

RESOLUTION NO. 97-025

A RESOLUTION TO CREATE PLANNING AND ZONING DISTRICT #42

**BE IT RESOLVED**, that whereas a petition was filed with the Board of County Commissioners of Missoula County, Montana, for the creation of a planning and zoning district in the Huson area, within the boundaries described in said petition and shown on the map submitted; and

**WHEREAS**, the petition was signed by more than sixty (60) percent of the freeholders within such area; and

**WHEREAS**, the County Commissioners thereupon appointed a Planning and Zoning Commission in accordance with the provisions of Title 76, Chapter 2, Part 101 of Montana Code Annotated; and,

**WHEREAS**, the Planning and Zoning Commission thereafter, by order, conducted a public hearing in accordance with Title 76, Chapter 2, Part 106 of Montana Code Annotated;

**NOW, THEREFORE, BE IT RESOLVED** that there is hereby created Missoula County Planning and Zoning District No. 42, in the Huson area, which said district is described as follows:

Beginning at the section corner common to section 26, 27, 34, 35 T15N R22W, then northerly along section line for 1311 feet more or less to the true point of beginning. Then easterly 1314 feet more or less, then northerly 1316 feet more or less, then easterly 806 feet more or less to a point on the northerly edge of the Clark Fork River. Then along the northerly high water mark of the Clark Fork River to the southwesterly corner of COS 2121 Tract A. Then along the southerly boundary of Tract A, COS 2121 and common to the high water mark of the northerly shore of the Clark Fork River to the northerly boundary of the Montana Rail Link right of way. Then along the northerly right of way of the Montana Rail Link property to the intersection of Mullan Road and the southerly end of Exit 85 off Interstate 90. Then northerly 150 feet more or less to southern right of way to Interstate 90. Then westerly along the Southern boundary of Interstate 90 to the section line common to section 26, 27 of T15N R22W. Then South 700 feet more or less to the True point of Beginning. (See attached zoning map Exhibit A-1)

**IT IS FURTHER ORDERED**, that the following shall govern the use of lands and structures within the above Planning and Zoning District No. 42:

**Section I - Uses**

**Open and Resource (ZD 42-OR)**

1. Single Family Dwellings, not to exceed one (1) dwelling unit per 40 acres

**Residential Zone (ZD 42-R)**

1. Single Family Dwellings, not to exceed one (1) dwelling unit per acre
2. Home Occupations
3. Accessory buildings

**Commercial Zone (ZD 42-C)**

1. Commercial Uses
2. Multi-family residential, not to exceed sixteen (16) dwelling units per acre

**Section II - General Regulations and Variances**

1. Nonconforming buildings may be maintained and altered but not enlarged and the use of land may be continued.
2. No building, structure or premises shall be used and no building shall be erected, altered or maintained except as provided herein.
3. The Board of County Commissioners may authorize variances to the designated uses and densities that are not contrary to the public interest, where owing to special conditions literal enforcement would result in unnecessary hardship.

**Definitions**

Accessory Buildings - A detached building, excluding a second dwelling unit, the use of which is customarily incidental to that of the main building, or to the main use of the premises, and located on the same lot with the main building or use.

Commercial - An occupation, employment or enterprise by an owner, lessee, or licensee, for the purpose of buying and selling commodities and supplying of services, for profit.

Home Occupation - Any use carried on by the inhabitants of a residence, which is clearly incidental and secondary to the purposes of the dwelling and which conforms with Resolution No. 81-132.

Non-Conforming Use - The lawful use of land or structures that existed prior to adoption of this resolution.

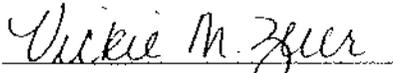
Single Family Dwelling - A building designed to be occupied exclusively by one single family. The following are deemed to be a single family dwelling: site-built home, mobile home or modular home and does not include a travel trailer or a recreational vehicle.

Multi-family Dwelling - A building designed for or occupied as the home of two or more families living independently of each other.

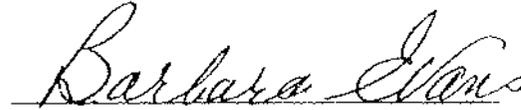
Dated this 10<sup>th</sup> day of April, 1997.

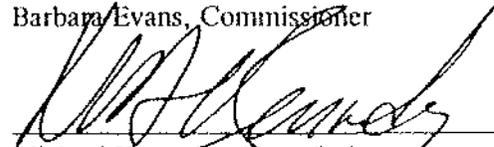
ATTEST:

BOARD OF COUNTY COMMISSIONERS  
Missoula County, Montana

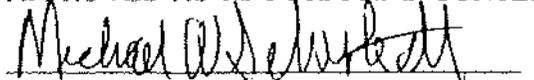
  
Vickie Zeier, Clerk & Recorder

  
Fern Hart, Chairman

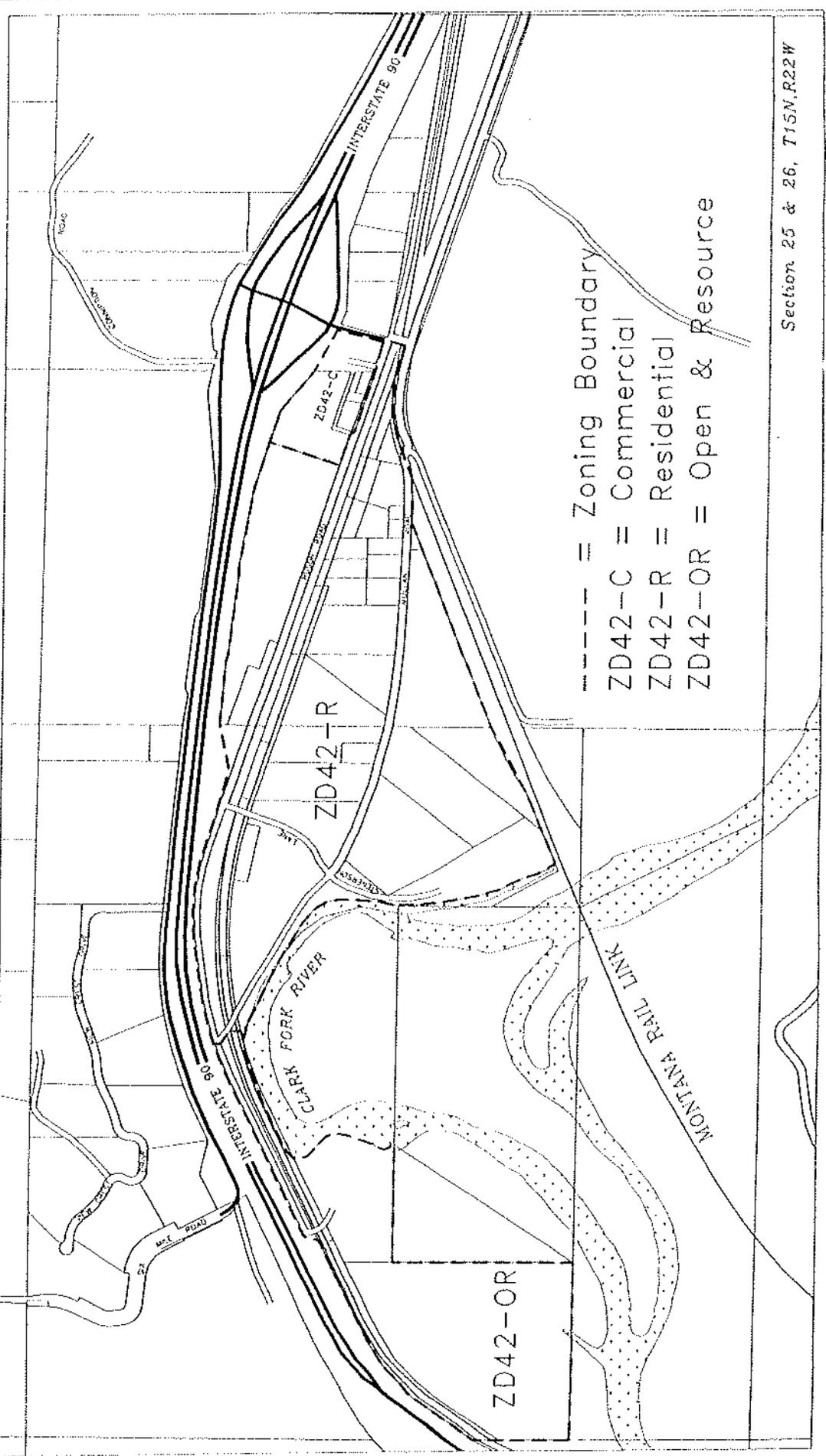
  
Barbara Evans, Commissioner

  
Michael Kennedy, Commissioner

APPROVED AS TO FORM AND CONTENT:

  
Michael Schestadt, Deputy County Attorney  
Huson Res. Revised 3/5/97

Huson Zoning District EXHIBIT "A-1"



----- = Zoning Boundary  
ZD42-C = Commercial  
ZD42-R = Residential  
ZD42-OR = Open & Resource

Section 25 & 26, T15N, R22W

DRAWN BY: DJD  
MARCH 6, 1997

## ZONING OFFICER OPINION

### Citizen Initiated Zoning District #42

DATE: June 3, 1999

RE: Single Family Residential Uses in ZD 42-C

#### QUESTION:

Is a single family home a permitted use in the ZD42-C zoning designation of Planning and Zoning District #42?

#### CONCLUSION:

Single Family Dwellings, not to exceed a density of sixteen dwelling units per acre, are permitted uses in the ZD42-C zoning designation of Planning and Zoning District #42.

#### BACKGROUND

In 1997 certain citizens of Huson requested a citizen's initiated zoning district in their area to preserve the character of their neighborhood. The request stemmed from concerns expressed about multi-family development at higher densities occurring in what was considered inappropriate areas which increased traffic, resultant road dust, and water quality concerns. After a public hearing, the Board of County Commissioners adopted Planning and Zoning District #42.

District #42 was divided into three zoning designations:

1. ZD42-OR, Open and Resource allows single family dwellings at a maximum density of one dwelling unit per 40 acres. This district was created to protect sensitive lands located in riparian and flood plain areas.
2. ZD42-R, Residential Zone allows single family dwellings at a maximum density of one dwelling unit per acre. This district was created to permit single family homes at a density that was considered compatible with existing residential development and services. Usual accessory uses such as home businesses and accessory buildings are also permitted.
3. ZD42-C, Commercial Zone allows commercial uses and multi-family dwellings not to exceed sixteen dwelling units per acre. This district was placed where there was existing commercial development and where there is easy access to the highway interchange and existing services.

When the commercial designation was created, there was no reference to single family dwellings, although, through discussion with the initiating citizen, it was agreed that the purpose of the commercial district was not to exclude the lower intensity uses, but to create a designation and locality within the district where more intense commercial and residential uses could only be located. It was agreed that the district was written in such a way as to create a hierarchy of uses that was pyramidal in form, so that the lower intensity uses are carried over as permitted uses into higher intensity districts; therefore, the intent was that single family dwellings are permitted uses in the ZD42-C district. Further, since the ZD42-C district permits residential development at a higher density, development of multi-family residential or single family residential may be at the same maximum density of no more than sixteen dwelling units per acre.

Office of Planning and Grants