



316 North Park Avenue, Helena, Montana 59623

ZONING ADVISORY PANEL

DRAFT Meeting Minutes

Meeting Date and Time: July 28, 2021 9:30 a.m. to 11:30 a.m.

Location: Meeting Held Electronically Via Zoom

Board Members Present:

Pat Keim

Jacob Kuntz - *departed at 10:45 a.m.*

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

David Brown

Lois Steinbeck

Joyce Evans

Archie Harper

Dustin Ramoie

Mark Runkle

John Rausch - *joined at 9:45 a.m.*

Board Members Absent:

Shane Shaw

Kim Smith

County Staff Present:

Greg McNally, Planner III

Moderators Present:

Dr. Eric Austin

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

HCTV, Andrew Thomas, max milton

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 eight 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 instructions.

1. Approval of June 23 and July 14, 2021 Meeting Minutes

Lois Steinbeck: Motion to approve the June 23 and July 14 meeting minutes

Archie Harper: 2nd the motion

Motion passed unanimously: 8-0.

2. Business Items

Move to In-Person Meetings Update

Moderator Eric Austin provided an update on the in-person meetings set to begin August 11, 2021. The meetings will be at Carroll College in the Campus Center Building in the All Saints Room on the lower level ballroom. The meetings will remain in this location for the remaining duration of the Zoning Advisory Panel (ZAP), unless otherwise changed due to Covid. The venue has capacity for hybrid meetings, but the video will be fixed with a wide-angle camera. The large and spacious room will be arranged with a Covid social distancing layout.

Greg McNally added that HCTV participation and recording of the meeting may be jeopardized or altered due to the change to in-person meetings.

George Harris asked if any meetings will be in the evening?

Moderator Eric Austin responded that there will be additional opportunities in Phase III, but the regular ZAP meetings will remain 2nd and 4th Wednesday from 9:30 a.m. to 11:30 a.m.

Review and Discussion on the STEEP Brainstorming Topics

Moderator Eric Austin started with the environmental topic of the STEEP (Social, Environmental, Economic, Political, Technical) analysis, and opened with the prompt: What stands out to the panelists and is there anything that seems to be missing from panelists' point of view?

Secretary Lois Steinbeck stated that in order for the 10-acre minimum to be effective and coincide with the growth policy in terms of water, there needs to be a hydrogeologic study that is peer-reviewed for the County. She stated that it may be something the ZAP would like to make the recommendation to the Board of County Commissioners. She added that this fits under both the technical and environmental Jamboards.

Moderator Eric Austin responded that it is possible to add a sticky note to the Jamboard after moving forward but to make sure to change the color of the sticky note. He stated that he will add this to the Jamboard with a sticky note.

Archie Harper stated that after reading through the Jamboard, quality and availability of water is the highest concern pertaining to the relatively shallow Helena Valley alluvial aquifer. He added that he appreciated Andrew Thomas' public comments about hydrogeology on the North Hills aquifer and how to address water quality and quantity issues in the crucial area that is growing. He stated that monitoring is essential. He added that transportation and roads is another important issue to consider. He also added that open space and nature trails are important in the urban and transitional zoning areas, and it would be amiss to not address this issue. He added that he created a 3-page white paper for open space to be an allowable use in the Part 1 Zoning, which cuts to the chase of why we need open space in the transitional zone. Noise and air quality is another consideration to consider due to industrial-type land uses.

Pat Keim stated that he continues to be concerned on how to create provisions to create infrastructure systems for water and sewer, particularly in the more dense areas. He stated that in the past, it's been hard to find a way to tie into the city infrastructure. That is the key if more dense development is desired in 1-acre and 2-acre lots. There is a need to start looking at funding, design, and long-range thinking, particularly when it comes to fire water for emergency services. This falls into the environmental category due to where water is available.

Secretary Lois Steinbeck inquired about the mill levy for roads and if it's possible to use it for anything other than supplies, as she believes this may be its limitation. She added if there is any way in zoning for more dense places to require infrastructure? If there is currently septic and wells, what financial incentives are there to opt-in for an infrastructure that replaces what homeowners have already purchased and installed?

David Brown inquired what is the best way to view these Jamboards?

Moderator Eric Austin stated there is a PDF that is created of the Jamboard that is easy to reference and recommends printing this document for review.

David Brown stated that there are failures of water adequacy. The County has approved subdivisions that have hydrology engineers that state there is adequate water but have turned out to be incorrect, even with adequate peer review. He was told by some savvy people to be careful of who is hired for a subdivision hydrology study because there are different points of view. He stated that in the water adequacy category, there needs to be a set of standards and professional competency added. Particularly as the quality may be deteriorating by the septic. He added that as a representative of agriculture and open space, there needs to be a collective definition of open space. Is it 2-acres with nothing on it? These are value judgments. He's not sure if there can be a collective definition created. Every subdivision has to put money into a fund for parks to be constructed. Is that something that the County has a reserve for a standalone park location, or does this fund include walking trails? On the environmental side of

it, what is the urban wildland interface? Does this interface help fill the need for open space? Does open space create heartburn or if a landowner has restrictions for what they can and cannot do on this land, are they compensated?

Chairman Jacob Kuntz agrees with all these previous points, and is curious as the ZAP addresses the 10-acre minimum, how many parcels exist that are non-conforming? He added the environmental category can conflict with the economic category, but there is a balanced approach to the water and sewer treatment of the City of Helena and East Helena with its future expansion. If there is going to be zoning, what are the options for future expansion and development in these areas? The map of non-conforming parcels would be helpful in the ZAP's assessment.

David Brown stated that there was a comment in the Jamboard that the treatment plant in the City of Helena was not adequate, and he would disagree with that statement. It's the wrong direction for the County to construct a water treatment plant when resources could be pooled with the City. He added that the ZAP needs to emphasize the need for the City and the County to work together on a treatment plant, and left it as an open question to the group.

Archie Harper agreed that it's a very good point that should be discussed as it relates to the capacity or capability of the existing sewage treatment plant to handle the volume that comes off the community. He added that asking the public works department directly is a potential approach to obtain that answer of how many homes the system could handle, particularly with the projected growth that could be 100,000 people in the next 25 years. Is a pump station to move that sewage upstream to the existing plant adequate and where is that threshold for the need to expand the current facility? This question pertains not only to the City of Helena but for the County and the Helena Planning Area, as well. This question needs to be asked and answered.

Moderator Eric Austin stated that he is capturing these questions and will share these with the County staff and make sure these are in the cue.

Tyler Emmert stated that he posted about the adequacy of the City Helena treatment plant and that they do meet the minimum standards. He added that he believes for the cost that they charge the city residents, the City does a phenomenal job. But to continue the discussion about working together, there are three sources of environmental runoff that are impacting our rivers. It's the city's treatment plant. Then there are the non-community or nonpublic treatment plants. Those are also going into that same aquifer. Then there is the agricultural fertilizer runoff, whether the golf course or fertilizers for crops. Then there is the agricultural animals. When there are 300 cows in a field that are obviously not going through a septic system, that

has an impact on the nitrogen and phosphorus. That's like having more than 300 people that don't go through any treatment before the rain washes that off the surface. Those combined are clearly creating an issue in our rivers and lakes around Helena. There is currently an algae problem every year in the rivers and lakes around Helena. Working together to create a regional system, while expensive, seems like the next step. He doesn't know what the lifetime expectancy is of the current treatment plant and believes there is quite a bit of capacity there now. He emphasized the need to work together and assess a regional plant and the potential funding sources such as applying for American Rescue Plan Act (ARPA) funds to address this issue. It may not be a singular issue, but it is a communitywide issue inclusive of East Helena, City of Helena, and Lewis & Clark County.

Secretary Lois Steinbeck stated that she agrees with Archie Harper's points that there needs to be a discussion with the water quality treatment folks, but not as individuals. She requested that the ZAP have a short presentation on the adequacy of the system and the capacity. She added that she's doesn't understand all the issues surrounding the nonconforming parcels and requested more discussion on this issue.

Mark Runkle stated that when talking about putting the County into sewer and water business and connecting to the City, there is a large debt of 8-inch pipes at \$150 per foot. In particular, with fairly large lot sizes in the rural or transition areas, it seems that \$30,000 is the upper limit to go from lot to lot, or that's 200 feet. He finds it difficult that either of those solutions is functional when dealing with the cost of sewer and water infrastructure, and that's just the pipe cost. He believes that the County has done some studying on this type of thing.

Moderator Eric Austin stated that there is going to be a tension between the economic and environmental categories, so requested the ZAP panelists to remember these items and include them in the subsequent Jamboard homework assignment that focuses on economics. He then shifted the conversation with the question: Are the topics in the Jamboard sufficiently clear and precise in order to prioritize these categories from stakeholders' perspective in the next Pollunit step?

Archie Harper stated that the ZAP panelists need more clarification to exactly what environmental and technical means, such as providing examples to jumpstart the thought process.

Tyler Emmert stated that the categories are not broad enough nor clear enough. There is specific black and white language in zoning documents using technical and environmental language. From a financing perspective, nonconformity is an issue and should be a top priority.

Where does that fit in how technical and environmental is defined? He added that right now, it probably doesn't really fit anywhere but zoning that makes an entire neighborhood nonconforming probably is not appropriate. But infrastructure, especially wastewater infrastructure, is a key piece of the environmental language and figuring out ways to reduce how much water is used for irrigation is important. He added that no nonconformity is a financing issue that doesn't really fit in these, therefore there is nothing in the categories that is precise enough to address that as of now.

Moderator Eric Austin responded that the lines between these categories are not perfectly precise and they are not entirely mutually exclusive within the STEEP analysis. Therefore, the ZAP panelists are going to have to make some decisions about where to put some of these ideas. He added that no matter what collective definitions or descriptions are developed for each of these categories, there is no way to be perfectly precise, mutually exclusive, or exhaustive in the descriptions and the definitions of these categories. There is always going to be a little bit of fuzziness because of the overlap between those categories. The intent is to begin to identify and give a mechanism or a framework to articulate and capture what is important to be given consideration. He added that as the moderator, he's going to push to continue to identify and catalog the issues that are important, and as a group prioritize those things that are important.

David Brown inquired where the acronym and the STEEP analysis categories come from?

Moderator Eric Austin responded that there is a common analytical framework called the PEST (political, economic, social and technological) analysis, but it doesn't include the environmental category. So in this particular case, he added the environmental categories.

David Brown inquired where the 10-acre lot size fits into these five categories?

Moderator Eric Austin stated that he has been intentional about not asking a question of keeping, rejecting, or changing anything because ultimately that will be a part of the proposal that the ZAP will eventually endorse and advance to the County for consideration. This process is to identify what is important to be included in a proposal first and then craft the proposal, whether it's specific lot size or variable lot sizes. The proposal will respond to the things ZAP members think are important, the priorities, and the criteria that are important, so the lot size question will be part of a bigger conversation in the future.

Secretary Lois Steinbeck stated that this conversation has provided a lot of stimulation and while she understands the functionality of technology and Jamboard, it doesn't provide the same benefits as an in-person discussion. She's stated she feels rushed in the process and

doesn't feel like the ZAP has discussed the technical and environmental aspects thoroughly. She added that she hopes moving to in-person meetings can assist in developing better ideas and the benefits of this group discussion.

Moderator Eric Austin responded that the Jamboards will remain open and will continue to be revisited as the ZAP timeline moves forward. He added that the categories in the Jamboards were not predetermined. Lucia and himself went into the Jamboard after the ZAP members placed their sticky notes and looked for patterns or themes before establishing those categories, based on what was posted. Therefore, if something is in the wrong category, it can be moved.

Moderator Eric Austin stated that he was shifting the conversation to the technical category and asked the ZAP members what stands out? What's missing? Does any category need to be subdivided or more precise?

Pat Keim inquired for clarification of defining technical.

Moderator Eric Austin replied that if it seems to reasonably fit within one's understanding of technical then put it in there, and if the ZAP decides it should go someplace else, it will be moved. For example, they may be identified as the main pillars within the growth policy document. Or this could be the technical components of the centralized or decentralized wastewater systems, or engineering standards of transportation infrastructure development based on usage levels, for example.

David Brown stated what are the nonconforming conditions and how are lenders, the public, the buyers going to react to them? Secondly, he sees the issue of who is the monitor within the bureaucracy that is going to be paying attention to technical issues that the ZAP finds important?

Moderator Eric Austin responded to the second question that it is a good reminder of the process in the first step using the Jamboard is a brainstorming exercise, so that the follow on question of who's going oversee the process or what are the costs associated with it, that piece will be dealt with subsequently. Right now, it's all about idea generation, so no idea should be excluded at the outset. Therefore, if creating a new bureaucratic agency is a priority, for example, that might fall within either the economic category because there's a budget implication for the County or it may be a political implication. Either way, it should be captured in this exercise and will be addressed subsequently in the process.

Tyler Emmert stated that one aspect that might be missing is what are the results of the structured zoning. The goal of the growth policy is to get as many of the people as possible into those purple areas in the zoning. There's not really a spot that allows a modeling of what the results are going to be. The purple areas are only going to be affordable with some sort of infrastructure assistance.

Moderator Eric Austin replied that he has added this issue to his list of follow-up items to add as a sticky note to the Jamboard.

Secretary Lois Steinbeck stated that technical category may be a Jamboard topic that continues to have additions as the ZAP forwards and identifies additional issues.

Moderator Eric Austin replied that as the ZAP moves forward in this process, the Jamboards will remain open and accessible for additions. He is also taking notes as the meetings move forward and he can add these, as well. Either way, feel free to add things as the ZAP moves forward in real time but to make sure the additions are a separate color sticky note.

Moderator Eric Austin stated that as part of the process, the last step in the STEEP analysis will be to look across all five categories collectively in order to distill out the priorities and rearrange across all five categories globally.

Archie Harper stated that when he thinks of technical, it encompasses a broader range of issues. For example, the engineering aspects of any project, the environmental concerns, what are the types of soils, how low is the water, what's the behavior of the groundwater to this particular area? What are the details that are missing or needed in a project proposal? Who should be expert consultants on the projects?

Moderator Eric Austin shifted the conversation to the upcoming homework of the economic category. What working definition of economic comes to mind and what are some of the examples of economic issues that the ZAP members think are important?

David Brown stated what's the economic impact of nonconforming uses and what are the economic impacts of the expenses that could be added to the cost per lot?

Tyler Emmert stated that there are two important angles. One is the private sector cost of living, such as the cost of the houses, the cost of the lots, the cost of the infrastructure. The other is the public sector revenue. Without a sales tax, Montana gets revenue from property tax for our public services such as schools, water systems, police, and fire. There needs to be both dense

valuable land that pays taxes to support public infrastructure but there also needs to be affordable places to live.

Pat Keim stated that the economic category is going to be the biggest category that the ZAP faces, as well as the County Commissioners when they assess the ZAP recommendation and its economic impact. This whole thing will fly or fall apart on the principle of making sure that the developable space in the valley is economically developable in such a way that would attract the developer to do the development and still make money and be an affordable house or lot to a potential buyer.

Secretary Lois Steinbeck stated she wanted to be on the lookout for unintended consequences. In other words, to not make development economic in one area that in turn has a public cost shift to another area or decrease in home value in another area. Also, to be cautious of costs shifted to public financing.

Vice Chair Dustin Ramoie stated to not only focus on the economic impact for new development, but also focus on people who already own property in developed areas and their economic interests of cost shifting, such as the public subsidizing private development whether it be intended or not, especially with roads.

Archie Harper stated that he's curious what are the different sources of revenue streams and prioritize what is reasonable and provides funding sources.

David Brown stated that he is going to include what is the undefined value of open space, clean air, and clean water particularly here in Montana.

Archie Harper stated he'd like to provide his white paper on the value of open space that he compiled to the ZAP members.

Lois Steinbeck responded that he should provide this to the County staff so that it could be posted online, as well as distributed to the ZAP members.

Greg McNally agreed that the best process is for Archie to send this document to him directly and he can post this and distribute it to ZAP members.

Eric Austin stated that the economic Jamboard is available to the ZAP members and to post by the following Wednesday, August 4th at 5 pm. Those sticky notes will be categorized, created into a PDF, and distributed to the ZAP members.

Tyler Emmert stated there is a portion of the growth policy that is focused on the economic difference between the County and City services using the example of the 46 Degree North

project. He also highlighted that ZAP member Mark Runkle has a wealth of information on the economics of County versus City developments.

3. Public Comment on Items on the Agenda (*transcribed verbatim*)

Andrew Thomas stated okay, all right, just so a couple of things quickly to go through to maybe help contextualize your discussion today. If you refer to the public comment I submitted last week, I engaged in a rather extensive discussion of what technical is, at least to me, which is really methodology. And a lot of people here seem to be struggling, not necessarily with the concepts, but with a method by judging them and I present that in my public comment. Now there's a lot of discussion about what is evidence, for example, and how do you consider it or how do you deal with bias. But the most important thing I would ask everyone to consider is, how do you prioritize things. And in this process as Eric had noted, I think it's very good to go to the growth policy because the growth policy is your friend. It provides you with a framework by which to understand what is the biggest issue in a certain area. So water availability is not going to be an issue up in Rimini. It's hardly going to be an issue in the scratch gravel but it's going to be an issue down in the Valley. You do this and a lot of your work will be done for you. Again, I'd suggest looking towards my public comment. Next comment about peer review from Mrs. Steinbeck. Peer review is really kind of a wishy-washy area, the thing that I would ask you to look towards is methodology and the explanatory power of research. You can find any expert or group of experts who agree with one another and all they're doing is confirming each other's bias. You have to look towards the research, figure out empirically what it says, and what explanatory power it has for certain situations. Third comment, and I would ask Mr. McNally to chime in on this. I think open spaces is a good idea, and what I'd like to understand is the possibility of having a variable cluster development protocol where you could have, let's say you have a dense subdivision but you allocate a certain amount of open space for that subdivision. Especially in denser urban areas, I think that open spaces are vital, and right now, as the comprehensive plan is written it doesn't really account for that, and I think having that variable standard would, you know, seamlessly integrate open space into the discussion on all levels. Final point here with regards to the discussion of sewer treatment. If you talk to the people from various wastewater facilities and departments, one question I would ask them is in an ideal world, if you see the development pattern occurring that you observe in the Valley, where would you put a wastewater treatment plant and also where would you get your water from? I know it's ideal but it's a good starting place. Some conversations I've had with others have suggested that the ideal place was at the bottom of the Valley, a little bit outside of the City. Again just something to contemplate. Thank you very much.

Max Milton stated that just briefly, looking at the technical Jamboard and this idea of overlapping categories. I'm looking at the intergovernmental relations posts. And, of course, all those issues about collaboration are political, and they are economic in the sense that a lot of the politics is around revenue and a lot of revenues is around taxes. And a lot of the other issues around, you know, bureaucratic inertia, flexibility, and planning, saying no versus encouraging what you want. Those are all kinds of political, and it's also to some extent, social issues. So I just want to point out that there's going to be a lot of overlap, of course, but in the end, this is a political process, a political enterprise. Thanks.

4. Public Comment on Items not on the Agenda (*transcribed verbatim*)

Andrew Thomas stated that as George Harris will confirm that the Helena Association of Realtors (HAR), along with myself, have been working to administer a public opinion poll of registered voters and Lewis & Clark County. We would like the opportunity to discuss the results of that poll with the ZAP panel in some detail. Also HAR has engaged some individuals from the University of Montana to conduct an economic analysis and we would also like some opportunity in the future to present our findings to the panel to inform your discussion. Thank you.

Secretary Lois Steinbeck responded to Mr. Thomas' observation about peer-reviewed study that she agreed with him but believed the statute calls for peer-reviewed study if there is a hydrogeologic study that allows a to deny a subdivision based on water availability. While she shares his concerns, she believes it's statutory. She added that if the ZAP considers the HAR. poll, she'd like to know the questions that were asked and the methodology. She added that some polls can lead people in certain directions and some explanation of a situation can change answers dramatically, so if the ZAP is going to consider the poll, she requests all background information.

Greg McNally responded to the comment of peer-reviewed documents. If the subdivision act under subdivision review, in the development of a jurisdiction subdivision regulations, if it wants to adopt more stringent standards than what the state requires for water and wastewater requirements, it has to go through a process by which it supports those more stringent standards through a peer-reviewed documentation. That's for subdivision and subdivisions alone, and that is how the state statute is worded.

John Raush responded to Lois Steinbeck that the HAR results and methodology of the polling that is being facilitated and supported by the National Association of Realtors with resources

and staff, should be able to satisfy the concerns about how it's written and how it was conducted.

5. Announcements

Moderator Eric Austin made an introduction to Pollunit and the process of prioritization of the categories that emerged out of the Jamboard process. It is the next phase of homework for ZAP members.

Vice Chair Dustin Ramoie: Motion to end the meeting

Pat Keim: 2nd the motion

Motion passed unanimously: 9-0.

8. Next Scheduled Meeting

August 11, 2021 at 9:30 a.m.

Adjourned at 11:45 a.m.