

CHAPTER 1: THE CHARACTER OF FLATHEAD COUNTY

Comment:	Staff Response:
<p>P. 1, Protect the Views, last sentence. Establishing a “non-detrimental” standard is totally unrealistic. There will always be a few extremists who will claim any development proposed is “detrimental” and lawsuits will ensue. Characterizing developments that “rob future generations of daily enjoyment of open spaces” is really over the top in emotional hyperbole. A better statement: Policies will encourage developments that consider the scenic settings, incorporate design and construction standards that harmonize and complement the local views, and where possible, provide incentives for excellent architectural design.</p> <p>P. 2, Promote a Diverse Economy, last sentence. Surely it will take a little more than just “maintaining and promoting the unique character of Flathead County” to attract business and industry? Suggestion: Maintaining and promoting the unique character of Flathead County, <u>ensuring availability of industrial and commercial sites, and where possible, providing incentives</u> through the Growth Policy to insure that Flathead county continues to attract economic engines that will offer well paying jobs to a qualified workforce. “</p> <p>P. 3, Preserve the Rights of Private Property Owners, first paragraph. The portrayal of “zero-regulation” is an inaccurate depiction of the existing situation. There is no such thing as “zero-regulation” now on any parcel anywhere in Flathead County or the State of Montana, and it is misleading to the public to characterize this situation in the Growth Policy. Suggest deleting the “zero-regulation” sentence, and replace with the following: Every parcel in Flathead County is subject to regulations today that are imposed by many existing Federal, State, County, and City regulations and ordinances, plus deed restrictions, easements, and covenants unique to each parcel. There are very few things a current landowner can implement right now, anywhere, without first filing application forms, getting permits, reviews, inspections, etc. State (and probably County? Check it out) Nuisance Laws currently protect neighboring property owners from most obnoxious activities and developments that would de-value an adjacent property.</p> <p>How can “respecting the cultural heritage” mean anything substantial relative to property right laws and policy? Suggest the last sentence be reworded to: “The Flathead County Growth Policy establishes a definition of private property rights</p>	<p>No change needed.</p> <p>No change needed.</p> <p>Staff suggests clarifying the last sentence of the first paragraph of the Preserve the Rights of Private Property Owners section on page 3 to read: “A balance must be achieved between zero-regulation, in which case landowner’s are allowed absolutely free use of their property, regardless of its impacts on the neighboring and greater community, and over-regulation, in which case government regulates beyond that which is allowed by ‘the promotion of public health, safety, morals, convenience, or order, or the general welfare and for the sake of efficiency and economy in the process of community development...’(76-1-106 M.C.A)”</p> <p>Staff suggests the Planning Board further define private property rights.</p> <p>Staff suggests replacing the last paragraph in the</p>

<p>that will honor the rights of existing property owners as documented in the recorded Deed for each parcel. If it is necessary for Flathead County to take additional rights or restrict uses for public purposes beyond those currently recorded for each tract, the current owner will be compensated at current market value for the additional taking or new restriction.”</p>	<p>“Preserve the Rights of Private Property Owners” section with a definition defined by the Planning Board.</p>
<p>Develop and incorporate a set of guiding principles to provide greater clarity and direction to the seven elements of the public's vision.</p>	<p>Refer to Part 2: How the Vision Guides the Growth Policy of Chapter 1: The Character of Flathead County.</p>
<p>In the introduction, someone wrote, “The irony is that growth fueled by the attractive character of our community is the same growth that can ultimately change it.” <i>pp1</i> A further, completely avoidable irony is that the attempt to protect character through government regulation irrevocably changes one aspect of that character – the culture. The additional regulation required for full implementation of this growth plan will seriously weaken the self-reliant, limit government to the bare necessities expression of our traditional Flathead Valley culture. In short, the “western rural lifestyle” that is so attractive (<i>pp2</i>) and requires self-reliance as a core value is endangered by those who wish to preserve it through reliance on government regulation. Several times this document alludes to conflict between uses and between political philosophies. This conflict is both the reason why planning is necessary and the reason why most plans fail. The important discussion on page 3 of why balance must be achieved is defeated by the ridiculous definition of over-regulation. You must have a definition for this crucial concept that stands on its own. The definition of over-regulation must precede the growth policy; it does not depend on the policy. Rather the policy depends on a clear understanding of what constitutes over-regulation. In the context of the growth policy, I suggest a definition of over-regulation is favoring one set of property values over another. For example, if the impact of development by owner A on other owners is less than the impact on owner A of restrictions inspired by this growth plan, then over-regulation has occurred. A complete definition of over-regulation, especially for Montana, should include the understanding that over-regulation occurs when government elects to do that which individual citizens can and should do for themselves.</p>	<p style="text-align: center; font-size: 48px; opacity: 0.3; transform: rotate(-45deg);">DRAFT</p> <p>Refer to above recommended change to definition of zero- and over-regulation.</p>
<p>“The Seven Elements of the Public’s Vision” seem to form the basis for the goals and policies of the plan. From a formatting perspective, you may want to number those elements. “Protect the Views” would probably benefit from a specific identification of those view-sheds that the County believes hold high public value, or at least</p>	<p>Refer to Goal G.11 and associated policies in</p>

<p>some definition of the attributes of a high quality view-shed. A statement under “Properly Manage and Protect the Natural and Human Environment” is “Commercial use of timber was a resource characteristic that many residents wish to see preserved”. While that may be true, it is clear that commercial forestry in NW Montana is in transition for a number of reasons related to timber supply, land values, and other factors. This transition to other rural uses does not necessarily preclude commercial forestry opportunities nor does it necessarily preclude the protection of critical public values.</p>	<p>Chapter 2: Land Uses.</p>
<p>On page 1 there is a quote from a Lakeside resident which is great, however, it leaves out a very important part of a “<i>healthy community</i>” economic well being. You must have a healthy economy to have a healthy community. Reference is made on page 2 regarding location of business and industry. If not located along highways, then where should they be located? Transportation systems are described on page 68. It must be remembered that for every mile of roadway with a 60 foot R/W you are consuming 8 acres of land. How many acres of dedicated asphalt are we willing to trade for “<u>pristine neighborhoods</u>”?</p>	<p>Refer to Goal G.6 in Chapter 2: Land Uses.</p>
<p>CHAPTER 1: THE CHARACTER OF FLATHEAD COUNTY Use of a quote. This is an attempt by the writer(s) of the draft document to use a quote which is incorrect in its content to influence an outcome. The quote says that successful land use is a list of several things that the author(s) feel(s) are important to them and tries to imply that they are a “public interest”. The quote is then being used to imply that they are indeed “public interest”. Two of the items in the quote are indeed “public interest” i.e. air &amp; water quality and safe traffic. Those are the benefit of everyone equally. Sprawl and open space are not if their implication means that my neighbor must use their property for open space for my benefit, or a land owner must give up an inherent use of their property to provide open space without just compensation for that “public interest”, “Sprawl is not a public interest if it means an owner cannot use an inherent right because the majority do not want them to without compensating the owner for the “public” Wish list”. The latter two are an attempt by government or private individuals using government to impose their beliefs as having a higher value than the rights of the individual who owns the property. Introduction p. 1 “create safety and health hazards if not properly guided”. Most of the health hazards and safety hazards are created by an irresponsible government.</p>	<p>These comments refer to the contents of this chapter as though it contains goals and policies. This chapter is included as an illustration of the origins of many of the goals and policies. However, the sections of this chapter are not goals and policies in and of themselves and therefore should not be regarded as such. Questions regarding the implementation of these sections should be addressed by reviewing associated goals and policies located throughout the rest of the document.</p> <p>Refer to above recommended change to definition of zero- and over-regulation.</p>

<p>It is the job of government to plan and implement their public interest obligations. If a road is dusty and creates a health hazard they should remedy the situation. If a road is too narrow for the traffic the government should remedy the situation. That is a public interest. All people can use the road and all people have to bear the consequences of the dust. If a highway is not safe because of the amount of traffic it is not the job of government to limit the amount of users of the road, it is the job of government to make it accordingly safe.</p> <p>Protect the Views, p.1</p> <p>It is not the job of government to protect a view. If I purchase a property that has a view at the time of purchase and I know that someone else has a property between my property and the view I want it is not the job of government to require that the owner of the property between my property and “my” view cannot use that property for their personal benefit. If I wanted that kind of protection I need to purchase a property that has restrictions in existence at the time of purchase that restricts uses. It is not government’s exercise of “public interest” to later impose restrictions on uses. By MCA that is not a “public interest”. Any attempt to impose without compensation should be met with resistance using the judicial system or other means available.</p> <p>p.2 - “the cost of living and home ownership should be affordable to the median income”. This insertion certainly implies the thinking of the author(s) of the draft but it is not a “public interest” as defined in MCA. Government has no responsibility to provide what they or anyone else thinks is “affordable”. They have an obligation not to impose restrictions to make them less affordable.</p> <p>Maintain the Identity of Rural Communities – Here it is stated that residents do not want a certain function by using quotes from a resident. It is implied that since they do not want that then others need to be denied from providing it. In other words take the controls of a right of ownership away from certain individuals so that other individuals can have a personal benefit. It is implied that this is legitimate and beneficial as a “public interest” since a majority may desire it and that those it restricts should gladly relinquish it. This is a miscarriage of justice.</p> <p>Later in the document it uses the same argument for “neighborhood planning” and other implementations to be used to reach predefined goals. This is an attempt by some to impose their will on others and with no consequence, no compensation and no moral implications. MCA states that it is an obligation of legitimate government to uphold a moral standard. A moral standard has always been held and should continue</p>	<p>Staff disagrees.</p> <p>Refer to Goal G.11 in Chapter 2: Land Uses.</p> <p>No change needed.</p> <p>Refer to Chapter 9: Implementation Strategy, specifically the “Development Predictability Map” section.</p>
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<p>to hold that taking a value from one individual for the benefit of another or a group of others is a theft. We should not redefine thievery as being OK by a vote. Thievery is thievery regardless of how, why or when.</p> <p>Growth Policy as defined here is to protect communities and character of Flathead County. What about the protection of individuals? It has always been and should continue to be that government’s primary role is not to minimize an individual. The Bill of Rights in the U.S. Constitution did not give rights to individuals but limited governments. It gave limited powers to government and stated them but held those not stated belonged to the individual. That practice was intended to continue through all aspects of government.</p> <p>p. 3 Properly Manage and Protect the Natural Resources and Human Environment “Human Environment” – Defined by who and how? Preserving the Rights of Private Property Owners This section is the crux of the whole proposal of the Growth Policy. There are several misguided statements made by the author(s) who don’t know what a private property right is, have chosen to misstate the role of government and in the last sentence chooses to propose that the Flathead County Growth Policy seeks to initiate a definition of what private property rights are as if they have given authority to establish a definition (by their terms of course).</p> <p>It is very clear what the role of government is and is not. Government needs to plan only those things that belong to government which is very clearly stated in this document through MCA. When they begin to go beyond that role and enter into the role assuming control over the rights of others is when they begin to leave their area of jurisdiction and begin enter the role of dictator not government. An example of this proposed authority is identified in this section by the following quote: “A balance must be achieved to between zero-regulation, which allows one landowner’s use of land to impact the use and enjoyment of value of a neighbor’s, and over-regulation which could be defined as regulating beyond goals outlined in the growth policy”. Problem #1 – It is not government’s role to decide what actions may impact and person. Government’s role is limited to what impacts us all collectively (general welfare) not what may impact one individual with another individual. Those kinds of roles belong to the judicial system. Problem #2 – Governments do not establish monetary values nor do they protect a monetary value from anything other than government’s intrusion into a person’s life which does take value. All growth policies in</p>	<p>Refer to above recommended change to definition of zero- and over-regulation.</p> <p>Refer to Goals and Policies of Chapter 8: Natural Resources.</p> <p>Refer to above recommended change to definition of zero- and over-regulation.</p>
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<p>the past have ignored this and have unashamedly, literally and wantonly have taken monetary values from individuals by their regulation and claim they did “good”. Hundreds of personal examples can be given from years of experiences dealing with governmental agencies and private property owners. Problem #3 – The last portion of the quoted sentence is the “height of arrogance” on the part of the author(s) and that is, if it is written in the growth policy as a goal then any regulation is OK. Growth Policies, goals written by one group over another, neighbors choosing rights and uses for other neighbors have no place in local government and should be met with any area of resistance available. My “bundle of rights” is not given by government, not given to my neighbors to exercise as they see fit and not to be taken by either. I can choose to voluntarily relinquish them, sell them, restrict them myself but any outside interference by others to remove or forced to alter all or any part needs to be individually and collectively resisted. Those attempting to do so should be guilty as any other thief who attempts to enter another person’s property and remove anything of value.</p>	<p>Staff suggests the Planning Board further define private property rights.</p>
<p>Pg 1 In “Protect the views” – The word ‘reasonably’ should be inserted immediately prior to “...protecting views of mountains.” This is in the second paragraph. Pg 2 In the second paragraph under "Maintaining the Identity of Rural Communities," you reference the "feeling" of driving between unique rural communities. I don't think any two people have the same "feeling" on such a drive. This statement is over broad and is a misappropriate generalization. Please remove it. Is the last sentence of the same section misplaced?</p>	<p>Refer to Goal G.11 in Chapter 2: Land Uses.  No change needed.</p>
<p><b>Chapter 1: Character of Flathead County</b> <b>Page 3: Properly Manage and Protect the Natural and Human Environment:</b> We support this defining paragraph with one suggestion included below in bold. A theme that was commonly expressed was responsible management of the natural and human environment... Air and water quality were frequently mentioned along with co-habitation of people and wildlife as qualities that make Flathead County unique and desirable. Many residents expressed a desire to protect the lakes, rivers, ponds, groundwater and air for future generations. Residents also enjoy frequent interaction with and access to wildlife as a defining characteristic of Flathead County. Commercial use of timber and continuation of agriculture are resource characteristics that many residents wish to see preserved”. We support and recognize the importance of the</p>	<p>Add the words “<i>and the continuation of agriculture are</i>” after “Commercial use of timber” in the last sentence of the first paragraph of the “Properly Manage and Protect the Natural and Human Environment” section on Page 3.</p>

<p>next statement in this section of the Growth Policy but suggest that could be clarified and improved with the addition of a few words so that it better reflects some of the land use policies suggested in the rest of the document.</p> <p>The Flathead County Growth Policy sets goals for achieving successful management of the natural and human environment <b>through both incentives and regulations that guide continued growth and development” in a manner that tries to avoid, minimize, or reduce impacts to these important public natural resources through careful review, design, and planning.</b></p>	<p>Refer to Goals and Policies that encourage impact-mitigation and reduction.</p>
<p>Chapter 1, pages 1, 2, and 3, “Seven Elements of Public’s Vision” effectively sums up public input.</p>	<p>Thank you.</p>
<p>The Seven Elements of the Public’s Vision contained in Chapter 1 do a nice job of whittling down the essence of public comments received to date into over-arching themes.</p>	<p>Thank you.</p>
<p>In the introduction we need to point out that it is just not growth that is driving the increasing cost of services it is also the way we grow. Flathead County is the only large county of around 80k that has such a large percent of rural population. If we had 67% of the county population located in cities and 33% in the county our issues and this growth policy would be much different</p>	<p>Refer to Introduction of Chapter 1: The Character of Flathead County.</p>
<p>I think that somewhere in your introduction to the plan that you have to let the public know that the contents are not etched in stone just as the master plan is not etched in stone. As technology changes the plan can change.</p>	<p>Refer to Part 3: Monitoring Implementation in Chapter 9: Implementation Strategy.</p>
<p>I am one of many residents of Flathead County that has made inputs to the planning process over time. Many of my concerns have been dealt with appropriately. The one significant omission is the lack of any reference to dark skies or light pollution. I think this is the time to address these issues and the vehicle to do so. I believe that some simple changes to the draft plan can be made that would address the issues in the future.</p> <p>In Chapter 1: Character, Part 1: 7 elements of the publics vision, under the Views. Add star filled skies to the sentence-- Views of the mountains, lakes, forests, wildlife, star filled sky and open spaces-----.</p> <p>and secondly; The Flathead County Growth Policy will set goals for protecting views of mountains, forests, lakes, rivers and skies as enjoyed from public spaces-----.</p> <p>Page 3: Maintaining access to public lands and waters is listed as one of seven elements of the public’s vision. Where is this element is given clear and emphatic emphasis in any of the plan’s goal and policy sections? Private development should not block traditional access to public land and water.</p>	<p>Refer to recommended policy on dark skies.</p> <p>Refer to recommended policy P.17.6.</p>

<p>Chap 1- Character of Flathead County There is just something missing in this chapter. It provides an incomplete picture of the county. For example- the fact that 2/3<sup>rd</sup> of the population lives in rural areas, that traffic is increasing faster than population, and that county government is under increasing fiscal strain is also part of the character of the county. These need to be included.</p>	<p>Staff disagrees. These elements are included.</p>
<p style="text-align: center;"><b>PROPOSED ADDITION TO FLATHEAD COUNTY GROWTH POLICY</b> <b>CHAPTER 1, PART 2: How The Vision Guides the Growth Policy</b></p> <p>A plan created solely to comply with state law does not entirely serve the needs of the community. The seven elements outlined above are used to tie the Growth Policy together and guide the goals of the Growth Policy by maintaining a community context to all state-mandated criteria. The vision is not all-inclusive; it represents the seven elements on which the public has demonstrated substantial agreement. The goals proposed for each of the following chapters are crafted to achieve success in the categories required by state law and to also protect the current quality of life in Flathead County. That quality can be best maintained by assuring that the seven objectives elaborated above are achieved. Consequently, the Guiding Goals and Policies listed below in this chapter are intended to assure that those objectives are met. Many of these goals and policies are further elaborated upon in subsequent chapters of the Growth Policy, but it is important to establish the main objectives of the Growth Policy.</p> <p style="text-align: center;"><u><b>GUIDING GOALS AND POLICIES</b></u></p> <p><u><b>GUIDING GOAL</b></u></p> <p>G.G.1            Guide future development in directions that maintain the rural nature of Flathead County while protecting views and essential neighborhood characteristics.</p> <p><u><b>GUIDING POLICIES</b></u></p> <p>G. P. 1.1        Develop “Rural Standards” guidelines, which clearly delineate appropriate development in rural areas.</p> <p>G.P. 1.2        Develop “Urban Standard” guidelines, which clearly delineate appropriate development areas of dense population.</p> <p>G.P. 1.3        Establish building and construction guidelines, which</p>	<p style="text-align: center; font-size: 48px; opacity: 0.3;">DRAFT</p> <p>Revisions suggested by Planning Board members are for Planning Board consideration.</p>

	<p>assure the protection of views from highways, arterial and collector roads.</p>	
G.P. 1.4	<p>Authorize neighborhood and county land use and planning boards to establish, recognize and protect essential neighborhood characteristics during their deliberations.</p>	
G.P. 1.5	<p>Create “Incentives to Farm” that proactively encourage the continuation of agricultural land uses.</p>	
G. P. 1.6	<p>Create “Woodlot Preservation Incentives” that proactively encourage the continuation and creation of private forestlands.</p>	
G.P. 1.7	<p>Develop, and regularly update, a Flathead County Road transportation Report that will be implemented to assure, in so much as it is possible, that county residents and visitors enjoy a reasonably free flow of traffic. Such a policy may, at times, influence land use decisions.</p>	
	<p><b><u>GUIDING GOAL</u></b></p>	
G. G. 2	<p>A unique community that affords lasting protection for its essential natural and man-made assets and characteristics so that it can foster and attract diverse economic activities.</p>	
	<p><b><u>GUIDING POLICY</u></b></p>	
G. P. 2.1	<p>Establish long-term legal protection for agricultural and silva-cultural activities.</p>	
G.P. 2.2	<p>Establish rigorous environmental guidelines and regulatory practices that will assure the preservation of Flathead County’s high quality of air, water and natural environment.</p>	
G.P. 2.3	<p>Continuously work with Federal and State governmental bodies to assure continued access for county residents to State and</p>	

	Federal Lands for a wide variety of recreational activities.	
G.P. 2.4	Promote Flathead County as an ideal destination for businesses seeking a clean environment, educated workforce, rural community with diverse recreational opportunities and forward looking government to locate existing or new “clean” businesses.	
	<b><u>GUIDING GOAL</u></b>	
G. G. 3	Protect the natural environment of Flathead County for future generations.	
	<b><u>GUIDING POLICY</u></b>	
G.P. 3.1	See G.P. 2.2	
G.P. 3.2	Create a waste treatment plan, and associated policies, that will avoid any degradation of existing aquifers as land development occurs.	
G.P. 3.3	Develop a dust abatement plan that will eliminate air quality degradation as the county’s gravel roads are subjected to increased traffic loads.	
G.P. 3.4	Develop policies regarding methods to supply drinking water to an increasing population that will minimize the impact to existing aquifers.	
G.P. 3.5	Develop and implement land use policies that shall protect, and possibly improve, the water quality of the county’s lakes, rivers, ponds and streams.	
G.P. 3.6	Seek ways to assure that significant, existing habitats for wildlife are largely undisturbed and protected as land uses evolve and development occurs.	
	<b><u>GUIDING GOAL</u></b>	
G. G. 4	Inculcate awareness amongst the citizens of Flathead County that private property rights are always	

<p>a very serious consideration in all governmental decisions regarding growth and land use issues.</p> <p><b><u>GUIDING POLICY</u></b></p> <p>G.P. 4.1 Regularly sponsor public workshops and panel discussions involving governmental staff and officials on private property rights and associated issues.</p> <p>G.P. 4.2 Create a Flathead County “white paper” on private property rights and applicable state and federal law for distribution to all county staff and officials, as well as all members of county boards.</p> <p>G.P. 4.3 Conduct all Flathead County Planning Board public hearings and all Flathead County Planning Office staff interaction with the public in a manner that will give credence to the prime role played by private property rights considerations.</p>	
<p>I think, first of all, that the role that will be played by this policy could be clearer. It states on page xvi that the role is to be a conceptual framework for future land use decisions. However, it is likened to a State Constitution, which to me is a document that provides framework that is more than conceptual. Any law enacted, found not to be in compliance with the State Constitution would be overturned by the State Supreme Court. Is there a similar policy in place for planning and land use decisions that are not in compliance with the growth policy? Where would such challenges be made? Such an analogy seems to welcome more lawsuits based on this growth policy.</p> <p>I found the seven elements of the public’s vision to be a very strong introduction to the document. However, I think the document as a whole could better reflect our unique setting. I know that the individuals who spoke at the local hearings from which these comments arise were more specific about what they would like to protect. I understand that this is a large county, but the document would mean more to people if it mentioned under its goals specific places that we find important. For example, the section on maintaining the identity of rural communities could mention these communities and why they are important. Similarly, it seems strange to identify the importance of access to water bodies without mentioning Flathead Lake, one of our</p>	<p>All land use regulations must be based on the goals and policies of the Growth Policy.</p> <p>This level of detail is outside of the scope of this document. Per Section 76-1-605(1a), MCA, this is a non-regulatory document. This comment is more relevant to regulatory documents such as the Zoning Regulations, etc.</p>

<p>greatest assets. These sections are important, because the rest of the document is created in support of these goals.</p>	
<p>Chapter 1 The character of Flathead County, INTRO p.1. “Similarly, low density development in areas with adequate facilities can be inefficient”. This is contradictory to Policy 10.1, page 20. Evergreen is in the 500 year floodplain. Page 3 Needs to be stronger and needs to define property rights as individual rights.</p>	<p>Policy 10.1 is recommended for removal.  Refer to above recommended change to definition of zero- and over-regulation.</p>

DRAFT