

# *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

Transmitted January 29, 2021 for the February 3, 2021 Meeting

- 1. The Planning Board should eliminate the “Very Low Density Residential” future land use designation from the “Recommended Future Land Use Map” for the ETJ because it would authorize almost 26,000 new homes on ½ acre lots around Livingston, enough housing for 59,000 people.**

The draft Growth Policy defines the “Very Low Density Residential Use” (VLDR) land use designation as “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 pages 95, 101.

We believe the VLDR designation was carried forward as part of the Burton draft of the Growth Policy without any prior discussion and therefore does not necessarily reflect the policy preferences of the city staff or the Planning Board.

Randy Carpenter of Future West estimated how many homes would be authorized by the VLDR by determining the total acreage designated VLDR then eliminating public lands, already-developed lands, and areas with steep slopes. Those areas are in red in the map in Appendix A which also includes a spreadsheet with his calculations.

There are 14,247 acres designated VLDR, that are not developed, not public lands and not on steep slopes. That is enough for 12,822 homes and 29,491 residents at 1 home per acre or 25,645 homes and 58,983 residents, at 2 homes per acre

The staff and Planning Board need to remove the VLDR designation from any part of the map of future land uses in the ETJ (including existing rural residential areas) and from any legends or text in Appendix A so that it cannot become the basis for any future zoning.

Note: The addition of “Agriculture” to the VLDR land use designation:

The January 13, 2021 staff memo stated:

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

The January memo did not explain what the addition of “Agriculture/” to “Very Low Density Residential” meant in terms of the substance of the designation and related zoning. But clearly, 1 and ½ acre lots displace, not protect and encourage” farming or ranching. Agriculture and residential uses are incompatible and competing so they should not be merged or the distinction blurred in land use designations.

**2. Friends of Park County recommends replacing the undefined “Manufacturing” land use designation for the 5 square mile area in the ETJ east of the city with a new designation: “Gravel Mining, Processing and Storage.”**

As we testified in January, 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.*

As noted previously, 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 seems to be a bit more than 5 square miles and includes a segment of a creek that flows into the Yellowstone River.

How big is a 5 square mile (3,200 acres) “manufacturing” site? 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 for the ETJ site is five times bigger than the site for Ford’s biggest manufacturing complex.

The current use of the site for gravel mining, rock crushing and gravel storage does not easily fit into a definition of “manufacturing,” since it is extracting processing of a raw material rather than creating a finished good. The site is also used for the storage of telephone poles.

In fact, the definitions in Chapter 11 of the Growth Policy for the designations in the Future Land Use Maps does not include “manufacturing” at all. Draft Growth Policy pages 94-95.

The Growth Policy’s land use designations are meant to be broader than zoning. But even so they are not completely open-ended. For example, the VLDR land use designation is quite specific, 1 or 2 homes per acre. It does not use an open-ended designation of “residential” which could be the basis for everything from a subdivision to a student dormitory to a 20-story condo tower.

A continuation of existing manufacturing uses on a portion of the site may be fair and appropriate, and it should have a land use designation that fits it: “Gravel Mining, Processing and Storage.”

**3. The ETJ needs to be studied, planned and designated for rural land uses and resources, including agriculture, wildlife and water, and to avoid damage to resources, property and people.**

Lands in the ETJ should not be designated for either future urban development or future rural residential development.

Except for those areas of existing commercial and residential development the ETJ should be studied, planned and be assigned land designations that protect rural industries and resources, like farming, ranching, wildlife and water and which keep people and property out of harm's way.

(a) The staff and Planning should define and apply an "Agriculture" land use designation for much of the land in the ETJ.

The Planning Board needs to define and apply an "Agriculture" land use designation as the basis for future 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 pastureland in Exhibit 2.3, "2016 Land Cover Map" on page 14 of Appendix A.)

Other counties in Montana provide examples of the kinds of agriculture zoning that would be appropriate under an "agriculture" land use designation in the ETJ.

An example is the Milligan Canyon/Boulder Zoning District Regulation. This is the large citizen initiated zoning district created to protect agricultural operations in Jefferson County, Montana.

Another example is the proposed citizen-initiated zoning for the Boulder and Mission Creek drainages in Park County. That zoning had the support of residents and landowners but was blocked by litigation based on technicalities.

(b) The staff and Planning Board should identify fish, wildlife and other natural resources and protect them in the ETJ with appropriate land use designations.

Wildlife habitat and migration patterns need to be considered in making recommendations of future land use designations.

The planning staff will find very useful information about wildlife around Livingston in the Montana Natural Heritage Program appendix report to the September 2019 Preliminary Engineering Report on the Livingston Wastewater Collection System. The appendix notes:

*Within the report area you have requested, separate summaries are provided for: (1) Species Occurrences (SO) for plant and animal Species of Concern, Special Status Species (SSS), Important Animal Habitat (IAH) and some Potential Plant Species of Concern; (2) other observed non Species of Concern or Species of Concern without suitable documentation to create Species Occurrence polygons; and (3) other non-documented species that are potentially present based on their range, predicted suitable habitat model output, or presence of associated habitats.*

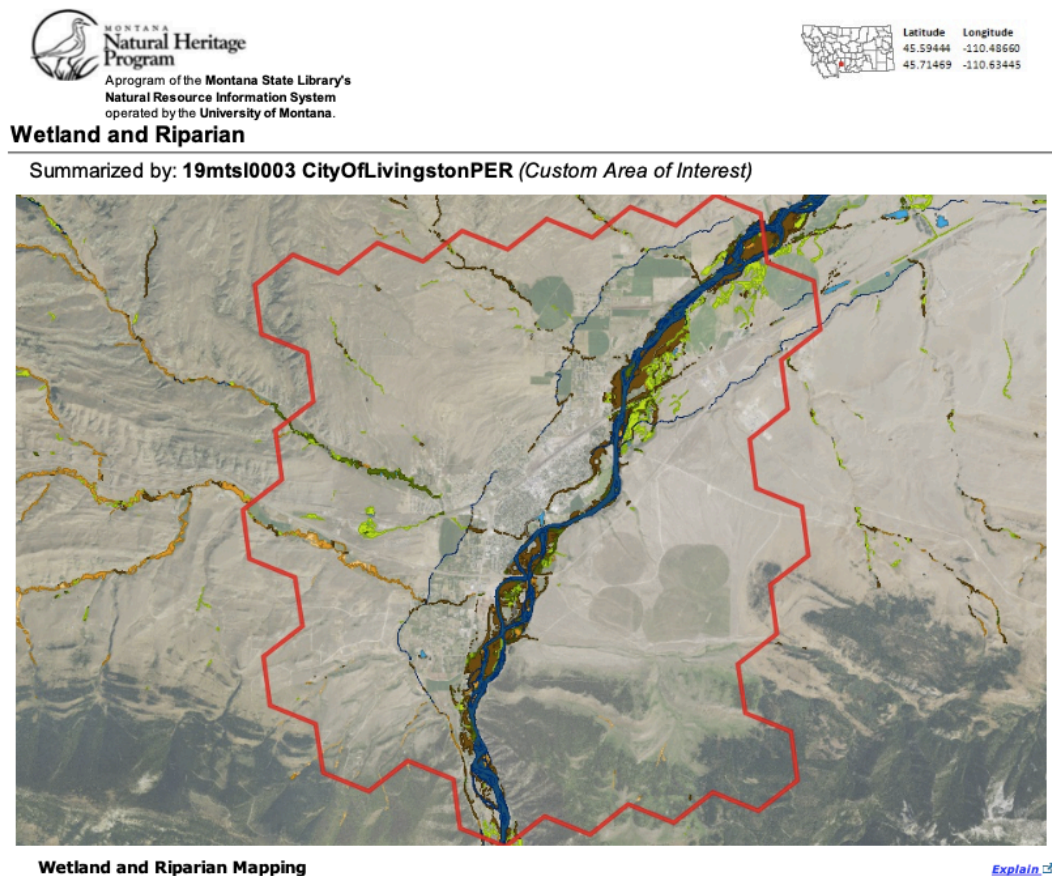
The report includes a useful list of experts to consult for information about ecosystems, fish and terrestrial wildlife.

(c) The staff and Planning Board should define and apply land use designations that protect the Yellowstone River and wetlands in the ETJ

Much of the land inside the ETJ (and in the city limits) next to the Yellowstone River has a future land use designation of “Natural Area.” The draft Growth Policy states (page 95) “Land designated as natural area/open space is intended to remain undeveloped in the future. “

Friends of Park County supports this designation for the areas shown on the Future Land Use Map. However, some areas near the Yellowstone and other wetlands which probably should have a “Natural Area” land use designation do not.

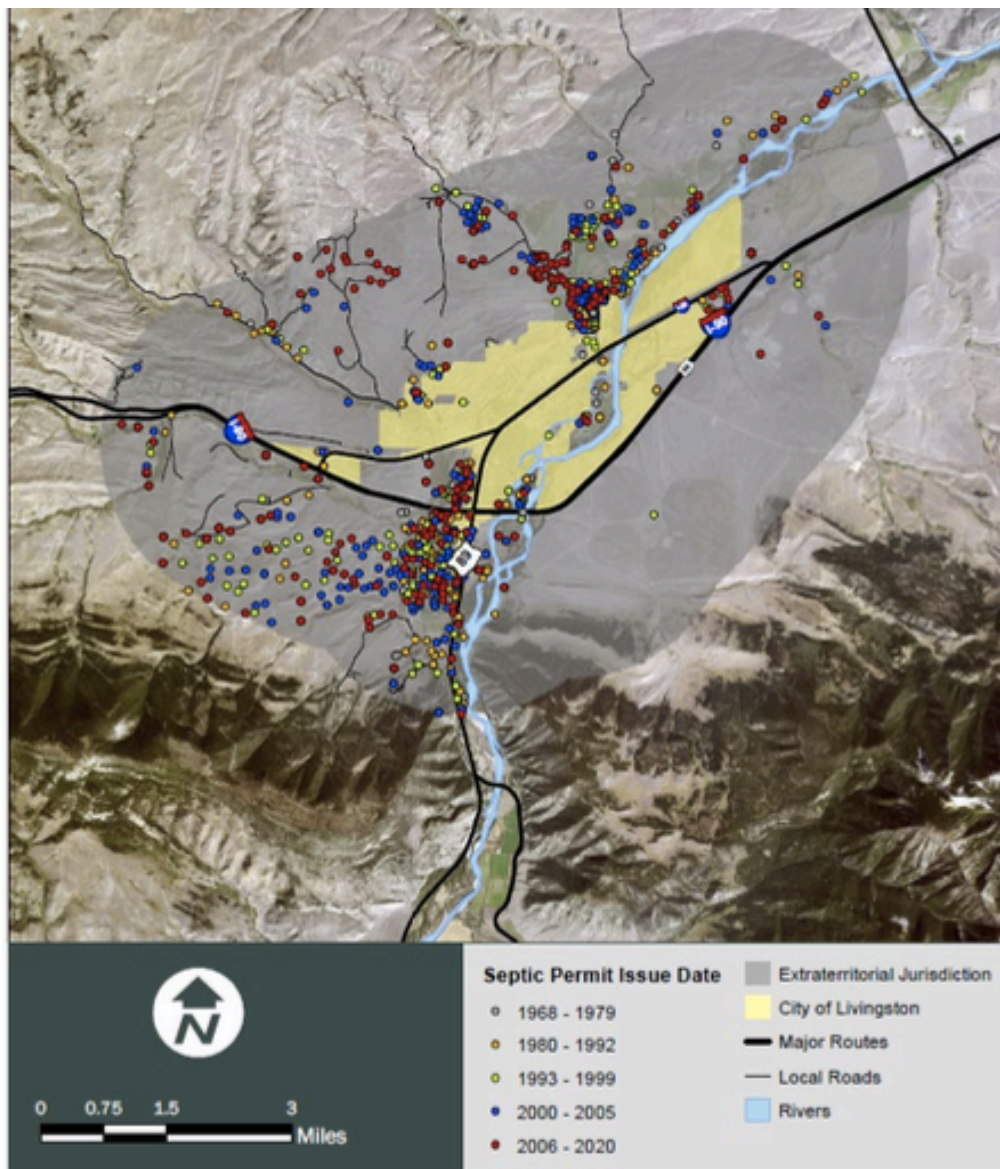
Detailed information on the roughly 1,500 acres of various types of wetlands and flood areas around Livingston is provided in the appendix to the Livingston in the Montana Natural Heritage Program appendix report to the September 2019 Preliminary Engineering Report” on the Livingston Wastewater Collection System. The area mapped for that study on page 21 of the appendix, shown below, has substantial overlap with the ETJ.



(d) Use “Hazard Area” land use designations to keep people and property out of the path of floods, wildfires and other natural hazards.

(e) Adopt Future Land Use Designations (implemented that prevent water pollution and water depletion in the ETJ

The proliferation septic sewage systems in the ETJ is mapped in Exhibit 2.1 “Septic Permits Issued in the Extra-Territorial Jurisdiction” on page 9 of Appendix A, which is reproduced here:





A typical home generates about 70 gallons of wastewater per person, per day. In Park County, there are an average of 2.07 residents per household. That means each new household will generate about 5,900 gallons of wastewater a year.

Should we be concerned about what happens to the hundreds of thousands of gallons of sewage going into septic systems in the ETJ?

We only need to look to Teton County, Wyoming for what happens when rural development goes unchecked:

*The 3,600 or so unregulated septic systems, those Teton County homes not connected to modern sewage treatment, are a major source of pollution.*

*The Wyoming Department of Environmental Quality has designated Fish Creek and Flat Creek, our two primary surface water tributaries, as impaired waterways due to fecal bacteria and contaminated runoff. The Teton County Health Department has posted signs warning people to avoid contact with the water.*

*In Hoback, drinking water is badly polluted, with nitrates exceeding the EPA's maximum contaminant level of 10 milligrams per liter, a level that can cause harm to the young, the old and maybe everyone else.*

Source: Jackson Hole News & Guide, editorial [“Pollution is creeping into Teton County waters, we need to act now”](#) September 23, 2020

Presumably most new homes in the ETJ will use wells as their water source.

In the last ten years, 605 new domestic wells have been approved in Park County.

Domestic well water consumption is about 76 gallons per day per person in Montana according to data from the Montana Department of Environmental Quality.

Those 605 new wells are using about an additional 95,000 gallons per day and almost 35 million gallons of water per year, in addition to the all the wells already in use.

Should we be concerned about the risk of water depletion? We cannot answer that question in the absence of a review of existing research or conducting new research. But we do know that the Planning Department and the Planning Board has a role in preventing that outcome.

The Montana Department of Natural Resources describes the role of local government commissions and planning boards as directing “local water management through shaping and administering county growth policies, subdivision regulations and other land use/protection measures.”

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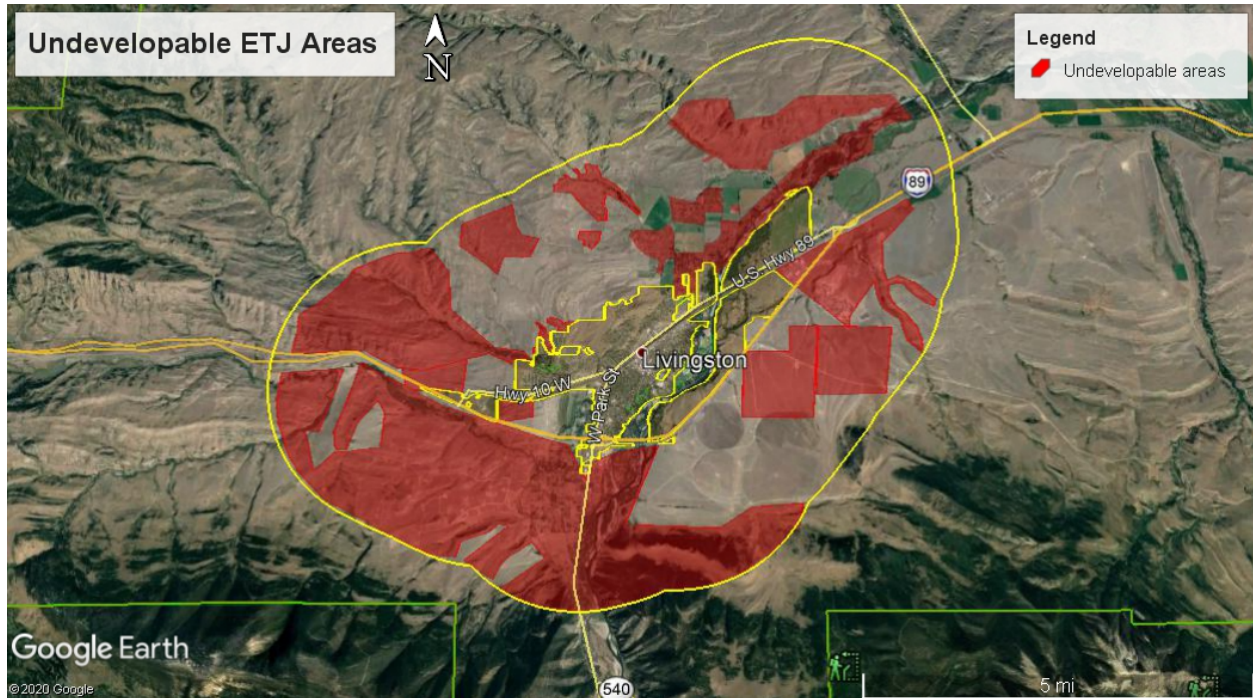
Appendix B is an illustration of what a Recommended Future Land Use Map based on these recommendations might look like. This is just an illustration - not a proposal.

- 4. The Livingston Planning Board should collaborate with the Park County Planning Board to adopt protective interim land use designations and zoning until additional planning is completed and final land use designations are made for the ETJ.**

The City and County Planning Boards should designate a joint planning board and give it, as its first assignment, developing a recommendation for protective interim land use designations to be implemented by related zoning for the ETJ, to prevent the ETJ turning into a ring of rural sprawl around the city.

# APPENDIX A

## VLDR Development Potential Calculations



ETJ Undevelopable Areas		Acres
	1	389
	2	2,562
	3	276
	4	1,951
	5	81
	6	6,958
	7	1,114
	8	38
	9	721
	10	640
	11	185
	12	2
	13	1
Total		14,918













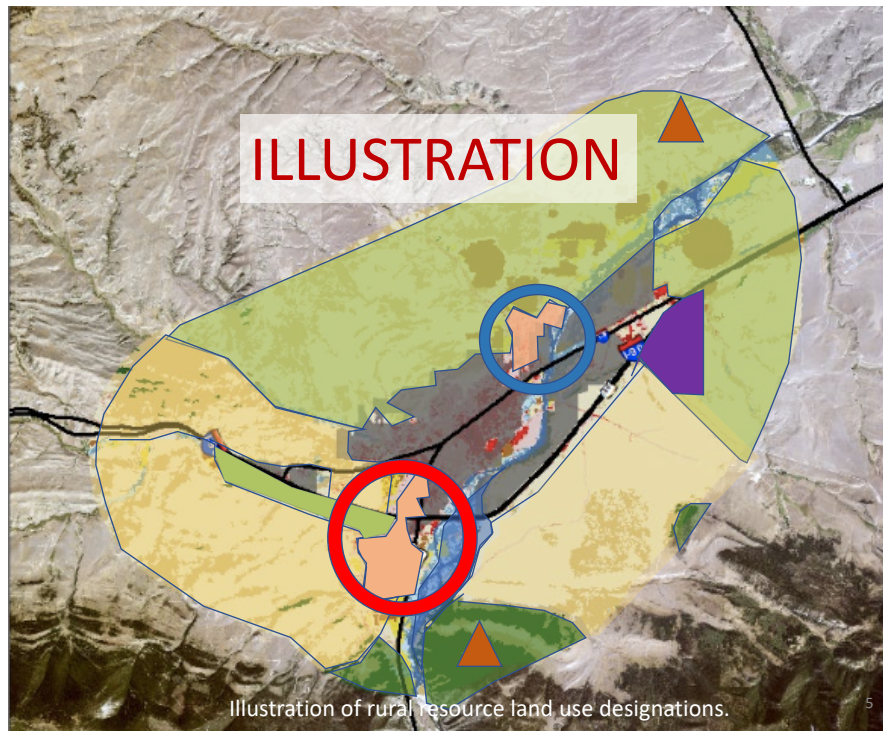
## APPENDIX B

### Friends of Park County Illustration of Rural Resource Land Use Designation Map

*February 2021*

#### Illustrative ETJ Land Use Designations

-  Agriculture
-  Grazing/wildlife
-  Forest use
-  Floodplain/wetlands
-  Rural residential & commercial
-  Gravel mining, processing & storage
-  Natural hazard area
-  Hypothetical septic capacity study area
-  Hypothetical groundwater supply study area
-  City of Livingston



The map is an illustration of what a map of recommended future land uses in the Extraterritorial Jurisdiction might look like if it was based on protecting and maintaining rural land uses and resources. It is based on Exhibits 2.1, "Septic Permits Issued in the Extra-Territorial Jurisdiction," Exhibit 2.2 "Elevation Change in the Extra-Territorial Jurisdiction," Exhibit 2.3 "Land Cover Map", Exhibit 2.6 "Farmland in the Extra-Territorial Jurisdiction," Exhibit 2.8 "Recommended Future Land Use Map" in of the Draft Livingston Growth Policy Appendix A.