

December 4, 2009

MEMORANDUM

To: Jeff Harris, Director
Flathead County Planning and Zoning Department

Copy: Flathead County Board of County Commissioners

From: Roger Millar, PE, AICP, Director
Missoula City-County Office of Planning and Grants

Candi Beaudry, AICP, Director
Billings Planning and Community Services Department

Dan Miles, Director
Sanders County Land Services Department

Greg McNally, Planner II
Lewis and Clark County Planning Department

Re: MAP Draft – Peer Review of the Flathead County Planning and Zoning Department

Jeff:

This memorandum documents the peer review of the Flathead County Planning and Zoning Department conducted by the Montana Association of Planners between December 2 and December 4, 2009. Please let me know if you and/or the Board of County Commissioners have any suggestions for amendments to the document. We will incorporate any changes and send you a final version. Thank you for your hospitality to the peer review team and for the opportunity to be of service as you improve your Department.

The Montana Association of Planners (MAP) is an organization comprised of professional and citizen planners who live and work in Montana. MAP's mission is to advocate excellence in planning that creates and sustains diverse, active and engaged communities, economies and landscapes. The organization strives to achieve this in part by putting planning knowledge into the hands of citizens and elected officials.

The goal of the MAP peer review program is to provide planning directors and elected officials the opportunity for a periodic review of department staffing, policies, and procedures by a team of planning directors and senior staff from comparable communities. This team meets over a three day period with department managers, staff,

customers, advisory boards and Governing Bodies and reports back to the Director and the Governing Body on its findings and recommendations.

The MAP peer review program provides a mechanism for addressing the criticisms that inevitably arise about planning departments in Montana, an opportunity to share best practices, and to raise the profile of planning and the planning profession in Montana in a positive way.

Peer Review Process

Flathead County realizes that a successful planning program requires partnerships between the Board of County Commissioners, the Planning Board, the Board of Adjustment, the Planning and Zoning Department, Land Use Advisory Committees, the private sector, and the public. Decision makers in these partnerships desire to make informed decisions based upon meaningful input from project stakeholders. A periodic review of the County planning organization, policies, and procedures provides an opportunity to assess performance and consider best practices from other Montana communities.

A peer review team from the Montana Association of Planners visited Flathead County on December 2, 3, and 4, 2009. The team was composed of the directors of the Missoula City-County and Yellowstone County-City of Billings Planning Departments, the director of the Sanders County Land Services Department, and the lead subdivision planner from Lewis and Clark County. Biographies of the team members are at the end of this memorandum.

Rather than having a large public meeting that could be dominated by one or two personalities or a workshop dominated by technical experts with relatively little public input, the team conducted a series of smaller meetings over the course of two days to gather input from diverse groups of stakeholders who have like interests. This allowed the opinions of all parties to be heard in a constructive and non-confrontational atmosphere. As a part of this process public meetings of the Board of County Commissioners were noticed and held on the evening of December 2 and the morning of December 4, 2009.

During these meetings, the MAP team synthesized the input of diverse parties into a memorandum that was shared with the Board of County Commissioners and the Planning Director at the end of the peer review. MAP will incorporate comments from the Commissioners and the Planning Director into a final version of the memorandum.

Participants

Representatives of the following organizations and individuals participated in the peer review:

- Flathead County Board of County Commissioners
- Flathead County Planning Board
- Flathead County Board of Adjustment
- Flathead County Planning and Zoning Department Management Team
- Flathead County Planning and Zoning Department Staff
- Flathead Business and Industry Association
- Lakeside Land Use Advisory Committee
- Helena Flats Land Use Advisory Committee
- West Valley Land Use Advisory Committee
- Riverdale Land Use Advisory Committee
- Citizens for a Better Flathead

Issues Identified

The following is a summary of issues raised during the peer review sessions. A complete listing is attached at the end of the memorandum:

Current Planning

- Regulations are outdated and disjointed due to numerous text amendments and modifications.
- Rapidly changing regulatory environment creates problems with implementation and enforcement of existing regulations.
- Current practices do not emphasize zoning compliance and enforcement.
- Governing body actions are influenced by individual appeals made outside of standard regulatory process.
- Threat of lawsuits and public scrutiny dictates need to improve regulatory procedures and documentation.
- Difficult to consistently implement Growth Policy strategies through subdivision and zoning application review.
- Agency input is inconsistently received and considered in application review.
- Staff reports are not always fact-based and tend to vary in content and format between planners.
- Subdivision review process can be unnecessarily drawn out and cumbersome.
- Applicants find subdivision pre-application process insufficient to assess risk of proposed projects.
- The timing of the Land Use Advisory Committee and public comment can affect when applicant becomes aware of recommended condition
- LUACs do not receive timely notice of applications.

Long Range Planning

- There is no clear guidance on how Neighborhood Plans should be initiated and the roles and responsibilities of the LUACs, Department staff, and County Commissions.
- The Planning staff should provide more guidance as to the content, process and application of Neighborhood Plans.
- Land Use Advisory Committees lack resources to adequately develop and implement Neighborhood Plans.

Public Process/Agency Coordination

- Input from affected agencies and departments is not consistently solicited or received and included in review process.
- Land Use Advisory Committee meetings may be improperly conducted and proceedings and results are open to legal challenges.
- Communication between LUACs, staff, agencies, applicants and Commissioners needs improvement and standardized.
- Misinformation disrupts process and is effective in blocking planning projects and applications.
- Department lacks comprehensive public outreach plan.
- Need to consider ways to educate public as to benefits of planning.
- Commissioners should find time to routinely meet with staff.

Department Operations and Administration

- Department has no appearance of conflict of interest or record retention policies separate from the County and no counter log to document walk-in inquiries.
- Public desires more timely access to application information and process.
- Counter activity is not documented.
- Staff reports are not sufficiently reviewed by management for content and consistent interpretation of regulations.
- Staff is perceived as being adversarial and biased.
- Draft documents are not available for public review in a timely manner.
- Work assignments should be project based not just based on planner availability and workload.

Code Enforcement

- Code Enforcement is non-existent which undermines the effectiveness of zoning and subdivision regulations.
- Subdivision and zoning conditions of approval should be monitored for compliance and enforced.
- There is a perception that any code enforcement is selective and not truly complaint based.

Preliminary Findings and Recommendations

As a peer review exercise conducted over a few days, it is inappropriate to develop findings regarding the feasibility or desirability of specific changes organizational structures, policies, procedures, etc. However, some broad themes emerged from the discussion:

The Flathead County Planning and Zoning Department is a well managed organization staffed with dedicated professionals.

- The Department has appropriate policies and procedures in place and is working to update those policies and procedures over time. Missoula, Yellowstone, and Lewis and Clark Counties will provide the Department with copies of their planning policies and administrative documents to serve as sources for possible refinement.
- Staff turnover has declined from the high levels of recent years and morale appears to be improving.
- Staff is well educated and is being cross trained to enhance service delivery.
- Management supports staff while allowing for professional growth through high profile assignments.
- Evidence exists of a “bunker mentality” often found in the planning departments of rapidly changing communities. Management has made strides to alleviate what appears to have been a longstanding issue. Management needs to do more to discourage an “us against them” attitude and foster a customer service-based outlook. This can be difficult to accomplish when the Department is under attack from fringe elements in the community. The Department will need the continued public support of the Board of County Commissioners.

The Department should identify avenues for enhanced communication with the Board of County Commissioners, reviewing agencies, the development community, and the public.

- A weekly informational “planning status” meeting between the Board of County Commissioners and Department staff should be established to review upcoming cases and offer an opportunity to answer questions from the Commissioners. Applicants and the public should be invited to attend this meeting, which is intended to be informational and should complement rather than replace required public hearings.
- The Planning Director should host a monthly meeting with representatives of business and industry to provide a forum for addressing emerging issues.
- The Department should invite staff from the various agencies it does business with to attend Department team meetings on a periodic basis.
- The Department should invest in enhanced communications techniques, including random telephone surveys and keypad polling at public meetings, to ensure that planning processes and decisions are in accordance with the wishes of the majority of affected residents, not just the most vocal.

- Department Management and the Board of County Commissioners should establish an ongoing outreach program to the community regarding the benefits of planning.

The Department should consider adjustments to its policies and procedures to provide for better quality, consistency, and timeliness of work product.

- While peer review of staff reports remains a useful technique, management should review and approve all staff reports and other planning documents for consistency.
- The Department should strive whenever possible to assign case planners to applications from pre-application through approval.
- Pre-application meetings should include staff from affected departments and agencies. The meetings should be expanded in scope to serve as a mechanism to inform applicants of application-specific potential problem areas, applicable standards and procedures.
- The Department should consider requiring that applications be submitted in an electronic format to lower cost and facilitate web-based access.
- The Department should develop an expedited review process for qualifying minor subdivisions.
- The Department should document performance metrics and establish performance standards. These metrics and standards should be reported to the Board of County Commissioners on a regular basis. For example:
 - Track percentage of agreement between staff and advisory boards and between advisory boards and the Board of County Commissioners on the various actions (approval, denial, conditions, etc.) related to the consideration of applications.
 - Track the time required to review subdivisions, zoning applications, etc., including time under the Department's control and time under the applicant's control.

The County should revisit the terms of its engagement with its Land Use Advisory Committees

- The Planning and Zoning Department, the County Attorney's office and other County Departments should be funded to provide administrative support of LUACs to ensure proper meeting notice, agendas, procedures, and minutes.
- The Department should develop land use plan and application review guidelines for LUACs to ensure consistency and predictability of LUAC reviews of planning applications and long range planning documents.

The County should assume greater responsibility for zoning code and subdivision regulation enforcement.

- Zoning code and subdivision regulations lose relevance if they are not systematically enforced.

- The enforcement of County regulations is the responsibility of County government. Enforcement can not be relegated to a civil issue between private property owners.
- The Board of County Commissioners should fund the Department and the County Attorney's office to provide for development and implementation of an effective complaint-based enforcement program.

MAP should inform its members of a number of best practices in place in Flathead County that should be considered by other communities.

- The Department's "mid-course correction" option for subdivision applications can reduce cost and expedite process when changes to subdivision applications become necessary.
- The Department's web site calendar is a detailed resource for citizens. The web site is being continually upgraded to be even more user-friendly.
- The Department provides a video record of Board hearings and many public meetings that is a valuable archival resource.

Peer Review Team Biographies

Roger Millar, PE, AICP, Director

Missoula City-County Office of Planning & Grants, Missoula, Montana

Roger Millar became Director of the Missoula City-County Office of Planning and Grants in January of 2007. The Office of Planning and Grants implements the City and County vision and mission as they relate to existing and proposed land use and the built environment.

Roger's previous experience, including 13 years in local and state government and 15 years in private practice, provides him with a broad understanding of the relationships between transportation, land use, and the environment. Projects in which Roger played a leadership role, particularly the Portland Streetcar and the development plan for Portland's Pearl District, are seen as national models for urban livability. He has also managed or participated in signature projects for rural, resort and National Park gateway communities throughout the American West.

Roger is a Fellow of the American Society of Civil Engineers, a member of the American Institute of Certified Planners, a Professional Engineer, and a Certified Floodplain Manager. He is currently a member of the ASCE National Transportation Policy Committee. Roger is past chair of the ASCE National Infrastructure and Research Policy Committee and past vice chair of the American Consulting Engineers Council Transportation Committee. He participated in the development of the 2001, 2005, and 2009 editions of the ASCE *Report Card for America's Infrastructure*.

Roger has served as Chair of the Pacific Northwest Council of ASCE and as President of the Oregon Section of ASCE. He currently serves as President of the Montana Association of Planners. He graduated from the University of Virginia in 1982.

Candi Beaudry, AICP, Director

Planning and Community Services Department, Billings, Montana

Ms. Beaudry has 17 years experience in private practice and 12 years in local government. She received a M.S. in Rural, Town and Regional Planning from the University of Montana 1994, and holds a B.A. in Geology, also from University of Montana.

Candi worked for and later became part owner and principal of a geologic exploration firm providing precious metal exploration services in the northwest and Alaska between 1980 and 1994. After receiving her Master's in Planning, she contracted planning services to towns and counties throughout Montana. In 1995, she joined Fischer and Associates, a Billings' landscape design and planning firm. As the principal community planner of the firm, she played a major role in developing the Billings Parks2020 Plan, Montana Avenue Streetscape Enhancement, the Fort Harrison Military Base Master Plan, and provided current planning services to Sweetgrass County, Montana.

Sweetgrass County and the City of Big Timber hired Ms. Beaudry as the City-County Planning Director in 1997, and for the next three years she lead the development and implementation of the City-County Hard Rock Mining Impact Plan, rewrote the subdivision and zoning regulations, and prepared the draft City-County Growth Policy. In 2000, she began work with the City-County Planning Department in Billings where she reviewed subdivision, zoning and annexation applications, and prepared the 2003 City-County Growth Policy. From November, 2004 to January, 2006 she held the position of Planning Division Manager, where she was responsible for the daily administration of the Planning Division, budgeting, and special City and County planning projects. She was appointed Director overseeing the Building, Planning, Community Development and Code Enforcement Divisions of the City of Billings and Yellowstone County in November, 2006.

Candi has been a member of the American Institute of Certified Planners since 2000, and is the past president of the Montana Association of Planners and past co-chair of the MAP Legislative Committee .

Daniel Miles, Director

Sanders County Land Services Division, Thompson Falls, Montana

Daniel Miles has worked as a local government planner for 20 years; working as a staff planner for 11 years with the City-County Planning Department in Billings, primarily in

subdivision administration. For the last nine years he has managed planning, environmental health, floodplain, parks, OEM and GIS for Sanders County.

Daniel received a B.A. in Geography with a Biophysical Emphasis from the University of Montana and a M.S. in Rural, Town, and Regional Planning from the University of Montana. Planning is a second career following years working in various sawmills and as a logger.

Greg McNally, Planner II

Lewis and Clark County Community Development and Planning Department, Helena, Montana

Greg McNally has worked as a Planner with the Lewis and Clark County Community Development and Planning Department since June 2005. The Community Development and Planning Department is responsible for the coordination and guidance of growth and development through planning, zoning, subdivision review, parks, transportation and special districts.

Greg leads the Community Development and Planning Department in the development and administration of subdivision regulations and standard operating procedures. He also represents the Department on the Rural Fire Council and the Sun River Watershed Group. He is a member of the American Planning Association and the Montana Association of Planners.

Greg received a B.A. degree in Rural Sociology from The University of Montana and will soon earn his M.S. in Geography with an emphasis in Community Development and Environmental Planning from The University of Montana. He is currently preparing for the certification exam to become a member of AICP.