

CITY OF HELENA
REGULAR CITY COMMISSION MEETING
March 8, 2004
6:00 P.M.

Time & Place

A regular City Commission meeting was held on Monday, March 8, 2004, 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, Cartwright, and Parriman were present. Commissioner Pouliot is excused. City Manager Tim Burton, City Attorney David Nielsen and Deputy City Clerk Jacki Pierson were present. Others present were Anne Pitchette representing the Youth Advisory Council and Jerry Hutch representing the Helena Citizens Council.

Pledge of Allegiance

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

Minutes

The minutes of the regular city commission meeting of February 28, 2004, were approved as submitted.

Presentation

PRESENTATION:

A. Leo Berry, Open Space Bond Advisory Council
OSBAC Chairman Leo Berry and Director of Parks and Recreation Randy Lilje presented OSBAC's goals, evaluation process, allocation of the bond money, OSBAC's property acquisition, and sports fields and facilities. Mr. Berry thanked everybody who supported the bond issue and thanked the commission for its time.

Commissioner Oitzinger thanked Mr. Berry for all his help on these projects; it is a wonderful accomplishment. Mr. Berry stated he wanted to publicly thank Mr. Lilje for all his help and support.

Mayor Smith echoed Commission Oitzinger's thoughts and asked what the next steps should be on terms of developing the city's recreational opportunities or the open spaces? Mr. Berry stated one of the reasons that he wanted to be on the committee, is he felt if the money was spent wisely and didn't give the community a reason to object to the expenditures, they would be able to invest additional dollars at some point to complete the unfinished projects, such as Centennial Park. At some point it would be wise to ask the citizens again if they would support an additional bond issue. Mayor Smith stated citizen confidence in the commission and the OSBAC group is very high.

Consent Agenda

CONSENT AGENDA:

- A. Claims
- B. Release of interest in 15-foot wide utility easement located between Lots 4 and 5, Block 33 of the Bull Run Addition #1, generally located on the east side of Saddle Drive between Belt View Drive and Tracy Drive

City Manager Tim Burton recommended approval of the claims.

Public Comment

Mayor Smith asked for public comment, none was received.

- Motion** **Commissioner Parriman moved approval of items A and B on the consent agenda.** Commissioner Cartwright seconded the motion. All voted aye, motion carried.
- Bid Award** BID AWARD:
A. Backhoe loader – Utilities Maintenance Division
- Staff Report** Kevin Hart, Utilities Maintenance Supervisor reported three (3) bids were received for One (1) new extendible boom backhoe loader. The lowest responsible bid was received from Tractor & Equipment Company. Tractor & Equipment Company bid a 2005 Caterpillar model 446D extendible boom backhoe loader. The bid includes a couple of options as standard equipment at no additional cost above base bid for a price of \$103,238.00. A total of \$104,000.00 was budgeted in the FY04 appropriation. The lowest dollar bid was not responsive, failing to meet the minimum specifications called for in the advertised specification.
Mr. Hart recommended the purchase of the new unit at a base price of \$103,238.00 and optional bid #6 Ride Control \$948.00 for total bid award of \$104,186.00.
- Public Comment** Mayor Smith asked for public comment, none was received.
- Motion** **Commissioner Parriman moved approval to accept the bid from Tractor & Equipment Company for one new Extendible Boom Backhoe with Ride Control for the bid price of \$104,186.00.** Commissioner Cartwright seconded the motion. All voted aye, motion carried.
- Communications** COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS
Commissioner Parriman mentioned his discussions with the County at the Infrastructure Committee Meeting regarding joint standards in relation to infrastructure between the City and County. He explained it is mostly in the transitional areas, which the city is likely to expand into within the next 10 years. The focus would include water/wastewater, sewer and street standards. Commissioner Parriman mentioned having this issue discussed at an upcoming Administrative Meeting. Mr. Burton explained this discussion has been around for several years and now the opportunity is the County has adopted their growth policy, which recognizes transitional areas and calls for discussion and establishment of joint standards. Commissioner Parriman stated he would report back to the Infrastructure Committee.
- Report of the City Attorney** REPORT OF THE CITY ATTORNEY
City Attorney David Nielsen introduced Tom Maddox, Bill Stevens, Bill Hiel and George Lane from the Boulder/Basin Masonic Lodge. They are attending tonight's meeting to observe the workings of government and to show their public appreciation for that system.
- Report of the City Manager** REPORT OF THE CITY MANAGER
A. Acceptance of updated employee Personnel Policies. Dated March 2004, as recommended by the City Manager
- Staff Report** City Manager Tim Burton invited Human Resource Director Salty Payne forward to discuss the updated Personnel Policies. Mr. Payne reviewed the proposed changes to the employee Personnel Policies.

Commissioner Cartwright asked how these changes are congruent with the union contracts? Mr. Payne explained these changes do not impact the union contracts.

Public Comment

Mayor Smith asked for public comment, none was received.

Motion

Commissioner Oitzinger moved to accept the updated employee policies dated March 2004 as recommended by the city manager. Commissioner Cartwright seconded the motion. All voted aye, motion carried.

Mr. Burton noted during the last Joint City/County Work Session there was a presentation from the Montana Spay/Neuter Task Force asking to be invited to Helena and the Lewis and Clark County to conduct a five-day, free of charge, spay/neuter clinic in October 2004. Mr. Burton asked the commission for its concurrence on the invitational letter to Jean Atthowe, President of the Montana Spay/Neuter Task Force. The commission gave concurrence.

Mr. Burton stated there is a second group of letters, one individually addressed to each of our two senators and Representative Rehberg. During the last Joint City/County Work Session, the commission discussed sending a letter in support of Senate Bill 1072, the Highway Program Reauthorization Bill and also speaking to a six-year Reauthorization Bill. Mr. Burton recommended both city and county commissions sign the letters and asked for the commission's concurrence. The commission gave concurrence.

Mr. Burton stated the final item is a recommendation that the city and county pass a joint resolution endorsing the path to implementation of the I-15 EIS outlined by Director Galt and fully supporting his request of funding at the upcoming Montana Transportation Commission Meeting.

Motion

Commissioner Oitzinger moved to approval of a joint resolution endorsing the path to implementation of the I-15 EIS outlined by Director Galt and fully support his request of funding the upcoming Montana Transportation Commission Meeting. Commissioner Cartwright seconded the motion. All voted aye, motion carried. **Res. #12082**

Report from the Helena Citizens Council

REPORT FROM THE HELENA CITIZENS COUNCIL

HCC Chairman Randy Kaiser reported the Animal Control Officer came and discussed the impacts of wild deer in the city and what the Fish Wild Life and Parks is planning on presenting as a possible remedy within the city limits. The HCC also discussed the buildings to be number of project. Mr. Kaiser mentioned there are no concerns with the HCC regarding the redistricting changes being proposed and they are in support.

Commissioner Parriman mentioned, in relation to Helena's deer problem; there is a definite overpopulation in cats and dogs. The Montana Spay/Neuter Task Force has continuing programs available, which would need additional funding for Phase 2 and Phase 3. The results of the initial Phase have been significant and asked the HCC to discuss supporting Phase 2 or Phase 3 implementation. Mr. Kaiser thanked Commissioner Parriman for the suggestion and stated the HCC would discuss it at the next meeting.

Commissioner Oitzinger thanked the HCC members who agreed to serve on the committee that would plan the "thank you" event for the Open Space Celebration Week.

Commissioner Cartwright asked if there have been discussion regarding the I-15 interchanges within the HCC? Mr. Kaiser concurred and stated there is an HCC member who serves on the Transportation Advisory Committee. The Custer Interchange has a lot of support because of the congestion in that area and there have been concerns regarding the impact on the neighborhoods on the south side of town with the Southern Interchange. Commissioner Cartwright stated he hoped the HCC could get the word out on Custer regarding MDT taking on the design and with a beginning date of 2006-2007.

HCC Districts

CONSIDER SECOND PASSAGE OF ORDINANCE #2987 – AMENDING SECTION 1-4-10 OF THE HELENA CITY CODE – HELENA CITIZENS COUNCIL DISTRICTS

Staff Report

City Manager Tim Burton reported on February 23, 2004, the city commission approved first passage of Ordinance 2987 – amending Section 1-4-10 of the Helena City Code, Helena Citizens Council Districts. This Ordinance adjusts the boundaries of the HCC Districts to conform to changes in the numbering and boundaries of the voting precincts.

City Attorney David Nielsen explained the adoption of Ordinance 2987 has no affect on the terms of representative elected in the 2003 election or appointed subsequent to fill vacancies; those HCC representatives were elected/appointed according to the current district configurations and will serve as such until the end of their respective terms. Citizens wishing to seek election to the Helena Citizens Council in 2005 will run in the newly defined districts.

Mr. Nielsen recommended approval for second passage of Ordinance 2987, amending Section 1-4-10 of the Helena City Code – Helena Citizens Council.

Public Comment

Mayor Smith asked for public comment.

Randy Kaiser, 1007Cherry Avenue stated the HCC supports the changes and appreciates the clarification from the city attorney.

Motion

Commissioner Cartwright moved to approval for second passage of Ordinance 2987 – amending Section 1-4-10 of the Helena City Code – Helena Citizens Council Districts. Commissioner Parriman seconded the motion. All voted aye, motion carried.
Ord. #2987

FY2005 Budget

CONSIDER A RESOLUTION PROVIDING COMMISSION INTENT AND DIRECTION FOR THE FISCAL YEAR 2004 -2005 ANNUAL BUDGET

Staff Report

Administrative Services Director Tim Magee reported staff is in the process of developing a Constraint Budget for FY 2005. Revenue and resource limitations are the bottom line constraint for each fund. An important part of annual budget development is the ability to work within financial constraints while still addressing community dynamics and changing priorities.

The city operations are generally organized and funded to meet both existing and new challenges on an on-going basis. However, staff needs policy and priority guidance from the city commission in order to adjust the annual budgets and operations to best meet the needs and priorities of the community.

Mr. Magee recommended adoption of the Resolution of Commission Intent for the FY 2005 Annual Budget.

- Public Comment Mayor Smith asked for public comment, none was received.
- Discussion Commissioner Oitzinger explained she had proposed a change in the Energy Conservation Program, Section 6-B, which should read, "The City will seek realistic and cost effective alternative, renewable, energy resources to accomplish its work."
- Amendment** Commissioner Oitzinger moved to amend Energy Conservation Program, Section 6-B to read "The City will seek realistic and cost effective alternative, renewable, energy resources to accomplish its work." Commissioner Cartwright seconded the motion. All voted aye, motion carried.
- Discussion Commissioner Cartwright asked Mr. Burton if Commissioner Pouliot has looked over the changes and discussed them with him? Mr. Burton stated he had received a copy of the proposed changes and the only issue he had any concern with, remaining in the document, was the integrated historic trail system and how that verbiage read. Commissioner Cartwright stated his contribution in the FY 2005 Annual Budget was revising the zoning regulations and he is serious about doing it.
- Motion** Commissioner Oitzinger moved approval of the Resolution of Commission Intent for the FY 2005 Annual Budget as amended. Commissioner Cartwright seconded the motion. All voted aye, motion carried. **Res. #12083**
- Youth Soccer** CONSIDER A REQUEST FOR REFUND OF THE CUP APPLICATION FEE FOR THE HELENA YOUTH SOCCER ASSOCIATION
- Staff Report City Planner Kathy Macefield reported the city commission approved an amendment to the conditional use permit (CUP) for the expansion of the soccer field complex in the Airport District on December 15, 2003. The Helena Youth Soccer Association (HYSA) paid the \$435 application fee for the CUP amendment. The city commission was informed of this request at an administration meeting on February 18, 2004.
- Ms. Macefield recommended disapproval to refund the CUP application fee of \$435 for the Helena Youth Soccer Association.
- Discussion Commissioner Cartwright asked if the \$435 covered all of the costs? Ms. Macefield stated it covers half of the staff time and the rest recuperates the hard costs.
- Ms. Macefield read the letter from Michael Lamb, HYSA President.
- Mayor Smith asked Ms. Macefield to discuss the reasons for the recommended motion to disapprove the refund of the application fee.

Ms. Macefield explained it is because it does not allow staff to recuperate some of the costs that are incurred in processing the application.

Mr. Burton stated all fees are set by the commission and there is no authority for staff to waive the fees. The ordinance does not empower the city to waive the fees; however, the commission, from time to time, has chosen to pay the fee.

Public Comment

Mayor Smith asked for public comment.

Hugh Zachmann, 315 Ming Place, stated he is representing the HYSA. He appreciated the chance to review the issues discussed in Mr. Lambs memo and would reiterate Mike Lambs comments. Mr. Zachmann explained HYSA would like to put all the money available toward the development of the remaining 7 uncompleted fields. He asked the support of the commission.

Discussion

Commissioner Parriman stated he would be supporting the recommended motion. He feels the city has helped the HYSA with hundreds of thousands of dollars.

Motion

Commissioner Parriman moved to deny the CUP refund application fee of \$435 for the Helena Youth Soccer Association.
Commissioner Cartwright seconded the motion.

Substitute Motion

Commissioner Oitzinger moved to pay the fees.
Commissioner Cartwright seconded the motion.

Discussion

Mr. Burton stated if the commission budget is tight, money could be available through the contingency fund.

Commissioner Oitzinger explained the reason for her substitute motion is that the OSBAC presentation showed that without the matching of funds from the soccer community in this town we would not have been able to optimize Helena's open space dollars.

Commissioner Cartwright stated he is concerned in light of the substantial support that the taxpayers have already given to soccer and stated he would not be supporting the substitute motion.

Substitute Motion Vote

Motion failed 1:3 with Commissioner Cartwright, Commissioner Parriman and Mayor Smith voting no.

Original Motion Vote

Motion carried 3:1 with Commissioner Oitzinger voting no.

**Inter-City II Minor
Subdivision/Annex.**

CONSIDER A RESOLUTION OF INTENTION TO ANNEX TRACT 1 OF THE INTER CITY II MINOR SUBDIVISION, AND THE ADJACENT HIGHWAY 12 EAST RIGHT-OF-WAY, LEWIS AND CLARK COUNTY, MONTANA, INTO THE CITY OF HELENA AND ESTABLISH CONDITIONS FOR ANNEXATION; PROPERTY IS GENERALLY LOCATED EAST OF THE CURRENT CITY LIMITS AND NORTH OF HIGHWAY 12 EAST

Staff Report

City Planner Lucy Morell-Gengler reported the owner of this property, Tractor & Equipment Co, represented by Culver Varnado, has applied for annexation into the city of Helena and proposes to construct a Caterpillar rental store and dealership at this location. The property is located adjacent to existing city limits and city services; the proposed annexation would not create any additional wholly surrounded property.

The proposed resolution of intention to annex allows the city to establish conditions for annexation as an intermediate step toward the finalization of annexation.

Ms. Morell-Gengler recommended approval subject to the following conditions:

1. **Street Right-of-Way: The property owner must dedicate the 60 foot wide "permanent access and utility easement" located across Tract I to the city as right-of-way for the extension of Centennial Drive.**

This condition is included to ensure that the extension of Centennial Drive will be located on city right-of-way instead of on an easement across the subject property.

2. **Infrastructure: The property owner must install infrastructure improvements as required by the city, 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.**

All property 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 of city services.

3. **Review of new construction: The property owner must submit plans for the review by the city of Helena for all construction commenced subsequent to the adoption of this resolution and prior to annexation of the property to ensure compliance with infrastructure, zoning, and all other Code requirements, including building and fire codes, and pay all fees for such review in the same manner and on the same basis as do owners of properties already in the city.**

The condition is included to ensure that any construction work associated with property requesting annexation is reviewed by the city for conformance with city code requirements including zoning, building, fire and infrastructure.

4. **Completion of Conditions: The property owner must notify city planning in writing upon completion of the conditions for approval of annexation, which must occur within one (1) year of the date of approval of this resolution of intention. If obligation to annex the property and may discontinue any city services, including water and sewer service to the property.**

The recommended condition for timely notification and completion of conditions is intended to provide a reasonable time frame for completion of the annexation process.

Public Comment

Mayor Smith asked for public comment, none was received.

Discussion

Mayor Smith asked if this is consistent with Helena's annexation policy? Ms. Morell-Gengler concurred.

Motion

Commissioner Parriman moved approval of a resolution of intention to annex Tract 1 of the Inter-City II Minor Subdivision, and the entire width of the adjacent Highway 12 East right-of-way as legally described in the resolution of intention to annex into the city of Helena and establish conditions for annexation as stated in the attached resolution; property is generally located east of the current city limits and north of Highway 12 East. Commissioner Cartwright seconded the motion. All voted aye, motion carried.
Res. #12084

**Public Hearing
Inter-City II Minor
Subdivision/Prezoning**

PUBLIC HEARING:

- A. CONSIDER FIRST PASSAGE OF AN ORDINANCE PREZONING TRACT 1 OF THE INTER CITY II MINOR SUBDIVISION TO CLM (COMMERCIAL LIGHT MANUFACTURING) DISTRICT PRIOR TO ANNEXATION INTO THE CITY OF HELENA, MONTANA; GENERALLY LOCATED EAST OF THE CURRENT CITY LIMITS AND NORTH OF HIGHWAY 12 EAST

Staff Report

City Planner Lucy Morell-Gengler reported the subject property is located east of the city boundary and adjacent CLM zoned property. The applicant has indicated this action would facilitate the construction of a Caterpillar rental store and dealership at this location. The property is located adjacent to existing city limits and city services.

On February 10, 2004, the Helena Zoning Commission unanimously recommended (5:0 vote) APPROVAL for the adoption of an ordinance prezoning to CLM (Commercial Light Manufacturing) District prior to annexation into the city of Helena, Montana for Tract 1 of the Inter-City II Minor Subdivision consisting of approximately 3.5 acres.

Ms. Morell-Gengler recommended approval for the prezoning to CLM for property located adjacent to the city of Helena.

Public Testimony

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

Culver Varnado, 1415 Cayuse Road stated he is representing the owners of the land. Mr. Varnado explained they are looking at expanding into a larger building and having more warehouse space.

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

Discussion

Commissioner Parriman asked if the owners would be using both the current store and the proposed property? Mr. Varnado stated they would only be using the proposed property.

Motion

Commissioner Cartwright moved approval for first passage of an ordinance prezoning to CLM (Commercial Light Manufacturing) District for property legally described as Tract 1 of the Inter-City II Minor Subdivision generally located east of the current city limits and north of Highway 12 East, prior to annexation into the city of Helena, Montana. Commissioner Oitzinger seconded the motion. All voted aye, motion carried. **Ord.#2988**

**CUP
304 Broadway**

- B. CONSIDER A RESOLUTION FOR A CONDITIONAL USE PERMIT (CUP) TO ALLOW A PROFESSIONAL AND BUSINESS OFFICE IN THE R-3 (MEDIUM-DENSITY RESIDENTIAL) DISTRICT AND THE COURTHOUSE SQUARE PORTION OF THE HELENA HISTORIC DISTRICT. LEGALLY DESCRIBED AS THE SOUTH 64 FEET AND EAST 37 FEET OF LOT 3, ALL OF LOT 4, AND THE WEST 3 FEET OF LOT 5, BLOCK 35, HELENA TOWNSITE, HELENA, MONTANA; GENERALLY LOCATED NORTH OF BROADWAY AND EAST OF EWING STREET WITH A PROPERTY ADDRESS OF 304 BROADWAY

Staff Report

City Planner Belinda Waters reported the proposal is to allow a psychotherapy office with one full-time and two part-time therapists to be located in an existing residential structure. The business would operate Monday-Friday, 8:00 AM-5:00PM. Four parking spaces and one handicap-accessible space are required. Three parking spaces would be located on the property as well as the ADA spaces. The applicant proposes to obtain the one additional parking space on street, adjacent to the County Courthouse. No changes are proposed to the exterior of the existing building. An unlighted freestanding sign identifying the names of the therapists is proposed with an approximate size of 11 ½ square feet.

Ms. Waters recommended approval of the resolution granting a CUP to allow a professional and business office in a R-3 (Medium Density Residential) District.

Discussion

Commissioner Cartwright stated there was some concern regarding an adjacent property being bought and knocked down for parking spaces; he asked if there is anything in this CUP that would allow that to happen? Ms. Waters stated no and to her knowledge they will only be removing the garage that is unusable.

Mayor Smith asked if the CUP is required because the property is not zoned residential office? Ms. Waters explained the R-3 District is for residential multi family with some limited office uses by the CUP process. In order to have an office in the R-3 they had to go through the CUP.

Commissioner Parriman asked regarding the criteria on the four proposed parking spaces? Ms. Waters explained according to the off street parking chapter the owners needed 2.79 spaces per 1000 square feet, equivalent to four spaces plus in addition an ADA has to be provided. Commissioner Parriman asked if that is required under commercial or residential? Ms. Waters explained the requirements are different for an office professional building and stated the proposed property is being factored in as a commercial use.

Public Testimony

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

Barbara Howe 614 3rd Street, stated she is one of the therapists interested in buying this building. They would like to move away from the current location, which is more of a medical model and toward more of a relaxed atmosphere. Ms. Howe stated this business would be a benefit for this neighborhood.

Denita Welch explained this was her mothers property and they are pleased to have these ladies interested in the property and to turn it

into something that is beneficial to not only children but to the city. Ms. Welch asked for the commission's approval.

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

Discussion

Mayor Smith asked if proposed business would be able to use the top floor? Ms. Howe explained there is an issue regarding the financial means to make the second floor handicapped accessible and because of their profession they are considered a clinic.

Motion

Commissioner Cartwright moved approval of the resolution granting a CUP to allow a professional and business office in a R-3 (Medium Density Residential) District. The proposal is legally described as the south 64 feet and east 37 feet of Lot 3, all of Lot 4, and the west 3 feet of Lot 5, Block 35, Helena Townsite, Helena, Montana. The property is generally located north of Broadway and east of Ewing Street with a property address of 304 Broadway.

Commissioner Parriman seconded the motion.

Discussion

Commissioner Parriman asked regarding the second floor and if it would increase the parking space requirements? Ms. Waters explained it they use the second floor it could in fact increase their parking space requirements. Ms. Howe explained initially, when looking at the property, they did include the second floor and 7 spaces were required for parking. It was her understanding if they could get half of the spaces on site then the other half could be placed offsite.

Commissioner Oitzinger explained she is concerned regarding the parking in that area and stated she would be opposing the motion.

Vote

Motion passed 3:1 with Commissioner Oitzinger voting no.
Res. #12085

800 Sixth Avenue

C. CONSIDER A RESOLUTION FOR A CONDITIONAL USE PERMIT (CUP) TO ALLOW A PROFESSIONAL AND BUSINESS OFFICE IN A R-3 (MEDIUM-DENSITY RESIDENTIAL) DISTRICT. LEGALLY DESCRIBED AS THE WEST 2.5 FEET OF LOT 9 AND ALL OF LOTS 10 AND 11, BLOCK A, BLAKE ADDITION, HELENA, MONTANA; GENERALLY LOCATED NORTH OF SIXTH AVENUE AND EAST OF RALEIGH STREET, WITH A PROPERTY ADDRESS OF 800 SIXTH AVENUE

Staff Report

City Planner Kathy Macefield reported the property received a CUP for a law office in 1981 (Res. #9328), and again in 1989 to allow the law office to expand (Res. #10114). An insurance office has recently located in the building.

On February 10, 2004 the Helena Zoning Commission recommended APPROVAL (3:2 vote) for a resolution for a conditional use permit (CUP) to allow a professional and business office to be located in a R-3 (Medium-Density Residential) District for property generally located north of Sixth Avenue and east of Raleigh Street, with an address of 800 Sixth Avenue. No public comment has been received about this proposal.

Ms. Macefield recommended approval for a resolution for a conditional use permit (CUP) to allow a professional or business office to be located in a R-3 (Medium-Density Residential) District.

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 Parriman explained he could support the recommended motion of approval and he feels the city would benefit because of the improvements on the property. He mentioned because of the lack of public comment against this issue is an indicator to him that the neighborhood is not concerned with this proposal.

Commissioner Cartwright stated he agrees with Commissioner Parriman and explained he lived in that neighborhood and it was a fine use of space. However, he is concerned that the applicants are coming in after the fact and this was something noted in the Zoning Commission to get the CUP change after the use had changed.

Shaun Thompson, stated he is one of the owners of the building. Commissioner Oitzinger explained she felt there was a misunderstanding from Gary Frederick's letter regarding the use and asked if Mr. Thompson could elaborate on that? Mr. Thompson explained Mr. Frederick was advised there was no problem under the existing conditional use permit and they went ahead and changed the use.

Mayor Smith asked if the commission could make the striping of the parking lot a condition in the CUP? Ms. Macefield explained the commission could add that condition in order to make it clear that it needs to be done. Mr. Nielsen explained on CUP's, generally the standard looked at is how that impacts the adjacent properties. Striping could be said to organize the property in such a way that it would less offensive to neighboring properties and feels the commission could add that condition. Mayor Smith explained he feels that would be a stretch but asked Mr. Thompson if he would have the parking lot striped? Mr. Thompson stated they would be striping the lot after the whether clears up.

Commissioner Parriman asked if property owners are required by the city to comply with those ordinances and asked if Chief Building Official Brant Salo would be able to look at the property and do an assessment in order to bring it up to code? Mayor Smith stated Mr. Salo would probably be dropping by the property at some point. Mr. Nielsen stated he can't tell the commission the full extent at which the Building Department is involved in striping and parking but the ADA parking spaces is a requirement and enforceable.

Motion

Commissioner Oitzinger moved approval of a resolution for a conditional use permit (CUP) to allow a professional and business office to be located in a R-3 (Medium-Density Residential) District. Legally described as the west 2.5 feet of Lot 9 and all of Lots 10 and 11, Block A, Blake Addition, Helena, Montana; generally located north of Sixth Avenue and east of Raleigh Street, with a property address of 800 Sixth Avenue. Commissioner Cartwright seconded the motion. All voted aye, motion carried. **Res. #12086**

Westmont Services

CONSIDER A RESOLUTION FOR A CONDITIONAL USE PERMIT (CUP) TO ALLOW A NEW 7,352 SQUARE FOOT OFFICE BUILDING FOR WESTMONT SERVICES (ADMINISTRATION, HUMAN RESOURCES, ETC.) IN THE CLM (COMMERCIAL-LIGHT

MANUFACTURING) DISTRICT. LEGALLY DESCRIBED AS LOT 9, AIRPORT ROAD BUSINESS PARK, HELENA, MONTANA; GENERALLY LOCATED NORTH OF BOZEMAN AVENUE BETWEEN BLAINE STREET AND CARTER DRIVE

Staff Report

City Planner Kathy Macefield reported the property is currently vacant and undeveloped; water and sewer are available in Bozeman Avenue to serve the property. On July 15, 2003 the Helena Zoning Commission recommended APPROVAL for a resolution for a conditional use permit (CUP) to allow an office to be located in the CLM (Commercial-Light Manufacturing) District. Said property is legally described as Lot 9, Airport Road Business Park, Helena, Montana; generally located north of Bozeman Avenue between Blaine Street and Carter Drive.

Ms. Macefield recommended approval for a resolution for a conditional use permit (CUP) to allow construction of a new 7,352 square foot office building for Westmont services (administration, human resources, etc. for persons with disabilities) in the CLM (Commercial-Light Manufacturing) District. Subject to the following condition: A building permit must be obtained within two years.

Discussion

Commission Parriman asked if the owners are required to make improvements on the parking lot if the property changes hands or uses? Would it require stripes, an ADA space, and the landscape? Ms. Macefield explained when a use changes typically that is the time they have to comply with all of the requirements of the Zoning Ordinance. This step was not completed when the property was zoned; therefore they are not stated again as conditions of the CUP.

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 Parriman moved approval of resolution for a conditional use permit (CUP) to allow an office to be located in the CLM (Commercial-Light Manufacturing) District. Said property is legally described as Lot 9, Airport Road Business Park, Helena, Montana; generally located north of Bozeman Avenue between Blaine Street and Carter Drive. This approval is subject to the following condition: a building permit must be obtained within two years. Commissioner Oitzinger seconded the motion. All voted aye, motion carried. **Res. #12087**

Public Communications

PUBLIC COMMUNICATIONS

President of the Helena Property Owners Association Bill Leary presented a letter to encourage the city commission and the city manager regarding potholes. Mr. Leary stated the purpose of the letter is not to address the potholes because last year the city and city manager did an excellent job in the allocation and formula effecting homeowners property. However, there is an explosive problem with the downtown small business owners. Mr. Leary explained his membership feels that they could offer an alternate suggestion as to how to change the methodology to make it more pliable to those particular people. Mayor Smith stated this issue would be looked at during the upcoming

budget session and thanked Mr. Leary for the letter. Mr. Burton stated there is a meeting scheduled specifically to this issue relative to Maintenance District #1 and #2 and the condominium formula. Prior to that meeting city staff can sit down with the Helena Property Owners Association and show them the information the city is working with and get their feedback.

Meetings of Interest

MEETINGS OF INTEREST

Mayor Smith stated the next Administrative Meeting is March 17, 2004 at 4:00 p.m. to 6:00 p.m. and the next City Commission Meeting is on Monday, March 22, 2004 at 6:00 p.m.

Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 8:20 p.m.

Mayor James E. Smith

ATTEST:

Clerk of the Commission