

**CITY OF HELENA
REGULAR CITY COMMISSION MEETING
August 14, 2006
6:00 P.M.**

Time & Place

A regular City Commission meeting was held on Monday, August 14, 2006 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 Matthew Cohn 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 July 31, 2006 were approved as submitted.

Appointments

APPOINTMENTS:

A. City/County Planning Board

Mayor Smith asked for Commission concurrence on the following appointments:

City/County Planning Board – Appointment of Marshall Gingery and reappointment of Fran Penner-Ray.

Public comment

Mayor Smith called for public comment, none was received.

Motion

Commissioner Oitzinger moved approval of the board appointments to the City/County Planning Board. Commissioner Cartwright seconded the motion. All voted aye, motion carried.

Consent Agenda

CONSENT AGENDA:

- A. Claims
- B. Acceptance of a \$7,000 Montana Fish, Wildlife, and Parks 'Living With Wildlife' grant
- C. State Bid for Police Pursuit Vehicles
- D. Rocky Mountain Development Council Head Start Bus Service Memorandum of Understanding

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 D on the consent agenda. Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

Bid Award

BID AWARD:

A. Smith School Sidewalks, Project No. 05-03

Staff Report

City Engineer Ryan Leland reported Smith School currently only has sidewalks in front of the school adjacent to the parking lot. There are no sidewalks leading to the school or on California Street. The School District, concerned parents, and city staff have been engaged in determining better and safer access for children who walk to school at Smith Elementary. All agree that better pedestrian access to California Street and improved visibility at crosswalks is essential for the safety of children walking to school.

In April of 2004, the City Commission approved the Smith School CTEP Project with the School District providing the match. The project was advertised and bids were opened on April 25, 2006. Rod Tabbert Construction of Helena submitted the low bid of \$42,601.25.

Mr. Leland recommended the base bid be awarded to the lowest responsible bidder, Rod Tabbert Construction.

Commission comment

Commissioner Oitzinger asked if there would be any bicycle/vehicle conflicts due to the decrease in road width from bulb-outs included in the sidewalks? Mr. Leland stated the bulb-outs would be the same width as a vehicle parked on the street; bicyclists will have to ride as close to vehicle traffic as they would when going around a parked car.

Public comment

Mayor Smith asked for public comment, none was received.

Motion

Commissioner Cartwright moved to award the base bid for the Smith School sidewalks, Project No. 05-03 to Rod Tabbert Construction for \$42,601.25. Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

Communications

COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS

Commissioner Throssell spoke of attending his first Pre-release Screening Committee and Civic Center Board meetings.

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. Certificate of Achievement for Excellence in Financial Reporting (CAFR) for Fiscal Year Ending June 30, 2005

City Manager Burton reported the City of Helena has received their 18th consecutive Certificate of Achievement for Excellence in Financial Reporting (CAFR) for Fiscal Year Ending June 30, 2005. City Manager Burton, Mayor Smith, and the Commission members commended City Controller Glenn Jorgenson and Accounting Supervisor Brandi Pierson for their work on the budget.

B. Urban Wildlife Task Force (UWTF) update

HCC and UWTF member Matthew Cohn gave a power point presentation outlining the UWTF's progress. Commissioner Oitzinger praised the task force members for their work ethic and thanked the community for the large amount of public comment the task force has

received. Mayor Smith commended the task force members for their work.

C. 24" Yaw Yaw Water Main Replacement project change order

City Manager Burton asked City Engineer Ryan Leland to report on the Yaw Yaw Water Main Replacement project change order asked for Commission approval nunc pro tunc.

Mr. Leland reported the Commission awarded Helena Sand & Gravel Inc. of Helena the 24" Yaw Yaw Water Main Replacement project (City Project No. 06-2) on April 24th, 2006 for a contract amount of \$129,956.50. The City's budget for the project was \$253,000. During the construction of the project two change orders were approved by the Public Works Department: one in the amount of \$6,550 for a vertical adjustment that was a result of the existing piping being buried more shallow than what was on the as-built drawing; the second change order was in the amount of \$10,230 for the replacement of an air relief vault that was not working properly. Along with the second change order there was a deduct change order of \$2,700, so the net total for the second change order was \$7,530. The total of both change orders was \$14,080. Then, during the pay request for the project, City staff discovered that the total of both change orders exceeded the 10% limit set by ordinance, which states "The city manager or his designated representative may approve contract modifications through change orders without first obtaining city commission approval in the following circumstances:.... c. If the change order is necessitated by conditions, emergencies, or circumstances unforeseen at the time of the contract award, the amount of the change order, together with all other change orders on that project, does not exceed ten percent (10%) of the amount of the contract, and the change does not substantially alter the original design or the project scope." The change orders come to 10.8% of the original contract. Please see the budget worksheet. The total cost of the project with the change orders will be \$142,570, which is \$110,430 under budget. The only remaining item to complete in the project is the seeding.

Mr. Leland requested retroactive Commission approval to exceed the city's change order ordinance for the air relief vault change order in the amount of \$10,230 for this project and noted approval would clean-up the bookkeeping for the project.

Commission comment

Commissioner Peura asked for confirmation that the project is completed with the exception of seeding. Mr. Leland concurred. Commissioner Cartwright referred to a valve problem and asked if taking care of customers whose service was disrupted resulted in increased costs? Mr. Leland replied no; those costs were covered by the original contract.

Motion

Commissioner Oitzinger moved approval of the air relief vault change order for the 24" Yaw Yaw Water Main Replacement Project in the amount of \$10,230. Commissioner Peura seconded the motion. All voted aye, motion carried.

Report from the Helena Citizens Council

REPORT FROM THE HELENA CITIZENS COUNCIL

HCC member Matt Cohn reported the HCC has four vacancies. The "HCC City-wide Cleanup Day" projects will be announced at the August 23, 2006 meeting.

ROW Vacation

CONSIDER A RESOLUTION OF INTENTION TO VACATE A PORTION OF THE DONALDSON STREET RIGHT-OF-WAY ADJACENT TO LOT 1 OF BLOCK 71 IN THE ORIGINAL HELENA TOWNSITE; GENERALLY LOCATED EAST OF REEDERS VILLAGE DRIVE.

Staff Report

Mr. Leland reported William Harper has applied to vacate 35' of the Donaldson Street right-of-way (ROW) adjacent to Lot 1 of Block 71 in the Original Helena Townsite. Donaldson Street is a platted but undeveloped street in the Harrison Street Development.

There are no utilities in the proposed vacated portion of the ROW. The Donaldson Street ROW dead-ends at the eastern boundary of the Reeders Village Subdivision. The rest of the ROW will remain as ROW for use as a pedestrian trail, conveyance of storm water and for a water main, which has already been installed in this portion of the ROW. The square footage to be vacated is approximately 2450 square feet with a calculated fee of approximately \$1,225.

Mr. Leland recommended approval of the ROW vacation, as it would allow for the use of unusable ROW.

Commission comment

Commissioner Cartwright expressed concern that the fee for the vacation is too low. Mr. Leland stated the fee is calculated per city ordinance, using the Department of Revenue's taxable value for the property. This particular lot's value is \$.50 per square foot. Commissioner Cartwright asked if the property could be put out for bid? City Attorney Nielsen stated no and explained right-of-way can either be kept as public right-of-way or vacated and reverted back to the adjacent property. Commissioner Cartwright commented the owners will sell the entire lot and receive more than \$.50 per square foot for the right-of-way.

Public comment

Mayor Smith called for public comment, none was received.

Motion

Commissioner Peura moved approval for a resolution of intention to vacate a portion of Donaldson Street ROW and set a public hearing date for August 28, 2006. Commissioner Oitzinger seconded the motion. All voted aye, motion carried. **Resolution #19390**

Alley Vacation

CONSIDER A RESOLUTION OF INTENTION TO VACATE ALLEY RIGHT-OF-WAY SITUATED WEST OF LOT 7 IN BLOCK 45 OF THE LENOX ADDITION; GENERALLY LOCATED AT 1722 WINNE AVENUE.

Staff Report

Mr. Leland reported when the Lenox Addition was created, the plat filed on May 13, 1890, showed a sliver of land running north and south, located between the western-most lots and the western boundary of the Addition. This sliver of land is 6.7 feet in width, 125 feet in length, and from the plat appears to have been intended to be half the width of an alley. The Corbin Addition, which is west of the Lenox Addition, was created subsequently by a plat filed on May 25, 1890. The Corbin Addition's eastern-most lots abut the west boundary of the Lenox Addition, and the plat of the Corbin Addition did not provide for additional right-of-way width to complete the Lenox Addition alley. Oliver G. Lundborg owned Lots 7 and 8 in Block 45 of the Lenox Addition and the east ½ of Lot 11 in Block 37 of the Corbin Addition. The 6.7-foot wide half-width alley is located between Lot 7 in the Lenox Addition and Lot 11 in the Corbin Addition. A house was constructed on the Lenox lots in

1956 and was addressed as 1722 Winne. A large addition was added to the home in 1987 on part of the Corbin lot. The Montana Department of Revenue assigned a separate property identification number to the half-width alley and has been assessing it for property taxes. Mr. Lundborg and his successors in title have paid ad valorem taxes and city assessments on the half-width alley as part of the lots comprising the 1722 Winne residence. Mr. Lundborg died recently and the current owners of the property desire to clear up title to the half-width alley. In reviewing the 1890 plats, we believe the 6.7-foot wide sliver might have been intended to be dedicated as half of an alley. Because of its small width and the fact that it runs through the middle of the residential structure at 1722 Winne, the right-of-way has not and cannot be used for public access or placement of utility lines. It has no value to the public as right-of-way. For vacation of right-of-way, the City charges a transfer fee under §7-1-7(C), MCA, that is equal to the Department of Revenue area market value of the adjacent property.

Since the city has never recognized the right-of-way as such, and since property taxes have been paid on it, though it is exempt from taxation, it would be fair to waive the transfer fee set by §7-1-7(C) of the Helena City Code. As part of the vacation requirements, the applicants will have an amended plat prepared that incorporates the right-of-way into the adjacent lots. This will clean up the title defect for the 1722 Winne property and provide an accurate property description for future tax assessments.

Mr. Leland recommended approval of the alley vacation and noted this vacation will clean up the legal title and allow for the continued use of the alley right-of-way as a portion of the residential lots for the residence at 1722 Winne Avenue. The vacation of the right-of-way and waiver of fee maintains the status quo use and tax assessment of the property.

Commission comment

Commissioner Cartwright asked if other properties in the area have the same problem? Mr. Leland stated he anticipates the same problem is affecting additional properties; staff will bring those vacations forward for Commission consideration in the future.

Public comment

Mayor Smith called for public comment, none was received.

Motion

Commissioner Cartwright moved approval for a resolution of intention to vacate the alley right-of-way situated west of Lot 7 in Block 45 of the Lenox Addition, and set a public hearing for September 11, 2006. Commissioner Oitzinger seconded the motion. All voted aye, motion carried. **Resolution #19391**

SLD No. 213

CONSIDER A RESOLUTION OF INTENTION TO CREATE SPECIAL IMPROVEMENT LIGHTING DISTRICT NO. 213 ALONG THE STREETS AND AVENUES IN PARTS OF THE OVERLOOK ESTATES SUBDIVISION.

Staff Report

Accounting Supervisor Brandi Pierson reported a petition has been signed and filed by Norbert Waldenmeyer requesting a light district be created in the Overlook Estates subdivision. The proposed facilities will consist of 18 units, with underground wiring, fiberglass or metal poles for 14-foot mounting heights, and glass enclosed cut-off luminaries with 100-watt high-pressure sodium vapor lamps.

The estimated cost of maintenance, electrical energy, and administration for the first year is \$9,418 with the estimated cost being \$.01263 per square foot of property owned, said amount to be paid by the property owners. This amount includes an additional assessment to be charged by the City to establish a cash reserve and recover any costs of the district incurred prior to receipt of the first assessments. Thereafter, the annual assessment will be approximately one-half of the first year's assessment.

Ms. Pierson recommended passage of the resolution of intention and stated with the creation of Special Improvement Lighting District No. 213, 18 lights will be installed in the Overlook Estates Subdivision.

Commission comment

Commissioner Cartwright asked if the fixtures would be a modern or historic design? Ms. Pierson stated she was unsure of the exact style, but noted the fixtures would be in compliance with the city's dark sky ordinance. Commissioner Cartwright expressed his concern that historical style fixtures are exempt from the dark sky ordinance. He asked for confirmation that Northwestern Energy sets the list of approved lighting fixtures. Ms. Pierson concurred. Commissioner Cartwright asked that staff work with Northwestern Energy to form a list of fixtures that are both historically correct and comply with Helena's dark skies ordinance.

Public comment

Mayor Smith called for public comment, none was received.

Motion

Commissioner Cartwright moved approval of the resolution of intention to create Special Improvement Lighting District No. 213 and set a public hearing for September 11, 2006. Commissioner Oitzinger seconded the motion.

Discussion

Mayor Smith asked Commissioner Cartwright how historical lighting is defined in the ordinance. Commissioner Cartwright stated the fixture must be manufactured prior to 1950 or modeled after fixtures made before 1950. City Manager Burton stated the dark sky ordinance is slated for review and will be placed on an upcoming Administrative Meeting agenda for discussion. Commissioner Oitzinger concurred with Commissioner Cartwright regarding seeking historical light fixtures that comply with the ordinance.

Vote

All voted aye, motion carried. **Resolution #19392**

SLD No. 214

CONSIDER A RESOLUTION OF INTENTION TO CREATE SPECIAL IMPROVEMENT LIGHTING DISTRICT NO. 214 ALONG THE STREETS AND AVENUES IN PARTS OF THE NORTHGATE MEADOWS SUBDIVISION.

Staff Report

Accounting Supervisor Brandi Pierson reported a petition has been signed and filed by Jerry Hamlin requesting a light district be created in the Northgate Meadows subdivision. The proposed facilities will consist of 24 units, with underground wiring, fiberglass or metal poles for 16-foot mounting heights, and glass enclosed cut-off luminaries with 100-watt high-pressure sodium vapor lamps.

The estimated cost of maintenance, electrical energy, and administration for the first year is \$7,618 with the estimated cost being \$.00935 per square foot of property owned, said amount to be paid by

the property owners. This amount includes an additional assessment to be charged by the city to establish a cash reserve and recover any costs of the district incurred prior to receipt of the first assessments. Thereafter, the annual assessment will be approximately one-half of the first year's assessment.

Ms. Pierson recommended passage of the resolution of intention as approval of the creation of Special Improvement Lighting District No. 214, will provide for 24 lights to be installed in the Northgate Meadows Subdivision. Ms. Pierson noted City Engineer Leland had stated the proposed fixtures for both of tonight's SLD's are the same as on the 300 and 400 blocks of Last Chance Gulch.

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

Motion Commissioner Peura moved approval of the Resolution of Intention to create Special Improvement Lighting District No. 214 and set a public hearing for September 11, 2006. Commissioner Cartwright seconded the motion. All voted aye, motion carried.
Resolution #19393

Project Cooperation Agreement CONSIDER A PROJECT COOPERATION AGREEMENT FOR DESIGN AND CONSTRUCTION ASSISTANCE FOR THE CLEARWELL AND PUMPING STATION PROJECT (MISSOURI RIVER WATER TREATMENT PLANT).

Staff Report Assistant Public Works Director Phil Hauck reported the City of Helena has been pursuing additional funding under the Water Resources Development Act of 1999 (Public Law 106-53) in an amount of \$261,250. The city signed a similar agreement in June 2003 to accept a \$650,000 grant for the filter project at the Missouri River Treatment Plant. This project cooperation agreement with the Department of the Army would allow the city of Helena the opportunity for additional funding for the Clearwell/Pumping Station project currently included in the FY07 budget. Mr. Hauck recommended utilizing Federal Water Resource Grant funds to lower city costs for the Clearwell/Pumping Station project. The grant is 75% federal share, 25% local match.

Commission comment Commissioner Peura asked if the city were able to provide more funding would it result in a larger grant award? Assistant Director Hauck stated no, and explained the grant award is based on the amount of funding the Department of the Army (DOA) has available. To qualify for the funding, the DOA looks at the city's accomplishments and ability to get projects done. City Manager Burton concurred with Assistant Director Hauck and commented on the city's performance being the reason for the award.

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

Motion Commissioner Cartwright moved approval to authorize the City Manager to sign the project cooperation agreement with the Department of the Army. Commissioner Peura seconded the motion. All voted aye, motion carried.

Public Hearings

PUBLIC HEARINGS:

A. CONSIDER A RESOLUTION TO VACATE THE ALLEY RIGHT-OF-WAY (ROW) IN BLOCK 4 OF THE BEATTIE ADDITION, BETWEEN 11TH AND 12TH AVENUES.

Staff Report

City Engineer Leland reported Utick Development has applied to vacate the alley ROW in Block 4 of the Beattie Addition between 11th and 12th Avenues. The property is the proposed site for the new WalGreens development.

There are no city owned utilities in the alley; however, there are several other utilities in the alley that will have to be relocated, as a condition of the vacation, prior to filing the amended plat. In lieu of the applicant paying the established fee, the applicant will donate land for ROW adjacent to Montana Avenue and will donate a section of the corner of Montana and 11th Avenue. Acquiring this additional ROW will allow the future construction of a right turn lane and softening the corner on Montana to 11th. Both of these items have been identified as traffic problems.

The fee for the vacation, as set by ordinance, using the Department of Revenue (DOR) taxable value is \$27,451. The credit for the dedicated ROW, using the same DOR values, is \$20,906. The net value of the fee for the vacation and credit for the dedication is \$6,545 owed to the City of Helena, and the applicant has agreed to pay the difference.

Mr. Leland recommended approval of the alley vacation as it will allow for the development of a new WalGreens store and provide enough ROW to allow for a right turn lane off Montana to 11th.

City Manager Burton gave the history of the proposal and spoke about the property valuation process. He noted the Montana Avenue ROW would be turned over the Montana Department of Transportation, as they own the street. Also, staff chose the DOR valuation process because it is more compliant with city ordinance.

Commission comment

Commissioner Peura asked if the applicant provided an equal land trade, would the additional property be usable or non-usable land? City Manager Burton indicated it would be excess land of no use.

Commissioner Throssell asked if widening 11th Avenue was considered? Mr. Leland stated no, because during completion of the Greater Helena Area Transportation Plan, it was decided that 11th Avenue is wide enough to provide the carrying capacity needed in the area.

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 Cartwright moved approval for a resolution to vacate the alley ROW in Block 4 of the Beattie Addition between 11th and 12th Avenues. Commissioner Oitzinger seconded the motion.

Comment

Commissioner Cartwright commented he is comfortable with the valuation mechanism and land trade related to this proposal and added HCC member Larry Mitchell initiated the concern for the previously proposed property valuations. Commissioner Peura concurred with

Commissioner Cartwright and commended staff for their diligence on the proposal.

Vote

All voted aye, motion carried. **Resolution#19394**

B. CONSIDER A RESOLUTION TO INCREASE WASTEWATER RATES FOR ALL CUSTOMERS.

C. CONSIDER A RESOLUTION TO INCREASE WATER RATES FOR ALL CUSTOMERS.

Administrative Services Director Tim Magee reported each year the City Commission may adjust the wastewater and water rates. The required legal notices were published in the IR and mailed with July statements this week.

The Resolution of Commission Intent for FY2007 Annual Budget calls for Funding of Essential Services, including:

- Providing annual funding of regularly recurring Comprehensive Capital Improvement Program (CCIP) components;
- Annually reviewing rates to:
 - Ensure adequate funding of operations, maintenance, and debt;
 - Address capital project priorities;
 - Provide for part or all of the impact of inflation; and
 - Make incremental rate changes that are regular and predictable for citizens.

The wastewater and water rates include recommended rate increases as a result of the City Commission's CCIP review. Wastewater rates have remained the same since July 1999 and the water rates were last increased November 2004.

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 Peura moved approval for a resolution increasing wastewater rates up to 4.65% effective November 1, 2006. Motion died for lack of a second.

Motion

Commissioner Oitzinger moved approval for a resolution increasing wastewater rates up to 3.4% effective November 1, 2006. Commissioner Throssell seconded the motion.

Discussion

Commissioner Cartwright commended Commissioner Peura's proposal to increase rates higher than inflation to provide funding for capital projects; but indicated he would only support the lower inflationary increase at this time. Commissioner Peura spoke in support of funding the CCIP through larger rate increases. Mayor Smith suggested the percentage of funding the Commission desires to provide for the capital replacement program be included in the FY2008 Resolution of Commission Intent.

Vote All voted aye, motion carried. **Resolution #19395**

Motion **Commissioner Oitzinger moved approval for a resolution increasing water rates up to 3.4% effective November 1, 2006.**

Commissioner Throssell seconded the motion. All voted aye, motion carried. **Resolution #19396**

D. CONSIDER FIRST PASSAGE OF AN ORDINANCE AMENDING CITY OF HELENA ORDINANCE NO. 2359 AND AMENDING THE OFFICIAL ZONING MAP THEREOF FROM R-2 (SINGLE-FAMILY RESIDENTIAL) DISTRICT TO R-3 (MEDIUM DENSITY RESIDENTIAL) DISTRICT FOR PROPERTY LEGALLY DESCRIBED AS LOTS 15-17 IN BLOCK 29 OF THE CORBIN ADDITION TO THE CITY OF HELENA, MONTANA; WITH A PROPERTY ADDRESS OF 1221 E. BROADWAY.

Staff Report

City Planner Lucy Morell-Gengler reported On July 11, 2006 the Helena Zoning Commission unanimously recommended approval (3:0 vote) for the adoption of an Ordinance for a zone change from R-2 (Single-Family Residential) District to R-3 (Medium Density Residential) District for property legally described as Lots 15-17, Block 29 of the Corbin Addition, Helena, Montana, with a property address of 1221 E. Broadway.

Ms. Morell-Gengler recommended approval of the zone change and noted the proposal is consistent with the 2001 Helena Growth Policy and Zoning Ordinance, and is compatible with the land uses in the area. It is anticipated expanding the R-3 District to incorporate this property will help facilitate the provision of diverse housing in the Helena community.

Commission comment

Commissioner Throssell asked if the applicant would be required to follow up on obtaining access through Broadway Court? Ms. Morell-Gengler explained zone changes do not permit conditions to be associated with those zone changes, so the alley could still be used.

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 Peura moved approval for first passage of an Ordinance for a zone change from R-2 (Single-Family Residential) District to R-3 (Medium Density Residential) District for property legally described in the ordinance.** Commissioner Oitzinger seconded the motion.

Comment

Commissioner Peura commented increasing density would be better for the area and is in the best interest of the neighborhood and city. Commissioner Cartwright asked if access would be reviewed if the applicant were to move the existing building and replace it with a tri-plex? Ms. Morell-Gengler stated access would be reviewed with the building permit and noted direct access is possible with changes to landscaping.

Vote All voted aye, motion carried. **Ordinance #3061**

E. CONSIDER A RESOLUTION GRANTING A CONDITIONAL USE PERMIT (CUP) TO ALLOW 3 RESIDENTIAL UNITS IN AN EXISTING BUILDING LOCATED IN THE R-2 (SINGLE-FAMILY RESIDENTIAL) DISTRICT FOR PROPERTY LEGALLY DESCRIBED AS LOT 7 AND A TRACT ADJOINING LOT 7 BLOCK 607, HOBACK AND CANNON ADDITION, TO THE CITY OF HELENA WITH A PROPERTY ADDRESS OF 703 11TH AVENUE.

Staff Report

City Planner Kathy Macefield reported On July 11, 2006 the Helena Zoning Commission unanimously (3:0 vote) recommended approval for a resolution granting a Conditional Use Permit (CUP) to allow 3 residential units in an existing building located in the R-2 (Single-Family Residential) District for property legally described as Lot 7 and a tract of land adjoining Lot 7, Block 607, Hoback and Cannon Addition, Helena Townsite, Helena, Montana; generally located south of Broadway and east of Davis Street with a property address of 703 11th Avenue.

This approval is subject to the following condition:

The required onsite parking must be installed by October 1, 2006.

The Zoning Commission unanimously recommended approval for 2 variances from the Helena Zoning Ordinance: 1) from Section 11-5-3 to allow the 3 dwelling units to be located on property that does not contain 7,000 square feet of lot area per residence in the R-2 District; and 2) from Section 11-5-4 to allow a residence with less than 1,000 square feet of floor area in its living quarters.

The Zoning Commission also unanimously recommended denial for a variance from Section 11-22-11-A of the Helena Zoning Ordinance to allow up to half of the required onsite parking spaces for a residential use to be located on the street adjacent to the property. This variance had originally been related to the platoon parking which is common in residential areas and an accepted practice, so a variance would not be necessary.

Approval of the resolution granting a Conditional Use Permit (CUP) would allow 3 residential units in an existing building located at 703 11th Avenue in the R-2 (Single-Family Residential) District. The building was constructed prior to 1935 and contains more than 3,500 square feet (with a heated floor area of 3,682 square feet). The property contains 7,750 square feet; 6 parking spaces are proposed behind the building, including 2 "platoon" spaces. The apartments are currently located in the building, which was the case when the applicant purchased the property in 2002.

Ms. Macefield recommended approval of the proposed CUP and noted the proposal represents infill development, and efficient use of energy, infrastructure and resources. This proposal is consistent with the 2001 Helena Growth Policy and Zoning Ordinance, and is compatible with the surrounding land uses.

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.

Motions

Commissioner Cartwright moved approval for a resolution granting a Conditional Use Permit (CUP) to allow 3 residential units in an existing building located in the R-2 (Single-Family Residential) District for property legally described as Lot 7 and a tract of land adjoining Lot 7, Block 607, Hoback and Cannon Addition, Helena Townsite, Helena, Montana (Book M27, Page 1250); generally located south of Broadway and east of Davis Street with a property address of 703 11th Avenue. This approval is subject to the following condition: The required onsite parking must be installed by October 1, 2006. Commissioner Oitzinger seconded the motion. All voted aye, motion carried. **Resolution #19397**

Commissioner Oitzinger moved approval for a variance from Section 11-5-3 to allow the 3 dwelling units to be located on property that does not contain 7,000 square feet of lot area per residence in the R-2 District. Commissioner Cartwright seconded the motion. All voted aye, motion carried.

Commission comment

Discussion was held on square footage requirements for residences in different residential zoning districts.

Commissioner Oitzinger moved approval for a variance from Section 11-5-4 to allow a residence with less than 1,000 square feet of floor area in its living quarters. Commissioner Cartwright seconded the motion. All voted aye, motion carried.

Public Communications

PUBLIC COMMUNICATIONS

Meetings of Interest

MEETINGS OF INTEREST

The next Administrative Meeting is Wednesday, August 23, 2006 and the next Commission Meeting is Monday, August 28, 2006. Mayor Smith encouraged citizens to attend the upcoming First Special Service Force Reunion events and Western Rendezvous of Art.

Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 8:00p.m.

Mayor James E. Smith

ATTEST:

Clerk of the Commission