs) to manage road improvements and maintenance and the world goes on without major crisis. Almost never will you find a group of landowners that will be willing to pay the costs to upgrade their gravel road to the ideal county road design standard. So the county needs to address this particular aspects of rural roads performance and safety etc. in detail and prove the only answer to the problems of rural roads is to restrict lot sizes across the entire 100,000 to 150,000 acres of rural property in the HVPA!!!

The County absolutely must carefully review all other options or carefully present an objective and detailed alternatives impact assessment in order to avoid a legal challenge down the road. If this alternative impact assessment background work is not done before adoption of these Zoning regulations – they still likely would have to the same level of work defending and addressing these issue in responding to legal discovery, interrogatories and document production requests. But the staff and BoCC will be under legal requirements, time tables and directives which could be more harsh and time consuming than responding to my information request up front.

For those few individuals that have been there these past 15-years, they will absolutely remember the long series of court battles over off-site roads and zoning challenges that resulted in over ten years (2005-2015) long and protracted litigation cases involving over 10 plaintiffs. But with this Zoning proposal, county could be facing a lot more plaintiffs and large financial damage claims which could overwhelm the county staff resources and certainly could exceed the $8 million in legal damage costs that ultimately the county tax-payers would have to pay.

I hope the BoCC and planning staff have their checkbooks out and are ready to contribute to the likely legal defense costs for their actions should the proceed down this property taking course. I would go one step further and ask that any BoCC or CD&P staff member or County Manager involved in this plan be willing to quit their jobs and write a self incriminating letter of resignation if this Zoning proposal results in major legal challenges against the county.

The County should immediately upon receiving this letter get the public works and engineering staff working on responding to this aspect of the County plan or the County's lack of responsive and effort will be called into questions after the fact. This is no small task and effort request and is absolutely required for the county to pass the smell test and prove their actions are not biased and are appropriate solutions to major unresolved problems.

12. Please produce documents and any written documents that support the county's 15 year (2005-2020) persistent, collective, and aggressive stance (regulations and administrative actions) that have driven up the cost of rural property development in order to slow rural growth. Please prove that the citizens that have elected the County Commissioners have been thoughtfully considered and factored into this Anti-rural development approach Lewis and Clark County has unofficially adopted and clearly has implemented.

One last request please have Mr. Italiano call me ASAP to apprise me of the Planning Board Hearing schedule so I can spread the word. This is especially important to know by Wednesday April 15 so we can prepare for this important hearing. If the hearing is to be rescheduled we also need to know that.

I also need to know what Mr. Italiano schedule is for producing the supporting documentation on the zoning proposal that still says pending on the Website despite the BoCC commitments that it would be completed by April 1.

And finally I want to know who will responsible for address all the topics hear in requested for response and the projected time table for a written response.

Respectfully Submitted

John W Herrin
2855 Sundown Road
Helena Mt 50602
406-202-0528

From: John W. Herrin <2freedomrings@gmail.com>
Sent: Friday, April 17, 2020 12:05 AM
To: Nadine McCarty <nmccarty@lccountymt.gov>
Subject: Re: Co. Commission Public Meeting Notice/Agenda - Tuesday, April 21 @ 9:00 a.m.

Questions. What is status of commissioners meetings? I clicked on every day pdif and open file links and every commissioners agenda is the same-- the March 31 agenda??

Am I missing something? If all BoCC meetings are canceled then why wouldn't the notices say so. Also what is happening with scheduled Zoning hearing for planning Board scheduled for April 21, 2020.

I wrote a 17 page email to planning department in part asking why the County Website does not clearly post the notification that is very important hearing has been postponed to probably May. And why haven't the BoCC or CD&P placed public notices in the newspaper and on TV about public hearing changes -- in particular the very important Zoning hearings.

The county must do a much better job at posting details about county administrative operations. No one knows what is going on up there.

Also I send the 17 page email adding to the 3 hand delivered comment letters already submitted for the Zoning Proposal, but I need to know if the email was forwarded to each County Commissioner and was it properly recorded into the official record of comments on the Zoning proposal?

If not -- would Peter Itsliano please forward to BoCC for their official record and careful review.

I also have another general business operational question relative to COVUD 19 state and local health protection measures---- Is the BOCC AND CD&P staff going about business as usual? In other words is it safe and appropriate for me or others to visit your offices, attend public hearings (are any public hearings even happening?) or meetings with Planning staff etc?

How about car registration? Is that part of County government open for normal car registration? I have 3 vehicles I need to get titles and licenses for.

Again no public notices about what the county and City are doing during this health crisis. I've seen ads by St Peters and recieved flyer from Pureview Health, but nothing about what county is doing for business operations I've seen anywhere. Also the county should create a Social media presence to inform citizens beyond simple health announcements. A presence on about all pending action on social media like Facebook etc. Where many younger people now turn for the news.

Also I asked to recieve the typed version of the 3 BoCC Zoning hearing meetings of Feb 21 , 28 and March 2 if I recall the dates correctly. But 3 times I've asked back in early March they were not yet transcribed. Are any of them ready yet and if do could someone email them to me at.

2freedomrings@gmail.com

Along those lines -- what is the best email address to send letters to the BoCC? I could send them to each county commissioners if appropriate as long as that allows for information to be properly logged into the County tracking system and tied into the Zoning comment tracking system.

I wish to send them each copies of a select few articles posted in the Independent Record newspaper that should remind the Commissioners of the long history of missteps this County has made in the past relative to targeting rural property for closely infrastructural improvements that other counties have not attempted.

Also in the email sent to County Community Development and Planning on Monday April 13, I requested that Peter Italiano call me by Wednesday to let me know why the county did not inform everyone about the status of the scheduled April 21 public hearing on the Zoning Proposal before the Planning Board and why the planning staff missed the April 1 Zoning Rules completion date.

He did quickly respond in an email about likely posting the Zoning Rules by Friday the 18th and delay of hearings until safety clearance maybe in May. That is the first I've heard of what might happen as far as this Zoning proposal.

Again no formal announcement by the county about delays, reasons for delay and possible rescheduling . Nothing at all on County Website other than statements about rules are pending.

This is another example of the county not bothering to properly inform the public. In all reality with all the negative press the city has received over the past year you would think the County managers would be more aware of the critical need for clear, frequent and meaning public information deseminisation and fostering good public relations. Guess not!

This email is my final attempt to clarify the future responses required of the County in order to properly define and defend the proposed 2020 Zoning plan. And specifically the plan to force all rural land owners outside the Mixed use zone to relinquish future land value and development options without providing for any form of monetary or other valuable compensation.

In essence the county is demanding landowners of 100,000 to 150,000 acres of undeveloped land to forgo nearly all normal subdivision levels sales or development rights because the county managers have decided they can dictate the action for the "Greater Good ". Yet as graphically defined and presented in my email to Mr Italiano, the county has not demonstrated the County has not demonstrated legally they have the legal right or environmental obligation, nor public support for such an action.

By repeatedly denying the citizens request for the county to send out mailings to each impacted rural landowner, the county has violated the Montana constitution. Also denying the

landowners right to vote on the taking of value from then the county is violating the US and Montana Constitution.

In my April 13th email to I asked Mr. Italiano I also asked him to commit the county to responding in detail to my 4 previous had delivered submittal and the April 14th email regarding the obvious short comings of the County's effort to impose the 2020 ZONING LOT SIZE RESTRICTIONS on 90% of the rural property in the HVPA.

I have openly and repeatedly challenged the County's planning staff and the BoCC -- in all 4 listening sessions and 3 BoCC hearings on the near total lack of real legally defensible written documentation supporting the taking of rural property by PART II Zoning.

I believe i have proven in oral testimony and in writing that the County's Density Control only approach to Part II Zoning is built on a totally unstable and indefensible house of cards. The 2015 GP Update is very unprofessional and totally biased in with survey question design, results and interpret.

The 2015 GrowthP does not in any real way support the underlying thesis that rural property is bad and must be crushed for the "Greater Good". My 15 page Technical Assessment Report challenges the County's underlying thesis that County and State subdivision regulations does not adequately address cumulative impacts of rural development.

All told I have challenged the county at every turn on the biased and legally indefensible actions relative to the County's procedural, technical, social economic, and legal foundations.

I kindly asked Mr Italiano to -- by yesterday -- to respond in writing with a plan of action by the County with a time frame for written and formal response to these 3 documents and the April 13th email and this correspondence.

In order to adequately assess the merits and negative implications of the County's Zoning proposal -- and most particularly the now 10-acre lot size restrictions aspects -- the county must develop professional quality technical impact assessment documents that fully support the county's proposed action.

The county must address the 5 key environmental and safety concerns that warrantrural property lot size restrictions (wastewater, water supply, flooding, wildland fire, and roads). Detailed factually-based reports by qualified County staff members or contracted consultants must be prepared for the 5 key concerns and then these professional must testify before the planning Board.

To date, the County has merely relied upon the oral presentations of 2 CD&P staff members to present the
Zoning proposal, and they merely refer back to the biased and unprofessional 2015 Growth Policy update. That effort has been wholly lacking in the depth or factual science necessary to support the taking of 100,000 acres of property land value.

The County cannot merely say that they are acting in the "Greater Good" , the county staff and BoCC are obligated to prove their case before the public or it must stop.

The County in 2007 produced a water Quality Impact Assessment report for the Interim and Emergency Zoning -- the report was produced by the County's Water Protection District Supervisor.

That report written by Kathy Moore was required to justify the County's proposed Emergency Level II wastewater Treatment Zoning proposal. That report -- just like the 2 County Growth Policy Reports -- contained facts, but the conclusions presented that grossly overstated negative impacts of rural wastewater treatment systems on the ground water quality-- specifically nitrates/nitrites, pharmaceuticals etc.

However, the county hired James Sweriec PhD hydrogeologist who had worked for the Montana Bureau Mines & Geology. He was one of the principal researchers conducting detailed decade long investigations on groundwater supplies for the two county Groundwater Control areas -- Scratchgravel Hills and North Hills.

He researched the facts behind the Wastewater impacts on groundwater report by Kathy Moore and determined that the actual sampling results do not show that wastewater systems are significantly contaminating groundwater in the Helena Valley (please see the series of IR IR articles starting December 31 2006 and ending February 25th 2009 that will be send to the County tomorrow via a separate email. Also other IR articles about illegal takings actions by the county spanning 10 years 2005 to 2015).

The MBM&G research into groundwater flow and subdivision housing density largely show only 20% groundwater is being extracted from the North Hills and groundwater can and will support medium growth densities even down to 1 acre or less lot sizes over large segments of the North Hills.

So the obvious expert that needs to write a report on wastewater and groundwater availability and limits on lot sizes should be Mr. Swierc not the county commissioners or planning staff. Also for wastewater permitting the Environmental Wastewater permitting staff should testify before the Planning Board and be coauthors with Mr. Mr. Swierc. Please address in the written report why the County environmental staff is not addressing cumulative impacts of wastewater treatment systems.

These experts must produce reports that define the problem that is not addressed by current county and state subdivision regulations.

Flooding is a non issue for rural property but again the county must appoint an report author and present real facts confirming a problem exists and defining why we need 10-acre tracts. But if that justifies the 10-acre tract size rural property restrictions then bring forward the written proof and technical experts.

Wildland fire mitigation measures are required of all new subdivisions. And all new subdivision require the local fire district managers to sign off on the developers proposed mitigation plan. So have the county or contracted fire experts prove the county's case that the only way to address cumulative impacts is through 10-acre lot size restrictions.

The county must also address the fact that almost every landowner has fire insurance and those that chose to build new homes in timbered areas must accept some risk of having to evacuate and possibly loose possessions. So the county must again prove that the Greater Good outweights personal property rights, lost uncompensated taking of seller land values, and trump's future builder-buyer opportunity or living their dreams knowing there maybe some small risk of losing their homes or possessions.

But the County report must also address the fact that with recent fires in both the Scratchgravel Hills and the North Hills, that actual fire danger in the timbered areas is now much lower than existed prior to the fires. And please also recognize only a few out buildings and 1 house has been lost in all the massive wildland fires surrounding Helena over the past 30 years.

Which leaves roads. The county has Engineering experts who can address the underfunded county Road issues and the need for additional funding of connecting road networks. Please see my other submittal for more details.

Then the county must hire an expert or find a economic and social impact assessment team to address the value of land loss impacts to rural property owners and the social ramifications to the Tricounty community. This is no small matter and could get quite expensive for the county to get done in time for the planning Board hearing. However the impact assessment work are further defined in my previous writing to the county, is absolutely essential to the County presenting a valid and defensible case to the planning Board and the public.

To date the county has plead ignorance to all that I have presented here and before. The only real excuse the county has given is the BOCC are all knowing and they alone can decide what is right for this County.

It is obvious that the Planning Staff and the BoCC are in lock step with each other and see the restrictions of rural property growth and the restrictions on urban sprawl as something only they can decide and landowners should not be informed or allowed to decide the faith of their own land and wealth.

The county managers (LORDS) believe that Lewis and Clark should be totally managed by a few dictators for the "Greater good " of the community. But that is not what the Montana and US constitution guarantees.

Lewis and Clark county managers have to finally understand the power rest with the people and this country is based on the primary underlying principle of "of the people by the people and for the people". Not "of the few, by the powerful, and for the special interests."

To me it is obvious that this county since 2005 has been managed to attack rural growth every way possible and that county managers have been consistently hired, elected and driven with that single collective mindset.

But I am totally convinced that the citizens of this county and the State Capitol would not support a plan that likely will result in years of needless litigation. ALL to justify the unjustifiable because of self serving bias collective mindset of a few.

The bottom line is. The County must produce scientifically and fact based evidence of unmitigated impacts and why the only viable solution available is 10-acre lot size restrictions.

As stated at every turn , I believe that county absolutely can not make their case for the 10-acre lot size restrictions and I and others will be waiting for the county to produce anything resembling a valid and compelling argument supporting the Proposed Zoning plan.

Please forward this to BoCC, county Website and public relations managers Etc. So the message is properly conveyed.

Also I respectfully request a written response to the final attempt to convince the county planning, attorneys, county manager, commissioners etc. to Listen to reason and address all the necessary factual, procedural and legal shortcomings I and others have strongly presented over the past 4 months.

I and others absolutely need to know what the county will produce as far as addressing all these issues and when the county will do so, so we can adequately prepare for the all important Planning Board hearings.

Please approach the Planning Board hearing as they would if presenting a case in a court of law because that is what this is. To date, the county has assumed they have the upper hand relative to the law and anything they throw out there can not be challenged in a court of law.

But the BoCC and staff must stop and read every word I have submitted -- you all have ample time to really do the homework and research given this COVID 19 health shutdown. If all of you really truly take the time to read every word I have written and read all the other comments -- and you do so with am open mind and really attempt to see reality-- you will drop the rural property lot size Zoning proposal.

Thank you for your careful consideration.

John W Herrin
406 202 0528
2855 Sundown Road
Helena Mt 59602

DRAFT HELENA VALLEY ZONING REGULATIONS PROJECT – COMMENT FORMS RECEIVED AS OF JUNE 9, 2020

As shown below, Staff received comment forms from the public in an attempt to solicit input and feedback on the concept of developing a County-Initiated Zoning plan for the Helena Valley in concert with 2015 Growth Policy update.

COMMENT FORMS RECEIVED

Comments

1. **Zoning in General**
   - I am in favor of zoning.
   - I view the proposed zoning negatively.
   - Zoning could be positive if people can zone themselves and not their neighbors.
   - Zoning is not needed, and land division decisions should be left up to individual homeowners and subdividers.
   - No additional zoning is needed, as the current sewer/septic regulations regulate enough.
   - Zoning should not include government control.
   - Zoning would positively affect residents of the Helena Valley.
   - County-initiated zoning is not in the best interest of landowners.
   - Each area in the Helena Valley has its own issues, opportunities, and restraints, and they are not the same. Zoning should not be a broad brush, but should only include those items that are necessary to sustain the lifestyle of each area being zoned.
   - Zoning should not include a one size fits all catering to those who want to make a quick buck and pass long-term costs onto taxpayers.
   - Don't allow restrictive City codes to be the County's plan. The County needs to create its own plan.
   - Don't zone everything residential like the City of Helena code, include B-2 business zones.
   - Development needs to sustain present community values now and into the future.
   - The County's current proposal on how to change zoning for the individual applicant will be an unnecessary financial burden.
   - A better system should be set up for landowners looking to add zoning to a specific area to make it possible for a positive impact.

2. **Property Values** (agricultural property value comments under Agriculture)
   - Zoning will stabilize property values and predict future neighbors.
   - Zoning will seriously/negatively affect property values and create landowner hardships.
   - The proposed zoning will be great for those landowners that have already subdivided, but a financial loss for others.

3. **Density Zoning (Acreage Requirements) and Usage Zoning**
   - Zoning should include residential with mining prohibited (mining should not be included in the green or purple areas on the map).
   - Zoning should not be too stringent, but parcel sizes should be limited to 10 acres in rural areas.
   - Zoning that limits parcel sizes to nothing less than 10 acres in semi-rural areas would preserve water availability, rural atmosphere, wildlife access, etc.
   - Zoning should not include an allowance for large subdivisions with 1 to 5-acre parcels in rural areas.
   - We need to keep rural areas rural for people who do not want to live in the City.
   - Zoning should not include subdivision lot sizes.
   - If people want open space, they should buy property outright or purchase conservation easements instead of punishing landowners.
   - There is no reason to have 160-acre minimum lot sizes for a single home as a basis for wide swaths of the Helena Valley. This is not a solution to the inadequacies caused by minor and major subdivisions.

4. **Growth Policy**
   - Zoning should implement the Helena Valley Growth Plan objectives and protect the public from costs and safety issues caused by unplanned development.

5. **Agriculture**
   - Zoning should not include any additional restrictions on agricultural land.
   - Zoning will drop land values and will put undue stress on farmers who want to sell small parcels to neighbors or anyone they choose to make things work (i.e. 3 acres in corner of pivot).
   - Zoning will reduce large agricultural property values.
   - Zoning would allow for more predictable development, protect agriculture and reduce costs to the public for services.

6. **Environmental Concerns and Services**
   - It is difficult to predict and mitigate the impacts of a decreasing water table in areas adjacent to and hydraulically linked to new subdivisions when the quantity of water pumped exceeds the aquifer recharge rate.
   - Zoning that limits parcel sizes to nothing less than 10 acres in semi-rural areas would preserve water availability, rural atmosphere, wildlife access, etc.
   - County should layout City sewer and water ten miles and provide laterals so that County residents can hook on prior to zoning.
   - County should layout 25-year road plan prior to zoning.
   - Considering water availability and the questionable sustainability of this resource, some level of zoning is necessary.

- Some people say that zoning causes a decrease in land values because of a larger minimum lot size requirement, but others want to know who will pay when an existing well(s) goes dry and the ecosystem suffers due to the allowance of smaller minimum lot sizes.
- Larger lot sizes should be required under the zoning in the Spokane Creek area to help with water sustainability. This is particularly important with the advent of the proposed four-lane highway that will improve transportation efficiency putting more pressure for development and more wells. It appears that larger lot sizes are the only tool available to manage water consumption, existing well sustainability, and ecosystem viability.
- As a general proposition, we believe the criteria being developed for the Spokane Creek area will be helpful and is a step toward addressing the water problem with the larger lot size approach. As noted, this seems to be the only tool available to address the problem of too many wells.
- Zoning should address air, water, commercial development, and safety.
- Zoning should protect the public from unpredictable costs associated with unplanned needs for water, wastewater, roads, fire protection, and flooding.
- Zoning should protect air and water.
- The public already has concerns about the costs of roads, fire protection, water depletion, and pollution.
- The County has a reactive mentality and needs to look at things proactively when considering the following: a NW bypass route, sewer and water treatment plants, business districts coming first, taking into consideration that property owners should mitigate flooding so that they can use their land to the maximum (i.e. not fair that neighbors can dump water on other landowners' properties so that they can use their land).

7. <u>Public Participation</u>

- A landowner vote and voice should be a part of the zoning. All meetings should be well-publicized and landowners should have a vote.
- I don't think that current or future residents of the Helena Valley are represented by the proposed zoning at all.

8. <u>Litigation</u>

- The proposed zoning will result in a costly and protracted takings lawsuit.
- Zoning in the methods you are trying to impose is not healthy for the Helena area, and it will bring lawsuits that the County cannot afford.

Community Development and Planning
Lewis and Clark County

316 N. Park Ave. Room 230 Helena, MT 59623
Phone: 406-447-8374 Fax: 406-447-8398
e-mail: planning@lccountymt.gov

COUNTY-INITIATED ZONING IN THE HELENA VALLEY COMMENT FORM

Do you reside in... (**Circle One**)

City of Helena **City of East Helena** **Outside City Limits**

How do you think additional zoning could positively or negatively affect the current and future residents of the Helena Valley?

I think if you keep adding more rules & regulations we just as well deed our homes over to the county as we will no longer have any say about our own property. We have all the zoning regulations we need. I would imagine the people that dreamed this stuff up all live in the city limits.

What should additional zoning in the Helena Valley include? None

What should additional zoning in the Helena Valley **NOT** include? Things are just fine the way they are. You are going to keep fixing things until you break them.

Let us know your thoughts, concerns, and ideas about additional zoning in the Helena Valley Planning Area: I think I've pretty much already given my thoughts.

Just leave us be. We don't need anymore zoning. The county needs to spend more time in getting us hooked up to the city sewer system or building a sewage disposal system for the valley.

Community Development and Planning
Lewis and Clark County

316 N. Park Ave. Room 230 Helena, MT 59623
Phone: 406-447-8374 Fax: 406-447-8398
e-mail: planning@lccountymt.gov

RECEIVED
APR 15 2020
LEWIS & CLARK COUNTY
Community Development & Planning

COUNTY-INITIATED ZONING IN THE HELENA VALLEY
COMMENT FORM

Do you reside in... (**Circle One**)

City of Helena **City of East Helena** **Outside City Limits**

How do you think additional zoning could positively or negatively affect the current and future residents of the Helena Valley?

Additional zoning would positively affect residents of the Helena. It would allow for more predictable development, protect agriculture and reduce costs to the public for services.

What should additional zoning in the Helena Valley include?

Protect the public from unpredictable costs associated with unplanned needs for water, wastewater, roads, fire protection and flooding.

What should additional zoning in the Helena Valley **NOT** include?

One size fits all catering to those wanting to make a quick buck and pass long-term costs onto taxpayers.

Let us know your thoughts, concerns, and ideas about additional zoning in the Helena Valley Planning Area: The public already has concerns about costs of roads, fire protection, water depletion and pollution. Zoning should implement the Helena Valley Growth Plan objectives and protect the public from costs and safety issues caused by unplanned development.

RECEIVED
JAN 27 2020
LEWIS & CLARK COUNTY
Community Development & Planning

1-23-2020

Attached are Dale Paulson's and Toni Van Slyke's answers to the questions asked on the County-Initiated zoning in the Helena Valley Comment Form.

Please keep us informed as you work through this process. Thank you

COUNTY-INITIATED ZONING IN THE HELENA VALLEY COMMENTS

Location: Outside City Limits in the Spokane Creek Area

How do you think additional zoning could positively or negatively affect the current and future residents of the Helena Valley?

Considering the water availability and the questionable sustainability of this resource some level of zoning is necessary.

What should additional zoning in the Helena Valley include?

Larger lot sizes in the Spokane Creek area to help with water sustainability. This is particularly important with the advent of the proposed 4 lane highway that will improve transportation efficiency putting more pressure for development and more wells. It appears that larger lot size is the only tool available to manage water consumption, existing well sustainability and ecosystem viability.

What should additional zoning in the Helena Valley NOT include?

Each area in the valley has its own issues opportunities and restraints and they are not the same. Zoning should not be broad brush but should only include those items that are necessary to sustain the life style of each area being zoned.

Let us know your thoughts, concerns, and ideas about additional zoning in the Helena Valley Planning Area:

We very much appreciate the public meeting that was professionally presented at the fire hall on December 18. As a general proposition we believe the criteria being developed for the Spokane Creek area will be helpful and is a step toward addressing the water problem with the larger lot size approach. As noted this seems to be the only tool available to address the problem of too many wells.

There were several discussions and statements at the meeting that were illuminating. One lady talked about the need for development that sustains present community values now and into the future. Another discussion between two individuals explored the difficulty in predicting and mitigating the impacts of a decreasing water table in areas adjacent to and hydraulically linked to new subdivisions when the quantity of water pumped exceeds the aquifer recharge rate. Still another related to zoning causing a decrease in land values because of larger lot size and the rhetorical (we think) question of who pays when that happens. The other side of that coin is, of course, who pays when existing wells go dry and the ecosystem suffers.

Toni Van Slyke

Toni Van Slyke

5924 North Three Bars Road.

Dale Paulson

2610 Three Bars Drive

Community Development and Planning
Lewis and Clark County

316 N. Park Ave. Room 230 Helena, MT 59623
Phone: 406-447-8374 Fax: 406-447-8398
e-mail: planning@lccountymt.gov

COUNTY-INITIATED ZONING IN THE HELENA VALLEY

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JAN 03 2019
LEWIS & CLARK COUNTY
Community Development & Planning

COMMENT FORM

Do you reside in... (**Circle One**)

City of Helena **City of East Helena** **Outside City Limits**

How do you think additional zoning could positively or negatively affect the current and future residents of the Helena Valley?

1. Zoning Could Be Positive if Property Owner Says What Zone they want & Not Told What Zone from Neighbor
2. Don't Allow Restriative City Codes for Zones to Be Countrys Plan. Develop County's own Requirements

What should additional zoning in the Helena Valley include?

1. County Should Layout Proposed Sewer + Water Extsion from City out 10 miles. INCLUDE Laterals So we can Hook ON
2. County Should Layout 25 year Road Plan Prior to Zoning

What should additional zoning in the Helena Valley **NOT** include?

Don't Zone Every thing Residential According to City of Helena Zone Include B2 Business Zones –

Let us know your thoughts, concerns, and ideas about additional zoning in the Helena Valley Planning Area:

County has Reactive Mantality – Look ProActively when Considering
1. N. W. By Pass Route
2. Sewer + Water Treatment Plants
3. Business Districts come 1st
4. Take into Consideration of Owners Mediate Flood to Allow their Land to Be Used to Maximum. Not Fair Neighbors dump water on land So they can use Theirs.

Community Development and Planning
Lewis and Clark County

316 N. Park Ave. Room 230 Helena, MT 59623
Phone: 406-447-8374 Fax: 406-447-8398
e-mail: planning@lccountymt.gov

COUNTY-INITIATED ZONING IN THE HELENA VALLEY
COMMENT FORM

RECEIVED
JAN 31 2020
LEWIS & CLARK COUNTY
Community Development & Planning

Do you reside in... **(Circle One)**

City of Helena **City of East Helena** **Outside City Limits**

How do you think additional zoning could positively or negatively affect the current and future residents of the Helena Valley?

GREAT FOR THOSE LANDOWNERS THAT ALREADY SUB DIVIDED. A FINANCIAL LOSS FOR OTHERS.

What should additional zoning in the Helena Valley include?

PROTECTION OF AIR & WATER

What should additional zoning in the Helena Valley **NOT** include?

ANY ADDITIONAL RESTRICTIONS ON SUBDIVISION OF AGRICULTURE LAND

Let us know your thoughts, concerns, and ideas about additional zoning in the Helena Valley Planning Area:

THIS WILL RESULT IN A COSTLY AND PROTRACTED "TAKINGS" LAWSUIT.

Solution for inadequacy's in what percentage minor & subdivisions is not to zone huge swaths of land to 160 acres to 1 home.

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This is not a solution!

COUNTY-INITIATED ZONING IN THE HELENA VALLEY COMMENT FORM

Do you reside in... (**Circle One**)

City of Helena **City of East Helena** **Outside City Limits**

How do you think additional zoning could positively or negatively affect the current and future residents of the Helena Valley?

Negatively → There is no reason to have 160 Acre's as the base for wide swaths of Helena Valley. NONE

What should additional zoning in the Helena Valley include?

None — current regulations w/ Septic/Sewer regulate enough.

What should additional zoning in the Helena Valley **NOT** include?

Zoning is not needed — leave it to home owners & Individual Subdivisions to decide.

Let us know your thoughts, concerns, and ideas about additional zoning in the Helena Valley Planning Area:

It will drop land values
It will put undue stress on farmers that want to sell small parcels to neighbors or anyone they choose to make things work, i.e. "3 Acres in corner of pivot."

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COUNTY-INITIATED ZONING IN THE HELENA VALLEY
COMMENT FORM

Do you reside in... (**Circle One**)

City of Helena **City of East Helena** **Outside City Limits**

How do you think additional zoning could positively or negatively affect the current and future residents of the Helena Valley?

stabilize home values and predict future neighbors.
I'm in favor of zoning.

What should additional zoning in the Helena Valley include?

Residential, non-mining

What should additional zoning in the Helena Valley **NOT** include?

mining in green & purple areas of the map.

Let us know your thoughts, concerns, and ideas about additional zoning in the Helena Valley Planning Area:

Thanks for all your work!

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Lewis and Clark County

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COUNTY-INITIATED ZONING IN THE HELENA VALLEY
COMMENT FORM

Do you reside in... (**Circle One**)

City of Helena **City of East Helena** **Outside City Limits**

How do you think additional zoning could positively or negatively affect the current and future residents of the Helena Valley?

LIMITING PARCEL SIZE TO NOTHING LESS THAN 10 ACRES IN SEMI-RURAL AREAS WOULD PRESERVE WATER AVAILABILITY, RURAL ATMOSPHERE, WILDLIFE ACCESS, ETC.

What should additional zoning in the Helena Valley include?

NOTHING TOO STRINGENT - BUT LIMIT PARCEL SIZE TO 10 ACRES IN RURAL AREAS

What should additional zoning in the Helena Valley **NOT** include?

LARGE SUBDIVISIONS WITH 1-5 ACRE PARCELS IN RURAL AREAS.

Let us know your thoughts, concerns, and ideas about additional zoning in the Helena Valley Planning Area:

WE NEED TO KEEP RURAL AREAS RURAL FOR PEOPLE WHO DON'T WANT TO LIVE IN THE CITY.

Community Development and Planning
Lewis and Clark County

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Community Development & Planning

COUNTY-INITIATED ZONING IN THE HELENA VALLEY
COMMENT FORM

Do you reside in... (**Circle One**)

City of Helena **City of East Helena** **Outside City Limits**

How do you think additional zoning could positively or negatively affect the current and future residents of the Helena Valley?

REDUCED PROPERTY VALUE FOR LARGE AG PROPERTIES

What should additional zoning in the Helena Valley include?

AIR/WATER/ COMMERCIAL DEVELOPMENT & SAFETY

What should additional zoning in the Helena Valley **NOT** include?

SUB DIVISION LOT SIZE

Let us know your thoughts, concerns, and ideas about additional zoning in the Helena Valley Planning Area:

IF L&C RESIDENTS WANT OPEN SPACE THEY SHOULD BUY PROPERTY OUTRIGHT OR PURCHASE CONSERVATION EASEMENT. DON'T PUNISH LANDOWNERS!

Community Development and Planning
Lewis and Clark County

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LEWIS & CLARK COUNTY
Community Development & Planning

COUNTY-INITIATED ZONING IN THE HELENA VALLEY

COMMENT FORM

Do you reside in... (**Circle One**)

City of Helena **City of East Helena** **Outside City Limits**

How do you think additional zoning could positively or negatively affect the current and future residents of the Helena Valley? What you are proposing will seriously affect land values. Also the county's current proposal on how to change zoning for the individual applicant will an unnecessary financial burden

What should additional zoning in the Helena Valley include?

A landowner vote & voice

What should additional zoning in the Helena Valley **NOT** include?

Goverment control

Let us know your thoughts, concerns, and ideas about additional zoning in the Helena Valley Planning Area: County initiated zoning is not in the best interest of the landowners. All meetings should be well publicized & land owners should have a vote. A better system should be set up for landowners looking to add zoning to a specific area to make it possible for a positive impact.

N. Park Ave Room 230
ena, MT 59601

GREAT FALLS MT 594
05 FEB 2020 PM 1 T

Community Development & Plan
316 N. Park Ave Room 230
Helena, MT 59623

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Community Development & Planning

COUNTY-INITIATED ZONING IN THE HELENA VALLEY
COMMENT FORM

Do you reside in... (**Circle One**)

City of Helena **City of East Helena** **Outside City Limits**

How do you think additional zoning could positively or negatively affect the current and future residents of the Helena Valley? I don't think that it is represented at all. It will negatively affect property values and create landowner hardships. Zoning in the methods you are trying to impose is not healthy for the Helena area. It will bring law suits the County cannot afford!!!

What should additional zoning in the Helena Valley include?

Nothing!!!

What should additional zoning in the Helena Valley **NOT** include?

NO ZONING!!!

Let us know your thoughts, concerns, and ideas about additional zoning in the Helena Valley Planning Area:

NO ZONING!!!

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FEB 06 2020
LEWIS & CLARK COUNTY
Community Development & Planning

January 28, 2020

Public Meeting for L & C County's proposed Zoning of the Helena Valley Planning Area

Location: Big Sky Fellowship Church 7610 Roughsawn Drive next to Moose Junction Coffeeshop off N Montana.

Attendee Name/Signature:

Attendee Address:

Attendee Phone Number:

1. Do you favor the L & C County Zoning Map and General Plan as outlined? Comments. Yes No
2. Do you believe the County Planning Staff is adequately advertising meetings? Yes No
3. Has the Staff & info adequately justified the need for large tract rural property? Yes No
4. Do you feel rural property values will drastically go down with County Zoning? Yes No
5. Should The county Video Record all public Zoning Meetings? Yes No
6. Should L & C County mail Maps & economic impacts details to all HVPA landowners Yes No
7. Could the County be held liable for damages to rural property owners lands? Yes No
8. Will you actively support efforts to counter the Counties proposal? Yes No

Community Development and Planning
Lewis and Clark County

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APR 15 2020
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Community Development & Planning

COUNTY-INITIATED ZONING IN THE HELENA VALLEY

COMMENT FORM

Do you reside in... **(Circle One)**

City of Helena **City of East Helena** **Outside City Limits**

How do you think additional zoning could positively or negatively affect the current and future residents of the Helena Valley?

Additional zoning would positively affect residents of the Helena. It would allow for more predictable development, protect agriculture and reduce costs to the public for services.

What should additional zoning in the Helena Valley include?

Protect the public from unpredictable costs associated with unplanned needs for water, wastewater, roads, fire protection and flooding.

What should additional zoning in the Helena Valley **NOT** include?

One size fits all catering to those wanting to make a quick buck and pass long-term costs onto taxpayers.

Let us know your thoughts, concerns, and ideas about additional zoning in the Helena Valley Planning Area: The public already has concerns about costs of roads, fire protection, water depletion and pollution. Zoning should implement the Helena Valley Growth Plan objectives and protect the public from costs and safety issues caused by unplanned development.

From: rwfjrf@aol.com,
To: planning@lccounty.gov, ← Didn't Work
Subject: Comments on Helena Valley Zoning Regulations
Date: Tue, Jun 2, 2020 10:01 am

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JUN 04 2020
LEWIS & CLARK COUNTY
Community Development & Planning

Thank you for your work on the subject Regulations. My main comment is that we should be asking more of the developers before they hugely affect our water supply, transportation, and schools.

Developers should be required to:

1. Provide turn lanes into their developments. How long do we have to wait before a horrible rear end collision occurs on Canyon Ferry Road to someone just trying to turn into their development?

2. Prove by analysis from an expert hydrogeologist or other water professional that the development water supply is good for 100 years. Ever run out of water? Not fun.

3. Provide 20% of the development to be set aside for open space.

4. Have a minimum lot size of 5 acres.

5. Help fund the building of school additions, necessary due to the increase in enrollment from new housing developments.

Let's keep rural Montana looking rural, even with an increase in population.

Thanks for the opportunity to comment.

Richmond W Franklin
6275 Elkhorn RD
Helena, MT 59602

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JUN 04 2020
ENVIRONMENTAL HEALTH
RECEIVED
JUN 05 2020
LEWIS & CLARK COUNTY
Community Development & Planning

June 2, 2020

Lewis and Clark County
316 N, Park Room 230
Helena, Montana 59623

RE: Helena Valley Zoning

Dear Commission,

I have attended many of your public hearings on the property which I own at the corner of Mill Road and Green Meadow Drive. At each of these meetings for Mill Road Mine(Kim Smith)and Helena Valley Zoning, I have repeatedly requested that my property not be zoned Residential. I have a business across the street known as Valley Farms Nursery, a Landfill Dump known as Scratch Gravel Landfill(Not currently open), a commercial water distribution system, Telephone/TV Antennas', a proposed Mine and gravel sales, a Vehicle Parts dealer, a Septic Tank Business, a church, a Commercial Rail Road, Forest vale Cemetery, and multiple storage units, along with rental property. Other business in the area includes: Russell Automotive, Horse Training, Electrical installers, Insulation installers, Land Developers, Surveyors, Appraisers, Water fire suppression business, and Real Estate Sales Offices. I would suggest the Business Rating known in Helena as B-2 Zone.

I hereby retain the rights that I currently have to operate my property to it's highest benefit to me and my heirs. I am against the zoning of the Valley Land unless: 1. Multiple Zones available for each property to choose their own as they currently do. 2. The County improve the roads, the road planning, the valley flooding situation of drainage. 3. A central water supply for the Valley be developed along with a Central Sewer lagoon system to cover the entire Helena Valley. 4. A better Police and Valley Fire Protection system be deployed. 5. Lewis and Clark County Cleans up and restores the Scratch Gravel Landfill including the Ground water Pollution coming from the landfill.

Given that currently you are not able to: clean the roads and maintain them, not able to keep the weeds down, not able to clean up the landfill the you currently have and the groundwater problems. Your not able to hand a flood of the valley and provide sand bags to tax payers, That cost continue to rise on shared adventures with the City of Helena, what makes you able to enforce a zone change and the uses of land that you are not currently handling now.

Please step back and try to handle the over use of roads currently in the Valley. Take care of the library and the schools and the dump. Thanks for allowing my thoughts to be considered.

Respectfully,

Terry Zimmerman
Owner

Community Development and Planning
Lewis and Clark County

316 N. Park Ave. Room 230 Helena, MT 59623
Phone: 406-447-8374 Fax: 406-447-8398
e-mail: planning@lccountymt.gov

COUNTY-INITIATED ZONING IN THE HELENA VALLEY
COMMENT FORM

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JUN 0 8 2020
LEWIS & CLARK COUNTY
Community Development & Planning

Do you reside in... **(Circle One)**

City of Helena **City of East Helena** **Outside City Limits**

How do you think additional zoning could positively or negatively affect the current and future residents of the Helena Valley?

Remove Helena valley Also

What should additional zoning in the Helena Valley include?

What should additional zoning in the Helena Valley **NOT** include?

PLEASE REMOVE THE RIMINI AREA FROM THESE PROPOSED HELENA VALLEY ZONING REGULATIONS! Rimini is a unique community and should not be subject to these highly restrictive zoning proposals. Similar communities in the county (Marysville, Canyon Creek, York, Silver City, Wolf Creek) are not subject to these restrictions. Rimini deserves the same treatment and should be left to decide on their own if they wish to initiate any type of citizen initiated zoning. PLEASE DON'T FORCE THESE REGULATIONS ON OUR COMMUNITY!

Let us know your thoughts, concerns, and ideas about additional zoning in the Helena Valley Planning Area:

NO MORE ZONING

Community Development and Planning
Lewis and Clark County

316 N. Park Ave. Room 230 Helena, MT 59623
Phone: 406-447-8374 Fax: 406-447-8398
e-mail: planning@lccountymt.gov

COUNTY-INITIATED ZONING IN THE HELENA VALLEY

COMMENT FORM

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LEWIS & CLARK COUNTY
Community Development & Planning

Do you reside in... **(Circle One)**

City of Helena **City of East Helena** **Outside City Limits**

How do you think additional zoning could positively or negatively affect the current and future residents of the Helena Valley?

What should additional zoning in the Helena Valley include?

Nothing

What should additional zoning in the Helena Valley NOT include?

PLEASE REMOVE THE RIMINI AREA FROM THESE PROPOSED HELENA VALLEY ZONING REGULATIONS!
Rimini is a unique community and should not be subject to these highly restrictive zoning proposals. Similar communities in the county (Marysville, Canyon Creek, York, Silver City, Wolf Creek) are not subject to these restrictions. Rimini deserves the same treatment and should be left to decide on their own if they wish to initiate any type of citizen initiated zoning. PLEASE DON'T FORCE THESE REGULATIONS ON OUR COMMUNITY!

Let us know your thoughts, concerns, and ideas about additional zoning in the Helena Valley Planning Area:

Do Not include Rimini in Your Planning.

***** COMMENTS SOUGHT *****

The Community Development and Planning Department is currently accepting comments on the proposed Helena Valley Zoning Regulations.

All comments received will be provided to the Consolidated City and County Planning Board.

Due to the COVID-19 pandemic we understand that many folks may not want to leave their home to attend public meetings. These are extraordinary times and circumstances not previously seen and therefore we are mailing this to inform you that you can comment from your home.

To learn more about the proposed Helena Valley Zoning Regulations and scheduled public meeting dates, please visit our Website at:

https://www.lccountymt.gov/cdp/zoning.html

⇒ MAILED COMMENTS: Community Development & Planning
316 N Park Room 230
Helena MT 59623

⇒ EMAILED COMMENTS: planning@lccountymt.gov

⇒ QUESTIONS? Please call us at 406-447-8374

Community Development and Planning
Lewis and Clark County

316 N. Park Ave. Room 230 Helena, MT 59623
Phone: 406-447-8374 Fax: 406-447-8398
e-mail: planning@lccountymt.gov

COUNTY-INITIATED ZONING IN THE HELENA VALLEY

COMMENT FORM

RECEIVED
JUN 10 2020
LEWIS & CLARK COUNTY
Community Development & Planning

Do you reside in... **(Circle One)**

City of Helena **City of East Helena** **Outside City Limits**

How do you think additional zoning could positively or negatively affect the current and future residents of the Helena Valley?

What should additional zoning in the Helena Valley include?

What should additional zoning in the Helena Valley **NOT** include?

PLEASE REMOVE THE RIMINI AREA FROM THESE PROPOSED HELENA VALLEY ZONING REGULATIONS!
Rimini is a unique community and should not be subject to these highly restrictive zoning proposals. Similar communities in the county (Marysville, Canyon Creek, York, Silver City, Wolf Creek) are not subject to these restrictions. Rimini deserves the same treatment and should be left to decide on their own if they wish to initiate any type of citizen initiated zoning. PLEASE DON'T FORCE THESE REGULATIONS ON OUR COMMUNITY!

Let us know your thoughts, concerns, and ideas about additional zoning in the Helena Valley Planning Area:

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COUNTY-INITIATED ZONING IN THE HELENA VALLEY
COMMENT FORM

RECEIVED
JUN 10 2023
LEWIS & CLARK COUNTY
Community Development & Planning

Do you reside in... **(Circle One)**

City of Helena **City of East Helena** **Outside City Limits**

How do you think additional zoning could positively or negatively affect the current and future residents of the Helena Valley?

What should additional zoning in the Helena Valley include?

What should additional zoning in the Helena Valley **NOT** include?

PLEASE REMOVE THE RIMINI AREA FROM THESE PROPOSED HELENA VALLEY ZONING REGULATIONS!
Rimini is a unique community and should not be subject to these highly restrictive zoning proposals. Similar communities in the county (Marysville, Canyon Creek, York, Silver City, Wolf Creek) are not subject to these restrictions. Rimini deserves the same treatment and should be left to decide on their own if they wish to initiate any type of citizen initiated zoning. PLEASE DON'T FORCE THESE REGULATIONS ON OUR COMMUNITY!

Let us know your thoughts, concerns, and ideas about additional zoning in the Helena Valley Planning Area:

Telephone Calls received to Planner Greg McNally regarding Draft Helena Valley Zoning Regulations between 6/1/2020 and 6/10/2020

Caller	Number	Address, if given	Date Called	Answered	Date 1st Return	Date 2nd Returne	Date 3rd Return	NOTES
Mary Bullman	443-1374		6/1/2020		6/1/2020			Would like a paper copy of Regulations.
Tom Erdy	459-5145		6/1/2020		6/1/2020			What time will the Board meet on the 16th?
Hillary Troyer	431-6428	412 W Custer	6/1/2020		6/1/2020	6/1/2020		Misunderstood. Thought this had to do with improvements to Custer Avenue. Also concerned about being annexed.
Vernard Miller	227-5936	3794 Canyon Ferry Road	6/1/2020		6/1/2020			Does not want more rules. Vaguely described issues with neighbors and impacts on his property. Offered multiple times for him to come speak in more detail about his concerns about violations occuring on his property from others.
Clara Wilson	458-3800	Causeway	6/1/2020		6/1/2020	6/2/2020	6/3/2020	Unable to reach after repeated attempts. Last on 6/5/2020
Jan Hemingway	431-7367	Birdseye area	6/1/2020		6/1/2020	6/2/2020		Card came to correct address, wrong person. Referred her to Dept. of Revenue at 444-6900
Debbie Walton			6/1/2020	x				Supports Zoning
Ray Linder		3370 Wylie Drive	6/1/2020	x				Asked what part of the District he was in.
Arlene Boulei	443-3120		6/2/2020		6/2/2020			Card went to her address but wrong person
Rob Beach	227-0440	3220 Howard Road	6/2/2020		6/2/2020			No Computer. Asked to have Regs mailed to him. Explained the cost and he indicated he would seek another way to access regs.
Rick Van Der Sheuct	227-4072	Bucksnort	6/2/2020		6/2/2020			Questions about this attempt to re-zone and a money grab of his tax money.
Angie	458-5795		6/2/2020		6/2/2020			Asked generally what the zoning is.
Mary Gobbins	266-5740	2305 Blaine St	6/2/2020		6/2/2020			General Questions asked to have Fort Harrison Regs sent to her via email.
Clint Pullman	439-8338	Rimini	6/2/2020		6/2/2020			Zero Sense that Rimini properties are included. Will disrupt his efforts to protect his property and what he has worked for.
Bob McCoy	540-749-2629		6/3/2020	x				Couldn't find his property on Interactive Map - we found it - He is located in Fort Harrison Zoning.
Ken	431-5730		6/3/2020		6/3/2020			Concerned about taxes going up, city annexation, someone taking his water rights, and flooding. Will provide comment.
Clint Pullman	439-8338		6/3/2020					Where will the meeting be? Talked a lot more about a variance procedure. Does not want to see zoning take place in Rimini. Is planning to use his annual leave to inform and engage neighbors.
Mike Dodge	438-7282		6/3/2020		6/3/2020			Questions about the 10 acre minimum
Kate Cirullo	415-815-8289	Timberworks Estates	6/3/2020		6/3/2020			How will this affect us? In an existing Part I. What about the gravel pit?
Al Griffiths	459-8499	1730 Broadwater Avenue	6/3/2020		6/3/2020			What area does the zoning apply too?
Jan Sutton	909-559-5806		6/3/2020					Looking to buy property at Bishop Ct. What will the future hold for zoning in this area?
Jeni Martini	439-4465 or 439-0503		6/3/2020	x 6/10/20	6/5/2020	6/9/2020		Unable to reach after repeated attempts. Had Wrong #. In La Casa Grande #22- Will forward her those regulations.
Lois Freeman	461-4465		6/4/2020		6/5/2020			Wanted a copy mailed to her although $35 was too high
Melody Ritchie	439-9019	Eastview Road and Shar Ct	6/5/2020		6/5/2020			How will this apply to my existing uses on Shar Ct and Eastview Road? Nonconforming if currently in complaince with existing laws and regulations once regulations are adopted for property in this district.

Deena	945-1022	Dana Point Area	6/8/2020	x			Asked about the regulations and how they might apply to her. She has 10 acres - what if I want to build a shop? Would have to comply with setbacks
Dan Melick	538-8358	Rimini Area	6/8/2020	x			Asked about the the regulations and how they might apply. Provided instruction on looking at the interactive map and scrolling through the regs and directed him to Section 7.
Teresa Clarman	422-9448	Birdseye area/ Turk Road	6/8/2020		6/8/2020	6/9/2020	Unable to reach after repeated attempts.
Clint Pullman	439-8338		6/8/2020		6/8/2020		Called back to see if the agenda and location was set. Left a message that it was and provided that information as well as where it can be found online.
Leroy Breuer	458-9407	Sierra and Green Meadow	6/9/2020	x			Asked to about the regualtions in general and is supportive.
Sonny Stiger	442-1361	Juniper Road	6/9/2020	x			Asked about owners listed on his property (they are beneficiery). Also asked about the adjoining conservation easement and if the zoning would change that - it would not.
John Herrin	202-2058		6/8/2020				Peter will email John on 6/9/2020
Darla Cook	422-0717	Bridge Creek	6/9/2020		6/10/2020		Can't read the map would like a bigger map. Concerned about annexation. Ok with zoning.
Sharon Linstead	859-250-437 or 458	Woodland Hills	6/10/2020		6/10/2020		Treasure of Woodland Hills HOA. Would like to have all of Woodland Hills included in the zoning however, it is bisected by the HVPA boundary.