

April 26, 2016

Agenda #

Agenda Action Report
prepared for the
Cascade County Commission

ITEM: Cascade County Zoning Regulations updates and revisions

INITIATED BY: Cascade County Public Works Department

ACTION REQUESTED: County Commission Approve Resolution of Intent

PRESENTED BY: Susan Conell, Planning Division Director

SYNOPSIS:

Since January, 2013, the Planning Staff has been tracking formatting errors and making correction notes to our copies of the zoning regulations in order to be more accurate, add clarity and to become more proactive to provide standards to consider that the Planning Board and the Zoning Board of Adjustment will hear in the future. The updated sections specifically are: Section 1 (Purpose), Section 2 (Definitions), Section 7 (District Regulations), Section 8 (Supplementary Regulations), Section 9 (Permit Requirements), Section 10 (Standards for Special Use Permits), Section 12 (Zoning Board of Adjustment), and for the creation of Section 18 (Standards for Unclassified Use Permits).

Staff proposes the following revisions to the Cascade County Zoning Regulations:

- Amend the zoning definition section to update and agree with state and professional zoning language where applicable.
- Delete the “matrix of uses” table inserted in the CCZR in front on Section 1 as it is out-of-date and confusing for most people.
- Add Section 8.12 to reflect standards for solar power plant development.
- Amend fee structure to include Unclassified Use Permit fees (Section 9.3).
- Add Section 18 “Unclassified Use Permit”.
- Make corrections that don’t change the substance of the regulations but makes them more accurate (such as formatting errors).

Following our Planning Board meeting on March 22, 2016, there were three points that needed clarification. An e-mail was sent to the Planning Board to be sure they concurred that their proposed changes should not have been recommended to the Commission due to not having all the facts. The Planning Board agreed that the three points should remain how Staff originally presented them at the Planning Board meeting.

The first point needing clarification was regarding the deletion of the words “Power Plant” from Section 7.2.3 (30) in the Agricultural section. During the discussion with the Planning Board, the distinction between this section and the Unclassified Use Permit Section (18) listing of a “Power Plant” was not obvious. It seemed redundant but it is not. Under Agricultural zoning, Section 7.2.3 (30), the Power Plant listing would allow for a coal plant to be considered through the SUP process, but under Section 18.1.0 “Unclassified Use Permits”, it clearly prohibits any power plant that uses coal, coke, or other coal-based fuel as an industrial fuel source.

The second point that needed clarification was the appeal process in Section 12.3 as it appeared to be repeating itself. Section 12.3.5.1, 1st paragraph “Appealing Zoning Board of Adjustment Determination to Board of County Commissioners or Court of Record” is very similar to Section 12.3.5.1, 5th paragraph. After further examination, it was revealed that the 1st mention was the appeal step to take if you had a disagreement with the Zoning Board of Adjustment to be taken to the Commissioners. The second mention was the appeal step to take if you disagree with the decision of the Zoning Board of Adjustment or the decision of the Commissioners. This section allows the aggrieved an opportunity to take their appeal to either the Board of Commissioners or a court of decision.

The third point, which was suggested for a change, was the definition of “Community Residential Facility” by increasing the number of occupants from eight to twelve. However, because it is a quote from the Montana Code Annotated (MCA), we are not changing how it reads. We do not propose a change here but rather a change in occupancy could be entertained with an application for an Unclassified Use Permit (UUP) if the applicant states how many residents they would like to have considered.

An e-mail was sent to the Planning Board to be sure they concurred that their proposed changes should not be recommended to the Commission after further explanation from Staff. The members agreed that the wording should remain as Staff originally presented.

One of our goals is to have a process in place for potential projects that investors may be interested in developing within our County; of the industries that the Planning office has had inquiries about is solar energy development. We have had at least three different solar companies calling for information in developing near Great Falls. We have included a more current definition and regulations to codify some common development standards for solar energy.

We are proposing a new section titled, “Standards for Unclassified Use Permits or “UUP” for short. A “UUP” would allow a specific use to be considered on an individual basis within a zoning district that does not currently allow for that specific use. An example of this would be a cemetery. Currently cemeteries are allowed in either a Heavy Industrial Zone or in the

Agriculture Zone District with a special use permit. A “UUP” would allow for the Zoning Board of Adjustment to review a parcel for proposed development regardless of the zoning district. This permit would allow consideration as to whether a project is appropriate at the location proposed.

Another benefit of this process would be to allow consideration of a project that has a restriction within a zone district. For instance, a Community Residential Facility is currently limited for the most part, to a maximum of eight occupants. The UUP would allow consideration for allowing more occupants, where currently they are allowed by right up to eight (8) in most residential districts. The UUP would require there be public noticing in the paper as well as notification to all adjacent property owners. This process recognizes that a particular use may be compatible (ie. Public Safety facility) but is not restricted to a particular zoning district. This is a common tool used in zoning professional practices throughout areas of the nation and would provide added benefit as a tool in our community.

We anticipate re-visiting the regulations again after next year’s legislation meets and try to capture any changes needed at that time as well as others that may be recommended from the public and/or staff.

Notices were published in the Great Falls Tribune on March 6th, March 13th, and March 20, 2016 as well as posted in five locations throughout the County. They were posted on March 4, 2016 at the Cascade County Clerk and Records Office, Cascade County Courthouse, Cascade County Courthouse Annex, Cascade County Public Works Department Planning Division Office, Cascade County Treasurer/Superintendent of Schools Office, and the Great Falls Public Library.

The Planning Board conducted a public hearing on the updates and revisions on March 22, 2016. No citizen input has been received to date. At the conclusion of the hearing, the Planning Board passed a motion recommending approval of the proposed changes of the CCZR.

For background information, please refer to the attached Planning Staff Report.

RECOMMENDATION:

The Cascade County Planning Board recommends the Cascade County Commission approve the changes as noted in the regulations as presented with eight additional changes as highlighted in blue in your copy of the draft Zoning Regulations.

TWO MOTIONS PROVIDED FOR CONSIDERATION

MOTION TO APPROVE:

“I move the Cascade County Commission approve the Resolution of Intention to amend the Cascade County Zoning Regulations with the changes as noted.”

MOTION TO DISAPPROVE:

“I move the Cascade County Commission not approve the Resolution of Intention to amend the Cascade County Zoning Regulations with the changes as noted.”

Attachments: Resolution of Intent
Staff Report
Draft copy of the proposed Zoning Regulations