



316 North Park Avenue, Helena, Montana 59623

## ZONING ADVISORY PANEL

### FINAL Meeting Minutes

**Meeting Date and Time:** October 27, 2021 9:30 a.m. to 11:30 a.m.

**Location:** Meeting Held at Carroll College, Campus Center Building, Lower Level (All Saints Hall) and Electronically Via Zoom

#### Board Members Present:

Pat Keim

Tyler Emmert - *joined at 11:20am*

Lois Steinbeck - *on Zoom*

Joyce Evans

Archie Harper

John Rausch

Kim Smith - *joined at 10:00am*

Jacob Kuntz

Dustin Ramoie - *on Zoom*

Mark Runkle

Shane Shaw

#### Board Members Absent:

David Brown

#### County Staff Present:

Greg McNally, Planner III

Lindsay Morgan, Planner II - *on Zoom*

#### Moderators Present:

Dr. Eric Austin

Lucia Stewart

#### Members of the Public Present:

**(in-person):** Andrew R. Thomas, John W. Herrin, Max Milton, William "Bill" Gowen, Chris Stockwell

**(as noted by the Zoom screen name or phone number listed):** Darcy, HBIA, CDP Staff, Steve Utick, HCTV, Lindsay Morgan, Greg Mc, Derek Sheehan, David Knoepke, DW, Kimsmith, Jenni, Patrick Barkey

### 1. Call to Order

Chair Jacob Kuntz brought the session to order at 9:37 a.m.

### 2. Roll Call

A quorum was established with 10 members present.

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

Greg McNally provided an opening statement regarding the hybrid setting of both Zoom and in-person meeting protocols, the process of the meeting, Covid approved safety protocols, and Zoom and in-person participation instructions. He stated for those in-person to please enunciate and speak clearly and loudly due to having only one microphone on the center table.

### **4. Approval of the August 25, 2021 and September 8, 2021 Meeting Minutes**

**Pat Keim: Motion to approve the August 25th meeting minutes and September 8th meeting minutes**

**Joyce Evans: 2nd the motion**

**Motion passed unanimously: 9-0.**

### **5. Business Items**

#### Phase III of the ZAP work plan: Urban Residential Mixed-Use District

Moderator Eric Austin stated Phase III will start with the Urban Mixed-Use District, to include the review, discussion and recommendations of the zoning. He noted the paper copy of the skeleton outline at the tables. He stated that Greg McNally will start by providing context, intent, and structure of the document, by reviewing and revisiting some of the elements of the Growth Policy.

Greg McNally provided a powerpoint presentation on the growth and development trends in Lewis & Clark County. He stated that the document in hand is a draft and subject to change.

Archie Harper inquired how this coordinates with the City of Helena urban standards boundary?

Greg McNally responded that the urban standards boundary matches that of the City, although they have not engaged with the City about where and how these areas should be zoned so that future infrastructure can be developed.

Shane Shaw inquired about the difference between zoning and subdivision regulations.

Greg McNally responded subdivision is the creation of property, and zoning is the use and utilization of that property. If Part 2 zoning goes into effect, both state subdivision regulations and county zoning regulations would need to be followed.

Shane Shaw stated that some of the purple zone areas should not have a basement allowed. It's groundwater that is causing the flooding, not surface water. He added that crawl spaces could also be an issue.

Pat Keim inquired if it be possible to add another zone in the regulations that would be described as floodplain and would include language around no construction or subdivisions allowed.

Archie Harper referenced the Lewis & Clark Flood Mitigation Master Plan, and other documents linked [on the Lewis & Clark County Flood Preparedness website](#), and encouraged this flood map and data be integrated in the zoning regulations. He also encouraged the need for this to be adjusted as the floodplain adjusts over time.

Tyler Emmert agreed that a different zone for the flood area should be identified, as it is only 25% of the urban area but it is slated for urban growth.

Lindsay Morgan agreed that quite a bit of acreage is slated for urban growth in the 100-year floodplain, and that is discussed in the Lewis & Clark County Growth Policy. The City of Helena created two boundaries: Urban Standards A & B, and most of the floodplain is located in Area B. When Lewis & Clark County amended the Growth Policy in 2015, it considered the need to have a zoning classification with rural densities where the floodplain exists, and this policy is supported as a goal within the Growth Policy.

Lindsay Morgan stated in an overview of the draft regulations, that it follows the Helena Valley regulations documents format. She inserted 10 zoning classifications. Each of these zoning classifications has its own intent and set of principle uses and conditional uses. It's very similar to the City of Helena, but there are differences and encouraged ZAP to focus on these differences and what makes sense. She added that the language around "districts, subdistricts, or classifications" is a better phrase to use. To think about what use ZAP would like to add to the urban area in the county, not the rural parts of the county. These are highlighted in yellow in the draft document posted [on the ZAP website](#).

Tyler Emmert inquired how future development would occur in this area? Would it be annexed into the City or stay in the County zoning? Or would it be possible to stay in the County and connect to City infrastructure?

Lindsay Morgan responded that the idea is that the County works with the City in these areas, although some of these areas have been fully developed. It's unknown what will be considered

to be annexed into the City. She added that it's up to the City if it's going to allow connection without annexations.

David Knopke responded that he can get an answer from the City of Helena Public Works Director, but it typically has not been allowed in the past.

Secretary Lois Steinbeck inquired what is in the City's regulations that is not in the County's urban zone regulations?

Lindsay Morgan responded there are 10 zoning classifications that closely match the City of Helena zoning regulations, along with the principle and conditional uses. There are two zoning classifications that are not included, a central business district and more commercial to residential transitional district. There is an option to create a different zoning classification, or specific floodplain requirements or standards.

Secretary Lois Steinbeck stated that the Bob's Valley Market Area is becoming a commercial area, so it would be good to consider the zoning in this area.

Secretary Lois Steinbeck inquired that if an area is building to city standards, would the city annex them?

Lindsay Morgan responded that this is a question for the City but the idea behind the urban zoning standards is it makes it easier to be annexed into the City.

David Knoopke responded that the City tries to annex things that are built to city standards or adjacent to the City. The City tries not to annex that is not adjacent to existing city limits. But this is a bigger discussion that the City and the County need to work through.

Tyler Emmert stated that the majority of growth that is likely to happen is south and east of the downtown zoning district, which was removed from these draft regulations. He added that they could be applicable.

Lindsay Morgan responded that she can draft these additional zoning regulations and provide them to ZAP for consideration.

Tyler Emmert stated he's not a fan of Euclidean zoning. He believes the County could do better than copying the City of Helena Euclidean zoning. He added that to consider form-based zoning in the urban areas is more progressive and workable with the Growth Policy.

Lindsay Morgan responded that it's best to start by matching with the City as much as possible, but there's always room for consideration on how to be better and do it differently.

Moderator Eric Austin stated he wanted to shift the meeting to Lindsay Morgan and Greg McNally to discuss the elements, content, and approach of this document for the ZAP review, and any other questions about what's included or not included so that ZAP can take a closer read of this draft document.

Lindsay Morgan responded that she'll look into the classifications that were not included, such as R1 and R2, and then discuss it in a subsequent meeting.

Greg McNally responded that the Planning Department has not gone into the bulk of the requirements, such as set-backs, height restrictions, etc.

Pat Keim requested that the emergency service use be moved from conditional to primary use category. There is a cost that is shifted to the taxpayers to build with a conditional use permit.

Greg McNally stated that this document is just a draft and subject to change.

Tyler Emmert requested if the next meeting can have a vote and discussion on form-based zoning versus Euclidean zoning.

Moderator Eric Austin responded that an education on how to utilize form-base zoning to provide an understanding is a good idea.

Lindsay Morgan responded that the County doesn't need a mirror image the City codes, but state law requires county-initiated zoning to be as compatible as possible with city zoning ordinances when a nearby municipality exists.

David Knopke received an answer from the Public Works Department about using city services outside city limits. Recently, the City Commission denied a request for a connection to the City sewer main from development outside the city limits, due to not contributing to the cost of services.

Tyler Emmert responded that if annexation cannot occur, then why can't new zoning codes be written.

Lindsay Morgan responded that the County needs to consider how to guide the building of something that is connectable.

Archie Harper stated he'd like to hear a definition of form-based zoning, what is beneficial, and the pros and cons to form-based coding. He added, based on previous public comment, that he'd like to hear about what other Montana communities are doing for zoning.

Moderator Eric Austin responded that there is no overarching model that fits in every element from other communities, but there could be something learned in some areas.

### **Public Comment on this Agenda Item**

John Herrin (*in-person, transcribed from Zoom transcript*) - first off, there is current census data that should be incorporated into the Growth Policy. It states in the census data that 66-70% of the growth has occurred in the urban areas. That's a fact. The city has 5,000 new residences. That leaves 2,500 in the transitional and rural areas. This whole make is prohibitive and force it into the city. That trend has accelerated and is happening anyways. I like what Tyler is saying, but it plays into what is going on with Mark Runkle's development. We should be promoting decentralization of businesses away from Helena towards rural areas because it's a transportation nightmare. There is a need to build out and make some commercial area outside of town so that it's biking distance to their house. Urban problems are compounded if we put more people in it. We need to address fire in the upper west side and upper east side, which is extreme and we need to implement a five year plan for these extreme areas. There needs to be mitigation around their house and do siding that is fireproof. This is required in the City. Fire risk is extremely high in Helena. Helena is \$20 million in hole as far as sewer systems when the city doesn't have the money to fix the sewer problem right now. Need to look at new standards for commercial and make it more commercial esthetic.

Chair Jacob Kuntz stated that Mr. Herrin has 15 seconds remaining for any additional public comment.

Chris Stockwell (*in-person, transcribed from Zoom transcript*) stated he'd like to speak in support of Tyler Emmert's and other recommendations about proceeding to form-based code. I'm not an expert but if something has its advantages over its disadvantages, we should give it consideration. Disadvantage is the unfamiliarity and its cost. Its advantages are contexts since it relies on the existing structures around the zone. Form-based codes help make transitions between urban, suburban, and rural areas, and ensures that all zones are designed with a context of each other as a whole. It also has flexibility, as it provides developers with more esthetically diverse buildings which creates a more exciting community. Euclidean limits development potential. Form-based codes provide revitalization. He provided a series of additional discussion of advantages of form-based codes over its disadvantages.

Chair Jacob Kuntz stated that there are form-based code documents submitted in public comments [on the ZAP website](#).

Andrew Thomas (*in-person, transcribed from Zoom transcript*) stated that Euclidean zoning versus form-based codes, that it's important to keep in mind that Euclidean arose out of the desire to have communities to set community standards. The logic behind it is if you don't have the ability for a community to set standards for types of land, it will affect the existing property rights. This moves us into a contemporary discussion of overcoming Euclidean zoning is an effort to have more vague standards which often invites unanticipated conflicts that Euclidean zoning was originally intended to avoid. Of course that why there's the process, and why we have non-conforming uses. If we get rid of Euclidean zoning, what impact does that have on the neighborhood? Inclusionary zoning it doesn't support affordability and could lead to political conflict. For the rural areas or urban-rural density areas in the County, the other option available is Part 1 zoning, if they want to determine the character of their community.

Chair Jacob Kuntz stated that Mr. Thomas has 2 minutes, 30 seconds remaining for any additional public comment.

Bill Gowen (*in-person, transcribed from Zoom transcript*) pointed out one thing from today's discussion in regards to the Growth Plan, that was adopted in 2015. It is supposed to be looked at every five years. It's out-of-date. You can't go back to it and use it as your model. It is not necessarily valid to utilize. We should be doing a Growth Plan, and then discuss zoning.

Pat Keim stated a comment in regards to a public testimony about the City of Helena requiring fireproof roofing. The City is not permitted to do this, and provided an example of a court documented case.

## **6. Public Comment on Any Matter Within the Scope of the ZAP that is not on the Agenda**

George Harris (*in-person, transcribed from Zoom transcript*) the president of the Helena Area Realtors presenting the study on Housing Affordability, completed with the University of Montana Bureau of Business and Economic Research (BBER), and provided a short video to have a preliminary look at the study so that we can discuss it further. This can be found [on the ZAP website](#).

Chair Jacob Kuntz stated that due to time constraints for the current meeting, it is requested that all public comment on items not on the agenda be made in writing for the ZAP consideration.

## **7. Announcements**

**Shane Shaw: Motion to move the meeting from November 24 to December 1, 2021**

**John Rausch: 2nd the motion**

**Motion passed unanimously: 11-0.**

Moderator Eric Austin stated that the December 22 meeting may also need to be moved online based on the number of ZAP members who will be attending online may create a tipping point for this recommendation.

John Rausch commented the BBER contains a good summary and key findings The focus on housing affordability is important to the ZAP. It looks at national data that clearly indicates that it drives up the prices, particularly with the 10-acre minimum.

Max Milton (*in-person, transcribed from Zoom transcript*) respectively asks that the place to have the 10-acre conversation is when with the rural and not the urban meetings.

**Mark Runkle: Motion to end the meeting**

**Archie Harper: 2nd the motion**

**Motion passed unanimously: 11-0.**

## **8. Next Scheduled Meeting**

November 10, 2021 at 9:30 a.m.

**Adjourned at 11:41 a.m.**