

CITY OF HELENA
REGULAR CITY COMMISSION MEETING
January 13, 2003
6:00 P.M.

- Time & Place** A regular City Commission meeting was held on Monday, January 13, 2003, 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 Oitzinger, Netschert, Pouliot, Parriman were present. City Manager Tim Burton, City Attorney David Nielsen and Deputy City Clerk Jacki Pierson were present. The HCC member present was Jerry Hutch.
- 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 December 16, 2002 were approved as submitted.
- Consent Agenda** CONSENT AGENDA:
A. Claims

City Manager Tim Burton recommended approval of the claims.
- Motion** **Commissioner Netschert moved approval of item A on the consent agenda.** Commissioner Parriman seconded the motion. All voted aye, motion carried.
- Bid Award** BID AWARD
A. State Contract/Bus - Helena Dial-A-Ride
B. Front Loader - Solid Waste Division
- Staff Report** A. Fleet Superintendent Ed Robinson reported the State of Montana Department of Transportation has bid a new bus for the Helena Dial-A-Ride bus system under the Section 5311 Capital Replacement Program. Helena Dial-A-Ride programs the replacement of a new bus each year. The total cost of the new bus is \$57,700.00. The City's 20% matching share is \$10,540.00. The budget allocation for this acquisition is \$10,700.00.
Mr. Robinson recommended approval of the 5311 Capital Contract #03-50-0016 for the purchase of the new Dial-A-Ride bus to replace unit #605 which will be sold at the State auction in the fall.
- Motion** **Commissioner Pouliot moved to authorize the City Manager to sign the Section 5311 Contract for the purchase of the new Dial-A-Ride bus for an amount not to exceed \$10,540.00.** Commissioner Parriman seconded the motion. All voted aye, motion carried.
- Staff Report** B. Fleet Manager Ed Robinson reported bids were received for a new Front Loader for replacement and trade of unit #207. The low bid was from Western Plains. A summary of the bids is attached. Western Plains bid a 2003 Case Model 821C at price of \$94,490.19 after trade. The FY03 Budget appropriation for this unit is \$191,500.00.

Mr. Robinson recommended the purchase of the new Front Loader from

Western Plains at the bid price of \$94,490.19 for the replacement of unit #207 which will be submitted for trade to Western Plains.

Discussion Mayor Smith asked if there was trade-in value on the older unit? Mr. Robinson concurred.

Motion **Commissioner Parriman moved to accept the bid from Western Plains for a new Front Loader for the bid price of \$94,490.19.** Commissioner Oitzinger seconded the motion. All voted aye, motion carried

Communications COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS
Commissioner Oitzinger wanted to comment on the Youth Advisory attendance. She stated this week is semester tests and assured the commission that the attendances will pickup after the schedule slow downs at school.
Mayor Smith commented on a letter he proposed to send off to Senator Conrad Burns regarding funding and rehabilitation proposal for Eagles Manor. Mayor Smith asked the commission to recall the approval of a Home grant and a CDBG grant to upgrade the Eagles Manor facility. An email sent to the commission by City Clerk Debbie Havens stated there is some federal technical corrective language that would help the Eagles Manor if it were enacted into federal law. Mayor Smith asked for objections and if there were none he would go ahead and send the letter out. There were no objections.

Report of the City Attorney REPORT OF THE CITY ATTORNEY
City Attorney David Nielsen had nothing to report.

Report of the City Manager REPORT OF THE CITY MANAGER
City Manager Tim Burton wanted to let the commission know he will be out of the office Wednesday and Thursday. He will be in training with the 5th Army on homeland security issues with county and state employees and City Attorney David Nielsen will be acting city manager during that time.

Lease Agreement CONSIDER AN AGREEMENT TO LEASE A 1976 SUTPHEN 85' AERIAL TOWER FIRE TRUCK

Staff Report Fire Chief Steve Larson reported the 1976 Sutphen has been replaced with a 100' American LaFrance. The 1976 Surphen is currently sitting in reserve at Station 1. Mr. Larson stated the city proposed developing a zero-dollar lease with the West Helena Valley Volunteer Fire District.
Mr. Larson recommended the City Commission allow City Manager Tim Burton to enter into a zero-dollar lease with West Helena Valley Volunteer Fire Department.

Discussion Commissioner Pouliot asked why the City of Helena wouldn't gift the 1976 Sutphen to the West Helena Valley Volunteer Fire District? City Attorney David Nielsen stated by having a lease agreement the city would retain ownership so that if the vehicle does become inoperative then the city could go through a property disposal. Mr. Nielsen stated it is possible to gift the vehicle to another entity; however, it becomes more complicated because the property still holds value.

City Manager Tim Burton stated it's a good way to formalize the ongoing partnership between the West Valley Fire Department and Helena Fire Department. Mr. Burton stated that Chief Shepard from the West Helena Valley Fire Department is in the audience.

Mayor Smith asked would repairs that exceed a certain dollar amount be jointly shared between the city and West Valley? Chief Larson concurred and stated the amendment was set for \$10,000 for repairs before there were initial discussions regarding how to handle the vehicle's maintenance. West Valley felt it was high and wanted to bring the price down to \$3,000. Mr. Larson explained that price doesn't alter the base of the contract because the contract states if there are significant problems with the vehicle, then discussions would be picked up at that time regarding what the next step should be. Mr. Larson stated the vehicle is 27 years old and does show some wear, however, the city can use the remainder of its service life, knowing there may be questions regarding this issue that cannot be answered at this time.

Motion

Commissioner Pouliot moved to authorize the City Manager to enter into a zero-dollar lease with West Helena Valley Volunteer Fire Department.
Commissioner Parriman seconded the motion. All voted aye, motion carried.

**Swaney Minor
Subdivision
Annexation**

CONSIDER A RESOLUTION ANNEXING PROPERTY LEGALLY DESCRIBED AS TRACT S SHOWN ON COS#589909/B, LEWIS & CLARK COUNTY, MONTANA, BEING THE PROPOSED 17.29 ACRE SWANEY MINOR SUBDIVISION; GENERALLY LOCATED SOUTH OF LEGRANDE CANNON BOULEVARD AND WEST OF CHARLIE RUSSELL DRIVE

Staff Report

Project Manager Hal Fossum reported on July 8, 2002, the City Commission duly established conditions to annexation of this institutional property to the City of Helena (Res. 11780), and the property was rezoned in the R-1 District (Ordinance 2941).

The subject property is adjacent to existing City limits. Annexation would not create any additional wholly surrounded area. A proposal to annex the adjacent street right of way on Le Grande Cannon Boulevard is being prepared for consideration by the City Commission.

Conditions to annexation include the following:

1. Taxes and assessments shall be paid and current at the time of annexation.
2. The applicant must notify the City Community Development Department in writing upon completion of the conditions for approval of annexation. If the conditions are not completed within one year of the date of approval of this resolution, the City is under no obligation to annex the property and may discontinue any City services, including water and sewer. Staffs of the Community Development Department have verified that these conditions have been met. If the City Commission approves the resolution of annexation, staff will complete the administrative transfer of responsibilities from county to City providers.

Mr. Fossum recommended the City Commission adopt a resolution of annexation.

Discussion Commissioner Pouliot asked if there are any changes from what is being proposed tonight from the previous preliminary plat that was approved by the commission? Mr. Fossum stated Belinda Waters would be more prepared to answer that question.

Motion **Commissioner Oitzinger moved to approve a resolution annexing a 17.29 acre parcel shown as Tract S as shown on COS#589909/B, located in Lewis and Clark County, Montana, into the City of Helena, Montana.** Commissioner Pouliot seconded the motion. All voted aye, motion carried. **Res. # 11837**

Swaney Minor Subdivision Final Plat CONSIDER FINAL PLAT FOR SWANEY MINOR SUBDIVISION (17.29 ACRES) IN THE R-1 DISTRICT, LEGALLY DESCRIBED AS TRACT S AS SHOWN ON COS#589909/B, LEWIS & CLARK COUNTY, MONTANA; GENERALLY LOCATED SOUTH OF LEGRANDE CANNON BOULEVARD AND WEST OF CHARLIE RUSSELL DRIVE

Staff Report City Planner Belinda Waters reported all five lots are currently vacant and undeveloped. All five lots in the proposed subdivision will meet lot area and width requirements for the R-1 zoning district.

On, July 8, 2002, the City Commission gave preliminary plat approval to subdivide this 17.29-acre tract into five lots. This approval was subject to the following eight conditions:

1. The conditions of approval imposed to mitigate the adverse effects on Agriculture and Agriculture Water User Facilities are as follows: None
2. The conditions of approval imposed to mitigate the adverse effects on Local Services are as follows:
 - a. Water and sewer must be installed or financially guaranteed in compliance with the engineered utility system designed and submitted to the City Engineer for review and approval.
 - b. Appropriate fire hydrants must be installed with review and approval by the Fire Marshall.
3. The Natural Environment and Wildlife and Wildlife Habitat: None
4. Public Health and Safety
 - a. There is a small area in the southwest corner of Lot 5 that has slopes exceeding 25% resulting in the designation of a special design area.
 - b. A storm water drainage plan must be reviewed and approved by the City Engineer.
5. The Survey Requirements Provided for in Part 4 of this Chapter
 - a. Compliance with survey requirements will be thoroughly examined and approved prior to the final plat being filed with the Clerk and Recorder.
6. Helena Subdivision Regulations
 - a. The subdivision and final plat must comply with Chapter 4 (Design Standards, Improvements) of the Helena Subdivision Regulations.

- b. Financial Guarantee: All of the following improvements must be installed or the improvements must be financially guaranteed in accordance with Section 12-4-13 and 12-4-14 of these regulations.
 - 1) Storm water drainage improvements;
 - 2) Streets, curbs, and gutters;
 - 3) Sidewalk;
 - 4) Water and sewer main, manholes, and fire hydrants; and
 - 5) Streetlights.
- 7. Easements
 - a. A twenty-foot wide underground utility and drainage easement noted on the plat, running north to south along Lots 1 and 2, shall be maintained.
 - * All remaining lot lines shall have ten-foot wide utility easements running on both sides of the lot lines; thereby creating 20-foot wide easements.
- 8. Final Plat Filing
 - a. The applicant must file the final plat for this subdivision with the County Clerk and Recorder within one year of preliminary plat approval.

Ms. Waters recommended final plat approval for a minor subdivision creating five lots.

Discussion

Commissioner Parriman stated initially there was concern from the neighborhood regarding water pressure and pump stations and asked whether they're adequate enough? Commissioner Parriman in addition asked about Lot 5, the 13.83 acres, that was scheduled to be donated as open space and if that is still taking place. Ms. Waters stated Lot 5 is going to be coming into the city's parkland open space; however, at this point there is nothing official. The development agreement has put up \$100,000 letter of credit with the development agreement to handle the water and sewer problem in that area.

Bob Kiesling, 46 South Last Chance Gulch, stated he is the city's open space consultant and representing Ms. Swaney in the creation of this subdivision. Mr. Kiesling stated the ultimate end use of which is to get Lot 5 into city property. If the commission approves the final plat, Lot 5 will become city ownership. The mechanism for doing that will be once the subdivision is approved the OSBAC has allocated \$75,000 of open space funding to purchase Lot 5, that money is supplemented with the 100,000 grant from the Ambrose family to help make the purchase possible. That money was transferred to the Prickly Pear Land Trust, and they will make that money available if and when this subdivision is approved. Mr. Kiesling stated that Ms. Swaney has agreed to sell the property, at a bargain sale price to the city, in order that it become open space and added to the Mount Helena Park.

Commissioner Netschert asked what mechanisms are in place to make sure the 13.83 acres is adequately maintained and where the funding for this will be coming from? City Manager Tim Burton stated the Helena Open Lands Management Advisory Council (HOLMAC) has funds set aside to bring in consultants who are currently working on a management plan for all of the open space land in Helena. Mr. Burton explained there remains around \$270,000 in maintenance money through the open space bond that has yet to be

allocated for any purpose, pending commission review and adoption of a management plan.

City Attorney David Nielsen wanted to remind and advise the commission this is an action to approve a final plat and who the recipient of any of the property might be should not weigh into this consideration at all.

Motion

Commissioner Oitzinger moved to approve the final plat of the Swaney Minor Subdivision creating five lots from a 17.29 acre tract of land legally described as Tract S of COS#589909/B; generally located south of Le Grande Cannon Boulevard and west of Charlie Russell Drive.

Commissioner Pouliot seconded the motion. All voted aye, motion carried.

**Prickly Pear
Application Fee**

CONSIDER REQUEST OF LAND USE APPLICATION FEE REFUNDS

Staff Report

City Planner Belinda Waters reported Prickly Pear Land Trust, in order to move this project ahead, paid the application fees. However, they state this was an unanticipated cost to their organization that has a limited budget, and are therefore, requesting reimbursement of these fees.

It has been the City's policy, regardless if fees were paid by a non-profit, not to reimburse/refund any application fees when costs associated with the land use application have been incurred.

Ms. Waters recommended denial of a refund of the \$960.00 application fees submitted for a minor subdivision/annexation land use case for Prickly Pear Land Trust.

Discussion

Mayor Smith stated Lot 5 has yet to be settled, in regards to being under city ownership and asked if Prickly Pear Land Trust could make this request once the land has been annexed into the city? Ms. Waters concurred. Mayor Smith asked for explanation regarding city policy on refunding fees. Ms. Waters stated the fees are established by the city commission for each type of land use action that staff carries out. Ms. Waters explained when the customer requests a land use form they pay a fee for each one requested. Normally if staff has done any type of work at all on any projects, there is not a refund of fees.

City Manager Tim Burton stated it's the pleasure of the commission; in terms of staff's recommendation to deny it is simply because staff is in charge of enforcing the fees and the rules that the commission has approved. City Manager Tim Burton stated the commission could certainly take a different position and approve it or table it to take into consideration at a later date.

Motion

Commissioner Oitzinger moved to table the applicant's request for a fee refund in the amount of \$960.00 for the Prickly Pear Land Trust.

Commissioner Pouliot seconded the motion. All voted aye, motion carried.

Bryant School

CONSIDER BRYANT SCHOOL AREA TRAFFIC RECOMMENDATIONS

Staff Report

Public Works Director John Rundquist reported staff received a petition for stop signs and other traffic revisions in the vicinity of Bryant School last spring. Their concerns were with the amount and speed of traffic on Livingston and Boulder. The consultant traffic engineer studied the area while school was still in session and developed their recommendations over the course of the summer.

A public informational meeting was held with the parents and the school administration in November 2002.

The proposed revisions at Bryant School include the installation of curb bulbs at Harris and Livingston, Harris and Boulder, Sanders and Boulder and Sanders and Livingston. A stop sign is recommended on the Harris approach to Livingston. The traffic engineer also looked at placing flashing school zone signs on Boulder but recommended waiting to see how the initial changes affect traffic before considering this costly option.

Mr. Rundquist recommended the installation of the curb bulbs and a stop sign as recommended by the consulting engineer.

Discussion

Mayor Smith asked for explanation on what a curb bulb is? Mr. Rundquist explained it's where the curb comes out into the street, which will make pedestrians visible to the oncoming traffic and they also narrow the street to slow traffic down.

Commissioner Parriman asked if it would be a less expensive alternative to use stop signs and flashing signals? Mr. Rundquist stated the flashing signals would be more expensive than using the curb bulbs. Mr. Rundquist explained staff is trying to use the lowest cost solution first and if a problem continues, then flashing signals would be installed.

Commissioner Pouliot asked in comparison to Jefferson School, located on Broadway, why is the accident rate higher by Bryant School than at Jefferson School? Mr. Rundquist stated he doesn't have the information at this time.

Mayor Smith asked if this is in response to concerns brought to the city's attention by teachers, parents and neighbors? Mr. Rundquist concurred.

Motion

Commissioner Netschert moved approval of the recommended traffic calming curb bulbs at Bryant School and the installation of a stop sign on the Harris Street leg of the Harris-Livingston intersection.

Commissioner Pouliot seconded the motion. All voted aye, motion carried.

Traffic Revisions

CONSIDER 14TH AND FRONT STREET TRAFFIC REVISION

Staff Report

Public Works Director Jon Rundquist reported staff has received a request to consider changing the stop signs at the 14th and Front Street intersection. The current stop signs were warranted when Front Street was the through street and carried more north/south traffic. With the completion of the new Federal Center, Front Street has been cut-off and is essentially a parking area north of 14th Street. The current build-out of the Great Northern area is contributing to the increased traffic on 14th Street causing some delay problems at the intersection.

The traffic studies for both the Great Northern and the Federal Center recognized the potential conflict of this intersection and recommended that 14th would become the through street and the stops would be moved to Front Street.

Mr. Rundquist recommended approval a traffic control revision to make 14th Street a through street at Front by moving the stops from 14th to Front Street as recommended by the Great Northern and Federal Center traffic studies.

Discussion

Commissioner Oitzinger asked if there has been consultation with the neighborhood regarding this change? Mr. Rundquist stated what inspired staff to follow through with this was a petition from the Great Northern Town Center area and because it was a part of the planning that had gone into the Federal Building,

staff felt it was an appropriate move to make this change. Commissioner Oitzinger stated she is having a hard time visualizing this area and why this change would be necessary.

Mayor Smith asked if 14th street is the main east/west entrance into the Great Northern? Mr. Rundquist concurred.

Commissioner Parriman asked if changing this stop sign would increase traffic or possibly bring on other problems and would appreciate a map of the area to make a better decision. Mr. Rundquist stated he would be happy to provide a map at a future administrative meeting.

Motion

Commissioner Pouliot moved to table the traffic control revision at 14th and Front by moving the existing stop signs from 14th Street to Front Street until a map of the area is available. Commissioner Parriman seconded the motion. All voted aye, motion carried.

**Public Hearing
TCI Cablevision**

PUBLIC HEARING

A. CONSIDER A REQUEST TO TCI CABLEVISION OF MONTANA TO PROVIDE A CAPITAL CONTRIBUTION IN THE AMOUNT OF \$25,000 FOR THE PUBLIC, EDUCATIONAL AND GOVERNMENTAL ACCESS CHANNEL (PEG)

Staff Report

Community Facilities Director Gery Carpenter reported in accordance with section 4.2 of the Franchise Agreement between the City of Helena and TCI Cablevision of Montana, Inc. the City of Helena may "commence proceedings, which afford public participation and open meetings for the purpose of determining if the Franchising Authority should request the Grantee to provide additional public, educational and governmental access capital support up to \$25,000". HCTV has an agreement with the City of Helena for the administration and management of a cable television public access channel. They have expended the initial \$100,000.00 capital contribution and the second \$25,000.00 capital contribution on the acquisition of equipment. HCTV's equipment acquisitions and facility remodel needs for the next year is \$45,000.00.

Mr. Carpenter recommended approval of the request from TCI Cablevision of Montana, Inc. in accordance with 4.2.B of the Franchise Agreement the third capital contribution of \$25,000.00.

Discussion

Commissioner Pouliot stated this subject is titled capital contribution for PEG access channel and asked for explanation on what a PEG access channel is? Mr. carpenter stated the PEG stands for Public, Educational, and Government and HCTV provides channel 11 in order to access it.

City Manager Tim Burton asked if this is the last request in the franchise agreement that the city negotiated with the cable television station. Mr. Carpenter stated there is one more. Mr. Burton stated the first request was a 100,000, then three successive years at \$25,000, as contributed by the cable television station itself. Mr. Carpenter stated at this point all the capital contributions have either gone towards equipment or the facility.

Commissioner Parriman stated as one of the disadvantages listed, TCI could add those amounts through increased cable rates and asked if this has happened to date and asked if there is one more \$25,000 capital contribution scheduled, where will the money come from to make sure HCTV continues, when these funds sunsets? Mr. Carpenter stated he is not aware whether or not TCI has raised their cable rates, that was set forth in the franchise agreement to

give them the ability to in fact do that. As far as the on going operation of HCTV and the PEG channel, staff is continuing maintenance and operation budgets to them, aside from these capital purchases. Mr. Carpenter explained when this capital program sunsets, they are, at that time, to provide funding for the ongoing capital program through other sources.

City Manager Tim Burton stated the city commission passed the franchise agreement and directed staff to put together a request for a proposal to see what type of a non-profit organization would be contracted with to build and operate a television station. HCTV was the organization that received that contract. The contract for operational expenses provided that the first year, through the franchise fees that the city collects, the city would give them \$105,000 to operate, then it went down to \$100,000 and on the third year it went down to \$95,000 and after that third year the city will have to renegotiate or readvertise for that particular service.

Commissioner Netschert stated this money is going to be used for acquisitions, maintenance, equipment and facilities remodels and asked why a remodel is needed? Mr. Carpenter stated the facility that is being used right now was a blank room when HCTV moved into it. HCTV used the first \$25,000 that was involved in a remodel process to get that warehouse facility built into a studio. Commissioner Netschert asked when is the county going to start paying their fair share of what they receive out of this? Mr. Carpenter stated the county is in that process now. City Manager Tim Burton stated this is in the process and staff is working out a contract.

Mayor Smith stated HCTV's plan was to broadcast the legislative session to communities other than Helena and that would represent the beginning of a string of income and asked if that is happening now. Mr. Carpenter stated it is in the process.

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.

Discussion

Commissioner Pouliot stated he is very pleased with the work from HCTV Channel 11 and mentioned he has received good feedback from the citizens of Helena and from people outside the city.

Motion

Commissioner Pouliot moved approval of the request that TCI Cablevision of Montana, Inc. provide the third capital contribution for public, educational and governmental access of \$25,000.00. Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

Tax Abatement Application

B. CONSIDER A RESOLUTION APPROVING A TAX ABATEMENT APPLICATION - SUMMIT ENGINEERING AND DESIGN, 3200 SKYWAY DRIVE

Staff Report

County Community Development Director Sharon Haugen reported that on October 30, 2002 Summit Design and Manufacturing submitted an application for tax abatement as provided by Section 15-24-1401 and 1402, MCA. This section of the law allows local government to grant tax abatements for "new and expanding businesses." Summit Design and Manufacturing is requesting that the Lewis and Clark County and the City of Helena consider granting the abatement

for new equipment purchased in 2002. This abatement, if granted, would be effective beginning tax year, 2003 through tax 2012. Summit Design was previously granted tax abatement for business equipment in 1999 and in 2000.

Discussion

Mayor Smith stated the resolution was not included in the packet. City Manager Tim Burton explained after the commission makes and authorizes the motion; staff will prepare the resolution.

Commissioner Pouliot stated the tax abatement isn't to deny tax on this equipment but to prorate some of the taxes or reduce the tax to a certain amount for a period of five years. Ms. Haugen stated the taxing is over a ten year period and it reduces the taxes by half, the taxes that will be paid on this piece of equipment, for the first five year and then graduates down for the next five years.

Public Testimony

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

Michael Barros, 531 South Oakes, stated he is also the City Development Director for the City of Helena and by approving this it shows Helena is business friendly and he recommended approval.

Tom Hoffman, 3200 Skyway Drive, stated Summit Design and Manufacturing has been fortunate to receive this third tax abatement and appreciates any consideration the commission makes.

With no further persons wishing to address the commission, Mayor Smith closed the public hearing.

Motion

Commissioner Netschert moved approval of the resolution approving a tax abatement application - Summit Engineering and Design. Commissioner Parriman seconded the motion. All voted aye, motion carried. **Res. # 11838**

Discussion

City Manager Tim Burton wanted to add for the record that having been out at Summit Engineering and Design and touring their facilities, looking at the expansion plans and understanding that they manufacture some of the most technical aircraft components in the world today, that it's an incredible success story and it's a wonderful business to have located in the Helena community.

2nd Passage of Ordinance 2948

C. CONSIDER SECOND PASSAGE OF ORDINANCE 2948, AMENDING SECTION 7-4-2 (F. SIDEWALKS AND LANDSCAPING) AND SECTION 7-10-22 OF THE HELENA CITY CODE TO ESTABLISH LANDSCAPING STANDARDS FOR BOULEVARDS

Staff Report

Director of Parks and Recreation Randy Lilje reported the present code establishes the standard for the area between the sidewalk and the curb for grass or grass and trees only. It does not allow for a variance from the standard. However, a previous City Commission put a moratorium on enforcement of this code until something could be worked out that would allow for variances under certain conditions. Staff has developed a proposed amendment to this ordinance that would allow for variances.

Mr. Lilje recommended approval of the ordinance amend the existing ordinance to allow for a variance from the standard of grass and trees under the following conditions:

- 1) The plant material must be of adequate number, size, and type to ensure that at 3 years of initial planting, 60% of the ground

area is covered by plant material.

- 2) A landscape plan must be submitted to the director of Parks & Recreation for review and approval.
- 3) The proposed variation from the standard must fit the overall character of the other properties in the neighborhood.

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 Pouliot moved approval for second passage of Ordinance 2948 amending Section 7-4-2 (F. Sidewalks and Landscaping) and Section 7-10-22 of Helena City Code to establish landscaping standards for boulevards. Commissioner Oitzinger seconded the motion. All voted aye, motion carried. **Ord. # 2948**

Ordinance for Pre-zoning

D. CONSIDER FIRST PASSAGE OF AN ORDINANCE FOR PRE-ZONING PRIOR TO ANNEXATION TO R-2 (SINGLE-FAMILY RESIDENTIAL) DISTRICT FOR PROPERTY LEGALLY DESCRIBED AS LOT D, BLOCK 159, SYNDICATE ADDITION, AS DESCRIBED IN COS#302557, AND THE PORTION OF THE ALLEY NORTH AND ADJACENT TO THE SUBJECT LOCATED IN LEWIS & CLARK COUNTY, MONTANA; GENERALLY LOCATED ON THE NORTHEAST CORNER OF LAUREL AND CHOTEAU STREETS WITH A PROPERTY ADDRESS OF 1730 CHOTEAU STREET

Staff Report

City Planner Lucy Morell-Gengler reported the property is adjacent to the City and adjacent to R-2 zoning. Ron and Joyce Mow own two adjacent lots at the corner of Laurel and Choteau Streets. Lot D, the site of their residence, is outside City limits and is currently served by City water and sewer. The other, Lot C, is located within City and a residence is currently under construction on that lot. The Mows want to enlarge Lot C by including some of the property that is currently a part of Lot D and located outside the City. To enlarge Lot C to accommodate the new residence, the Mows have applied for three planning actions:

- 1) Annexation of Lot D, the parcel outside of the City.
- 2) Pre-zoning in the R-2 (Single-Family Residential) District.
- 3) An amended plat that will relocate the common boundary between Lots C and D.

Ms. Morell-Gengler recommended first passage of an ordinance to pre-zone Lot D in Block 159 of the Syndicate Addition, as described in COS#302557, and the portion of the alley north and adjacent to the subject property to R-2 (Single-Family Residential) prior to annexation into the City of Helena, Montana for property located in Lewis & Clark County, Montana; generally located on the northeast corner of Laurel and Choteau Streets with a street address of 1730 Choteau Street.

Discussion

Commissioner Parriman stated there is Lot D1 and Lot C1 and asked if it's both those properties that are being looked at? Ms. Morell-Gengler stated just Lot D1 is being looked at; Lot C1 is currently in the city limits but does not have city water and sewer. Lot D currently has city water and sewer, however, is not within the city limits. Ms. Morell-Gengler explained this is one of the reasons

for annexation, since they are currently served by city services, it would be appropriate to annex this property.

Commissioner Pouliot asked if Lot D1 and Lot C1 make up tract D? Ms. Morell-Gengler stated Lot D is the lot being discussed, it is the lot requesting annexation. The plat is a proposed boundary line relocation, where Lot D would become Lot D1, that is the other reason for the request, the boundary line relocation would move the property line that is currently the dividing line between the city and county over including some of the county property. Being done this way, if it is annexed into the city, the city would have jurisdiction over both lots and it makes the boundary line relocation easier for the applicant. Commissioner Pouliot asked how the subject property is being used at this time? Ms. Morell-Gengler stated the subject property is a single-family residential unit. The proposed Lot C1 is vacant and the applicant is intending to construct a building on that lot.

Public Testimony

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

Don Eblen, 3874 Hwy 12 E, stated he works for Pierce and Associate Builders and he's representing the Mows on this project. Mr. Eblen explained the reason the Mows want to change the boundaries is that the existing house is on a 100 foot frontage and the lot beside that (that the Mows own also) is about a 60 foot frontage and they would like to divide them up evenly, so that there may be residences on the property. Mr. Eblen stated there are some mature trees that would have to be taken out if they were to try to do it all on the one lot.

With no further persons wishing to address the commission, Mayor Smith closed the public hearing.

Motion

Commissioner Pouliot moved approval for first passage of an adoption of an ordinance for pre-zoning Lot D in Block 159 of the Syndicate Addition, as described in COS#302557, and the portion of the alley north and adjacent to the subject property to R-2 (Single-Family Residential) prior to annexation into the City of Helena, Montana; for property located in Lewis & Clark County, Montana; generally located on the northeast corner of Laurel and Choteau Streets with a street address of 1730 Choteau Street. Ord. # 2949

Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

Recess

Mayor Smith called for a 5-minute recess.

Crest View Estates

CONSIDER A MAJOR SUBDIVISION/PRELIMINARY PLAT OF THE SECOND PHASE FOR CREST VIEW ESTATES SUBDIVISION CONTAINING 17 SINGLE-FAMILY LOTS IN AN R-1 (SINGLE-FAMILY RESIDENTIAL LARGE LOTS) DISTRICT. THE PROPOSAL INCLUDES THE APPLICANT'S REQUEST FOR THREE VARIANCES FROM SECTION 12-4-2 OF THE HELENA SUBDIVISION REGULATIONS (STREET STANDARDS); LEGALLY DESCRIBED AS THE COURTHOUSE ADDITION, BLOCK 7, LOTS 19-23 AND 24A; BLOCK 8, LOTS 1-6, 29-34; BLOCK 11, LOTS 1-5, 30-34, AND EAST 11 FEET OF LOTS 6 AND 29; BLOCK 12, LOTS 11-18, 19-28 AND LOTS 10A AND 29A; BLOCK 13, LOTS 1-36; BLOCK 14, LOTS 1-5, 30-34, AND EAST 11 FEET OF LOTS 6 AND 29; BLOCK 17, LOTS 1-3 AND EAST 11 FEET OF LOT 4;

BLOCK 18, LOTS 1-9; AND ALL VACATED STREET AND ALLEY RIGHTS-OF-WAY ADJACENT TO THESE LOTS, AND LOT 1A IDENTIFIED ON CERTIFICATE OF SURVEY #622953-B AS FILED IN LEWIS AND CLARK COUNTY, MONTANA. THIS PROPERTY IS GENERALLY LOCATED SOUTH OF RHODE ISLAND STREET, SOUTHEAST OF BEATTIE STREET, AND WEST OF CREST VIEW ESTATES PHASE 1, HELENA, MONTANA.

Staff Report

City Planner Lucy Morell-Gengler reported the preliminary plat for the first phase of the Crest View Estates major subdivision, creating 14 single-family lots from 6.53 acres, was approved October 2001, and the final plat for the first phase was approved September 9, 2002.

The applicant is now proposing a major subdivision/preliminary plat for the second phase of the Crest View Estates Subdivision located in an R-1 (Single-Family Residential Large Lot) District. The area of the proposed 17 single-family lot subdivisions is 12.04 acres, with lot sizes varying from approximately 13,814 square feet to 38,334 square feet. The second phase would generate approximately 163 average vehicle trips per weekday. In combination with the first phase, the Crest View Estates subdivision will generate a total of 297 vehicle trips per weekday.

The applicant's subdivision proposal is accompanied by a request for 3 variances from the Subdivision Regulations to allow the required pedestrian access to be located adjacent to the rear lot line of proposed Lots 1 and 2 of the second phase, through the proposed park area, and not in the right-of-way; to allow only one access to a subdivision which is anticipated to generate approximately 297 vehicle trips per day; and to allow a dead-end street over 1,500 feet in length.

Ms. Morell-Gengler stated for the record that she and Commissioner Oitzinger visited the property last week. She discussed the design features and their location on the property with Commissioner Oitzinger. Ms. Morell-Gengler added for the record that the time frame for the review of the major subdivision does not expire until January 31, 2003.

Ms. Morell-Gengler recommended denial of a Major Subdivision/Preliminary plat for the second phase of the Crest View Estates Subdivision creating 17 residential lots from 12.04 acres in an R-1 District; the proposal includes request for three variances from Section 12-4-2 of the Helena Subdivision Regulations to allow:

- 1) A 10-foot wide pedestrian/bike path to be located adjacent to the rear lot line of proposed Lots 1 and 2 of Phase II, through the proposed park area, and not in the right-of-way;
- 2) Only one access to the subdivision which is anticipated to generate 297 vehicle trips per day; and
- 3) To allow an approximately 1,500-foot long dead-end street.

Commissioner Pouliot wanted clarification on the turn around on Phase II? Ms. Morell-Gengler explained where the turn around is and stated Crest View Estates is proposing a private access for two of the 17 lots.

Commissioner Netschert asked in regards to pump stations verses a reservoir and if the city has granted variances or allowed similar pump stations in the city limits? Ms. Morell-Gengler stated there are two pumps located in Helena, one located in the Readers Village Subdivision and one in the Forest Estates Subdivision. Mr. Rundquist stated those two pumps have small domestic pumps to serve a small neighborhood and then larger fire pumps for delivering fire flows in the event of an emergency. Commissioner Netschert asked if the

Discussion

city has granted variances concerning the vehicle trips per day like this before? Ms. Morell-Gengler stated she wasn't sure if it had been included in review of other subdivisions, however, she doesn't believe the city has granted a variance for this in the past.

Mayor Smith asked if the Institute of Transportation Engineers (ITE) had recommended the 297 vehicle trips per day? Ms. Morell-Gengler explained there is a guideline in ITE that indicates dead-end streets should not serve more than 200 vehicle trips.

Commissioner Oitzinger stated for the record, during the tour of the property that she and Ms. Morell-Gengler took, Ms. Morell-Gengler did not discuss any factual information that is not reflected in her presentation

Public Testimony

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

Proponents

Mark Brooke, Morrison, Maierle, Inc, representing the applicants Gene Thayer, Pete Hamper and Ron Iverson. Mr. Brooke stated he is a registered professional engineer, licensed by the Montana Board of Professional Engineers and Surveyors. Mr. Brooke stated Morrison, Maierle, Inc. respect the right to the opinions contained in the staff reports, findings of fact and the letters submitted for public record, however, the team at Morrison, Maierle, Inc. would like to clarify the facts and asked that the commission directly question the staff at Morrison, Maierle, Inc. with regard to staff and public comment regarding the technical issues on the proposal.

Mr. Brooke explained that the Courthouse Subdivision was originally platted in 1890, well over a hundred years ago. The original preliminary plat included 500 city lots. Some of this has been developed, however, the majority has not. There are many reasons why the Courthouse Subdivision has not been developed. One of the main reasons is that there are no provisions for city infrastructure, mainly water supply, to this portion of Helena. Mr. Brooke explained that it's always been an indication or an intention by the City of Helena to have this portion developed for residential development. Another issue that has come up in past public planning meetings is the issue of the 40-foot cut and fill slope. Mr. Brooke stated topography is a constraint of development in this location, along with legal access. There is an existing road, shown with the contours of the existing topography, that will be raised, where the existing roadbed is, up approximately 10 feet. In order to accomplish this, there needs to be catch up, in order to meet the 3 to 1 fill slope, approximately 40 feet high. The slope is not significantly different from what exists there currently and the existing constraints are actually improved by this method. Such as, the road, the access to that portion of the city, which allows the city, among other things, to have increased capability for fire suppression. In regards to the retaining wall, it had initially been placed right on the property boundary so there would be no fill on existing City of Helena property. One alternative, instead of placing it on the property boundary, is to place it right on the uphill side of the proposed pathway. Incidentally the proposed pathway was proposed as part of the applicant's intention to satisfy some of the requirements from prior city commissions. It was of great concern to former commissions to have an access along the west side of the property and Morrison, Maierle, Inc. has tried to address that with the alternative design because the intention of this proposed subdivision is to dedicate a portion of the property, where the trail is located, as open space. Mr. Brooke explained it is quite feasible to have a boulevard sidewalk along both sides of the road; however, it was the intention to satisfy the requirement of

previous commissions with this 10-foot wide bike/pedestrian trail and also to allow the more rural nature of the surroundings to be maintained. Mr. Brooke mentioned that the projected tax revenue from this subdivision is approximately \$63,000.00 on an annual basis. Which means the first year, after all of the homes are developed, that money comes into the city and every subsequent year thereafter. Some of the other examples of how this subdivision is a benefit to the city, is all the infrastructure will be paid for by the developer up front and then turned over to the city for their use and enjoyment. Mr. Brooke wanted to reiterate the fact that the design creates infill and promotes good city planning. It's clear that ever since 1890 the city has had an intention to develop this property as a subdivision and the design before the commission meets current design standards with the exception of the variances Morrison, Maierle, Inc. are requesting. Mr. Brooke closed with the fact that the proximity and design of the subdivision promotes walking and allows for the reduction of vehicle miles traveled in Helena and for these reasons the applicant feels that families with children, seniors and those unable to drive would find this subdivision attractive.

Timothy Berry, 114 Ridgewood Lane, stated he is the Chief Municipal Engineer for Morrison, Maierle, Inc., a registered professional engineer and Diplomat of the American Academy of Environmental Engineers. Mr. Berry stated the area of focus is in the Courthouse addition and the Crest View Estates proposal takes this existing Courthouse addition and replats it. It is an area that the city of Helena has had an obligation to provide service to since 1890. Mr. Berry referred to a letter from Pete Hamper that was addressed to Kim Milburn, Director of Public Works for the City of Helena, at that time. The letter was asking if the city was going to consider the Courthouse addition for the 1995 upgrade to the water master plan. Mr. Milburn responded back to Mr. Hamper stating "Yes, this is something that will be considered. The city will make recommendations as to how supply and storage should be developed into the future to provide service to both current and future development, within the most efficient use of resources." However, nothing was done on the project and as a result of that, the developer has to rely on other documents that the city had, this being the Water System Improvement Program Master Plan for the City of Helena prepared in 1978; it states that staff recommended a 350,000-gallon storage reservoir. Mr. Berry pointed out that one of the features in the 1978 plan was to install a pump station, pump the water into the reservoir and then have the capability of feeding that back into the system to provide adequate fire flows, it would be on a pressure-reducing valve at 1st Street. However, this system was never built and other methods were implemented in order to have fire protection, a 4" fire hose was run from the Delhousen Pump Station, across Rhode Island Street and tied in. The Crest View Phase 1, in fact, does extend the main over but it does not go all the way over to Beattie Street and there is ongoing negotiations regarding that issue and how to adequately provide flows to that area. Mr. Berry explained within the previous Courthouse Subdivision there were 495 lots, Crest View Estates, both Phase 1 and 2, will have a total of 31 lots, a substantially less density. With that number of homes it's difficult to get the water to flow through the previously planned 350,000-gallon reservoir and keep that water fresh. Mr. Berry stated the Crest View Estates Phase II proposal involved fire pumps, however, staff had objections to a fire pump system because they are mechanical devices, therefore, they're subject to be unreliable in an emergency situation, they're energy inefficient, they're an expensive burden on the rate payers and they're seldom used. Mr. Berry stated he agreed, however, all mechanical devices are subject to be unreliable if not properly maintained and

operated. Considering that fire pump systems are energy inefficient, Mr. Berry agreed, yet how often are they used and for what period of time; is that a major component of the reason to deny. Mr. Berry addressed how ratepayers would be affected and stated there are two issues to this problem; the fire pump itself and the domestic pumps. Mr. Berry explained the response in the staff report stated a reservoir and smaller pumps should be used, so there doesn't appear to be objection to the pump supply itself, but the main objection is to the fire pumps. Mr. Berry noted that currently there are two other pump systems operating in Helena. Mr. Berry stated Crest View is proposing two domestic supply pumps and a hydromantic tank system in lieu of the reservoir, for the reasons that the reservoir will have THM and HAAC problems and it is too large and it will cause carcinogen formation, which is a health issue. Mr. Berry stated fire pumps are recognized as safe systems, if they're properly designed, built and operated. Fire pumps are recognized under the National Fire Protection Association Codes, which the City of Helena has adopted, fire pumps avoid a water quality problem, they're less costly to install, they're more expensive to operate, yet the cost of the maintenance may equal out because of the painting of the reservoir. Hydromantic tanks are a proven system, there are design standards for them, and they're used through out the state, nation and the world. Mr. Berry stated this development would provide fire-fighting capability in areas adjacent to the development.

James Nicholson, PO 113, Bozeman Montana, Professional Engineer for Morrison, Maierle, Inc. Mr. Nicholson stated he would be discussing the variance requests for the proposal and explained that Morrison, Maierle, Inc. feels they created a proposal that meets national criteria, complies with the intent of the subdivision codes and is an acceptable proposal for the development of the property. There are three specific variances that the applicant is requesting. The first being pedestrian access, the second being the number of trips generated from the site with only one access and third being 1,500 foot dead-end drive. Mr. Nicholson wanted to remind the commission that the proposal meets all four of the variance criteria; the variance will not be detrimental to the public health and safety or the general welfare or injurious to other adjacent properties; the second condition is that little enforcement of the provisions will result in an unnecessary hardship; the third being that the variances will not cause a substantial increase in public cost; the fourth being that the variances conforms with Helena comprehensive plan in the Helena Zoning Ordinance. Mr. Nicholson explained staff stated some specific concerns in the Findings of Fact. The first being the location of utilities may need to be installed within the street paved area itself because of the lack of boulevards on both sides of the street. Mr. Nicholson commits to working with the utility companies in providing a reasonable area for utilities to be installed, without having to install them under the asphalt. The second concern being the steep grade of the proposed pathway and possible erosion concerns. Mr. Nicholson commits to working with city staff to work out any concerns they may have to construct an acceptable trail.

Mr. Nicholson moved on to the two street variances. The first being the number of trips generated from the site along with the need for a secondary access and secondly the length of the dead-end street. He feels it's important to look at the history of the property and the surrounding areas as part of the discussion on the variance. The Courthouse Subdivision included both the Crest View property and Beattie Park; both of these areas were designated for residential development. Mr. Nicholson stated actions by previous city commissions have restricted the applicant's options on accessing the site. The

commission approved a project known as Touchstone Addition and adjacent to that, Malbum Heights, neither of these two subdivisions received provisions in order to connect their accesses to city streets. The second action by previous city commissions was the creation of Beattie Street Park. Mr. Nicholson wanted to point out that this property was previously platted, zoned R-1 and had street right of ways within the park boundary itself. By creating the park, there is no opportunity for access to the west of the Crest View property. The third action by previous city commissions made a decision to deny this specific applicants Timberline Subdivision proposal, which provided a secondary access out towards Davis Street. Mr. Nicholson stated it is impossible for the applicant to provide a secondary access regarding Crest View Subdivision, except what is proposed and explained that the subdivision regulations state that a secondary access is required if a street generates more than two hundred trip per day. Mr. Nicholson suggested that the dead-end street, Crest View Drive, could start at the intersection of Iowa Street. Mr. Nicholson stated Morrison, Maierle, Inc. specifically asked the city to research if the City of Helena Fire Department has had any problems in the past providing emergency responses to areas of Helena exceeding the city's street design standard of 700 feet for dead-end streets and Mr. Nicholson stated the city's response was, "We do not recall a situation in which the Helena Fire Department has experienced a problem in providing emergency services to Touchstone Court or Mueller Court. If an emergency situation would arise in those areas, it would be our hopes that our operational capabilities are not hindered, to insure that we are able to provide the high standard of fire and safety services our customers expect. As you know we cannot know where and when an emergency situation will arise and we are responsible to the citizens of Helena to provide the best service possible." Mr. Nicholson stated who's to say, according to this statement, if there will be a problem providing fire and emergency services to the Crest View Estates.

Mr. Nicholson stated the findings of fact mention how the large cut and fill areas along Crest View Drive and how that might restrict access during an emergency situation. Mr. Nicholson reiterated that the Crest View Phase II proposal meets city standards for width and also meets the city standard for grade.

Mr. Nicholson stated that ITE standards allow for a 1500 feet long dead-end street when a development is low density and Mr. Nicholson explained that this development meets the definition of low-density. Mr. Nicholson stated staff suggested that the applicant should have realized that he would have had to ask for a variance on Phase II during the review of Phase I and should have provided both developments at the same time. Mr. Nicholson stated at that time staff was not open to discussing development with the applicant at all because it was so closely following the Timberline lawsuit. Mr. Nicholson closed by reading through the conclusions in the findings of fact and stated that the proposed subdivision follows city standard, except for the variances requested and hopes the commission accepts the proposal.

William Spilker, 20 Carriage Lane stated he has been a licensed real estate broker in Helena for about 25 years. He urged the commission to recommend the Phase II of Crest View Estates. Mr. Spilker stated the property is zoned R-1, city services can be extended to the property and residential uses are the highest and best uses for this property. Mr. Spilker stated the development of this property is consistent with the concept of infill; utilizing vacant land for residential usage makes sense when compared to developing areas in the valley and Northern Jefferson County, where services are not available. Helena is

limited in the availability of residential building sites, providing a variety of sites are beneficial to the community. Mr. Spilker stated past commissions have seen fit to enact much more stringent subdivision regulations, however, variances may still be requested and he stated the commission tonight has a perfect example of that now. Mr. Spilker commented on the water system stating he resides in Reeder's Village and the pump system works very well. Mr. Spilker stated the proposed pump system is a good way to supply water to Crest View and in this instance it's the most practical way.

Opponents

The following persons spoke as opponents to the proposal:

Jon Nearing, 917 9th Ave. - explained he's worked with cartography and mapping in the past and stated Crest View Estates, due to the geology and gravity in that area it should not be approved. Mr. Nearing stated he has concerns for fire protection, public safety, and loss in property value and to blockage of open space.

Ken Toole, 202 Blake - explained he's the State Senator for Senate District 27, which represents about half of the neighborhood affected by Crest View Estates. Mr. Toole urged the commission to think about the work staff has put into this and their recommendations.

Will Boland, 426 Clark Street - appeared in opposition of the proposal.

Steve Gilbert, 604 2nd Street - explained an enormous body of information has been made available to the public and to the city commission by city staff and the planning board and stated he hoped the commission has found merit in denial of the Crest View Proposal.

George McCaulley, 926 5th Ave. - urged the commission to deny this project due to the 8% grade on the 1500-foot dead end street.

Gery Weglarz, 701 Highland Street - stated that trying to develop a piece of property that geographically cannot be developed by the standards that are present in this community for the health and safety of all of us means these variances need to be turned down and Mr. Weglarz urged the commission deny the project.

Art Compton, 17 Mueller Ct. - stated the 200-vehicle trips per day is there to protect families, property values and the quality of the community. Mr. Compton stated the 700-foot limit on dead end street is the most lenient of any major city in Montana. Mr. Compton asked that the commission support the staff recommendation to deny, the 7-2 vote on the Planning Board to deny and that the city commission follow the same standards.

Charles Nelson, 638 1st Street - stated the developers of Crest View Estates Phase II had several engineering challenges facing them in the design of the current proposal. One of those challenges is building a street, up a substantial slope and maintains the grade of the current city standard of 8% or less. Apparently the developers felt it very important to adhere to this standard because they literally have to move mountains to do so. However, all this design work could have been greatly reduced, if these same developers had paid as much attention to a few other city standards. Mr. Nelson stated these engineers have shown they can solve a tough problem and they should be given the chance to solve a few more. Mr. Nelson stated the current proposal should be denied.

Clare Urban-Wermers, 418 Chaucer - stated she is familiar with the area through recreational and fitness use. Ms. Urban-Wermers stated this area is drainage and by looking at the effects of weather and the load of homes on the Crest View site the commission should consider the planning staffs recommendation for denial. Ms. Urban-Wermers stated by approving Phase II,

the citizens and the city take a risk by varying the ordinance that protect the public and urged the commission to deny the variance requests.

Greg Wermers, 418 Chaucer - stated the subdivision standards are put together for the health, welfare and safety of the citizens of Helena and that's why the planning staff has put the denial forth. Mr. Wermers recommended that the commission follow that staff recommendation and deny the subdivision.

Adam McLane 621 3rd Street - stated the issue before the commission is public health and safety. Mr. McLane stated there are aspects of this development that put those factors at risk and he asked that the commission deny this subdivision.

Katie Knight, 707 Highland Street - stated not only is there the 700 feet with no other way out but all the traffic is going to be focused and loaded onto Beattie Street, as it was when the fill was happening for Phase I. Ms. Knight stated we are all aware of the mistakes made in land management in the 1800's and the appearance of Phase I reminds her of some of the tremendous kind of mining disasters, where you turn the land inside out and dump huge amounts of fill on the ground, creating what is astatically very offensive but is also very dangerous. Ms. Knight recommended denial.

Sally Angove, 738 2nd Street - stated the area in and around Crest View experiences extreme weather and ice problems. There have been times that Beattie Street is inaccessible. Ms. Angove stated she urged denial of this proposal.

Neil Connole, 513 State Street - stated when the Columbia Gardens, located in Butte, Montana closed 31 years ago it broke the spirit of the town. Mr. Connole urged the commission to deny this project in order to keep Helena's open space.

Becky Piske, 303 State Street - stated she is concerned about the length of the street and that it's single access. Ms. Piske recommended to the commission to pay attention to what staff has recommended and to deny the subdivision.

JP Crowley, 703 Broadway Street - stated throughout the construction of Phase I, the number of trucks entering and exiting Beattie Street were extremely disruptive and can only expect something much worse for Phase II. Mr. Crowley urged the commission not to forget the number of children who live the neighborhood and that adding another 300 car trips per day will be a huge detriment to the entire neighborhood.

Mark Kelly-speaking on behalf of Plan Helena - indicated that health, safety and the welfare of Helena citizens is what's important. Mr. Kelly stated that another reason why this subdivision does not provide reliable, efficient, and domestic and fire flows. A booster pump is not a suitable water source because it would require testing and would be subject to common failure mode. Uses of gravity flow, water systems are the most dependable and safest water system. Thus residences in this water service area should be allowed only below 4400 feet elevation. Mr. Kelly stated another reason to deny this subdivision is to ensure equity with other subdivisions at the upper edges of Helena's water service area. Mr. Kelly urged the city commission to follow the recommendation of the city planning staff and the planning board that this current Crest View subdivision is denied.

Mary A. Arnold, 626 State Street - stated her house happens to be below grade, which shouldn't be a problem, however, during the first part of the development, the water flow comes down Beattie Street, takes a turn west on State Street and down her front steps. Water retention is one of the issues that

the developers said they would address during the first phase, however, it has not been adequately addressed at this time and it does not appear, based on what the city staff has said to be adequately addressed at this time. Ms. Arnold urged the commission to consider the fine staff work that the planning staff has done deny the addition to the subdivision.

Mike Roberts, 705 States Street - stated he would like to echo the comments of the previous opponents and the planning boards decision and staff's recommendation and ask that the commission deny the subdivision and the variances.

TJ Abbenhaus, 842 E. Broadway Street - stated when the Crest View Estates road is paved it will have created the perfect drainage, which will create an alluvial fan across Broadway Street and create runoff. Mr. Abbenhaus urged the commission to deny this subdivision.

Lynn Center, 406 Chaucer Street - stated she agrees with the comments from Mr. Connole and Ms. Knight regarding the incredible beauty of the neighborhood and how having all the extra traffic will break the spirit of the area. Ms. Center asked the commissioners to stand by the city staff, the planning board and the citizens of south central Helena.

Ted Scherf, 1025 3rd Street - echoed the previous opponents comments and urged denial of the subdivision.

Claudia Montagne, 704 State Street - stated she is in accordance with all the previous opponents and urged the commission to deny the variances and subdivision. Ms. Montagne stated the level to which the variances are being asked to be expanded or changed are not minor; they are major changes to the subdivision ordinances.

Luke Muszkiewicz, 605 3rd Street - stated the testimony presented by the engineers did not mitigate any of the three concerns that the city-county planning staff and planning board had with their proposal. Mr. Muszkiewicz asked the commission to vote to oppose the proposal.

Ralph Boland, 635 1st Street - stated the same problems from Phase I are going to appear, even worse, in Phase II. Mr. Boland recommended denial of this project.

Dave Ashley, 625 2nd Street - stated his concern is the impact on Beattie Street. There are two safety issues are the kids at the park and the vehicles sliding into Broadway Street during winter conditions. Mr. Ashley stated the subdivision should be disapproved without a second access headed somewhere towards the east.

Clay White, 720 3rd Street - stated he doesn't see the benefit in granting a variance that would create unsafe conditions. Mr. White stated Mr. Brooke estimated that the subdivision would create a \$63,000 gain to the city taxes; Mr. White felt that this wouldn't be enough to maintain all of infrastructure maintenance that will be needed if this subdivision was approved and he doesn't see the benefit to the city.

Dawn North, 707 2nd Street - stated her property drains Mount Ascension and two months ago city officials came in to dig out the drainage pipe to make sure where it went and where it drained. Ms. North has concerns regarding easement issues, truck and vehicle traffic and winter driving conditions. Ms. North recommended denial of the project.

Lynne Boone, 638 1st Street - stated at the planning board meeting last month, she submitted the signatures of 18 neighbors who wanted to go on record as being opposed to the Phase II of the Crest View subdivision. Those 18 people still want to be on record as being opposed to Phase II. Verna

Stoneberg, 613 1st Street would like to be added on that list. Ms. Boone stated John Miller wanted the commission to know that some of the manhole covers on Beattie Street seem to be sinking, he believes the problem is the result of the extensive heavy truck traffic traveling on Beattie Street this past summer to haul the fill to the subdivision. His concern is that Beattie Street will be subject to much more abuse with construction vehicles for Phase I and especially for Phase II and who would be responsible for the repair costs. Ms. Boone stated the city has no obligation to grant the requested variances, nor should they. There are serious implications to the city and the potential homeowners in Phase II if these variances are granted. Ms. Boone urged the city commission to follow the recommendation of the planning board and deny the proposal.

Norane Freistadt, 501 1st Street - stated she recommends denial of the proposal. Ms. Freistadt stated the city has spent well over 2 million dollars to make available open spaces, directly accessible, by the pathway on the west of the road. Ms. Freistadt stated she is very disappointed that the choices of the pathway are going to be on 30% slope that is all fill and have a trail cut into the side of it.

Christopher Rock, 611 1st Street - stated he would like to go on record for being opposed to the variances and opposed to this phase of the project for many of the reasons that have already been voiced. Mr. Rock stated he is concerned regarding the amount to fill needed to complete the subdivision and earthquake repercussions,

Fay Bergan, 619 1st Street - stated she would like to go on record for being opposed to the variances and opposed to this phase of the project. Ms. Bergan stated she is concerned regarding the dead end street, steep banks, and the single access.

With no further persons wishing to address the commission, Mayor Smith closed the public hearing.

Rebuttal

Mr. Brooke stated Crest View Estates is a small-scale subdivision, within the city of Helena, within areas that have been previously platted and previously zoned for this type of development. The applicant and engineers believe that this subdivision meets the standards that are required. Mr. Brooke stated he would communicate any and all questions the commission might have on the previous testimony; however, he would like to focus on the concern before the commission, which is the variance requests. There are three variance requests, which the engineers are willing to mitigate at the will of the city commission. Mr. Brooke wanted to ease the concerns regarding earthquake and erosion and mentioned that liquefaction was a design concern because Helena is located in an earthquake zone. Mr. Brooke stated there's not a known fault in the South Hills and in order to have liquefaction occur several things need to happen. The least of which is appropriate water or saturated sub grade, in order to liquefy; then there needs to be a uniform grain size that's not distributed. This situation could not happen with the proposed fill that's designed in Crest View. It's going to have a graded fill with an engineer's specification for a gradation between silt and clay to gravel and sand and the provision of the design also includes adequate drainage of the slopes. The top surface will be paved, which will be well drained. Mr. Brooke wanted to allay the commissions concerns regarding any impact to public health and safety and welfare.

Mr. Brooke stated, regarding traffic concerns on Beattie Street, that Beattie Street is currently 36 feet wide and it is designed to handle over 2000

vehicle trips per day. It currently handles about 1000-vehicle trip per day at the intersection of Beattie and Broadway.

Mr. Brooke stated, regarding the design of the roads and the amount of cut and fill, this is the design that the city has required of developers and this design meets those requirements.

Mr. Brooke stated he would recommend that the city commission move to approve the motion for the three-variance requests for the proposed subdivision. If these variance requests are approved the applicant is willing to work the city staff to meet the conditions of approval for the subdivision.

Discussion

Commissioner Pouliot stated in some of the testimony there was mention that Iowa Street might be used as an exit for this second Phase and asked if that has been discussed at all and if it is possible? Ms. Morell-Gengler stated there exists right of way for Iowa Street. The applicant has not submitted any engineering or any indication that they intend to improve that to provide that as an access.

Mayor Smith asked if the commission's discussion could be carried over to a subsequent meeting? City Manager Tim Burton stated, not to reopen the public hearing but to get further answers on questions the commission may have is appropriate. Mr. Burton stated the opportunity for the commission; there is time under Montana Statue; the commission can table this issue until January 27, 2003 and rule on that date.

Motion

Commissioner Netschert moved to table of the preliminary plat for the second phase of the Crest View Estates major subdivision creating 17 residential lots from a 12.04-acre tract of land for property located in the R-1 District and legally described as, Block 7, Lots 19-23 and 24A; Block 8, Lots 1-6, 29-34; Block 11, Lots 1-5, 30-34, and east 11 feet of Lots 6 and 29; Block 12, Lots 11-18, 19-28 and Lots 10A and 29A; Block 13, Lots 1-36; Block 14, Lots 1-5, 30-34, and east 11 feet of Lots 6 and 29; Block 17, Lots 1-3 and east 11 feet of Lot 4; Block 18, Lots 1-9; and all vacated street and alley rights-of-way adjacent to these lots in the Courthouse Addition, and Lot 1A identified in Certificate of Survey #622953-B as filed in Lewis & Clark County, Montana; generally located in the SE ¼ Section 31, T10N, R3W, P.P.M. and south of Rhode Island Street, southeast of Beattie Street, and west of Crest View Estates Phase I, Helena, Lewis & Clark County, Montana. Commissioner Oitzinger seconded the motion. Motion carried 3-2 with Commissioner Pouliot and Commissioner Parriman voting no.

Public Communications

PUBLIC COMMUNICATIONS - There were no persons present wishing to address the commission.

Meetings of Interest

MEETINGS OF INTEREST - No report given.

Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 10:53 p.m.

Mayor Smith

ATTEST:

CLERK OF THE COMMISSION

