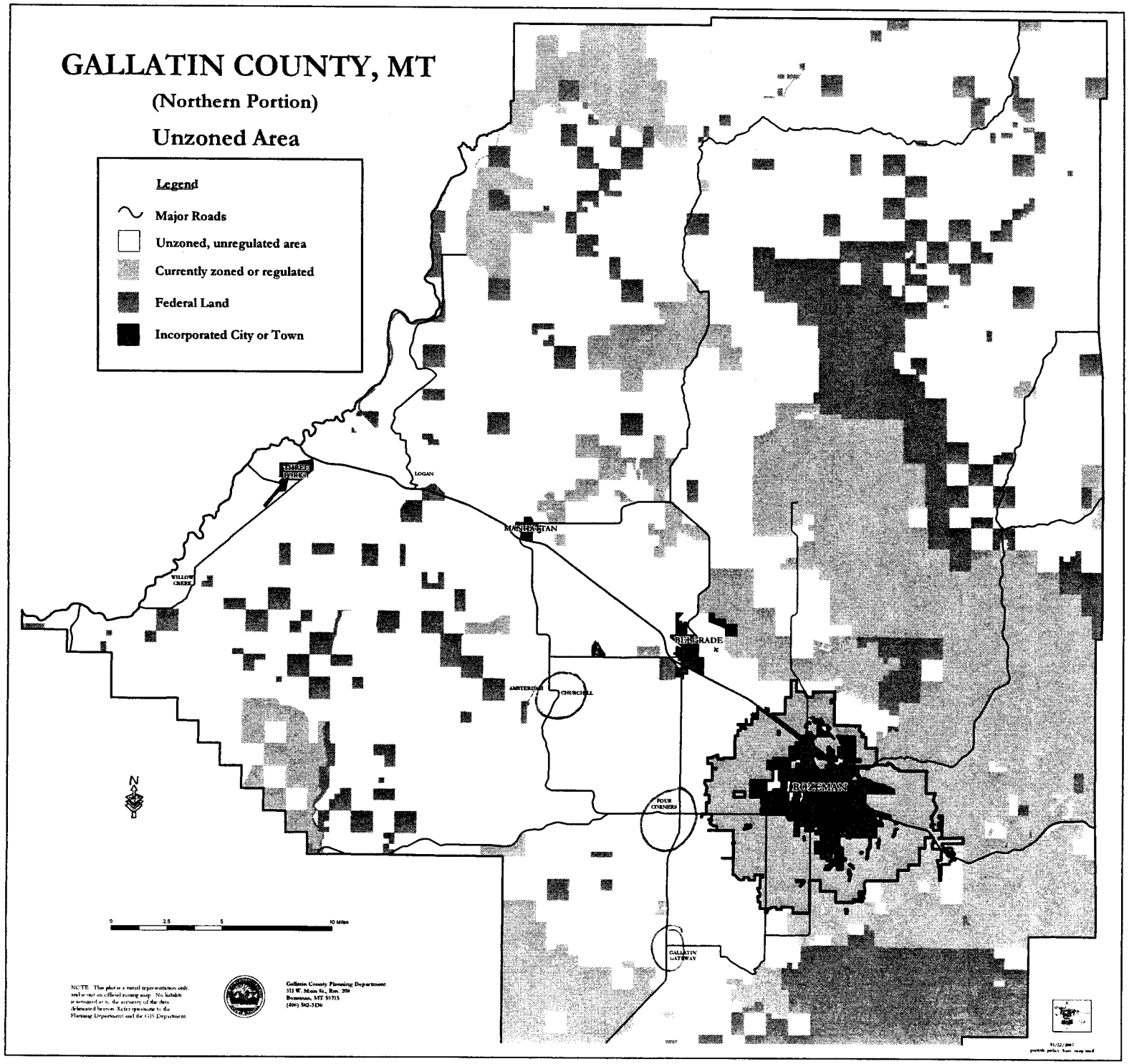
Local Govt. Comm.
Exhibit No. 1
Date 2-22-07
Bill No. SB 503

GALLATIN COUNTY, MT

(Northern Portion)

Unzoned Area



GALLATIN COUNTY LEGISLATIVE LIAISON

February 22, 2007
Testimony on SB 503

Madam Chair, Distinguished Senators,

On behalf of Gallatin County Commission I want to thank you for the opportunity to address this important legislation.

We recognize this legislation may appear to be another in a long line of proposals this committee has heard recently regarding the protest provisions through the creation of a zoning district. It is our contention that the changes implemented by SB 503 will resolve two major challenges Gallatin County has faced in implementing solid land use planning and zoning.

The provisions of SB 503 as requested by Gallatin County came to light from the work this committee completed on SB 110. The provisions you have before you were requested to be included in SB 110, however we could not reach complete consensus in time to have them included with the amendments. It is the position of Gallatin County that the provisions of SB 110 are important and we support their passage, however in reviewing SB 110, and the current law, Gallatin County strongly feels this issue should be addressed.

Timing for Zoning Protest

It is the position of Gallatin County that the protest period for the creation of a 201 zoning district or the amendment of a 201 zoning district should be extended to 60 days.

Zoning is a complex legal process, one which can be confusing even for professionals who deal with it daily. To expect landowners who are concerned about the potential loss of property use because of zoning, who have little or know understanding of zoning laws and process, to become comfortable with a new regulation within 30 days after it is passed seems shortsighted. It is our experience that many landowners delay participation until near the end of a process due to time constraints, business schedules, construction seasons, seeding, harvest, calving, and various other reasons.

Because the adoption of a 201 Zoning District or a change in a 201 Zoning Regulation has a potentially long-term impact to landowners, giving the landowners who will have to live under this regulation and extra 30 days to ensure they fully understand the rules and have opportunity to address the regulation will only make the process and allow the landowners more opportunity participate in the process.

Standing to Protest Zoning

While considering the current law and changes in SB 110 to add flexibility to zoning implementation, we wrestled with the issue of who has the ability to protest if an overlay sub zone were created. Our biggest reservation about this process has been that once a district is created the entire district gets to protest any subsequent changes to zoning. It doesn't offer the opportunity for sub zones or community zones to be created that would limit the protest to landowners **only within the boundary of the new overlay or sub zone**. It is the larger area potentially controlling use of the smaller community.

What SB 503 proposes is language added to 76-2-205, MCA that clarifies the protest provisions for the creation of a new zoning district (7a), revision or amendment of zoning regulations (7b), change of zoning of a parcel or zone map amendment (7c), or ***"(7d) against the creation of a zoning district in an area zoned under this part by all real property owners within the boundaries of the area affected by the creation of the zoning district."***

The language of (7d) is critical to clarify that if a county were to implement a county-wide or large 201 zoning district, it could later create neighborhood or community overlays or sub zones, and that once created, only the people in the overlay would be have standing to protest.

Gallatin County has included a map for reference in this testimony. The county may decide to create a 201 zoning district from the Gallatin River west to the county line with a density of 1 house per 20 acres but with limited rules or regulations for land use categories, structure types, setbacks etc. All of the area in white shown on the map west of the Gallatin River would be subject to zoning, provided they meet the protest provisions of 76-2-205.

Now, let's say that one year later the (unincorporated) community of Amsterdam decides that they want to create their own zoning district to promote proper growth in their community. The new zoning district identifies specific uses, commercial, residential, industrial, strip clubs, bars, gas stations, liquor stores, setbacks, building heights, etc.

What are our options? The way Gallatin County has been interpreting and enforcing the provisions of the code, we can't create a 101 Citizen Initiated zoning district over the top of a 201 zoning district. We can't put a new 201 zoning district over the top of a existing 201 district. We can't simply remove the 201 zoning designation from the area and start over.

It is our understanding that once the 201 zoning is in place under 76-2-205 the only option left for the Amsterdam community would be to create an overlay, or what we call a sub zone to amend the zoning district. As the law currently stands, the entire zoning district could protest any changes to the new "Amsterdam Community Zoning". Even after the zoning is changed, every text amendment, every zone map amendment, every change in use category would be protested by the entire zoning district, not the just those inside of the community or neighborhood boundary.

Because of the potential size and shape of a large scale zoning district ensuring proper and legal protest periods have been granted are not only a logistical issue, but it raises a fairness issue. It is the vision of Gallatin County to start broad and allow the specific neighborhoods and communities to change zoning to meet their vision when they are ready.

We are asking for this change in law to clarify the protest provisions when a sub district, sub zone, or overlay district is created within an existing 201 zoning district. It is our belief that these changes will make the process of zoning fair and balanced as counties move to address the issues of growth we are currently facing.

Thank you again for the opportunity to address this important issue and we urge a DOPASS on SB 503.

Submitted by Michael Harris
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