

GALLIK, BREMER & MOLLOY, P.C.

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June 14, 2021

Gallatin County Commissioners
311 West Main Street
Room 306
Bozeman, MT 59715

BY HAND DELIVERY AND EMAIL

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

Sean O'Callaghan, Planning Director
Gallatin County Planning Department
311 West Main Street
Room 108
Bozeman, MT 59715

BY HAND DELIVERY AND EMAIL

RE: Notice Procedures for Citizen-Initiated Zoning Districts; Follow Up Regarding
Section 1.6, District Regulations and Section 1.3, Administrative Regulations.

Honorable Gallatin County Commissioners, Planning and Zoning Commission Members,
and Planning Director O'Callaghan:

The Springhill Planning District Property Owners' Alliance, Inc. ("Springhill Alliance" or "Alliance") appreciates the County's continued engagement through the Planning Office related to the proposed amendments to Part 1 Zoning Administrative Zoning Regulation ("Administrative Regulation") and the proposed Springhill Zoning Regulation (together with the Administrative Regulation the "Regulations"). As part of the continued dialogue, the Alliance requests your consideration of the following in advance of the June Planning and Zoning Commission public hearing as related to one or more agenda items.

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NOTICE

We understand Notice Procedures for Citizen-Initiated Zoning Districts will be considered by the Planning and Zoning Commission on June 17, 2021, and the Alliance appreciates the County's efforts to increase the effectiveness of noticing practices for zoning applications and amendments to existing zoning regulations and maps. To that end, the Alliance provides the following comments and considerations.

Posted Notice Design and Dimensional Standards, Locations

While acknowledging that posting notice in Citizen-Initiated Zoning Districts is required by statute for certain actions, such posting has not historically proven effective as you have heard in much public testimony. This is in part due to the size of the notice and in part to location. The Alliance would be in favor of the County establishing design and dimensional standards for notice. An 8½ by 11 piece of paper is simply not noticeable. Posted notice must be large enough to 1) attract attention and 2) be legible.

By way of example below, the City of Bozeman notice boards are weatherproof and 24 inches by 36 inches or 36 by 48 inches, depending on the action being noticed, and, as I understand are intended to be legible from a vehicle at a reasonable distance. The notice provision requires visibility from the primary public road right-of-way.

BOZEMAN^{MT}

DEVELOPMENT ACTION


PUBLIC NOTICE

PROJECT NAME

APPLICATION TYPE

-

FILE NUMBER



COMMUNITY DEVELOPMENT
20 EAST OLIVE STREET
P.O. BOX 1230, BOZEMAN, MT 59771-1230
(406) 532-7260
Planning@bozeman.net
Bozeman.net

PROJECT INFORMATION	NOTICE
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In terms of location, the Springhill Alliance is working on three posting locations for notice purposes. The Springhill School and the Springhill Church have been suggested as two locations, with continued discussions ongoing regarding the third notice location. Alternatives being considered include the corner of Gee-Norman and Springhill Community Road, the corner of Walker and Springhill Community Road, the corner of Corbly Gulch and Springhill Community Road, among possible others. The Alliance is continuing consideration and consultation with property owners regarding the notice locations and will update Staff with a final third requested posting location.

Electronic Notice

In addition to the posted notice and Certified Mail Notice, which is being addressed by the agreed upon amendments to the Administrative Regulation, the Alliance suggests a point person for electronic notice in zoning districts that so desire. With newspaper delivery infrequent at best, and the historic issues with posted notice, electronic notice to an appointed person in the Springhill Zoning District would allow that person to share the notice with the broader Springhill Community thereby keeping the Community informed. While this is an additional step, it is more in keeping with communications in the 21st century and should come at a relatively minimal cost to the County. Related, the Alliance would be in favor of an opt-in email message list for notice purposes as proposed by the Staff Memo dated June 17, 2021 regarding impetus and ideas for improving public notice practices (“June 17 Memo”).

Quasi-Judicial Applications and Posted Notice on Subject Property

The Alliance would also be in favor of the posted signage on properties that are the subject of quasi-judicial applications, such as variances and conditional use permits, as described in the June 17 Memo, with the understanding that this notice is in addition to notice by publication and certified mail (the later addressed by the proposed amendments to the Administrative Regulation) as applicable. The posted onsite notice should improve timely awareness in the district for which an application is proposed, allowing property owners an opportunity to participate if desired, and generally seems a good idea. See the above comments on posted notice design and dimensional standards. The number of signs and locations on the subject property should be tied to the size of the property and correspond to the purpose of such notice, that is to attract attention to and inform the public regarding the action being propose and be legible from a vehicle on a public road right-of-way at a reasonable distance.

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Zoning Advisory Committee

The Springhill Alliance is considering the formation of a zoning advisory committee to facilitate communication and outreach with Planning, and the County generally.

**SECTION 1.3 ADMINISTRATIVE REGULATION
& SECTION 1.6 DISTRICT REGULATIONS**

In response to an email query from Sean O’Callaghan regarding language proposed for Section 1.6 of District Regulations, we provide the following clarification and request.

Section 1.3 Administrative Regulation

The Alliance appreciates Staff’s willingness to refer to uses in the Administrative Regulation Section 1.3 as confirmed via emails with Staff and in the Zoom Meeting on June 3, 2021. This is important to ensure the intent and purpose of District Regulations and plans are maintained, including Springhill Zoning Ordinance and the Springhill Development Plan, and is consistent with the Alliance’s requested amendments. As noted previously, the Alliance does not want to see the Administrative Regulation nor the uses allowed¹ in various Citizen-Initiated Zoning Districts broadened or misrepresented by some potentially creative, crafty, and unintended interpretation.

It is acknowledged that the various Citizen-Initiated Zoning Districts use various terms for “Uses Allowed by Right” or “Permitted Uses” and “Uses Permitted After Securing Approval of a Conditional Use Permit” or “Conditional Uses” and the Alliance is amenable to the generic language regarding uses to capture the various terms used in District Regulations with respect to the amendments to Section 1.3 of the Administrative Regulation as follows.

1.3² Administrative Regulation. Pursuant to County Commission Resolution No. 2019-047 adopted May 21, 2019, there is hereby adopted the Gallatin County “Part 1” Zoning Administrative Regulation (Administrative Regulation). The Administrative Regulation supplements these Regulations. In the case of a conflict between the Administrative Regulation and these Regulations, the Administrative Regulation shall control only as it pertains

¹ The general term “uses allowed” is intended to include those allowed by right also known as permitted uses, among other terms, as well as conditional uses, for the purposes of this letter.

² The reference in the June 7, 2021 email regarding the adjustment refers to Section 1.6 and the Alliance is amendable to the adjustment, but only for the Administrative Regulation at Section 1.3.

to administrative procedure. The Administrative Regulation is not intended to modify and shall not be interpreted as modifying the purposes, intents, development patterns, or Uses specifically authorized under Allowed by Right and Conditional Uses of District Regulations, subject to the Interpretation of Use Classification provision at Section 3.8.b of the Administrative Regulation.³

The Alliance has continued to work with Staff on clarification to the Administrative Regulation section as reflected in the highlighted addition, and appreciates continuing to be included in the process.

Section 1.6, Proposed Springhill Zoning Regulation

The Springhill Alliance feels strongly that the specific terms in the Springhill Zoning District, that is, Uses Allowed as a Matter of Right and Uses Permitted After Securing Approval of a Conditional Use Permit, be included in the Administrative Regulation section of the proposed Springhill Zoning Regulation. Following is the preferred language, as noted in the letter of May 27, 2021, with the addition of the highlighted language to address the Interpretation of Use section as requested by Staff.

1.6 Administrative Regulation. Pursuant to County Commission Resolution No. 2019-047 adopted May 21, 2019⁴, there is hereby adopted the Gallatin County “Part 1” Zoning Administrative Regulation (Administrative Regulation). The Administrative Regulation supplements these Regulations. In the case of a conflict between the Administrative Regulation and these Regulations, the Administrative Regulation shall control only as it pertains to administrative procedure. The Administrative Regulation is not intended to modify and shall not be interpreted as modifying the purposes, intents, development patterns, or Uses Allowed as a Matter of Right and Uses Permitted After Securing Approval of a Conditional Use Permit of the Regulations, subject to the Interpretation of Use Classification provision at Section 3.8.b of the Administrative Regulation.

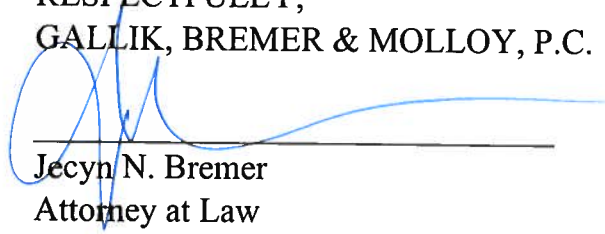
Again, the Springhill Alliance appreciates the continued dialogue with the County and the collaborative process related to the amendments to the Administrative Regulation and

³ The highlighted is additional language agreed to in order to address a concern raised by Sean O’Callaghan via email related to Section 3.8.b, the interpretation of use section of the Administrative Regulation.

⁴ It is expected that this will be updated when the County adopts the amended version of the Administrative Regulation.

the Springhill Zoning Ordinance. The Alliance especially appreciates the County's time and attention to the important matter of notice and the suggestions.

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



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