

CITY OF HELENA
REGULAR CITY COMMISSION MEETING
February 10, 2003
6:00 P.M.

Time & Place

A regular City Commission meeting was held on Monday, February 10, 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. HCC member included Jerry Hutch and Youth Advisory members included Brittany Allen, Libby Snedeker and Anne Pichette.

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 January 13, 2003 and January 22, 2003 were approved as submitted.

Presentation

PRESENTATION:

A. United Way Award Presentation

Paul Spengler stated he is proud to report that the city employees contributed to the United Way at a record level and presented the United Way Gold Award to Mayor Smith. Mr. Spengler stated the contribution rate increased 39% from the 2001 campaign to the 2002 campaign.

Mayor Smith accepted the award on behalf of the city employees and thanked everybody who contributed.

B. Helena International Affairs council Annual Report

International Affairs Chairman Bill MacBride reviewed the annual report and thanked the commission, the members of the International Affairs Committee and City Clerk Debbie Havens.

Mayor Smith asked if recent unfolding events in the Middle East would affect the International Affairs Council established relationship with Kyrgyzstan? Chief Warrant Officer Bridwell stated the International Affairs Council raises the public awareness of how important these diplomatic efforts are at the civilian level and at a level that keeps the United States out of future confrontations by breaking down the barriers of miscommunication.

Appointment

APPOINTMENT:

A. Civic Center Board

B. Historic Preservation Commission

C. OSBAC

D. Public Art Committee

Mayor Smith recommended the following appointments:

Civic Center Board

Betty Hidalgo

Unexpired term will expire March 1, 2005

Historic Preservation Commission

Raymond Read

Unexpired Joint Appointment will expire June 30, 2005

OSBAC

Pete Johnson - Reappointment as Chamber of Commerce Representative

Term will expire February 28, 2006

Public Art Committee

Joe Campeau

First term will expire December 31, 2005

Motion **Commissioner Pouliot moved approval of the appointments outlined above.** Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

Consent Agenda

CONSENT AGENDA:

- A. Claims
- B. Utility bill insert - Parks and Recreation Department
- C. Utility bill insert - Susan G. Komen Breast Cancer Foundation
- D. Consider acceptance of a gift of real property - Government Lot 10, Section 4, T9N, R3W, Lewis and Clark County
- E. Request for letter of support for EPA 319 grant proposal - Water Quality Protection

City Manager Tim Burton recommended approval of the claims.

Motion **Commissioner Pouliot moved approval of items A through E on the consent agenda.** Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

Communications

COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS

Commissioner Pouliot asked what the city commission meetings viewer ship rate is? Mayor Smith stated it's his understanding that the commission is doing very well and perhaps at a subsequent meeting the HCTV could give an update.

Commissioner Parriman asked to have the items, involving the most public attendance, to be moved before Crest View. Mayor Smith stated without objection from the commission he would move the public hearing regarding the daycare facility forward.

**Public Hearing
*Daycare Facility***

- A. CONSIDER A RESOLUTION FOR A CONDITIONAL USE PERMIT (CUP) TO ALLOW CONSTRUCTION OF A DAYCARE CENTER AND PRESCHOOL FOR UP TO 128 CHILDREN AND 18 EMPLOYEES TO BE LOCATED IN A B-2 (GENERAL COMMERCIAL) DISTRICT; LEGALLY DESCRIBED AS LOT 8B OF THE SKELTON ADDITION, HELENA, MONTANA; GENERALLY LOCATED WEST OF PTARMIGAN LANE AND NORHT OF PARTRIDGE STREET.

Staff Report

City Planner Kathy Macefield reported the property is currently vacant and undeveloped. On Tuesday, January 14, 2003, the Helena Zoning Commission unanimously (4:0 vote) recommended approval for a resolution for a CUP to allow new construction of a daycare facility and preschool for up to 128 children SIC Industry Group #835), with 18 employees including caregivers, office and maintenance staff, to be located in a B-2 District. The recommendation for approval includes 4 conditions related to parking, screening, licenses and building permit. Letters stating opposition and support for the proposal have been received. Two neighborhood meetings were held to discuss the proposal (January 14th and 27th).

Ms. Macefield recommended approval subject to the following conditions:

1. Parking: A plan must be submitted to the Director of Building and Safety that addresses vehicular ingress/egress and pedestrian safety for the loading spaces located on the east side of the building.
2. Screening:
 - A. The north property line adjacent to the parking area must be screened in accordance with Section 11-22-9 of the Helena Zoning Ordinance.
 - B. Screening must be installed along the south side of the outdoor play area for noise mitigation.
3. Licenses:
 - A. The daycare facility must be licensed by the State of Montana prior to occupancy.
 - B. A City business license must be obtained prior to issuance of an occupancy permit.
4. Building Permit: A building permit must be obtained within one year of approval of this CUP.

Discussion

Commissioner Oitzinger asked if the practice of requiring a CUP for daycares located in any other location except churches and schools is consistent with the practices of other cities? Ms. Macefield stated she doesn't know for sure, however, the current zoning regulations allow daycare centers in churches and schools for the purpose of encouraging better utilization of those buildings.

Commissioner Netschert stated the people in opposition had some concerns with noise and as part of the conditions there is going to be screening installed and asked what the stipulation for the type of screening would be? Ms. Macefield stated the screening is required to buffer the noise from the parking area, not the outdoor play area. Ms. Macefield explained that the applicant was going to take a look at screening options, which could be vegetation or a boarded fence.

Public Testimony

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

Ann Lynch, 7103 Antelope Way, stated she is the applicant and understands the need for childcare in the Helena area. Ms. Lynch stated she has worked on this plan for seven years and the property chosen will meet all the required codes.

Susan Bjerke, 545 South Harris, stated she is Ann Lynch's architect on the project. Ms. Bjerke reiterated that the plan has been reworked considerably and stated they are pleased with the results after speaking to the neighborhood.

Brittany Allen, 5223 York Road, stated she is here on behalf of the

Youth Advisory Council and asked if bars and casinos are allowed in the B-2 zoning? City Attorney David Nielsen stated B-2 does allow for bars, however, it has to be a certain distance from the residential area or a CUP would be required.

Patricia Grant, 3400 Ptarmigan Lane Apt. D3, stated she is opposed to the daycare project. Ms. Grant stated the noise level, traffic and parking problems, and the nightly recreational activities would be disruptive. Ms. Grant stated if there were a daycare developed, the fence around the perimeter of the play area would be acceptable.

Lois O'Leary, 3400 Ptarmigan Lane Apt. E1, stated she is opposed to the daycare project. Ms. O'Leary explained the problems with speeding through the area and stated currently there are no speed limit signs posted.

Kate Porter, 3400 Ptarmigan Lane Apt. A2, stated she is speaking in opposition for the daycare project and asked if the fencing is to be included around play area; and stated the traffic and the noise levels would disrupt the neighborhood.

Libby Snedeker, 5796 Shannon Court, stated if a daycare was developed in that area; traffic would probably slow down because there would be little kids around.

Lois Taylor, 3400 Ptarmigan Lane Apt. A4, stated she is opposed to the daycare project and explained that she is not against children, however, she would like to have peace and quite within her neighborhood.

Mary Krebs, 3400 Ptarmigan Lane Apt. B2, stated she is opposed to the daycare project and stated that traffic is a problem.

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

Discussion

Commissioner Pouliot asked for clarification regarding the street width issue. Ms. Macefield stated the street is 34-foot wide, which allows for two ten foot wide travel lanes and two seven-foot wide parking areas, one on each side. Commissioner Pouliot asked if that is normal standard street width? Ms. Macefield stated that width is appropriate for the amount of traffic in the area.

Commissioner Pouliot asked regarding the nightly meeting room? Ms. Lynch stated she would be holding staff meetings and rent it out to a ballet instructional dance teacher and the Childcare Association.

Mayor Smith stated there is a play area and asked if it is the intention to fence the play area? Ms. Lynch concurred and stated the fence will run the entire length of the south side of the property.

Commissioner Oitzinger asked what parameters of the ages the daycare would be serving? Ms. Lynch stated from infant to school age children. Commissioner Oitzinger asked for the name of Ms. Lynch's accrediting entity? Ms. Lynch stated she would be using the National Association of Education of Young Children to get accredited.

Mayor Smith asked if the dance and meeting rooms were mentioned in the staff report? Ms. Macefield stated it is outlined in the terms of the applicant's proposal and in the staff report under "Accessory Uses".

Commissioner Parriman stated this proposal is acceptable and hopefully the screening around the play area will mitigate some of the noise. Commissioner Parriman stated he is in agreement that Helena does need quality daycare and this proposed site is a good location for it.

Commissioner Pouliot stated the residents of that neighborhood have indicated when cars are parked on both sides of the street cars cannot pass

each other. Commissioner Pouliot stated until that is resolved he will oppose any further construction in that area.

Commissioner Netschert stated he has a follow up motion, separate from this public hearing, which would address the speed limits in that area.

Mayor Smith stated he would be more comfortable approving this motion if there was a fifth condition that stipulated the daycare not be rented out. Mayor Smith explained that given the concerns of the neighborhood regarding the accessory uses, he is opposing the project.

Motion

Commissioner Parriman moved approval of a resolution for a Conditional Use Permit (CUP) to allow new construction of a daycare facility and preschool for up to 128 children (SIC Industry Group #835), with 18 employees including caregivers, office and maintenance staff, to be located in a B-2 (General Commercial) District. Said property is legally described as Lot 8-B, Block 2, Skelton Addition, Helena, Montana; generally located west of Ptarmigan Lane and north of Partridge Street, subject to the four conditions outlined above. Commissioner Netschert seconded the motion. Motion carried 3-2 with Mayor Smith and Commissioner Pouliot voting no. **Res. #11844**

Discussion

Commissioner Netschert stated he would like to either make a motion or have a consensus among the commission to direct staff to outline a speed revision for that area; from 25 mph to 15 mph. Mr. Burton stated his recommendation to the commission is he will direct staff to analyze the situation and report back to the commission within a reasonable time.

Report of the City Attorney

REPORT OF THE CITY ATTORNEY
City Attorney David Nielsen had no report.

Report of the City Manager

REPORT OF THE CITY MANAGER
City Manager Tim Burton reported on the issues regarding the city of Helena being discussed at the legislature. One of the issues being discussed is amount of authorities the city commission's have. Mr. Burton stated there would be a hearing on February 11, 2003 regarding a bill introduced by Representative Coughman to move forward on the Helena College of Technology construction and the city will participate in that process. Mr. Burton commented on HB258 the bill that would restrict cities abilities to prohibit smoking in bars and casinos, and the hearing is scheduled on February 11, 2003.

Anderson Business Park subdivision

CONSIDER A MAJOR SUBDIVISION/PRELIMINARY PLAT FOR THE ANDERSON BUSINESS PARK MAJOR SUBDIVISION CREATING FORTY-THREE LOTS FROM A 39.8-ACRE TRACT, AND TO ADOPT CONDITIONS FOR APPROVAL AND FINDINGS OF FACT FOR PROPERTY LEGALLY DESCRIBED AS TRACT B-2-A OF RIVER ROCK SUBDIVISION (COS#613952/B) IN SECTION 18, T10N, R3W, P.M.M., HELENA, MONTANA AND LOT A1 OF THE FWP MINOR SUBDIVISION; GENERALLY NORTH OF CUSTER AVENUE AND EAST OF MCHUGH LANE [TABLED FROM JANUARY 27, 2003]

Staff Report

City Planner Belinda Waters reported on January 7, 2003, the Planning Board held a public hearing and recommended approval of the proposed subdivision/preliminary plat of the Anderson Business Park Major Subdivision.

On Monday, January 27, 2003, the Helena City Commission held a public hearing to review the Anderson Business Park major subdivision/preliminary plat. The proposed preliminary plat was tabled until the February 10, 2003 City Commission meeting to allow time for review and possible changes to the Findings of Fact and established conditions for approval.

Ms. Waters recommended approval of a major subdivision/preliminary plat of 39.8 acres creating 43 lots and to adopt the proposed Findings of Fact, dated 1-31-03, and conditions for the Anderson Business Park major subdivision.

1) Agriculture and Agricultural Water User Facilities

The applicant must submit to the City documentation as to the existence of water rights on the property, and if so, must provide to the City the disposition of these water rights.

2) Local Services

A) Water and Sewer

- 1) The water and sewer systems must be designed and installed to City standards.
- 2) Water mains in River Rock Loop must be extended to the east boundary of the subdivision.
- 3) The proposed water main along Road Runner Drive must be available for future stubs for Sand Piper Loop and Snow Goose Street.
- 4) Water and sewer mains must be placed in the rights-of-way.

B) Access and Traffic

1) Streets

Streets must be designed and constructed to comply with Chapter 4 (Design Standards, Improvements) of the Helena Subdivision Regulations and other applicable street standards.

- a) The developer must either construct the full width of Road Runner Drive from McHugh Lane to the east edge of that street to City standards as part of this subdivision or must participate with adjacent property owners to build the entire street.
- b) Sufficient roadway dedication must be provided to extend River Rock Loop to the east boundary of the subdivision, must be constructed to City standards including the installation of utilities, and a barricade placed at the east end of the River Rock Loop extension where it connects to the Fish, Wildlife and Park property until this property is developed.
- c) The developer must either design and widen McHugh Lane, on the eastside half of the subdivision, that is appropriately designed as a minor arterial to City standards, which includes a 32-foot driving surface, storm water facilities, and a pedestrian/bicycle way or must participate with adjacent property owners to build the entire street, "including consenting to the creation of a

special improvement district for construction of
McHugh Lane."

- 3) Public Health and Safety
 - A) Fire Hydrants

The fire protection system must be installed by the developer, including the location of fire hydrants meeting fire flow requirements, must be submitted for review and approval by the City.
 - B) Storm water Drainage

A storm water drainage plan, complete with drainage calculations provided by an engineer, not allowing drainage in excess of the historical run-off, including the location of detention/retention basins and their maintenance access routes, must be submitted to the City Engineer for review and approval.
- 4) The Survey Requirements Provided For In Part 4 Of This Chapter

The City needs the final plat to be tied to the City coordinate system on acceptable digital formats for archival and mapping purposes.
- 5) Helena Subdivision Regulations
 - A) Financial Guarantee

All of the public improvements must be installed or the improvements must be financially guaranteed in accordance with Section 12-4-13 and 12-4-14 of the Helena Subdivision Regulations.
 - B) Parks
 - 1) The applicant must submit an amended parkland dedication plan.
 - 2) The .97-acre park, located in the northeast corner of the subdivision, must be dedicated to the public.
- 6) Easements

All easements shown on the preliminary plat must be maintained for utilities, which service the subdivision, drainage, and vehicle and pedestrian access.
- 7) Legal and Physical Access

A subdivision proposal must undergo review for the following primary criteria according to Section 76-3-608 (3) (d); *the provision of legal and physical access to each parcel within the subdivision and the required notation of that access on the applicable plat and any instrument of transfer concerning the parcel.*

Discussion

Commissioner Parriman asked if an SID is going to be created or if there is going to be an RID or a combination of both? Ms. Waters stated staff is looking at forming an SID, if 51% of the property owners are in favor of it.

Dick Anderson, 1800 Lodgepole, stated he would like to change the added condition to say, "the developer must participate with adjacent property owners to build the entire street, consenting to the creation of a Special Improvements District (SID) for construction of McHugh Lane." Mr. Anderson stated he is not against the SID and would like to be a part of it.

Motion

Commissioner Pouliot moved to conditionally approve the preliminary plat for the Anderson Business Park major subdivision creating forty-three lots from a 39.8-acre tract and to adopt the Findings of Fact, dated 1-31-03, and the conditions contained therein and outlined above for property legally described as Tract B-2-A of River Rock Subdivision

(COS#613952/B) in Section 18, T10N, R3W, P.M.M., Helena, Montana and Lot A1 of the FWP Minor Subdivision. Commissioner Netschert seconded the motion. All voted aye, motion carried.

Intention to Annex

CONSIDER A RESOLUTION OF INTENTION TO ANNEX INTO THE CITY OF HELENA, MONTANA, PROPERTY LEGALLY DESCRIBED AS LOT 1, PADBURY MINOR SUBDIVISION NO. 1, LEWIS & CLARK COUNTY, MONTANA, GENERALLY BEING A 4.05-ACRE PARCEL PROPOSED FOR CREATION SOUTH OF ALICE STREET BETWEEN ELAINE STREET AND LOLA STREET ON HELENA'S EAST SIDE, AND TO ESTABLISH CONDITIONS OF ANNEXTATION.

Staff Report

Project Coordinator Hal Fossum reported the owners of this property have applied for annexation to the City of Helena. The property is located south of Alice Street and south of the Elks Lodge. The proposed annexation is contiguous with existing City limits and would not create any additional wholly surrounded areas. The vacant property is adjacent to existing street, water, and sewer utilities.

The property owners seek creation of the lot and its annexation in order to divide existing common ownership of a larger property into separate ownerships. The property owners also applied for minor subdivision and rezoning in the Residential-Office (R-O) District. Upon completion of conditions to annexation and final plat, a simultaneous action by the City Commission will be required to create the new lot and annex it to the City.

No public hearing is required for this action. Commission review will satisfy all legal and procedural requirements and enable the City Commission to establish conditions of annexation.

Mr. Fossum stated all properties in the City are required to meet certain standards for infrastructure including sewer, water, storm drainage, fire hydrants, streets and sidewalks. Under MCA 7-2-4610, first class cities and property owners of the area to be annexed may mutually agree upon the timing and financing City services. Because no further development of the property is anticipated in the near future, and because the design and location of street, water, and sewer systems depend upon design of the larger development to the south, staff expects that most of the required City infrastructure improvements would be deferred through a development agreement.

Any residential construction work following passage of this resolution would be undertaken in anticipation of annexation. Therefore, any construction prior to annexation should be completed in conformance with City requirements, including zoning, building, public works, and fire codes. Building permits for commercial structures outside City limits are permitted by the State, the review of which covers fire and building codes. Although no building is anticipated, a condition is included to ensure that the City would review any further building prior to the completion of annexation for conformance with City zoning and infrastructure requirements.

City ordinance requires the payment in full of all taxes and assessments. The recommended condition for timely notification and completion of conditions is intended to provide a reasonable time frame for completion of this process.

The annexation of adjacent rights of way will be brought forward at a later date, to be coordinated with the final approval of annexation of this property. Staff will propose the annexation of Alice Street, the platted street segment adjacent to the subject property.

Mr. Fossum recommended approval for a resolution of intention to annex into the City of Helena subject to the following conditions:

1. Infrastructure: The applicants must install infrastructure improvements as required by the City and to City standards, including water, sewer, fire hydrants, street, curb, gutter, and sidewalks, or enter into a development agreement acceptable to the City of Helena that defines responsibility for the installation or deferment of the improvements.
2. Review of new construction: For all construction commenced subsequent to the adoption of this resolution, the property owners shall submit plans for review by the City of Helena to ensure compliance with infrastructure, zoning, and Uniform Fire Code requirements of the City, and shall agree to pay all fees for such reviews in the same manner and basis as do owners of properties already in the City.
3. Taxes and Assessments: Taxes and assessments shall be paid and current at the time of filing the Resolution of Annexation.
4. Completion of Conditions: The applicant shall notify City Planning in writing upon completion of the conditions for approval of annexation. If the conditions are not completed within one (1) year of the date of approval of this Resolution of Intention, the City is under no obligation to annex the property or to continue and City services, including water and sewer.

Discussion

Mayor Smith stated he thought the city was annexing 700 acres over time a period of time and asked why only 4.05 acres is being annexed? Mr. Fossum stated the owners of Padbury Ranch LLC wanted to clean up ownership of the various properties. Mr. Fossum explained a local church had an undivided interest in a large parcel of this property and to mitigate the issue they are segregating their interests into a specific property and that action requires a subdivision, which in turn requires a rezoning and annexation.

Mayor Smith asked if the commission is likely to see further 4 to 10 acre requests for annexation? Mr. Fossum stated he doesn't believe so.

Tom Harrison stated he represents Padbury LLC and reiterated Mr. Fossum's explanation.

Motion

Commissioner Netschert moved to approved of a resolution of intention to annex into the City of Helena, Montana, property proposed to be described as Lot 1, Padbury Minor Subdivision No. 1, Lewis & Clark County, Montana, generally being a 4.05 acre parcel proposed for creation south of Alice Street between Elaine Street and Lola Streets on Helena's East Side, subject to the conditions outlined above. Commissioner Parriman seconded the motion. All voted aye, motion carried. **Res. #11842**

***Crestview Estates
Subdivision***

CONSIDER CREST VIEW MAJOR SUBDIVISION/PRELIMINARY PLAT,
TO ADOPT CONDITIONS FOR APPROVAL AND FINDINGS OF FACT.

Discussion

City Manager Tim Burton reviewed past history regarding this issue and stated he recommended the commission consider and act on the variances, proceed with the conditions and conclude with the findings of fact.

City Planner Lucy Morell-Gengler explained the three-variance requests that were submitted with this proposal. The first request was to allow a bike/pedestrian path to be located along the western edge of the property. The applicant has since withdrawn that variance request and has indicated that the

bike/pedestrian path will be located adjacent to the street and with that change, this variance is no longer an issue. Ms. Morell-Gengler stated the second variance request would be to allow a subdivision that would generate more than 200-vehicle trips per day to allow a single point of ingress/egress and the third variance would be to allow a dead-end street to exceed 700 feet.

Mayor Smith stated the commission would take the variance requests one at a time starting with the first one and asked Ms. Morell-Gengler to repeat the variance. Ms. Morell-Gengler stated that variance would be from 12-4-2B of the subdivision regulations; which requires each subdivision with a projected trip generation of more than 200-vehicle trips per day to have a minimum of two public access for ingress/egress. Mayor Smith stated the estimated vehicle trips per day are 297. Ms. Morell-Gengler concurred.

Commissioner Pouliot stated the commission discussed a secondary emergency access ingress/egress and asked if that affects this variance request? Ms. Morell-Gengler stated if a secondary access were established, it would be required that it be built to city standards.

Mayor Smith asked if the issue of a secondary access should be taken up separately from the variances? Ms. Morell-Gengler concurred and stated it could be a condition of granting the variance that a secondary emergency access be established; there by not requiring them to meet the strict standards for street design.

Commissioner Netschert asked if the applicants have reviewed the conditions and if these variances are granted would they be amicable to those conditions that have been set forth in the findings of fact? Mr. Brooke stated they have reviewed the conditions and regarding a specific variance request, they have submitted an indication and some preliminary design for an emergency access to accommodate that requirement for a second access to the subdivision. The applicant has proposed a graded and gravel drive coming from Rhode Island, up Raleigh Street, connecting with the Iowa Street access that was created as part of Phase I. Mr. Brooke stated they would like some direction from the commission regarding the proposal for a secondary emergency access.

Commissioner Netschert asked regarding the other variance request for the dead-end street in excess of 700 feet and stated the condition that is being suggested is a guardrail be installed along the western side of Crest View Drive, adjacent to the curve and asked if that is amicable? Mr. Brooke stated the applicants are in preliminary discussions with city staff regarding the requirement for a guardrail. Mr. Brooke explained both staff and the applicant feel it's premature to say a guardrail would be acceptable; therefore, staff has worded this variance to state; "if required; a guardrail must be installed along the western side of Crest View Drive."

Commissioner Parriman asked what exactly constitutes a second ingress/egress and what would satisfy that requirement? Ms. Morell-Gengler stated expense and grade would be the issues. The applicant has indicated the grade in that area does not meet the current 8% requirement and it may be difficult to engineer.

Motion

Commissioner Pouliot moved to grant the variance for a single ingress/egress.

Discussion

Mayor Smith asked for clarification on Commissioner Pouliot's motion. Ms. Morell-Gengler stated the subdivision regulation requires each subdivision with a projected trip generation of more than 200-vehicle trips per day to have a minimum of two public accesses for ingress/egress. Mayor Smith stated it was approved at a previous meeting to require a second access and asked Commissioner Pouliot if his motion would be to approve a single access? Commissioner Pouliot stated that Ms. Morell-Gengler indicated that the commission is talking about two different accesses; one is an emergency only and the other is a secondary ingress/egress. Ms. Morell-Gengler concurred.

Mayor Smith stated if the commission left that access as it exists, a variance from the 200-vehicle trips per day to 297-vehicle trips per day would be needed. Ms. Morell-Gengler concurred.

City Manager Tim Burton asked in terms of the conversation in the past week, talking about the conditions of approval, have different types of alternatives, that exist, been discussed? Ms. Morell-Gengler stated the applicant indicated they would prefer to utilize a secondary emergency access. There have been some discussions about utilizing the city's access easement through the city's property and perhaps looking at alternatives to the south.

Commissioner Pouliot stated he made the motion to approve the first variance, which was a request for a variance requiring two public accesses to one public access.

Commissioner Netschert stated he would second the motion if Commissioner Pouliot would amend his motion to state that he moves to approve the variance from section 12-4-2B of the subdivision regulations that require each subdivision with the projected trip generation of more than 200-vehicle trips per day to have a minimum of two public accesses for ingress/egress, provided the following condition is met that a secondary emergency access, able to accommodate all weather emergency vehicles access be provided and the design and location be submitted to the city fire chief and the city engineer for review and approval.

Commissioner Pouliot amended his motion to read as:

Amended Motion

Commissioner Pouliot moved to approve the variance from section 12-4-2B of the subdivision regulations that require each subdivision with the projected trip generation of more than 200-vehicle trips per day to have a minimum of two public accesses for ingress/egress, provided the following condition is met that a secondary emergency access, able to accommodate all weather emergency vehicles access be provided and the design and location be submitted to the city fire chief and the city engineer for review and approval. Commissioner Netschert seconded the motion. Motion failed 2-3 with Mayor Smith, Commissioner Parriman and Commissioner Oitzinger voting no.

Discussion

Mayor Smith asked if the next variance request has to do with the dead-end roadway? Ms. Morell-Gengler concurred and stated subdivision regulations require, in section 12-4-2C, that a dead-end street be limited to 700 feet, the proposed Crest View Drive dead-end street is approximately 1,500 feet;

therefore, the applicant is requesting a variance from the 700 feet to allow a 1,500 foot long dead-end street.

Commissioner Parriman asked how that requirement would be satisfied? Ms. Morell-Gengler stated decreasing the number of lots and clustering the lots are some options.

Commissioner Parriman asked if it would be possible to connect the streets at Phase I and Phase II and would it be a reasonable fix? Mr. Rundquist stated there is certainly some linkage there on the topography, however, Phase I has already been platted and approved, therefore he's not sure if it is a feasible alternative at this point without a redesign of the plat.

Mr. Brooke stated they have looked at many alternatives to address the issue of the dead-end street length and based on the parcel of land available, for development and decisions made on adjacent parcels of land in the past, this solution is the most feasible Mr. Brooke stated he wanted to impress upon the commission that the national guidelines for residential subdivision street design are being maintained by the proposal before the commission tonight.

Motion

Commissioner Netschert moved approval to grant a variance from section 12-4-2C of the Helena Subdivision Regulations, which states dead-end street may not exceed 700 feet in total length. Commissioner Pouliot seconded the motion.

Discussion

Commissioner Parriman stated he would like to see this development happen, however, he has some trouble granting the requests for variance because the regulations are there for a reason. Commissioner Parriman stated there has to be other solutions to mitigate these problems without granting a variance.

Mayor Smith stated if this variance is not approved, like the last variance, then the commission, in effect, is asking the applicant to go back and continue to work with staff on alternatives for the project. Ms. Morell-Gengler concurred and stated staff could move forward on the subdivision and make the conditions of approval of the subdivision that the street not exceed the standards established in the subdivision regulations. Then the applicant could come back with an alternative design and staff could see if the impacts have been mitigated and/or other conditions might be more applicable. Ms. Morell-Gengler stated the commission could approve what has been submitted with the conditions that staff has recommended with a condition that that states the applicant must comply with the standards established in the subdivision regulations.

Vote

Motion failed 2-3 with Mayor Smith, Commissioner Oitzinger and Commissioner Parriman voting no.

Discussion

Ms. Morell-Gengler stated when staff submitted the proposed Findings of Fact and conditions contained therein the commission's packet; staff did not have a chance to review them with the applicant. Staff then had several meetings with the applicant, reviewing the conditions and changing some of the wording on some of the conditions. Ms. Morell-Gengler stated the memo dated February 10, 2003 is the draft that staff recommends at this time.

City Manager Tim Burton stated the body of the February 10, 2003 memo is similar to the January 31, 2003 memo; therefore it may be helpful to the commission for Ms. Morell-Gengler to outline what has changed due to the conversations with the developer.

Ms. Morell-Gengler stated the changes that were incorporated deal with condition #2 regarding the water supply and the requirements for the fire pump. Previously, staff had recommended that two NFPA pumps be provided and the additional language would allow some flexibility in the types of pumps that could be utilized. Ms. Morell-Gengler stated this condition incorporates two options; one option is for a reservoir and the second option would address a booster pump station and the requirements associated with that.

Commissioner Parriman stated Phase I did not require a pump station, which means there must be sufficient fire flows in that area and asked regarding the topography and elevation of Phase I in relation with Phase II? Ms. Morell-Gengler stated the area in which the Winne system can serve is lower than the lots that were proposed for Phase II.

Mr. Brooke stated the elevation delineates the boundaries between Phase I and Phase II. Based on that figure it should demonstrate the need for some type of booster system or reservoir at a higher elevation than what the Winne reservoir system is currently at.

Mr. Rundquist stated in the higher elevations the pressure gets too low for adequate domestic service from the Winne zone.

Commissioner Parriman asked if there is a possibility to get fire hydrants far enough up into Phase II and be able to accommodate the rest of the water supply with individual booster pumps for each home? Mr. Rundquist stated it might be possible and has been done in other areas of Helena.

Mayor Smith reiterated that it's up to the applicants to choose a booster system or a reservoir system, however, in past meetings the applicants stated they would be using the booster system. Ms. Morell-Gengler concurred.

Motion

Commissioner Pouliot moved to approve the condition dealing with local services.

Discussion

Commissioner Parriman stated Mr. Rundquist's answer regarding the local services condition implied that the applicant might not have to install a reservoir or a booster pump system. Commissioner Parriman stated he is unsure if he wants to include that in the condition and by working with city staff and the engineers they could satisfy the city requirements without having to put in a reservoir or booster pump system. Mr. Rundquist stated Phase II is close to the boundary of the city's ability to serve with the Winne pressure zone. When you get above that zone there are three options; a reservoir, a booster pump station or individual home booster stations. Commissioner Parriman stated he would like to include the individual home booster station as an option in the motion.

Commissioner Oitzinger asked who is responsible for the maintenance of these three options? Mayor Smith stated the developers will pay for the installation and at that point maintenance and operation passes to the city. Mr. Rundquist stated, for clarification, the city owns all the major infrastructure. In the third option, there would be a privately owned pump on the service connection itself; therefore the property owner would own it.

Commissioner Netschert stated, a point of clarification for Commissioner Parriman, if the condition included the wording "or other acceptable means" would that be enough to get the point across. City Attorney David Nielsen stated the findings of fact look at the problem areas and the conditions are made to mitigate those problems. The reasons these conditions are recommended are to mitigate the lack of pressure in the upper elevations. Mr. Nielsen stated if there

is going to be a system installed that relies on existing pressures, it might limit which lot may be developed and how they can be developed. Mr. Nielsen stated he's not sure that it needs a condition, however, an option would be to say "or otherwise meet the fire flows and the water requirements for the subdivision for each lot".

City Manager Tim Burton asked if there would be a way to provide a fire flow above 4400 feet without a pump system? Mr. Rundquist stated there is a possibility that fire flow can be achieved by having these sorts of systems to serve properties that are higher up and be still within range of service from the hydrant.

Commissioner Parriman asked if a house is within 500 feet of a hydrant is it in that hydrants service area? Mr. Rundquist concurred.

Commissioner Pouliot asked regarding the individual home booster station possibility? Mr. Brooke stated it's not something that has been addressed and is not being considered at this time.

Motion withdrawn

Discussion

Commissioner Parriman asked if it is a possibility that the applicant use individual boosters and would that option be covered in the two conditions? City Attorney David Nielsen concurred.

Motion

Commissioner Pouliot moved approval of the condition as follows:

Local Services

A) Water and Sewer

1) A pump station must be provided to meet domestic water demand and a reservoir constructed at a sufficient altitude for adequate pressure; with sufficient volume to provide operating storage for domestic demand and to provide the necessary pressure and flow for fire protection.

a) The design fire flow and duration for reservoir sizing shall be that required by the Uniform Fire Code for the largest permitted structure.

b) Operating storage for the reservoir must be sufficient for adequate circulation in the reservoir and accommodation of peak water demands.

c) The applicant must provide a site for the reservoir and maintenance access to that site. OR

1) The applicant must construct, at the developers expense and in accordance with City approved standards, a water booster pump station for domestic and fire protection that meets the following conditions:

a) The applicant must submit to the City the design, specifications, and construction submittals for review and approval for all components of the proposed water booster pump station prior to construction of the water pump station.

b) The design flow for the pump station must provide for an operating capacity that meets UFC (Uniform Fire Code) standards for the largest permitted structure with a 25% safety factor in anticipation of diminished capacity due to equipment wear.

c) Fire pumps must be National Fire Protection Association (NFPA) approved for the condition of service.

d) Fire pumps must be National Fire Protection Association (NFPA) approved or non-UL/FM dual pumps each sized for required fire capacity. The fire pumps must be horizontal split case type (Peerless or equal) designed for municipal water supply. Fire pump controls must be set to

alternate the pumps for equal starts and run time. The fire pump controls must automatically start on low pressure with automatic switch to the alternate pump on low flow indicated by a non-mechanical flow meter (Magmeter or equal) for the condition of service.

e) The design flow for domestic demands must be provided with pumps sized for peak domestic demand with captive air tanks for pump cycling and pressure stabilization.

f) The pump station shall be automatically controlled with condition status and failure alarms telemetered to water operations headquarters and to the 911 Emergency Dispatch Center.

g) The pump station must provide automatic control and safety measures to prevent system overpressure and water hammer.

h) An emergency power generator powered by propane or diesel with 5-day heated fuel storage, or natural gas if adequate natural gas utility service will be available to the site, must be provided and installed to power all of the pump station in the event of grid power outage.

l) The emergency power generator must include automatic start and transfer, separate sound insulated room, automatic generator exercise, block heaters, hospital type muffler system, heat exchanger (city water supply) for block cooling, and other appurtenances as necessary to provide a complete, automatically controlled and reliable backup power supply.

j) Off street parking and all weather maintenance access to the pump station must be provided as approved by the Public Works Department.

k) The proposed pump station must be located on water department property or an access and maintenance easement must be established to service the station; the easement must be filed with the Clerk and Recorder with the final plat. The property dedicated for this purpose must be stable, secure, level and suitable for pump station construction.

2) The sewer collection and water distribution systems must be designed by an engineer licensed in the state of Montana, and the design must conform to City standards for types of materials, spacing of hydrants and valves, manholes, and other appurtenances; the design must be submitted for review and approval by the City Engineer.

3) An engineer must inspect and certify the installation of the utilities complies with the approved plans and the Montana Public Works Standard Specifications.

4) City Commission approval for the expansion of the water and sewer service area boundaries to serve this subdivision must be obtained prior to filing the final plat.

B) Access

1) The proposed access for Lot 17 must either be a private drive just for Lot 17, or it must be improved to Helena street standards per the Subdivision Regulations and must be so noted on the plat it that access serves other lots.

2) The 60-foot wide private drive right-of-way, which bisects the Phase II subdivision as described by COS#349016, must not be diminished in width and must not be blocked by fill material or cut slopes. The existing vehicular access road located within the easement established by COS#349016 and which is not a part of proposed Crest View Drive must be reestablished without a significant increase to the existing grade.

3) The location, grade, and construction materials of the proposed pedestrian/bike path must be reviewed and approved by the City.

Commissioner Parriman seconded the motion. Motion carried 3-2 with Mayor Smith and Commissioner Oitzinger voting no.

Motion

Commissioner Pouliot moved approval of the condition as follows: Agriculture and Agriculture Water User Facilities: The applicant must submit to the City documentation as to the disposition of any water rights for the property. Commissioner Netschert seconded the motion. Motion carried 3-2 Mayor Smith and Commissioner Oitzinger voting no.

Motion

Commissioner Pouliot moved approval of the condition as follows: 1) The Natural Environment & Wildlife and Wildlife Habitat: A construction erosion and weed control plan and a post-construction erosion control plan that addresses erosion control mechanisms, a weed control plan plus a revegetative and maintenance plan must be submitted to the City for approval. Commissioner Netschert seconded the motion. Motion carried 3-2 with Mayor Smith and Commissioner Oitzinger voting no.

Discussion

Ms. Morell-Gengler stated some of the changes associated with condition #4 include the applicant's intention to relocate the trail adjacent to the street. The other issue associated with this is reducing the grade of the fill area, adjacent to the city parkland. Discussions with the applicant and the Park Board indicated that the Park Board would recommend the fill area be extended into the parkland so that it can get closer to a 4:1 slope rather than a 3:1, mitigating the impact to the adjacent parkland; provided that the area was reclaimed in a manner consistent with existing vegetation and terrain. The area not adjacent to city parkland would remain at 3:1. Another issue was the storm water detention ponds. There were ponds indicated on the preliminary plat that the drainages would be located in the proposed parkland area. Also the lots, located in the south where there were two storm water detention ponds, would be privately owned and maintained. The storm water detention ponds, if located in the natural drainage west of the proposed subdivision, would be accessed through Beattie Street and through the park.

Commissioner Parriman asked regarding the secondary emergency access that must be provided? Ms. Morell-Gengler stated that was based on the motion that was made at the previous city commission meeting. Commissioner Parriman asked if the commission should strike the word "emergency" from that condition. City Attorney David Nielsen stated since the variance has been denied and two accesses are now needed, this condition is not needed. Commissioner Parriman asked if the statement "a secondary emergency access must be provided" could be stricken? Mr. Nielsen concurred.

Motion

Commissioner Netschert moved approval of the condition as follows:
4) Public Health and Safety
A) Emergency access: a secondary emergency access must be provided
B) Fill Area: To improve safety, mitigate the visual impact, and to reduce maintenance requirements, fill material may be extended into the Beattie Park if the fill grade is reduced to approximately 4:1 slope and the

fill area is reclaimed in a manner consistent with the existing vegetation and terrain.

C) Stormwater Drainage

1) A stormwater drainage plan, complete with drainage calculations provided by an engineer, not allowing drainage in excess of the historical run-off, must be submitted to the City Engineer for review and approval.

2) The final designs for any stormwater detention basins and drainages must meet all City of Helena regulations and standards and must be approved by the City Engineer.

3) All Stormwater basins must be located on public lands or on easements for maintenance purposes unless it serves only one lot and is privately owned. Operation and maintenance of privately owned stormwater basins must be included in a covenant for the property. An all-weather access road, installed to City specifications, must be constructed for maintenance access to all basin unless the basin is privately owned. Maintenance access to basins must be located on City-owned property or an easement must be established and graphically shown on the final plat.

4) A stormwater detention pond may be established in the existing natural drainage located west of the subject property and in Beattie Park if the area is reclaimed in a manner consistent with the existing vegetation.

5) Detention/retention basins must be blended into the landscaping.

6) Where drainage channels are created across multiple lots, drainage easements must be provided and drainage channels must be engineered for erosion control.

7) An off-site drainage easement must be obtained to transmit flow to pond 3 located in the first phase parkland. This easement must be filed with the Clerk and Recorder with the final plat.

8) If a retaining wall is installed, the construction plans for the retaining wall adjacent to pond 2 and maintenance access must be submitted to the City for review and approval. The retaining wall must be designed to blend in with the natural surroundings and maintenance access approved by the City Engineer must be provided.

C) Fire Mitigation

The plat must indicate areas with slopes 25% or greater and state that homes built in areas of 25% or greater slopes to reduce fire danger must.

1) Use only Class A or B fire rated roofing materials; and

2) Establish a vegetation reduction area adjacent to structures in accordance with the 1993 Fire Protection Guidelines for Wildland Residential Interface Development.

3) Due to the extreme cuts and fills associated with this development, a site grading and drainage plan must be submitted that demonstrates a foundation and driveway layout and design for each lot that is build able within the constraints of City Code and provides emergency access to each building site. Commissioner Parriman seconded the motion.

Discussion

Commissioner Oitzinger asked why "all weather" has been stricken? Ms. Morell-Gengler stated staff looked at when the stormwater detention basins are usually serviced and typically it's in the winter. The applicant requested this; the Public Works Director reviewed that request and indicated that "all weather" could be stricken without impairing the city's ability to service those detention basins.

Mayor Smith asked if a stormwater detention pond could be in Beattie Park? Ms. Morell-Gengler concurred.

Vote Motion carried 3-2 with Mayor Smith and Commissioner Oitzinger voting no.

Motion Commissioner Netschert moved approval of the condition as follows:
5) The survey requirements provided for in Part 4 of this chapter: The final plat for this subdivision must be tied to the City coordinator system and provided to the City on acceptable digital formats for archival and mapping purposes. Commissioner Parriman seconded the motion. Motion carried 3-2 with Mayor Smith and Commissioner Oitzinger voting no.

Discussion Commissioner Pouliot asked regarding the reclamation of the fill area? Mr. Brooke stated the applicant would expect this and would reclaim the fill area and submit a revegetation plan.

Motion Commissioner Pouliot moved approval of the condition as follows:
6) Helena Subdivision Regulations
B) Street: Roadway pavement section designs must be submitted to the City for review and approval by the City Engineer.
C) 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 the Helena Subdivision Regulations
1) Streets, curbs, and gutter, sidewalks, guardrail, street identification signs, and traffic control devices;
2) Pedestrian/bike path and related improvements;
3) Street Lighting;
4) Revegetation and erosion control improvements; weed management measures;
5) Water pump station, or reservoir and pump;
6) Water and sewer mains, manholes, fire hydrants, and other appurtenances;
7) Stormwater drainage improvements;
8) Retaining wall (if required); and
9) Reclamation of fill area.
D) Parks
1) Parkland dedication must be consistent with the City's Comprehensive Parks, Recreation, and Open Space Plan. The dedicated parkland may consist of the parcel of land connecting the parkland and the Phase I trail to Crest View Drive; a portion of the subject property located in the southern area of the subdivision and containing an existing east-west trail; and cash donation for the remainder.
2) The area required for the bike/pedestrian path, the City's existing 60-foot wide access easement, the proposed water booster pump station, and stormwater detention ponds must not be included as part of the required parkland dedication for the subdivision.
3) To mitigate impacts to the park areas from construction encroachment, the developer must install a temporary fence or boundary indicating the existing and designated park areas prior to the construction phases of the

development. Commissioner Netschert seconded the motion. Motion carried 3-2 with Mayor Smith and Commissioner Oitzinger voting no.

Motion

Commissioner Netschert moved approval of the condition as follows:

7) Easements

A) A 10-foot wide utility easement must be noted on the full length of the west side of Crest View Drive.

B) Easements must be obtained from the City Commission for any fill areas encroaching on City property including any parkland. Fill slope and provision for restoration, establishment of vegetative cover and weed control for the fill area must also be approved by the City if an easement is granted.

C) The 60-foot wide private road easement noted on COS#349016 as recorded in the Clerk and Recorder's Office, Lewis and Clark County must be shown and referenced on the final plat. Written approval for changes to the location, width, or road grade must be obtained from those entities that have a legal interest in this easement.

D) Easements for stormwater drainage, natural or man-made, and/or detention basins must be graphically shown on the plat.

These easements must restrict any encroachments that may inhibit the required stormwater drainages.

E) Stormwater easements that are required on adjacent properties must be obtained from affected property owners.

F) Easements for maintenance access to the proposed stormwater detention ponds and retaining wall must be shown on the plat.

G) An easement for the proposed booster pump station or reservoir must be noted on the final plat. Commissioner Pouliot seconded the motion. Motion carried 3-2 with Mayor Smith and Commissioner Oitzinger voting no.

Discussion

Ms. Morell-Gengler stated the findings of fact are findings of issues that relate to the conditions, these are the basis for requiring the conditions of the subdivision. There were changes to the findings of fact from when the packets were sent out in relation to deleting the bike/pedestrian path along the western side and moving it towards the street.

City Attorney David Nielsen stated in light of the previous action regarding the secondary access, the finding that states "Therefore, a secondary emergency access serving the Crest View Estates Phase II subdivision and connecting to Crest View Drive at some point 700 feet beyond the intersection of Crest View Drive and Hoback Court could mitigate some of the access limitations of proposed Crest View Drive" and suggested it be reworded to strike the word "secondary emergency" and change "a" to "an".

Commissioner Parriman asked if a sidewalk on the east side and a bike/pedestrian path on the west were consistent with Helena's regulations or can they develop 5-foot sidewalks and boulevards on each side? Ms. Morell-Gengler concurred and stated the subdivision regulations permit either a sidewalk and boulevard or a 10-foot bike/pedestrian path. Commissioner Parriman asked why the applicant is not putting sidewalks on both sides of the streets? Mr. Brooke stated it is possible to provide sidewalks on either side, however, staff would like to see a bike/pedestrian trail on the west side of the proposed Crest View Drive. Mayor Smith stated the purpose is to allow bike/pedestrian access into the Mount Ascension area. Mr. Brooke concurred

and stated the applicants had proposed a bike/pedestrian trail separate from the road right-of-way.

Commissioner Pouliot asked if the developer is comfortable with the findings? Mr. Brooke stated they accept the findings of fact as they are stated. The one concern the applicant has is how to establish a drainage easement, from Phase II into the drainage pond 3, that crosses into Phase I. Mr. Brooke stated it is the applicants intention to capture any additional runoff from Phase II, with the enlargement of that pond, however, it's not warranted to provide any drainage way or engineer a drainage path because the flow would be relatively insignificant.

Motion Commissioner Netschert moved approval to strike the word "secondary emergency" and change "a" to "an". Commissioner Parriman seconded the motion. Motion failed 2-3 with Mayor Smith, Commissioner Oitzinger and Commissioner Pouliot voting no.

Motion Commissioner Netschert moved to approve the Findings of Fact and the conditions contained therein as discussed in the February 10, 2003 memo as amended by the City Commission for the preliminary plat for the Crest View Estates Phase II 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 1-A 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 and 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 and Clark County, Montana.

Discussion Commissioner Parriman asked if the commission adopts these findings of fact, less the amendment, what does that do? City Attorney David Nielsen stated the finding says a "secondary emergency access is required" and the commission has approved that it will have to be a public access.

Commissioner Oitzinger stated the section pertaining to wildlife is real problematic because there is no mitigation when dealing with the wildlife conflicts.

Vote Commissioner Parriman seconded the motion. Motion carried 3-2 with Mayor Smith and Commissioner Oitzinger voting no.

Police Services B. CONSIDER A RESOLUTION INCREASING THE FEES CHARGED TO USERS OF OUTSIDE POLICE SERVICES.

Staff Report Chief of Police Troy McGee reported a number of years ago; the HPD required that all organizations/sponsors of events that requested extra duty services sign a contract which effectively guaranteed reimbursement for our services. The majority of our extra work is derived from the School District Athletic Office, the State of Montana, the Civic Center and Carroll College,

although requests have expanded to include Helena College of Technology activities, Alive at Five and the Festival of Trees, etc.

A flat rate is charged for the officer's services and the officers working the event are paid their appropriate overtime rate. In some cases, the flat rate exceeds the officer's overtime rate, however it evens out over the year as some of the officer's overtime salaries are more, i.e., Sergeant, Lieutenants, Captains and occasionally the Assistant Chief's. The current rate of \$30 per hour with a 3-hour minimum has been in place since July 1, 1999. To date we have been successful in breaking even or accumulating a small nest egg. However, we will begin to experience a deficit if rates are not increased proportionately with officer salaries and benefits.

Chief McGee proposed a \$2 per hour increase be instituted July 1, 2003 for all extra work activities. A letter of intention to raise rates will be mailed this month to those event sponsors who will be affected most by this change. This advance notice will give these sponsors enough time to increase their budgets accordingly.

Chief McGee recommended approval of the resolution of intention to increase of the hourly rate increase for the Police Services from \$30 per hour to \$32 per hour and set a public hearing date for February 10, 2003.

Discussion

Commissioner Parriman asked why the fee is not more? Chief McGee stated the police department uses the funds from this extra work to pay back the city for the police officer's overtime. Chief McGee stated they try to balance it so there isn't a profit. Commissioner Parriman didn't want to give people the impression that the city was trying to make a profit, however, if there is a need in the future to raise the fee he would support it.

Commissioner Oitzinger stated an event was proposed and unfortunately they couldn't afford the cost and were unable to hold the event and asked if Chief McGee had ever come across a situation like that? Commissioner Oitzinger stated she appreciates the police department's restraint in controlling the fees. Chief McGee stated they have come across situations like that and have been able to work it out most of the time; there have been cases that the city manager has approved where the city has covered the charge.

City Manager Tim Burton stated the city is extremely conservative on what events sworn officers' work on and primarily they're for school or community events. Mr. Burton stated it is very important, in Commissioner Parriman's view that this police force is not for hire for just anything.

Commissioner Netschert stated he shares Commissioner Parriman's comments and thoughts and explained he is reluctant to come back year after year in order to raise the fee by minuet amounts and asked City Attorney David Nielsen since the fee had been advertised at \$32 does the commission have the latitude to raise the fee higher? City Attorney David Nielsen stated it would have to stay at \$32 or less because it's been advertised at \$32.

Public Testimony

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

There being persons wishing to address the commission, Mayor Smith closed the public hearing.

Motion

Commissioner Pouliot moved approval of a resolution to increase extra work rates for police services from \$30 per hour to \$32 per hour.

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

Res.#11841

***Padbury Minor
Subdivision
Ordinance Pre-Zoning***

C. CONSIDER FIRST PASSAGE OF AN ORDINANCE PRE-ZONING TO R-0 (RESIDENTIAL-OFFICE) DISTRICT FOR A 4.05-ACRE TRACT OF LAND TO BE LEGALLY DESCRIBED AS LOT 1, PADBURY MINOR SUBDIVISION NO. 1, HELENA, MONTANA, PRIOR TO ANNEXATION INTO THE CITY OF HELENA; GENERALLY LOCATED SOUTH OF ALICE STREET BETWEEN ELAINE STREET AND LOLA STREETS.

Staff Report

City Planner Belinda Waters reported the subject tract is currently vacant and undeveloped. The applicant is requesting approval of the pre-zone application, which is accompanied by two simultaneous requests for a minor subdivision/preliminary plat and annexation. The proposed lot will meet lot area and width requirements for the R-O District. On January 14, 2003, the Zoning Commission unanimously recommended approval for the proposed pre-zoning.

Ms. Waters recommended approval of a pre-zoning request for a 4.050-acre tract for property to be legally known as Lot 1, Padbury Minor Subdivision No. 1; generally located south of Alice Street between Elaine Street and Lola Street.

Discussion

Mayor Smith asked if the R-O District is appropriate for a church? Ms. Waters concurred.

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 Netschert moved approval for first passage of an ordinance for pre-zoning to R-O (Residential - Office) District a 4.050-acre tract of land to be legally described as Lot 1, Padbury Minor Subdivision No. 1, Helena; prior to annexation into the City of Helena, Montana; generally located south of Alice Street between Elaine Street and Lola Street. Commissioner Parriman seconded the motion. All voted aye, motion carried. **Ord. #2950**

***Padbury Minor
Subdivision
Preliminary Plat***

D. CONSIDER A MINOR SUBDIVISION/PRELIMINARY PLAT FOR THE PADBURY MINOR SUBDIVISION NO. 1 TO BE LOCATED IN A R-O DISTRICT, CREATING ONE LOT TO BE LEGALLY DESCRIBED AS LOT 1, PADBURY MINOR SUBDIVISION NO. 1; GENERALLY LOCATED SOUTH OF ALICE STREET BETWEEN ELAINE STREET AND LOLA STREET.

Staff Report

City Planner Belinda Waters reported the subject tract is outside the City limits and is currently vacant and undeveloped. The applicant is requesting approval of the preliminary plat for the proposed Padbury Minor Subdivision No. 1, which is accompanied by two simultaneous requests for re-zoning to the R-O District and annexation. The proposed lot in this subdivision will meet lot area and width requirements for the R-O district. The main access route to the subdivision will be from Lolo Street, an existing paved City Street.

Ms. Waters recommended approval of the minor subdivision/preliminary plat creating one lot for property to be legally described as Lot 1, Padbury Minor

Subdivision No. 1; generally located south of Alice Street between Elaine Street and Lola Street.

Public Testimony

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

James Harrison, 1336 Helena Avenue stated there is no objection to the suggestion on the 30-foot to right-of-way. The applicant would favor the other west and south easements not be required. Mr. Harrison explained both parties might have the desire to develop Park Street to the west.

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

Discussion

Commissioner Netschert asked if the applicant would be comfortable if the commission approved this with the findings of fact and the conditions with the omission of the west and south easements? Mr. Harrison concurred.

Ms. Waters stated Public Works requested the right-of-way, not because the city needs the right-of-way, but considering the 4 acres could be subdivided down, staff felt better to start with the right-of-way and if it develops differently the right-of-way could be vacated.

Motion

Commissioner Netschert moved approval to amend the Findings of Fact as follows: "The applicant does not propose to dedicate the 30-foot of right-of-way for the south half of Alice Street as City right-of-way" to read: "The applicant must dedicate the 30-foot wide access and utility easements, on both sides of the east and north lot lines as public right-of-way". Commissioner Oitzinger seconded the motion. Motion carried 3-2 with Mayor Smith and Commissioner Parriman voting no.

Motion

Commissioner Netschert moved to conditionally approve the preliminary plat for a minor subdivision creating one lot for a tract, 4.050 acres in size, proposed as Lot 1, Padbury Minor Subdivision No., Helena, Montana; and to the Findings of Fact and the conditions contained therein. Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

***CUP for
Insurance
Office***

E. CONSIDER A RESOLUTION FOR CONDITIONAL USE PERMIT (CUP) TO ALLOW CONSTRUCTION OF A 3,308 SQUARE FOOT INSURANCE OFFICE BUILDING WITH OTHER PROFESSIONAL OFFICE TENANTS TO BE LOCATED IN A CLM (COMMERCIAL-LIGHT MANUFACTURING) DISTRICT. LEGALLY DESCRIBED AS LOTS 7-9, BLOCK 9, HERSHFIELD ADDITION, PLUS THOSE VACATED PORTIONS OF THE ADJACENT ALLEYS (RESOLUTIONS #10106 AND #10745), SECTION 20, T10N, R3W, HELENA, MONTANA; GENERALLY LOCATED MID-BLOCK SOUTH OF BIRCH STREET BETWEEN MONTANA AVENUE AND COOKE STREET.

Staff Report

City Planner Kathy Macefield reported the property is currently vacant and undeveloped. On Tuesday, January 14, 2003, the Helena Zoning Commission unanimously recommended approval (4:0) for a resolution for a CUP to allow construction of a 3,308 square foot insurance office building with other professional office tenants (such as finance, insurance and real estate, SIC Division H) to be located in the CLM District, with the approval subject to one condition related to a building permit. At the zoning commission hearing there was some concern on how to access the lot. Ms. Macefield explained the

applicant can still get access to the north side of the property.

Ms. Macefield recommended approval of the CUP that will allow new construction, as infill development, that is consistent with the adjacent land uses. This proposal would facilitate the development of a vacant lot, representing infill development, which represents an efficient use of land, infrastructure, energy and resources. Issues related to alley access and the adjacent property owners have been resolved.

Public Testimony

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

There being persons wishing to address the commission, Mayor Smith closed the public hearing.

Motion

Commissioner Netschert moved approval for a resolution for a Conditional Use Permit (CUP) to allow construction of a 3,308 square foot insurance office building with other professional office tenants (such as finance, insurance and real estate, SIC Division H) to be located in a CLM (Commercial-Light Manufacturing) District. Legally described as Lots 7-9, Block 9, Hershfield Addition, plus those vacated portions of the adjacent alleys (Resolution #10106 and #10745), Section 20, T10N, R3W, Helena, Montana; generally located mid-block south of Birch Street between Montana Avenue and Cooke Street. The approval is subject to the following condition, which states, "A building permit must be obtained within one year of the CUP approval. Commissioner Parriman seconded the motion. All voted aye, motion carried. **Res.#11843**

Public Communications

PUBLIC COMMUNICATIONS

There were no persons present wishing to address the commission.

Meetings of Interest

MEETINGS OF INTEREST

Mayor Smith corrected the time the Administrative Meeting on February 19, 2003 from 3:00 p.m. to 4:00 p.m. Mayor Smith stated during that meeting staff would be discussing the TIF projects and the community built playground.

Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 9:30 p.m.

Mayor Smith

ATTEST:

CLERK OF THE COMMISSION

