Why Rezone Federally Owned Land to Rural Open Space?

Key point: Rezoning does not transfer ownership of the land and does not give the City control over the federal government. Its principal value is establishing the City's land use policy now, particularly if the property is ever sold, transferred, or otherwise becomes subject to local development regulation.

Purpose of the Rezoning

Changing the zoning designation from Residential to Rural Open Space would formally identify the property as land the City considers most appropriate for open space, low intensity, conservation, natural resource, or similar uses rather than residential development. It creates a clear land use record before ownership or development circumstances change.

Rural Open Space defined

ROS is defined as a protective zone intended to preserve large, contiguous tracts of undeveloped land. Its specific purpose is to allow the land to remain as an orchard, pasture, or recreational space while explicitly prohibiting it from being split into smaller residential or commercial lots.

Benefits to the Community

1. **Protects against future residential development pressure.** A residential designation signals that housing is an anticipated use. Rural Open Space establishes the opposite policy direction and can limit or prevent residential development if the land later becomes privately or otherwise locally controlled, subject to the City's adopted zoning regulations.

2. **Preserves open space and community character.** The designation helps preserve undeveloped land, views, natural areas, wildlife habitat, recreation opportunities, and the rural character surrounding the community.

3. **Creates a clear record of the City's long term intent.** If the federal owner later considers a sale, land exchange, transfer, or disposal, the zoning map and ordinance provide documented evidence that the community has planned for the property to remain low intensity/open space rather than become a residential development area.

4. **Helps guide future owners and decision makers.** A future purchaser or transferee can see the allowable and intended uses before acquiring the property.

5. **Strengthens the City's position if federal land is conveyed.** Federal law contains procedures recognizing local zoning interests when certain public lands are conveyed. For Bureau of Land Management public lands covered by 43 U.S.C. § 1720, the Secretary must notify affected local governments before sale or conveyance, so they have an opportunity to zone or amend land use regulations before conveyance.

Montana Legal Basis

MCA 76-2-301 authorizes municipalities to regulate the location and use of land and the size of open spaces for the health, safety, and general welfare of the community. **MCA 76-2-302** allows a municipality to establish zoning districts suited to those purposes. **MCA 76-2-304** requires municipal zoning to be consistent with the growth policy and directs the governing body to consider compatible urban growth, the character and suitability of the district, and the most appropriate use of land.

What the Rezoning Would NOT Do

• It would not change ownership; the property would remain federally owned unless the federal government separately transfers it.

• It would not guarantee that the federal government can never use or develop its own property. Federal authority can preempt local zoning in some circumstances.

• It should not be described as the City "zoning the federal government." The stronger rationale is that the City is establishing its own long term land use designation and protecting against incompatible future development if circumstances or ownership change.

In Conclusion

Changing the zoning designation from Residential to Rural Open Space is one of the most important tools available to local government to establish protections against unwanted future development.

While the City does not control federally owned land, it does have the responsibility to plan for the community's future. By designating this property as Rural Open Space, the City is formally establishing its intent to preserve the land's natural character and discourage incompatible residential development should the property ever be transferred out of federal ownership.

This is not about restricting the federal government's current use of the land. It is about taking proactive steps today to protect the community's interests tomorrow.

Leaving the property zoned Residential maintains a land use designation that anticipates residential development. Changing it to Rural Open Space establishes a different long term vision and provides a layer of local regulatory protection if the property becomes subject to municipal zoning.

Ultimately, zoning is how local government communicates and implements its vision for future land use. Designating this property as Rural Open Space is a way for the City to formally document its commitment to preserving the land and protecting it from incompatible development for future generations.