

## PLANNING STAFF: Report and Recommendation

SUBJECT: Cascade County Zoning Regulation Section 2- Definitions and  
Section 7.2 Agricultural District

DRAFT

Requested Action:

The Definition was added “Medical Marijuana Dispensary” due to changes in Montana State Law that will take effect after June 31, 2017. Currently all “providers” are allowed in I-2 Districts, this term defines dispensary. Previously only Medical Marijuana Provider was defined.

to



## ZONING ANALYSIS

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The first criteria:

1. **Made in accordance with the growth policy.**

State statutes specify the following uses and limitations on uses of the Cascade County Growth Policy:

**MCA 76-1-605 Use of adopted growth policy.**

(1) Subject to subsection (2), after adoption of a growth policy, the governing body within the area covered by the growth policy pursuant to 76-1-601 must be guided by and give consideration to the general policy and pattern development set out in the growth policy in the:

- (a) authorization, construction, alteration, or abandonment of public ways, public places, public structures, or public utilities;
- (b) authorization, acceptance, or construction of water mains, sewers, connections, facilities, or utilities; and
- (c) adoption of zoning ordinances or resolutions.

(2) (a) A growth policy is not a regulatory document and does not confer any authority to regulate that is not otherwise specifically authorized by law or regulations adopted pursuant to the law.

(b) A governing body may not withhold, deny, or impose conditions on any land use approval or other authority to act based solely on compliance with a growth policy adopted pursuant to this chapter.

The 2014 Cascade County Growth Policy contains five goals which the policy defines as a broad, generalized expression of commonly held community values regarding growth, development patterns, and quality of life. They are intended to express the primary theme, or general intent and direction of the growth policy. Each goal also includes a subset of objectives which the growth policy defines as a more narrowly defined and concrete expression of community intent. The five goals and their related objectives are:

**Goal 1: Sustain and strengthen the economic well-being of Cascade County citizens.**

**Objectives:**

These primary goals are the same goals listed in the 2006 Cascade County Comprehensive Plan, as well as new additional goals. The planning board believes that these goals continue to provide the best overall direction for county planning.

- A. Stimulate the retention and expansion of existing businesses, new businesses, value-added businesses, wholesale and retail businesses, and industries including agriculture, mining,

Yes

- A. Foster the continuance of agriculture and forestry in recognition of their economic contribution and the intrinsic natural beauty of grazing areas, farmlands and forests. *yes*
- B. Preserve Cascade County's scenic beauty and conserve its forests, rangelands and streams, with their abundant wildlife and good fisheries. *?*
- C. Preserve Cascade County's open space setting by encouraging new development to locate near existing towns and rural settlements and by discouraging poorly designed, land subdivisions and commercial development. *?*
- D. Assure clean air, clean water, a healthful environment and good community appearance. *yes*
- E. Support the development of natural resources including but not limited to timber, mining, oil and gas production, and renewable energy production. *yes?*
- F. Continue to work with federal and state agencies to redevelop properties within Cascade County which are currently undergoing Superfund and Brownfields processes. *?*

### Goal 3: Maintain agricultural economy

#### Objectives:

*Part of  
Special Use  
Permit process  
site specific*

- A. Protect the most productive soil types. *Yes*
- B. Continue to protect soils against erosion. *Yes?*
- C. Protect the floodplain from non-agricultural development *?*
- D. Support the development of value-added agricultural industry in Cascade County utilizing the products from the regional area. *Yes*

### Goal 4: Retain the presence of the US Military in Cascade County

#### Objectives:

- No negative impact*
- A. Encourage the federal congressional delegation to actively support maintaining the current mission status at a minimum.
  - B. Promote the location of additional military missions in Cascade County.
  - C. Encourage the reactivation of the runway at Malmstrom Air Force Base for fixed wing operations
  - D. Refer to the Joint Land Use Study for resolving conflicts and promoting mission compatible development.

### Goal 5: Preserve and enhance the rural, friendly and independent lifestyle currently enjoyed by Cascade County's citizens.



manufacturing/processing and forest products.

- B. Stabilize and diversify the county's tax base by encouraging the sustainable use of its natural resources.
- C. Identify and pursue primary business development that complements existing business, which is compatible with communities, and utilizes available assets. Identify and pursue targeted business development opportunities to include, but not limited to, manufacturing/heavy industry, telecommunications, and youth/social services. *Yes*
- D. Promote the development of cultural resources and tourism to broaden Cascade County's economic base. *No*
- E. Foster and stimulate well-planned entrepreneurship among the county's citizenry. *Yes*
- F. Promote a strong local business environment. Encourage and strengthen business support mechanisms such as chambers of commerce, development organizations and business roundtable organizations. *Yes*
- G. Improve local trade capture for Cascade County businesses. Promote local shopping as well as well-planned businesses and new businesses. *Yes*
- H. Network with and support other economic development efforts in the region and statewide, in recognition of Cascade County's interdependence with other communities and to leverage available local resources. *Yes*
- I. Encourage the growth of the agricultural economy. *Yes*
- J. Stimulate the growth of the economy by encouraging the use of alternate methods. *of energy - Rendering Plant* *Yes*

**Goal 2: Protect and maintain Cascade County's rural character and the community's historic relationship with natural resource development.**

**Objectives:**

## Objectives:

- A. Maintain Cascade County's citizen's independent lifestyle and minimize local governmental intervention, to the extent possible, consistent with the requirements of a continually evolving economy and constantly changing population.
- B. Preserve and promote Cascade County's rich cultural heritage, rooted in natural resource development and reflected in its numerous cultural/historic sites and archaeological areas.
- C. Promote fire prevention measures throughout the county, giving special emphasis to the extreme fire hazards present at the wild land/urban interface. → most Ag is wildland not close to urban interface
- D. Encourage the continued development of educational programs and facilities, recreational opportunities and spaces and health services for all county residents.

Yes,  
Ag land more appropriate  
than heavy industrial use  
Part of Special Use  
Permit process

## STAFF ANALYSIS:

### Goal 1: Sustain and strengthen the economic well-being of Cascade County's citizens.

With respect to Goal 1, staff finds the proposed zoning amendment to be in general compliance with the growth policy's goal to sustain and strengthen the economic well-being of Cascade County's citizens. The rezoning application meets Objectives A, C, E, F, G, and J of this goal and would allow new businesses to consider our community for growth which could better serve its community members. This goal does not generally promote B, D, H, and I.

### Goal 2: Protect and maintain Cascade County's rural character and the community's historic relationship with natural resource development.

Objective C in this goal is met by promoting economic growth and development within rural settlements, which better preserves Cascade County's rural character as well as Objective D in providing a good community appearance. It does not meet Objectives A (fostering agriculture), B (conserving forests, etc.), E (support natural resources) and F (continue w/with Fed and State to develop lands that continue to be underdeveloped).

### Goal 3: Maintain Agricultural Economy

The changes to the zoning regulations would not put the objectives out of harmony.

### Goal 4: Retain the presence of the US Military in Cascade County

Staff finds the proposed regulation changes do not affect the US military either negatively or positively.

**Goal 5: Preserve and enhance the rural, friendly and independent lifestyle currently enjoyed by Cascade County's citizens.**

Objective A seeks to maintain the county's citizen's independent lifestyle while minimizing governmental intervention to the extent possible, consistent with the requirements for a continually evolving economy and constantly changing population. The proposed change to the zoning regulations can lessen governmental regulation with fewer development barriers.

**Overall Compliance:**

Determining compliance with the growth policy for the proposed zoning regulation changes demonstrates the inherent tensions and contradictions between various goals and objectives. The intentionally broad language used in forming goals naturally leads to statements that are capable of multiple interpretations. Fully meeting one goal may mean that a land use action fully contradicts another. Staff also remains mindful that recent statutory changes to the Growth Policy Act and related court decisions make it clear that growth policies are not regulatory documents and may not be used to condition or deny a land use action.

With these principles in mind, staff finds the proposed changes generally complies with the 2014 Cascade County Growth Policy and the level of compliance is acceptable. The proposal meets the growth policy's goal to sustain and strengthen the economic well-being of the county's citizens. The proposal does not negatively affect Cascade County's rural character or agricultural economy. The growth policy's goal to retain the presence of the U.S. Military does not directly apply.

**Criteria #2:**

**Whether the zoning regulations have been designed to secure safety from fire and other dangers.**

There have been no proposed change that would affect the way to secure additional safety from fire and other dangers. There are no changes to enhance or worsen protection from these types of dangers.

**Criteria #3:**

**Whether the zoning regulations have been designed to promote public health, public safety, and general welfare.**

The zoning regulation changes are not proposing change that would affect the public's health, public's safety or their general welfare.

**Criteria #4:**

**Whether the zoning regulations have been designed to facilitate the adequate provision of transportation, water, sewage, schools, parks, and other public requirements.**

Staff does not feel any proposed regulation change will have an effect on adequate provision of transportation, water, sewage, schools, parks, or other public requirements. There are building code requirements that must be met for Commercial ventures within a structure. Water and sewer will vary on soil factors, size of lot, etc.

Criteria #5:

**Whether the zoning regulations have been designed to provide adequate light and air.**

Staff does not feel any proposed regulation change will have an effect on light and air.

Criteria #6:

**Whether the zoning regulations have been designed to address effects on motorized and non-motorized transportation systems.**

Staff does not feel the proposed regulation change will have an effect on motorized and non-motorized transportation systems. It may reduce some traffic if a community has a local choice rather than driving into town.

Criteria #7:

**Whether the zoning regulations have been designed to be compatible with urban growth in the vicinity of cities and towns that at a minimum must include the areas around municipalities.**

The proposed zoning regulation change will remain compatible with urban growth in the vicinity of cities and towns.

Criteria #8:

**Whether the zoning regulations have been made with reasonable consideration to the district's peculiar suitability for particular uses.**

The proposed change is minimal and only affects one zone district. It does allow other possibilities for development if a project can meet the requirements of that development.

Criteria #9:

**Whether the zoning regulations have been made with a view to conserving the value of buildings.**

Any existing buildings could bring up the value of the property it lies within as well as the surrounding neighborhood. It would allow older buildings to be re-habituated for some sales or service.

Criteria #10:

**Whether the zoning regulations have been made with a view to encouraging the most appropriate use of land throughout the jurisdictional area.**

Staff feels the proposed change to the Zoning Regulations are to encourage the most appropriate use of land throughout the jurisdictional area. The opportunities for several uses will have another avenue for prospects to develop. The whole County will be able to potential benefit but the neighboring communities will also benefit.

**RECOMMENDATION**

The recommendations before you are for consideration today for the public to have an opportunity to voice their approval or concerns. This recommended change will be forwarded to the Commissioners where the public will again be able to address any additional questions or concerns. No changes to the Zoning Map are being proposed.

**MOTIONS:**

Alternative One- The Planning Board, after reviewing the staff report and proposed regulation change for compliance with the criteria and guidelines for zoning regulations MCA 76-2-203, recommends to the Board of County Commissioners that the request to amend Section 7.5.12 by adding 7.5.12.6 "Convenience Sales" be **denied**;

OR:

Alternative Two- The Planning Board, after reviewing the staff report and proposed regulation for compliance with the criteria and guidelines for zoning regulations MCA 76-2-203, recommends to the Board of County Commissioners that the request to amend Section 7-5.12 by adding 7.5.12.6 "Convenience Sales" be **approved**.

Attachments: Draft Zoning Regulation, Section 7.5.12