

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.

Planning and Zoning for the Extraterritorial Jurisdiction & Future City Growth: Recommendations and Supporting Testimony to the Livingston Planning Board

January 20, 2021

1. Friends of Park County has consistently supported planning and zoning for the future of the ETJ. Nothing in Montana's Growth Policy law requires the Planning Board to adopt policies and zoning that authorizes a ring of sprawl around Livingston.

Page 2 of the staff memo includes this statement: "What the Growth Policy can and should do is provide a guide on how the City should regulate those areas [in the ETJ], as it is in the regulations that land use controls are implemented in Montana, not in the plan. Currently, the ETJ section of the Draft Growth Policy recommends that the City should pursue zoning in the ETJ and explore accompanying Subdivision Regulation updates to achieve the goals of the Growth Policy."

That is exactly what Friends of Park County has been advocating since it began testifying – the adoption of growth policies for the ETJ followed up by implementing zoning regulations.

The statement that Friends opposes planning and zoning for the ETJ is wrong. In fact, in her verbal testimony at the December 16, 2020 meeting, Jean Keffeler represented the position of Friends as follows:

"We strongly support having a growth policy for that (ETJ) area.... the City must have an adopted growth policy for the extra-territorial jurisdiction as the basis for regulating the development that happens there."

In addition to this verbal testimony, Friends also provided a written resolution for consideration by the Planning Board which detailed suggestions for how the draft Growth Policy could be changed in order to bring the draft into conformity with the overall themes we have recommended to guide to Growth Policy while allowing for the development of future zoning regulations for the ETJ.

Nothing in Montana Code Annotated 76-1-605(2)(a-b) or other parts of the Growth Policy statutes supports the proposition that the Planning Board is required, by law, to allow continuation of rural residential development, the expansion of commercial development or a massive expansion of industrial uses in the ETJ.

In fact, the Montana planning statute expressly gives the Planning Board the discretion to propose policy and implementing measures of its choosing for the ETJ, including these issues listed in Montana Code Annotated CA 76-1-601 (4)(c)(viii):

- (A) threatened or endangered wildlife and critical wildlife habitat and corridors;*
- (B) water available to agricultural water users and facilities;*
- (C) the ability of public facilities, including schools, to safely and efficiently service current residents and future growth;*
- (D) a local government's ability to provide adequate local services, including but not limited to emergency, fire, and police protection;*
- (E) the safety of people and property due to threats to public health and safety, including but not limited to wildfire, flooding, erosion, water pollution, hazardous wildlife interactions, and traffic hazards;*
- (F) natural resources, including but not limited to forest lands, mineral resources, sand and gravel resources, streams, rivers, lakes, wetlands, and ground water; and*
- (G) agricultural lands and agricultural production;*

This statutory list of matters the Planning Board may consider in recommending a Growth Policy includes many of the topics raised for your consideration by Friends of Park County and other people who have testified to you.

2. The Planning Board can find useful examples of effective compact growth/anti-rural sprawl plans, policies, zoning and other measures from cities in South Dakota, Kentucky, Michigan and elsewhere.

In other parts of the US, cities and towns and their surrounding counties and townships have voluntarily chosen to adopt growth policies, plans and zoning to focus development inside city limits and to prevent sprawl, including low-density residential development, outside those city limits.

These cities use a combination of growth plans and policies, zoning, infrastructure plans and incentives to achieve a traditional compact form of development and to stop sprawl outside the city limits. Here are three examples:

- Sioux Falls and surrounding Lincoln and Minnehaha Counties in South Dakota.
- Lexington and Fayette County, Kentucky.
- The Frankenmuth and surrounding Frankenmuth Township in central Michigan. (Frankenmuth has about 2/3rds the population of Livingston.)

The delineation between the developed area inside the city limits and the surrounding farmland is clearly visible in aerial views on Google Earth. (We have attached a Google Earth satellite image of Frankenmuth.) These examples (and others) may be of interest to the Planning Board.

3. Land in the ETJ should not be designated for substantial additional residential development, because no land outside the city limits is needed for residential development for 20 years. (See attachment.)

We applaud the proposed changes to “The “Future Growth Areas” map, Exhibit 3.4 and Exhibit 2.7 of the ETJ Plan (Appendix A) to indicate these are not areas planned for future city expansion.

However, the Future Land Use Map as modified, assumes and authorizes continued pattern residential development around the city, but outside the city limits.

Table 2.2: “Population Projections in the Extra-Territorial Jurisdiction and Combined Study Area” on page 6 of Appendix A assumes the continuation of past trends in rural residential development outside the city limits, in the ETJ. The proposed land use designations for the ETJ will accommodate this residential development.

But no additional land for residential development outside the city limits is needed.

A rough, conservative, estimate of residential land need, based on current types of housing, shows that even with a 2% annual growth rate, Livingston would need 408 acres of land for future residential development. Excluding the land inside the city limits along the Yellowstone River, big parcels in farm use and land with steep slopes, leaves 889 acres of vacant land. The basis for our estimates is attached as an appendix starting on page 6. The city’s Planning Department, contrary to the multiple requests of FPC, has never confirmed, modified or refuted these calculations.

Assuming residential uses (and associated streets) account for one-half of land in cities, this means these 889 acres are also sufficient to accommodate future commercial and industrial development and civic uses for decades to come.

A rigorous land need and supply analysis, using methods tested and used by various cities and regions should be undertaken before zoning regulations are adopted for the ETJ. Such an analysis could be completed after the 2021 Growth Policy is adopted so long as the new zoning regulations would be consistent with the policies you are now considering for the Growth Policy. We also recommend when that update occurs it should be integrated with consideration and adoption of a de-annexation strategy.

4. Friends of Park County opposes designating land in the ETJ as “Agriculture/ Very Low-Density Residential.” As far as can be determined from the draft Growth Policy and the staff memo, this designation will destroy valuable resource lands and enable the encirclement of Livingston by a ring of rural residential sprawl.

Page 2 of the January 13 Staff Memo states:

- The land use category of “Very Low Density Residential” has been changed to “Agriculture/ Very Low Density Residential” on the ETJ FLUM, Exhibit 2.8, to indicate that the intent is to protect and encourage agricultural uses in the ETJ.”

The staff memo provides no explanation of what the addition of “Agriculture/” to “Very Low Density Residential” means in terms of the substance of the designation and related zoning.

However, the draft Growth Policy defines the “Very Low Density Residential Use” designation. It “provides for the development of large lot single family dwellings and ancillary structures. The density range is “0 to 2 dwelling units per acre”. Draft Growth Policy page 101.

First, agriculture is not “protected and encouraged” by carving it up into ½ acre, 1 acre or 40 acre lots with houses on each of them. Real agriculture is a business that requires land without houses and of a size that allows for the cost-effective production of crops and livestock.

Second, the development of subdivisions and 1-acre ranchettes and the continuation of residential commercial sprawl development along Highway 89 in the ETJ will destroy farmland of statewide significance (shown on Exhibit 2.6: “Farmland in the Extra-Territorial Jurisdiction” Appendix A page 18) and important grazing land and wildlife habitat, create demand for city services by people living outside the city, and more and more septic sewage systems in the ETJ (mapped in Exhibit 2.1 “Septic Permits Issued in the Extra-Territorial Jurisdiction” on page 9 of Appendix A, reproduced on page 9 of this testimony). The proliferation of septic systems may lead to pollution of streams and ground water as happened in Teton County, (Jackson Hole) Wyoming.

Third, surrounding Livingston with a ring of low-density residential sprawl will destroy the character of the city, one of its greatest assets, which is featured as the cover photo on the draft Growth Policy.

Fourth, instead of regarding the lands in the ETJ as being destined for either future urban development or rural residential development, the Planning Board **should** consider genuine agricultural zoning for important statewide farmland and other farmland (mapped in Exhibit 2.6 “Farmland in the Extra-Territorial Jurisdiction” on page 18 of Appendix A) and as crop and pasture land in Exhibit 2.3 “2016 Land Cover Map” on page 14 of Appendix A.) Other places in Montana can provide examples of the kinds of agriculture zoning that may be appropriate for the ETJ. One example is the Milligan Canyon Zoning District in Jefferson County, Montana.

In addition, we recommend the following:

- Areas where septic sewage disposal systems and new wells are being concentrated shown in Exhibit 2.1 need to be studied to determine if they pose risks.
 - The pre-existing rural residential, commercial and industrial development south of the city, next to Highway 89, need to be studied and a plan for the future of these lands, including annexation to the city, should be developed and adopted. This work should be included as a future implementation activity in the Growth Policy.
5. **As the foregoing recommendations are being researched and developed, we encourage the Planning Board to recommend protective interim zoning for the ETJ to prevent the ETJ turning into a ring of rural sprawl around the city.**
 6. **Friends of Park County opposes designating an area in the ETJ almost as large as the entire city of Livingston, for unlimited future manufacturing uses; it should be redesignated to allow for the continuation of the existing sand and gravel operations.**

Page 19 of Appendix A includes this statement:

Commercial and industrial development in the ETJ will likely be concentrated to two clusters. Mixed-Use and Neighborhood Commercial land use is anticipated surrounding the I-90/US-89 Interchange South. A large manufacturing area is slated for south and southwest of the I-90/US-89 Interchange North.

Livingston is 5.7 square miles, according to Wikipedia (or “almost six square miles” as stated in the introductory portion of the draft Growth Policy.) The area which the revised Future Land Use Map on page 22 designates for “Manufacturing” in the ETJ west of the city is the Fisher Sand and Gravel operation. The land shown on the map appears to be a bit more than 5 square miles and includes segments of streams flowing into the Yellowstone River.

How big is a 5 square mile (3,200 acres) manufacturing area? About 6,000 Ford employees work at the 600-acre Ford Rouge vehicle assembly Center, which is the Ford Motor Company’s largest single industrial complex. The proposed “Manufacturing” designation site is five times bigger than the site for Ford’s biggest manufacturing complex.

And consider the potential impact of 5 square miles of industrial use on the tributaries to the Yellowstone River.

The Future Land Use Map should allow for the continuation of the existing business by designating that area for “Sand and Gravel Processing, Stockpiling and Sales.”

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A Rough Estimate of Residential Land Need & Supply for the City of Livingston

November 2020

Introduction

After reviewing the maps of “Future Growth” areas outside Livingston’s city limits shown in the Future Growth Area and Future Land Uses in the September 2020 Livingston Growth Policy, Friends of Park County (FPC) wanted to determine whether any additional land was needed outside the city limits.

Because residential land development is the largest single use of land in Livingston (like most cities) FPC focused on the question of whether there was enough land to meet future demand for residential development. That requires both an estimate of residential land need and residential land supply.

FPC did not have the time, resources or need to do the kind of sophisticated analysis which should be part of the City’s regular planning and plan evaluation process.

Instead, it asked its consultants for a simple “back of the envelope” calculation to inform its analysis and as the basis for its testimony. That calculation is presented here.

Residential Land Need Estimate

This rough residential land need estimate required answers to three questions:

- How much population growth and therefore housing growth will occur in a specified time?
- What types of housing is needed to provide housing for the additional residents?
- How much land is required as sites for that kinds of housing?

This estimate assumes there would be no infill housing on lots that already have housing or housing from redevelopment. This assumption simplified the calculations but is very conservative.

The estimate was based on a 50% increase in population. At the 2% annual growth rate assumed in the revised draft Growth Policy, that would require take about 20 years to realize, taking into account compounding.

The second assumption is that the 50% increase in housing would take the form of a 50% increase in the existing types of housing.

The Draft Growth Policy includes “Table 5.1 Housing Unit by Type” on page 39, derived from US Census data (American Community Survey) describing the city’s housing stock:

Type	Livingston	
	Number	Percent
1 Unit (Attached or Detached)	2,838	74.7%
2-9 units	510	13.5%
10-19 units	105	2.8%
20+ Units	183	4.8%
Mobile Homes	161	4.2%
Boat, RV, Van	0	0%

Source: U.S. Census Bureau American Community Survey 2014 - 2018

For the estimate, the number of units in each of these housing types were increased by 50%, reflecting the 50% increase in population, to get the number of units, by type, as you can see in this table:

2014-18 ACS Draft LGP Table 5.1: Housing Unit by Type			Add 50% units
	# Units	%	
SF Attached & Detached	2838	74.7%	1419
MF 2 - 9 units	510	13.5%	255
10-19 units	105	2.8%	53
20+ units	183	4.8%	92
Mobile Homes	161	4.2%	81

The last step was to estimate how much land was required for each housing type.

By using Google Earth it is possible to determine the lot sizes for several of the different types of housing already in Livingston that correspond to that housing type. In the case of single family detached and attached the calculation assumed that 1/3 of the new single-family homes would be

on 10,000 square foot lots (a bit less than a quarter-acre), another third would be on 7,500 square foot lots and the remainder on 6,000 square foot lots.

The same kind of allocation of the types of multifamily housing units was carried out, from duplexes to the highest density represented by the Ebert Apartments on West Callendar, 38 units on 1/2 acre (76 apartments per acre.)

As a final adjustment, an additional 25% is added to the acreage totals, to represent streets, parks and other improvements that would be built in conjunction with the new housing.

Here is the summary:

Type of Housing Unit	# units	% total	Acres
Single family home on 10,000 square foot lot (about ¼ acre)	473	25%	136
Single family home on 7,500 square foot lot	473	25%	102
Single family home on 6,000 square foot lot	237	12.5%	41
Single family home on 3,500 square foot lot	237	12.5%	24
Multifamily 2-9 units: 4 plexes (on 10,000 sq ft lots)	128	6.25%	37
Multifamily 2-9 units: 6 plexes (on 10,000 sq ft lots)	128	6.25%	37
Multifamily 10 – 19 units: Garden Court apartments	53	2.8%	37
Multifamily 20+ units (e.g. Ebert Apartments on W Callendar)	92	4.8%	1.5
Mobile Homes on 3,500 square foot pads/lots	81	4.2%	81
Totals (with rounding removed)	1,899	100%	408.4

Land Supply

The on-line Montana State cadastral survey system and Montana State Geographic Information Clearinghouse were data sources on parcels.

The process used was to:

- select Park County parcel data from cadastral system
- select Livingston parcels from Park County parcels
- select PropType = "vacant land - urban" from Livingston parcels
- export resulting attribute to Excel table
- sum "Total Acres" to get total area of vacant parcels in Livingston

From this total, the following "vacant land - urban" parcels were deleted from the supply total:

- in Yellowstone River floodplain
- have some steep slopes (deleted entire parcel even if some of the parcel is developable)
- several large, largely vacant and developable parcels with a "PropType" of "farmstead - urban" (aerial photos show this property includes irrigated cropland)
- 132-acre North Town subdivision, already approved for 400 homes (another conservative assumption – this would reduce the land need to 293 acres)

After these lands were removed that left 883 acres of vacant developable land, more than enough both for the 408 acres of needed residential land plus 475 acres for commercial, industrial and public uses, again, assuming absolutely no redevelopment.

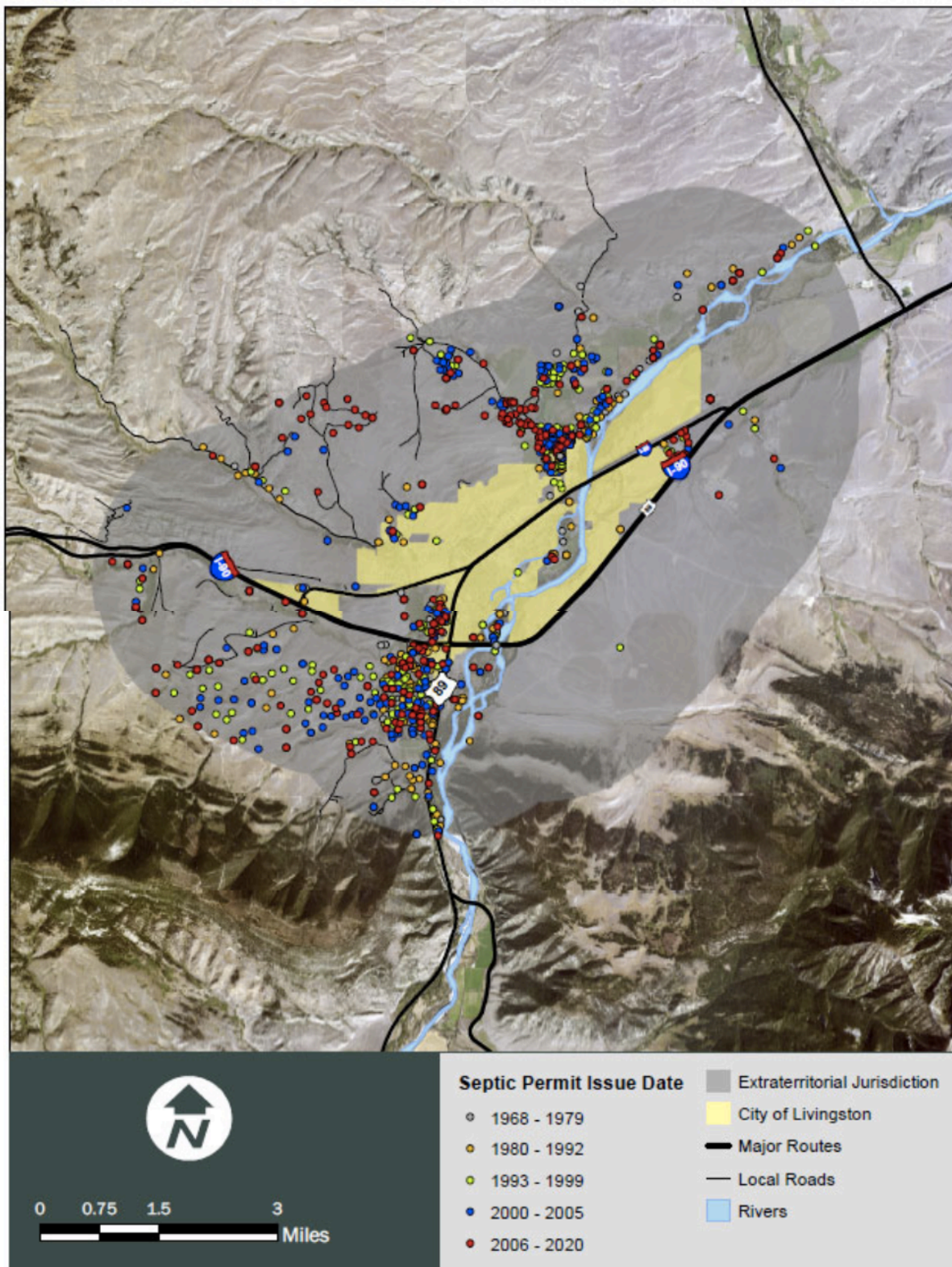
Conclusion

Livingston has more than enough land already in its city limits to meet its housing needs for decades; there is no need to plan for development outside the city limits.

To the contrary, it should consider de-annexation of these surplus lands.

In its testimony to the Livingston Planning Board Friends of Park County has recommended that the city undertake a professional sophisticated analysis of residential (and other land use) needs and supply incorporating future changes in residential zoning, which are recommended in the Draft Growth Policy. Land consumption should be monitored and the land need and supply be periodically re-evaluated, on the five-year Growth Policy implementation update cycle in the Montana planning statutes (MCA 76-1-601 (3)(f)(iii).)

Exhibit 2.1: Septic Permits Issued in the Extra-Territorial Jurisdiction



Frankenmuth and Frankenmuth Township, Michigan

Google Earth Image May 16, 2018

Frankenmuth had a population of 5,274 in 2019 compared to 7,575 in Livingston.

