

APPENDIX A

Review of Zoning and Subdivision Regulations

CONRAD ZONING REVIEW

Zoning is one of the most important tools for implementing a city's growth policy. City zoning regulations should be revised following the adoption of a new growth policy so that future development and land use more closely conform to the new plan. In addition, city zoning regulations often have existing problems that warrant correction independent of changes necessitated by a new growth policy. In Conrad's case, revision of the city zoning regulations would be warranted for both reasons.

The city of Conrad Zoning regulations are contained in Title 10 of the city code. The city zoning regulations are based on a 1959-era zoning ordinance that has been amended in a piecemeal fashion over the years. The city zoning regulations have some problem areas including:

- Overly complex standards such as in Section 10-2-2(A)(1) which reads, "There shall be a front yard having a depth of not less than 20 feet; provided, however, that where lots comprising 40 percent or more of the frontage developed with buildings between cross streets having an average front yard with a variation in depth of not more than 6 feet, no building hereafter erected or altered shall project beyond the average front yard line so established."
- The use of out-dated or undefined terminology (basement home, hardship, move-in, and trailer, to name a few) and typographical errors such as a missing part of Section 1-1-2 and in Section 10-3-6(B)(9) using the word "grass" when "gross" was intended.
- Extremely broad discretion for allowed uses. Any land use is allowed anywhere in the city as long as the city council approves a conditional use permit for it. Not only does this lead to a lot of uncertainty for developers and neighbors, it can make it very difficult to be consistent over time and not let short-term political consideration rule.
- In general, the city zoning regulations are not up-to-date with modern practices that encourage developments to be more people-oriented and less automobile-oriented. Overall, the regulations provide very little in terms of good design specifications for new development projects.

The new growth policy recommends some newer approaches to development and land use that should be implemented through zoning. The city zoning regulations will need to be revised to conform to the general guidelines of the future land plan in the growth policy. Details about land uses in various zoning districts, and the exact boundaries of the districts would be determined through the zoning amendment process, but the zoning changes should conform to the overall direction of the growth policy's future land use plan.

The zoning changes should accomplish the following to conform to the growth policy and future land use plan:

- Set standards for each zoning district that address allowable uses, conditional uses, setbacks, building heights, parking, and pedestrian infrastructure and access, and Floor-Area Ratio (FAR) in accordance with the growth policy-future land use plan. Each of these items is discussed in the future land use plan-growth policy. Conditional uses are uses that might be allowed within a zone, but are required to go through additional review before they are allowed. Setbacks are the distances that structures are required to be separated from such things as lot lines, streets, etc. There are presently minimal parking specifications in the city zoning regulations. Parking is often a major consideration in commercial and multi-family housing developments. Better standards for parking would help ensure that new projects provide an appropriate amount of on-site parking. Parking specifications can also address landscaping issues involved in parking lot design. Pedestrian infrastructure includes such things as sidewalks, sidewalk landscaping, crosswalks, etc. The growth policy introduces the concept of Floor-Area Ratio (FAR) and provides guidance for appropriate FARs for different areas of the city.
- Revise approach to conditional uses: Conrad has a unique approach to zoning in that any use is allowed anywhere provided the city council issues a conditional use permit. The existing standards for issuance of a conditional use permit are quite minimal. (See Section 10-1-13(B)(2).) A more standard approach is to specify for each zoning district which land uses will be considered as conditional uses (and which will not be allowed under any circumstances). Furthermore, it is common for zoning regulations to contain more thorough review processes for conditional uses, requiring such things as a site plan and more detailed standards for potential impact issues such as lighting, noise, signs, parking, landscaping, and etc.

- Diversify commercial zones: Presently, the city zoning regulations provide for only one commercial zone. The growth policy identifies several types of commercial areas that are quite different from each other:
 - Downtown
 - Transitional Commercial
 - Limited Commercial
 - Commercial/Industrial Park

In the growth policy, these four areas are distinctly different from each other and therefore have different specifications for allowed uses, building setbacks and heights, FARs, and parking.

- Update industrial zones. The current city zoning includes two different industrial zones. Zone D allows for commercial and light industrial uses and Zone E allows for more hazardous or offensive uses such as rendering plants and explosives manufacturing. Currently no land in Conrad is zoned as E. The growth policy recommends one industrial zone that includes the existing industrial zoned area along the railroad tracks.
- Update residential zones: Current city zoning regulations have two residential zones, the A and B residential zones. The B zone also includes a third zone, the "B-2 Subzone". The growth policy recommends a single residential zoning category that would allow for a variety of housing types and possibility of also establishing sub-zones for mobile housing. The following three points suggest how the city could address these topics in updating the residential zones:
 - Multi-family housing. Allowing duplexes or multi-family units in all residential areas can be beneficial for the city by providing more sites for more affordable housing and by increasing the diversity of neighborhoods. To make this work appropriately, the zoning regulations should include limits on multi-family housing projects to ensure they fit in to the neighborhood. For example, the regulations could require that multi-family units be located on major streets, not be adjacent to sensitive land uses, and be sited on a large enough land parcels. Such standards can be developed and incorporated in the zoning regulations as part of the conditional use process. This way, multi-family housing, particularly larger projects, would receive more thorough review through the conditional use process. The

conditional use review standards could address minimum landscaping requirements, parking lot design, sidewalks, open space and recreational area requirements, building setbacks, outdoor lighting, fencing, and other such factors that make a huge difference in how well the project looks and fits into the neighborhood.

- Manufactured Housing. The growth policy indicates manufactured housing may be allowed within all residential areas, and recommends design and construction quality guidelines to ensure it fits into the neighborhood. Conrad's zoning ordinance should provide a clear definition of manufactured housing. Conrad can determine its own definition of manufactured housing but in doing so should consider the definition provided in the municipal zoning part of the Montana Statutes at Section 76-2-302. In the statutes, "manufactured housing" is defined as "a single-family dwelling, built offsite in a factory on or after January 1, 1990, that is placed on a permanent foundation, is at least 1,000 square feet in size, has a pitched roof and siding and roofing materials that are customarily, as defined by local regulations, used on site-built homes...."
- Mobile housing. The city is interested in some possibility of residential subzone district or districts for housing intended to be mobile (such as units not placed on permanent foundations). If the city proceeds with that option, the geographic location of mobile housing sub-zones could be based on parameters such as type of nearby land uses, capacity of the street system and utilities, and other factors related to the capability of sites to accommodate this type of development. The zoning ordinance should provide a clear definition of what would be allowed as mobile housing in the sub-zones. Note that a trailer, housetrailer, or mobile home built prior to 1976 does not meet HUD standards. The city should require any "new" unit moved into the city to meet HUD standards. In addition, it is suggested that the city consider a more recent construction date than 1976 for its definition of mobile housing.¹

¹ Note that units already in place in Conrad that may not meet the ordinance's definition would be allowed to continue as "grandfathered" uses. The growth policy has an objective that encourages replacement of non-compliant mobile homes (e.g., pre-1976).

- Consider design guidelines: The city should consider adopting commercial development design guidelines to better address parking, lighting, landscaping, pedestrian facilities, and building designs. Such new guidelines could be regulatory, voluntary, or a combination and could be limited to downtown or historic areas.
- Revise Zoning Map: As part of revising the zoning ordinance text, it will be necessary to also revise the Zoning Map. Such revision should be coordinated with the Future Land Use Section (map and narrative text) of the growth policy.

CONRAD SUBDIVISION REVIEW

All jurisdictions in Montana are required to establish regulations for review of subdivisions. Conrad's subdivision regulations are included in Title 10 of the city code. They are at least 10 years old and do not include many requirements of current state law. The subdivision regulations need to be updated to conform to state law and the provisions as outlined in the growth policy.

It is suggested that the city confer with the Community Technical Assistance Program (at the Montana Department of Commerce in Helena) before initiating the subdivision update. Typically, communities that do not have existing planning staff will contract with a planning professional to update the regulations.

The following is a brief review of some of the problem areas in the existing subdivision regulations. Note that the following is reflective of state law as of March 2011.

1. Subdivision Regulation Contents. The existing regulations do not address all of the items required in state law (76-3-504). Noticeably missing are the following items:

- a. Criteria for reviewing exemptions from subdivision review (refer to 76-3-201 through 76-3-210, MCA). This is important for evaluating divisions that may be recorded as written documents (e.g., warranty deeds) or surveys. Only certain types of divisions are exempted from subdivision review.
 - b. Water rights allocations on certain subdivisions
 - c. Pre-application meetings (now required, not optional, as implied by current regulations)
 - d. The required “elements” for an application
2. Requirements for a Subdivision Application. This was substantially changed in 2005 and spelled out in 76-3-604, MCA. Each application is now reviewed within five working days to determine if it includes the required “elements.” Once all required elements are received, there is a subsequent review period to determine if the information is sufficient.
 3. Differentiation between Minor and Major subdivisions. The existing subdivision regulations do not clarify the review procedures and requirements for major and minor subdivisions. Major subdivisions have 6 or more lots. Subdivisions with five or fewer lots are minor subdivisions. The review requirements for minor and major subdivisions are different. The law also differentiates between “first” minor subdivisions and “subsequent” minor subdivisions. (76-3-609, MCA)
 4. Public Hearings. The existing subdivision regulations specify the planning board will hold public hearings on all subdivisions. Public hearings are not allowed at all for first minor subdivisions (76-3-609, MCA). In 2005, a new type of public hearing was added to the law. It is referred to as a “subsequent hearing” and is held when determined by the governing body to be necessary because new information was obtained that was not presented to the public. (76-3-615, MCA).
 5. Water and Sanitation information. 76-3-622, MCA was added in 2005 and requires specific water and sanitation information to be submitted with the preliminary plat application.
 6. Miscellaneous.

- a. The existing regulations refer to review by the city-county planning board. The city now has its own separate city planning board that reviews subdivisions within the city limits.
 - b. Review fees. The current regulations include the fee schedule as part of the ordinance. These fees are not likely to cover current review costs and fees should be increased. Further, it is better to have the fee schedule SEPARATE from the ordinance because that way it can be revised and updated without going through the amendment process each time fees need to be revised in the future.
7. Conforming to the Growth Policy. The subdivision regulations will also need to be updated to address the guidance in Part Four of the growth policy on the following items:
1. Subdivision review criteria in 76-3-608(3)(a), MCA
 2. How to evaluate and make decisions regarding proposed subdivisions with respect to those criteria, and
 3. How public hearings regarding proposed subdivisions will be conducted.