

EXHIBIT 111AD  
DATE 3-12-2009  
SB SB 306 + SB 345  
& SB 305

Dear Members of the House Local Government Committee,

My name is Greg McNally. I reside at 574 W. Main in Helena in House District 82. I am employed as a land use planner in county government; however, these views are my own. Please note my opposition to Senate Bills 305, 306 and 345 which you are scheduled to hear on this day March 12, 2009. My reasons for opposition are detailed below. I apologize that I am unavailable to express my comments in person.

**Oppose SB 306** - This bill is a step backwards. A remainder is a lot and should be classified as nothing else but a lot. An appropriate legal reference is lost thus making future historical tracking of the division of land more difficult. The language regarding retention of ownership for 18 months is onerous to track and lacks purpose. In addition, determining that the property is the subdivider's primary residence is impossible without any defined measure of criteria noted or referenced. This bill is clearly an attempt to legalize an evasion of the MSPA. Please oppose this bill.

**Oppose SB 345** - While I applaud an attempt to address additional public notice for the adoption of zoning regulations and boundaries, the amendments proposed under 76-2-205 are impossible for a local government to comply with and are only proposed under the guise of providing additional public notice. Any attempt to comply will surely result in high costs to the local government, legal action, and failure which appears to be the true goal of these amendments. For instance, notice as described on page 2, lines 24-26 could not be satisfied adequately as property ownership can change anytime while sufficient documentation of that change lingers. Even if this could be done, the mailing and copying costs alone are a burden to local government. Further, page 2, lines 27-29, require posted notice in 5 public places within the proposed district. What happens when there are not 5 public places? I never, ever want to discourage public participation but I have to believe that public participation takes work and a certain level of awareness on behalf of the members of the public. I believe the public notice requirements are sufficient as currently written. Please oppose this bill.

Please ask the sponsor to define the difference between "freeholder" and "real property owners" on page 3, lines 18 and 19 and please ask why this is being proposed. It is my understanding that the courts have addressed the definition of a freeholder and this change may detract from previous definition.

On page 3, line 23, the restriction is extended from one year to two years. This is an unsubstantiated and unnecessary change.

The changes regarding interim zoning under 76-2-206 require me, and I hope you, to question the bill's sponsor about his understanding of the need for interim zoning. Working for a county that has experienced the utilization of interim zoning, I do not think these amendments do anything except ensure it will never be implemented in Montana again. Interim zoning is to be utilized as an emergency measure. Once in place the, local government should be conducting studies to understand the emergency or preparing

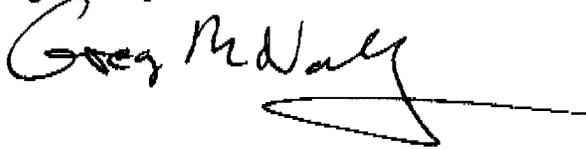
other regulation to mitigate the emergency in the long term. This is already difficult as currently written. Even harder as amended. A reduction from one year to six months in addition to onerous notice requirements of approving a one year extension ensure that little staff time/resources will be available to actually mitigate an emergency for the long term. In addition, the protest provision clearly negates the need to address an emergency. If interim zoning is utilized by the governing body in an inappropriate way, or a way perceived to be inappropriate, the voters will oust commissioners come election time. It happens. Former Commissioner of Lewis and Clark County, Ed Tinsley lost re-election, 49 percent to 51 percent, on this, I believe, one issue.

**Oppose SB 305** - While I certainly appreciate the abundant amendments made to this bill in the Senate, I still feel the bill is unclear in its intentions regarding the application of a financial penalty. Statutes 76-3-604(1)(b) and 76-3-604(2)(b) require notification by the reviewing agent to a subdivider when an application is missing elements (within 5 working days) or is insufficient (within 15 working days). The amendments (proposed 76-3-604(5) indicate that failure to meet these deadlines will incur the financial penalty. The amendment further suggests that the financial penalty is applicable until the governing body denies, approves, or conditionally approves the subdivision. I question the intention of this amendment. Upon receiving notification of missing elements or insufficient information, it is up to the Applicant to provide the missing elements or address the insufficient information prior to the 60 working day review even starting. If notice comes a day late, the fine is imposed. If there is a fine being collected by the Applicant, they could hold off on supplying the missing elements or insufficient information and would not have to wait long to be reimbursed their application fee. If there must be a financial penalty applied at all, it should only apply in the event the 60 working day review period is not met.

Thank you for reading my comments. I appreciate your willingness to serve.

Sincerely,

Greg McNally

A handwritten signature in black ink that reads "Greg McNally". The signature is written in a cursive style with a long horizontal stroke at the end.