



316 North Park Avenue, Helena, Montana 59623

ZONING ADVISORY PANEL

FINAL Meeting Minutes

Meeting Date and Time: December 22, 2021 9:30 a.m. to 11:30 a.m.

Location: Held Electronically Via Zoom

Board Members Present:

Tyler Emmert

David Brown

Joyce Evans

John Rausch

Kim Smith

Jacob Kuntz

Mark Runkle

Shane Shaw

Dustin Ramoie

Lois Steinbeck

Pat Keim

Archie Harper

Board Members Absent:

None

County Staff Present:

Greg McNally, Planner III

Lindsay Morgan, Planner II

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, Arthomas, City of East Helena, George Harris, HCTV, Steve Utick, Ryan Leland, James Schell, Eric Griffin

1. Call to Order

Chair Jacob Kuntz brought the session to order at 9:34 a.m.

2. Roll Call

A quorum was established with 12 members present.

3. Zoom Meeting Protocols

Greg McNally provided an opening statement regarding the ZOOM Meeting Protocols, the process of the meeting, Covid approved safety protocols and Zoom participation instruction.

4. Approval of the November 10th, 2021 Meeting Minutes

Secretary Lois Steinbeck: Motion to approve the November 10th meeting minutes

Kim Smith: 2nd the motion

Motion passed unanimously: 12-0.

5. Business Items

Eric Austin mentioned the letter received from the Lewis & Clark County Commissioners in regard to the Zoning Advisory Panel (ZAP) requiring conclusion by Feb 9, 2022. The priority today is to discuss and make recommendations for the Urban Rural (UR) District draft zoning regulations, and will start with a discussion by Lindsay Morgan. Endorsement for draft regulations for all three zones will be considered collectively at a later date.

Lindsay Morgan reviewed all Jamboard feedback that was included in the updated UR District draft regulations and how it was considered by addressing each of the changes and inquiries that ZAP members made. She stated there were no additions to permitted or conditional use sections. She stated in regard to the request for public safety facilities to be considered as a principal use over a conditional use, Planning Staff decided to retain it as a conditional use. Mausoleums, cemeteries, and columbariums are retained only in the PLI zone, and removed from all other districts. Multiple dwelling unit conditional uses in the R1 and R2 zones will be discussed further with city staff but are retained as a conditional use at this time. In regard to the minimum lot area requirements, none of the zones within the UR District have a minimum lot size requirement. This is in agreement with the Growth Policy, which calls for ¼ acre or smaller. In regard to the maximum lot coverage and building heights in most districts, including the R1 and R2, after a discussion with City of Helena staff there are no changes to regulations. The County will measure setbacks with the same mechanism as the City of Helena. Street standards need to be updated in the public works manual, and are removed from the zoning regulations. Planning Staff have decided to remove the B1 zone based on discussions with City of Helena staff. Nothing has been amended in the parking requirements, but there's been an addition to the landscaping section within the parking requirements. No changes were made to the B2 zone to include the Form-based zoning, but there will be an ongoing discussion with the City of Helena regarding future incorporation within this zone. A downtown zone was excluded. The lighting section is changed to be more similar to rural regulations than urban regulations,

since the County isn't set up to make it enforceable. There will need to be extensive updates to the list of definitions in Section 3 to include everything in the UR District.

Lindsay Morgan stated that this is just one document that is needed for the UR District to work. Lewis & Clark Planning Staff will be working on a zoning map with the City of Helena staff regarding the extension roads and infrastructure, and how to provide development incentives in the UR area, which may include public/private partnerships. This discussion will be occurring outside of the ZAP process, but the County staff recommends having all updates in place prior to the zoning recommendations being put in front of the County Commission.

Secretary Lois Steinbeck asked about the discussion with City staff on Form-based codes, and if it could be incorporated with zoning regulations. She added an inquiry on what the process would be like if Form-based codes are incorporated in the UR District regulations?

Lindsay Morgan responded that the panel could make a general recommendation stating that the ZAP recommends the zoning should be as close as possible to the city, but here's what we dislike and like to see changed. Lewis & Clark County needs to do something that is compatible with the City of Helena, which this document does.

Pat Keim inquired if there is a way to avoid additional cost for applying for a conditional use permit for emergency services so that taxpayers don't need to foot the bill?

Lindsay Morgan responded that yes, there is always a way, but there are administrative costs associated with a conditional use permit.

Pat Keim stated he thinks this should be addressed by the County Commission. He added that columbariums should be considered for use in the rural district.

Shane Shaw inquired if the UR District draft regulations are considering the City of East Helena?

Lindsay Morgan responded that the Planning Staff did consider the City of East Helena, as it has its downtown zoning adjacent to this district, as well as residential areas. The Lewis & Clark County Growth Policy discusses more about the City of Helena, but there is nothing specific regarding the City of East Helena in this draft document.

Shane Shaw inquired who is going to enforce the zoning regulations?

Lindsay Morgan responded that they've engaged the County Commission regarding hiring additional people to look at violations, but this is an ongoing discussion at the moment.

Shane Shaw inquired why the flood areas are not differentiated?

Lindsay Morgan responded that the County urban boundary matches with the City of Helena urban boundary. The recommendation is to do rural density, such as 10 acres inside the floodplain and floodway.

Greg McNally responded that building cannot take place in the floodplain, which is addressed in the Growth Policy. Both jurisdictions are aware of and acknowledge it.

Vice Chair Dustin Ramoie referenced having a home occupation as a supplemental requirement. He added there is a huge difference between a work-at-home attorney or remote worker, which has minimal impact on the neighborhood versus an auto repair shop in a backyard. There are exceptions that should be accounted for and make sure it's represented somewhere.

Greg McNally responded that there are criteria in Section 16 that does discuss home occupations, such as no more than six people onsite, certain noise impacts to the neighborhood, the number of trips per day to/from the site, no exterior advertising, and compliance with additional code requirements.

Mark Runkle stated that R1 and R2 zoning should not include that allowance of multiple unit dwellings without a public process. In regard to height maximum, he stated that 34 feet is an adequate standard, and that newer areas need to make it easier to consider this height. He added that the City of Helena's lighting standards are too restrictive.

David Brown requested some clarification on how this process will assure the ZAP charges are completed and getting priorities addressed that he doesn't see are in any discernible spot. He added his confusion in this process and where the STEEP (Social, Technical, Environmental, Economic, Political) priorities have been revealed in the documents. He also requested clarification on the voting process for approval, consensus, or rubber stamping the final documents, and what is the ZAP recourse?

Lindsay Morgan responded that there are multiple things that need to happen to address the STEEP analysis priorities, and some are outside of ZAP scope. These include how annexation into the city occurs. Roads, water, and wastewater would be addressed through other regulations. These are a few examples of how the STEEP priorities are going to show up in a variety of regulations and documents.

Moderator Eric Austin responded that the STEEP priorities are going to show up in different locations, some will appear in the zoning regulations. But then, if there are additional specific recommendations, have them noted and pass them on in an explicit way. The STEEP analysis is informing the work that is being done here, but also what the ZAP members should be commenting on. The results of the ZAP motions on final documents could be in a range of possibilities such as acknowledging the assistance to the documents to unanimous consent.

Greg McNally responded by acknowledging that the time devoted to the STEEP process may have been longer than necessary, but it was a solution to the process of the ZAP meeting on ZOOM and in-person.

David Brown acknowledged the importance of the STEEP priorities process, but he desired to see the final outcome and implementation process of these priorities, and not let this get lost as another priorities document. He expressed encouragement that the ZAP state these priorities in a stern message to the County Commission and Planning Staff. He added his frustration in the process and his hopes that the ZAP can get there quickly so that the work is completed satisfactorily to the charge of ZAP, and within the time remaining.

Lindsay Morgan encouraged the ZAP members to create additional statements outside of the draft zoning endorsement with recommendations that address other concerns that may not be visibly raised to the ZAP satisfaction.

Tyler Emmert stated that the unintended consequences of these zoning documents will have more negative than positive effects, except for the creation of incentives. He inquired if County staff had the intention to complete these kinds of supportive documents, specifically regarding incentives, prior to the adoption of the zoning regulations.

Lindsay Morgan responded that as County Planning Staff, her recommendation to the County Commissioners is for these supporting documents be adopted together or concurrently.

Kim Smith stated his support for the UR District not needing to match or reflect the City zoning so closely. Lewis & Clark County will not be able to provide what the City provides. He added that few developers are going to want to develop to the city level of improvements, plus the county's subdivision regulations. Subdivision regulations are tough but fair for that reason. This is going to push developers farther out into the County. He stated a request to have a maximum lot coverage be raised in the UR District. He also added his support for Tyler Emmert's comment on incentives.

Pat Keim stated the importance for existing covenants to be grandfathered in when adopting any new zoning regulations.

Lindsay Morgan responded that zoning and covenants are two separate items. Covenants are private in nature and enforceable within a homeowner's association. Zoning would only apply if the covenants are less stringent than the zoning, then the County would enforce the zoning regulations.

Pat Keim stated the importance of including a ZAP recommendation that the City or County zoning regulations could not supersede local homeowners' covenants.

Chair Jacob Kuntz discussed 46 North development as an example of where the pragmatic cost/benefit of the connectivity to city sewer and water versus developing in the County made sense. He added his hopes for the incentives to be created to ensure that denser and a more urban-oriented development is encouraged in the UR District.

Tyler Emmert stated covenants are the only way to have Form-based restrictions. Meadow Views Meadows is an example of Form-based covenants. Individuals and developers do have the ability to make more restrictive development standards through covenants. He added that 46 North development did end up in the County and not the City because it wasn't clear how to work to obtain the infrastructure and the opportunities and process to make it feasible.

Secretary Lois Steinbeck stated a strong recommendation that all of these items need to be in place before zoning recommendations are finalized on February 9th, and requested a thorough discussion of the remaining ZAP timeline. She stated support for being willing to meet more to get this done. She inquired how all these changes that are being discussed will be in place and completed before the County Commission adoption?

Lindsay Morgan responded that the UR District is more complicated than the rural and suburban districts in regard to all the other documents that need to be in place. There are a series of other departments that need to assess this document, such as public works and planning departments, alongside meeting with City staff. She stated her recommendation is to continue to meet regularly with City staff and to not move forward until they've worked all of this out, which doesn't seem feasible to be June 1st. She suggested that the focus remain on the June 1st deadline for the rural zoning district, and the urban and suburban districts be delayed in their adoption.

Secretary Lois Steinbeck responded that it seems the priority is to concentrate on the 10-acre minimum since its deadline is June 1st. She emphasized the need for a timeline.

Lindsay Morgan agreed that the 10-acre is the most pressing, and requested the need for ZAP member's thoughts and changes to the draft regulations, and then also comment on how and where additional components are recommended.

Moderator Eric Austin stated a reminder of the ZAP minimum expectations and what are considered going above and beyond the ZAP charge. The rural district review and discussion will take place at the subsequent meeting in January. He added that this is a citizen's advisory panel, and so there will be opportunity for the public to be engaged in their feedback prior to and during its hearing with the County Commission.

Public Comment on This Agenda Item

Andrew Thomas (*on Zoom, verbatim from transcript*) stated with regards to the issue, I'll preface this by saying that it's my firmly held belief that private individuals should be able to build whatever type of neighborhood or community that they see fit, so long as it isn't a nuisance and environmental hazard or somehow an offensive on public morality. I know I've been critical of Form-based codes, but given the dilemmas that the ZAP is facing, I would ask that they consider empirical evidence about all the cost of that type of planning, but also the other practical considerations that the ZAP must consider, especially Mr. Smith's comment regarding building up the community and hedging people towards greater efficiency. So to that, and what I would ask if either the Planning staff or somebody who has access to this could do, is look at the cost of implementing Form-based codes in other Montana communities such as Billings, Bozeman, and Missoula. Also ask that the ZAP consider the cost or reality of these planning schemes relative to the reality. So do people walk more, do they really drive less. Also per our research from the realtors research on housing preference, do they actually meet demand for the type of housing or businesses people prefer. Final point on this is that when you look at these types of costing models, and I'm not going to say that Form-based or density is something that should be ignored in all regards, but when you look at this costing model, also consider what is the gain and efficiency by bringing in maybe slightly non-conforming development into an urban standard, rather than having similar equivalent developments in a transitional area where they're not on public utilities or they're not completely autonomous in terms of meeting municipal services and so on. That is all. Thank you.

George Harris stated (*on Zoom, verbatim from transcript*) I just want to reiterate the comments that have been made about getting to the 10-acre minimum discussion that you've discussed here today. We appreciate that. We would like our video to be able to be shown on our housing analysis done by BBER [Bureau of Business and Economic Research]. Also enough time for public comment, and a thorough review of the 10-acre minimum issue which, from our

perspective, we kind of felt was premiere in our minds, but something should have been addressed very early, and here we're all kind of feeling the pinch at the end. We just don't want it to be shorted, and so we appreciate the efforts to try to get this in, and then we have adequate time to thoroughly hear it and discuss it and to present information and to allow public comment. Those are my comments Mr. Chairman with appreciation, and a very Merry Christmas to all of you and thank you for your work.

Chris Stockwall stated *(on Zoom, verbatim from transcript)* I have just one short comment that which is to now that we're going to move into the discussion of the rural zone, I would recommend you read John Herrin's thoughts about his experience in the Valley in the last 10 or 15 years. He just stuck another group of information into the public comment. It's not as long as I remember perceiving it earlier. I think it's mainly a repetition of what he had put there earlier but it focuses on the Growth Policy and the 10-acre so it's very relevant. Please read it, and I would love to hear your response to it.

Shane Shaw departed at 11:25 a.m.

6. Public Comment on Any Matters Within the Scope of the ZAP that is not on the Agenda

None.

7. Announcements

Moderator Eric Austin stated that the next meeting will be focused on the Rural District Zoning Regulations, with the focus to obtain feedback from the ZAP and their stakeholder perspectives.

Mark Runkle: Motion to end the meeting

Archie Harper: 2nd the motion

Motion passed unanimously: 11-0.

8. Next Scheduled Meeting

January 12, 2022 at 9:30 a.m. on Carroll Campus and Zoom.

Adjourned at 11:27 a.m.