

To: Amsterdam/Churchill Community Planning Group
From: Warren Vaughan, County Planning
Date: January 11, 2010
Subject: Draft Standards for Rural Amsterdam/Churchill

CHAPTER ??? – RURAL AMSTERDAM/CHURCHILL

Policy 4.1 Land Use Map

Comment: There are potentially two separate, geographically-defined Sub-Districts in Rural AC (RAC): the general sub-district and a second Sub-District in the SE corner of the planning area (see Policy 4.4.3). We have a choice of how to proceed...

- A. Purpose.** This chapter establishes the ??? Sub-District and development standards specifically applicable within the Sub-District. The purpose of the ??? Sub-District is to promote and preserve continued agricultural and low-density rural Residential use of property.

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Policy 4.2 Right to Farm

- A. Protecting Agricultural Operations.** Development in the RAC shall not interfere with existing agriculture operations, including the normal operation of dairies, feedlots, potato cellars, and other agricultural activities that may, at times, be perceived as a nuisance by inhabitants of nearby residences. No land use permit in the RAC shall be issued until a “resource management easement” has been recorded at the Clerk and Recorder’s Office by the owner. A model resource management easement is included in Appendix ____.

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Policy 4.3 Protection of Agricultural Land and Lifestyle

- A. Identification of Agricultural Water Conveyance Facilities.** Any proposed Development requiring a Land Use Permit shall identify all Agricultural Water Conveyance Facilities located on the property or, if located off-site, those Agricultural Water Conveyance Facilities located within 50 feet of the Development requiring the LUP;
- B. Acknowledgment of contact with irrigation entity.** Any proposed Development requiring a LUP within 50 feet of the centerline of an Agricultural Water Conveyance Facility shall submit with their LUP application acknowledgment of contact with the appropriate water users and/or

Agricultural Water Conveyance Facility's authorized representatives. Those users or representatives have 30 days to respond; if no response is received, the application may proceed. A model acknowledgment form is included in Appendix A. If a subdivision has addressed impacts to an Agricultural Water Conveyance Facility through the subdivision review process, the applicant may substitute that evidence with a Land Use Permit Application for an acknowledgement form;

- C. Stormwater or snowmelt Runoff.** Unless there is written consent from the appropriate water users and/or Agricultural Water Conveyance Facility's authorized representatives, any proposed Development requiring a LUP shall be designed and developed so stormwater, snowmelt Runoff, water from dewatering activities, or other water originating from within the boundaries of the Development, does not run into or become captured by any Agricultural Water Conveyance Facility;
- D. Modifications of water transmission.** Unless there is written consent from the appropriate water users and/or Agricultural Water Conveyance Facility's authorized representatives, there shall be no interference or obstruction in the transmission of water in any Agricultural Water Conveyance Facility.. Before any maintenance, improvements, crossings, or modifications are performed on any Agricultural Water Conveyance Facility, the appropriate water users and/or Agricultural Water Conveyance Facility's authorized representatives must give written permission for the work to be done.
- E. Buffers.** New subdivision shall provide an open space buffer of 50 feet between residential lots and the property lines of existing agricultural operations

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Policy 4.4 Rural Residential Development

Comment: This is where, if we do two separate sub-districts, we'll have two separate sections. I'm going to move forward with only the single, basic sub-district for now rather than try and write anything for Policy 4.4.3.

- A. Density.** Average residential density shall be one development right per 160 acres or existing tract of record. There shall be no minimum lot area or width. The number of development rights may be increased if the standards detailed in Section E are met. For parcels with greater than 160 acres, there is a development right for each 160 acres; in the event the acreage is within 90% or higher of an additional 160 acres, there is a development right for that acreage.
 - a. *Residential Development Rights.* Residential development rights shall include primary dwelling units, as well as accessory dwelling units, guest houses, caretaker residences, and any additional accessory structures.
 - b. *Exemptions:* the following are exempt from the density requirements:
 - i. Subdivision Exemptions, including family transfers, boundary locations, agricultural exemptions, and mortgage exemptions;

- ii. Leases for uses including, but not limited to, cell towers and wind towers;
- iii. Employee housing for agricultural purposes;
- iv. Additional development rights pursuant to the requirements of Section E;
- v. Subdivision of lots exclusively for commercial use
- vi. Creation of tracts of record to be used exclusively for utility, parkland, schools, or public safety (such as utility lots for the Amsterdam Rural Fire Department);
- vii. The transfer of additional development rights pursuant to Section __ below.

B. Additional Development Rights. The following standards allow an increase in development rights:

- b. For every 80 acres within an original parcel, there is one additional development right. the additional development right can be used to subdivide the original parcel, or be transferred to another parcel to be subdivided (see Section __). In the event the acreage of the original parcel is within 90% or higher of the 80-acre minimum, the parcel would qualify for an additional development right.
- c. An additional development right can only be used through the conditional use permit procedure. An owner desiring to use an additional development right on the original parcel shall apply for a conditional use permit and follow the procedures specified in Section __ of this Regulation.

C. Transferred Development Rights.

- a. A development right existing as a matter of right OR an additional development right may be transferred from one parcel to another.
- b. An owner of property intending to use a development right transferred from another parcel shall apply for a conditional use permit.
- c. A parcel receiving transferred development rights may be allowed a density of up to one development right per 40 acres per each increment of 160 acres owned. This is defined as total density and includes the original development right and any additional development rights allowed on the receiving parcel, as well as the transferred development rights. Transferred rights shall meet the standards detailed in Section __ below.

D. Standards for Use of Additional or Transferred Residential Development Rights.

- a. Additional or transferred development rights shall only be used on 15% or less of the total original parcel area. If more than one additional development right is utilized on a single parcel, the development rights are not required to be contiguous but shall meet the standards of Section G.c below.
- b. When a total of 15% of the original parcel is platted for development purposes, the owner may use the original development right anywhere in the remaining 85% of the original parcel. A deed restriction shall be placed on the remaining 85% of the

original parcel restricting future development to use of the original development right.

- c. At least two of the following three conditions shall be required for approval of the use of an additional development right:
 - i. The building site is located in close proximity to existing homes and roads;
 - ii. The building site is located on the least fertile soils for agricultural use, and in a manner which maximizes the usable area remaining for such use;
 - iii. The building site is located with the least disturbance to the natural topography, landscape, and vegetation. Nature features such as watercourses and wetlands are not located within the boundaries of any lot used for an additional development right.

E. Transfer of Development Credits (Countywide Program). Properties within the RAC may participate in the Gallatin County Transfer of Development Credits program. Those landowners within the RAC interested in participating shall consult ____.

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Policy 4.5 Flexibility of Uses

Comment: Keep in mind that there are generally two categories of uses: Uses Allowed By Right (i.e., uses that someone can do without any public hearing or comment), and Conditional Uses, (i.e., uses that require a public hearing.) The AC Plan directs us to have a third category as well: prohibited uses.

A. Uses. There are no designated principle uses in the RAC subdistrict. Uses listed as a conditional use in Section B must receive an approved conditional use permit; prohibited uses are list in Section C. All uses not listed as a conditional use or as a prohibited use are principle uses and must obtain an administrative land use permit from the Planning Department prior to construction to demonstrate compliance with all performance standards, as well as any required state and federal permits. All uses and construction associated with agriculture (see definition) shall be exempt from this Regulation, except as noted in Section __ below.

B. Conditional Uses. Conditional uses allowed in the RR/A Zoning District are listed below and will require a CUP pursuant to Section 2.4 prior to commencement.

Use	Comments
asphalt or concrete mixing plants	

Essential Services, Type II	Communications towers for personal use are exempt from these requirements
Sand and Gravel Mining Operations	
Any use generating more than 250 trips per day OR 50 trips in peak hour	Refer to the most recent manual of the International Traffic Engineers Code

C. **Prohibited Uses.** The following uses are prohibited in the RAC Sub-District.

Use	Comments
Alcohol and Gambling Establishments	
Sexually-oriented businesses	

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Policy 4.6 Connections

A. **Functional Connections.** All uses shall be designed, where possible, to share functional connections with adjoining uses to facilitate an even flow of traffic, to allow for functional pedestrian connections, and to provide appropriate and efficient access for emergency vehicles.

i. **Traffic Routing.** The primary access of new subdivision or uses generating more than 250 Average Daily Trips (ADT) shall be sited and designed to route traffic directly to collector or arterial roads, rather than through neighboring areas of single-family homes.

B. **Traffic Mitigation.** For uses with traffic exceeding 60 ADT (as detailed in the most recent edition of the ITE Manual but excluding agricultural uses as defined by this Regulation), the following mitigation may be required at the time of application for land use permit:

- i. Road improvements, designation of rights of way, installation of signage, lighting, and other reasonable conditions mitigating against any potentially-adverse impacts;
- ii. Security, performance bonds, cash deposits, or other financial security in a form acceptable to Gallatin in order to guarantee compliance with conditions imposed;
- iii. On-site improvements for parking, drainage, loading/unloading and other on-site improvements reasonably necessary to prevent adverse impacts.

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Policy 4.7 Natural Assets.

A. Watercourses.

- i. **Construction setbacks to Watercourses.** A 150-foot setback shall be provided from the ordinary high water mark of all other watercourses for all residential, commercial, and industrial construction, excluding structures used for agricultural purposes or for the maintenance of livestock. This setback does not include canals or ditches.
- ii. **Retention of existing vegetation.** Riparian areas and existing vegetation shall be maintained to the maximum extent possible.

B. Wetlands.

- i. **Definition.** Wetlands are transitional lands between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For the purposes of this classification, wetlands must have one or more of the following three attributes:
 1. At least periodically, the land supports predominantly hydrophytes;
 2. The substrate is predominantly undrained hydric soil; or
 3. The substrate is nonsoil and is saturated with water or covered by shallow water at some time during the growing season of the year.
- ii. **Wetlands Delineation.** A wetlands delineation prepared by a professional wetlands scientist in accordance with the current guidelines of the Army Corps of Engineers must accompany either of the following applications:
 1. The subdivision of land in compliance with MCA 76-3;
 2. Construction activity requiring any of the following streambed, streambank, and/or wetland permits:
 - i. Montana Stream Protection Act (SPA 124 Permit);
 - ii. Stormwater Discharge General Permit;
 - iii. Montana Natural Streambed and Land Preservation Act (310 Permit);
 - iv. Montana Floodplain and Floodway Management Act (Floodplain Development Permit);
 - v. Federal Clean Water Act (404 Permit);
 - vi. Federal Rivers and Harbors Act (Section 10 Permit);

vii. Montana Land-Use License or Easement on Navigable Waters

iii. Wetland Protection Standards. The following standards shall apply to all wetlands meeting the definition of 6.3.3.A:

1. Location in Open Space. New subdivision shall designate all wetlands meeting the definition of Section I.b.i as permanent open space; OR
2. Setback. A 35-foot setback shall be provided between all wetlands meeting the definition of 6.3.3.A and any new construction, excluding structures used for agricultural purposes or for the maintenance of livestock.

iv. Exemptions. Exemptions to this section are as follows :

1. Wetlands may be modified for necessary utility lines, roads, and trails, provided that all state and federal permits are obtained.
2. Structures used for agricultural purposes or the maintenance of livestock are exempt from these requirements.
3. If federal and state permits are obtained, or if permits are not required, wetlands may be altered; all altered and newly-created wetlands shall continue to meet the standards of this section.

Food for Thought: Some of these ideas go beyond a strict interpretation of the plan, but Planning Department Staff suggest you think about these because many complaints have historically centered on these issues:

- “Agricultural Activity” on small acreages: what about people who want to keep sheep, goats, and horses on a one-acre lot and end up with serious soil erosion and weed issues?
- Accessory buildings: What about multiple accessory buildings on a single lot? If someone has five acres, for example, do you care if they have a house, a detached garage, a 6,000 square foot building housing their RV, a mother-in-law apartment, and a guesthouse, all on the same property? Or should there be limits?
- What about equestrian facilities? Technically, these are “agricultural activities”, but they also spill over into the commercial category when they start boarding 50-100 horses at a time and begin hosting riding events...
- What about RV’s and campgrounds? Should there be special standards involving screening, etc?
- What about RV, dump truck, backhoe, etc. storage on a lot?

