

-DRAFT-

Park County Conflict Mitigation Zoning District Abstract, District and Regulations

November 21, 2019

Statement of Purpose:

The draft Park County Conflict Mitigation Zoning District and Regulations aim to resolve ongoing and future land-use conflicts stemming from conflicting land use and development, and the potential negative impacts associated with these land uses. Park County is authorized to address land use issues through the use of county zoning, under Section 76-2-201, MCA. The draft District and Regulations do not explicitly prohibit any land use in Park County, but rather, recognize the importance of mitigating negative impacts associated with conflicting land use/development types. The draft District and Regulations creates a public process by which local officials will take a more active role in addressing land use conflicts, and which provides a formal mechanism for area residents to bring forth concerns regarding conflicting land use and development proposals.

Background Information/Methodology:

The Park County Commission updated, and adopted the current Park County Growth Policy on April 20, 2017, effective on May 1, 2017. The Planning and Development Board subsequently discussed how best to proceed with implementation of the goals and objectives outlined in the Growth Policy. The Planning and Development Board discussed prioritization of the Growth Policy goals during their August, 2017 regular meeting, during which, the Board recommended to the Park County Commission, the prioritization of Goal 16 [Take an active

role in land use development process]. The Park County Commission considered the formal recommendation by the Planning and Development Board and unanimously agreed to prioritize the objectives outlined under Goal 16 of the Growth Policy.

Following the determination by the Commission, the Planning and Development Board requested the Planning Department compile a list of land use “tools” available to Park County and authorized under Montana State Statute. The Planning Department presented this information in December of 2017, (and again in September of 2019). The “Park County Land Use Tools – Existing and Potential” report outlined all available land use tools and processes, both currently utilized, and those not currently utilized by Park County. In January of 2018, the Planning and Development Board included a “Discussion and Prioritization of Land Use Goals and Issues (Growth Policy Goal 16) in their meeting agenda. During the discussion, the Board prioritized areas of concern. This discussion led to the effort to create the US HWY 89 South – East River Road – Old Yellowstone Trail Zoning District and Regulations (approved in January 2019); the Park County Community Decay and Litter Ordinance (currently in review process and not officially adopted).

During the June 2019 Regular meeting of the Planning and Development Board, the Board discussed Goal 16 of the Growth Policy and determined to create a subcommittee for the purpose of providing a recommendation to the Board as to how best to proceed under Goal 16 of the Growth Policy. During the July 2019 Planning and Development Board regular meeting, the subcommittee reported back to the Board and recommended focusing on land use conflicts in order to further achieve the overall objectives outlined in Goal 16 of the Growth Policy, and specifically Goal 16.3 [Develop tools that will allow the County to respond to and address evolving land use issues]. During the August 2019 Planning and Development Board meeting, the Board discussed impacts associated with incompatible land uses in Park County, and asked the Planning Department to create a draft “tool” in the form of a zoning district with the goal of addressing ongoing land use conflicts in Park County.

The Planning Department created the draft Park County Conflict Mitigation Zoning District and Regulations for consideration by the Planning and Development Board during their November 21, 2019 regular meeting.

Impact to County Resources:

The proposed draft Park County Mitigation Zoning District and Regulations would fall under the purview of the Park County Planning Department for administration and enforcement. Given the current status of the draft, the Planning Department does not anticipate the immediate need for additional resources (staff) to administer and enforce the proposed regulations. Currently for calendar year 2019, 128 septic permits have been approved by the Park County Health Department. The majority (roughly 90%) were for residential septic

systems, which under the current draft District Regulations, would not require a permit or review by the Planning Department. The additional 10% of septic permits (mostly commercial in nature), would require review and approval of a Conditional Use Permit under the proposed draft District Regulations, and would most likely be administered given current staffing levels. Changes made to the permitting process or requirements contained in the proposed draft District Regulations may increase capacity needs moving forward, and any final consideration by the Planning and Development Board or Park County Commission will be analyzed for capacity given current staffing levels, and any additional resources will be presented to the Board and County Commission as part of the final discussion and consideration.

Process of Creating the Draft Park County Conflict Mitigation Zoning District and Regulations.

Formal Process:

Authority to create county zoning falls under Section 76-2-201, MCA, which requires a governing body to follow the formal process of [adopting regulations and boundaries] under Section 76-2-205, MCA. The Planning and Development Board may recommend the Park County Commission begin the formal process of creating the draft Park County Conflict Mitigation Zoning District. If the Board of County Commissioners discusses and approves a recommendation made by the Planning and Development Board to formally create the proposed District and Regulations, then the following process will be required, at a minimum:

Title 75 [Land Resources and Use] Chapter 2 [Planning and Zoning] Part 2 [County Zoning]

76-2-205. Procedure for adoption of regulations and boundaries. *The board of county commissioners shall observe the following procedures in the establishment or revision of boundaries for zoning districts and in the adoption or amendment of zoning regulations:*

(1) Notice of a public hearing on the proposed zoning district boundaries and of regulations for the zoning district must:

(a) state:

(i) the boundaries of the proposed district;

(ii) the general character of the proposed zoning regulations;

(iii) the time and place of the public hearing;

(iv) that the proposed zoning regulations are on file for public inspection at the office of the county clerk and recorder;

(b) be posted not less than 45 days before the public hearing in at least five public places, including but not limited to public buildings and adjacent to public rights-of-way, within the proposed district; and

(c) be published once a week for 2 weeks in a newspaper of general circulation within the county.

(2) At the public hearing, the board of county commissioners shall give the public an opportunity to be heard regarding the proposed zoning district and regulations.

(3) After the public hearing, the board of county commissioners shall review the proposals of the planning board and shall make any revisions or amendments that it determines to be proper.

(4) The board of county commissioners may pass a resolution of intention to create a zoning district and to adopt zoning regulations for the district.

(5) The board of county commissioners shall publish notice of passage of the resolution of intention once a week for 2 weeks in a newspaper of general circulation within the county. The notice must state:

(a) the boundaries of the proposed district;

(b) the general character of the proposed zoning regulations;

(c) that the proposed zoning regulations are on file for public inspection at the office of the county clerk and recorder;

(d) that for 30 days after first publication of this notice, the board of county commissioners will receive written protests to the creation of the zoning district or to the zoning regulations from persons owning real property within the district whose names appear on the last-completed assessment roll of the county.

*(6) Within 30 days after the expiration of the protest period, the board of county commissioners may in its discretion adopt the resolution creating the zoning district or establishing the zoning regulations for the district. However, if 40% of the real property owners within the district whose names appear on the last-completed assessment roll or if real property owners representing 50% of the titled property ownership whose property is taxed for agricultural purposes under **15-7-202** or whose property is taxed as forest land under Title 15, chapter 44, part 1, have protested the establishment of the district or adoption of the regulations, the board of county commissioners may not adopt the resolution and a further zoning resolution may not be proposed for the district for a period of 1 year.*

Informal Process:

The Planning and Development Board may determine to undergo an informal process in order to engage citizens and determine if a formal recommendation should be made to the Park County Commission regarding the draft District and Regulations. This process may include, but is not limited to; public education; public outreach; work sessions; modifying the proposed draft District and Regulations based upon public comments; requested feedback from area stakeholders; etc. Informal processes of this nature are not outlined by any formal state statute, with the exception of open meeting laws and the public's right to know, which would apply to any process conducted by the Planning and Development Board and/or the Park County Commission. The Planning and Development Board, if considering development of an informal process, should discuss options for moving forward during a regularly scheduled meeting.