

Friends of Park County

P.O. Box 23, Pray, Montana 59065

Promoting thoughtfully planned growth in order to protect and enhance Park County's vibrant communities, sustainable working lands, and healthy natural resources.

TO: Livingston Planning Board
FROM: Friends of Park County
RE: Comments & Recommendations on Revised Draft of Livingston Growth Policy
DATE: December 14, 2020
COPY: Mathieu Menard, Assistant Planning Director

Based on our consultants' review of the December 8, 2020 redline revised version of the Burton Draft Livingston Growth Policy, we offer the following comments on and suggested revisions to Chapters 1, 3, 4, 5, 6, 7, 9, and 11 and Appendix A "Extra-Territorial Jurisdiction Plan."

Key to comments:

CHAPTER DEMARCATIONS are bold 14 pt Calibri

Blue Times Roman is the commentary by Friends of Park County

Calibri in black is original Burton Draft of the Livingston Growth Policy, red text is revisions in the December 8 revised draft.

Orange new Roman bold, Friends of Park County's proposed revisions.

CHAPTER 1 INTRODUCTION

Page 4: Friends of Park County is very happy to see this new text which enunciates overall growth policy priorities:

In addition to identifying the assets of and challenges to the community, the public input process revealed several overarching themes that the citizens of Livingston were most passionate about. These themes can be found throughout the document in a variety of Goals, Objectives, and Strategies, but are summarized here to capture the broad policy themes that should be reflected in future City actions:

- Infill development and redevelopment of properties inside the city limits should be the primary objective of future policies. A significant effort should be made to maintain or shrink the number of acres encompassed inside the city limits.

- Housing is an immediate need in the community and actions to identify the gaps and create policies to spur new, appropriate, housing development is paramount.
- The preferred area for commercial development is the downtown district. While this is important, it also needs to be balanced with mixed use potential in local neighborhoods to allow for important services to be within walking distance or residents.
- Our natural habitats are critically important to the community with the Yellowstone River as the crown jewel of our natural resources.

CHAPTER 3 LAND USE

Page 18: This new comment on the Future Growth Map is an improvement of but see Friends of Park County’s subsequent comments about the map on page 26 and other policy and strategy statements that leave a confused impression. As noted below, we recommend deletion of any “Future Growth Map” at this stage, even though it could be useful, because how the improved policies would shape future growth must be left for a post-approval task:

Using the 2017 Future Growth Map as starting point, a new Future Growth Map was developed (Exhibit 3.4) to indicate the areas that are likely to see development pressure. These areas do not indicate the City wishes to expand through annexation, nor does it "pre-approve" future growth areas for annexation. Likewise, not being included in a future growth area does not preclude an area from being annexed. Annexation concerns should be addressed in the City's Annexation Policy and should reflect the community's desires in the future growth areas.

Page 20: Added text includes:

The City of Livingston is surrounded by substantial amounts of open space, as well. Undeveloped agricultural land and public lands comprise a majority of these open space areas. The City and the community share a desire to balance growth with preservation of these open spaces in order to protect the natural environment and important agricultural heritage.

Throughout the Growth Policy it would be helpful for the City recognize that agricultural land is not “undeveloped lands” awaiting development but is developed for a productive industrial use. The term “open space” as applied to agricultural land emphasizes its scenic value to city residents rather than recognizing its primary use for food (or other) production.

Page 21: Brownfield Sites

Livingston Memorial Hospital
 Holiday Station Store
 Payne Realty
 Teslow Grain Elevator (Figure 3.3)
 Mayors Landing
 Yellowstone Heritage Trail Association

There is also a Comprehensive Environmental Cleanup and Responsibility Act (CERCLA) facility predominantly located in Livingston. The Burlington Northern Livingston Shop Complex includes an active rail yard operated by Montana Rail Link (MRL), and active locomotive and rail car repair and maintenance shops. Prior activities on the site contaminated soil and groundwater, leading to Montana Department of Environmental Quality (DEQ) legal proceedings and consequential contaminant cleanup. Initial proceedings against BNSF Railway Company occurred in 1988, and cleanup continues to occur in 2020.

Underground storage tanks are also present. There are 131 sites in the Livingston area. Leaks in underground storage tanks pose human and environmental health risks.

Here are some questions raised by this section: What is the future of the railyards? Will the existing shop complex and railyard continue? Do any of the underground tank sites or other brownfield sites pose a risk to the Yellowstone River?

Map on Page 26: The map's title has changed but the map key/legend still labels the violet areas as "Planned Future Growth" which contradicts the revised text on page 18 and the general policy orientation on page 4. In addition, the area east of the Yellowstone is no longer addressed in this map because it is limited to the ETJ.

Friends of Park County recommends the deletion of this map and related references and to rely on the text to describe how future growth will be accommodated.

Comments and suggested revisions to Land Use Goals, Objectives and Strategies on pages 27-28.

The policies are better but the unresolved legend on the map and the mixture of references to growth both inside and outside the city limits still leaves a lot of room for doubt or flexibility about what will happen.

Goal 3.1: Within **City limits or within close proximity to close proximity to or within the** City limits, encourage growth that consumes less energy and encourages sustainability by taking advantage of existing and planned infrastructure, such as transportation, energy, water, and sewer facilities **prioritizing infill over expansion of the City limits.**

Suggested replacement:

Goal 3.1.: **Encourage compact contiguous growth, prioritizing infill.**

Friends of Park County endorses this new strategy:

Strategy 3.1.1.1: Encourage additional residential density within the downtown area of the City.

Strategy 3.1.1.4 needs revision because of awkward wording and the (probably unintentional) suggestion that any city growth can take place outside of city limits:

Strategy 3.1.1.4: Promote that any growth outside of City Limits maintains the compact, historic development patterns found in the historic city center.

Suggested revision:

Strategy 3.1.1.4: Promote that Any growth outside of the 2020 City Limits maintains the compact, historic development patterns found in the historic city center.

Friends of Park County endorses these two new strategies:

Strategy 3.1.1.5: Evaluate and amend the zoning and subdivision ordinances to prohibiting the development of large lot subdivisions inconsistent with Livingston's historic development pattern within the City or Extra-Territorial Jurisdiction (ETJ).

Strategy 3.1.1.6: Encourage residential developments to provide neighborhood commercial areas serving residents within walking distance.

The next strategy is vague:

Strategy 3.1.1.7: Evaluate, amend, and strengthen the City's Annexation Policy to ensure the Goals and Objectives of the Growth Policy are considered during the annexation process.

Friends of Park County suggests the following revision:

Strategy 3.1.1.7: Evaluate, Amend, and strengthen the City's Annexation Policy to ensure the Goals and Objectives of the Growth Policy are considered during implemented in the annexed areas as part of the annexation process and that any growth of the City outside the 2020 City Limits is made contingent on annexation to the City.

The next strategy, while phrased in a way that emphasizes compact development is linked to the Future Lane Use Map which friends recommends should be deleted:

Strategy 3.1.1.8: Reduce urban sprawl through compact development consistent with the Future Land Use Map (p.97-98).

Friends of Park County recommends deletion of Strategy 3.1.2.2 because it is premature in the absence of a land need and supply analysis it is not possible to now whether any, or how much land, or where that land might be in the ETJ. We recommend deleting this strategy and letting this issued be addressed by the other policies:

~~Strategy 3.1.2.2: Identify growth areas in the ETJ and encourage appropriate development in these areas through annexation and capital improvement policies.~~

Friends of Park County welcomes and supports this new strategy:

Strategy 3.1.2.3: Analyze undeveloped areas within City limits that are undesirable for development and consider de-annexation.

New strategy 3.1.2.4 is a start in addressing important uses to be conserved or protected in the ETJ - but it is very incomplete:

Strategy 3.1.2.4: Maintain existing agricultural uses within the ETJ.

Friends of Park County recommends this replacement language:

Strategy 3.1.2.4: In collaboration with Park County adopt policies and zoning for the ETJ that protect wildlife habitat areas, natural hazard areas, farming and ranch lands and existing low-density rural residential communities from additional development.

The language in Goal 3.2 clearly implies that city development can take place outside city limit, and not just the 2020 city limits:

Goal 3.2: Provide adequate land inside and outside the City limits for anticipated demands in a pattern which allows a mixture of uses.

We offer the following suggested revision:

Goal 3.2 Provide adequate land ~~inside and outside the City limits for~~ to meet anticipated **demands consistently with policies favoring infill and compact and contiguous growth** ~~in a pattern which allows a mixture of uses.~~

The current draft of Objective 3.2.1 is: Locate community facilities where they will best serve the needs of the community.

Friends of Park County proposes a new strategy related to that objective:

Strategy 3.2.1.3: Locate new community facilities outside areas prone to flooding or other natural hazards or where they would compromise natural features which are to be protected as community assets.

Objective 3.2.2: Properly revise the Zoning Ordinance to allow a mixture of differing but compatible land uses.

Friends of Park County supports the following changes to the strategies implementing Goal 3.3.

Goal 3.3: Conserve environmentally significant areas.

Objective 3.3.1: Identify areas that provide habitat for significant plant or wildlife species or make a significant contribution to environmental quality, as well as areas, sites, structures, or objects with historical, architectural, or cultural significance.

Strategy 3.3.1.1: Coordinate with ~~Park County Environmental Council~~ local environmental groups to create inventory of environmentally significant areas.

Strategy 3.3.1.2: ~~Coordinate with Park County GIS to create~~ Create map of environmentally significant areas.

Objective 3.3.2: Provide incentives for property owners who choose to maintain or improve the quality of environmentally significant areas or acquire an appropriate public interest in the property.

Strategy 3.3.2.1: Create a program that provides a residential density bonus for developments that preserve or improve the quality of environmentally significant areas identified through the inventory and mapping process of Strategy 5.1.1

Friends supports all of the following goals and all of the associated objectives and strategies, as slightly modified:

Goal 3.4: Encourage the responsible growth of Livingston by evaluating proposed developments against the ten principles of Smart Growth (listed on the next page).

Gal 3.5: Rehabilitate brownfields for new development.

CHAPTER 4 NATURAL RESOURCES

Goal 4.1: Develop an integrated, comprehensive City-wide Climate Action Plan to prepare the economy and general population for the future. Refer to the ~~2017 Montana Climate Assessment (MCA)~~ Montana Climate Solutions Plan (August 2020).

The following strategy is marked for deletion (page 38):

~~Strategy 4.1.3.3: Reduce urban sprawl through compact development consistent with the Future Land Use Map (p.97-98).~~

Suggested revised and retained strategy:

Strategy 4.1.3.3: Implement Growth Policies to prevent urban sprawl.

Goal 4.3 would be clarified by changing one word:

Goal 4.3 Promote and manage natural resources, open spaces, and wildlife.

Suggested revision:

Goal 4.3 ~~Promote~~ **Protect** and manage natural resources, open spaces, and wildlife.

CHAPTER 5 HOUSING

Page 43: The housing cost numbers in Table 5.3 Median Home Values have not been updated even though that would be easy to do.

The key and commendable strategy for the future, has been retained, unchanged:

Strategy 5.1.4.1: Conduct a housing needs assessment to determine the housing needs of Livingston and the feasibility of various methods to promote and/or require the construction of affordable housing units.

CHAPTER 6 ECONOMY

All of the following existing and new policies (in red) are commendable:

Objective 6.1.5: Explore options to enhance the downtown district and support downtown businesses.

Strategy 6.1.5.2: Develop a parking strategy and consider removing parking space minimums from downtown coding.

Strategy 6.1.5.3: Participate in any future process to update the Downtown Plan. Explore creating a downtown master plan focused on the Urban Renewal District.

Strategy 6.1.5.4: Explore mechanisms to strengthen and enhance the effectiveness of the Urban Renewal Agency to encourage redevelopment of underutilized properties in the downtown area.

Objective 6.1.6: Support initiatives that help local producers and manufacturers connect with and engage in markets beyond Montana.

Page 53: The following newly added strategy needs to be made revised to be fully consistent with the policy of protecting the natural features of the Yellowstone River:

Strategy 6.2.2.3: Maintain public access to the Yellowstone River and public lands within the City and ETJ, and support local efforts to maintain or expand public access to public lands.

Suggested revision:

Strategy 6.2.2.3: Maintain existing public access to the Yellowstone River and public lands within the City and ETJ, and support local efforts to maintain or expand public access to public lands, in locations and using designs that protect the natural qualities and resources of these lands.

CHAPTER 7 LOCAL SERVICES

Page 60, new text:

I. Funding of Local Services

The Montana State Constitution and Montana State Law are restrictive on the types of revenue streams that are made available to local municipalities. The absence of a state or local sales tax prevents the County and the City from financially benefitting from the tourists who visit the community. Additionally, the growth of the property tax mill level is restricted by state law to increase annually at a rate of one-half the average rate of inflation over the previous three years. The exception to this is newly taxable property. This means that redevelopment does not increase the tax revenue for the City no matter the increase in property values. Over the last ten years the overall property value in Livingston has increased by 169 percent while the taxable value in Livingston has only increased by 46 percent. The current tax structure results in large population increases in a municipality without associated newly taxable property causing a severe shortage of revenue to support the new population. Addressing the way this tax structure encourages expansion and discourages redevelopment is an important step in being able to maintain local services while realizing compact growth.

The issue of possible revenue constraints and the implications for the Growth Policy deserves a full public discussion, if not before the Planning Board, then the City Commission.

Friends of Park endorses the new objectives and strategies (reproduced below) calling for legislative reform, but of course we need to know how to proceed in the absence of success securing passage of any of those changes.

Goal 7.3: Pursue changes to State Law and local government that incentivize Smart Growth by providing necessary revenue streams without requiring expansion.
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Objective 7.3.1: Lobby the State Legislature for changes to Montana Tax Law that support Smart Growth by providing new revenue streams to municipalities.

Strategy 7.3.1.1: Lobby for legislation that allows a resort tax in Livingston.

Strategy 7.3.1.2: Lobby for legislation that allows a local sales tax (local option tax).

Strategy 7.3.1.3: Lobby for legislation that raises the cap on property tax mill levies.

Strategy 7.3.1.4: Lobby for local shares in the sales tax on recreational marijuana.

Objective 7.3.2 Enact local government changes to allow the most flexibility in establishing revenue streams.

Strategy 7.3.1.5: Adopt a charter form of government.

CHAPTER 9 PUBLIC FACILITIES

Page 77: The revised draft uses a 2.6% annual growth assumption to plan for sewage treatment facilities. That is 30% higher than the “high” growth rate of 2% year used in Table 2.1 on page 9. While the goal of avoiding inadequate capacity makes sense, Friends of Park County believes the public needs to have more information about what this implies for the scale of a new facilities and the tax increases it may require. The Growth Policy needs to be internally consistent in selecting growth rates for long-range planning.

Sections of the City’s existing collection system are at or near capacity: 75 percent pipe ~~depth~~ **capacity**. As the community grows and sanitary flows continue to increase, issues associated with capacity will worsen. Although the City of Livingston and Park County have experienced minimal population growth in recent years, the neighboring Gallatin County has seen a drastic population boom. The increase in residents in the City of Bozeman is likely to occur similarly within the City of Livingston. ~~The sewer collection preliminary engineering report anticipates As such, the City has approved~~ an annual growth rate of 2.6 percent ~~to use as a planning figure for increase in sanitary flows~~, resulting in a design average day flow of 1.44 MGD in 2040. This will nearly double the sanitary flows, not associated with I/I, over the next 20 years. Furthermore, the City is expecting large commercial growth along West Park Street. The anticipated increased flows are expected to exceed the design capacity of the Centennial lift station. ~~Worst case growth rates are used to ensure sewer capacity for the residents of the community.~~ Conservative growth estimates for sanitary flow could lead to catastrophic failure of the sewer collection system.

CHAPTER 11 LAND USE RECOMMENDATIONS

Page 92 Friends of Park County endorses one of the new recommendations that have been added to Section A “Subdivision Regulations”

A. Recommendations:

- Investigate updating subdivision regulations to consider lifetime cost to the taxpayer, tax revenue projections, greenhouse gas emissions, water use reduction, solid waste reduction, reuse of current resources, and coordination of project work to reduce disruption and waste. (general)

Friends of Park County has concerns about another new recommendation: Will the proposed flood study use the old or the new map, or both (as we recommend)?

- **Require a flood study if proposed development is to be located within a 100-year floodplain. (general)**

Page 96 Planned Unit Development Overlay Zone – new worthwhile recommendation added:

1. As a first step toward codifying a Planned Unit Development Overlay, investigate PUDs to consider lifetime cost to the taxpayer, tax revenue projections, greenhouse-gas emissions, water use reduction, solid waste reduction, reuse of current resources, and coordination of project work to reduce disruption and waste.

APPENDIX A EXTRA-TERRITORIAL JURISDICTION PLAN

Friends of Park County **strongly recommends** the deletion of Exhibit 2.7 Future Growth Areas Map (Appendix A, page 21) and Exhibit 2.8 Recommended Future Land Use Map (Appendix A, page 22) and the associated text..

Chapter 3, “Goals, objectives and Strategies for Growth”, in of Appendix A, on pages 40-44 (scrolling pages 178-182) reflects basic problems in the orientation toward the joint planning area, that its primary function and future is to accommodate various forms of future development. The Appendix does not seem to grasp the concept of planning for conservation and to avoid unnecessary peripheral development in the ETJ which is about nine times larger than the City of Livingston.

Friends of Park County’s position on this question is expressed in its proposed new Strategy 3.1.2.4 (previously offered): “In collaboration with Park County, adopt policies and zoning for the ETJ that protect wildlife habitat areas, natural hazard areas, farming and ranch lands and existing low-density rural residential communities from additional development.”

Because the revision of Appendix A would be a major undertaking by the Planning Board, Friends of Park County is recommending deleting Exhibits 2.7 and 2.8 and recommending the adoption of Appendix A and instead classifying it as an unfinished draft that is not part of the City’s Growth Policy.