



316 North Park Avenue, Helena, Montana 59623

## **ZONING ADVISORY PANEL**

### **Approved Meeting Minutes**

**Meeting Date and Time:** June 23, 2021 9:30 a.m. to 11:30 a.m.

**Location:** Meeting Held Electronically Via Zoom

#### **Board Members Present:**

Pat Keim

Jacob Kuntz

Tyler Emmert - *joined at 10:00 a.m.*

David Brown

Lois Steinbeck

Joyce Evans

Archie Harper

Dustin Ramoie

John Rausch

Kim Smith - *joined at 9:39 a.m.*

Mark Runkle

Shane Shaw

#### **County Staff Present:**

Peter Italiano, Director

#### **Moderators Present:**

Dr. Eric Austin

Lucia Stewart

#### **Members of the Public Present (as noted by the Zoom screen name or phone number listed):**

CDP Staff, Steve Utick, Andrew Thomas, Jennifer McBroom, Jeremy Fadness, Alexa Noruk, Max Milton, HCTV, James Swierc, George Harris, Dan Karlin, Chris Stockwell

### **1. Call to Order**

Chair Jacob Kuntz brought the session to order at 9:30 a.m.

### **2. Roll Call**

A quorum was established with 10 members present.

### **3. Zoom Meeting Protocols**

Chair Jacob Kuntz provided an opening statement regarding the ZOOM meeting protocols, the process of the meeting, Covid approved safety protocols, and Zoom participation instructions.

#### **4. Approval of May 12, 2021 Meeting Minutes**

John Rausch requested changes to the May 12th meeting minutes:

Page 11: Nicole Giacomini stated she's an "affected" landowner, not an "effective" landowner.

Page 15: Bill Gowen represents Government Affairs for the Helena Associations of Realtors.

**Secretary Lois Steinbeck: Motion to approve the February 10 meeting minutes with the discrepancy changes mentioned by John Rausch.**

**Archie Harper: 2nd the motion**

**Motion passed unanimously: 10-0.**

#### **5. Business Items**

Shane Shaw made a personal introduction as the most recent member of the Zoning Advisory Panel (ZAP), and as a representative of the Helena Flood Committee.

#### **Future Meeting Format**

Moderator Eric Austin briefly discussed results from the ZAP meeting time survey that was conducted. Based on these results and the establishment of the ZAP as a citizens working group, the ZAP facilitators recommend that the meeting times not be changed. The poll indicated that any change from the existing schedule would systematically reduce the ability of one or more panel members to routinely attend the working meetings. The structure of the ZAP was established to be broadly inclusive of critical stakeholder perspectives and backgrounds important to development of zoning recommendations, and any systematic reduction in panelist participation in the working process of the group will negatively affect the outputs of the panel.

Moderators Eric Austin and Lucia Stewart briefly provided an update on locating a venue and the associated technology to support moving the ZAP meeting from Zoom online meetings to in-person hybrid meetings. They will provide an update at the next meeting on the final location.

Moderator Eric Austin discussed that as facilitator of the meeting, it's important to be able to hear and consider public input as it may improve and refine the ZAP recommendations. As the ZAP moves into Phase III, there is a goal to create multiple channels and opportunities for the public to participate, whether that's through listening sessions in the evenings, public surveys, or public polls. He reminded the panel and public that participation during the regular meeting time or written comment is an avenue that is always open, as well.

### **Outstanding Questions from Phase 1**

Moderator Eric Austin asked the ZAP members:

1. Are there any issues or topics that have outstanding questions where answers are requested?
2. Are there any particular highlights to note that fellow panelist should keep in mind?

Secretary Lois Steinbeck inquired about the groundwater permitting process. She stated one of the issues she's encountered on the County Planning Board with subdivision review is with the exempt well permit, and how to create and enforce an equitable allocation across a subdivision. She requested clarification on when an area is subdivided, how is the water getting divided across the lots, how is it enforced, and how does it take into consideration groundwater supply issues? She added that she wants ZAP members to have a shared understanding of how the exempt well permit process works, especially with respect to a subdivision. She asked if there's enforcement if somebody's drawing more than the allotted amount that they're supposed to draw within their subdivision allocation, and how that works.

Peter Italiano replied that the difficulty of the fine line between zoning or subdivision review at a county level versus what the State Legislature provided through Montana Code Annotated. The County focuses less on the issue of where the water is coming from for a subdivision. He added that an exempt well is assessed more on what is the value and the sustainability of that source. At the end of the day, the subdivision regulations are set forth in the state statute, and it provides little leeway to expand the scope of what the Legislature wants the County to look at. He added that he will give it some thought and speak with the Montana Department of Natural Resources and Conservation and will circle back on a discussion within the meeting or resources for reference.

Mark Runkle inquired to clarify if one of the main goals for zoning is to affect the percentage of building that's happening in the County versus in the City. Is it the ZAP mandate to affect that significantly and to help to get that  $\frac{1}{3}$  County and  $\frac{2}{3}$  City or  $\frac{1}{2}$  and  $\frac{1}{2}$ ? Or is that just more of a derivative of the task at hand?

Peter Italiano replied that the way the Commission laid out the draft zoning when they adopted it goes a long way in creating that balance. Currently, the adopted zoning is the inverse of the Lewis & Clark County Growth Policy, which suggests a  $\frac{1}{3}$  to  $\frac{2}{3}$  but the current development trends are flipped. It really comes down to availability of developable lots, which comes down to total acres versus density. He added that having the density low in the rural areas helps affect development and confirms that we're on track with that.

Pat Keim inquired with the departure of Commissioner Geise and the addition of Commissioner Rolfe, currently where is the County Commission with zoning?

Moderator Eric Austin replied that one of the STEEP analysis topics is political, so as the conversation moves to that phase, there will be opportunity to explore these issues.

Peter Italiano replied that he's not heard any change in the tenor of the Commissioners, and in fact that all Commissioners are supportive of the ZAP process that is currently underway.

Pat Keim inquired whether the ZAP needs to incorporate citizen-initiated Part 1 Zoning that is already in place in particular individual neighborhoods and individual subdivisions that have adopted certain zoning regulations or covenants that they are interested in preserving. He asked how the ZAP is going to incorporate that into the discussion and how to legally incorporate that into the final zoning plan.

Peter Italiano stated that covenants are different from Part 1 Zoning, and he tries to not discuss these in the same sentence since they are irrelevant to each other. The County has commingled two types of contractual documents with developers on projects that have loosely be referred to as covenants, which include developer covenants and County covenants. He added that he's trying to change this, as they are different contractual obligations. The County does not enforce private covenants. The County only enforces Part 1 Zoning, but does not get involved with neighborhood covenants. Zoning trumps the developer covenants. For example, if the final decision is 10-acre minimum zoning, but there is a private document to allow for 2-acre minimum, if those lots already exist, they will be non-conforming. They can continue to exist as they have in the past. If the lots don't exist, but the covenants allow for 2 acre lots, then it cannot occur because the zoning will trump the developer covenants.

Pat Keim inquired how the already existing covenants are preserved?

Peter Italliano responded that in the rural areas where the 10-acre minimum is being assessed, does the ZAP look at existing lot patterns and fit the zoning to the existing patterns? There is

merit to answering both yes and no. But what is more important than preserving the existing lot patterns is to look at the five key issues. He asked is it appropriate to modify the zoning to those lots, or is it more important to look at the five key issues? He added that it is more appropriate to look at the impacts of the five key issues. He added that in Missoula County, Flathead County, and Billings have had a myriad of changes to their zoning on a fairly consistent basis over the years, and he anticipates the same for Lewis and Clark County. The zoning should be malleable to the needs of the community.

Moderator Eric Austin stated that this could become a rhetorical question, and although this is an important subject, it is best to be handled at a later meeting when the ZAP starts to work on the zoning proposals.

David Brown asked if the County gets a proposal in the rural area that is less than 10 acres, would it be put on hold until the deliberations of the ZAP is made. What is the status of this and what activity is occurring?

Peter Italliano responded that Lewis & Clark County is not stopping any proposals that are inconsistent with the 10-acre zoning. The Commissioners were clear they did not want to do this, hence the delay in the effectiveness, but it is currently not enforced. He added the clarification of rural, suburban, and urban zoning and the importance of using this language in ZAP deliberations, and not using Part 1 and Part 2 Zoning.

Jacob Kuntz stated that after multiple presentations, there's a lack of discussion of a more regional approach to growth policies and the implementation of those growth policies. He inquired if there are conversations taking place to a more regional approach to growth?

Peter Italiano responded that last year the Commissioners did a more regional approach in the Helena Valley Planning Area. He tries to use "planning area" as a larger context as he's discovered that there's varying definitions to what is the "Helena Valley." He added that there's discussion about getting density in certain areas and collaborating with the City of Helena and the City of East Helena and their urban growth boundaries. The County interfaces with both cities, their planning departments, and the Mayors on a regular basis. He wants to assure the ZAP that the County is not working in a vacuum and working towards not creating any unintended consequences that would prevent connectivity to the city's infrastructure, since the goal is to allow for the cities to annex property if they desire, and that the annexation is seamless.

Tyler Emmert stated that infrastructure is a key piece of zoning and density and referenced Covid relief funds that recently came through the Montana Legislature. He added that a common topic with all of the presenters is a regional approach to water and wastewater such as getting a plant or lift station at the low point of the valley. Is the County applying for funds specific to a larger project like that coming from the Montana Legislature funding?

Peter Italiano responded that he has not been privy to any dialogues along those lines. He added that before applying for this funding, the first question that needs to be fully fleshed out is a policy decision that the County is moving towards, and this has not been addressed yet.

Tyler Emmert inquired what is Lewis & Clark County planning on utilizing those funds for?

Peter Italiano responded that he's heard of being focused on road projects, bridge work, and trying to leverage those funds with other grants with regard to economic development opportunities, such as job creation.

#### **6. Public Comment (*transcribed verbatim*)**

Andrew Thomas responded to Mr. Keim's comment about political analysis. I'm not sure if any of you are aware, I'm actually a PhD in political science, and have studied American government and politics for the better part of 15 years. If he has any specific questions, they can be communicated to me, and I can point him in the direction of some generalized research relating to, for example, issues of rural versus urban politics or local governmental issues and the political dynamics there. Additionally, there are a number of faculty at Carroll College, in particular a political science professor by the name of Alex Street, who explicitly studies the urban/rural divide in Montana. And again, if there are specific questions relating either to this issue, or to political dynamics in general, I would be happy to conduct research and provide them in written comments. Thank you.

Max Milton stated, thank you, so in light of collecting these questions that you're going to be wrestling with in the next phase, I have a few to add to the list. I'm not looking for discussion today. How have some of the new laws that were passed in the last Legislative session impacted the County's ability to create special conditions for zoning? I know that the Legislature, specifically when after a criteria that Missoula was using under subdivision regulations in relation to the agricultural lands. I don't understand the implications of that law on what we're trying to do here in the County? Second question is that I've been reading the Growth Policy and there's two things that come to mind about coordination between the City and the County on developing infrastructure where we want them to grow. It seems to me that

that process needs to be sped up, given the incredible stresses on housing affordability, not so much in the sense of the price of housing, and the lack of housing. Lack of things on the market creates pressure for developers to try to meet that demand. My understanding is that to get more density in the City is going to require some proactive work with their zoning code to allow more flexibility. I don't really know all the ins and outs of that, but I just happened to watch yesterday when they resolve this area gone by the Civic Center, and there's a lot of things that they're, you know, that process is fairly specifically defined, and I think we need to open this up if we're going to really meet this goal of  $\frac{2}{3}$  on urban structure. The third thing is, it'd be just interesting to get at some point from realtors and the property title companies in the real estate markets on just what is: what are the pressures and if the County did zone for higher density, you know for plexus apartments condos closer to city services. You know that meeting, especially if that's affordable, is that meeting a demand is real, or are we stuck by default with subdivisions being tried to be put out far from the city because that's what people can afford? I think that's a huge question that has to get resolved so thanks for letting me go on a little bit with those three or four questions.

George Harris stated thank you for the information, but just in terms of numbers of what we're looking at. The median sales price of a home now and residential price and the Helena area. Just running the numbers this morning is \$336,500 for a single-family unit, the inventory that we have is 71 as of today, and the average sale dates are seven days, and this price per square foot is \$161. If you take a look at Lewis & Clark County it is \$331,000 and inventories 102, seven days again the days on the market, and price per square for \$164. With this kind of information, I just thought, maybe the panelists like to keep that in mind. This puts a lot of pressure on younger families trying to come in and build a home or buy a home. And with such a low inventory, we now have 390 realtors in the Association and so it's a pretty tense market out there, right now. But in terms of affordability of housing, our young people, a young couple, or whomever is trying to buy a home, we are in the \$2,500 to \$3,000 a month price range. Affordable housing is indeed a key issue, and so, if there's not that many subdivisions being developed in the City proper, then where else are they going to go? And that's the issue on the 10 acres that they were concerned about. But I thought, maybe those statistics will be helpful, and we can run those at any time for you, and if that'll help the panel just let me know and I'll be glad to provide those. Thank you.

Chair Jacob Kuntz added that the median home price in Helena 50 years ago, adjusted for inflation, was \$150,000.

Lois Steinbeck stated that the ZAP hears a lot on the 10-acre minimum relating to affordable housing but there are so many more factors that the ZAP needs to consider. One of those

factors is supply chain issues, so it would be good to know all the things that are driving prices, not just subdivisions. If it affects the way the ZAP develops zoning, she requested that those factors be made available.

Pat Keim stated in regards to house prices that there's another factor other than just supply and demand, although this is a critical factor. He added that a lot of people are moving into this area with a history of home values in the states of Washington, Oregon, California, and New York. They have the cash on-hand from a sale of a home there and they're bringing the cash here and they're applying that value. He stated that is one factor that's part of what's driving up the cost around here.

Shane Shaw inquired about the availability of buildable lots in currently approved subdivisions, as this may be more related to zoning.

George Harris responded that he would find this information and supply it at a later date.

David Brown stated that when building a house,  $\frac{1}{3}$  of the cost to the construction project is the lot, and the rest is building materials and labor. Lumber pricing right now is outrageous. He added that the ZAP shouldn't temper the discussion on what is good for the Helena Valley Planning Area by needing to create a bunch more lots so people could afford housing.

Chair Jacob Kuntz stated that in 2019, Habitat for Humanity built 11% of homes in the City of Helena, and that was 6 houses. He added that the number of permits pulled in the County versus the City of Helena might be helpful.

Mark Runkle added that he can and should provide those statistics, and he will obtain a summary from last year and this year and provide those at a later date.

Archie Harper stated that what he's hearing refers to the economic focus in STEEP analysis. This discussion is a nationwide issue coming off the heels of the Covid crisis and how the supply chain has become unraveled. It sounds like something to be brought up in the STEEP analysis in the economic discussion.

## **7. Announcements**

Moderator Eric Austin presented the homework assignment, timelines, and process of moving into Phase Two. He stated that Phase One is focused on gathering and cataloging baseline information. Phase Two will begin to develop and craft the criteria and parameters that are



important to inform the ZAP's zoning proposals with the STEEP analysis (Sociological, Technological, Economical, Environmental and Political). The STEEP analysis has five categories that will be utilized in order to develop and catalog the criteria for the zoning proposals that will be developed. The first step is utilizing Jamboard for idea generating or brainstorming, and this will be done between meetings as homework. Second, there will be a prioritization of those generated ideas utilizing a polling system that will be presented as a subsequent meeting. These explanatory documents are available on the [ZAP website](#).

Secretary Lois Steinbeck inquired to define what technical is within the STEEP process, and how it relates to the other categories?

Moderator Eric Austin stated that it might include categories or language within the growth policy or subdivision regulations. And while these are five discrete categories, they do intersect with each other. He encouraged the ZAP members to include their ideas and additions wherever they think it fits best, even if that's in multiple categories.

**John Rausch: Motion to end the meeting**

**Dustin Ramoie: 2nd the motion**

***Motion passed: 12-0.***

## **8. Next Scheduled Meeting**

July 14, 2021 at 9:30 a.m.

**Adjourned at 11:33 a.m.**