

## MEMORANDUM

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**TO:** Gallatin County Planning Board

**C:** Gallatin County Commission  
Earl Mathers, County Administrator  
Marty Lambert, Gallatin County Attorney

**FROM:** Greg Sullivan, Planning Director

**DATE:** November 6, 2008

**SUBJECT:** Preliminary Information for Staff Hand Out and Board Discussion on Several of the Gallatin County Growth Policy Implementation Program Documents on Nov. 12, 2008.

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On Wednesday, November 12<sup>th</sup>, the Planning Department will pass out to you several documents central to the Growth Policy Implementation Program. I provide you this memo as a precursor to your initial discussion next Wednesday regarding these documents. Please read this memorandum prior to the meeting next Wednesday.

Obviously, many of us have been working toward this point for some time now. For us in the Planning Department, the release of these DRAFT documents is the end of a multi-year process in researching, discussing, and finding technical solutions to the challenges these programs have presented. I also believe the release of these DRAFT documents to you and the public is only the beginning of the final stages of this concerted and deliberate multi-year process. Through this process, we in the Planning Department truly believe we are working to create a viable approach to implementing the *Gallatin County Growth Policy*.

The Commission has indicated to me that your involvement in this final stage is critical. While the Commission has led the effort to create policies that form the basis for the documents you will be handed next week, you have certainly participated in many facets of this process. It is your knowledge of these programs that leads to the Commission to be keenly interested in your review and comments on these DRAFT documents.

**Background:**

In 2003, you and the County Commission formally adopted the *Gallatin County Growth Policy* – a shared community vision for how our County should change and grow. Over the past several years, with your considerable involvement, the Commission and Planning Department have researched numerous ways to implement the broad goals and policies that comprise this shared community vision.

In 2006, the Commission, to assemble several ongoing implementation efforts into a unified endeavor, created the “*Growth Policy Implementation Program*” (*GPIP*). I believe the Commission’s creation of the *GPIP* to be more than a mere recitation of available and potential planning tools – I believe creation of the *GPIP* was a direct challenge to all of us involved in planning for the future of the Gallatin’s communities to devise ways to ensure the *Growth Policy*’s collective vision is realized. I believe we are, in essence, tasked to ensure this vision is realized in a way that balances landowners’ rights and expectations with the goals and objectives of the community, as stated in the adopted *Growth Policy*.

I understand the Commission considers neighborhood planning to be the most vital approach to implementing the *Growth Policy*. For now and for the future, as I understand, the Commission believes our shared community vision will be realized primary through the efforts of citizens, landowners and neighbors collaborating and partnering on plans, creating new planning tools, and working with the County as it funds and builds infrastructure. Many of you have participated in or witnessed the challenges and successes of several current neighborhood planning efforts. Undoubtedly, these efforts offer a new way of planning in Gallatin County – one that will truly build communities and hopefully serve as a model for more of our communities to engage in for a long time to come.

**Other GPIP Programs/Zoning Format.**

In addition to the ongoing neighborhood planning program, and after much discussion and many policy decisions by the Commission, the Planning Department will present to you on Wednesday DRAFT documents for several other critical *GPIP* components. These implementation tools include density and minimal use zoning regulations for the unzoned rural areas of the County, a Rural Cluster Development (RCD) program, and Transferable Development Rights (TDR) and Transferable Development Credit (TDC) programs.

As you read through the documents in the weeks to come you will notice the DRAFT *GPIP* documents must be considered in relation to all the *GPIP* components. To better understand how all the *GPIP* components, including the planning efforts you are currently leading, work together to implement the Growth Policy’s shared community vision, we will present to you a document titled, *The Gallatin Growth Policy Implementation Program: an Overview*. This document creates a context for understanding the other *GPIP* documents in your package.

Also, please note the DRAFT zoning regulations are presented within an alternative zoning format. Given the several county planning efforts currently underway, this format provides an opportunity to more efficiently integrate the development standards for all the existing zoning districts adopted under Title 76, Chpt. 2, Part 2, MCA, with standards being considered as part of the *GPIP*. Please understand, at this time, none of the existing Part 2 zoning districts will be formally adopted within this framework. The Gallatin County/Bozeman Area Zoning District will be the first existing part 2 zoning district to come before you for inclusion in this framework but that will happen as a separate item in the near future. The County Commission will decide the appropriate moment to begin this integration process for the other Part 2 zoning districts.

### **GPIP Documents.**

Within the packet you will be handed next Wednesday, you will find several DRAFT *GPIP* documents, including:

- ***The Gallatin Growth Policy Implementation Program: An Overview.*** As stated above, this document provides critical background information on all of the *GPIP* components including a discussion on the primary *GPIP* element – comprehensive neighborhood planning. In addition, this document discusses the proposed rural zoning and current infrastructure planning programs such as your water and wastewater subcommittee and parks and trails committee. This document could be adopted as a new chapter in the *Growth Policy*.
- ***Proposed Incentive Program for Participation in Transferable Development Opportunities and Rural Cluster Development.*** This document provides general concepts related to incentive programs for two of the *GPIP* elements: Transferable Development Credits (TDCs) and Rural Cluster Development (RCD). The Commission will appreciate your input on these proposed incentive programs.
- A brief ***Question and Answer*** document that provides answers to common zoning related questions.
- ***DRAFT Gallatin County Part II Zoning Regulations.*** This document contains DRAFTS of the following:
  - Cover page, amendment page, and Table of Contents;
  - Standard General Provisions (Art. I) and standard Administrative Provisions (Art. II);
  - Regulations for the AG-160 zoning sub-district (Art. III) (this is the rural zoning sub-district and includes the RCD program) and regulations for a Public Lands and Institutions (PLI) zoning sub-district (Art. IV);

- A DRAFT zoning map for the AG-160 and PLI sub-districts.
  - Standards for TDR and TDC (Art. XXII); and
  - A set of definitions (Art. XXXI).
- DRAFT amendments to the Gallatin County Subdivision Regulations required to fully execute the RCD program.

**TDR and TDC: Implications for Tax and Securities.**

As we will discuss in the near future, the Planning Department is currently working with the County Attorney’s Office and outside entities to answer critical questions related to the tax and security implications of Transferable Development Rights and Transferable Development Credits. To do so, we have engaged several parties to assist in formulating and answering a set of questions related to TDR/TDC. First, we have engaged J. Martin Burke, an expert in taxation and a Professor at the University Of Montana School Of Law, to assist us in finding professional help to identify the tax implications of TDC and TDR. Second, we are engaged in on-going discussions with Lynne Egan, Deputy Securities Commissioner for the State of Montana, regarding questions related to the implications of TDC and TDR on state and federal securities law.

We will keep you informed as we progress on these issues. We expect to provide you and the Commission with a written report on these concerns prior to any hearings on the rural zoning.

**Proposed Four Corners Zoning; Zoning Effort in the Belgrade Planning “Donut;” and the On-Going Gallatin Gateway and Amsterdam/Churchill Neighborhood Planning Processes.**

The documents presented to you do not include DRAFT zoning regulations for the Four Corners community planning area. The group working to develop those standards will present them to you in December or early January.

You will also notice the extra-territorial planning jurisdictions for Belgrade and Manhattan are excluded from the AG-160 zoning sub-district. Currently, the Belgrade City-County Planning Board is working to develop a set of development standards to implement the Belgrade Growth Policy. As for Manhattan, the Commission has expressed great interest in working more closely with the Manhattan Town Council and the Manhattan City-County Planning Board on implementing the Manhattan Growth Policy in the county area surrounding the Town. These efforts will commence after hearings on the proposed rural zoning have been completed.

Finally, the AG-160 zoning sub-district, at this time, includes the proposed neighborhood planning areas of Gallatin Gateway and Amsterdam/Churchill. These areas will be included in the rural zoning sub-district until such time as neighborhood plans are adopted under the umbrella of the Growth Policy and zoning standards are put into place to further implement the adopted neighborhood plan.

**County Attorney Review/Your Review/ Hearings on Adoption.**

While the County Attorney's Office has taken part in numerous discussions with the Commission over the past several years on legal issues related to the *GPIP* (in particular, the rural zoning components), the County Attorney's Office has not yet reviewed the attached final DRAFT AG-160, PLI, and TDC/TDR regulations. We plan to work closely with them to ensure these documents, and others described below, address their legal concerns. No formal adoption hearings will be scheduled until their legal review is completed.

The *GPIP* documents provided to you reflect several years of investigation yet are by no means a final product. These documents need your critical review, analysis and suggestions. To prepare for a recommendation to the Commission you are encouraged to do whatever you determine necessary including submitting these drafts to your *GPIP* committee and holding work sessions with planning staff and the public.

At some time during the early part of 2009, perhaps as early as the end February, the Commission will ask you to conduct a formal public hearing on a Resolution of Intent for the rural zoning components (AG-160, PLI, and TDC/TDR) and pass a recommendation onto them. At this time, you may also be considering a Resolution of Intent for the proposed Four Corners Zoning District.

I look forward to discussing these topics with you next Wednesday.