

DATE: February 25, 2022  
TO: Lewis and Clark County Commissioners  
FROM: The Zoning Advisory Panel (Adopted by Unanimous Consent)  
RE: Recommendations to Successfully Implement Zoning

Zoning Advisory Panel (ZAP) members thank Lewis and Clark County Commissioners for the opportunity to comment on County Planning Staff draft regulations on two zoning districts (Urban Residential Mixed-Use Zone District and Suburban Residential Mixed-Use Zone District) and the 10-acre minimum lot size included in the Rural Residential Mixed-Use District. During the study period, ZAP identified several policy issues related to successful implementation of zoning in the County and would like to forward these recommendations and observations to the Commission for consideration during deliberations on zoning and for the most successful implementation of any zoning regulations adopted.

**1. Ensure a Robust Public Information and Comment Process**

ZAP took public comment at every meeting and received voluminous written comment over the study period. However, most of the public comment came from a limited number of organizations and individuals. Although there will be public comment at the Joint City/County Planning Board and County Commission meetings when zoning regulations are considered, ZAP believes the public input process should be more robust, including public information and education. There is still confusion about zoning despite public meetings and local press coverage over the last several years. For instance, some persons do not understand that existing uses not in conformance with proposed zoning regulations would be grandfathered in as conforming uses. Some people believe they would have to move businesses, residences, or other facilities if zoning were implemented. It is vitally important that the public involvement process be one where all people feel comfortable and safe in presenting their views. Some of the unused funding allocated for ZAP could be used for this process.

**2. Integrate a Way for Emergency Services to Easily Locate on Smaller Lot Sizes in Certain Areas**

Some areas may be zoned for a 10-acre minimum lot size. However, most emergency services facilities do not require only one to three acres. There is an extra cost and attendant maintenance for too large a parcel that would be burdensome. ZAP recommends a clear process to facilitate approval of a smaller parcel size for location of emergency services facilities in areas zoned for a 10-acre minimum lot size.

**3. Facilitate and Monitor Progress on Enhanced Cooperation and Coordination Between County and City Governments and Private Organizations**

Zoning will create opportunities and the need for close cooperation between the County and City governments and private organizations and individuals, particularly in the Urban Residential Mixed-Use Zone District. ZAP recommends that the Commission prioritize such cooperation and monitor ongoing progress as part of zoning implementation.

#### **4. Identify and Create Mechanisms to Incentivize Urban Development Near Cities**

One goal of the County Growth Plan is to encourage urban type development near existing cities. Urban infrastructure costs are more expensive than similar infrastructure in rural areas. The County and City governments should identify and implement mechanisms to incentivize urban infrastructure in areas that are targeted for annexation by Cities in the County. At a minimum, the County, in cooperation with the Cities, should consider public private partnerships and potentially use of improvement districts or mechanisms similar to tax increment financing.

#### **5. Better Data on Groundwater Availability Needed**

ZAP was asked to consider alternatives to the 10-acre minimum lot size. Panel members recognize in some areas larger lot sizes help protect homes and other structures from potential flooding and in more arid areas may help protect homeowners from effects of drawdown of limited groundwater. The County has a process to predict floodwater flows and refine flood plain mapping as well as ensure public involvement in the process, so that aspect of the 10-acre minimum lot size is being addressed with robust data gathering and public input. ZAP recommends the Commission consider how a similar process might be conducted regarding the groundwater availability in areas of the county that have less predictable groundwater supply. Until better ways of predicting long-term groundwater availability are available, limiting development density may be the best tool available.

#### **6. Compensation for Open Space**

Proposed zoning regulations in the rural area would allow for cluster developments where homes and other facilities are on smaller lots than 10 acres, but the average density of the total development is 10 acres per lot. This approach allows economies in the cost of infrastructure and allows for open space. One of the opportunities for public/private partnerships could be the opportunity for compensation to landowners who are limited to 10-acre lot sizes.

#### **7. Social, Technical, Environmental, Economic, Political (STEEP) Analysis**

ZAP spent time identifying priorities in public policy areas relevant to development and implementation of zoning regulations and the quality of life in Lewis & Clark County. ZAP asks that these priorities be used to guide planning efforts, including development of final zoning regulations, in the County. One theme that emerged most frequently the STEEP analysis was the need to ensure water quality and water availability as part of ongoing development in the County. More detail on the STEEP priorities is attached to this memorandum.

#### **8. Other Recommendations**

- Don't allow zoning map boundaries to split a parcel of land with a single owner between two different zones.
- Ensure that zoning maps clearly show boundaries where urban density development is planned and where the 10-acre minimum would be in effect and that such maps are readily and easily available to the public prior to any public education and involvement process.
- Develop County process to enforce zoning regulations; do not put citizens in the position of having to reporting their neighbors to ensure compliance with County regulations.

- Request that the Planning Staff undertake an after action review, with input from ZAP members, about what went well and what could have been improved on the ZAP study process so that future endeavors can benefit from recent experience.