

OFFICE OF THE GOVERNOR
STATE OF MONTANA

BRIAN SCHWEITZER
GOVERNOR

JOHN BOHLINGER
LT. GOVERNOR



May 6, 2011

The Honorable Linda McCulloch
Secretary of State
State Capitol
Helena, MT 59620

Dear Secretary McCulloch:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby veto House Bill No. 366 (HB 366), **"AN ACT REVISING COUNTY INTERIM ZONING REQUIREMENTS AND PROCEDURES; REQUIRING A COUNTY TO INITIATE A STUDY OR INVESTIGATION TO VERIFY THE EXISTENCE OF AN EMERGENCY; LIMITING A RESOLUTION FOR AN INTERIM ZONING DISTRICT OR INTERIM REGULATION TO 182 DAYS FROM THE DATE IT BECOMES EFFECTIVE; ELIMINATING THE SPECIFICATION OF EXIGENT CIRCUMSTANCES; REQUIRING CERTAIN PROCEDURES FOR THE EXTENSION OF A RESOLUTION FOR AN INTERIM ZONING DISTRICT OR INTERIM REGULATION; AND AMENDING SECTION 76-2-206, MCA."**

In my opinion, HB 366, revising the procedures related to a county's use of interim zoning, is a solution in search of a problem. I have vetoed the bill because I believe it unnecessarily ties the hands of locally-elected public officials as they deal with complex and often contentious local planning and zoning issues.

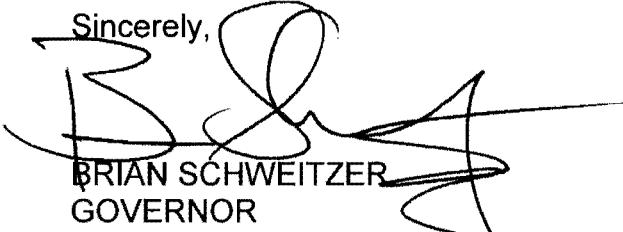
Under current law -- specifically § 76-2-206, MCA -- county commissioners may establish interim zoning districts or interim regulations as emergency measures to promote the public health, safety, morals, and general welfare. This statute provides reasonable limits on commissioners' authority, including a one year limit on the duration of interim zoning, subject to a one year extension, and other conditions that demonstrate the commissioners' ongoing review of land use regulations. Interim zoning is an important tool counties can employ to protect private property rights when they are faced with unexpected land use proposals and pending final zoning decisions.

House Bill 366 not only limits the duration of interim zoning, it requires counties to undertake studies and investigations to verify that emergencies exist and the facts and circumstances constituting the emergency. Additionally, HB 366 requires unanimous or super-majority votes by county commissioners to extend interim zoning beyond a 182-day time limit. I believe these measures unnecessarily seize discretion from locally-elected county commissioners to properly serve the best interests of their communities.

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Interim zoning is a valid and reasonable use of an already limited local authority that allows a county the extra time necessary to carefully consider development that may run contrary to the long-term goals of the community. I believe this responsibility rightly belongs in the hands of locally-elected officials, and that county commissioners are fully capable of exercising this authority with appropriate discretion.

Sincerely,



BRIAN SCHWEITZER

GOVERNOR

cc: Legislative Services Division