



316 North Park Avenue, Helena, Montana 59623

## ZONING ADVISORY PANEL

### DRAFT Meeting Minutes

**Meeting Date and Time:** December 8, 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 - *depart at 11:25 a.m.*

David Brown

Lois Steinbeck

Joyce Evans

Archie Harper

John Rausch

Dustin Ramoie

Mark Runkle

Shane Shaw - *on zoom*

#### Board Members Absent:

Kim Smith

Jacob Kuntz

#### County Staff Present:

Greg McNally, Planner III

Lindsay Morgan, Planner II

#### 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):** HCTV, David Knoepke, Greg Mc, CDP, Ryan Leland, DW

### 1. Call to Order

Vice Chair Dustin Ramoie brought the session to order at 9:34 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 October 13, 2021 Meeting Minutes**

**John Rausch: Motion to approve the October 13th meeting minutes**

**Secretary Lois Steinbeck: 2nd the motion**

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

### **5. Business Items**

Moderator Eric Austin started the discussion on the Urban Residential Mixed Use District and review of the draft regulations by the Lewis & Clark Planning staff. He stated a goal that by December 22, the draft regulations should be far enough along that the Zoning Advisory Panel (ZAP) would be willing to endorse the document.

David Brown inquired where the draft regulations template came from?

Lindsay Morgan replied that they were mirrored from the City of Helena codes. The Planning Staff has added or changed specific codes or language that is not applicable outside of City limits and the County's capacities.

Secretary Lois Steinbeck requested that Planning Staff point out the wording or content that was omitted or altered before the ZAP gives a recommendation on the final regulations.

Moderator Eric Austin replied that it's important to think about the ZAP priorities that need to be in place to offer up that endorsement, but the legalese may not have reconciliation with the Planning Staff to that level of detail, so the ZAP needs to figure out the comfort level of where that coincides.

John Rausch inquired when the map gets drawn once the recommendations are adopted?

Lindsay Morgan replied this development map is a coordination between the City and the County, and where to prioritize infrastructure investment.

**Tyler Emmert: Motion to request a Yes or No by the December 22nd meeting from the Lewis & Clark County Commissioners in their interest in creating an Urban Mixed Use Residential Zoning joint document between the City and County.**

**Secretary Lois Steinbeck: 2nd the motion**

Vice Chair Dustin Ramoie called for discussion on the motion.

Tyler Emmert stated the Helena City Commission said it wanted more input and involvement with how the area around the City is going to develop. A joint document could ensure functionality and joint funding mechanisms.

Vice Chair Dustin Ramoie stated that without extraterritorial zoning over the County area, the City has no jurisdiction over it. This is simply the ZAP and the County trying to design an easy transition zone to meet the goals of the City.

Archie Harper stated his agreement with Tyler on having this insight. He inquired if the County had already approached the City, and also inquired if this motion could put a delay in the ZAP's timeline?

Vice Chair Dustin Ramoie responded that the creation of the ZAP is a byproduct of the City and County's 2009 mechanism of understanding (MOU).

Greg McNally responded that the extraterritorial zoning is one option, but then it's the City's response and management. The ZAP is a County effort from the 2009 MOU that is reflected in the County Growth Policy.

Secretary Lois Steinbeck inquired if the ZAP can ask for the City's formal comment on this recommendation to get a joint document. She asked how this will be funded.

David Brown stated that the ZAP is asking the City to consider annexation to these areas. He asked how this takes care of the ZAP priorities that the group has spent the last nine months on?

Lindsay Morgan responded that the County Growth Policy states a few methods to managing growth. One is the public investment in infrastructure to overcome constraints. It also discusses land use controls, or zoning. It also refers to improving performance standards to address development constraints. The fourth is education to landowners. Ideally, all four are used together. She added that Growth Policy provides suggestions on what the City should do but there is no guarantee that annexation will occur or right away.

John Rausch stated that the ZAP timeline is an artificial construct. It's more important to get the City's participation and coordination. He's in favor of allowing more time to the City if that is needed for its contribution. He suggested moving the ZAP discussion to another district, and returning to the Urban Residential Mixed Use zoning once the discussion with the City occurs.

Mark Runkle stated that the current draft regulations are mirroring the City zoning regulations, so this could be all the coordination that is needed. He added that the annexation process should be driven by the City.

Vice Chair Dustin Ramoie stated a clarification that when annexation occurs, the jurisdiction changes from the County to the City, which means the County zoning would no longer be enforceable.

Tyler Emmert stated that this is a benign motion directed at the County Commissioners on a yes or no answer to joint City-County zoning.

Secretary Lois Steinbeck stated that it's worth getting it right and doing it right. If these zoning regulations foreshadow annexation, and a goal is to get housing developments close to the City, then the City needs to be at the table.

David Brown stated that this motion does advocate a ZAP priority to develop effective coordination across regions. He suggested a delay in the discussion of the Urban Residential Mixed Use district so that the City and County develop it together, and allow the County Commission more than a one week timeline to provide an answer.

Lindsay Morgan stated a clarification that the County has been in discussion and working with the City.

Archie Harper stated that it would be preferred to have a City representative at the table to discuss these topics.

Greg McNally stated that the City is involved, and it will be a continuous and ongoing process with both staffs that will stretch beyond the ZAP's timeline.

Shane Shaw stated that the City has likely targeted the areas that it wants to annex.

Greg McNally stated that the Urban Standard Boundary was developed and adopted by the City, and the County adopted the same.

Secretary Lois Steinbeck stated she'd like to ask City staff to be present at future ZAP meetings. She added a request to sit down, interact, and review with the ZAP about these regulations with the people who are responsible for administering these actions.

**Tyler Emmert: Restated the Motion that the ZAP recommend the Urban Residential Mixed Use District be developed as a joint document that includes the title of Lewis & Clark County and the City of Helena. This recommendation is to be presented to the County Commissioners that indicates a response of "Yes" or "No" to complete a joint document. A response is requested prior to December 22nd, at the next ZAP meeting.**  
**Secretary Lois Steinbeck: 2nd the motion**

**Motion Failed: 5-5.**

*For: Archie Harper, Tyler Emmert, Joyce Evans, Shane Shaw, Pat Keim*

*Against: John Rausch, Lois Steinbeck, David Brown, Mark Runkle, Dustin Ramoie*

Vice Chair Dustin Ramoie stated a recommendation in finding ZAP consensus to seek this information, and for the County to engage with the City on feedback, review, comment, and then host the City at a future ZAP meeting for discussion.

John Rausch stated that his issue with the motion was the demand for response by the next meeting.

Greg McNally stated the charge that has given the ZAP is to make recommendations regarding the regulations of the Urban Standard Boundary, alongside the other two districts. The Growth Policy states the need to mimic the zoning regulations and coordinate that effort, so this is already in play.

Lindsay Morgan stated that the document essentially comes directly from the City of Helena zoning code. She added that she wants to get the comments and feedback from the ZAP members today so that County staff can ask the City some of these questions and get feedback.

Secretary Lois Steinbeck stated that the ZAP can't rely on subdivision regulations to promote what the ZAP supports in STEEP (Social, Environmental, Economic, Political, Technical). She added that she'd like to see a motion to Dustin's suggestion in order to make a strong statement for the record.

**Secretary Lois Steinbeck: Motion to develop zoning regulations for the Urban Residential Mixed Use District by asking for cooperation with the City of Helena and**

asking for the City's review and participation with the ZAP at a date that has plenty of time to have questions answered.

**Shane Shaw: 2nd the motion**

**Motion Passed: 9-1.**

***For:** Archie Harper, Tyler Emmert, Joyce Evans, Shane Shaw, Pat Keim, John Rausch, Lois Steinbeck, David Brown, Dustin Ramoie*

***Against:** Mark Runkle*

Lindsay Morgan reviewed the current Urban Residential Mixed Use District draft regulations, and asked for ZAP discussion on if public safety facilities should be conditional use or primary use, as she's received feedback both ways.

Pat Keim stated it was his request to make it primary use and not a conditional use for fire, police, and ambulance bases. The reason is that none of the facilities in the County are staffed, manned, or stationed, except the West Valley station. All calls are volunteer responses, and 70% of calls in rural areas are medical calls. He added that a vast majority come during the nighttime hours. The problem with unmanned stations is the staff has to come to the station, and then be dispatched from the station. So there's a lag time of 10-15 minutes. It's important to have those stations located closer to the people, so it's important to be located near residential areas. He added that most of the calls are in residential areas, so it makes sense to put the facilities where they respond most rapidly. He added that these stations are taxpayer funded, and a conditional use adds costs associated with securing the permit.

David Brown stated that the reason why public safety facilities are conditional use permits is because of the acceptance of the residents, and what they want in their neighborhoods. He asked if the ZAP wants to change what has been created over the history of time, or does the ZAP want to follow the practice that is in place?

Pat Keim stated as population changes, the community needs will need to be reassessed. What is adequate now, it will not be in the future and the regulations will need to be prepared to respond.

Mark Runkle stated his support in keeping it as a conditional use so that public comment can be kept in place.

Archie Harper stated his two positions of the need to carefully and properly place these services where they are needed, but also of the need for a mechanism to address this future development.

John Rausch stated that the main difference is requiring an additional process or not. If it becomes a primary use, then no one gets to discuss it anymore. He added that it may be more money, but it's the only way to have a conversation about the placement.

Tyler Emmert stated the importance of being able to have a map to look at during this process.

Shane Shaw stated that this is assuming that public safety facilities are only public. He added that it could be a privately-owned business, so he supports regulation for that reason.

David Brown stated that one of the ZAP charges is to consider the impacts of zoning on current property owners and users. He added that by making this an allowable use, it doesn't allow that.

Secretary Lois Steinbeck stated it is listed as a conditional use permit with the City, and the ZAP trying to be compatible with the City in its recommendations.

Eric Austin stated as the ZAP moves forward in this process, what are the concerns that are a part of the discussion and are there ways to mitigate potentially bad consequences? For example, the cost associated with making it a conditional use permit. How can the ZAP members articulate those worries, and are there way to mitigate those concerns in alternative ways?

Moderator Eric Austin briefly discussed the next steps regarding the draft regulations homework involving Jamboard, and the turnaround request for both ZAP members and County Planning staff for review prior the December 22 meeting.

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

Max Milton stated (*in-person, transcribed from Zoom transcript*) I'm curious how these regulations allow residential above retail or commercial, which is recommended in higher density areas, and so I'm curious how that is dealt with. Secondly, I'm all in favor of what Tyler is saying about the City and County coordination to try to adhere to the Growth Policies recommendations. There are a number of items that are probably outside the purview of the panel, but the sooner done, the better. One of the first priorities in the collaboration is preparing and planning an infrastructure meeting. Why not get the City and the County saying here is where we can afford to extend infrastructure including water and sewer? Here's the likely areas that will need infrastructure expansion. I think that there's 10 zones. It was stated

last meeting that Form-based codes can be appropriated for this area of mixed use. So identify how that can happen, and make this area much more viable.

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

John Herrin stated (*in-person, transcribed from Zoom transcript*) if you have been reading the newspaper, there's been ample stories about the economic damage the COVID crisis in the Helena Valley has caused to the overall economy of this valley. The housing crunch has hit hospitals. We have a housing crisis that is exacerbated by the zoning and subdivision regulations. Doctors can't find housing, and the staff is like 85% traveling nurses. And that is exasperated by the County zoning and subdivision regulations. The handout that you have right here are the problems that I see with the subdivision regulations that have added five things above and beyond the state statutes. And in doing so, they slammed home a pipeline of any reasonably priced rural property. There are very few rural properties in the County that is being approved for subdivision. The two entrance in and having to pay for road share. As I said, Birds Eye Road will not see a major subdivision because we can't afford to pay for the deficient county road. State regulations forced the County to consider costs in all regulations. And to the 10 acre tracts restrictions, we've added another layer. And I've heard from everyone here that we need more information. That we need more studies. And I agree. We need to go back to the basics. And the basics is that the County is required to every 5 years look at the Growth Policy, and at least go through and look at the checklist and what is needed to do. Transportation, housing, all those things are supposed to be addressed on a five-year basis and I see zero information that has been provided that they have done the homework. And therefore, you have no planning documents to really go forward. Without an update to the Growth Policy, you can't update the subdivision regulations nor can you really adopt zoning regulations. So basically, you're violating the law by moving forward without updating the adopted Growth Policy, or at least making an effort to give us the information. I told the County Commissioners in testimony last fall that the budget of \$400k is needed for the studies that are needed to be done. That is an environmental study. That's health and safety issues, transportation and the economic and affordability housing issues need to be addressed. Without doing that basic homework, I hear a lot of people saying that the subdivision regulations are deficient and are not adequately addressing cumulative impacts. If you are not doing those studies and looking at issues of water quality and flood issues. Still the fact is, you can't do planning without having adequate information. This is all going forward and we are going off a cliff. If you don't have the information and you're not doing the legally required updates to the Growth Policy, then you can't go forward. Second of all, the 10-acre restrictions thing I keep hearing that there's some basis in fact but the fact is, there is no basis in science and and there is no basis of law. So please read through these two supplemental readings of two-acre tracts. And please go out to



Spokane Creek and Wheat Ridge subdivision, and drive around and tell me where the fire water supply would be if they were 10 acres. We can't do it.

## **7. Announcements**

Moderator Eric Austin reminded the panel that the next meeting will be held entirely on Zoom, due the holiday closure of the in-person venue at Carroll College.

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

**David Brown: 2nd the motion**

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

## **8. Next Scheduled Meeting**

December 22, 2021 at 9:30 a.m. on Zoom.

**Adjourned at 11:32 a.m.**