

IN THE SUPREME COURT OF THE STATE OF MONTANA  
No. DA 25-0200

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MONTANANS AGAINST IRRESPONSIBLE DENSIFICATION, LLC,

Plaintiff – Appellee/Cross-Appellant,

v.

STATE OF MONTANA,

Defendant and Cross Appellee,

SHELTER WF, INC.,

MONTANA LEAGUE OF CITIES AND TOWNS,

Defendant-Intervenors and Appellant/Cross-Appellee,

DAVID KUHNLE,

CLARENCE KENCK,

Defendant-Intervenor/Cross-Appellees.

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AMERICAN PLANNING ASSOCIATION’S UNOPPOSED MOTION FOR  
LEAVE TO FILE BRIEF AS AMICUS CURIAE IN SUPPORT OF  
DEFENDANT AND CROSS-APPELLEE STATE OF MONTANA

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On Appeal from the Eighteenth Judicial District of the State of Montana in and for  
Gallatin County, Cause No. DV-16-2023-1248DK, The Honorable Michael Salvagni

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The American Planning Association (“APA”) respectfully requests leave to submit a brief as amicus curiae in the above-captioned matter, pursuant to Montana Rule of Appellate Procedure 12(7).

**A. APA’s Interest**

The APA is a non-profit, public-interest research organization founded in 1978 to advance the art and science of land use, economic, and social planning and development at the local, regional, state, and national level. APA, based in Chicago, Illinois and Washington, D.C., and its professional institute, the American Institute of Certified Planners, represents nearly 39,000 practicing planners, elected officials, and citizens in regional chapters, including Montana, working in the public and private sector to formulate and implement planning for growth in our communities, including the implementation of land use and zoning regulations and similar planning tools. APA has long educated the nation’s planning professionals on the planning and legal principles that underlie land use regulation through publications and training programs, as well as by filing numerous amicus curiae briefs on important land use law questions in state and federal courts across the country.

**B. Issues on Which APA Wishes to Submit an Amicus Brief**

APA seeks an opportunity to address the district court’s ruling that certain provisions of the Montana Land Use Planning Act violate Montana’s constitutional

right to public participation. Specifically, APA wishes to provide the Court with insights regarding, at a minimum: (1) the role of professional planners in implementing adopted comprehensive plans and land use regulations; (2) the stages in the planning process where public participation is most meaningful and effective as compared where it may be less valuable or even at odds with a community's expressed goals; (3) practical considerations for planning professionals evaluating development applications against previously adopted and publicly reviewed standards, as well as the meaning of "discretion" in that context; and (4) the most reasonable interpretation of Montana's constitutional right to public participation in the context of these processes.

**C. Reasons an Amicus Brief is Desirable**

APA can assist the Court by providing the unique perspective of planning professionals who work within planning regimes across Montana and the nation. APA's members have extensive experience with different land use regulatory frameworks as well as approaches to public participation in planning processes. APA can therefore offer practical insights about where public input is most valuable in achieving good planning outcomes, in line with community desires. This perspective is at once broader (in that it draws on comparative, national experiences) and more focused (in that it comes from a national organization with deep experience concerning planning challenges) than the viewpoint any one

litigant can provide. That perspective is not represented by the current parties and will help the Court understand the real-world implications of its decision for planning practice. APA's participation will provide the Court with a fuller understanding of how planning professionals balance public participation with the need to implement adopted plans efficiently and predictably so that they achieve their original aims.

**D. Party Whose Position APA Supports**

APA seeks to submit its brief in support of Defendant and Cross-Appellee State of Montana.

**E. Parties' Positions Regarding APA's Participation**

APA has contacted all parties in this action regarding this motion. No party opposes or objects to APA's participation.

**F. Proposed Date for Filing the Amicus Curiae Brief**

APA proposes to file an amicus brief within twenty-one (21) days of an order granting leave to participate as amicus curiae. APA will conform to any schedule adopted by the Court.

DATED this 16th day of June, 2025 .

/s/ Alan F. McCormick  
Attorneys for American Planning Association

## CERTIFICATE OF SERVICE

I, Alan F. McCormick, hereby certify that I have served true and accurate copies of the foregoing Motion - Unopposed to the following on 06-16-2025:

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Electronically signed by Loran Schneiter on behalf of Alan F. McCormick  
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