

CITY OF HELENA
REGULAR CITY COMMISSION MEETING
October 15, 2007
6:00 P.M.

Time & Place

A regular City Commission meeting was held on Monday, October 15, 2007 at 6:00 p.m., in the Commission Chambers, 316 N. Park Avenue, Helena, Montana.

Members Present

Mayor Smith indicated for the record that Commissioners Cartwright, Oitzinger, Peura, and Throssell were present. City Manager Tim Burton, City Attorney David Nielsen and Deputy City Clerk Robyn Brown were present. Others present were Bill Roberts representing the Helena Citizens Council.

Pledge of Allegiance

Mayor Smith asked those persons present to please stand and join him in the pledge of allegiance.

Minutes

The minutes of the regular City Commission meeting of September 24, 2007 were approved as submitted.

Proclamation

PROCLAMATION:

A. Lights on Afterschool

Mayor Smith read the proclamation designating October 25, 2007 as "Lights on Afterschool Day" in the City of Helena and presented it to Ms. Sandi Smith. Ms. Smith gave an overview of the many afterschool programs available to children.

Introductions

INTRODUCTIONS:

- A. Confirmation and Introduction of Police Officers Randy Ranalli and Rob Murphy
- B. Introduction of newly promoted Officer - Corporal Jayson Zander

Police Chief McGee introduced and gave the background of Officers Ranalli and Murphy. Chief McGee recommended confirmation of Randy Ranalli and Rob Murphy as Police Officers with the Helena Police Department. Officers Ranalli and Murphy both addressed the Commission and thanked the City and Chief McGee for the opportunity to serve on the Helena Police Department.

The Commission welcomed and congratulated Officers Ranalli and Murphy on becoming confirmed officers with the Helena Police Department.

Public Comment

Mayor Smith asked for public comment, none was received.

Motion

Commissioner Throssell moved approval of the confirmation of Randy Ranalli and Rob Murphy as Police Officers with the Helena Police Department. Commissioner Peura seconded the motion. All voted aye, motion carried.

Chief McGee introduced Officer Jayson Zander, who was promoted to the rank of Corporal on September 23, 2007. He gave Corporal Zander's work and training history. Corporal Zander addressed the Commission.

The Commission congratulated Corporal Zander on his promotion.

Presentation

PRESENTATION:

A. Excellence in Economic Development Award – Great Northern Town Center

Community Development Director Sharon Haugen reported the Great Northern Town Center and the City of Helena has received the Excellence in Economic Development Award. She introduced John Rogers, Economic Development Representative for Montana, North Dakota, Wyoming and Idaho and Alan Nicholson, developer of the Great Northern Town Center.

Mr. Rogers stated each year the Economic Development Administration makes awards for economic development nominations and this year he nominated the Great Northern Town Center Development and the City of Helena for the award.

Mr. Rogers gave the history of the property prior to the development, the visioning group's work and the initial investor, which was Mr. Nicholson. He then commended Mr. Nicholson and the city for their vision for and financial support of the Great Northern Town Center.

Mr. Nicholson thanked Mr. Rogers, his family and the city for their support of the development. He then spoke of the development from the visionary stage to where it is today. Mr. Nicholson spoke of the taxes the development has generated.

Commissioner Cartwright stated this area along with the older part of downtown is where the city makes it's money, the area from the library down to the Great Northern pays more per square foot in taxes than any other commercial area. He noted it probably demands less in services because it is compact.

Commissioner Oitzinger congratulated Nancy and Molly Nicholson for their inspiration toward the creation of the Great Northern Town Center. Mayor Smith also spoke of Nancy and Molly Nicholson's support for the project, specifically the carrousel. Mayor Smith also thanked Mr. Rogers for the work he does with the Regional Economic Development office.

Consent Agenda

CONSENT AGENDA:

- A. Claims
- B. Utility Bill Insert - Foundation for Animals
- C. Utility Bill Insert - Rocky Mountain Development Council
- D. Acceptance of 100% State of Montana pass thru funding in the amount of \$44,167 and authorization to spend funds
- E. Acceptance of an amendment to change the award amount to \$20,000 from \$10,000 of FY06 US Department of Homeland Security Grant Program (HSGP)
- F. Acceptance of Hazardous Materials Emergency Preparedness Grant money to pay for one department member to attend the Haz-mat Technician class in Kalispell in the amount of \$706.42
- G. Acceptance of a Wastewater Main Access and Maintenance Easement from Golden Egg, LLC

City Manager Tim Burton recommended approval of the claims and the consent agenda.

Public Comment

Mayor Smith asked for public comment, none was received.

Motion

Commissioner Peura moved approval of items A through G on the consent agenda. Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

Communications

COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS

Commissioner Peura said hello to the 4th grade students at Jim Darcy Elementary School and spoke of a recent visit with them regarding a City Commission decision regarding deer.

Commissioner Cartwright apologized for being late to the last Administrative Meeting as he was in Butte at a meeting. He stated there is a lot of public interest in deer and citizens have expressed concerns with the FWP Commission's decision on the City of Helena Urban Wildlife Management Plan.

Mayor Smith spoke of the Big Read under the Big Sky event, Carroll College football game and the St. Peter's Hospital Foundation Gala.

Commissioner Oitzinger spoke of welcoming the Soroptomists International Convention over the weekend.

Report of the City Attorney

REPORT OF THE CITY ATTORNEY

No report was given.

Report of the City Manager

REPORT OF THE CITY MANAGER

A. Governor's Award for Safety and Health

City Manager Burton invited Human Resource Director Rae Lynne Nielsen to speak on the Governor's Award for Safety and Health. Director Nielsen explained the history of the award and acknowledged Human Resource Risk & Benefits Manager Katherine Swindle's work on the city's safety program. The city was given the award again this year and Ms. Nielsen asked Wastewater Superintendent Don Clark and Wastewater Supervisor Mark Fitzwater to present the Commission with the award and explain the safety program at the Wastewater Treatment Facility. Mr. Clark and Mr. Fitzwater explained the training that is done at the Wastewater Treatment Facility. Mr. Clark thanked the staff at the wastewater treatment facility for the work they do to cultivate safety at the facility. Mr. Fitzwater reported the wastewater facility employees do a lot of PowerPoint presentations on safety and Darrell Langford has put together some of the safety programs.

Mayor Smith congratulated city staff for receiving the award and then spoke of the costs savings this accomplishes with the reduction of workers' compensation rates.

City Manager Burton asked Public Works Director John Rundquist to update the Commission on the Henderson Avenue project. Director Rundquist reported the work is progressing towards completion; there have been weather delays. The curbs and gutters are complete as of today and paving of the south half is scheduled for next week. If all goes well, traffic should be back on the street very soon.

Director Rundquist also updated the Commission on Le Grande Cannon Boulevard and the efforts to move the project along related to new development of the Reber PUD. The developer has some commitment for building streets, but it is not a commitment that would complete the project all the way to where the existing pavement is. The

proposal is for the City to start the process of retaining a consultant to design LeGrande Cannon Boulevard from the end of the existing pavement to the entrance of the new Reber Development. Director Rundquist invited a City Commission member to serve on a RFP selection panel for the consultant.

Commissioner Cartwright stated he understands there is general concept for the design that is matching the current design of LeGrande Cannon to the further east. Would the consultant come up with the engineering costs, look at specific problems, and what exactly would the consultants be doing? Director Rundquist stated the intent is to build the same template roadway that already exists and to extend it throughout. There are minor right-of-way issues along the way and in addition a geo-technical study would need to be completed. There are also horizontal and vertical alignment issues and public outreach relative to design.

Commissioner Cartwright stated the developer would extend beyond his boundary as a trade off for not having to construct street further to the west. He cautioned to not let the developer pay less with the trade off.

Commissioner Peura asked if the work of the consultant will also contemplate potential improvements to the intersection of LeGrande Cannon Boulevard and Glendale. At the community meeting there was some concerns expressed about the probability of increased traffic on Glendale, which is currently an unpaved road. Public Works Director Rundquist stated it is staff's intent to include a design for all the intersections along LeGrande Cannon that are compatible to the existing roadways. At this time, there is no plan to pave Glendale; however, it could be included in the scope. City Manager Burton stated there are other issues beyond what is required of the developer, including the Westside of LeGrande Cannon. There will be some policy discussions that need to take place among the Commission as to how far we go with Glendale or any other aspect of this project. The consultant will help design and frame the discussion and will include accurate cost estimates.

***Report from the
Helena Citizens
Council***

REPORT FROM THE HELENA CITIZENS COUNCIL

HCC member Bill Roberts reported the HCC District Meetings will be held Thursday, October 18, 2007 and invited the Mayor and Commission to attend. He spoke of the upcoming elections; 30 people are running for HCC seats, however, many of the districts only have one person running. He encouraged interested citizens to apply for an open seat on the HCC after elections are held.

Mr. Roberts stated a committee has been formed to discuss the HCC website and will provide a recommendation.

***Prescribed Burn
Policy-Open Lands***

CONSIDER APPROVAL AND AUTHORIZATION TO IMPLEMENT THE PRESCRIBED BURN POLICY FOR HELENA OPEN SPACE LANDS.

Staff Report

Fire Chief Steve Larson reported the city has an accepted Prescribed Burn Policy that does not include the entire Open Space Lands. Chief Larson recommended expanding the policy to include these areas to address prescribed burning of wildland fuels.

Commission comment

Commissioner Cartwright referred to part 15 - The Post Burn Analysis and recommended adding a "D" to include language indicating after a post burn evaluation the burn has not resulted in weeds. Chief

Larson concurred and recommended discussing the language with Parks & Recreation Director Randy Lilje.

Public comment Mayor Smith called for public comment, none was received.

Motion Commissioner Cartwright moved approval for the Prescribed Burn Policy for Helena Open Space Lands, and authorized the City Manager to implement the policy and return with an amendment regarding weeds at a later time. Commissioner Throssell seconded the motion. All voted aye, motion carried.

Annexation- Golden Estates IV Subdivision CONSIDER A RESOLUTION OF ANNEXATION FOR 38.07 ACRES INTO THE CITY OF HELENA FOR PROPERTY GENERALLY LOCATED EAST OF MCHUGH LANE BETWEEN ROAD RUNNER DRIVE AND YUHAS AVENUE, AND TO ESTABLISH CONDITIONS FOR ANNEXATION; THE 64-FOOT WOLF ROAD RIGHT-OF-WAY AS SHOWN ON THE GOLDEN ESTATES IV SUBDIVISION PLAT; AND THE ADJACENT 100-FOOT DEDICATED RIGHT-OF-WAY OF MCHUGH LANE LOCATED BETWEEN THE NORTHERN SUBDIVISION BOUNDARY AND THE CITY LIMITS TO THE SOUTH.

Final Plat-Golden Estates IV Subdivision CONSIDER THE FINAL PLAT FOR GOLDEN ESTATES IV SUBDIVISION CREATING 115 RESIDENTIAL LOTS IN THE R-2 AND R-3 DISTRICTS; GENERALLY LOCATED EAST OF MCHUGH LANE BETWEEN ROAD RUNNER DRIVE AND YUHAS AVENUE.

Staff Report Planner Kathy Macefield reported on August 8, 2005 the Helena City Commission approved a resolution of intention to annex 38.07 acres into the City of Helena, subject to 4 conditions. Said property is located in the northeast ¼ of Section 18, T10N, R3W, Lewis and Clark County, and is legally described on the Personal Representative's Deed of Distribution recorded with the County Clerk of Recorder in Book M24 Page 1445; generally located east of McHugh Lane between Road Runner Drive and Yuhas Avenue. These conditions have been completed or financially guaranteed as part of the accompanying subdivision final plat.

This proposal is consistent with the 2001 Helena Growth Policy and Zoning Ordinance, is compatible with the surrounding land uses, and is a logical and contiguous extension of the city.

Ms. Macefield reported on August 8, 2005 the Helena City Commission gave preliminary plat approval to the Golden Estates IV Subdivision creating 22 duplex-style townhouse units in a R-3 (Medium Density Residential) District, and 93 single-family residential lots in a R-2 (Single-family Residential) District. The plat also includes one lot for the lift station (Lot L) and one lot for stormwater drainage (Lot D).

Ms. Macefield reported all of the conditions for preliminary plat approval have been satisfactorily completed or are financially guaranteed. The final plat will allow residential development on lots located adjacent to the city representing an efficient use of land and infrastructure.

Ms. Macefield recommended approval of the resolution of annexing a 38.07-acre tract of land in the NE ¼ of Section 18, T10, R3W, PMM, generally located east of McHugh Lane between Road Runner Drive and Yuhas Avenue, the adjacent 100-foot wide dedicated

right-of-way of McHugh Lane, and the 64-foot wide Wolf Road right-of-way, all in Lewis & Clark, into the City of Helena, Montana.

Ms. Macefield also recommended approval of the final plat for the Golden Estates IV Subdivision.

Commission comment

Commissioner Throssell asked what infrastructure is left to be installed and what is covered by the letter of credit? Planner Macefield explained there are some traffic control signs, street identification signs, and the bike path on east side of McHugh Lane that need installation. All of the water and sewer, curbs and gutters, the lift station and stormwater detention pond are installed. Commissioner Throssell asked if the 60-foot wide easement goes all the way to Montana Avenue? Ms. Macefield stated it does, part of the right-of-way is on the applicant's property and part is on the adjacent property owners. Commissioner Throssell asked if some sort of agreement/easement that is on record covers the part that is not on the applicant's property? Ms. Macefield stated she is aware of an agreement that is on record that covers easements on the property; however, she is not sure if that same easement includes this right-of-way. Ms. Macefield noted the applicant's engineer might be able to answer the question.

Mayor Smith asked if Wolf Road would be brought up to city standards between Montana Avenue and the applicant's property? Ms. Macefield explained when this process began Wolf Road was a 20-foot wide dirt road; it has since then been paved and water and sewer has been extended into it.

Public comment

Mayor Smith called for public comment.

Jeff Larson, Stahly Engineering, representing applicant, stated in regards to the extension of Wolf Road between the applicant's property and Montana Avenue, there is a 20-foot wide easement. The plan for widening Wolf Road is in place; however, it is dependent upon the development of Summit Park Subdivision. Mr. Larson stated he believes the Summit Park Subdivision will coming forward for Commission consideration.

Discussion

Commissioner Cartwright spoke of the original review of the subdivision, approximately two years ago, and stated at that time he expressed concerns with the length of the blocks, which are roughly 1000 foot long. Commissioner Cartwright spoke of connectivity within subdivisions and suggested the Commission might want to look at issues such as block length and how traffic flows within a subdivision and amend the appropriate ordinances. Commissioner Peura concurred with Commissioner Cartwright's comments and stated he would look forward to the changes in the ordinances that he recommended.

Motion

Commissioner Peura moved approval for a resolution of annexation 38.07-acre tract of land in the NE ¼ of Section 18, T10, R3W, PMM, generally located east of McHugh Lane between Road Runner Drive and Yuhas Avenue, the adjacent 100-foot wide dedicated right-of-way of McHugh Lane, and the 64-foot wide Wolf Road right-of-way, all in Lewis & Clark, into the city of Helena, Montana. Commissioner Oitzinger seconded the motion. All voted aye, motion carried. **Resolution #19521**

Motion Commissioner Peura moved approval for the final plat of the Golden Estates IV Subdivision. Commissioner Oitzinger seconded the motion. Motion carried 4-1 with Commissioner Cartwright voting no.

Discussion Mayor Smith asked what process would be used if the Commission wanted to make a modification to the block length. City Attorney Nielsen stated the subdivision regulations would be the place to put those type of standards.

Public Hearings PUBLIC HEARINGS:
A. CONSIDER FIRST PASSAGE OF AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP AND PRE-ZONING 25.6 ACRES OF UNDEVELOPED LAND TO A CLM (COMMERCIAL LIGHT MANUFACTURING) DISTRICT. PROPERTY IS GENERALLY LOCATED NORTH OF MEAGHER ROAD, SOUTH AND EAST OF YORK ROAD, AND EAST OF TOOLE DRIVE, WITH A PROPERTY ADDRESS OF 2093 YORK ROAD.

Staff Report City Planner Naren Garg reported on September 11, 2007 the Helena Zoning Commission recommended approval (3:2 vote) for an ordinance rezoning 25.6 acres to CLM (Commercial Light Manufacturing) District for property legally described as Tract 7-A, 25.60 acres on COS #3134390, Lewis and Clark County; generally located north of Meagher Road, south of York Road, east of Toole Drive with a with a property address of 2093 York Road. This property is undeveloped and the applicant is not requesting annexation at this time.

Planner Garg summarized the evaluation of this proposed prezone and how it relates to the City of Helena's Growth Policy and to the Montana zoning criteria. There was one letter of opposition received and a copy was attached to staff's memo.

Mr. Garg recommended approval of the ordinance as pre-zoning with the assumption of future annexation of subject property to a CLM District could help lessen congestion on the street by enabling orderly growth and promoting appropriate commercial and manufacturing uses along city and state arterial roads. The proposal is generally consistent with the character of development in the surrounding area, which has experienced an increase in commercial development. Additionally, pre-zoning allows the city to plan for orderly growth and development in the surrounding area.

Commission comment Commissioner Peura stated there is no plan for how the development is intended to look; however, do we know in advance where the primary truck traffic will go in order to access the property? Commissioner Peura commented he has concerns with the adjacent residential properties having truck traffic driving through it. Planner Garg explained when analyzing the pre-zone application, staff was not required to look at the actual project that is being proposed because at this time there is no annexation proposal. Staff primarily focused on the primary uses that could be in a CLM district. The property is in the county and could be developed to county standards. Commissioner Peura asked City Attorney Nielsen if the Commission approving a pre-zone would in any way create any presumption that an annexation application down the road would be approved? Attorney Nielsen stated no, there would be no commitment.

Commissioner Cartwright asked who currently provides fire protection for this area. Fire Chief Larson stated East Valley Rural Fire Department. Commissioner Cartwright referred to Commissioner Peura's concerns and noted they could be addressed at a later date, when annexation is proposed.

Public Testimony

Mayor Smith declared the public portion of the hearing open and called for any persons wishing to address the commission.

Lee Flasnck, 4094 Fox Ridge Drive, representing the applicant, BMC West. Mr. Flasnck gave an overview of BMC West's operations; it is a building materials supply company for professional contractors. BMC West wants to purchase the 25.60-acres for their own use and move their current business to the new location. Mr. Flasnck noted the proposal is to bring the trucks in on Hickman Road. He then spoke in support of the pre-zone application.

Mark Brooke, Morrison Maierle Engineering, 1 Engineering Place; gave an overview of the proposal and spoke in support of the pre-zone application. Mr. Brooke showed the location of Hickman Road and the connection to York Road. Mr. Brooke noted Helena Regional Airport Director Ron Mercer had submitted a letter of support for the proposal.

There being no further persons wishing to address the Commission, Mayor Smith closed the public hearing.

Discussion

Commissioner Cartwright asked Mr. Flasnck if BMC West looked at purchasing the property proposed for Sportsman's Warehouse? Mr. Flasnck explained it wasn't for sale at the time the project started. He added there are cost factors associated with purchasing 20 acres of CLM land; if it will be divided into smaller chunks more people can purchase it at its high cost because it is in smaller square footage amounts. Mayor Smith asked if BMC West is purchasing this property to relocate their existing location on Highway 12? Mr. Flasnck stated yes, and explained the applicant currently has three lots on a total of six acres; the property won't be difficult to re-fill.

Motion

Commissioner Peura moved approval of first passage of an ordinance pre-zoning to CLM (Commercial-Light Manufacturing) District, prior to annexation as described in Section 11-2-8 (D) of the Helena City Code, for 25.60 acres. Said property is legally described in the ordinance, with a property address of 2093 York Road.

Commissioner Oitzinger seconded the motion.

Comment

Commissioner Peura stated he would look forward to the applicant showing vehicle access, with concern for the low-density residential neighborhood in the area, on their future proposal.

Vote

All voted aye, motion carried. **Ordinance #3092**

B. CONSIDER EXPANSION OF THE CITY'S WASTEWATER SERVICE AREA BOUNDARY TO INCLUDE PROPERTY GENERALLY LOCATED NORTH OF CUSTER AVENUE AND WEST OF GREEN MEADOW DRIVE.

Staff Report

Community Development Director Sharon Haugen reported on the following tracts of land:

Woodlawn Park

The Woodlawn Park Addition is 40 acres in size and was created in 1890. There are 12 commercial establishments and 40 residences. The land uses include mainly commercial activities along Custer Avenue and for the first block north of Custer Avenue along Green Meadow Drive, with most of the interior area residential. The City of Helena owns a 2.53-acre area in the northwestern portion that will remain open space. There are a total of 350 lots within this subdivision. The residences and businesses are on individual wells and septic tanks

AGC Facility

The AGC Facility property is comprised of two lots (lots 47 and 48) in the Racetrack Meadows Subdivision west and north of the Fairgrounds. Beginning in 1971, the Facility has provided construction training for members of the Laborers International Union of North America. Currently, the facility has a caretaker's residence, an office building and men and women's dormitories. The facility is currently on an individual well and septic. The training facility would like to expand but has constraints due to inability to expand the septic system.

Lewis & Clark County has been working with city staff to facilitate the process of extending city services to the Woodlawn Dunbar/Fairgrounds/ AGC facility. City staff developed a petition for the Enlargement of the Water and Wastewater Service area and county staff provided the petition to all of the landowners in the affected area. Sixty percent of the landowners signed the petition. A copy of the petition and map is attached to this memo. Construction of the sewer system has started this fall. Construction of the water system will start next spring. Both projects will be completed next year.

Section 6-5-4 of the Helena City Code set out the requirements for consideration of the enlargement of the water and/or wastewater service area. The conditions in the agreement will govern any further subdivision of the property, will ensure that further development will be built to the appropriate standards and will guarantee that the new system being added to the wastewater system will be constructed to the appropriate standard and plumbing codes.

Director Haugen recommended approval of the extension as this proposal will allow the removal of old septic systems in areas adjacent to city limits. The conditions outlined in the agreement would prevent any further subdivision of the property without review and approval from the City Commission and will promote the orderly development of the area of the city. The expansion of the water and wastewater area will also facilitate the expansion of the Laborer's Training Facility.

Commission comment

Commissioner Throssell noted 60% of property owners have agreed to the extension of city services and asked what will happen to the opposing 40% regarding future annexation of the property? Director Haugen stated annexation could occur because this is a platted area, could occur by petition, or could occur through a vote. City staff has worked with the property owners and there is agreement that once more than 50% of the property owners agreed to the extension of services, the options for annexation would be reviewed. Manager Burton stated this is an annexation, by petition, for the entire area. Because a majority of the neighbors petitioned for annexation, it does include the entire geography, including the properties that did not sign the petition. Commissioner

Throssell expressed concern that there is a majority action so the city is legally able to annex the entire parcel regardless of the 40% that haven't signed on yet. Manager Burton confirmed that is correct and noted the city has also brought forward, and the Commission has approved, a development agreement for all of these properties, as the county finances the improvements, using an SID with the neighborhood, STAG, TSEP and CDBG funding. The development agreement is similar to large acre parcels outside of the city limits that have been allowed to hook up to city sewer and any future land use changes of the property would be under the purview of the Commission. Because a lot of this neighborhood is already developed, the Commission agreed to give them sewer and water and they will annex into the city within five years, or whenever they get sewer and water services, whichever is sooner. Commissioner Throssell asked if the AGC Facility is contiguous to the city? Director Haugen stated yes. Manager Burton added Lewis & Clark County has expressed the desire to annex the Fairgrounds into to the city, probably at the conclusion of construction of their new facilities.

Public Testimony

Mayor Smith declared the public portion of the hearing open and called for any persons wishing to address the Commission.

There being no persons wishing to address the Commission, Mayor Smith closed the public hearing.

Motion

Commissioner Throssell moved approval for the extension of the City of Helena wastewater service area to include Blocks 1 through 8 of the Woodlawn Park Addition and Parcel D as shown on Certificate of Survey No. 447163/0 Lewis and Clark County, Montana; and Lots 47 and 48 of the Race Tract Meadows Subdivision as shown on Certificate of Survey No 262334 in accordance with City Ordinance. Commissioner Peura seconded the motion.

Comment

Commissioner Throssell stated this is somewhat analogous to the situation with the Jefferson County property and spoke in support of these types of properties being on city wastewater.

Vote

All voted aye, motion carried.

C. CONSIDER A RESOLUTION GRANTING A CONDITIONAL USE PERMIT (CUP) TO ALLOW CUSTER LANDING SHOPPING CENTER, A PLANNED UNIT SHOPPING CENTER, IN A B-2 (GENERAL COMMERCIAL) DISTRICT BEING GENERALLY LOCATED SOUTH OF CUSTER AVENUE AND WEST OF I-15.

Staff Report

City Planner Lucy Morell-Gengler reported On June 4, 2007, the Helena City Commission gave conditional preliminary plat approval for the Custer Landing major subdivision creating 8 commercial lots from 14.87 acres. Many of the impacts related to development of the property were evaluated at that time.

The property is currently being developed with commercial uses consistent with the existing B-2 zoning. The applicant is requesting a Conditional Use Permit (CUP) so that further development of the property would be in a more unified manner with shared access, parking, landscaping and signage.

On September 11, 2007 the Helena Zoning Commission held a public hearing and unanimously recommended conditional approval (5:0 vote) for the adoption of a resolution granting a CUP to allow for the Custer Landing Shopping Center in a B-2 (General Commercial) District subject to the conditions in the staff report as amended, for property legally described as Tract 9A on COS #606660/B, Helena, Montana; generally located south of Custer Avenue and west of I-15.

Ms. Morell-Gengler recommended approval of the CUP as it is consistent with the 2001 Helena Growth Policy and Zoning Ordinance, and is compatible with the land uses in the area. The proposed shopping center would provide for infill development consistent with current B-2 zoning.

Commission comment Commissioner Throssell stated this development has been before the Commission before, the Board of Adjustment related to signage, and now the applicant is applying for a CUP, which should've been done from the beginning. He asked if there is a way within city regulations to encourage this sort of decision early on in the process rather than dealing with a series of piecemeal decisions on a development? Ms. Morell-Gengler noted a CUP is site specific; sometimes a developer hasn't fine-tuned the site plan. If they come forward for a CUP before the site plan is at least relatively known, then changes to the CUP would need to come back before the Zoning Commission and City Commission for consideration. In order to try to reduce site plan reviews and staff time, staff encourages applicants to apply for the CUP when they are certain of what their site plan will be. Manager Burton commented Commissioner Throssell has brought up a good point. The difficulty is that the Commission makes subdivision and zoning decisions and then the developer hits the private market. The purchaser may want a ten-acre parcel and the subdivision is designed with five-acre parcels; the private market would require the developer to re-engage the Commission. Staff does everything they can to pay attention to these kinds of issues upfront; however, staff must respond to private market issues.

Public Testimony Mayor Smith declared the public portion of the hearing open and called for any persons wishing to address the Commission.

Brandon Whalen, Hawkins Companies, 88645 West Franklin Road, Boise, Idaho; thanked staff for their work on the project. He spoke in support of the CUP and gave the history of the development's signage.

There being no persons wishing to address the Commission, Mayor Smith closed the public hearing.

Discussion Commissioner Peura asked if there would be just one pylon sign at the intersection of Sanders Street and Custer Avenue? Mr. Whalen stated yes and explained the signage plan.

Motion **Commissioner Peura moved approval for a resolution granting a Conditional Use Permit (CUP) to allow Custer Landing Shopping Center in a B-2 (General Commercial) District for property legally described in the staff report and subject to the conditions in the transmittal memo to the City Commission.** Commissioner Oitzinger seconded the motion. All voted aye, motion carried.
Resolution #19522

***Public
Communications***

PUBLIC COMMUNICATIONS

No communications were given.

***Meetings of
Interest***

MEETINGS OF INTEREST

The next Administrative Meeting is Wednesday, October 24, 2007 and the next Commission Meeting is Monday, October 29, 2007.

Commissioner Peura announced Roger Brooks would be presenting his findings on public input towards Helena's branding on Tuesday, October 16, 2007 at 9:00am at St. Peter's Hospital. Commissioner Cartwright noted mail ballots would be mailed out on Friday, October 19, 2007. Commissioner Oitzinger reviewed the HCC District Meeting schedule.

Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 8:16 p.m.

Mayor James E. Smith

ATTEST:

Clerk of the Commission