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Comments on the 2920 Expo re-zoning application, July 13, 2020.

Traffic Analysis and Safety:

The construction of I-90 created a barrier to evacuation of the Grant Creek area. The only feasible escape routes in the event of fire or other danger are to take the I-90 westbound exit or go under I-90 to Reserve St. Underpasses to the north, such as Indian Creek and Airway Blvd., are largely inaccessible to Grant Creek residents and visitors.

Unfortunately, at the same time as residents may be fleeing southbound, fire-fighting equipment will be trying to access Grant Creek from I-90 and Reserve Street. Any collision in the road may likely block the road until someone takes the initiative to remove the offending vehicles, if that can be done. This is a problem which exists today; it will be made worse by any new development north of I-90.

Mr. Ault, the developer, retained Abelin Traffic Services of Helena, Montana, to perform a "Traffic Impact Study". The authors conclude (improbably in my view) at Section H of their 9-page report, "As proposed, the Grant Creek Village would not create any new roadway capacity problems in this area." The conclusion describes only the first two limited phases (268 units) of the 950 unit development, stating that these two phases would cause a 35% increase in traffic volumes on Grant Creek Road. In other words, construction of 28% of the 950 units would cause a 35% increase in Grant Creek Road traffic, using Abelin's assumptions. Thus, using their assumptions, construction of all 950 units would increase Grant Creek Road traffic by well over 100%. That arithmetic, using Abelin's protocols, is not consistent with the statement that the development "would not create any new roadway capacity problems in this area."

However, Abelin's data are flawed, meaning that the traffic problems will be worse than indicated in its report. The report was conceived and executed in a hurry, leading to mistakes. For example, on page 2 of the report, a map shows volumes of traffic on Grant Creek Road above the Elk Foundation road, individual volumes from the two streets serving motels and apartments, and a cumulative number. The flows into Grant Creek Road just above the intersection with I-90 total 3,400 vehicles per day (vpd), but the Abelin map shows only 2,800 vpd going to the I-90 intersection. This is simply sloppy work.

Abelin failed to follow the required procedure for assessing year-round traffic volume by collecting annual data. Unfortunately for Abelin, no one else has performed comprehensive annual studies on Grant Creek Road (or if someone has the data, Abelin did not use it). Abelin performed one 24-hour count on Expo Parkway and Stonebridge Road on October 23 and 24, 2019 (its Appendix A). The motel and restaurant traffic on Expo Parkway will vary seasonally, but no seasonal data was

obtained. Grant Creek Road serves a hugely popular ski area at Snowbowl, but no mention of Snowbowl is found in Abelin's report. Because Abelin could not find annual volume data for Grant Creek and it did not care to generate such data, it used data from a study of the Orange Street Bridge (see p. 3 of Abelin's summary) to determine if there are annual variations in traffic volume. Abelin therefore concluded that there are no significant annual variations in traffic volume on Grant Creek Road. This is plainly incorrect.

The ultimate purpose of a traffic study is to determine the Level of Service (LOS) at specified intersections. In other words, can the intersections handle the traffic? In this case there are three intersections of primary interest; the intersection of Stonebridge Road with Grant Creek Road, the intersection of Expo Parkway with Grant Creek Road, and the intersection of Grant Creek Road with I-90. Only the last of these three has signal lights, and it is a busy intersection, see Table 1 on Abelin's page 4. Currently this intersection has substandard ratings, see Table 2.

Abelin used the Institute of Transportation Engineers (ITE) Manual for "Trip Generation" from urban high-density housing projects to estimate the traffic volume from the proposed 950-unit development. This manual is highly regarded for studies of high-density living units in urban environments, where there are shops, bus stops, taxis, subways and other means of transportation near to the housing units. The applicability of the ITE urban-site formula to an isolated high-density subdivision is open to question. But even if Abelin's reliance on the ITE data is accepted to be relevant here, the total number of daily trips in and out of the proposed development, during the week, is over 5,100 (Abelin's Table 3). It is more likely that the isolation from schools, churches, shopping, work, service centers, etc., will lead to several motor vehicle trips per day for each unit, especially if the tenants have children.

The Level of Service (LOS), using Abelin's numbers, falls to D, E and F; see Tables 4-6. Those findings mean that the Level of Service would be unacceptable to the users of the streets. Abelin states on page 8 of the "report" that full build-out would increase volume on Grant Creek Road by 1,900 vehicles per day. Based on this number, the LOS at the I-90 intersection would be D, E or F. However, the Abelin numbers in Table 3 show additional volume per day of 5,168 vehicles, almost three times the number Abelin used to compute degradation in LOS.

Appendix B displays Abelin's traffic model, using arrows to show through and turning traffic at the three intersections. He assumes that certain percentages of new residents will use Stonebridge and Expo, with use of Stonebridge growing in emphasis as the number of units increases. Phase 1A (or A1 as Abelin uses the terms interchangeably) would include 112 housing units. **His model (Appendix B, page 19 of the report) shows 10 cars coming in and 30 cars going out during one hour at the morning peak by the residents of these 112 units.** No factual basis for these assumptions is stated other than use of a 0.36 multiplier per unit derived from the ITE urban studies. If 75 percent of 112 units are occupied, mostly by couples, and many have children, it is

not reasonable to conclude that only 30 vehicles will exit the new units at rush hour each morning. At the evening rush hour, Abelin shows 30 vehicles returning and 19 going out. Abelin shows almost no cross road traffic between the housing units and Starbucks, Conoco and McKenzie River Pizza.

For Phase 1B Abelin models rush hour traffic separately for the additional 156 units. Appendix B shows 41 vehicles leaving in the morning and 42 turning left across traffic into the two streets in the evening, each one-hour peak periods. Again, no cross-road traffic is modeled. Is it realistic to assume that the residents will not shop across the road?

For full build-out of 950 units, **Abelin models 182 vehicles leaving in the morning and 183 returning in the evening**, again, during one-hour peak periods. (Appendix B, page 21.)

At 75 percent occupancy of 950 units, with an average of 1.5 people per apartment (these are admittedly assumptions), the population of the built-out project would be 1,068 people. **There are approximately 2,500 parking spaces shown in the preliminary plan.** No students will be biking or walking to school. Biking on Reserve Street is not aesthetically appealing; there are many more attractive (and safer) places for biking in Missoula. It is reasonable to assume that residents will be employed and they will drive to work, shop and play. Residents will rent the new units only if they are willing to drive. The 1980 plan to build schools in Grant Creek has been abandoned, so all students must be bused or driven to school through the I-90 intersection.

Comment on alternatives:

The proposed Grant Creek Village described in the application materials may materialize as proposed or may be amended, but it would be allowed to proceed without subdivision review if the re-zoning application is granted.

Or, the community could seize the opportunity to use the 44 acres for a mixed development with shopping, landscaping, a park, some single-family homes and some multi-family units, creating a sustainable community with amenities; these would all be allowed under the existing zoning. Compliance with the subdivision review process would allow for meaningful public input and a better project.

Sustainability:

No public schools, retail stores, churches, repair shops or service industries are located on the north side of I-90 in the Grant Creek watershed.

Getting across the Grant Creek Road/ I-90 intersection on foot or on bicycle is difficult. Adding traffic will make this intersection more difficult.

Additional comments on public safety: If the intersections are jammed, that creates risks of extreme behavior. If fifty cars are backed up on Expo trying to turn south onto Grant Creek Road, every morning, in turn blocking egress from the Cottonwood condos and three motels, people are going to get angry. The queue behind the I-90 light could back up past the Elk Foundation, blocking emergency access to a substantial group of buildings and families. It is reckless to build 950 housing units in an area where people could easily be trapped by a fire.

Statutory requirements:

MCA 76-2-302 **Zoning districts:** *** (2) All regulations must be uniform for each class or kind of buildings throughout each district, but the regulations in one district may differ from those in other districts.

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MCA 76-2-304 **Purposes of zoning:**

(1) Zoning regulations must be made in accordance with a growth policy and designed to lessen congestion in the streets; to secure safety from fire, panic, and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; and to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements. (emphasis added)

(2) Zoning regulations must be made with reasonable consideration, among other things, to the character of the district and its peculiar suitability for particular uses and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the municipality.

Missoula Ordinance §20.85.040 provides criteria for decisions on zoning amendments, *inter alia*:

Promotes public health and safety, provides safety from fire and other dangers; facilitates public services and considers effects on active and motorized transportation systems....

Conclusion:

Enough housing is permitted under the existing zoning to create a challenge for traffic safety. Building under the existing zoning would satisfy Missoula's growth policy and priority mapping. Re-zoning is not necessary to accommodate the growth policy. The re-zoning application must be rejected on grounds of public safety.

Footnote: Zoning Law:

Re-zoning approval is not a matter of right. The developer entered into a contract with the owners subject to the existing zoning. No one is trying to deprive the owners or developer of development under the existing zoning. A change in zoning is a legislative act. If a legislative act is needed to create a new right, the denial of such act cannot be described as a taking of an existing right.

Quoting from a recent Montana Supreme Court opinion (Citizens for a Better Flathead vs. Flathead Bd. of Co. Commsnrs, **386 P.3d 573**)

[¶15] **Amendment** of a **zoning** designation constitutes a legislative act. [Section 7-1-104, MCA](#); *Schanz v. City of Billings*, [182 Mont. 328](#), [335, 597 P.2d 67](#), 71 (1979); *N. 93 Neighbors*, ¶ 18; *Lake County First v. Polson City Council*, [2009 MT 322](#), ¶ 37, [352 Mont. 489](#), [218 P.3d 816](#).

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[¶19] County **zoning** regulations must also be " made in accordance with the growth policy." Section 76-2-203(1)(a), MCA; *see also* § 76-1-605(1), MCA (governing bodies " must be guided by and give consideration to the general policy and pattern of development set out in the growth policy" when adopting **zoning** ordinances or resolutions). However, 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," nor may a governing body " withhold, deny, or impose conditions on any land use approval or other authority to act based solely on compliance with a growth policy." Section 76-1-605(2), MCA. We have explained that these statutes, in sum, require **zoning** to be in " substantial compliance" with the growth policy. *Heffernan v. Missoula City Council*, [2011 MT 91](#), ¶ 79, [360 Mont. 207](#), [255 P.3d 80](#);

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