



# News Around The Corner

## To Zone or Not to Zone...

### ... that is the Question

The flurry of construction and development activity that became the hallmark in the Four Corners area has subsided in the wake of a national economic slow-down. The fears of uncontrolled growth that spurred exhaustive planning efforts now seem out of place. Acreage that once could fetch upwards of \$40,000 per acre now is not marketable. Many subdivisions lay idle and only a fraction of the building activity remains.

So, is it wise in this current state of affairs to continue to layer regulations, restrictions, and cost on property owners by creating a zoning district? Or, now that the market has slowed down, is it time for everyone to take a collective deep breath and sit down together to develop guidelines so we are ready for the next big push?

Can there be any benefit to creating a zoning district in the Four Corners area? What exactly does it mean to a lot owner or builder if

zoning is adopted and will zoning affect land values? How will zoning protect existing land owners?

The opinions on creating zoning regulations at Four Corners are varied....from overwhelming advocacy for public protection to outright rejection as an affront to property ownership rights.

The Four Corners Zoning Regulations are now available in draft form on the Gallatin County Planning website or at the Gallatin County Planning office located at 311 West Main in Bozeman. Several citizens that live in, or own property in, the proposed zoning district have agreed to share their opinions on the proposed zoning regulations in this newsletter.

In addition, Warren Vaughan with the Gallatin County Planning Department, is providing information that may help answer questions about zoning.

## County Planning Offers Perspective

### *The Big Picture*

As anyone who lives in the Gallatin Valley knows, Four Corners has seen remarkable change. A look at the numbers tells the story: between 1969 and 1999, 716 new parcels were recorded in the Four Corners area. Those numbers pale in comparison to the change seen between 2000 and 2007: 1,426 new parcels have been platted, with an additional 1,719 parcels proposed.

New development has created dramatic economic opportunity for local residents. It's also created its share of conflicts as new neighbors rub elbows. Historically, conflicts created by rapid change in the Gallatin Valley have been dealt with on a case-by-case basis. In 2005, a group of citizens in Four Corners, partnering with county staff, began trying to address some of the hard details of growth and change by writing the Four Corners Community Plan adopted by the County in April 2006.

In November 2006, the same group began meeting with county staff to develop a zoning regulation to implement policy statements of the plan. The intent of the citizen's group was to create a simple document providing guid-

ance, based on the adopted plan, to new development as the area continues to grow.

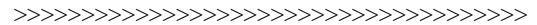
Simultaneously, the County Commission has worked for two years to develop a program to address growth and change county-wide. While the details are still being discussed, the intent of the program is to direct new growth within the county into areas in and around existing and unincorporated communities. Specifically, the primary growth area identified by the Commission includes the "Triangle" of Bozeman, Belgrade, and Four Corners. The Four Corners Community Plan, and the Four Corners Zoning Regulation, will provide basic rules for new development to follow as the county-wide program directs growth into the area.

### *The Zoning Regulation*

As currently drafted, the Four Corners Zoning Regulation consists of four different sub-districts: 1) Agriculture/Rural Residential, 2) Mixed Use, 3) Commercial, and 4) Neighborhood Commercial. As shown on the accompanying map, both the Commercial and Mixed Use sub-districts are primarily located along

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### **News Around the Corner**

is an informational newsletter published by Double-Tree, Inc. and distributed in the Four Corners Area of Gallatin County on a periodic basis.

# County Planning Perspective (continued from page 1)

Jackrabbit and Huffine and focused into the center of the Four Corners area. The Agriculture and Rural Residential sub-district is located away from the main highway corridors. Neighborhood Commercial applies to a small number of intersections along Valley Center and Love Lane. Each sub-district designates specific uses allowed on a permitted or conditional basis. Additionally, the Regulation provides standards for new development. The standards include notice requirements for development adjacent to agricultural canals and ditches, basic lighting and landscape requirements for new commercial uses, setbacks to watercourses and wetlands, prohibitions on new billboards, and requirements for good site design along Jackrabbit and Huffine.

## Practical Matters

The following are key questions residents in the Four Corners Area need to know:

**Permits.** Permits are the primary way the county ensures the standards of the regulation are met. A permit will now be required prior to construction. Interior remodels, additions less than 1,000 square feet, and agricultural uses are exempt.

**Process.** All applicable standards in the zoning regulation need to be met in order for the permit to be approved. In many cases, this will be simple - an individual building a new home will provide floor plans, site plans, and elevations, along with basic information regarding what is being built, where, and by whom. In some cases - such as larger commercial buildings - items such as landscaping will need to be addressed.

**Condominiums.** Montana State Statute exempts condominium

proposals if they conform with applicable zoning regulations. **Getting Involved.** Anyone is welcome to join the group in its discussions. Meetings are the second and fourth Wednesday of the month, from 5:30 to 7 pm, at the Monforton School Library. For a copy of the draft regulation, contact Warren Vaughan at 582-3130 or at warren.vaughan@gallatin.mt.gov.



Warren Vaughan has been a Gallatin County Planner for 4 years, spending a majority of the past two years working to develop first-ever community plans and codes in outlying communities.

## How does the Four Corners Zoning Regulation Relate to County-Wide Zoning?

Gallatin County is currently developing its Growth Policy Implementation Program, including county-wide zoning. The Four Corners area has been designated as a receiving area for the County's Transfer of Development Credits/Rights Program. A TDC/TDR program allows developers to subdivide property at a higher density than normally allowed through zoning if additional development credits are purchased from agricultural land outside of Four Corners. The next step of the Four Corners Planning Group is to discuss density of new development.

# Locals Opine on Proposed Zoning

## Rationale for Zoning

Gravel pits across the street from home owners. Huge billboards distracting drivers and detracting from natural landscapes. Business activities that may not be attractive in your neighborhood. Does any of this sound familiar? With the enormous rate of almost unrestricted growth occurring in Four Corners, a number of property owners believe it is important to have tools to more effectively protect property rights—and these rights extend to property owners with hundreds of acres, as well as to homeowners on a small lot in a sub-division. Reasonable zoning regulations provide greater certainty for all property owners, including developers. This should result in lower development costs, and in preserving property values for those who intend to make land use changes, and for those living in close proximity to where the land use changes will occur. It's reasonable that property owners who choose to make land use changes consider the impact of those changes on their neighbors. Zoning standardizes the 'reasonableness' that landowners will apply when change occurs, keeping in mind all of the neighbors affected.



Debra Wahlberg lives at Four Corners and has been actively involved in the planning and zoning group and its process.

## Zoning Creates Uncertainty and Potential Loss of Value

Proponents of zoning claim one of its benefits as certainty to property owners. A property owner or a property buyer can supposedly be certain what he can or can't do with his property. But for me and most other owners of commercial and residential lots and land in the proposed zoning district it creates great uncertainty. When I purchased land or lots in the area the due diligence included an evaluation of what I could or could not do with that property. That process directed decisions on how much money could be spent and indicated the potential profit that might be earned from building on or developing a property.

Now, the proposed zoning regulations mean another set of "uncertainties" that may thwart plans and cause financial losses. It seems another attempt by those without a vested interest trying to control those with a vested interest. Protection for neighbors and adjoining property owners already exists at many different levels. Taking away or diminishing my right to use my properties for the purposes for which they were purchased does not seem right.

Scott Johnson lives in Elk Grove with his wife Windy and three sons. He is a local business owner, developer and builder.



# Platted Subdivisions Should be Exempt from Zoning

Arguments for zoning of raw land seem very convincing but how will zoning affect lots in platted subdivisions?

In an attempt to figure out what zoning would mean to a lot owner in the Northstar Subdivision (or any other platted subdivision in the proposed zoning district including Elk Grove, Middle Creek Meadows, Black Bull, Galactic Park) I was referred to Big Sky's zoning regulations.

If I want to build on a lot in a platted subdivision I would need to make an application for a "land use permit" to the Gallatin County Planning Department that will be in charge of zoning reviews. The fee for the zoning review is 1/4 of 1% of the market value of construction of the structure. Market value does not appear to be clearly defined. The review is expected to take 2 to 3 weeks and conclude with the issuance or denial of a permit. There is no statutory time limit for a zoning review.

In addition to the application for a "land use permit", building plans must still be submitted to the Architectural Review Committee (ARC). The ARC reviews building plans on behalf of the Property Owners Association (POA) of the subdivision. The ARC is charged with ensuring the building is consistent with the recorded covenants and Architectural Guidelines set forth during the subdivision platting process.

I am having difficulty understanding how the two reviews differ and are not redundant.

It is also unclear which set of "rules" take precedent...the recorded covenants...or, the zoning regulations. I was told zoning regs overrule covenants.

The subdivisions in the proposed Four Corners Zoning District that have recently recorded final plats went through exhaustive review by Gallatin County. The County approved these subdivisions for number of lots (density), type of use (residential or commercial), street layouts, setbacks, etc: the same issues covered under the proposed zoning regulations.

The County also approved the covenants for each subdivision that give the property owners in each subdivision the power to

govern architectural review and compliance with covenants and thereby govern their own neighborhoods.

People have relied upon the rights and restrictions given in the final plat approval and in the recorded covenants when purchasing a lot. Any zoning regulation that diminishes those rights must be considered a taking. Subdivisions that have been approved through the Subdivision and Platting Act should be exempt from the proposed zoning regulations.

Barbara Campbell  
Valkyrie, LLC  
Owner of Northstar Subdivision

## The Zoning Process: So What's Next?

Once the work has been completed by the planning group over the next few months, the document will be officially released to the public for comment. The document will then go before the Planning Board and County Commission for hearings prior to adoption. The adoption schedule will take approximately 6-8 weeks, with several opportunities for public comment. The official schedule will be as follows:

- **Step 1: Planning Board Hearing.** The Planning Board will hear the document and pass on a recommendation to the County Commission.
- **Step 2: County Commission Hearing #1.** The first County Commission hearing will entail consideration of a resolution of intent to approve the document. If the resolution of intent is approved, there is a 30-day protest period.
- **Step 3: County Commission Hearing #2.** If the document passes the protest period, the Commission will hold a second hearing.

## Zoning Opinions (continued)

### Change is Inevitable

Change is inevitable. Especially when applied to our growing 4-corners community. I decided to take part in the local planning effort because I have seen from my work experience throughout the West the detrimental effects that unplanned growth has upon a community. While change in the form of population growth will happen here whether we encourage it or not, we do have the ability to form a framework for how that change will affect our lives. And in our local situation, that framework can come about in the form of a local zoning district.

While there are still a few big-picture issues and nit-picky details to be resolved, the working committee of local residents has negotiated a relatively simple, yet adequately robust set of draft zoning regulations. I doubt that any individual will look at this regulation and agree with everything it requires.

But with our diverse community encumbered with the challenges associated with the unprecedented growth we are facing, the struggle to maintain a pleasant and satisfying way of life will be a compromise for all of us.



Mr. Benowitz is a consulting engineer working with private industry throughout North America, Central America, and abroad. He is a graduate of Montana State University, and lives with his wife Heidi on Middle Creek near Baxter Lane.

## DOUBLE-TREE, INC.

224 Zoot Way  
Bozeman, MT 59718

Phone: 406-585-4166  
Fax: 406-585-4169  
Email: dbltree1@qwest.net

***Responsible Growth  
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**Barbara Campbell**  
Owner



**Kris Vandersloot**  
Project Development



**John Close**  
Utility Operations Manager



**Trevor Campbell**  
Engineering



**Amy Kottwitz**  
Accounting Clerk

## Quail Run...

*... the place to build and the place to live*

Quail Run is blossoming into a neighborhood. Despite the downswing in construction starts across the country, and in Gallatin County, the Northstar Subdivision single family blocks are bustling with activity.

"I think we sold more lots in the first quarter of 2008 than in all of 2007" stated Barbara Campbell an owner in Valkyrie, LLC. "It's amazing to see the transformation from a rocky cow pasture into a neighborhood with families, kids, and dogs." "Over 70 houses have been completed with many more in various stages of construction. The blend of sizes and types of homes in Quail Run make it very attractive."

Two of the primary reasons builders continue to build in the Quail Run area of Northstar subdivision are low lot prices and low impact fees compared to building in Bozeman or Belgrade.

Glen VanDyke, a builder in the valley for over twenty years, likes Northstar of those reasons and more.

"Location is what I like about Northstar, Four Corners is the place to be" claims Van Dyke. "I also really like the lot sizes, they are bigger than the average lot in Bozeman or Belgrade so you can build a decent house".

Glen has completed 15 homes in Northstar and hopes to continue as long as he can.



Local Builder Glenn VanDyke

## Utility Solutions LLC to Sell Central Systems

The Four Corners County Water and Sewer District at its August 6, 2008, regular board meeting passed a resolution stating it intends to pursue the purchase of the Utility Solutions, LLC central water and sewer systems.

The District entered into a contract with Utility Solutions, LLC in 2005 to provide water and sewer services to properties within the District. That contract also gave the District an option to purchase the central systems any time after the first five years after the interconnection of the 400th lot to the system.

In April of this year the District requested that Utility Solutions, LLC consider a modification to the contract to make the purchase option available at this time. After a series of meetings with a committee of the District Board, Utility Solutions agreed to accelerate the time frame for the District to exercise the option to purchase.

*"It seemed that the District was at a point to buy out Utility Solutions, we've been expanding the number of properties in the District with annexations and the intent has always been that the District would end up owning them."* Mike Pearson, President, Four Corners County Water and Sewer District

The District is a public entity that was formed in 2003. The District was formed to construct and operate central water and sewer systems to serve the greater Four Corners area. Due to lengthy legal challenges the District was unable to secure financing to construct systems.

Utility Solutions, LLC, also formed in 2003, purchased the existing wastewater treatment plant at Elk Grove to expand into a facility to meet the needs of a service area that spans from Cameron Bridge Road to Blackwood Road. Utility Solutions also owns two water systems, one that serves Elk Grove and a second larger system that serves properties north to Cameron Bridge Road.

The District purchase of the Utility Solutions' systems is scheduled to be finalized in early 2009.

Property owners and residents in the District can expect to receive a series of informational mailings and notifications of pertinent meetings.