



316 North Park Avenue, Helena, Montana 59623

## ZONING ADVISORY PANEL

### DRAFT Meeting Minutes

**Meeting Date and Time:** November 10, 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:

Tyler Emmert

David Brown

Joyce Evans

John Rausch

Kim Smith

Jacob Kuntz - *on zoom*

Mark Runkle

Shane Shaw

Dustin Ramoie - *on zoom, joined at 10 a.m.*

#### Board Members Absent:

Lois Steinbeck

Pat Keim

Archie Harper

#### County Staff Present:

Greg McNally, Planner III

Lindsay Morgan, Planner II - *on zoom*

#### Moderators Present:

Dr. Eric Austin

#### Members of the Public Present:

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

**(as noted by the Zoom screen name or phone number listed):** CDP Staff, HCTV, George Harris, Sharon Haugen, Lindsay Morgan, John W. Herrin

### 1. Call to Order

Chair position was provided to John Rausch for the meeting due to no other officers being physically present at the meeting.

Chair John Rausch brought the session to order at 9:34 a.m.

### 2. Roll Call

A quorum was established with 8 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.

### **4. Approval of the September 22, 2021 Meeting Minutes**

**Joyce Evans: Motion to approve the September 22nd meeting minutes**

**Mark Runkle: 2nd the motion**

**Motion passed unanimously: 8-0.**

### **5. Business Items**

Eric Austin stated a review of the Phase III process.

There was continued discussion by ZAP members on the charges of the ZAP set forth by the County Commissioners, and the goals of the group and their individual stakeholder perspectives and how best to move forward in Phase III.

Shane Shaw stated his confusion around how more regulations create more affordability. He referenced the 2014 Helena Building Industry Association recommendations and the Growth Policy, and asked the question how ZAP is going to make housing more affordable by creating more rules?

Moderator Eric Austin responded that there is the balance of values of affordability and community values. This process is designed to do two things: to bring stakeholders perspectives and to identify concerns that are not identified and make sure they are part of the discussion.

Greg McNally stated that the value of the work up to this point is the discussion of the various issues, but the ZAP is now needing to move forward at the task at hand of making recommendations for the three districts. He added that not all issues are going to be solved, but zoning is setting the stage and a step towards continued development of processes in each of these districts.

Moderator Eric Austin stated that this conversation highlights the priorities of Phase III, the stakeholders' perspectives and how the ZAP operationalizes these priorities and creates coordination. He suggested putting emphasis on regulations that will accomplish these priorities.

Moderator Eric Austin inquired if there are any questions or comments on the Helena Association of Realtors (HAR) video?

Mark Runkle stated it's valuable information and presented how large lots will make it less attractive and reduce availability, but he was surprised by how little it will actually reduce affordability.

Shane Shaw stated that the video is the HAR position, which is against the zoning regulations.

Greg McNally stated that although there are constraints, an area can be rezoned at a later date to be higher density. It's not set in stone. This process is ongoing.

Jacob Kuntz stated is concerned that the County and City are going to come out of this process without everyone equally sharing the burden of change, and expressed the encouragement that there needs to be ongoing collaboration.

Greg McNally agreed that participation in the local government takes effort, and those pressures need to be ongoing to move forward.

Mark Runkle stated there needs to be a paradigm shift to get the City Commission and City Planning Department to drive the incentive financing.

### **Discussion on Form-Based Codes and Euclidean Zoning**

Greg McNally gave a brief presentation on Form-based codes. The presentation is available on [the ZAP website](#), alongside highlighted public comment that was provided in regards to Form-based codes. Form-based codes are created by reflecting on community input of what a place is and is born out of an extensive public process. It is not based on functional use of a building but on scale design and placement. It's a newer concept in the past 50 years with uneven adoption. It does bring the building and street into more cohesion by look and scale, which is more fitting for a highly urbanized environment. It requires an extensive number of staff and amount of expertise, including a building department which is something that the County currently does not have. Montana law states that the County needs to be compatible with the City, so it's critical to build on a similar framework that is already in effect with the City.

Shane Shaw inquired how much land around East Helena High School is in the City of East Helena? He stated that it is a prime example of where Form-based codes could be impactful. He added that wants to make sure the ZAP is not plowing ground that has already been plowed, and that this discussion is being efficient with the ZAP time.

Greg McNally responded that the east side of Valley Drive is outside the city limits and held by the Prickly Pear Trust, while the west side is in the City.

Moderator Eric Austin stated that pulling up a map, reviewing those areas, and assessing the current growth patterns are going to be critical to determining the recommendations ZAP wants to make. Urban mixed use will occur at the next meeting.

Tyler Emmert stated that the ZAP seems to be a fork in the road on how to proceed and requested that the ZAP should pick which path in the road to choose at the next meeting between Euclidean or Form-based zoning or assessing hybrid zoning.

Moderator Eric Austin stated that making recommendations may be out of line with Form-based with additional structure, staff, and other hurdles that will not be compatible in the short term. He added that the ZAP should consider what elements of Form-based codes might be applicable to achieve the outcomes and utilize the Euclidean approach but achieve Form-based desires.

Kim Smith stated the ZAP needs to review the zoning as it is presented, as well as consider Form-based code, as there could be some elements that are allowed in this zoning that could be cherry picked and incorporated into the regulations.

Mark Runkle stated his agreement with Kim Smith, but will the ZAP know enough outside of making a strong recommendation.

Greg McNally stated that ZAP has received public comment from Mr. Thomas regarding Form-based codes, which is available on [the ZAP website](#). He added that Form-based code discussion will be moved to the next meeting.

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

Lindsay Morgan stated that she provided a residential and a commercial example for two of Helena zoning classifications to review, R1 and R2, alongside B2. She discussed principle uses, accessory uses, and conditional uses, which requires a permit, special exceptions. She also discussed how the zoning includes lot size, lot coverage, street standards, lighting standards, and parking standards, which follows what the city has listed. She added that in Montana, there are no examples of a complete Form-based zoning, only hybrid zoning. She stated that there could be some aspects that are transferable, but it needs to be compatible with adjacent

municipalities. She added how this document might look differently if it was a Form-based code, and where the ZAP could look to include recommendations of where it could be included.

Tyler Emmert inquired what are the benefits versus the cost of 40% lot coverage and what happens to the other 60% of the lot?

Lindsay Morgan responded that it's probably permeable surfaces on the remaining 60%, and this aspect of zoning could be assessed by the ZAP. The 40% includes garages, shops, and any accessory buildings. She added that the R1 and R2 are the most restrictive of residential zones, which is why she chose it as an initial example.

John Rausch stated that this is what the ZAP needs to assess, line-by-line in the zoning regulations.

Tyler Emmert stated that private developers can add additional covenants. Mountain View Meadows and Great Northern Town Center are two examples of Form-based codes accommodated through covenants. He added that may be a lengthy process, but the developer needs to choose it.

Mark Runkle asked why can't the County just say that within a certain distance of the City of Helena limits then the development needs to be annexed into the City.

Lindsay Morgan responded that the County can't require annexation into the City of Helena. The County can plan for when those areas are annexed, it is as seamless as possible, and the City can plan for their or its? future infrastructure through understanding that the County is creating compatibility in these new developments.

Kim Smith stated that there are very few available properties adjacent to the City of Helena at this time. He added that 40% is too low for lot coverage, and ¼ acre lot maximum in the City is adequate, but too small in the rural County due to septic and well water requirements.

Tyler Emmert stated that the ZAP could recommend which of the purple areas need to be annexed when they are developed, alongside a recommendation of which zoning should be used. He added that excessive parking lots are an issue in B2 zoning, which cause stormwater issues and are not tax revenue generating. He added that they are oversized, and recommended a change.

Moderator Eric Austin recommended the ZAP review the current document to discuss and address these issues at the next meeting.

John Rausch requested that the County Planning Staff reach out to the City of Helena on their recommendations or feedback so that this document is compatible.

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

Chris Stockwell (*in-person, transcribed from Zoom transcript*) pointed out on the handout he gave the ZAP, as you look through it, transect is everywhere but it's just a word meaning zone. The idea of the transect zone is that it is conceived from the zones around it. Typically, they are smaller than the Euclidean coding, so it gives you more flexibility. When you look at this, get that word transect in your head and it will be easier to read. In our case, we are talking about urban, rural, and suburban zones but those are large zones, which could be considered in transects. The second paper is a map, and I wanted to point out that there is a green agricultural zone that is primarily for this purpose. Page 55-56 does define uses in the zone, which is one of the reasons for a hybrid zone. I don't know if this could be used in relation to the 10-acre conversation but I wanted to point it out to you.

Bill Gowen stated (*in-person, transcribed from Zoom transcript*) that after listening to some of the discussions today there's a couple of things that just popped into my mind that you should take into consideration about some of the differences between the City [of Helena] and County. One of those is that the City is really trying to own and control the roadway and then they give back the responsibility to sidewalks to the adjacent owner, but the City is still kind of the fee-owner of that road and road right-of-way. But we're in the County, so technically the right-of-way is the center of the road and the responsibility of the land owner. So when you take into consideration maximum lot size, you better make it a little bigger than the city's because you've got to take into account that 30 feet on the corner and 30 feet on the side yard setback. Those are all very, very important things to take into consideration because when I'm doing the math, you might have 3,000 square feet of area you can't even put on a ¼ acre and that's not much of a house. Certainly that isn't multifamily and it isn't very urban oriented. So those are very important things to take into consideration there. Secondly, I participated in legislative efforts to stop a bill. Killing a bill is a lot easier than passing a bill, I can guarantee that. The bill was put forth to introduce an occupancy tax, so our taxation starts when you own your home. It's added since January 1st for that tax year. So if I build a house and I start building in February, and but I don't complete it until June, July, or August, then I'm not really going to be really paying tax on that until next year. So once you move in and take occupancy, they go back and they start that taxation or the pro rata basis on the value-based so everyone is paying their fair share the second they have it. But how do you do that pointed out a problem. Nobody did that during the year, and that is because we do not have the building department across the state, only in the cities to be getting a certificate of occupancy and is only a requirement for plumbing

and electrical extension, so you don't know when someone moved in. So anything built into this is gonna add cost. It can be very expensive to add in all these FTDs and all these things. We've got to take those things into consideration when we look at hybrid or Euclidean or all these types of things or stuff that is in our code that we are not going to be able to change. I think that Lindsay has actually absolutely correct that the City can not force annexation of property. Just food for thought, and I want to again thank you all for all your efforts.

John Rausch stated Bill Gowen has one minute left for any additional public comment.

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

No public comment.

#### **7. Announcements**

Tyler Emmert stated that an agriculture zone is something the ZAP should consider when the ZAP assesses an alternative to the 10-acre minimum. There are currently whole neighborhoods looped in with farms, so a use of an agricultural zone may be a way to address some of the density issues and the open space concepts the ZAP has talked about instead of a blanket zoning.

Moderator Eric Austin stated that the ZAP is scheduled to meet on December 22, but the Carroll Campus is closed so the plan will be to meet by Zoom, unless there is a strong consensus to seek another physical meeting space.

**Shane Shaw: Motion to end the meeting**

**David Brown: 2nd the motion**

**Motion passed unanimously: 8-0.**

#### **8. Next Scheduled Meeting**

December 1, 2021 at 9:30 a.m.

**Adjourned at 11:30 a.m.**