

CASCADE COUNTY

Board of County Commissioners

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Great Falls, MT 59401

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06/02/2020

Gregory T. Doyon
City Manager
City of Great Falls

Dear Mr. Doyon,

We are in receipt of the letter from your office dated May 6, 2020 regarding the City Commission Resolution number 10335 regarding the City Commission's desire to be involved in the creation of a study regarding the Madison Food Park proposals, which was initially submitted in August of 2017.

While no doubt well intended, the resolution raises a number of issues regarding correct and legal processes in regard to the regulation of countywide zoning.

It is interesting to note that none of these Neighborhood Councils or City Commissioners for that matter chose to follow the correct process by attending the County Zoning Board of Adjustment (ZBOA) meetings that deals with these issues. Instead, a Resolution was passed that attempts to assert jurisdiction well beyond the City's boundaries. Further, the Resolution calls on Cascade County to exercise authorities not granted to it by Montana state law.

Unlike the City of Great Falls which is a chartered form of government, Cascade County holds only the basic authorities specifically granted to counties. Simply put, the City of Great Falls through the passage of its charter has all powers not legislatively withheld from it whereas Cascade County has only those authorities specifically granted to it by the legislative process.

In the context of your requested study:

- Cascade County has no authority to regulate the use of state or federal highways and the proposed site is serviced only by State and Federal Highways, so the traffic control issues lie with MDOT.
- Cascade County has no jurisdiction over the regulation of water rights and storm water runoff. These fall under the jurisdiction of DNRC, the water court and DEQ. Likewise, air quality issues lie outside of the authority of Cascade County.
- With the exception of Medical Marijuana production and distribution, Cascade County has no authority to prohibit any business legal within the State of Montana. Our zoning must accommodate all legal enterprises.
- Cascade County's authority to regulate the building of any facilities lies solely within the limits of Montana zoning and subdivision laws.

- All additional required permits except the location conformance zoning permit fall either under the authority of the State of Montana or the USDA.
- Cascade County may regulate the erection, construction, reconstruction, alteration, repair, location, or use of buildings or structures, or the use of land.
- The current Cascade County Zoning Regulations provides that commercially operated feedlots or concentrated animal feeding facilities if located on a tract of land 40 acres minimum in size and no adjacent residences are within one (1) mile at the time of application is an allowed use upon issuance of a Special Use Permit in the Agricultura District. Among the other requirements, we added a one (1) mile minimum setback from a slaughter facility to the nearest residence, and a 40 acres minimum tract requirement. This buffer is intended to mitigate issues like noise and odor that are difficult to enforce on a day to day basis. I would note that the one-mile setback and the special use permit requirement were added to our zoning regulations after we became aware of the interest in reestablishing a slaughter facility in Cascade County but before the original application was filed.
- The County Special Use Permit is required for uses that are unique in character and form which warrant additional consideration on a case-by-case basis. Each Special Use Permit goes through a review process by the ZBOA in order to consider the additional standards unique to those types of permits. The Zoning Regulations do not require the Applicant to perform an impact study, but rather the Applicant has the burden of showing the additional standards are satisfied.
- Historically, Cascade County has hosted multiple slaughterhouse facilities in the Agricultural District surrounding the City of Great Falls. Previously however, these were automatically allowed as a matter of right without a special use permit or setback required.

To put this setback in context, if the City of Great Falls required a one mile setback around a facility such as the refinery, the no residence zone would include a circle extending East to include half of the Anaconda Hills golf course and all of Black Eagle, extending South past St. Ann's Cathedral, West to include CMR High School, and North to 36th Ave NE. In short, the one-mile setback is an aggressive requirement to address the negative impacts of a facility such as this while remaining within the legal authority granted to us by the legislature.

It is also important to note that the proposal that you are addressing in your Resolution remains in a suspended draft status which may or may not ever move forward. In regard to the impact on schools, housing, law enforcement and fire suppression, our regulations require that we solicit statements of impact from all of the entities that may provide these services such as the Cascade County Sheriff's Office, Highway Patrol, Belt Public Schools, Great Falls Public Schools, as well as nearby cities and towns.

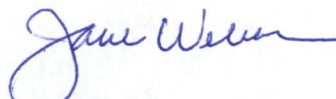
In summary, the City's timely response to our requests for demonstrable impacts on the City to a project outside of the City limits is always welcome, but we lack the legal authority to require the Applicant to perform an impact study at our behest, and lack the funding to invoke a study akin to the Montana Major Facility Siting Act that you have requested.

The State entities that are required to be involved in the permitting of this proposed facility may have the authority to invoke the use of that process, but it does not lie within the Cascade County Commission's lawful authority. Accordingly, your request that we initiate a study of this nature is not granted.

Sincerely,



James Larson
Chair
Cascade County Commission



Jane Weber
Commissioner



Joe Briggs
Commissioner

P. O. Box 5021, 59403-5021



Cascade County Commissioners
RECEIVED

MAY 11 2020

A handwritten signature in blue ink, likely belonging to a city official, written over a red line.

May 6, 2020

Cascade County
Commissioner Jim Larson
Commissioner Jane Weber
Commissioner Joe Briggs
325 2nd Avenue North #111
Great Falls, MT 59401

Re: **Status Inquiry** - Great Falls City Commission Resolution No. 10335: A Resolution Requesting an Impact Study for the Proposed Madison Food Park Slaughterhouse Proposal

Dear Commissioners:

At its regular meeting held March 3, 2020, the Great Falls City Commission adopted by unanimous vote the above referenced Resolution.

The Great Falls City Commission requested that Cascade County consider performing an Impact Study of any proposed slaughterhouse and include appropriate City representation to determine the study's scope. I was asked to contact you regarding the status of the City's request.

If you have any questions or concerns, please do not hesitate to contact me at gdoyon@greatfallsmt.net or at the mailing address set forth above.

Very truly yours,

A handwritten signature in blue ink, identifying Gregory T. Doyon as the City Manager.

Gregory T. Doyon
City Manager

Enclosure: Certified Copy of Resolution No. 10335



CERTIFICATION

State of Montana)
County of Cascade : ss
City of Great Falls)

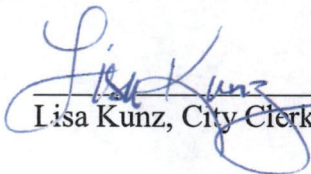
I, LISA KUNZ, City Clerk for the City of Great Falls, Montana, do hereby certify that the attached Resolution 10335 entitled:

A RESOLUTION REQUESTING THAT CASCADE COUNTY REQUIRE A COMPREHENSIVE AND CUMULATIVE STUDY OF THE IMPACTS ON THE CITY OF THE ENTIRE PACKAGE OF MADISON FOOD PARK PROPOSALS

was duly passed and adopted by the Great Falls City Commission on the 3rd day of March, 2020, and is a true and correct copy of the original Resolution 10335 on file in the office of the City Clerk.

WITNESS my hand and seal of said City on this 6th day of March, 2020.





Lisa Kunz, City Clerk

RESOLUTION NO. 10335

A RESOLUTION REQUESTING THAT CASCADE COUNTY REQUIRE A COMPREHENSIVE AND CUMULATIVE STUDY OF THE IMPACTS ON THE CITY OF THE ENTIRE PACKAGE OF MADISON FOOD PARK PROPOSALS.

WHEREAS, a special use permit in Cascade County has been proposed to authorize the construction and operation of the Madison Food Park, a food processing plant to be used as a wholesale feedlot, meat packing plant, slaughterhouse, rendering plant, value-added agricultural commodity processing facility, and distillery; and

WHEREAS, the original proposal, as yet unamended, projects the employment of as many as 3,000 workers; the processing of approximately 1,800 head of cattle, 9,200 hogs and 135,000 chickens daily; the transport of 165 incoming and 32 out-bound trucks Monday-Friday; and the use of an estimated 3.5 million gallons of water daily from the Madison aquifer; and

WHEREAS, segments of the initial proposal are being advanced for special use permits in increments which materially alter the conditions under which the initial proposal was submitted and may preclude a comprehensive examination of their combined and cumulative effects; and

WHEREAS, the urban center nearest to the proposed food park is the City of Great Falls, making its residents the largest human population likely to be affected, whether positively or negatively, by the proposed development; and

WHEREAS, achievement of objectives in four of the five goal areas in Cascade County's Growth Policy¹ and all four goal areas of the City of Great Falls Growth Policy² may be facilitated, impeded, or thwarted entirely by the proposed development; and

WHEREAS, the direct, secondary, and cumulative impacts, both beneficial and harmful, of a project of this size and scope on the physical, social, biological, economic, cultural and aesthetic factors of the human environment of Great Falls and, indeed, the sustainability of our community itself could be transformative and irreversible and are as yet unknown; and

WHEREAS, the Cascade County Zoning Regulations establish that the applicant for a special use permit bears the burden of presenting sufficient factual evidence to allow the Zoning Board of Adjustment to reach reasonable conclusions about the impacts of the development, if permitted³; and

¹ Cascade County Growth Policy Update 2014, pp. 2-2, 23

² City of Great Falls Growth Policy Update 2013: social fabric, natural environment, economy, physical realm

³ Note in Section 10.9 of the Cascade County Zoning Regulations

WHEREAS, the citizens of Great Falls represented by all nine of the City's Neighborhood Councils have formally requested that the Great Falls City Commission take the initiative to ensure that the potential impacts of the Madison Food Park are studied, documented, and considered as part of the permitting process; and

WHEREAS, the City of Great Falls desires to maintain a collaborative working relationship with Cascade County.

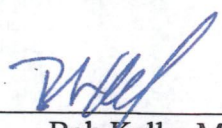
NOW THEREFORE, BE IT RESOLVED THAT THE CITY COMMISSION OF THE CITY OF GREAT FALLS, MONTANA, respectfully requests:

1. That when and if a proposal for Madison Food Park including a slaughterhouse advances, the petitioner for a special use permit be required to meet the burden of proof by contracting with a qualified, independent entity to identify the direct, secondary and cumulative impacts of the entire package of Madison Food Park proposals on the City of Great Falls and its residents, consistent with the growth policy goals and objectives of both the City and the County. Of specific concern to the City and its residents are impacts on:
 - a. Transportation and Roads ;
 - b. Water Quality and Quantity;
 - c. Wastewater Quantity and Treatment;
 - d. Other Environmental Impacts (e.g., Noise, Odor, Dust, Air Quality);
 - e. Schools;
 - f. Employment;
 - g. Medical and Social Services;
 - h. Law Enforcement;
 - i. Recreational, Historical, Cultural and Economic Assets;
 - j. Fire and Emergency Services;
 - k. Housing, including Property Values;
 - l. Tourism and Agriculture; and

2. That the City of Great Falls, along with the appropriate Cascade County officials, be represented on a committee establishing the scope of the impact study and the selection of the entity conducting the study.

PASSED AND ADOPTED by the City Commission of the City of Great Falls, Montana, this 3 day of March, 2020.

ATTEST:



Bob Kelly, Mayor

Lisa Kunz

Lisa Kunz, City Clerk

(SEAL OF CITY)



APPROVED FOR LEGAL CONTENT

Joseph P. Cik

Joseph Cik, Assistant City Attorney