



SUSAN B. SWIMLEY
Attorney and Counselor At Law

1807 West Dickerson, #B
Bozeman, MT 59715
Phone: (406) 586-5544
Facsimile: (406) 586-3130

August 1, 2024

Three Forks Planning and Zoning Committee
c/o City of Three Forks

Electronic delivery only

Dear Members of the Three Forks Planning and Zoning Committee:

This letter serves to advise you of the possibility to extend the City's zoning and subdivision authority outside of the City limits of Three Forks, which is referred to as "extra-territorial" planning. Seeking both is legally possible. However, seeking to extend the City's zoning and subdivision authority is completely within the control of Gallatin County being dependent upon whether the Commissioners are willing to allow the City to extend that authority. I ask that you receive this letter at your August 2024 meeting and schedule time at your September 2024 meeting for discussion with myself, Randy Carpenter, Three Forks contract planner, and Jerry Grebenc of Great West as well as appropriate an engineer from Great West to be on hand to discuss infrastructure issues.

The extra-territorial planning discussion is not new. Three Forks reviewed and discussed extra-territorial planning in 2005, 2009, and engaged Gallatin County in 2010 and again in 2013. As you know the City of Three Forks adopted the updated Growth Policy in September of 2022 (Resolution #383-2022). In May of 2023, Three Forks again requested that the Gallatin County Commission participate in a discussion about the issue. On April 14, 2024, the Planning and Zoning Commission voted to ask the City Council to request and adopt the Growth Policy. The City Council did so and on May 14, 2024, the City Council asked the Gallatin County Commission to adopt the Three Forks Growth Policy. To date Gallatin County has not acted on this request.

Prior to and after the adoption of the 2022 Growth Policy, the City of Three Forks staff has conducted the review of subdivisions and exemptions located outside of the municipal boundaries and within Gallatin County's jurisdiction. Three Forks has not charged Gallatin County for this service and Gallatin County has not paid Three Forks for the use of Three Forks' time and resources.

Earlier this summer, Three Forks attempted to engage the Gallatin County Commission in order to understand what the County would require in order for the County to allow the City to extend the City's zoning and subdivision authority. That was done by asking for an in-person meeting. After weeks working to schedule the meeting, Commissioner Boyer attended the meeting in person and Planning Director Sean O'Callaghan attended via Zoom. The other two County Commissioners did not attend. The

meeting ended with the County taking the position that Three Forks needs to do public outreach to residents outside of the City limits in the one-mile area, undertake the drafting of zoning documents and then provide the County Commission the documentation on the results of the outreach process and the draft zoning regulations for the County to review and then accept or reject. The County did not offer and did not elaborate on how extensive the process needed to be, what type of zoning uses or density the County would like to see or that would be acceptable, and what type kind of development the County would find acceptable in the one-mile area.

From my perspective, it is up to the City of Three Forks to decide if it wants to:

- 1) have extra-territorial planning;
- 2) develop a program and pay for the resources to present a “plan” to the owners in the one-mile area in the County around Three Forks; and
- 3) understand that even if there is community support from the residents in the one-mile area, there are no guarantees that Gallatin County would find the plan acceptable nor the public outreach sufficient.

While there is a need for clear guidance from the County Commission about the criteria under which they would allow for that authority to shift to Three Forks, that criteria will not be forthcoming. Thus, Three Forks needs to make this decision in a vacuum.

In order to extend the Three Forks City Zoning Regulations (and subdivision review) into the area up to 1-mile around the Three Forks’ city limits, the County Commission would need to amend Gallatin County’s Subdivision Regulations to exclude the 1-mile area or less from Gallatin County’s Regulations. If the County does not agree to modify the Gallatin County Subdivision Regulations jurisdictional area, Three Forks cannot extend its zoning beyond its municipal boundaries. See §76-2-310, MCA. [Yes, you are reading that correctly, the County controls municipal zoning through subdivision law.]

Potential Options that the City Can Consider:

1. Status quo: the County would remain solely responsible for managing land use in the area and the City provides free labor and resources to the County for subdivision review and subdivision exemption review.
2. Return to statutory Montana Subdivision and Platting Act process: Gallatin County conducts subdivision review and subdivision exemption review. Three Forks would provide comments on proposed projects. The City would provide no formal review or recommendations.
3. Negotiate an agreement with Gallatin County that allows Three Forks to continue to process subdivisions and subdivision exemptions and Gallatin County pays for those services.

4. Update the City Future Land Use Map to identify those areas that it makes practical financial and infrastructure sense to be incorporated into the City in the future and seek County permission for Three Forks to extend zoning and subdivision responsibilities for the City to those areas. This would take an in-depth land use and engineering analysis to identify those areas. A minimum initial estimate would be \$30,000 (and up) as the mapping should exclude floodway due to severe restrictions in those areas.
5. Seek to extend zoning and subdivision responsibilities for the City to the entire 1-mile area. If necessary, update the Future Land Use map with the 1-mile and not give regard to severe restrictions on development

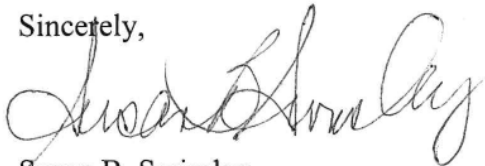
It is my opinion that unless the City can have total land use administration and decision-making authority in the extra-territorial area, then the City needs to decide it will not be seek extra-territorial planning and will need to tell the County that the City will not be moving forward with the process. In that event, the City would need to tell the County if the City is going to provide free land use resources to the County or desires to negotiate payment for services or tell the County that the City will no longer provide those services to the County. Please be clear, this is my opinion. Others may have different opinions to which you should listen and consider.

The City needs to have a clear understanding of the time and resources that will be necessary to administer all regulations in the extra-territorial area. Therefore, we would like to have a discussion about these extra-territorial issues at your September 2024 meeting.

Finally, the 2025 Legislature is likely to pass additional land use statute that could affect this entire process, but that remains to be seen.

Please place a discussion on your September 2024 agenda. Thank you.

Sincerely,



Susan B. Swimley
Three Forks City Attorney

Cc: Randy Johnston, Mayor
Randy Carpenter, planner
Jerry Grebenc, Great West