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Collaborative Zoning in the Rural Rocky Mountains: A Process Analysis of Two Counties

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COLLABORATIVE ZONING IN THE RURAL ROCKY MOUNTAINS:

A PROCESS ANALYSIS OF TWO COUNTIES

By

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Professional Paper

presented in partial fulfillment of the requirements
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INTRODUCTION

Purpose and Scope

The purpose of this study is to evaluate and analyze the design, function and application of citizen participation in rural zoning. Zoning remains a controversial practice in the rural West and while some planning departments, agencies or stakeholders initiate the process, others simply allow growth to happen without a method or plan to guide it. This paper will not offer an exhaustive evaluation on whether an area should adopt zoning. Rather, this study examines the benefits and drawbacks of engaging stakeholders and agency officials in a land-use decision-making process, or “collaborative planning.”

While there are many regulatory options for land-use planning, this report focuses on county-wide zoning. Zoning is one regulatory tool (among others) used to implement the design elements of a comprehensive (or master) plan, which dictates a community’s vision for growth. Because zoning is regulatory, it is often met with opposition from those who feel that the adoption of zoning compromises individual private property rights. This fear is particularly potent in the West where land ownership patterns often date back decades—if not a century or more—and land uses that have been largely unimpeded during that time can, with zoning, be limited (Lucero, 2008; Inman & McLeod, 2002). And yet, the problem remains—if the West continues to grow, how will Westerners manage the increasing populations and demands on resources?

Two cases will be highlighted as process examples—one represents a case of successful collaborative zoning and the other is an account of a failed collaborative process. “Success” in this context means that zoning was passed by the community, and

“failed” means that, despite a collaborative process, zoning ordinances (2008) were not passed by the county. The two examples will be presented as short vignettes that include a brief history of the community, the objective of the project, an overview of the participants involved, and the accomplishments or outcomes of the process.

The Context: A Changing West

Growing populations in cities and towns are changing the landscape of the Rocky Mountain West. From Montana to New Mexico, thousands of acres of farm and ranch land are being sold into development and cities that were once tens of miles apart now blend seamlessly together sprawling out from urban epicenters and beyond (Jackson, 2008). More than merely aesthetic changes, the West is now home to a massive influx of in-migrates that have left metropolitan areas to enjoy a closer proximity to environmental amenities like wilderness, forests, and national parks. While the national average of in-migration is around six percent annually, the Rocky Mountain region is growing at roughly 15 percent (Jackson, 2008). Additionally, the Western economy, which has typically relied on the boom and bust rollercoaster of natural resource extraction for the last 100 years, is now host to a diverse collection of businesses that have moved their corporate offices to western metropolitan areas. In short, the region is thriving—at twice the national average—with a supply of steady, stable jobs and an increasingly diverse constituency of residents, businesses and interests (Jackson, 2008).

And yet, these changes do not come without repercussions. In order to protect these vibrant, growing economic centers and the resources that drew people to the West, there is a challenge—for old and new residents—to define their communities together.

For many, the planning process is discordant with the ethic of independence that settled the West. Indeed while western states have adopted certain planning and growth standards, there are still many communities that have yet to broach the often controversial topic of zoning. This reticence is due in part to mistrust of government officials, and fear that zoning would restrict private property rights and potentially be a disincentive for businesses to build and invest in an area. Compounding that fear is a hesitancy due in large measure to what communities believe will be a loss of control—particularly due to fears that the planning process will not involve the community (Norman, 2004-2005; Ravalli Republic, October 28, 2008; Yung and Belsky, 2007; Wilson, 2006; Dustin, Scheider et. al, 2002; Chaney, R., November 14, 2008).

This concern over government intrusion and lack of procedural transparency in the design and execution of a land-use planning process is being addressed by local governments. When citizens are in favor of land-use planning and local governments initiate the process and then enlist the support and input of the community in the design and scope of the proposed action, many of those fears are abated. Indeed, getting a seat at the planning table is also being pushed by citizen groups themselves, who see the writing on the wall that growth is changing their communities and the landscape of the West. Regardless of how it begins, communities are recognizing land-use planning as an opportunity. It is a chance to control and manage the influx of people and development in a way that protects the values, sensibilities and economic vitality of the area while also addressing the needs of its growing population (Holmes, 2005; Inman & McLeod, 2002; Hamin & Marcucci, 2008; Havlick & Jackson, 2008).

The Problem: Integrating Citizens into Land-Use Decision-Making

Although some form of public participation is often required by law, agencies usually have broad discretion about the extent of that involvement. Approaches vary widely, from holding public information-gathering meetings to forming advisory groups to actively including citizens in making and implementing decisions (National Research Council, 2008, Abstract).

Whether it is a focus group or a ballot initiative, many jurisdictions have laws that encourage—if not require—citizen participation in an agency decision-making process. Montana has an explicit code for “Public Participation in Governmental Operations” (MCA 2-3-103), that includes citizen notification of an action that is of “significant interest to the public.” Agencies (a blanket term that includes: “board, bureau, commission, department, authority, agency, or officer of the executive branch of the state”) must then publish an agenda of the meeting so that citizens can attend or comment on the action.

Conversely, Wyoming’s law only dictates public participation in the event of a hazardous waste spill, and the public (or 25 individuals or more) must request to be included in the remediation process (Wyoming Code 35-11-1604). However, many federal agencies (i.e. USDA Forest Service, Bureau of Land Management, and Wyoming Game & Fish) that operate within the state are bound by federal policies that stipulate that agency actions must be allowed to reviewed and commented on by the public. Thus, Lincoln County, Wyoming, was under no legal obligation to include the public in a decision-making process, and yet decided to pursue a collaborative land-use planning process anyway.

Regardless of regulatory stipulations, public involvement changes the dynamic of a decision-making process. Therefore it is important before collaborative land-use planning is undertaken, to appreciate the benefits of involving the public; and it is equally important to understand and prepare for the drawbacks as well.

The Benefits of Collaborative Zoning

The benefits of including the public in land-use decisions are many. First, when the contribution of the public is substantive, the fear of what's happening "behind closed doors" is replaced with a transparency that encourages trust and the building of relationships—relationships that can be used in the implementation of a decision, as well as those that might continue to be useful in future land-use planning or community ventures. Second, decision-makers are likely to make better decisions when a diversity of stakeholders contributes to the generation of ideas and solutions. When multiple stakeholders are included in the formulation of ideas, they are likely to learn about the various challenges, obstacles and goals of a diverse group of stakeholders and find or seek out the best available science on which to base environmental decisions. Both of these things can aide in the overcoming of prejudices and facilitate understanding among dissimilar interest groups and government agencies.

As stated by the National Research Council (2008), "When done well, public participation improves the quality and legitimacy of a decision and builds the capacity of all involved to engage in the policy process" (pg. 8). Quality decisions are based upon the best available science, information and opinions to inform decision makers. Land-use planning processes can claim a higher level of legitimacy when a variety of stakeholders

are included. With a single body deciding, or even a truncated number of interests represented in a planning process, there are likely to be feelings of distrust for both the decision makers and the outcome itself. However, when all stakeholders (or some representation of interests on all sides of an issue) are represented, the authority of the decision made is more likely to be seen as fair and just (National Research Council, 2008).

Additionally, a collaborative approach to environmental decision-making is the ideal practice of a democratic society that values the opinions and participation of its citizens. It stands in opposition to the traditional top-down, patriarchal method that values expediency over inclusion. And whether the regulatory process begins with an elected official or is borne out of community interest, sustainable planning decisions have public participation at their core. The importance of including the people who inhabit the region, town or development in the decision-making process is paramount. Not only do the citizens have a vested interest and thorough understanding of an area, but they are also the ones with whom elected officials will need to cooperate in order to pass—and implement—zoning measures. Therefore the sooner citizens can be informed of and involved in the process, the easier it will be for them to stay engaged, be a part of the shaping of their community and have some ownership in its success. In this way involvement between stakeholder groups, agencies and government can be well-balanced, thus making public involvement more than a political exercise. Though there are obstacles to achieving this level of community involvement, the sustainability of the regulatory provisions adopted in these cases shows the power of a cooperative

relationship between stakeholders and decision-makers (Wilson, 2006; Wondolleck and Yaffee, 2000; Glicken, 1999).

Drawbacks of Collaborative Zoning

Those that argue in opposition to collaborative zoning have several objections to its purpose and process. First, collaborative processes in general require a great deal of time, both in building trust relationships as well as the process of working through obstacles toward consensus. In many ways, the patriarchal method of decision-making is much more efficient than the relationship building that must take place in order for a collaborative process to move forward. This can frustrate participants who are conditioned to believe that decisions should be made quickly. There is often then, a great deal of pressure both externally and internally to show the results of collaboration—results that, in a public process, can take months if not years (Glicken, 1999).

Additionally, detractors contend that including the public is an ineffective form of decision making. Collaborative planning necessarily adds a dynamic component that can complicate, frustrate and occasionally thwart a process all together. Further, there is no guarantee that the inclusion of the public, even in the most transparent and well thought out processes, will yield a positive, workable solution. Moreover, there are times that a public process can worsen a situation by inopportune timing, unclear or unrealistic goal-setting, and generally speaking, the unpredictable variable of citizen or stakeholder involvement. These “failures” can then be used by critics to argue against a collaborative process and instead advocate the patriarchal method of agency decision making which is

seen as more expeditious and effective (Curgus, 2008; National Research Council, 2008, Glicker, 1999).

The Focus: Land Use Zoning in Rural Areas

The History and Types of Zoning

While livelihoods and lifestyles used to be focused on resource extraction and unimpeded development, there is a growing chorus of voices in favor of conservation and collaborative land-use planning. Lucero (2008) in an article for *Zoning Practice* magazine, contends, “The challenges and opportunities confronting communities are more difficult and complex today than ever before” and indeed with a growing demographic of new Westerners, there has been a shift in the environmental sensibilities of residents making the region ripe for planning dialogue.

While there are non-regulatory planning mechanisms for communities (i.e. neighborhood plans, growth policies, etc.) that are centered around agreed upon land-use ethics within a community, the comprehensive (also called a “master”) plan is a prerequisite to zoning. Though many states differ slightly on their definition of a comprehensive plan, the plan itself usually includes a land use category and general long-term goals of a community and its policy priorities (Evenson & Wheaton, 2003; Lucero, 2008). To execute the goals of the comprehensive plan, zoning is one of a few regulatory instruments that help manage and direct growth and development.

Lucero (2008) argues for the necessity of implementing comprehensive plans with development regulations like zoning. She contends that comprehensive plans without

zoning or subdivision permits (similarly regulatory in nature) mean very little when it comes to defining how a community will look and what type and level of development it will attract. Similarly, passing zoning ordinances without a comprehensive land-use plan leads to a kind of ad hoc land-use pattern that may or may not inevitably serve the goals of a community. But once a comprehensive land-use plan is agreed upon, zoning offers a way to consistently reflect the integrity of the plan's priorities.

Adopting a comprehensive plan that is non-regulatory is often an easier means for gaining consensus than launching directly into regulation. Further, it outlines a strong foundation of land-use ethics on which the regulations can be built. This method of planning and forethought can help the Rocky Mountains manage its steady growth through zoning. While there are many nuances in definitions of zoning (as befits its versatile applications), I will focus the meaning on the classification of land-use within districts (i.e. commercial, open-space, etc), and use-based zoning regulations that designate districts for specific use (Evenson and Wheaton; 2003; Norman, 2004-2005).

Put another way,

Towns can regulate the part of their open land that is developed for a range of uses (commercial, industrial, residential); and regulate the intensity of each use that occurs on that land (density or floor-area ratio, or FAR) (Evenson and Wheaton, 2003, pg. 222).

In both cases highlighted in this report, a non-regulatory document preceded zoning. Once zoning was on the table, it was engaged in collaboratively, between citizens, stakeholders and local government officials. In this study, planning and zoning boards and County Commissioners took a leading role, which is most often how zoning ordinances are presented and adopted. Another means for adopting zoning measures is the ballot initiative. This option was exercised by the citizens in Ravalli County,

Montana, who passed a resolution requiring that all zoning measures being considered must be placed on the ballot in an the next election cycle (Resolution No. 2291).

A less common approach is “citizen-initiated zoning.” This form of zoning, authorized by Montana Annotated Code 76-2-101, goes beyond relying on ballot initiatives to pass zoning and gives power to citizens who want to regulate their own areas. A citizen-initiated process requires a district of at least 40 acres where 60% (or more) of the citizens within that district must sign a petition to initiate the process. The petition is then given to—and enforceable by—the county. This is obviously an attractive option for communities where consensus is difficult but people are ready to regulate the landscape of their particular area. It can also be a catalyst for others in a community to start their own processes, or indeed for the community as a whole to undertake the planning process. On the other hand it can create an inconsistent land-use pattern and might discourage development in areas that are regulated and over-burden areas that are not. It is perhaps beneficial for some areas to discourage development but it’s also possible that development should be focused on regulated areas based on the availability of infrastructure, and developers may be inclined to choose areas with less regulation, despite fewer resources, to develop with greater ease.

Why Rural Areas?

Rural communities represent a majority of the townships in the West. That, coupled with the statistics of growth in the Rocky Mountains, makes it vital to the future of these communities that land-use planning become a part of Western dialogue (Jackson, 2008). When citizens consider what growth should look like in their areas, it becomes

important to learn from communities like the ones included in this report as to how that issue might be addressed in a public forum.

The communities represented in this report feature similar challenges and obstacles, and while there are certain parallels in their processes, they are also unique in many ways. Just as there is no “cookie-cutter” version of how to execute successful collaborative zoning, there is not simply one model of what successful collaboration land-use looks like. This is a strength of a collaborative process since by its very nature it is a ground-up management style reflective of the community’s needs, desires and vision for the future.

Indeed, in many ways, rural areas are uniquely suited to the task of collaborative land-use planning. Particularly in sparsely populated areas where citizens are just as likely to see their elected officials at the grocery store as in city hall, it’s important that they are accountable to one another. Rural citizens typically have decade-long (or more) ties to the community, which can also make them excellent resources for on-the-ground information, and inevitably, implementation. Their knowledge of these areas can be invaluable, thus including them in a meaningful, collaborative way honors their relationship with the area. It shows that their opinions, insights and experience are respected and valued in a decision-making process, which goes a long way to build trust between participants.

Rural citizens likely also have existing coalitions that can be utilized in the decision-making process. When these partnerships are identified and enlisted as contributors, this can often lend necessary legitimacy to the project. These groups, when communicated with effectively, can be powerful allies in the process.

Conversely, there are many fears of outside intrusion in rural areas (Connelly, 2009; Lavey, 2009). Whether it's the government or "newcomers," many rural citizens find it difficult to trust what they don't know. This is why transparency will be an important part of any successful collaborative process—stakeholders will need to know what's happening every step of the way. Additionally, word-of-mouth in these areas is worth more than a thousand press releases. Thus, it is important to take the time necessary for relationships to be built, explanations to be given, and decisions to be made by the community itself. When a community has ownership of a process and its outcome, it's not as important that the process happen immediately, but that it is on track, with an informed and engaged group of stakeholders and agency officials working together to define their future.

METHODS

Definition of Terms

In this paper, several terms will be used to describe components of these processes. “Public participation” is defined in this context as, “any process that is designed to engage citizens in the process of making public decisions. The objectives of public participation may be to inform and educate, seek input and advice, build agreement, and/or resolve disputes” (Center for Natural Resources and Environmental Policy, 2009). This term will be used when discussing a more limited level of citizen involvement. However, in the framework used to analyze this case, their definition of public participation is as follows:

“‘public participation’ as used in this study, includes organized processes adopted by elected officials, government agencies, or other public- or private-sector organization to engage the public in environmental assessment, planning, decision making, management, monitoring, and evaluation. These processes supplement traditional forms of public participation (voting, forming interest groups, demonstrating lobby) by directly involving the public in executive functions that, when they are conducted in government, are traditionally delegated to administrative agencies” (National Research Council, 2008, Executive Summary).

Thus, in the evaluative framework of this study, their term of “public participation” achieves a much higher level of involvement than merely the “traditional forms of public participation” they include in the definition as well. For many in the field of conflict resolution, the higher level of participation takes on a different name: collaboration. By design, a collaborative process seeks to “increase the quality and quantity of local public involvement in public land management and planning process” by relying on citizens to act both in educational and decision-making roles (Wilson, 2006, pg. 54). Collaborative problem solving is defined as:

A general term that refers to how a group of people work together to reach common goals or solve difficult problems that are affecting everyone in the group or those they represent. In the context of ECR [environmental conflict resolution], groups that engage in collaborative problem solving are assisted by third party neutrals and seek to reach agreement on a public policy, plan, or decision. While collaborative problem solving may not involve disputing parties, parties with diverse, competing interests are often involved (U.S. Institute for Environmental Conflict Resolution, 2009).

While “public participation” and “collaboration” are not always synonymous in the field of environmental decision-making and conflict resolution, in this case the definitions offered by the National Research Council and the U.S. Institute for Environmental Conflict Resolution respectively, are very similar. However, for the purpose of this paper, I have chosen to use the word “collaboration” to indicate this higher level of responsibility for decision-making given to the public while working cooperatively with agency officials. To that end, “public participation” will be replaced in the framework of this study with the term “collaboration” for the sake of clarity and simplification.

Finally, a term often used to describe, “An individual or group with an interest in or who may be affected by a situation or conflict” is, “stakeholder” (U.S. Institute for Environmental Conflict Resolution, 2009). These citizens have a “stake” in the result of decisions made by government officials and therefore have an interest in how the situation is undertaken and resolved.

Selection of Vignettes

This research is informed by relevant academic literature as well as interviews with several professionals in the field of collaborative governance and land-use planning who recommended communities for inclusion in this report. All cases considered for

inclusion were first evaluated on two criteria: 1) Whether the community is rural (meaning populated by less than 50,000 people) and 2) The level of community involvement in drafting regulations (i.e. at what juncture was the community involved and was their contribution substantive, etc.). This criterion was largely a subjective assessment of whether a process was collaborative and if so, to what degree. There were many successfully implemented zoning regulations that were passed with a minimal level of public participation. However, particularly in rural areas, it is of value to note those who engage their citizenry in a collaborative process wherein the citizens themselves are decision makers. In both cases included in this report, citizen involvement was enlisted through stakeholder meetings, focus groups, town hall meetings, etc. and it was that input that was designed to shape zoning regulations.

The two cases selected for this study are of Lincoln County, Wyoming and Ravalli County, Montana. Lincoln County will be the first case presented and is the example of zoning that was passed successfully. I found Lincoln County's information while evaluating state-wide planning and zoning efforts in Wyoming. While there are many laudable cases of zoning in the Rocky Mountains, the case of Lincoln County's success was chosen because it is in Wyoming. It is worthy of note that this accomplishment was achieved in a fairly uniformly conservative state. Although Wyoming can have an odd mix of politics, (often electing democratic governors but consistently electing conservative Congressional representation), it is a predominantly Republican state with a fierce attachment to private property rights. This is particularly interesting in that the case of Ravalli County was thwarted in large part by the drum-banging of private property rights advocates. Lincoln County, Wyoming, was able to

pass zoning regulations by making small, incremental changes to their comprehensive planning document over the course of ten years (though the groundwork to even make those additions was laid another decade before that). This (among other things) was effective in allaying the fears of the anti-government/pro-private property rights groups. Thus a determination was made to include a case where regulatory land-use planning prevailed in a state where, at least on the surface, there are overwhelming odds against it.

Ravalli County, where zoning was defeated in 2008, received a great deal of publicity in the Missoula, Montana, area, and I was familiar with it on several levels—through the work of colleagues, my own academic research and simply as an interested citizen of the region. Ravalli County was a topical case from which a great deal could be learned and while it may seem that the “successful” zoning case has more to offer to those pursuing their own processes, Ravalli’s process can be of benefit in many ways as well.

Ravalli County, Montana, adopted a growth policy in 2002, which although strongly supported by the citizenry when it was originally drafted became so hotly contested in the latest round of zoning discussions in 2008 that the county not only decided to abandon zoning regulations but also repealed the growth policy. Although Lincoln County represents a successful zoning effort, the process was not without obstacles and setbacks; similarly, though Ravalli County’s zoning effort failed in November 2008, the process itself was highly collaborative and small victories were made along the way. In short, there is much to be learned from both zoning efforts and what follows is an assessment of the accomplishments and setbacks of both. The evaluation of both cases will be presented in short vignettes that include:

1. A brief history of the community
2. Objective of the project
3. Overview of the participants involved
4. Accomplishments and outcomes and,

Evaluative Framework

The aim of this study is to offer an evaluation of the arguments for and against collaborative approaches to zoning as well as to deconstruct and analyze two examples -- one successful and one unsuccessful collaborative decision-making process. The design of both cases will be viewed through a framework designed by the National Academy of Science that includes four recommendations for designing a collaborative process between agencies and citizens:

National Academy of Sciences Recommendations for Collaborative Participation in Environmental Assessment and Decision Making

<p>Recommendation 1: (Collaboration) should be fully incorporated into environmental assessment and decision-making processes, and it should be recognized by government agencies and other organizers of the processes as a requisite of effective action, not merely a formal procedural requirement.</p>	
<p>Recommendation 2: When government agencies engage in (collaboration), they should do so with,</p>	<p><u>Guidelines For Carrying out Recommendation</u></p> <ol style="list-style-type: none"> 1. Clarity of purpose 2. a commitment to use the process to inform their actions, 3. adequate funding and staff, 4. appropriate timing in relation to decisions, 5. a focus on implementation, and 6. a commitment to self-assessment and learning from experience.
<p>Recommendation 3: Agencies undertaking a (collaborative) process should, considering the purposes of the process, design it to address the challenges that arise from particular contexts. Process design should be guided by four principles: (cont'd)</p>	<p><u>Guidelines For Carrying out Recommendation</u></p> <ol style="list-style-type: none"> 1. inclusiveness of participation, 2. collaborative problem formulation and process design, 3. transparency of the process, and 4. good-faith communication.

<p>Recommendation 4: (Collaborative) practitioners, working with the responsible agency and the participants, should adopt a best-process regime consisting of four elements:</p>	<p><u>Guidelines For Carrying out Recommendation</u></p> <ol style="list-style-type: none"> 1. diagnosis of the context, 2. collaborative choice of techniques to meet difficulties expected because of the context, 3. monitoring of the process to see how well it is working, and 4. iteration, including changes in tools and techniques if needed to overcome difficulties.
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Table 1. “Public Participation in Environmental Assessment and Decision Making” (National Research Council, 2008).

Each of these recommendations will be broken down and evaluated based on the guidelines outlined to achieve them. These criteria will be used to assess how well the planning practitioners in both counties implemented the aforementioned principles. The benefit of using this particular framework is that it evaluates not only the outcomes of the process, but also process design, which has much to do with success or failure of the planning process itself.

Data Gathering

Once the cases were chosen, every effort was made to contact the county’s planning director, at least one member of the planning board and or commission, a county commissioner, and one or two citizens of the county. First, each planning director was contacted and agreed to speak with me. Once those interviews were completed, the participation became a kind of snowball sample of names given to me by each of the directors who were asked to list other process participants who might be willing to participate in this study. While not all of the members contacted agreed to contribute to this study, a few who did asked to be included anonymously and their wishes were respected. A list of who agreed to participate in this study is included in Appendix B.

The planning directors were the only ones who received this question: “Can you give me a brief history of the community?” This was mostly to achieve their perspective as a planning official in the area. Often this material was used as background for additional research that was done to illustrate community history. Next, all participants were asked the following:

1. What was the objective of the project?
2. What groups participated in the process?
3. What was accomplished in your zoning process?
4. What would you say you learned from this process?

Additionally, all participants were taken through the NAS recommendations and were asked how the process addressed each guideline. The questionnaire given to all of the interviewees is included in Appendix C.

Of the roughly 15 people contacted, eight agreed to an interview. Six of the interviews were done over the phone while two interviewees preferred to complete the list of questions via email.

Data Analysis

Once the interviews were finished, key points were identified in each interview. Those were then categorized so that there was some local expertise in each of the areas being evaluated. In a few instances, interviewees were contacted again to clarify information.

VIGNETTES

Lincoln County, Wyoming

1977- 1987	<ul style="list-style-type: none"> • County Planning and Zoning Commissions were enabled by state statute.
1987-1993	<ul style="list-style-type: none"> • The original comprehensive plan was passed without zoning. • Planning office began working outside the scope of land-use planning (like perfecting the status of county road easements and working with Wyoming Department of Environmental Quality as delegated septic officials) and built relationships with citizens on non-controversial issues.
1993-1997	<ul style="list-style-type: none"> • 1994 development moratorium in Star Valley. • New density requirements were passed for county land and subdivision of land, from 3 acre lot size to 5 per well site. • Controversial projects proposed including: high-caliber rifle range, Down Syndrome Camp, a high density mobile home park and a shooting range. • Wyoming State Supreme Court passed <i>Ford vs. Board of Commissioners of Converse County (Ford v. Bd. of Cty. Com'rs of Converse, 924 P.2d 91 (Wyo. 1996)</i>, which stipulated that without zoning, counties could not deny a land-use permit to a resident who wanted to put a firework stand on his property. • NIMBY ethic catalyzed a building moratorium was instituted from Oct. 1997- June 1998
1998-2004	<ul style="list-style-type: none"> • Community meetings were held as well as Planning and Zoning Commission workshops. First round of zoning was passed in 1998. The plan was flexible, mainly followed existing growth and designated four zones: Rural, Mixed, Industrial and Recreational. • 2002-2008 there were over 200 lots added per year & 150 new homes permitted in rural Lincoln county • March 2004 a 12-month moratorium on development was instituted • In 2004, a series of focus groups were held with stakeholder groups to identify key issues for a rewrite of the comprehensive plan.
2005	<ul style="list-style-type: none"> • May – New comprehensive plan was passed

Table 2. Timeline of Lincoln County Planning Process

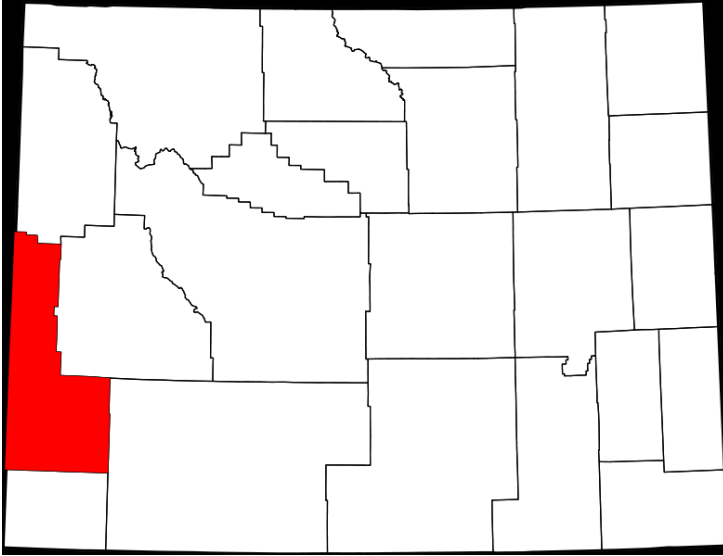


Figure 1. State of Wyoming, Lincoln County (shaded)

Brief History

Lincoln County, nestled in eastern part of the least populated state in the union, is comprised of ten small communities including Thayne, Kemmerer, Star Valley, Afton, Alpine, Cokeville, Diamondville, LaBarge, Etna and Opal. Lincoln has a population of approximately 16,600 people and stretches over four thousand square miles of land. Seventy-five percent of the land in the county is public. The remaining approximately 25% percent of land is held by older residents in agricultural areas though that is changing as many ranches and farms in the area are getting out of agriculture and selling their land to developers (Woodward, 2009; Hillyard, 2009).

The northern part of Lincoln County, adjacent to—and becoming a bedroom community of—Jackson Hole, Wyoming, one of the most affluent counties in the United States, is mountainous and pristine, compared to the southern part of the county, which is predominantly flat and economically driven by resource extraction (Lincoln County, 2008; Woodward, 2008).

In the late 1970s a wave of community planning swept the West which spurred the creation of planning and zoning commissions in the region. This planning priority was supported at the time by Wyoming Governor, Ed Hershler—a native of Kemmerer—who encouraged counties throughout the state to get serious about land-use planning. Though a Planning Commission was created in Lincoln County in 1977 and a land use planning document was created, it was fueled not out of necessity but by a “top down” state wide initiative that inevitably did not serve the sensibilities and goals of any particular community. It wasn’t until 1987 that a comprehensive plan was drafted that made basic provisions for but did not actually adopt zoning, that the community began looking at why they might want to undertake a land-use planning process. Around this time the city planners in Kemmerer were drafted by the Wyoming Department of Environmental Quality (WDEQ) as delegated septic system officials. This gave the planning officials much more contact with the public and allowed them to build relationships outside the purview of land-use planning.

Objective of the Project

Inevitably, the impetus for real regulation came from a fear of development which catalyzed a “Not In My Back Yard” or NIMBY movement in the county in 1995-1996. Several controversial projects were proposed to the county including a Down Syndrome children’s camp, a high density mobile home park and high caliber rifle range. All of these proposals happened to coincide with a landmark land-use case in Wyoming (*Ford vs. Board of Commissioners of Converse County* (*Ford v. Bd. of Cty. Com'rs of Converse*, 924 P.2d 91 (Wyo. 1996)) in which a rural land owner applied for a permit to

sell fireworks on his land. The county rejected his permit and Mr. Ford sued the county. The case made its way to the Wyoming Supreme court which ruled in favor of Mr. Ford in a decision stipulating that without zoning to regulate land use, the county could not deny a land use permit. This chain of events caused the Lincoln County Planning Board to put a nine month moratorium on development until proposals could be addressed and evaluated with an eye to regulatory restrictions.

Thus, the citizens conceded that they must regulate land-use through zoning and the planning commission began gathering input from citizens on their priorities for the county.

Participants involved

The overhaul of the comprehensive plan in 2004-2005 was well attended by a diverse group of stakeholders, with the majority of the meetings taking place in Star Valley (where the majority of the development was happening). Several groups were identified by the Planning Commission to begin the process and leaders of those groups were contacted and asked to participate. Meetings began in June of 2004 with Wyoming Department of Transportation managers, then continued with other stakeholder groups—one that included bankers, realtors, insurance adjusters and contractors, another with the conservation district and agricultural producers in the area, a third group with agencies like Wyoming Game and Fish, Bureau of Land Management (BLM) and USDA Forest Service (USDAFS). In all of these meetings, participants were asked to identify key issues that they would like to see addressed in the comprehensive plan. These meetings

were also attended by planning personnel and often, with at least one county commissioner.

In July of that year, three meetings were held with subgroups including one with representatives from industry in the area including telecommunication, irrigation districts and the local coal mine, another with representatives from local municipalities including members of the historical societies and chambers of commerce, and a third group of emergency services personnel. These stakeholders were identified by the Planning Commission and the meetings were open to anyone who would fit into their interest groups. Finally, Planning Commissioners made sure to visit both ends of the large county and talk to business owners and assess the employers' land-use planning priorities and key interests.

Once the key issues were identified--Building Code Enforcement, Agricultural Land Protection, Water Quality, Transportation Planning, Affordable Housing, and Public Land Management--a series of community meetings were held in Kemmerer (the county seat), Afton and Thayne to discuss how to rewrite the comprehensive plan based on these priorities.

Accomplishments and Outcomes

The initial efforts to adopt zoning in 1998 were attended mostly by citizens in those areas where the NIMBY issues were hotly contested. In Etna, 40 people (approximately one third of their total population) attended town meetings and workshops hosted by the Planning and Zoning Commission—due in large part to the proposed high density manufactured home park. Conversely, group meetings in

Kemmerer (a population twenty times the size of Etna), were attended by 5-10 people (however, Kemmerer did not have any controversial issues proposed or immediate development issues with which to contend (Woodward, 2009; Lincoln County, 2009)).

In 1998, the county adopted a straightforward zoning resolution in their comprehensive plan that designated four basic zones: rural, recreational, mixed and industrial. Additionally, a public zone was added to include the nearly 75% of public owned land in Lincoln County. The first round of zoning regulations was flexible, favored existing development and growth patterns, and was well received. Then from 2002-2008, growth exploded—200 lots were added to subdivisions in the Star Valley Ranch area each year with an additional 150 homes permitted in rural Lincoln County. Citizens of the county began to experience a kind of growth fatigue and put another moratorium on development so that zoning regulations could be revisited once again.

In 2004, zoning density regulations were a hot topic and focus groups with specific stakeholders as well as a series of community meetings informed a new zoning code. While these citizens were pushed into action by controversial projects, the stakeholder groups were generally a positive place, identifying issues they wanted to discuss in larger forums, issues they wanted studied further and finally setting their land-use priorities. A member of the Lincoln County Planning and Zoning office said of work the stakeholder groups were doing:

We ended up with several key issues that repeated themselves: roads, open spaces, quality of life, inter-office cooperation, etc. The groups ranged from 4 to 20 in size and would have been much smaller without invitations and phone calls leading up to the workshops. Several Planning Commissioners attended most of the meetings. When writing the actual plan it increased the confidence level in the consensus issues. Often, the participants were more likely to share their concerns as local residents

than as agency or business representatives (Woodward, 2009).

In 2005, a new comprehensive plan was adopted that included revisions to the density requirements for the rural zones (which were halved) and a requirement that road grades be lowered from 8% to 6% and all subdivisions that had <10 acre lots would be required to provide an asphalt road. The adoption of the revised plan and a lifting of the building moratorium also coincided with the commissioning of several studies surrounding affordable housing in the area. As Lincoln County is so demographically, socio-economically and topographically diverse, there were many issues surrounding affordable housing, transportation and fire planning identified for research in the 2005 version of the comprehensive plan. Since then, the planning department has completed these studies and prioritized the items for inclusion in the next round of planning revisions (Woodward, 2009). Loni Hillyard, a real estate appraiser in the county who has also been a member of the Planning Board noted, “As time passed, Lincoln County has grown, yes, but zoning has allowed us not just to be a bedroom for Jackson—there’s also been the development of Star Valley Ranch and others. In that way we’ve been able to make our own place” (Hillyard, 2009).

Ravalli County, Montana

1977	<ul style="list-style-type: none"> • Adoption of County Planning and Zoning Commission
2002	<ul style="list-style-type: none"> • Growth policy adopted by the county
April 2006	<ul style="list-style-type: none"> • Interim zoning ordinance passed for to limit the size of commercial lots in unincorporated areas
November 2006	<ul style="list-style-type: none"> • Resolution No. 2038 passed which stipulated 1 lot per 2 acres • Citizens repealed the interim zoning to limit commercial lot size
2007	<ul style="list-style-type: none"> • June – County residents voted to increase the number of County Commissioners from 3 to 5 • Summer – Public Policy Research Institute (PPRI) was contracted to do a Situation Assessment of Ravalli County • Fall—Sonoran Institute was contracted by the county to develop citizen participation models. They created a model that would be used throughout the process—the CPC (Community Planning Committees) • Fall – Clarion Associates was contracted by the county to provide technical assistance in drafting zoning regulation • November – Commissioners passed the “1 per 2” resolution for interim zoning again. • December – PPRI was contracted to design strategies and facilitate citizen participation
2008	<ul style="list-style-type: none"> • CPC meetings, Roundtables and planning board meetings commence. • Clarion delivers the first draft of the zoning map which is not received well by the community. • CPCs become controversial. More informal means of participation are created, namely “Casey’s Group” and “barn meetings”. • Anti-planning group, “Higher Ground” gains momentum. • Darby residents ask to be removed from zoning plan. • October 7 – Commissioners pass Resolution No. 2291 which stipulates that the county cannot pass zoning regulations without a ballot initiative • November 4th – Citizens of Ravalli County repeal the growth policy

Table 3. Timeline of Ravalli County Planning Process

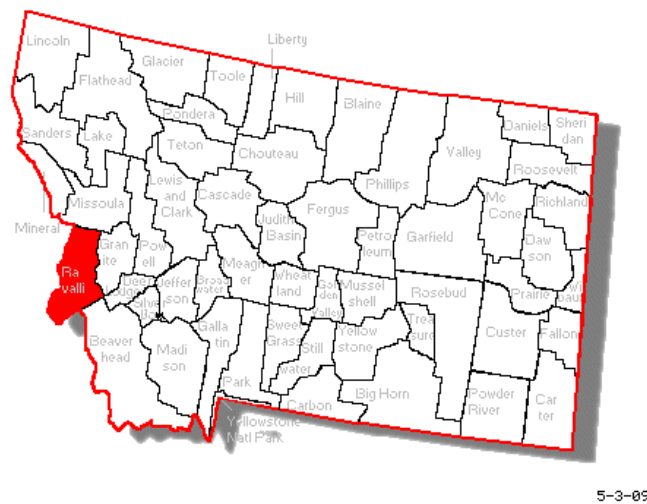


Figure 2. State of Montana, Ravalli County (shaded)

Brief History

Communities in the New West are grappling with the big issues surrounding how to reconcile private property rights with community interests and whether adopting more regulation will serve its intended effect of managing development. This is the crossroads at which the residents of Ravalli County, Montana, found themselves in 2008—how or if to move forward with regulations that would control the future of their communities.

Ravalli County is made of up four incorporated towns in the Bitterroot Valley of southeastern Montana—Stevensville, Pinesdale, Hamilton and Darby. The neighboring communities of Corvallis and Victor have water treatment and sewer facilities in the county as well, and the town of Florence, which has a sewer district but no infrastructure, is also included in Ravalli. In 2002, the county adopted a fairly lean (50 page) “growth policy” that had no binding regulations but instead illustrated the community’s desire to protect the integrity of the Bitterroot Valley and its communities. While the language of

the document was not regulatory, a growth policy is a requisite for zoning in the state of Montana and thus laid the groundwork for regional zoning that would address the specific needs of the communities (Lemon, 2008).

In April 2006, the Ravalli County Board of Commissioners passed an emergency zoning ordinance that dictated a particular square footage to commercial buildings in unincorporated areas of the county. This ordinance was passed as a result of two large “super store” projects being introduced into the Bitterroot Valley and a well attended town meeting prompted the commissioners to enact the zoning initiative. Later that year, citizens sought to repeal the regulation by petition but the county attorney at the time contended that the only signatures that would be considered eligible would be those of “qualified voters”, which in this case would be members of the unincorporated towns the ordinance would effect. The decision involving “qualified voters” was later overturned by the Montana Attorney General who issued a decision document stating that all members of the county of legal voting age who meet general voting requirements are “qualified voters” and are therefore able to affix their signature to any petitions concerning county matters (McGrath, 2008).

Still, growth was an issue to be acknowledged; Ravalli is one of the top five fastest growing counties in Montana and has been for several years (Backus, 2007). In a November 2006 ballot initiative, a majority of voters (8,172 vs the 7,100 opposed) instituted a zoning ordinance that stipulated residential density requirements of 1 residence per 2 acres (Resolution No. 2038). Per Montana law (MCA 76-2-206), an interim zoning regulation is effective for one year while more comprehensive planning and zoning efforts are undertaken. This interim resolution can be renewed for one more

year if the first year's efforts have not yielded permanent zoning regulations. Around this time in a special election in June 2007, county residents voted to increase the number of County Commissioners from two to five, with three of the elected commissioners running on pro-planning platforms (Backus, 2007).

Objective of the Project

The task at hand for the Ravalli County Planning Commission was to acknowledge the voters's mandate within a year. The "1 per 2" resolution would expire and in its place would be a zoning document that was designed through significant public input. To that end, the county hired Clarion Associates, a consulting firm based in Colorado that would provide the technical expertise in drafting the zoning document. The county also hired the University of Montana Public Policy Research Institute (PPRI), which helped design and facilitate a series of citizen engagement strategies (including public meetings, informal group meetings), facilitated the public workshops and strategy meetings with elected officials and recognized community leaders, and acted as a liaison between Clarion and the public. Additionally, the county received a grant of \$100,000 from the Brainerd Foundation, based in Washington, which "protects the environment of the Northwest and builds broad citizen support for conservation" (The Brainerd Foundation, 2009) to help fund the process. Brainerd also committed to doubling their original investment in the process if benchmarks for progress were met (Backus, 2007).

Participants Involved

The Planning Commission took a leading role in creating a comprehensive public involvement process. The Planning Board was responsible for drafting the first proposed zoning code with the help of Clarion Associates who would be contracted by the commission to provide technical expertise. The commission also hired PPRI to lead the process while the planners within the commission acted as facilitators in addition to serving as informational outlets for the public.

In late 2007, Ravalli County Planning and Zoning Commission contracted Sonoran Institute to help design a process. Out of Sonoran's contribution came the creation of the Community Planning Committees (CPCs), which would be populated by citizens in each of the 7 school district areas of the county. It was thought that creating these groups around the districts would make them easily identifiable and within short range for participation. These CPCs were intended to act as focus groups with 5-7 core members who attended fairly consistently (these members were chosen at the beginning of the process and remained unchanged throughout). These groups could also be attended by anyone in the district who chose to participate and attendance was not required from week to week. The purpose of the CPCs was to have each district create zoning maps for their own section of the county and to review and comment on the draft regulations (Lavey, 2009; Corn, 2007).

It is the legal mandate for Planning Boards within the state of Montana (MCA 76-2-204) to recommend zoning boundaries to the County Commissioners for approval. In this way, the Planning Board was supposed to work together with Clarion to draft the zoning documents per the recommendations of the CPCs. Later the Planning Board's

role became rather muddled to both the public and the planning commission itself, although board members helped facilitate the CPCs later in the process.

Each CPC then elected or appointed one or two members in the beginning of the process to participate in a Roundtable. This Roundtable was intended to be a way to share the findings of the CPC with the general public and keep them informed and perhaps elicit feedback. In a Roundtable session, the CPC representatives sat in a semi-circle around the public and fielded questions. These meetings were well attended by the public who might find time to go to a Roundtable session but not want to contribute to the weekly CPCs. According to one planning official, the meetings were intended to be candid conversations to educate and inform them of the process and take any comments back to the CPCs. Unfortunately these sessions were often thwarted by the high attendance so that what was intended to be an educational forum digressed into a platform for politicians and angry citizens demanding answers (Patterson, 2009).

Inevitably it was the informal ways of participating in a zoning debate that had the greatest impact on the process. As the project progressed and more citizens and stakeholders were feeling that there was a lack of progress in the CPCs, a small, informal group of stakeholders gathered for weekly coffee session to discuss zoning. This gathering, known as “Casey’s Group” was made up of 3 environmentalists, 3 agricultural producers and 3 members of the building/development community. Most importantly, they were recognized leaders in their respective constituencies. This group deliberately met without a press presence, not for the sake of secrecy but because they felt constricted with the current format of the CPCs and the media coverage of the zoning process. Casey’s Group would meet, discuss ideas and options. One press release of the group’s

meetings was drafted by PPRI and made available to the public, and from that recommendations were made to the County Commissioners (Lavey, 2009; Patterson, 2009).

Another informal group emerged, this time opposed to zoning. An organization called, “Higher Ground” with no website or internet-based information, began hosting several “barn meetings” (as Ravalli is still an agricultural and rural community, having large meetings required larger spaces and barns were a strategic venue). These meetings began growing in popularity and while the leaders of the meetings never contributed formally as a “Higher Ground” group, participants would often leave the informal setting and then participate in the formal meetings prepped with information they had garnered at the barn (Resource Media, 2009).

Accomplishments and Outcomes

As the process progressed, it became clear that the CPCs were not contributing in the productive ways in which they were intended. The revolving door of participants made consensus building nearly impossible. There was also frustration around allowing the CPCs to be decision-making bodies, as opposed to educational entities for which they were perhaps better suited (Ravalli County Planner, 2009).

As the November deadline loomed, Planning Board members and County Commissioners pushed to achieve the mandate with which they were tasked (and for which some were elected), but the break-neck pace to meet the obligation drove citizens to the brink. Tension between Ravalli community members escalated to the point that the zoning plans (along with the 1 per 2 deadline) were scrapped. In its place was passed the

“Adoption of Citizens Right to Vote on Zoning” (Resolution No. 2291) that stipulated that the Ravalli County Commissioners, who by state law (MCA 76-2-201) are given the authority to zone property, would not enact zoning without a vote of the people. It was a major concession by the commissioners who were effectively signing their own vote of “no confidence” by county residents. Additionally, the anti-zoning coalition garnered enough signatures to put the growth policy on the November 4th ballot for repeal. And so a line was drawn—the citizens and select elected officials in favor of keeping the growth policy on one side, and on the other, a groundswell of citizens who opposed zoning efforts and sought to repeal the growth policy. Inevitably, the inertia of the mistrust that the planning process incited led to the repeal of the growth policy and the citizens of Ravalli succeeded in putting the brakes on a process that did not help them achieve their goals for their community (Lemon, 2008; Cramer, 2008; Struckman, 2008).

When the process in Ravalli was set-up so that many believed zoning would be a foregone conclusion, those that argued in opposition to it just pushed back against the idea for its own sake rather than the details contained therein. A Planning Commission Official explained:

As facilitators, we tried to say, ‘We’re just constructing a proposal, not adopting it. That’s a separate process. You can contribute to the proposal even though you might oppose its adoption.’ That was well intentioned, but the skeptics didn’t buy it. If you’re fundamentally against zoning—morally and ethically—how could you, in good conscience, contribute to its success? Those people didn’t feel they had a place in the process, so they created their own ‘process’, and that’s when the zoning discussion turned from a consensus-building process to a win-or-lose battle between political rivals (2009).

ANALYSIS

First and foremost, when an agency decides to make a land-use planning process collaborative, there must be certain assessments made of how that project will come together. Again, the National Academy of Science’s criteria for engaging the public in a planning process are to follow these recommendations:

National Academy of Sciences Recommendations for Collaborative Participation in Environmental Assessment and Decision Making

<p>Recommendation 1: (Collaboration) should be fully incorporated into environmental assessment and decision-making processes, and it should be recognized by government agencies and other organizers of the processes as a requisite of effective action, not merely a formal procedural requirement.</p>	
<p>Recommendation 2: When government agencies engage in (collaboration), they should do so with,</p>	<p><u>Guidelines For Carrying out Recommendation</u></p> <ol style="list-style-type: none"> 1. Clarity of purpose, 2. a commitment to use the process to inform their actions, 3. adequate funding and staff, 4. appropriate timing in relation to decisions, 5. a focus on implementation, and 6. a commitment to self-assessment and learning from experience.
<p>Recommendation 3: Agencies undertaking a (collaborative) process should, considering the purposes of the process, design it to address the challenges that arise from particular contexts. Process design should be guided by four principles:</p>	<p><u>Guidelines For Carrying out Recommendation</u></p> <ol style="list-style-type: none"> 1. inclusiveness of participation, 2. collaborative problem formulation and process design, 3. transparency of the process, and 4. good-faith communication.
<p>Recommendation 4: (Collaborative) practitioners, working with the responsible agency and the participants, should adopt a best-process regime consisting of four elements:</p>	<p><u>Guidelines For Carrying out Recommendation</u></p> <ol style="list-style-type: none"> 1. diagnosis of the context, 2. collaborative choice of techniques to meet difficulties expected because of the context, 3. monitoring of the process to see how well it is working, and 4. iteration, including changes in tools and techniques if needed to overcome difficulties.

Table 1. “Public Participation in Environmental Assessment and Decision Making” (National Research Council, 2008).

Despite the failure of the Ravalli County process, both it and Lincoln County Planning departments worked to “fully incorporate” collaboration into their zoning processes. Later, as Ravalli County’s process began to unravel, the process itself failed

to acknowledge the ways in which it was not collaborative, which will be discussed in the analysis of NAS recommendations 2-4.

Recommendation 2: “When government agencies engage in (collaboration), they should do so with,

1. clarity of purpose (of the public’s involvement and the project itself)
2. a commitment to use the process to inform their actions,
3. adequate funding and staffing
4. appropriate timing in relation to decisions
5. a focus on implementation, and
6. a commitment to self assessment and learning from experience.” (National Research Council, 2008, pg. 16)

1. Clarity of purpose – *Did participants (public and agency officials) understand what the goal of the project was and their role in achieving it?* This was a shortcoming of the Ravalli case. For some, it was unclear as to what exactly this process would become. One Darby resident said in March of 2008, “Why not leave well enough alone? Why have this? (Gallob, 2008). A commissioner in attendance contended that along with the “1 per 2” regulations, the law required that they address permanent zoning. If that was the case, what was the citizen’s role in making that happen? While the intention may have been for each district to zone maps themselves, when that information made its way back to Clarion, the citizens felt the first draft of the zoning document was highly detailed and an overrepresentation of what they had been working on. Thus, the role of the public was somewhat unclear. Were they there as designers of a plan? Were they decision-makers? One Planning Official contended that the CPCs in particular should have been used as a means for setting priorities as opposed to trying to function as decision-making bodies.

In Lincoln County during the sessions with stakeholder groups in 2004, each group was asked the question, “What would you call success for this county in 20 years?” Out of those meetings, several key issues were identified and discussed: open spaces, roads, quality of life, interoffice cooperation, etc. When these issues were reflected back to the participants in the subsequent planning process, priorities were made on the basis of zoning with these issues in mind and the comprehensive plan was revised (without making bold changes) to include stipulations for each of those concerns. While there was inevitably contention as to how each of those items was addressed, the public was reminded that those were the priorities listed by the various groups and the zoning would address those areas which the public had identified.

2. A commitment to use the process to inform agency actions – *Was it clear that the role of the public was to shape policy?* Ravalli certainly intended for the public’s role to inform the documents drafted by Clarion. The way the process was structured was entirely to funnel public comment upward to Clarion so that they might draft regulations that were reflective of citizen’s needs and desires. The CPCs were designed to make decisions themselves. The Roundtable was structured so that the CPC members would then inform the general public of their decisions and solicit feedback from them. For their part, the Planning Commission had chosen to use a planning model that included the CPCs to address this very concern. However, it was clear after the first and second drafts of the zoning maps came back to the public, that their input was not being received and informing what they wanted to see happen on the ground. In this way, what was intended to be a collaborative process became little more than a procedural exercise.

In Lincoln County, these stakeholder groups were gathered and issues were identified. Then from each of the groups, a condensed list of priorities was reflected back to the stakeholder groups before planning began. Once the core issues were agreed to, put forth to the planning commission and the process began, it was consistently reiterated that the issues being addressed in the plan were the issues raised at the meetings. In that way, the design of the plan reflected the priorities that came out of the stakeholder groups, which informed entirely the way in which the county was planned and zoned.

3. Adequate funding and staff – *Was there enough money and man-power to sustain the planning process?* This was certainly a strength of the Ravalli process as they were well funded by grants in addition to the normal budget allocations to the planning commission. Further, this process was well staffed. They had the commission facilitating the process, Clarion writing the documents and PPRI designing means for citizen involvement and facilitating the meetings. However, there was some frustration by certain planning officials that the communication between these entities could have been better and roles more clearly defined. When roles are muddled and planners are asked to be both advocates of the process but also impartial facilitators, some of their credibility with the public is eroded.

The process in Lincoln County was well funded and the regular planning staff was busy during the rewrites, though not overwhelmed. The largest issue for the planners was that they wanted to be present for all the stakeholder and town meetings and, with such a large geographic area, that meant a great deal of time on the road. While not all of the commissioners and planners made it to every meeting, there was always agency

representation which validated the participation of the public and added legitimacy to the planning department when it came time to draft the plan.

Officials from both counties talked about the extra money needed to send out mailings to the community regarding planning decisions and upcoming meetings. Both also said that in all cases, the money was well spent.

4. Appropriate timing in relation to decisions – *Was the decision to plan made at the right time? Were decisions along the way made at appropriate times?* Arguably, the timing in both situations was ripe for planning. In Lincoln County, planning was instigated by a NIMBY sentiment that swept through the county as well as a timely court case. In Ravalli, the county had a mandate to address planning—both as a consequence of the stipulations attached to the “1 per 2” resolution but also when the additional commissioners were elected on pro-planning platforms. So both counties were pushed into addressing growth by an issue of timing. The unfortunate flip side of this was that timing also played a role on the other side of the Ravalli process—meaning, they had a deadline, whereas Lincoln did not. It’s possible that the reality of a deadline forced an “inappropriate” pace for the planning process in Ravalli. Indeed the county sought to do in one year what took Lincoln several to accomplish. And while there’s certainly no particular “magic number” of years to make a zoning effort successful, if Ravalli had had the opportunity to pass another emergency zoning measure, the planning commission and commissioners might not have felt such immediate pressure to show results.

5. A focus on implementation – *Was there a focus on what the end result would look like? Did that shape how decisions were made?* Obviously, Ravalli County did not make it to the implementation phase, and discussions of “how will this look on the

ground?” were replaced by, “we have a mandate so let’s make this work.” The rhetoric in Lincoln County was mired in private property rights but somehow the focus moved from the idea that zoning would impede those rights to the notion that it might actually protect them. With the prospect of the mobile home park, high-caliber rifle range and Down’s Syndrome camp, citizens felt that regulation could protect them from having to live next to (or within proximity of) those developments to which they were opposed.

Similarly, residents who had lived in rural areas all their lives were seeing large ranches sell out and in their place sprouted dense developments which brought with them myriad issues including open space, infrastructure, and general “way of life” concerns. So when emergency zoning measures were instituted and citizens were able to breathe a minute and think about what they wanted their county to look like, they first passed zoning that tended toward existing developments. In that way they saw something similar to what was already on the ground. No drastic changes were made—which then gave them the confidence to go one step further and pass stricter regulations. Again, once implemented, they saw reality on the ground reflect what was outlined in the plan. This incremental process was one of the keys to success, contended Lincoln County Planning Board Member, Loni Hillyard. “Plan it, pass it and see how it goes. We were constantly monitoring how it worked on the ground and if it needed changed—if we were hearing from several people that this one thing wasn’t working—we’d revisit it.” In that way it became a step-by-step process of planning, implementation and evaluation. Then repeat.

6. A commitment to self-assessment and learning from experience – *Was it clear that the process was being evaluated by agency officials? Were they able to*

acknowledge problems with the process and made adjustments? While it's difficult to evaluate a process when one is in the thick of it, PPRI issued a memo to The Kettering Foundation in April of 2008 (Daisy Patterson & Matt McKinney, personal communication) noting the problem with the CPCs but the Planning Board did not reorganize or slow down the process. A Ravalli Planning Official commented that "we should've slowed down. Slowed down everything. Slowed down and take the time it took to educate. We failed by moving too fast." Indeed, because of the single-year extension of the interim zoning resolutions, after planning for the process for one year, the commission had only 11 months to understand the public's goals, design maps around their visions for the community and garner enough support to pass it by November. Unfortunately, that pace also leaves little time for reflection until after a process is finished. However, since this incarnation of zoning failed and the growth policy was repealed, the Planning Commission has taken a great deal of time to analyze what went wrong and what might be done differently next time around.

For their part, PPRI has been diligent, as have a few other peripheral organizations interested in the outcome in Ravalli, of evaluating the process as objectively as possible and learning from it. PPRI interviewed participants after the November 2008 election and contributed to an article that reviewed and analyzed the process as well as evaluating it in an academic setting at the University of Montana (Resource Media, 2009; Patterson, 2009). There was some discussion mid-process about a need for a redefinition of the CPCs since they were not meeting their mandate but it was the perception by some that the Planning Commission wanted to "stay the course" and keep the original intention of the groups intact. Regardless, that assessment process

is happening now. And Ravalli County is stronger for having learned the lessons from this failed attempt.

Lincoln County did not necessarily do the exhaustive assessment that Ravalli did after zoning passed. That said, there were still learning curves to be endured along the way. Planning Director, John Woodward, illustrated a lesson he learned shortly after the initial triumph of the passage of zoning regulations in 1998:

“Another planning activity at this time was participation with a watershed group, Salt River Watershed CRM. This created an outreach opportunity between planners, commissioners and land owners on subjects ranging from zoning to water quality. At about this time it was trendy in planning to encourage open space dedication. The CRM group co-sponsored an amendment that provided a density bonus for subdividers that set aside open space. This was an ill-fated program that only influenced two developers to play along. The lessons here were: 1. Just because a trendy plan can be passed does not equate with desired results; and 2. Open space dedication loses relevance in an area surrounded by national forest.”

So while open space was one of the issues highlighted by the focus groups in the planning meetings, it was on some level already a part of their lives. Woodward focused instead on what was beneath the open space sentiment which was density requirements, and the dialogue continued from there.

Recommendation 3: Agencies undertaking a (collaborative) process should, considering the purposes of the process, design it to address the challenges that arise from particular contexts. Process design should be guided by four principles:

1. Inclusiveness of participation
2. Collaborative problem formulation and process design,
(cont'd)
3. Transparency of process, and
4. Good faith communication (pg. 16)

1. Inclusiveness of participation – *Was the process designed in a way that encouraged citizen involvement and collaboration?* In both cases, planning officials worked hard to be as open and inclusive as possible. Steps were taken at several mileposts in both processes to inform the public of upcoming meetings through press releases sent to local papers, newspaper advertisements taken out, mass-emails sent, select mass mailings through the USPS, radio announcements aired, flyers posted in high traffic areas like grocery stores and post offices, and once the stakeholder groups got going, attendance grew by word-of-mouth (Lavey, 2009; Connelly, 2009). Lincoln planning officials personally invited several people they felt were underrepresented or whose presence might be advantageous, whereas Ravalli felt that it was important not to be seen as “playing favorites” by calling certain members of the community and not others.

A Ravalli planning official contended,

I think inclusiveness was actually a strength of our process, though it may not have been perceived that way by everyone. [But] the design of the CPC system had inclusiveness as a core principle. We divided the county into seven areas, then held meetings locally so people wouldn't have to drive so far. People could come to every meeting or just a single one. One might say we were inclusive to a fault. By letting anyone enter the process at any time and have equal standing in the CPC, we struggled constantly to have continuity and progress from meeting to meeting. There were always new people showing up, and the facilitator had to catch them up to speed. That, of course, annoyed the regular attendees, who got tired of rehashing old conversations (2009).

A Ravalli County rancher disagreed, “They made some effort to make it inclusive but you know, I still think it was a little ‘top down.’ They set up these coffee clutch groups to get together people that had an agenda and nothing to do but go down and sit and scratch out they would want their community to look like. Who has time for that? I

have a job.” So while it might’ve been the perception of the planning commission that they were being inclusive, that did not necessarily translate to a feeling of the participants that it was.

Lincoln County was diligent in their initial rounds of inviting stakeholder groups to talk about issues to contribute in their own groups. In those meetings participants were asked if anyone was not included that should be and suggestions were made. Further, in the meetings themselves, citizens were encouraged to participate as long as they were discussing current issues. If a stakeholder wanted to rehash “old” issues they were instructed to read the website or call the planning office and catch themselves up on the decisions made to help them be a part of the next meeting. This seemed to be enforced by the facilitators who were able to keep the focus groups concentrated on topical issues as well as the commissioners who stood behind the decisions that were made (Woodward, 2009; Connelly, 2009).

Finally, a Planning Board Member said that you have to be in this for the people, and they have to feel that it’s their process, not the process of the Board. She explains:

If you have a planning board, show the people that you want their input. Get out in front of them—or even hire a consultant as the town of Afton did, because unless you have those initial meetings and put it out to the people for input, they feel like you’ve already made up their minds.

2. Collaborative problem formulation and process design – *Was the process designed by the citizens and agency officials? Was there room for participants to redesign the process if it was not achieving the goal of the process?* This was one point on which the two cases diverged. In Ravalli, the process was largely decided on by the Planning Commission, the Sonoran Institute and the Planning Board before the citizens were involved in it. This process took most of 2007, which then necessitated passing

another interim zoning resolution before the citizens became involved in the process. Then, because of the mandate, the participants of the process—the citizens as well as agency and elected officials—were given little latitude to identify what worked with the process and what needed to be redesigned. From the planner’s perspective, they wanted to have a clear means for citizen participation so they called on the expertise of outside firms to design the process. This was not meant to leave the public out of the process; rather the Planning Commission simply saw process design as their job. And within what they felt was their responsibility, they felt there was little latitude for feet-dragging. As one planning official put it:

We had to have a completed project by November 2008. That amounted to a two-year window within which to design, implement and complete a planning process that had enormous implications for the Valley. Given the scope and scale of the project, two years wasn’t nearly enough time.

While public participation was clearly a strong element of the Ravalli process, the timeline and regulatory mandate constrained the planner’s ability to allow relationships to develop and citizens to identify for themselves what exactly they wanted out of the process. Consequently, people who were opposed to—or even on the fence about—zoning felt as though it was being, “shoved down their throats” whereas the County Commissioners and Planning Board were simply using textbook means (like focus groups) to achieving public involvement and realize the goal of zoning. Inevitably when the CPC design was not working for the participants they circumvented the process and created, “Casey’s Group,” which, while having problems of its own was a way for the participants to participate in a way they felt was free and meaningful. However, this group, while valuable to the process, was never a means for formal participation in the process.

Lincoln County was initially thwarted by large community meetings that ended up being co-opted by a few vocal or aggressive people, which led to the organization of focus groups. With that kind of structure, focus groups were able to identify and prioritize key issues themselves in each of their groups—which were also attended by several Planning Commission members. When these priority issues were then discussed at the larger meetings, those few that “made the cut” would be incorporated into the drafts of the plan, which not only helped build consensus but also went a long way to showing the constituencies that their participation was not merely procedural. It was the stakeholder’s ideas and values that were informing the priorities of this process and inevitably led to the zoning regulations that will help define their community and that information would not have made it to the process had the Planning Department not changed tactics and broken off into smaller groups (Hillyard, 2009; Connelly, 2009).

3. Transparency of Process – *Was decision-making done in the open? Was data that informed the process made available to the public?* “Transparency was one of those issues where I felt like we were doing all the right things, but a segment of the population had it firmly in their minds that the process was being run by outsiders behind closed doors” (Ravalli County Planning Official, 2009). This was corroborated by a rancher who heard people speculate that the United Nations was a part of the “zoning conspiracy” that would inevitably disintegrate private property rights and enact a socialist agenda. While it may seem far-fetched, the few (or many) conspiracy theorists can make a large impact in a small community. Likewise, allowing The Brainerd Foundation to contribute funding to the process skewed the perception that the process itself was being funded by environmentalists. Additionally, neither Brainerd nor Clarion Associates had Montana or

Ravalli County connections, which may not mean much in larger areas but can contribute considerably to issues of credibility in small communities. And while PPRI is a Montana based organization, there was still a perception by some that these “outsiders” (Brainerd and Clarion) were trying to push an agenda, which was not helped by the fact that Brainerd and Clarion rarely made appearances in the community or at the CPC meetings.

To combat this mentality, the planning department was meticulous about publishing documents and public comments, and incorporating new information into newsletters that were sent out via email and snail mail regularly. While the Planning Commission lamented that though they made this material available to the public (in several formats), there was no guarantee that the public would read it, which puts some of the responsibility on the public as this is meant to be their process. Although there is certainly truth to that, if this process was designed in such a way that the result felt more like a foregone conclusion than a planning process, it’s possible the public was retaliating in the only way they could—by subverting the process itself.

The Lincoln County process was not without its transparency issues either. Members of the Planning Commission and the Planning Board were accused of making decisions behind closed doors, which was “not true” according to members of the commission, board and the County Commissioners...or, not *entirely* true.

“We [the commissioners and planning board] had to have workshops to get anything done. So we’d workshop and brainstorm and do a lot of the same things they were doing in the focus groups. We just had to let them know exactly what we were talking about and basically baby them through the process. As long as there was access to the Planning Commission, board, commissioners, etc., and the public saw that their ideas were the driving force behind the information in the drafts, and they felt like it was their process, we could keep the majority moving forward” (Hillyard, 2009).

4. Good Faith Communication – *Did the public trust that information was being received by agency and elected officials? Was everyone accountable for decisions and promises made?* In Lincoln County the public threw the book at elected officials.

Literally. “One of the County Commissioners got a book thrown at him. It could get bad. But it’s when the commissioners would promise something they couldn’t deliver that we’d have problems” (Hillyard, 2009). The Lincoln County Planning Commission was diligent about making sure the drafts reflected the majority opinions by identifying certain areas at a time, making incremental changes to the plan, then returning to the community groups for confirmation. And yet, even if the majority decided to move forward with something, the Planning Commission was quick to assert, “nothing is set in stone,” meaning it could be revisited if it created more problems than it solved on the ground. If promises were made that could not be met, they’d have to backtrack, which took time to explain the error and then to assure citizens that there was no malevolent intention behind the mistake. Over and over again, the malleability of the document was reiterated. This did a lot to ease frustrations if a particular regulation drew harsh criticism after its passage; if a participant realized a certain element might be revisited or changed completely, he was less likely to derail the whole process and more likely to simply participate in the next round of revisions.

The worst thing you can do is never update it, never read it and never move it into the next decade. And it’s important not to make it difficult to be changed. Our milestone was to say, if we have people coming in after six months and repeatedly asking for changes on one piece, we need to reevaluate that and change it (Hillyard, 2009).

In Ravalli County, communication was an issue. Initially, with the looming deadline the commissioners and the citizens pushed for real action. However, Acting

Director, Lavey, felt that the absence of the County Commissioners from the many of the CPC meetings lost some of the “good faith” over time. “I think you really had to be there to see how the energy changed throughout the process. I also think the commissioners tried to communicate with the CPC but at the same time they were trying to implement zoning. The communication was more, “We need zoning and we need you to help us get there” so in that way a lot of the citizens felt it was a foregone conclusion” (Lavey, 2009). For their part, when it became clear that public sentiment was turning against the zoning efforts the commissioners rolled back zoning, put it to a ballot initiative, and allowed the growth policy to be voted on as well.

Unfortunately, as with many small towns, people who’ve lived in an area for decades tended to resort to old alliances and the comfort of known enemies. Whether this was a pivotal aspect of the project’s downfall, it’s clear in this case that communication by those who were opposed to zoning (and repealing the growth policy) were much more effective in communicating their message than those who advocated planning.

Recommendation 4: “Public participation practitioners, working with the responsible agency and the participants, should adopt a best-process regime consisting of four elements:

1. Diagnosis of the context
2. Collaborative choice of techniques to meet difficulties expected because of the context
3. Monitoring of the process to see how well it is working, and
(cont’d)
4. Iteration, including changes in tools and techniques if needed to overcome difficulties” (National Research Council, 2009)

1. Diagnosis of the context – *Did agency officials have an understanding of the communities planning needs and desires at the start of the process?* Whether it was a conscious diagnosis by the Lincoln County Planning Commission to move forward with regulatory land-use planning at a time when the county was experiencing intense growing pains or whether it organically came out of the community, the Planning Department had laid at least preliminary groundwork with the previous comprehensive plan in 1998. That, in addition to the development moratorium enacted by the commissioners, showed that they acknowledged the issue and were willing to address it with regulation.

Ravalli County's diagnosis of the context was both good and bad. On the one hand the county had experienced 20-40% growth in most of its cities in the last decade (Lavey, 2009) and clearly there was an effort to address this growth with the '1 per 2' resolution enacted by citizen vote in 2006. To that end, the county hired PPRI to do a Situation Assessment in the summer of 2007 wherein planning associates interviewed Ravalli citizens and offered 7 basic findings. These findings included: a desire for a clear "game plan" for planning; regular and easily accessible updates on the process from the commission; a diversity of opportunities to provide input in the process; an assurance that their involvement would be constructive and shape the process; an expectation that the County would provide leadership, information and coordination; a willingness to offer time and financial resources if doing so would lead to a better outcome; and those who participated in the drafting of the growth policy were ultimately disappointed at how their involvement was received and would like this planning process to better reflect their contribution (PPRI, personal communication, August 2, 2007). However, while this was

perhaps an accurate diagnosis of the sentiments of the community, it's not clear that these seven findings were addressed and actually shaped the design of the process.

Further, attaching the mandate that this statute—along with more robust regulatory planning—be addressed and implemented within a year was unrealistic to the point of actually being a kind of malignancy on the planning process itself. The mandate tainted a process that should have developed in time and on its own, but instead forced what is by most accounts an organic process of relationship building and information gathering into a truncated process with a pre-defined end.

2. Collaborative choice of techniques to meeting difficulties expected because of context – *Were there opportunities for citizens to shape the process themselves? Were there opportunities throughout the process to evaluate and reshape the process if it was not meeting project goals?* The Ravalli County process was well conceived for collaboration by a select few. Although PPRI's situation assessment could have shaped the process, by the time it was received the county had already enlisted the services of the Sonoran Institute that had divined the creation of the CPCs. And still, if citizen complaints about the inefficiencies of the CPCs had been addressed, and a new system was devised that was better suited to the participants input, it's possible they would have been more productive. That said, even if they had, the Planning Board came up with the initial draft of zoned areas, which then went on to Clarion; and the CPCs that were meant to direct the drafting of the maps, were surprised to note that the first drafts reflected little of their input. If all of those entities had worked more collaboratively, it's possible the citizens would not have felt the need to thwart the process by creating informal means of contributing to or—or in the extreme—subverting it.

The Roundtable was meant to include the public by exchanging ideas and identifying similarities and differences between the CPCs. Given the history of Ravalli County residents of wanting land-use planning but wanting to protect private property rights just a little more, the Roundtables and CPCs were designed to be ways of engaging the public in different ways. However, when the Planning Department received multiple complaints about design of the CPCs and Roundtables after the process was under way, the Planning Commission would have been well-advised to address those issues so that the process could move forward.

Lincoln County initially did not plan for many stakeholder groups to meet. Instead, they tried to have large, group meetings which inevitably spiraled into grandstanding sessions for a select few. After the second rewrite in the planning process in 2004, it was decided to break the mass up into stakeholder groups, who would raise and prioritize issues that were inevitably brought up to the larger group. Once those issues were reflected back to the larger group, the smaller focus groups reconvened for process work. This adaptation showed flexibility and inevitably contributed to a broader consensus when the plan was written.

4. Monitoring of the process to see how well it is working – *Do citizens feel their contribution is meaningful and their ideas reflected in the product? If not, are agency officials aware of the problem and adapting the process to the challenges?* Again, because of the timeline, planners in Ravalli felt unable to slow down and acknowledge the problems that were corrupting the CPCs, and the groundswell of opposition to zoning and the process itself. Despite the memo to the Kettering Foundation from PPRI (Patterson & McKinney, personal communication, April 2008), the process and means

for citizen participation and collaboration on the drafts remained largely unchanged. Perhaps if the Planning Commission felt that they had the latitude to take that evaluation and change the process along the way, it's possible they might've been able to make the necessary adjustments before the wheels fell off the wagon.

Lincoln County was not without its bumps either. Town hall meetings became aggressive and more than once, voices were raised. However, when that happened, they slowed the planning process and took more time meeting with stakeholder groups who then passed that information on to their larger constituencies. County Commissioners and Planning Commission officials simply took more time at smaller meetings to explain the thought behind the decision made. Additionally, mailings went out to participants and informational materials were posted at local grocery stores, post offices, etc. Then, when the larger town meetings were held, elected officials as well as the Planning Board members were present to answer questions and reflect back to the crowds the sentiments of the focus groups.

4. Iteration, including changes in tools and techniques if needed to overcome difficulties – *If there were difficulties in the process, were they acknowledged? Were changes made to the process, including the means for addressing those difficulties?* In Lincoln County the collaborative effort came after planning officials realized that large group meetings were not allowing them to hear from specific stakeholder groups or identify key issues. In that way the process evolved into a collaborative process and from there, evolved further into an identification of certain sub-groups whose interests were aligned (i.e. agencies like BLM, USDAFS, WGF). These small groups allowed for more

involved discussions with fewer people where key issues were identified then prioritized and raised in the larger group sessions.

In Ravalli, the process was designed with collaboration in mind. However, as time wore on and it became clear that certain group members were using planning time to rehash old issues. This was an area in which if the difficulties of this particular tactic were evaluated and addressed, perhaps better progress could have been made in the CPCs.

'What does zoning mean to you?' That was an important question that, if we had stepped back and asked it, we might've clarified our purpose. If you don't know why you're doing this—which a lot of people didn't—why are you here? I think that [not knowing] alienated a lot of folks who were initially in the process and, not hearing what they thought they needed to hear from the commissioners, they backed out of the process. We could've taken our time and take a step back since we needed to question why we were doing it in the first place but we didn't because ultimately we had this two year deadline county wide zoning with 40,000 people and hundreds of acres of land. So we needed to have this conversation but we didn't have it (Lavey, 2009).

Further, when many citizens were concerned that with zoning would come streamside setbacks, that fear then increased the level of “private property” rhetoric that often thwarts regulation. If the Planning Commission had dropped some of the “add-ons” and simplified this initial round of regulation as opposed to trying to institute sweeping zoning initiatives, public sentiment might not have eroded. However, without the evaluation of the public's “temperature” throughout the process, it's difficult to acknowledge and combat sentiment that has turned away from participation into a feeling that the land-use planning process is merely a ruse to take away private property rights.

Lincoln County was able to utilize the findings from the initial list of priorities highlighted by the focus groups and follow up with study data on issues that were

important to the community, like affordable housing and transportation. This also allowed the commission to keep the zoning regulations fairly simple and straightforward without pushing too hard to do everything all at once (Woodward, 2009).

CONCLUSION

Lessons Learned

Lincoln County, Wyoming

Hillyard, who's participated in the Lincoln County planning process for over a decade offered, "You have to win the public's confidence first. They have to believe in what you're doing. And once you get that there's a lot of ways to skin that horse—but you have to get the confidence first" (2009).

All those interviewed noted the importance of utilizing the media to inform the public of the process as it happens—and how they can participate. Kent Connelly, a county commissioner stated, "You can't do enough advertising and mailings out to each taxpayer. We've used that theory before and it's so necessary. And you need to use different forms of media—don't just do one media, that isn't good enough in this day and age. If you're not websiting your information for the public you're missing to boat" (2009). The website was also a critical ways of enforcing order with the focus groups when if a stakeholder took issue with a decision that was already made in his/her absence, the stakeholder would then be referred to the website to explain the decision made. According to Connelly, this was a powerful way to encourage attendance at the meetings because the process moved forward—not back—and those that wondered what was happening could simply call the Lincoln County Planning and Zoning Commission or the Planning Board or visit the website to get caught up for the next meeting.

And yet, even the best intentions for planning don't always win out. During the rewrite of the comprehensive plan in 2004-2005, an amendment was proposed that would

allow use of older mobile homes (pre-1976) when retrofitted with egress windows and wiring upgrades. Planning Director, John Woodward explains:

Mobile home occupants were conspicuously absent from the discussions while, of all things, a small group of school administrators showed up at the final hearing to help kill the proposal. They argued, in essence, that eliminating trailers would somehow reduce the population of their problem students. The lessons here: 1. Democracy is run by those who show up; 2. Affordable housing needs more crusaders; and, 3. Without adult supervision, zoning regulations naturally drift toward exclusionary practices (2009).

So even when the community argued for affordable housing and identified it as a priority, when the time came to consider the amendment for adoption, those advocates were not there to fight for it. An affordable housing study was commissioned in the 2005 comprehensive plan and efforts are being made now to address the growing problem.

Finally, Woodward aptly noted that it's not all perfect planning and well-executed processes—there's also an element of luck.

Timing is everything in this business. We adopted zoning because of development pressure and a timely court ruling. We've kept our jobs by understanding local conditions and by remaining realistic. As economics change there are different planning issues to address to remain relevant (2009).

Ravalli County, Montana

All three planning officials interviewed noted one clear problem with the design of the process: it lacked a clear expectation of why the county was undertaking this process and in what ways public involvement should inform and shape it. This was likely due to the November 2008 deadline. The commissioners and the Planning Commission felt the urgency to enact zoning—particularly after having been threatened with litigation

or removal from office if new resolutions were not drafted and voted on—which forced them to move faster than they might otherwise have done. One of the biggest lessons that resonated with the planning officials, the elected officials and stakeholders was that this particular incarnation of the planning process moved too fast for comfort (Quirini, 2008). “Planners should prepare for a discussion of such importance to take years, not months” said a former Ravalli County Planning Official, or put another way by the Acting Director of the Planning Department, “you’ve got to go slow to go fast.” He expanded on that point to say:

You have to really know the character and overall philosophy of the citizens you’re working with. You’ve got to develop it slowly and build trust and that takes a lot of time to build. And taking what you’ve learned out of your conversation you’ve got to develop an appropriate scope for the program. It’s sort of the frog in the boiling water—basically we took this county—the frog—and threw it in boiling water. We were proposing along with zoning, streamside setbacks and people said, ‘this is a foot in the door and there’s more to come once zoning is in place.’ It scared them. So what I think what would’ve been more effective would’ve been to focus on very basic land use planning instead of throwing all this regulation at folks (Lavey, 2009).

A rancher who participated in the process—and was initially in favor of some regulation—noted that it was the overload of regulation that made him balk and eventually vote to repeal the growth policy. His perception was that the zoning put forth in this process would “tie our hands” when it came to land use and potential development of agricultural lands. That was the general watershed moment for the farmers and ranchers who, at that point, “threw down their heels and said, ‘Wait a minute, this is not what we want to do.’” And although he believes this last round of planning was ill-fated, he has not given up on the process:

I was kind of ostracized because of my opinion that you have to stay at the table and keep negotiating. The ranchers dug their heels in but honestly, we're going to get zoning one way or another so you've got to stay at the table so you have some say in the end product. I'm glad it got shot down at this stage because it wasn't right, but it'll come back again and we're all going to have to give a little the next time around" (McPherson, 2009).

Generally speaking, these cases have more in common than not. Both counties sought public and agency involvement to jointly create a land-use plan for their communities. Although Lincoln County is approximately half the size of Ravalli, they faced similar challenges. Both counties had to address the NIMBY rhetoric that often catalyzes planning processes; in the case of Ravalli it was a commercial building size limit and in Lincoln it was a flood of proposals including a high caliber rifle range and Downs Syndrome camp. Regardless of the controversy surrounding these particular proposals, it was clear that citizens of both communities were propelled into the process by outside forces. This is not an inherently bad thing; often we can't imagine the impacts of rapid development until it happens and we see—and have to manage—the results. So, although reactionary, many communities have been able to navigate booms in development to pass fair and appropriate zoning codes—Lincoln County is among them.

That said, it was the perception (by the Planning Commission and the rancher interviewed) that too much regulation was pushed too quickly in Ravalli County. While Lincoln County instituted a moratorium on development for a period of time, it was not enacted with a regulatory caveat, which perhaps allowed the development issue to be addressed more naturally in its own time. This move angered developers who felt the economic impacts of the moratorium would put them out of business. In fact, one of the similarities between these cases is that both were lightning rods for developers, which

inevitably led both counties to be sued on different elements of their planning processes. In the case of Lincoln, the Board of Commissioners was sued and yet, “did not set foot in court” as every time the case was litigated it was thrown out (Connelly, 2009). Ravalli County won its case against the developers who brought suit alleging that the 1 residence per 2 acres impeded their right to free enterprise (*Willoughby Development Co., et. al v. Ravalli County, CV 07-002-M-DWM (Montana, 2008)*).

As with Ravalli, Lincoln was not without vocal detractors. “In planning it will always be easier to find an angry mob than a concerned proactive group” said John Woodward, Planning Director for Lincoln County. Indeed, threats were made to the County Commissioners and guards had to be posted at the doors of town meetings as well. “You can’t get caught up in that, you’d be catering to the few,” argued Connelly. “Show up, keep the public informed—I can’t emphasize that enough—and stand by the decisions made. If something doesn’t work, we’ll fix it in the next round.” The malleability of the document was something that was mentioned by all interviewees in Lincoln County. It was emphasized again and again that if something wasn’t working it would be addressed in the next rewrite or amendment to the plan. “The sales pitch is to say, ‘nothing is written in stone once we pass it’” offered Loni Hillyard, who’s been through two rewrites of the comprehensive plan. “And as long as you can keep it in their minds that this can be changed, it makes it easier.”

Geographic distance should not be a factor in whether or not people want to participate. Though, as Planning Director John Woodward notes, it depends on the issue. “I envy the towns and cities where hundreds of neighbors can show up to an event and travel less than five miles in the process. Part of the reason that turnout is so low, aside from busy lives, is that the locals actually trust their representatives to do the heavy

lifting.” While that may be the case in Lincoln, Ravalli County officials were diligent about addressing the geographic issue by breaking up the county into several portions so that citizens would not have to travel great distances to participate. According to the Acting Director of Ravalli’s Planning Department, the meetings would be play host to anywhere from 5-100 people, which is reasonable—even encouraging—turn-out for volunteer community meetings in a county of approximately 40,000 people (Lavey, 2009).

One of the greatest challenges of community participation is keeping the constituencies focused on the task at hand as opposed to dredging up old issues or making a public forum a place in which to air personal grievances. However, while both processes encouraged citizen participation, Lincoln’s facilitators did initial shuttle diplomacy between stakeholder groups, deciding on the key issues then reporting them back to the groups. However, once those issues were locked, Lincoln County facilitators would not allow old issues to be re-hashed, whereas Ravalli had a slightly freer form. This point was illustrated in a comment by a Ravalli County planning official who also noted the importance of having a fairly rigid structure within which planning can take place. He felt in retrospect that, “Clean roles [need to be established, as do] ground rules that all participants understand and agree to,” and acknowledged that CPC facilitators could have been better trained by the planning staff and perhaps should have been regularly reminded of the importance of adhering to the ground rules of the forums. The same official noted that the facilitators in the Ravalli process were not perceived well by the community since most of them worked for the Planning Commission itself and were alleged to be “pro-zoning.” He argued that this, plus the rather laissez-faire climate of

the CPCs made it difficult to “enforce a level of order at meetings” that could have moved the process forward (2009). Lincoln commissioner, Connelly, commented on how focus groups were able to move forward without getting bogged down in past decisions by placing the onus on elected officials.

The commissioners have to be there to be the backbone—and we have to have done our homework. Even if I hadn’t made the decision, I knew why they had made the decision. Are you going to make everybody happy no? But you’ve got to have the information and the backbone to understand what was happening, explain it and, you know, the buck stops with me as the decision-maker (Connelly, 2009).

Prescriptions for Best Practices

The framework for “Best Practices” in collaborative environmental decision-making as outlined by the National Academy of Sciences (National Research Council, 2008) is an excellent starting point for designing and executing a public process. In analyzing these two cases side-by-side, a few additional issues emerged that should be considered in future planning processes:

- ***Media Communication*** –
 - While good-faith communication between the public and agencies is important, so too is communication by agencies through the media. Lincoln Commissioner, Kent Connelly, mentioned the necessity of using the media as an outreach tool but he also iterated the importance of using it as a tool for accountability by encouraging citizens to read the documents and latest information posted on the website. This helped keep everyone accountable and kept the moved the process forward.

- ***Focus Groups*** –
 - Put an emphasis on the discussion of current issues as opposed to rehashing old decisions.
 - Make the focus groups a “safe place.” If that means initially breaking into stakeholder groups to identify common issues in a non-threatening environment, adjust your process for that goal. Productivity will increase when people feel they have a clear goal,

support along the way and an environment where they're free to discuss issues openly. Employ facilitators who are credible, well-trained and can help the participants achieve those goals.

- ***Strong Leadership*** –
 - Roles should be clearly defined before a process begins. There was some concern in Ravalli (by the public and certain planners) that the process lacked leadership by the County Commissioners and the Planning Board. If the leadership doesn't have a clear understanding of their role and/or do not reflect the goals of their community in the planning process, it's difficult for stakeholders, agency officials and contractors know their own places and be motivated to participate.
 - While the roles of the County Commissioners, local governments and Planning Commission and board, are political, it is still important for officials to realize this is a community's process—not their ticket to reelection (or the nail in their political coffin). Planning should be community driven but agency led.

- ***Peripheral Relationships*** –
 - In the 20 years prior to zoning, Lincoln County experienced high turn-over in planning staff, which did not inspire confidence in the community. But in the early 1990s, the planning staff was drafted to work as delegated septic system officials, and to perfect road easements which inevitably helped the staff build relationships with community members outside the purview of their planning roles. This helped introduce the planners to the community in a non-threatening way and created trusted acquaintances and friendships that began to change the perception of the Planning Commission. Tasks like these can aide agency officials in making in-roads with the public in non-threatening ways, which can go a long way to building trust between parties in the planning process.

- ***Baby Steps*** -
 - Especially in rural areas where zoning is still controversial it's important to move slowly and where possible remove constraints like timetables.
 - The consensus that was built over the growth policy in Ravalli was an important step forward in the land-use planning process. Regardless of the outcome of the 2008 election, it is clear citizens in the region value their Valley and are interested in protecting it. That's a good (re)starting place to begin again.
 - Lincoln County made small moves to address the growth in their area and in this way were able to move at a pace that felt comfortable for the majority of their citizens. Their zoning has been simple and focused on few priorities at a time. This strategy

has been so successful that after the first round of zoning in 1998, 2 of the 3 County Commissioners ran unopposed for reelection.

- ***Take Back the Talk*** –
 - There was “private property” rhetoric in both counties, though it was certainly a larger factor in Ravalli. It’s essential to keep up with that dialogue and stay in front of it. Instead of allowing the debate to be co-opted by people who come from the supposition that “private property rights” trumps community planning, use the legality of zoning to argue what regulation can do to protect rights.
 - “Your rights end at your property line and don’t apply to your neighbor. They love us after we’ve passed a regulation that says you can’t have your house right on your property line and their neighbor tries to build there. I think zoning is a necessity. The degree of zoning is flexible.” Loni Hillyard

- ***“Nothing’s Set In Stone”*** –
 - All officials interviewed from Lincoln County talked about the importance of reminding citizens that the zoning plan enacted was a living, breathing document and that if something is passed and doesn’t work for the majority, it can be revisited and readdressed.

Final Thoughts

In a rural western community an ounce of political capital is worth a pound of planning. Our experience has repeatedly shown that focus on one to three priorities, as identified by the community at large, is far more productive than leading the charge with a dozen “textbook” planning solutions that lack public support. It has been important for our department to remember to pace ourselves as we make periodic course corrections to our relatively new zoning regulations: Crawl . . . Walk . . .Run (Woodward, 2009).

Particularly in areas like the West with its fierce individualism and distrust of government, the act of bringing people together and the movements forward both counties achieved is no small thing. Indeed, both Lincoln and Ravalli achieved some measure of success simply by continuing a conversation as to how space will be designated and used in the coming years.

But as the landscape of the rural Rocky Mountains changes, so too, will land-use planning priorities. As more agricultural businesses sell out to developers, there must still be room at the table for those producers who want to secure their families economic future. Similarly, the perspective of newer residents should not be discounted simply because they haven't lived in an area for a decade or more. It is the responsibility of all who live in rural areas to understand the culture of the area in which they live, and to understand that that culture evolves, as does the world around them. And therefore, land-use planning should not devolve into a discussion of private property vs. public property rights. If it has gotten to that point, collaboration has failed because the trust between the participants and agency and elected officials has failed. It is a matter of building relationships and making small moves, and when the hard work of that is accomplished, many of these issues will erode with time.

As illustrated in both cases in this study, residents—old and new—in rural areas share similar values and ethics about that land; it is simply how they chose to regulate it where the differences may manifest. That said, even those differences do not have to prevent citizens from participating in the process. Rural residents often have great pride in their communities and want to participate in how it is governed and defined. When this sensibility is used as a foundation on which to build consensus and designate planning priorities, citizens are much more willing to participate when they feel their perspective and experience will be respected and their suggestions incorporated into a land-use plan.

Still, there is work to be done. While it is essential that planning officials not be deterred by the private property rhetoric and fear of change that sometimes takes hold of

long-time residents, it is an aspect of the process which needs to be addressed. Moving forward, one of the greatest challenges facing rural Planning Commissions will be how to reconcile three things: old residents' attachment to tradition and independence, how to help new residents honor old residents' commitment to the land, while also respecting the vision and enthusiasm new residents brings to their community. Thus, there would be great benefit in pursuing a study of persuasive language in rural zoning debates. While it may be easy to see why zoning in Ravalli was derailed by private property rhetoric, there was also a mandate by residents in the election of pro-planning County Commissioners for zoning. And yet, in the case of Lincoln County, when private property rights came up, they were not a tipping point for the process. It is important to understand how this communication plays a part in whether a stakeholder chooses to participate in a process and how they are persuaded to back out or continue.

Land-use discussions will continue in the West. And while many will not hear about the collaborative efforts of Lincoln County, Wyoming and Ravalli County, Montana, both planning departments are moving forward to identify the next process for their communities. The real success outlined in this study was that two efforts, however imperfect, were made to include the public in decisions of how their communities will be defined in the years to come. Because of those efforts, citizens took the time, educated themselves and proved that they are interested and desire to be engaged in the governance of their communities. It is the task of planning departments across the Rocky Mountains to find similar ways to collaborate with community members so that rural residents will continue to have a seat at the land use decision-making table

Appendix A

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APPENDIX B

List of Interviewees

John Woodward
Lincoln County Planning Director
Kemmerer, Wyoming

John Lavey
Acting Ravalli County Planning Director
Hamilton, Montana

Loni Hillyard
Real Estate Appraiser
Former Lincoln County Planning Board
Member
Afton, Wyoming

Daisy Patterson
Associate, Center for Natural Resources
and Environmental Policy (formerly PPRI)
Missoula, MT

Kent Connelly
County Commissioner, Lincoln County
Kemmerer, Wyoming

Hans McPherson
Agricultural Producer
Stevensville, Montana

APPENDIX C

Interview Protocol Zoning Participant Questions

Introduction: Hello. I'm a graduate student at the University of Montana studying collaborative zoning efforts and I wanted to talk to you about the zoning process in your community. Would you be willing to speak with me about this?

If no: No problem, thank you for your time.

If yes: Great, thank you. As a little background on the project, I'll be evaluating a case of successful zoning efforts—where zoning was passed—and “failed” zoning efforts—meaning, it was not passed. This study will not point-fingers or put down the participants or process of the “failed” case. Rather, I believe lessons can be learned by both success and failure and therefore I'm interested in how you perceived the process and what you and your community members learned by planning together.

Name of Interviewee: _____

Title/role in zoning effort: _____

Phone #: _____

Part I:

1. What was the objective of this process?
2. Who participated? Like what kind of stakeholder groups or agencies?
3. What were some accomplishments or outcomes of the process?
4. What were some lessons you learned from the process?

Part II: (IF AN AGENCY OFFICIAL)

1. Did you feel your purpose for participating was clear? Did you know what the purpose of the project was?

2. Did you feel there was a commitment made to the public to use their input to inform agency actions?
3. Was there adequate funding and staff to complete the project?
4. Did you feel that decisions were made when the time was ripe? (If needed: Was zoning undertaken at appropriate time in the community? Were other decisions in the process timely?)
5. Was there an emphasis put on implementation and what zoning would look like on the ground? And how citizens would be a part of making that happen?
6. Did you feel like self-or team assessment was part of the process? Did you feel you took the time to evaluate and learn from the experience?

Part III: (AGENCY OR STAKEHOLDER, IF APPLICABLE)

5. Did you feel this process was open and inclusiveness? In what ways?
6. (STAKEHOLDER) Did you feel you had the opportunity to solve problems in cooperation with agency officials? Did you feel like you had any say in the design of the process?
(AGENCY) Was the process designed to be collaborative? Was there room for citizens to help solve problems?
7. Did you feel it was a transparent process?
8. Did you feel like there was “good faith” communication between participants? Between agency and participants? Between elected officials and agencies?

Part IV. (AGENCY OFFICIALS)

5. Did you feel you made an accurate “diagnosis” of the situation before deciding to pursue zoning?

6. Did you feel efforts were made within the planning department to choose different tactics to meet difficulties?

7. Did you monitor the process to see how well it was working and if need be, acknowledge problems and change your approach if it was warranted?

APPENDIX D

1. *Based on your research, are some of the criteria presented in the NAS framework more important or instructive than others -- particularly in light of the fact that Ravalli seems to have met more of the NAS criteria "in theory" than Lincoln, but in practice Lincoln was apparently more successful than Ravalli? Why or why not? Are there additional criteria -- not captured in the NAS framework -- that are important as reflected by your research?*

While all of the National Academy of Science recommendations are important and the guidelines build on one another to create a solid theoretical foundation for best practices, one of the most important recommendations is the fourth:

(Collaborative) practitioners, working with the responsible agency and the participants, should adopt a best-process regime consisting of four elements:

1. Diagnosis of the context
2. collaborative choice of techniques to meet difficulties expected because of the context,
3. monitoring of the process to see how well it is working, and
4. iteration, including changes in tools and techniques if needed to overcome difficulties.

Arguably both counties were well-timed in addressing the necessity for land-use planning and then diagnosing the context in which they would be working. In Lincoln County this was done by acknowledging the citizens' reactions to controversial development proposals. In Ravalli County, after an election where three county commissioners were elected on a pro-planning platform, the Planning Department commissioned a Situation Assessment of the county that helped them address contextual issues. Further, while Lincoln County had little diversity—or citizen input—in the their choice of collaborative techniques, Ravalli County again, reached out to experts in the field to help them craft the process. They were still well-intentioned by addressing the citizen concerns in the Situation Assessment through the CPCs as well as the Roundtables, and with the promise that it would be their (the citizen's input) that would fuel the planning process.

Where Ravalli County faltered was in monitoring the process along the way and making necessary changes to meet the difficulties encountered in the situation. While the design of the Ravalli County process was "textbook" in some ways, this process is dynamic and must be monitored and altered in reality. Although the PPRI sent a memo to the Kettering Foundation about the inefficacy of the CPCs, no substantive changes were made to the groups. Further, when the first drafts of the zoning maps were reflected back to the community and didn't represent what was discussed and agreed upon, there was little effort made by Clarion to remedy the miscommunication (or breach of trust, according to the perspective of one of

the participants). If indeed the first zoning maps that were created were too technical and overly zealous in regulation propositions, how were those problems addressed? This of course dovetails into “good faith communication” issues that also represented a pivotal break-down of the Ravalli County experience. If the Kettering memo had been addressed by the Planning Department and the CPCs had been reorganized would it have made a difference? If Clarion had been fired after the first drafts, would it have shown the community that the Planning Department felt as they did that Clarion was not achieving its mission to develop regulations for the county?

While there were several ways in which Ravalli tried to achieve a truly collaborative planning process, this design did not merely stop when contractors were hired. Had the Planning Department changed tactics to deal with challenges and obstacles in the planning process, they might have been able to head off the failure of zoning plans and the repeal of the Growth Policy. This will be an area for them to work on for the next round of land-use planning. While it’s important to have confidence in the process, it’s also important to remember that it’s fluid, always changing and evolving, and in need of flexible direction.

2. *Taking into consideration the observations and conclusions you make in the findings, lessons learned, and best practices sections of your paper, please summarize the top-five take-away lessons from this research? How would you advise public officials (elected and professional planners), stakeholders, citizens as result of what you learned?*

While the lessons learned and prescriptions for best practices are obviously beneficial tools in helping agency officials design, implement and evaluate a collaborative land-use planning process, there are five overarching lessons to keep in mind. These five “take-away” lessons are not meant to supersede the other conclusions reached and observations noted in this paper but rather should act as a short guide for achieving best practices.

Go slow – This guideline applies not only to the time needed to engage in collaboration but also the regulation proposed.

Time is an important aspect of a process because it is necessary to build relationships, trust and consensus. While outside forces may impose deadlines on the process (in the case of Ravalli), whenever possible they should be avoided. Unrealistic restrictions will force issues and create undue stress on the process and its participants and eventually thwart planning efforts. If timetables are unavoidable, pass small things first to meet the requirements of the time restrictions. This can also serve as a stepping stone for creating consensus on larger items. Regardless of whether there are timetables attached, it’s important to go slowly to make—and keep—participants comfortable with the process. Going slowly does not mean that planning should be unnecessarily tedious and that time should not be a factor. Indeed, going too slow can also frustrate the process if participants feel that nothing substantial is being accomplished in a reasonable amount of time. But given that those undertaking the process are often pushed into action by outside forces, going too slowly is often not an issue. Therefore, it’s important to be diligent in allowing the process to unfold as it will without artificial deadlines and rushed meetings and decision-making.

Malleability of document – While passing regulations that are put into effect necessarily has consequences, it’s important that the process should be seen as flexible enough to bend with the needs and desires of the community. If regulations are seen to be changeable, it makes their passage much more palatable because participants and citizens feel that nothing is “set in stone” and thus regulations take on less of an ominous finality. This can be particularly potent in areas in which planning regulations like zoning are controversial. The passage of any regulation should be evaluated and reexamined to determine whether it is meeting its objective and the community finds it useful enough to expand on it.

Clear Roles – When everyone is clear about the roles they’re playing and the goals of the project, the process itself is much more likely to succeed. While this may seem to be one of the easier goals of a planning process, it can be deceptively difficult if not addressed by and with all participants. This guideline is not merely

to establish a hierarchy; it is there to determine who will be responsible for design, process and implementation. This responsibility is not merely procedural; when there are planning problems, participants should know who to contact for assistance or clarification. This gives agency officials clear boundaries of responsibility and allows them to have some sense of security in understanding with what they will be tasked. Similarly, it gives participants on all levels some accountability to the process and each other.

Strong Leadership – This guideline goes hand-in-hand with role definition and yet it deserves to be highlighted here because without a rudder, even the best built ship will drift. This leadership should be the responsibility of the agency, not the community. While the community should take a leading role in the drafting and implementation of the planning process, goal setting should be done by agency officials who were hired (or elected) for their expertise and have the time to dedicate to the process. This should be decided amongst agencies; will the county commissioners lead because of an election mandate to address land-use planning? Will it be the responsibility of the Planning Board to lead the process? This will be decided on a case by case basis and power-sharing could be a reasonable way to address the issue of leadership. Regardless, it's important that this issue is clear and well defined amongst agency officials before the process starts, and ideally that agency's leadership would be validated and reinforced by other agency officials.

Effective, Clear and Constant Communication – Communication will be happening before, during and after planning takes place. There will be formal and informal discussions about the process by participants, the media, elected and agency officials and hypothetical predictions about decisions made. Thus, it is important that participants and agency officials have effective, clear and constant communication. When issues are communicated to agency officials, it's important that the public have those issues addressed in a timely manner. Similarly, if agency officials feel their message is being misconstrued or is not reaching participants and citizens in accurate ways, that miscommunication should be addressed.

No one can be perfectly understood all of the time but monitoring the communications is an important responsibility of the agencies and elected officials. A collaborative process is fueled by the needs and desires of the community and that planning cannot happen without this communication. Therefore, the agencies must be diligent in finding ways to solicit ideas and feedback from stakeholders, and then regurgitate that information back to the public in a timely manner for comment. This is really the only way a collaborative process can gain legitimacy and maintain the public trust.

3. *How do you determine whether a community is ready for some type of collaborative zoning? This is really two questions -- (1) how would you go about making such a determination? and (2) what criteria or necessary conditions must be met in order for a community to have a good prospect of succeeding at collaborative planning?*

Obviously a precursor to planning would be to commission or perform a situation assessment. This evaluation will show whether the community is ready for planning, the degree to which they would like to take part in the planning and generally gauge how important land-use designations are to the citizens.

When assessing the community's planning priorities it's essential to first consider how many of the citizens interviewed consider land-use planning a priority. If the number is low, there's really no reason to pursue a collaborative process which is time-intensive and expensive. However, if planning is generally considered to be an issue on the mind's of residents, it's then important to assess whether the community can rally around one or two loose regulatory goals. These goals certainly don't need to be set in stone but if the Planning Department has an idea that a community needs zoning and the situation assessment does not reflect zoning as a priority, more realistic goals need to be set that are in line with the community's land-use planning needs.

Often, timing can play a large role in whether or not a community desires planning and is willing to pursue a collaborative process. In both of these cases, the situation assessment showed—and this was corroborated by growth statistics—that residents were aware of growth and wanted to have some level of control over how that growth looked on the ground. For Lincoln County, there was a series of large scale controversial projects proposed, in Ravalli County it was just the steady growth of the Bitterroot Valley and neighboring counties that led them to pursue land-use planning. While on some level this is a subjective assessment, it's also good to note the level of growth, whether any controversial developments have been proposed or built (as happened in both cases studied here) and the reactions of the citizens to this growth. This will lead to a kind of timing tipping point that can be reflected in the sentiments of the citizens in that a situation assessment can evaluate whether residents are content with the status quo or are ready to make a change and set land-use priorities. If the status quo is acceptable—even if it's not desirable—there will be little need to pursue a regulatory process. However, if it is deemed that the status quo is unacceptable, and broaching the topic of zoning is timely, two of the three major components for a collaborative process are in place.

The final element is, obviously, whether or not, people are willing to participate in a collaborative process. In many ways engaging in this kind of a process can alleviate any fear of zoning that citizens might have if they feel their concerns and opinions will be reflected in the regulations passed. On some level this is an element of good faith that, if breeched, can also lead participants away from

future collaborative processes. However, if residents express a willingness to participate, and the other two elements—unacceptability of the status quo and timeliness of planning—are in place, the situation is potentially ripe for collaborative planning.