



PUBLIC MEETING
February 18, 2020
MINUTES

The Lewis and Clark County Commissioners Public Meeting was held on Tuesday, February 18, 2020, at 9:00 AM in Commission Chambers Room 330.

Roll Call

Chair Susan Good Geise called the meeting to order at 9 a.m.

Commissioner Andy Hunthausen and Commissioner Jim McCormick were present. Others attending all or a portion of the meeting included Pam Attardo, Roger Baltz, Peter Italiano, Nicho Hash, Charles Lane, Greg McNally, Sherry Smith, Tyrel Suzor-Hoy, Kevin Wright, Tony Prothero, Bob Utick, Steve Utick, Joyce Evans, David Cole, Margaret Cleary, Kim Ashmore, James Ashmore, Fred Pfeiffer, Maxwell Milton, Steve Netschert, John Herrin, Tyler Manning, Lois Steinbeck, Christina Kranich, Liane Taylor, Julie Dooling, Mike Magee, Darrel Rutherford, Steve Burch, and Nadine McCarty, Recording Secretary.

Pledge of Allegiance

Everyone recited the pledge.

Consent Action Items

There were no consent action items.

Contract Between Lewis and Clark County and A&U Security, LLC. (Sherry Smith)

Sherry Smith, Accounting Manager, presented the contract with A&U Security, LLC for daily armored currency delivery services from the Lewis and Clark County Treasurer's Department to US Bank.

Due to the separation of PureView Health Center on February 29, 2020, the Treasurer's Department found it necessary to renegotiate the former contract that was in place with A&U Security, signed on December 20, 2018, as service from PureView Health Center to US Bank would no longer be necessary. The contract will supersede the former and provide service exclusive to the Treasurer's Department beginning March 1, 2020 through December 31, 2021. As the former contract was to run through December 31, 2023, monthly fees were re-negotiated to remain the same as the current contract through calendar year 2020, with a reduction in the monthly fee for calendar year 2021. Fees to be charged for the services is \$750/month from March 1, 2020 through December 31, 2020 and \$600/month from January 1, 2021 through December 31, 2021. Funds for the services will be from the general fund. Staff recommends approval of the contract with A&U Security.

No public comment was received.

A motion to Approve was made by Commissioner McCormick and seconded by Commissioner Hunthausen. The motion Passed on a 3-0 vote.

Grant Application to the State of Montana Historic Preservation Office. (Pam Attardo)

Pam Attardo, Heritage Preservation Officer, presented the annual grant application to the Montana State Historic Preservation Office for the certified Local Government grant award in the amount of \$5,500. The grant has been received for over 30 years. This is a pass through from the National Park Service and is received because of being a certified local government and through the National Historic Preservation Act, because of having at least a part-time historic preservation officer. The grant period is April 1, 2020 through March 31, 2021. Staff recommends approval of the grant application submission to the Montana State Historic Preservation Office.

No public comment was received.

A motion to Approve was made by Commissioner Hunthausen and seconded by Commissioner McCormick. The motion Passed on a 3-0 vote.

Public Hearing Regarding the Commencement of Grand Vista Estates, Phases I-IV, a Phased Major Subdivision. (Applicant: U&M Enterprises, LLC) (Planner: Greg McNally)

Greg McNally, Planner III, presented the written notice of intention to commence an infrastructure plan review for the public improvements required by the Lewis and Clark County Board of Commissioners from the Applicant for the preliminarily approved major subdivision known as Grand Vista Estates Subdivision, Phases I-IV. Pursuant to Chapter IV.B of the Lewis and Clark County Subdivision Regulations, the Commission must hold a public hearing in response to this notice to consider whether any impacts to the primary subdivision review criteria have changed since the approval of the preliminary Subdivision plat and/or if any new information exists that will create a significant adverse impact on the project. According to the preliminary approval issued on December 17, 2019, the existing 161.39 acre tract of land will be divided into 40 lots over four phases of development, with 10 lots in each phase. The preliminary approval for the Subdivision is currently subject to 31 conditions of approval. Mr. McNally noted this is a new process following statute, he further explained the process.

The project is located north of Lincoln Road, east of and adjacent to Collins Drive, south of and adjacent to Fantasy Road. Mr. McNally provided a slide presentation demonstrating each phase of the project.

Staff recommends approval of the request to commence with infrastructure plan review for public improvements for all phases of the project subject to one amended condition of approval and one additional finding of fact. All other conditions of approval based on the findings of fact already approved by the Commission on December 17, 2019 will continue to apply.

Public notice was provided through the newspaper, notice to adjacent property owners and posted signs on the property. As of February 11, 2020, three letters of public comment have been received expressing concerns about the need for testing the water quality output from a well in the southwest corner of the property; the density of the lots creating an impact on neighboring wells; the County's fear of legal action from the Applicant; ground disturbance from infrastructure and the displacement of small mammals onto neighboring properties; the need for a Weed Management Plan and Revegetation Plan for all phases, which is conditioned; the need for maintenance of the internal road network in all phases and how that is accomplished when each phase has not been platted; increased maintenance to Collins Drive and Fantasy Road, particularly for snowplowing and managing impacts from spring runoff both for area residents and emergency responders; compliance with the water supply requirements for fire protection; a request to reconsider increasing the percentage of impact required for impacts to Fantasy Road and a question as to where the remaining funds come from to improve other offsite roads; a request that a well log for a well recently sited in the northeast corner of the property be made public for the benefit of potential lot purchasers; a need for a school bus stop at the intersection of Collins Drive and Lincoln Road; public notice should go beyond adjacent property owners; potential inability of the County to enforce conditions of approval; the need to improve Collins Drive; and the

need for a County driven action to form a broad RID that could pave and maintain Collins Drive and other nearby subdivisions.

Phase developments are a type of subdivision application and preliminary plat that at the time of submission, consists of independently platted development phases that are scheduled for review on a schedule proposed by the Applicant and the Applicant may change the schedule for review of each phase upon approval of the County Commission after a public hearing is held. If the change does not negate conditions of approval or otherwise adversely affect public health, safety, or welfare. In the original application, the Applicant indicated his intent to commence infrastructure plan review for public improvements for all four phases after receiving the preliminary plat approval with the intent of completing Phase I in year one, Phase II in year two, Phase III in year three, and Phase IV in year four. In line with that schedule, staff submitted to the Commission an amended condition of approval regarding the length of the approval period to reflect the preliminary plat approval period proposed by the Applicant. Staff concurs with the Applicant that the project still complies with the primary review criteria, subdivision regulations, and previously approved findings of fact, conclusion and conditions of approval. No additional information has been heard from agencies. Staff found the conclusions, findings of fact, and conditions of approval approved on December 17, 2019 remain applicable with the exception of Condition of Approval No. 11 regarding the length of the preliminary plat approval period spoken of earlier.

Mr. McNally stated a final decision is necessary by February 28, 2020.

Steve Utick, Developer, 2950 Fantasy Road, stated he had a chance to review all of the documents and had nothing to add at that time.

PUBLIC COMMENT -

Fred Pfeiffer, 2220 Lorac Court, stated he has mentioned prior that the last two winters were different than normal. He reviewed the amount of precipitation recorded at the airport since October, 2019 compared to normal.

Lois Steinbeck, 6000 Ferry Drive, stated she opposes the removal of the phased development requirement for the subdivision and noted the phased review is necessary as water availability is the primary issue. Mr. Sweirc's study on wells and water availability was well done, but there were two years of higher water availability to skew the study results. In September Mr. Sweirc told everyone his study did not predict carrying capacity for that subdivision and a much more comprehensive hydrogeologic study would be necessary to determine the number of wells that could be supported. A phased development helps avoid another Emerald Ridge. To allow all the infrastructure to go at the same time there could be a water disaster. She noted if there was adequate water the County would not have to protect itself from lawsuits by purchasers of the lots. Ms. Steinbeck noted she has testified before they have experienced water availability issues on their property and since then the County has noted their well is 30 feet below the capacity it was at the time of drilling. The pump was replaced four years ago and was 5hp greater than recommended. There are current water availability issues at this time. The residents rely on the County to protect the value of their property, balance the interest of the developer with the resident's interests, and one way is to phase the development to ensure adequate water availability.

Commissioner Good Geise requested that background information be given to the Commission on the 2017 statute.

Mr. Utick stated the main reason behind all four phases at once is the cost effectiveness of having the crews to the site at once and the intention to rough in all the roads while the equipment is on site. He added they had H&L Drilling drill a test well on Lot 10 on January 21st, noting they had stated they were willing to drill a test well in each of the phases. The well log information was submitted to the

driller for submission to GWIC. He added the well they drilled down about 320 or 330, ended up at 277 feet as beyond that it was fractured shale and he explained the necessary process to deal with that. The initial test, through the air test method was about 15 gallons per minute. A 24-hour pump test will be done to see the recharge rate prior to DEQ submittal for Phase I to have better data on water availability. Mr. Utick thought the static well level was about 130 to 140 feet.

Mr. McNally explained the process for most subdivision applications, he then explained the process of a phased subdivision is similar, but in this case the applicant chose to plat each phase separately with four separate final plat applications with opportunity for Commission to review each. Typically a phase project is for a very large subdivision. He added the legislation from 2017 that was adopted provides the Commission an opportunity to engage with the developer over the course of the phased development with anticipation the review will be fairly lengthy. This case the length is one more year than what is typically given for a preliminary approval. This will likely not be revisited again, unless the time scheduled changes. The phases will still be platted individually with separate DEQ approvals and conditions of approval.

James Ashmore, 6460 Birdseye Road, stated he is not directly involved with the issue. He would like to know how public comment will be made available to the general public for viewing and Mr. McNally informed him where to find the information. Mr. Ashmore asked how the public will have access to the County's response to voiced concerns and Commissioner Good Geise noted the issues will be addressed in a public meeting. Mr. Ashmore asked how the road assessment is being applied and administered to this project and Mr. McNally noted all subdivisions in Lewis and Clark County require a traffic impact analysis submittal which helps toward the determination of the proportionate share impact to offsite roads and further explained the necessary ingress/egress routes, the percentage of impact, required engineering analysis, improvement costs, collection, and the financial guarantee of certain improvements. Mr. Ashmore asked if there will be another opportunity for public feedback once all information is made available and Commissioner Good Geise noted the public hearing will remain open.

A motion was made by Commissioner McCormick to table the item to February 25, 2020 and seconded by Commissioner Hunthausen. The motion Passed on a 3-0 vote.

Update and Discussion Regarding County Initiated Zoning (Part II) for the Helena Valley Planning Area. (Peter Italiano, Greg McNally)

Peter Italiano, Community Development and Planning Director, stated Planning has been working on this process for several months at the direction of the Commission.

Greg McNally, Planner III, presented the Helena Valley Zoning update and discussed some of the growth management challenges the County is facing in the plan area as well as the 2015 Community Planning Assistance Team Program and the 2015 Helena Valley Growth Policy update. There are significant growth management challenges. In 2004 the County adopted a countywide growth policy. In an effort to facilitate orderly growth the policy identified future land use areas to guide the type intensity of development the County desired in the valley. Through the policy an urban, transitional, and rural growth area were adopted. The subdivision regulations and DEQ rules for water and wastewater remain the dominate planning paradigm. While affective on a subdivision by subdivision basis they failed to take into consideration other critically and important issues related to the growth and development for the community at large and in the neighborhoods where development is occurring. As new subdivisions are platted and houses are built area wide water sources can be affected, local roads become overburdened, fire protection becomes far more difficult and expensive, and properly maintained wastewater facilities become sources of groundwater pollution and the impacts of flooding will continue to occur in the valley.

Between 2015 and 2035 the valley will grow by about 10,000 people and about 4,000 units of housing will be necessary. When staff started work on the growth policy update it was not hard to see the 2004

growth policy did little to facilitate orderly growth. With 95% of the population in the Helena Valley they chose to focus their efforts in the valley where 98% of the growth is occurring.

Mr. McNally noted the focus was on five key issues. With the results of a citizen mail survey, multiple stakeholder meetings, and public open houses a key issues report was developed and is available on the County website. The report discusses and explores the issues of water availability, wastewater management, roads, fire protection and flooding. Mr. McNally read a few of the key points from the report to include: population growth has been focused in small areas of the valley that have changed from rural to suburban and urban densities, these areas will continue to grow and urbanize; the system in place for review of new subdivisions is failing to ensure the residents of Lewis and Clark County have access to a reliable source of water; aging individual septic systems, non-municipal wastewater treatment systems and the proliferation of newer ones over drinking water supplies creates the need to provide active oversight and management of such systems; much of the road network of the valley was not designed to accommodate the hundreds of new subdivisions with thousands of new houses and there are no resources to rebuild them; areas of high and high to extreme fuel hazards represent a constraint to development in the Wild Land Urban Interface (WUI) in the valley; volunteer rural fire departments must protect a population the size of Helena, scattered over nearly 400 square miles with less than 200 fire hydrants or water pumping sources, in perspective in the City of Helena there are 60 fire hydrants per 1,000 people, in the Helena Valley there are 6 hydrants per 1,000 people; development in flood prone areas is expensive, costing millions in damages during floods and millions in mitigation. With these issues in mind professional assistance was sought out and one of the sources of assistance came from the American Planning Association that offers a community and planning assistance team program. Mr. McNally explained the application and selection process for the program and noted that Lewis and Clark County was selected in 2015. Five planning professionals were brought in to assist the County and the City of Helena working together to plan for growth close to and adjacent to the City. Key points that came from the study included the need for: a City and County joint planning effort; a system of incentives and disincentives to implement the vision of guiding growth closer to the City; seamless infrastructure standards for the areas likely to be annexed by the City in the future; to take some risk with funding infrastructure; key infrastructure funding could create options for affordable housing; public education and outreach will need to become more robust; cannot let perfection be the enemy of the good while proceeding with addressing the issues; the City and County jointly are encouraged to create a land use plan for the Urban Growth Area (UGA) or the Urban Standards Boundary as called by the City; the City and County jointly developing zoning regulations for the UGA; and the County establishing density controls and revising land development regulations for the entire Helena Valley planning area.

The key issues report and the County's involvement with CPAT helped as the growth policy update was developed for the Helena Valley planning area. The updates of the 2004 Growth Policy were future land use designations, the urban, transitional, and rural growth areas. The areas were expanded making the UGA larger to match the City and increased the size of the transitional growth area. Policy options to address the development constraints were reviewed, particularly the key issues of investment in infrastructure, density controls, improve regulations or performance standards, and education. It was decided that the growth policy indicates that a focused combination is the best approach for policy options to address the key issues. In the three growth areas urban, transitional, and rural all four of the policy options should be used with a focus on one in each area that rise to the top such as: the UGA focus more on investments in infrastructure, transition area focus more on improving the subdivision regulations; and the RGA focus on using density controls. The County has received praise from other planning professionals in the state regarding the Growth Policy with its intense focus on those policy options and its need to address the five key issues.

Mr. Italiano stated in 2018 the County Commission approved the first county initiated Part 2 Zoning specific to Ft. Harrison. He added in 2004-2005 there was a northeast hills analysis done for zoning and the recommendation of density ranges were in the one DU per acre down to 160 acre density. In 2006 interim zoning was entertained, again looked at in 2011, then again in 2016. In Montana there are 14 other counties that currently list Part 2 Zoning in their regulatory structure. He added in late fall of

2018 the Commission asked the Planning staff to look into Part 2 Zoning to consider it as one more tool to deal with some of the growth management issues in the valley.

Mr. Italiano gave an overview of Part 2 Zoning and the benefits, noting it is a more comprehensive approach to looking at growth management. Other benefits are predictability, property values and stabilization of property values. The other part is ensuring that growth pays its own way and as new growth occurs, it does not rely on the remaining county citizens.

Over the last several months staff has met with 18 partner agencies some of which are Helena Area Realtors, NorthWest Energy, Fish, Wildlife and Parks, Department of Natural Resources & Conservation (DNRC), HBIA, the Valley Flood Committee. They have been building a catalogue of all the issues the different agencies have raised. There are have also been four listening sessions in the evening. The goal was to solicit as much feedback as possible both at the listening sessions and that residents could get the response form that was developed. The form is also online and at different locations in the City-County Building. One question that came up was whether or not the citizens' comments were being heard by the Commission and Mr. Italiano assured everyone that they are made award of everything. He wanted it to be clear that Montana statute does not require the listening sessions, but staff thought it better to hold the sessions.

Mr. Italiano discussed the preliminary draft zoning map and noted it is a work in progress and is based on a density approach. They are in the process of drafting the regulations, focusing on the Rural Growth Area (RGA) of the valley, if moved forward, they will work with the City of Helena on the UGA. The goal is to have draft regulations in April. They have tried to focus on public concerns and the draft map dated February 4, 2020 lists six identified areas that they have looked at making potential changes. Some of which would change some of the green at proposed 160-acre density to the pink that would expand some of the 10-acre minimum pink area into some of the green. After discussions at the listening sessions they looked at the area in more detail, both from infrastructure and property line. One of the goals is to try to avoid from splitting properties if at all possible. The last draft map dated February 14, 2020 is based on comments received from partner agencies, the DNRC, Forest Service and Fish, Wildlife & Parks. Mr. Italiano discussed the two shades of green on the map, noting both are based on 160-acre densities with the dark green representing public lands as requested by the agencies. The map lists four classifications within the RGA to include: 10-acre (pink); 20-acre (yellow); 160-acre (light & dark green) and Mr. Italiano would like direction from the board on the classifications.

The goal is to have the draft regulations available for public comment in April and before the Planning Board late spring, early summer 2020, then to the Commission for public hearings in mid-summer.

Mr. Italiano stated they continue to have vacancies in the Planning Department that have deterred work on the zoning regulations as statutory processes such as flood plain permitting and subdivision applications have to take precedent.

Roger Baltz, Chief Administrative Officer, stated there is additional information that staff had comprised posted on the County website such as an interactive map, the ABZ's of Zoning brochure, and FAQs.

Commissioner Good Geise stated the process is lengthy, complicated, and needs to be precise. The Commission's job is to look at the public interest and the purpose is to balance every person's property rights. The purpose of this is for predictability and with 10,000 people that will be moving into the valley they need a place to go. She added the concerns have been heard, including the 160 acre concern.

Commissioner Hunthausen stated the discussion of zoning has occurred for a very long time and in-depth community conversations will bring the best product forward to provide for good planning and the long term needs of the valley. Zoning can be a good management tool for growth and predictability. In the 30 plus Part 1 Zoning Districts in the county some have shown to work very well.

Commissioner McCormick stated there are demands for both, more zoning control and no or low zoning control, the answer lies somewhere in the middle. The 30 plus citizen initiated zoning districts in the valley are beginning to encroach on each other. Each district has its own nuance differences and when the differences cause conflict many times folks approach the county to resolve them. Here we are solving the problems for the greater good and inviting everyone into it so that the right answers can be made. They won't be all of the answers the way people want to hear them, they will be most of the answers that do the most good across the broader base of the property owners of the valley.

Commissioner Good Geise added in order to make sure there is an orderly transfer of information between everyone Christina Kranich is present and will be keeping track of this project and discussion.

Mr. Italiano stated today Ms. Kranich will be noting all comments on her laptop and not projected. When the zoning hearings begin they are looking at having the comments spreadsheet projected.

PUBLIC COMMENT -

Tyrel Suzor-Hoy, stated he believes zoning in the valley is a very complex, critical issue that needs to be addressed. He has had many conversations with landowners and others in the valley and is concerned with the acreage requirements. Mr. Suzor-Hoy disagrees that blanket acreage requirements are beneficial to the growth of the county. He does believe that land use requirements are a responsible way to steer county growth going forward. The blanket requirements spread over large swaths of land infringe on individual landowners rights and he is a huge supporter of landowner's rights. Most if not all of those he spoke with feel they have no say in the degradation of their property values. Many have stated they will pursue legal action regarding the proposed acreage requirements. Landowners have stated they have their retirement and inheritance for their children in their land and without options to sell smaller parcels they believe their livelihood will be compromised. The Commission should rely heavier on land use and population density requirements versus acreage requirements.

Lois Steinbeck, stated she has land to develop as well as her home location. She supports the zoning requirements as did many of her neighbors. She supports the right to develop land and advocates for her right to ensure her property is not devalued from that development. She supports the right of property purchasers of property that is being developed to know the rules, that they know there is available water, wastewater services can be provided or they can develop a septic system, that they will have rights to emergency services and that to the extent possible they will be free from flood risk. She supports the adoption of policies to allow the Commission to juggle and find the right answer for these competing rights. We all have rights to make money from development and to keep our investments whole. She supports the acreage limitation as she wants to preserve the rural area. She added without zoning people live in an area that is being developed are subject to reverse takings and she does not want to subsidize developments. People developing property should have to pay for the impact. She added zoning helps balance all the competing interests and she supports the Lewis and Clark County Growth Policy, it will serve the citizens for a long time.

Joyce Evans, 2276 Tea Road, stated she totally supports the proposed zoning and the 10 acre minimum in the semi-rural areas around the county.

Liane Taylor, 3420 Birkland Drive, a local real estate broker, but she is not here as a broker. She stated she has spoken with many farmers and ranchers in the valley that are completely against the 160 acres. It seems if you want to direct growth you can come up with some incentives to put it in the corridor close to town as you want to. The infrastructure risks that the county has the option to implement seems that maybe the county along with the city could take the current resources and take some of the infrastructure risks. Right now it seems the county is wanting to manage or take the resources of others and she finds it most disturbing. Maybe focus on putting the growth where you want it first through incentives. She wishes notice could have been sent out to all of the affected landowners and she thinks it was a disincentive to those who this will affect. She thinks there are many people that

are not aware this process is even happening. Zoning can be a predictable tool, but again for land use not for a minimum lot size.

Mike Magee, 3685 Amber Court, represents the Home Builders Association and he stated affordable housing is a big topic lately and home builders are one of the big avenues to have affordable housing. The challenge for home builders and affordability are lots and labor. It is hard to get blue collar workers into building houses, being electricians, plumbers. The larger lots will be more expensive than 1 or 2 acre lots. If not careful only the top 5% to 10% of the 10,000 moving into the valley will be able to afford the 10 to 20 acre lots. He hopes as part of the process, an economic impact study will be done regarding the expense of lots, affordable houses, property rights and property values. The Home Builders Association would love to be a part of the study or if a group was formed to provide their input to help as much as possible.

Julie Dooling, 3855 Cedar Valley Road, House District 70 Representative that represents the eastern portion of Lewis and Clark County and all of Broadwater County. She stated they have attended three of the four meetings with the attitude at the meetings being pretty disagreeable. The zones seem to be particularly egregious, especially the green area because there are farmers and ranchers that own large tracks of land and would not be able to subdivide them without going through extra hoops and measures. This is going to overtly burden Jefferson and Broadwater Counties with an influx of people moving into those counties. Broadwater County is currently seeing an influx of people moving from Helena and Bozeman putting a huge strain on services they are able to provide. She has done a lot of research and spoke with other representatives who have dealt with this and one pointed out the density zoning, stated as one of the objectives, is illegal to have a single issue zone. That is a concern that what this is setup for and any litigation coming from that. She does not understand how this zoning document protects property values and does not think this is one of the charges that the board is commissioned to do. They are in charge of protecting health, safety and welfare. She thinks the market demand sets the property values. The current zoning plan is about monetary investment protection of current owners and sacrificing other owner's use of their property in investment by restricting their ability to develop. Other concerns are they have been told they could request a variance or be accepted out of the zoning, but there doesn't seem to be a process in place. Statute has a procedure for adoption of regulations and boundaries that specifically states the timelines and noted in 76-2-205, MCA subsection 6 there is a protest period. She has been told the protest period does not apply any more as the Supreme Court has knocked it down. They did in part, in a case in Missoula, but they have also upheld it throughout other places in Montana. She would like to know what the protest period is going to be as she thinks that is important to landowners who do not want to be a part of the zoning. A lot of her district in Lewis and Clark County is affected by the green zone, including their 160 acre ranch that has covenants on it stating they can develop and subdivide it down to 20 acre parcels. They purchased the property knowing that was a future possibility and the green zone has taken that possibility away. They have rights of first refusal to buy other properties that they are currently farming and are also in the green zone with covenants stating they can divide down 10 to 20 acres, also off the table.

Jim Dusenberry, 1672 Sierra Road, stated they are close to town and purchased the property thinking of the future and noted the property is in the light and dark green. He feels the agriculture (AG) community has taken care of this valley or you wouldn't be looking at it to want to preserve it. It is hard to believe that such a bad job has been done preserving the ground and keeping it in a farm type atmosphere that they should be punished by zoning them and limiting what their activities can be on that ground. He does not think that most of the people in the AG community are out there to develop and put in big subdivisions and desecrate the ground. He thinks they are there to make a living and they should be rewarded for that, not punished. He sees it as a taking, a top down movement where we are going to shut you down lock you in and this is what you are going to do for life and he feels it is not correct. He doesn't necessarily disagree with zoning in industrial areas but it make no sense in the farming areas. They pay taxes, he volunteers, on their 160 acres they provide recreation for people in town with hunting and to be told you cannot use your farm ground for the benefit of your future is

bothersome and he feels it's like putting a conservation easement on it without compensation. He sees problems down the road and opposes the zoning.

John Herrin, 2855 Sundown Road, addressed several issues noting zoning is traditionally done in a land use basis with very few communities doing lot sizes. He is not aware of any county that is urban that has anything like this. The growth plan that was done in 2004 and 2015 says that 97% to 98% of the population of Lewis and Clark County is in the Helena Planning Area. Within in that area 2/3 of the area is rural and his quick calculations came up with the designed rural area is roughly around 85% to 90% of the land area within the Helena Planning Area. The 2000 and 2010 census showed about 4,000 homes were 2/3 of the growth in the Helena Valley Planning Area. What is being proposed is to shove almost all of the growth into 10% of the land area. All the value in the rural area will drastically go down. All the land value in the 10% will go drastically up. There must be an impact assessment done on the plan and what it means to property values. Mr. Herrin spoke with the appraiser that did a lot of the lawsuit assessments for the damage claims when the County got into ten different lawsuits over offsite roads. He says that the basic lot value price of their rural piece of property right now would be about \$5,000 per acre, if developed it is about \$50,000 to \$100,000 per acre, and at the agriculture rate it is around \$300 per acre. If this is done, especially to the 160 acre tracts, \$5,000 will be taken out of every acre that they have. He estimated it is roughly about a quarter of million acres, if you take that times \$5,000 on the low end, that is about \$1.2 billion in takings. There will be lawsuits because this will damage property owner's investment and lifestyle. It should not be implemented at all and he does not believe there should an acreage limit. Mr. Herrin believes that the 160 acre tracts, trying to protect agriculture will only hurt them. Everyone he has spoken with in the AG community does not want this. He thinks the 160 acres should be taken out of the equation. What he understood Commissioner Good Geise to say is maybe look at all of it as 10 acre minimums would be a lot better than what is proposed, but he does not think the 10 acres is defensible. He thinks the 20 acre and 10 acre minimums can also be taken out. He has spent the last three weeks looking at the rural stuff and the North Hills groundwater study. The Montana Bureau of Mines and Geology and the Department of Natural Resources and Conservation (DNRC) looked in detail at the North Hills and at the Scratch Gravel Hills with the conclusion that even in the worst areas in the North Hills, their density could go down to 3.2 acres and still not cause a significant draw down problem for adjacent wells. Mr. Herrin's opinion is that if there is a lot of this groundwater data out there and it has been analyzed, but they have never analyzed it to the point of where they can really say. They have said that the density of N Montana in the Ranchview area that the draw down over 20-25 years the area of all the big wells is probably too tight. Those lots are really small. His guess is a minimum of 1 to 2 acres in the North Hills would be adequate. The same numbers came out on the Scratch Gravel Hills in their own report on some of the areas. There are some areas that wells were affected by septic systems, but there were also areas where wells were affected by agriculture and livestock. Some of the old septic systems were probably not adequate for the granite soils in the Scratch Gravel Hills where 2 out of 22 wells had a problem. Through the current subdivision regulations adequate groundwater supply and no adverse effects to neighbors has to be proven to move on with the subdivision. The DNRC is also restricting things to about 13 lots and anything above that water rights have to be purchased. The county is using the five different conditions one being fire, it is adequately covered in the subdivision regulations. The flood plain cannot be increased. There is no basis to use other than he has heard from Peter Italiano roads are an issue. The only people that are fixing the roads are the subdivisions because they are forced to fix offsite roads, so roads cannot be used either. Mr. Herrin contends 1 to 2 acres represents the minimum lot size for the area, not 10 acres. When this goes to court the county will be looking at potential billions of dollars in liability, of which MACo will not insure the county for that. He suggested the county looks at the legal problems they will have because one area is being enriched and taking value out of others. How can people work on something with a map that is always changing and make valid comments with such a fluid landscape. The county will be challenged for procedure as there are public hearings, but none are being taped. They will be asking for documentation of what the staff notes were and what they were communicating to the Commission because the Commission was not present at any of the meetings. At the third meeting, there was a vote requested by a rancher with 90%

in opposition and 75% in the second meeting. Also at the third meeting it was asked how many were in favor of the zoning and not one person responded. Mr. Herrin distributed a questionnaire that he developed and reviewed the questions and the answers he received from 16 people. This map should have been developed after seeing what the people want. This is not appropriate for this community. He added realtors have stated that transactional sales have already been lost in the rural properties. These takings are arbitrary. There needs to be a set of plans that can actually be worked from.

James Ashmore, 6460 Birdseye Road, suggested looking at alternatives to the current assessments on properties, such as for fire suppression, require installation of a holding tank. Put it into the beginning part of the development process rather than subsidizing the county funds that never come to surface to pay for it in the future.

Maxwell Milton, 111 Alfalfa Road, stated he attended a couple of the meetings and sat on the CAC around 2000 when the 2004 plan was being worked on. You have heard that people want more citizen input and I know you have been trying to do that. People do not show up until there is a proposal. Input is what you are asking for now and the reason for the map changes. Comments are one thing, but when you get people working together and they have to come up with answers. There is merit in giving people opportunities to get together and discuss maybe some alternative ways. The 2015 document was excellent and the five areas of concern are important. He thinks the question being asked is density zoning going to work. He thinks it's important if this is done that there be a widespread buy-in. The idea of density outcomes rather than acreage outcomes he thinks is worth considering and maybe get an ad hoc group together to work on this. He noted it has been tried over in Missoula. If the goal is to conserve agriculture in the valley, which he supports for many reasons, and to consecrate the density where it can be served by infrastructure, which he supports, he is not sure the acreage density zoning is going accomplish that. Mr. Milton thinks there are ways to get the community there and it should be explored. Given the heartburn around the large acreage idea, both the city and the county has stated in the UGA they want try to dedicate infrastructure there to get the density where it can be served. He thinks it serves the City of Helena better to have affordable density closer to town. Maybe we try to draft regulations for the UGA while discussion continues on the rural areas.

Steve Burch, 6523 Mile Road, stated Peter and the other folks that spoke at the meetings claim that this does something to make better the 5 issues with development and growth. That is hard to see. What would be a common sense approach to growth would be to concentrate density around major highways and the map doesn't begin to do that. If water is an issue and you think zoning is going to fix it, then there should be a map showing water resources and areas of high density where water supply is adequate. This zoning proposal does not look at that and the map has large lot zoning where the water table is high and well depths are shallow. He hopes additional time will be taken to look at this as the map does not look to be well thought out. Roads are a huge issue to any development in the county and to not focus and try to promote growth around state and federal highways is ludicrous. It is poor development management and growth planning.

Mark Diehl, 4450 Highway 12 E, stated his family has been on the property for 83 years and it is now in the green on the map. Why has it been decided that the County should be in charge of what he does on his property. He discussed his 27 years on the school board noting they have a long-term infrastructure committee that meets occasionally to study trends and make scenarios about what the future may look like, and from that they make trigger points, what will be done when certain things happen. That committee precipitated the Prickly Pear Elementary School, the East Helena High School and are meeting again because of the growth in the community. They recognize the growth in the community and rather than try to control it they to adjust to it, live with what they have rather than decide what they should have. He stated he has been on the farm for 63 years with the most money made at \$800 a month. Occasionally they sell property. He does not live extravagantly, they don't have a lot of money, but they did have sweat equity in the property. Next to him on Canyon Ferry Road there are 20 houses built on top of the hill that was a 16 acre field and he understands they paid \$100,000 a lot. That is \$2 million worth of revenue. The land on his side is dry land wheat ground and you could not pay \$300 an

acre and make it viable. The proposal makes one side worth millions of dollars and his side it is worth nothing. He discussed the use of biosolids on the farm, the complaints and the request to have it stopped, his goodwill gesture of fertilizing less even though he did not have to with no compromise on the other side. He has been a good citizen and feels like now they are being singled out. He added he has had wells go dry, but he did not blame the neighbors. When wells go dry it is not always the neighbors fault.

Kris Sampson, 7230 Raven Road, stated he just found out about the zoning. He does not subscribe digitally or physically to the newspaper, nor does he have TV or internet. If property owners were notified by mail more people would have attended. He added more people need to be informed and have a say in what is occurring. He did not spend 20 plus years giving to his state and country to be blindsided by the fact that now he cannot give his kids 5 acres of his property. He thinks if you don't rethink on notification of property owners you might have a significant number of lawsuits.

Steve Netschert, 300 E Loren Road, stated his property is in the green area and he would be greatly affected by the 160 acre requirement. His big concern is the negative impacts the proposal has on the county, the citizens, and taxpayers. Throughout this county and the city there have been horrendous discussions over the years and for the last 10 years or so there haven't been many hot button issues that have challenged this community and he thanked the commissioners for that, the discourse between the commissioners has been great and the county has benefited wonderfully from that. Many of the comments heard today were echoed in the listening sessions and he is concerned about the negative impacts that the proposal has come out. He will hold fire until he sees something in writing and he thinks that is part of the problem as people do not know exactly what is being proposed. There is a pretty map, but there are no descriptions of what it is that is going to come to fruition. Subsidizing development is a concern as previous issues, the County has subsidized development through the lawsuits. Ultimately these things get passed, protested, litigated, and historically, the developers win and the taxpayers wind up paying for it. He shares the previous concern about subsidizing development and he is hoping whatever comes out is a good product that works for everyone and protects the taxpayers from the burden of additional taxes in trying to pay for some of these judgements that have been seen. Mr. Netschert strongly urged the Commission to reach back out to the user groups and various interested groups to see what could work and what does not work. It looks pretty obvious that the 160 acre minimum is not palatable at this point. Hopefully the landowners can see more of this before it goes to the Planning Board. He noted the vast majority of those involved in the process of the rulemaking and writing are not going to be affected by the outcome as they do not live in the zones or even in the county. He is trying to stay as positive as possible and wants a good outcome for the county.

Darrel Rutherford, 3420 Byron Road, stated he attended two of the public meetings and noted he thinks zoning should be looked at in a more realistic manor as what is done with the land. The lot sizes are the concerns. After talking with others, it seems the concern is does the government have the right to tell the landowners what they can or cannot do with their property. Everyone has worked hard to own their property and the acreage requirements is being restrictive to what people have spent their lives putting together. He is not opposed to zoning, but it needs to address the issues at hand what are we going to do with a particular part of the valley, such as can we bring commercial avenues further out on Montana Avenue, can we bring in industrial or commercial values further to the east on Canyon Ferry Road. To limit the size is just not the answer.

Margaret Cleary, 6331 Ferry Drive, stated they own rentals in town and she feels like she should support this because she feels any time development is severely restricted it will increase rents, but she does not support it. These are people's private property. She feels it will cause other properties to become less affordable for people, higher rents, and starter home values to go up. Later on she does not want to see landlords being blamed for the higher rents. Also being on Ferry Drive she should support this because open space is nice, but she does not think it should be at the expense of her rancher neighbors. She attended one of the zoning meetings and a road meeting. There was such a different atmosphere in both meetings, the road meeting had an attitude of cooperation, but the zoning

meeting was telling the public this is what we are going to do. Private property rights is the foundation of our country.

Commissioner Good Geise stated all the comments will be taken under consideration, it will be highly complex, and will not be a fast process.

Public comment on any public matter within the jurisdiction of the Commission that is not on the agenda above.

Adjourn

There being no further business, the meeting adjourned at 12:13 pm.

LEWIS AND CLARK COUNTY
BOARD OF COMMISSIONERS



Susan Good Geise, Chair



Andy Hunthausen, Vice Chair



Jim McCormick, Member

ATTEST:



Paulette DeHart, Clerk of the Board