

**GALLIK, BREMER & MOLLOY, P.C.**

Attorneys at Law  
777 East Main Street, Suite 203  
Post Office Box 70  
Bozeman, Montana 59771-0070

January 21, 2021

Gallatin County Planning and Zoning Commission  
c/o Gallatin County Planning Department  
311 West Main Street  
Room 108  
Bozeman, MT 59715

BY HAND DELIVERY AND EMAIL

RE: Request for Information and Additional Time on Behalf of Springhill Planning District Property Owners' Alliance, Inc.

Honorable Gallatin County Commissioners and Planning and Zoning Commission Members:

This firm represents the Springhill Planning District Property Owners' Alliance, Inc. ("Springhill Alliance"). Springhill Alliance members comprise 41 of the 61 real property owners in the Springhill Zoning District. We are in receipt of Planning Director Sean O'Callaghan's letter of January 6, 2021, and appreciate the attempt to address some of the concerns conveyed by the Springhill Alliance in their letter of October 30, 2020. As you are aware, that letter articulated the group's opposition to the County's adoption of the Gallatin County Part 1 Zoning Administrative Regulation for the Springhill Planning and Zoning District, Gallatin County, Montana. However, the January 6, 2021 letter did not address their concerns and questions remain. In an effort to address those, we request a thorough and complete redline showing the actual changes being made – the deletions and additions – to allow those owners to be sufficiently informed as to the amendments proposed, and to share this information with other real property owners in the Springhill Zoning District. We also request that the February 11, 2021 public hearing on the adoption of the Gallatin County Part 1 Zoning Administrative Regulation for the Springhill Planning and Zoning District be continued to a date certain to allow the Springhill Alliance and other real property owners in the Springhill Community the opportunity to review the thorough and complete redline requested.

**Request for Redline**

The Staff Report dated March 12, 2020 contains a partial redline at Exhibit B with the following note.

(note: deletions to text shown as ~~strikethrough~~, additions to text shown as underline.)

This is not fully accurate in that the redline does not show the entirety of the text being deleted from the Springhill Regulation in all Sections, nor the language proposed to be added. See, for example Section

2, Intent, which merely states that it is replaced by Section 3, Administrative Regulation, and does not show the text being deleted from the Springhill Ordinance. This is true for Sections 5 and 6, and for Sections 12 through 22. Section 4 as presented in the Exhibit B redline is incomplete as only the deleted definitions are reflected and it appears at least one definition is being revised, which is not shown in that redline, as further discussed below.

As with previous zoning amendments proposed by Planning, the Gallatin Canyon/Big Sky Zoning Regulations being the last I was involved with, a complete redline is usually provided by the Planning Department to the public and interested parties. A complete redline is provided, I understand, so parties can see the actual changes with the original text of district's regulations in order to understand the scope of the amendments proposed and how they may be impacted by those changes. This allows them to meaningfully participate in the public meetings related to the proposed amendments. It is also a more efficient process for the public to accurately see the changes being proposed. The Gallatin Canyon/Big Sky Zoning Regulations example is just such a redline, as evident in the document entitled ZoningUpdateMarkup (March 2020).pdf, on file and of record in the Planning Department, which I and other interested parties received at the time those amendments were proposed. It is a 163 page document, so I did not attach it for reference, but encourage you to request a copy and review the scope of that redline. The Gallatin Canyon/Big Sky Zoning Regulations were undergoing a comprehensive amendment process, so changes in addition to those related to the Part 1 Zoning Administrative Regulations are shown in redline. The important point is that Part 1 Zoning Administrative Regulations were completely shown in the multiple redlines provided to real property owners and interested parties. There is no defensible reason why the Springhill real property owners should be treated differently than real property owners in Big Sky.

In another example of this unequal treatment, when the amendments to Gallatin Canyon/Big Sky Zoning Regulations were being proposed, considerable outreach and participation was afforded to those real property owners and interested parties. The Gallatin Canyon/Big Sky Zoning Regulation, like the Springhill Zoning Ordinance, was enacted under the Part 1 zoning statutes. There is no defensible reason why the real property owners in Springhill are not being afforded the same outreach, and the opportunity as those in Big Sky to review the amendments by complete redline, as well as the opportunity to participate in the amendments the County is making to the Springhill Zoning Ordinance.

In order for the real property owners to effectively review, compare, and understand the County's proposed changes to the Springhill Zoning Ordinance, we request a thorough and complete redline of those proposed changes. Such a redline showing the deletions as strikethrough and additions as underline is necessary to adequately and sufficiently inform the real property owners in Springhill and the interested parties of the nature and character of the proposed action. A complete redline will also allow them the opportunity to prepare for the Planning and Zoning Commission meeting to discuss the proposed amendments, and comment at least on the changes.

## **Request for Additional Time to Review Redline**

Upon receipt of the redline, my clients would appreciate additional time to review the redline reflecting the Administrative Zoning amendments and to conduct outreach and share the redline with other real property owners in Springhill. An additional sixty (60) days would be appreciated, and given Planning Director Sean O'Callaghan's response to their October 30, 2020 letter on January 6, 2021, this seems reasonable.

As noted previously, when the amendments to Gallatin Canyon/Big Sky Zoning Regulations were being proposed, considerable outreach and participation was afforded to that community and interested parties. When a continuance of the adoption process for amending the Gallatin Canyon/Big Sky Zoning Regulations was requested by interested parties in February of 2020, staff approached the Planning and Zoning Commission and requested a continuance, which was granted on February 13, 2020 for a period of one (1) month.<sup>1</sup> The Springhill Community real property owners merely ask to be treated the same.

### **Previous Request to Staff**

As you will note from the emails attached as Exhibit A to this letter, I contacted staff about this request for a redline of the proposed amendments and additional time to review it on January 13, 2021. There was no response to my request for a redline, rather a vague reference to information being posted on the Planning Department's website under What's New and Happening Now by close of business on January 15, 2021. The request for additional time to review the redline was denied, with no reason for the request for additional time provided.

This was surprising. The redline requested is entirely reasonable and consistent with the County's treatment of amendments in other zoning districts, as explained above. It would also make good on the representation in the Exhibit B redline, excerpted above, that deletions to text are shown as strikethrough and additions to text are shown as underline, which has not fully been the case with the redlines provided.

The partial redline attached to the March 12, 2020 Staff Report may be sufficient to show the County's intention to gut the Springhill Regulations of its administrative provisions, previously vetted with community involvement when those Regulations were adopted. However, the partial redline does not allow real property owners the opportunity to actually see and understand what is being deleted and what is being added. They deserve the same consideration granted to real property owners and interested parties in other County zoning districts, such as those Gallatin Canyon/Big Sky, as well as reasonable time to review the complete redline and share it with other real property owners in Springhill.

---

<sup>1</sup> See February 24, 2020 Memo from Mathieu Menard and Mayana Rice, County Planning to the Gallatin Canyon/Big Sky Advisory Committee ("Advisory Committee"), RE: Gallatin Canyon/Big Sky Zoning Updates. The zoning amendments at time included the Part 1 Zoning Administrative Regulations and a full and complete redline was provided to the and interested parties.

The initial denial of their request for additional time puts my clients in the unfortunate position of having to appear and to have me appear at the Planning and Zoning Commission public meeting on February 11, 2021 to make the same reasonable request. The failure to provide a complete redline forces them to expend financial resources on legal counsel to address their concerns.

It is patently unfair that Mr. O’Callaghan was able to take as much time as he needed to respond to their concerns, and they would be denied a reasonable request for additional time to review a redline of the proposed changes that they have not yet been provided, and the time to share that with real property owners in the Springhill Community.

### **Request for Waiver of Re-Noticing Fees**

The 2018 Hearing Rules for the Planning and Zoning Commission, Section III.D.3, provides that “[t]he party making the request for postponement shall be responsible for any costs associated with re-noticing the matter.” The denial of my request of January 13, 2021 puts my clients in the position of being required to pay for the re-noticing pursuant to the foregoing 2018 Hearing Rule. The request to staff was made in advance of the noticing to avoid the noticing being provided prematurely, thus we request that this requirement be waived.

### **Information Posted January 15, 2021**

While we appreciate the planner’s attempt at further clarification with the revised redline posted on the County’s website on January 15, 2021, that redline is still not a full and complete redline that shows all of the additions and deletions. Contributing to my client’s concerns and demonstrating the necessity of the request for a full and complete redline, a quick comparison of the recent redline provided and the cursory redline provided with the March 12, 2020 staff report at Exhibit B, shows an amendment that was not reflected in the March redline. At a glance, the recent redline is different at least as to Section 4 in that it shows an additional definition change, which is to 4.46 Transfer of Development rights.

We have not yet fully compared the two incomplete redlines otherwise. As you may imagine, that the redline purporting to show the changes has further changed in the interim period does not give the real property owners confidence that the information provided clearly, completely, accurately shows the amendments in full that are being proposed. This again demonstrates the necessity of my client’s request for a full and complete redline in order to fully inform the real property owners of the amendments being made by the County and additional time to review it.

### **Advisory Committee**

In addition to the request for a full redline of the proposed amendments to the Springhill Zoning Ordinance and time to review that, my clients are interested in the possibility of a Springhill Advisory Committee. One reason is at least they would be provided advance notice in the future when the County attempts to amend the Springhill Zoning Ordinance. The request for additional time would allow the

Springhill Alliance the opportunity to conduct outreach in the community with respect to interest in a Springhill Advisory Committee and possibly engage Planning staff to advise them with respect to this.

### **Conclusion**

We respectfully request the Planning and Zoning Commission request that staff prepare a full and complete redline with the proposed deletions to the Springhill Zoning Ordinance text shown as strikethrough, and additions to text shown as underline and provide that to my clients, along with additional time to review that redline upon receipt and share it with other real property owners in the Springhill Zoning District. Such additional time would necessarily require the February 11, 2021 public hearing on the adoption of the Gallatin County Part 1 Zoning Administrative Regulation for the Springhill Planning and Zoning District be continued.

Thank you in advance for your consideration of this request.

RESPECTFULLY,  
GALLIK, BREMER & MOLLOY, P.C.

---

Jecyn N. Bremer  
Attorney at Law

c: Client  
Erin Arnold, Senior Civil Deputy County Attorney, Gallatin County Attorney's Office,  
[Erin.Arnold@gallatin.mt.gov](mailto:Erin.Arnold@gallatin.mt.gov)  
Sean O'Callaghan, Planning Director, Gallatin County Planning Department,  
[Sean.OCallaghan@gallatin.mt.gov](mailto:Sean.OCallaghan@gallatin.mt.gov)  
Randy Johnson, Planner, Gallatin County Planning Department,  
[Randy.Johnson@gallatin.mt.gov](mailto:Randy.Johnson@gallatin.mt.gov)