

January 8, 2020

Submitted via electronic mail to sean.ocallaghan@gallatin.mt.gov, planning@gallatin.mt.gov

Gallatin County Planning Director
Gallatin County Planning Board
311 West Main St
Bozeman, MT 59715

Re: Petition Requesting the Gallatin County Planning Department Formally Make a Finding Concerning the Gallatin Glampground Project's Status As a "Subdivision" And Initiate Review Under the MSPA

Mr. O'Callaghan & the Gallatin County Planning Board:

On behalf of Upper Missouri Waterkeeper, American Rivers, Montana Trout Unlimited, Greater Yellowstone Coalition, FOAM, Protect the Gallatin River, Madison-Gallatin Trout Unlimited, and SIMMS, we write to express our collective concerns about the recently publicized Gallatin Gateway Glampground Project ("Glampground") and the apparent decision to exempt this project from review under the Montana Subdivision and Platting Act (MSPA), 76-3-101 et seq. MCA.

Executive Summary

As discussed below the Glampground qualifies as a subdivision that requires consideration, review, and approval by Gallatin County prior to development or operation. At this time neither the County nor DEQ have made public findings concerning the Glampground's compliance with the MSPA.

Because the public interest is best served by a transparent dialogue and open decisionmaking, we hereby petition the Gallatin County Planning Department to formally undertake a finding concerning categorization of the Glampground as a subdivision. If the Planning Department finds, as we believe it must, that the Glampground Project qualifies as a subdivision, we also petition the Department to immediately initiate the mandated planning process under the MSPA and provide notice of corresponding public participation opportunities.

The Glampground

The Glampground is self-described by the applicant as a "glamping retreat facility with 63 sites" that will include infrastructure identical to that traditionally required for a Montana small subdivision: infrastructure to provide water, access, wastewater treatment, power and gas utilities. It will include the placement of a new access road through the presently undeveloped parcel; a gravity sanitary sewer system transporting wastes under the Gallatin River to the local

sewer district for disposal; a 2” gas main likewise under the Gallatin River providing utilities; and a water supply system via a new public well.

Communications with Planning Director O’Callaghan from first quarter 2020, provided as part of public notice materials, offer more context about the planned uses at the Glampground. Specifically, the proposal would entail the use of Conestoga wagons, typical RVs, park model RVs, or tiny houses. The stated intention is to rent or lease these as vacation homes for varying timeframes. The Glampground would therefore utilize – and provide for – the rent or use of a variety of recreation vehicles at the site.

In terms of the surrounding social, ecological, and cultural environment, the applicant’s property and proposed development would be almost fully situated within the 100-year floodplain of the Gallatin River. It is adjacent to largely undeveloped, privately owned parcels. It is accessed via an unimproved county road and would route primary client traffic through the community – and roads – of Gallatin Gateway to the larger arterial roadway of highway 191.

Applicable Legal Framework

When land is subdivided, parcels are subject to the requirements of the Montana Subdivision and Platting Act and Sanitation in Subdivisions Act of Title 76 MCA. Subdivision is defined as an area, regardless of its size, that provides or will provide spaces for rent or lease on which camping vehicles or mobile homes will be placed. 76-3-103(15) MCA. *See also* Definition of Subdivision, Gallatin County Subdivision Regulations, 2019.

Review under the sanitation in subdivisions regulations is meant to address public and environmental health issues and includes sanitation facilities, including water supply, sewage disposal, solid waste disposal, and storm drainage systems. Parcels that are 20 acres or less and house condominiums, mobile home parks, and recreational vehicle parks, regardless of size, are subject to sanitary act review. An owner may not develop such a lot, including erecting any building, until the subdivision has been reviewed and approved by either MDEQ or the local planning authority. A key determination in sanitation act review is whether a proposal can show that adverse impacts to state waters will not occur and that water supply is of adequate quantity, quality, and dependability; that sewage disposal is sufficient in terms of capacity and dependability; and that waste disposal and storm drainage plans and designs are compatible with state and local rules. 76-4-101 et seq. MCA; ARM 17.36.101-800 et seq. (local regulations); ARM 17.36.900 et seq (minimum standards).

Second and equally applicable, the MSPA is geared towards offering reasonable land use control to protect the public good and ensure orderly development. It requires local government review of applicable subdivisions that are less than 160 acres for sale, rent, or lease, including condominiums and manufactured homes or *recreational vehicle* parks. 76-3-101 et seq.; ARM 24.183.1101 et seq (emphasis added). Gallatin County has adopted subdivision regulations speaking specifically to the importance of orderly development, avoiding subdivisions which involve unnecessary environmental degradation, ensuring any approved subdivision be in harmony with the natural environment, and avoiding subdivisions that present danger or injury by reason of poor access or transportation systems. *See* Gallatin County Subdivision Regulations,

Section 1, subsection D, adopted March 5, 2019. A subdivision may be exempted from MSPA review if a finding is made that it qualifies for an exemption under 76-3-201 through 76-3-211 MCA.

Gallatin County Must Make a Finding Concerning the Glampground and, If Required, Initiate the MSPA Review Process

The plain language of 76-3-103(16) MCA makes clear that a subdivision includes any parcel independent of size that provides multiple spaces for rent or lease for recreational camping vehicles. The County's own regulations mirror this legal definition. Gallatin County has not made a public finding that the Glampground proposal qualifies under any of the statutory exclusions to mandated review through the MSPA. Therefore, it is incumbent on the Gallatin County Planning Department, as delegated local planning authority, to formally undertake a review of the proposed Glampground and make a finding as to whether – as the facts suggest – it constitutes a subdivision under Montana law.

The failure to undertake the necessary subdivision review of the Glampground is disconcerting given the project's high degree of public opposition, the dubious nature of a proposed development directly within the Gallatin's floodplain and adjacent the Gallatin River, and significant and unresolved transportation safety issues given the rural nature of Gallatin Gateway and its infrastructure. It is for the very reason that some development proposals would incite more detriment – than benefit – to the public, that the Montana legislature adopted the MSPA and clearly raised the importance of reasonable regulation of activities and projects proposed at unsuitable locations due to natural or man-made hazards, and specifically required local subdivision rules prohibit subdivisions in areas located within the 100-year floodplain. *See* 75-3-504(e)-(f) MCA.

Should the Gallatin County Planning Department find that the Glampground constitutes a subdivision, as it clearly does, this finding would require a comprehensive review under the MSPA including preparation of an environmental assessment in accordance with 76-3-603 MCA and a public process under 76-3-605. These processes serve the public interest by requiring a transparent investigation into the potentially significant, negative environmental and socio-economic impacts of allowing new high-density development in what is presently a rural, low-income community adjacent to a world-class blue ribbon trout stream. So too, comprehensive review under the MSPA and corollary environmental assessment would provide a valuable fact-check of important indirect and cumulative negative consequences on the surrounding environment and community, such as reasonably foreseeable traffic safety issues with tourist and RV traffic moving through two-lane, historic roads and a local school zone.

Conclusion

Gallatin County should do the right thing and require a thorough vetting of the proposed Glampground project under the MSPA to inform reasoned decisionmaking and encourage public participation. Indeed, doing so squarely aligns with legal requirements, and equally important, it serves the public interest by allowing a transparent, accountable process whereby citizens, interested parties, and local government can respectfully examine the benefits and detriments of

allowing new development in sensitive, special places and make informed decisions on activities that would have community impacts rippling far beyond private land.

In closing, the undersigned organizations petition the Gallatin County Planning Department to undertake a public finding of whether the proposed Glampground constitutes a “subdivision” and, if so, to initiate the corollary review process.

Respectfully submitted-

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