

CITY OF HELENA
REGULAR CITY COMMISSION MEETING
May 17, 2004
6:00 P.M.

Time & Place

A regular City Commission meeting was held on Monday, May 17, 2004, at 6:00 p.m., in the Old Supreme Court Chambers, Room 303, State Capitol Building.

Members Present

Mayor Smith indicated for the record that Commissioners Oitzinger, Cartwright, Parriman, and Pouliot were present. City Manager Tim Burton, City Attorney David Nielsen and Deputy City Clerk Jacki Pierson were present. Others present were Jerry Hutch representing the Helena Citizens Council and Independent Record reporter Jason Mohr.

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 May 3, 2004 were approved as submitted.

Presentation

PRESENTATION:

- A. Helena/Ukraine student exchange - Eastern Front Meets Western Front Program

Mayor Smith invited Niki Whearty forward. Ms. Whearty thanked the commission for the opportunity to carry back greetings from the Mayor of Konotop, Ukraine and introduced the students who are representing the 9 students who traveled to Ukraine, along with the lead teacher Jim Shultz. The group presented bread and salt to the commission.

Kevin Connolly, 3033 Canary Drive, spoke regarding the history of Ukraine.

Hanna Grotbo, 517 Chaucer Street, spoke regarding the experience of interviewing the veterans.

Laura Pickering-Unsworth, 122 E. Humbolt Loop, spoke regarding the experience of living the life of a typical Ukraine teenager.

Jim Shultz, 438 Dearborn, presented the mayor with a letter from the Mayor of Konotop and stated the commission should be proud of the students for how they represented Helena, Montana and the United States. Mr. Shultz explained another tour would be taking place in October.

Commissioner Oitzinger asked regarding the education system as to having local control for setting of curriculum? Mr. Shultz explained there are mandated curriculum protocol and an incredibly dynamic superintendent and principal who are active in bringing in educational programs. Ms. Weredy explained there is a sincere desire to be creative and active. Mr. Shultz stated they are changing their educational philosophy and it takes time. Commissioner Oitzinger stated during a period of transition for the area, she is sure, the group was a wonderful resource for the educational/professionals there and thanked the group for making the trip and the contribution.

Mayor Smith stated he is proud of the students and thanked them for their presentation.

Appointment

APPOINTMENT:

- A. Helena Open Lands Management Advisory Committee

Mayor Smith asked for commission concurrence for the following appointments:

HOLMAC

DD Dowden – Unexpired term will expire June 30, 2006

Alice Stanley – Reappointment to 2nd term- term will expire June 30, 2007

Public Comment

Mayor Smith asked for public comment, none was received.

Motion

Commissioner Pouliot moved approval of the appointment for DD Dowden and the reappointment for Alice Stanley. Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

Bid Award

BID AWARD:

- A. Professional auditing services

Staff Report

Administrative Services Director Tim Magee reported city staff requested proposals from qualified firms of certified public accountants to audit the city's financial statements and Federal and State grants. Included in the audit is additional work related to the Building Division that is required in the Administrative Rules of Montana.

The contract will be in effect for the audits of the fiscal years ending June 30, 2004, and June 30, 2005. However, the contract may be renewed at the sole discretion of the Audit Committee for each of two subsequent fiscal years, years ending June 30, 2006, and June 30, 2007.

Six bids were submitted. Price was one of the factors considered, but not the most important. The most important considerations were: the firm demonstrating they have previous experience with an audit this size and the appropriate standards (GASB 34), the firm provided reasonable time estimates to do the work, the firm planned on assigning knowledgeable staff to the audit, and size of the audit firm and ability to complete it in the time allowed.

Although Galusha, Higgins, & Galusha did not have the lowest bid, staff feels they presented the most responsible bid. They are well qualified and had the highest points assigned in staff's review mainly due to prior experience with the city (6 points). Newland & Co. and Denning, Downey, & Associates appear to have the qualifications to perform the audit and both had overall lower bids than Galusha, but did not rank as high in the scoring. Overall, Galusha, Higgins, & Galusha's bid contained the lowest cost per hour.

Mr. Magee recommended approval for the bid award of the professional auditing services contract to Galusha, Higgins, and Galusha.

Public Comment

Mayor Smith asked for public comment, none was received.

Discussion

Commissioner Parriman asked regarding the firms method of charging by the hour and Galusha, Higgins, and Galusha's total bid hours? Mr. Magee explained Galusha, Higgins, and Galusha have

performed the work on a timely basis and have been responsive to scheduling requirements regarding staff's time.

Motion

Commissioner Oitzinger moved approval awarding the professional auditing services contract to Galusha, Higgins, and Galusha. Commissioner Cartwright seconded the motion. All voted aye, motion carried.

B. Bill Roberts Golf Course Hole #2 Pond Lining Project – tabled from May 3, 2004

Staff Report

Director of Parks and Recreation Randy Lilje reported staff is still waiting on information from the contractor, which has a drop-dead date of June 7, 2004. At that time, they would recommend to award or to throw out the bids.

Mr. Lilje recommended tabling the award.

Public Comment

Mayor Smith asked for public comment, none was received.

Motion

Commissioner Pouliot moved to table the contract for the Bill Roberts Golf Course Pond #2 Lining Project. Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

Consent Agenda

CONSENT AGENDA:

- A. Claims
- B. Grant of a non-exclusive, public access easement to Next, Ltd

City Manager Tim Burton recommended approval of the claims.

Public Comment

Mayor Smith asked for public comment, none was received.

Motion

Commissioner Oitzinger moved approval of items A and B on the consent agenda. Commissioner Parriman seconded the motion.

Discussion

Commissioner Cartwright stated he believes the access easement is fine; however, it could create traffic problems with people trying to avoid a u-turn would be using the private and public entrance. He would recommend removing one of those entrances. Public Works Director John Rundquist stated there is a parking entrance loss on the west side of Park; however, there is another parking entrance created on the eastside. It wasn't considered losing an entrance, relative to the u-turn movements and the same opportunity would exist with the Library parking lot because there will be two accesses.

Vote

All voted aye, motion carried.

Communications

COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS

Mayor Smith acknowledged Cub Scouts Pack #207 attending the meeting.

Mayor Smith stated the Montana Public Power Authority submitted their bid to the creditors committee on May 12, 2004 in the amount of \$1.2 billion dollars.

Report of the City Attorney

REPORT OF THE CITY ATTORNEY

City Attorney David Nielsen stated he received an email concerning discussions the commission might have with citizens in reference to the Downtown Walking Mall improvement project and whether that was permissible or impermissible under the ex-parte limitations. He stated it is a legislative action and therefore would not fall under the ex-parte.

Report of the City Manager

REPORT OF THE CITY MANAGER

A. Mount Helena Prescribed Burn Project close-out

City Manager Tim Burton invited Fire Chief Steve Larson forward to discuss the post burn analysis.

Fire Chief Larson gave some brief history on the project and invited Deputy Fire Marshal Fritz Zettel forward to present the power point presentation.

Dave Larsen, 121 Anderson Blvd., with the Montana Forest Service, stated this type of project was exactly what needed to be done and needs to be continued. The Tri-County Fire Working Group is working on ideas on how to protect the community of Helena by working on a countywide assessment for public safety.

Commissioner Cartwright asked regarding the weed issue? Mr. Lilje stated the parks department would be doing spot spraying. Commissioner Cartwright mentioned he heard comments regarding erosion due to the thinning along the switchbacks. Mr. Lilje stated a big part of the trails plan is the reclamation of trails that were poorly designed and constructed. Measures would be installed to mitigate erosion problems.

Mayor Smith thanked Chief Larson, Deputy Fire Marshal Fritz Zettel and Mr. Larsen. He stated the more of this that we can do now the better things would be for Helena in the future. He asked regarding fuel packages on Rodney Ridge? Mr. Larsen explained that is a part of the Clancy/Unionville decision that the Forest Service made.

HCC Communications HELENA CITIZENS COUNCIL COMMUNICATIONS

HCC member Jerry Hutch stated the next HCC meeting would be held on Wednesday, May 26, 2004 at 7:00 p.m.

Local Preparedness Grant

CONSIDER ACCEPTANCE OF A STATE DISASTER AND EMERGENCY SERVICES LOCAL PREPAREDNESS GRANT IN THE AMOUNT OF \$70,000

Staff Report

Fire Chief Steve Larson reported the city of Helena Fire Department has been awarded a grant from State Disaster and Emergency Services Division of Military Affairs for coordination, communication and preparedness of our local emergency response. This grant is to help us prepare for local emergencies within the city of Helena and Lewis & Clark County from particular threats such as chemical, biological, radiological, nuclear or explosion devices (CBRNE).

Specifically, the Helena Fire Department will coordinate, develop, train and exercise with other local specialized teams. Specialized teams identified to date are the Explosive Ordinance Disposal, Law Enforcement tactical teams and the area's Rural Fire Departments.

The grant amount is \$70,000.00 and will run from July 1, 2004 through April 30, 2005. This is a reimbursement grant. Mr. Brett Lloyd would be the Project Manager and he will work directly with the responsible manager of the agencies identified above.

Fire Chief Larson recommended approval of the grant.

Public Comment

Mayor Smith asked for public comment, none was received.

Discussion

Mayor Smith asked if this would complete the statewide coverage for hazardous materials team? Chief Larson concurred and explained it moves it one more step down the line. Now that Helena has a team, we're in the position to develop the coordination to work with the other response entities in Helena and make it flow better.

Motion

Commissioner Oitzinger moved approval to accept the DES grant, authorize the budget amendment and authorize the city manager to expend such funds. Commissioner Pouliot seconded the motion. All voted aye, motion carried.

Type B Residential Parking Dist.

CONSIDER A RESOLUTION OF INTENTION TO ESTABLISH A TYPE B RESIDENTIAL PARKING DISTRICT FOR A PORTION OF LESLIE AVENUE IN THE CITY OF HELENA

Staff Report

City Engineer Ryan Leland reported this action was tabled during the November 3, 2003 Commission meeting. Residents along Leslie Avenue are experiencing problems with vehicles blocking driveways, mailboxes and garbage containers, particularly by Carroll College students when school is in session. Apparently, numerous college students are parking in this area rather than on the college grounds.

Residents have requested a Residential Parking District (residents only) for Leslie Avenue from Benton Avenue to Madison Avenue between the hours of 7:00 a.m. to 4:00 p.m., Monday through Friday.

Discussion

Commissioner Cartwright stated there were previous discussion concerning parking districts and asked if it was advisable to keep expanding them? Mr. Leland explained there wasn't a conclusion on the issue and this item was brought back to initiate a resolution.

Commissioner Parriman stated he is concerned regarding the amount of Type B Residential Districts located in Helena. Mr. Leland stated Helena has more parking districts than any other city in Montana.

Mayor Smith asked if this proposed district is contiguous with any other parking district in town? Mr. Leland stated no, however, there is another area, a block north, that has requested a parking district. Mayor Smith stated there is added cost involved with the Type B Residential Districts and suggested asking the residents if they would be willing to bear the fees? Mr. Leland concurred and stated it is estimated to cost around \$1,000 to \$1,500 to set up a parking district.

Commissioner Oitzinger asked if the parking permit area in Bozeman is located around the university? Mr. Leland concurred.

Commissioner Parriman asked what would happen to the existing 29 parking districts if the commission initiated a fee? City Attorney David Nielsen stated if it were an annual fee it would affect everybody across the board; however, if it were a one-time fee it would

be difficult to include the previous parking districts. Commissioner Parriman stated the estimated cost provided by Mr. Leland only includes the initial set up for signs; however, maintenance and policing the area is an ongoing process, which means an annual fee would be appropriate.

Public Comment Mayor Smith asked for public comment, none was received.

Motion Commissioner Parriman moved to deny a resolution of intention to establish a Type B Residential Parking District for a portion of Leslie Avenue. Motion died for a lack of second.

Motion Commissioner Pouliot moved to approve a resolution of intention to establish a Type B Residential Parking District for a portion of Leslie Avenue and set public hearing date for June 7, 2004. Commissioner Oitzinger seconded the motion.

Discussion Commissioner Pouliot stated he is sympathetic with the neighborhood and is interested in initiating a fee for setting up the parking districts.

Commissioner Oitzinger explained she is in support of this motion because out of the 29 parking districts this is one that should be created because of the university located there. She has concerns regarding the equity of charging for this particular district when it seems meritorious.

Commissioner Cartwright asked if a full discussion would be held on June 7, 2004? City Attorney David Nielsen concurred and stated the motion tonight would consider the resolution and create a public hearing date.

Chief McGee stated the parking district areas are not patrolled by police but is based on a call in basis and is a selective enforcement. There is an agreement with the parking commission to take care of the daytime violations.

Mayor Smith explained he would be voting against the motion because one of the commission's duties has to do with protecting and maintaining the public right's-of-way. He stated he would be willing to initiate a fee associated with creating a parking district.

Vote Motion carried 3:2 with Commissioner Parriman and Mayor Smith voting no.

Motion Commissioner Pouliot moved to set a fee for establishing a Type B Residential Parking District to include the cost of signage and labor to be set by the Public Works Department and the fee would be paid up front.

Discussion Commissioner Parriman stated he is interested in setting up a fee but is unclear regarding an annual maintenance fee. He would like to have follow-up from staff regarding maintenance fees and history on the districts. City Attorney David Nielsen stated procedurally to set up fee, the Charter requires a resolution and a public hearing, which means June 7th would be too soon to make an action. City Manager Tim Burton stated staff would prepare the information for the commission.

Mayor Smith asked Commissioner Pouliot if his motion is directed toward the item tonight and future parking districts or if it is directed towards the previous 29 districts as well? Commissioner Pouliot explained the fees would be applied to any district created in the future. Commissioner Pouliot withdrew his motion and would continue the discussion on June 7, 2004.

Commissioner Parriman stated he would like to have the fee issue solved procedurally before granting more parking districts.

Mayor Smith stated he concurred with Commissioner Parriman and mentioned moving the public hearing to June 21, 2004.

City Manager Tim Burton stated staff would prepare 2 different scenarios in terms of cost. Staff would report back to the commission on the preliminary information at the Administrative Meeting on June 2, 2004.

Motion Commissioner Cartwright moved to change the public hearing date to June 21, 2004. Commissioner Oitzinger seconded the motion.

Discussion Commissioner Oitzinger stated she is concerned on allowing for enough time to properly give notice to the residents of that area.

Vote All voted aye, motion carried.

Motion Commissioner Cartwright to approve a resolution of intention to establish a Type B Residential Parking District for a portion of Leslie Avenue and set public hearing date for June 21, 2004. Commissioner Oitzinger seconded the motion. All voted aye, motion carried. **Res. #12096**

Stop Sign Removal CONSIDER THE REMOVAL OF STOP SIGNS AT THE INTERSECTION OF HENDERSON STREET AND KNIGHT STREET

Staff Report Public Works Director John Rundquist reported at the May 8, 2000 commission meeting, the commission directed the installation of 4-way stop signs at the intersection of Knight and Henderson Streets based upon the petition of a single resident on a corner of that intersection. The petitioner cited concerns for school children crossing and the speed of traffic up and down Henderson.

Since installation of the 4-way stop as directed, staff have received numerous complaints regarding travel on Henderson especially during the winter months when the streets can be slippery. For downhill traffic on Henderson, negotiating the stop sign in winter conditions can be difficult because of the steep approach to the intersection. For uphill traffic, the loss of momentum by stopping can mean a loss in traction for the uphill climb.

In 2001, under contract with the city, Robert Peccia and Associates completed a traffic study at this intersection to examine its safety and to determine if a 4-way stop is warranted by national standards. The traffic study recommends that the intersection be returned to stop signs on Knight Street allowing the free flow of traffic on Henderson. The study also recommends that sight distance problems at

the southeast corner be corrected and that traffic-calming improvements be considered.

Several intersections in the city have had stop signs installed for speed control and traffic calming. Although not warranted by national standards, in most cases, traffic has become used to and the public has accepted the control without much complaint. The complaints at this intersection will likely continue due to the persistent inconvenience for the motorists.

Mr. Rundquist recommended approval of the removal of the stop signs on Henderson Street.

Discussion

Commissioner Parriman asked if crosswalk signage would be more appropriate in obtaining the same result? Mr. Rundquist explained this intersection has more traffic and complaints than most intersections in that area. He would suggest individually looking at each intersection and judging what is most needed for the area. Commissioner Parriman stated the 4-way stop was requested by one residence and he is concerned the many people will begin requesting the traffic calming method, which is expensive.

City Manager Tim Burton stated staff would continue to revise the decision-making policy that the commission has as the various traffic signage requests are brought in.

Public Comment

Mayor Smith asked for public comment, none was received.

Discussion

Commissioner Parriman asked if the motion should include adding the proposed traffic calming methods? Mr. Rundquist suggested modifying the recommended motion to remove the stop signs on Henderson Street and direct staff to design and construct a pedestrian crossing and traffic calming at that intersection.

Motion

Commissioner Parriman move to approve the removal of the stop signs on Henderson Street at the corner of Henderson and Knight and to direct city staff to design and construct a pedestrian crossing and a traffic calming method. Commissioner Cartwright seconded. Motion Carried 4:1 with Commissioner Oitzinger voting no.

Trail Names

CONSIDER RECOMMENDED TRAIL NAMES IN THE HELENA OPEN LANDS SYSTEM

Staff Report

Director of Parks and Recreation Randy Lilje reported over the past few weeks the city of Helena along with the Prickly Pear Land Trust and the Helena National Forest have conducted a contest requesting suggestions for names of 26 trails, 19 of which are within the city's Open Lands System. These trails have not had officially adopted names up to this point.

Mr. Lilje recommended approval of the names for the trails as recommended by the Trail Naming Committee.

Public Comment

Mayor Smith asked for public comment.

Andy Bower the Executive Director of the Prickly Pear Land Trust, he stated the map is in the final editing stage and with approval of the commission it would be finalized.

Motion

Commissioner Oitzinger moved approval for the names for trails as recommended by the Trail Naming Committee and the additional 7 trail names mentioned by staff. Commissioner Cartwright seconded the motion. All voted aye, motion carried.

**Public Hearings
Preliminary Plat**

PUBLIC HEARINGS:

- A. CONSIDER A PRELIMINARY PLAT FOR THE EAST SLOPE MINOR SUBDIVISION CREATING 3 LOTS FROM 63,178 SQUARE FEET IN THE R-O (RESIDENTIAL-OFFICE) DISTRICT; GENERALLY LOCATED WEST OF COLONIAL DRIVE AND NORTH OF BROADWAY, WITH A PROPERTY ADDRESS OF 2615 COLONIAL DRIVE

Staff Report

City Planner Lucy Morell-Gengler reported the applicant is requesting approval of a minor subdivision/preliminary plat creating 3 lots in the R-O (Residential-Office) District. The proposed lots will range in size from 16,807 to 26,043.57 square feet. Water and wastewater mains currently located in Colonial Drive can serve the proposed subdivision. Proposed Lots 4A and 4C would have direct access onto Colonial Drive; proposed Lot 4B would access Colonial Drive via a 20-foot wide 115-foot long private access and utility easement. The preliminary drainage plan indicates stormwater from all three lots would be directed to a retention basin located on Lot 4C. No parkland is required for minor subdivisions.

For the subdivision to be eligible for the adequate municipal facilities exemption, MCA 76-4-125 (2)(d), the city commission must certify within 20 days of approving the preliminary plat that adequate stormwater drainage and municipal facilities will be provided. To date, an engineered stormwater plan has not been submitted to the city for review; thus staff cannot verify if adequate stormwater drainage and retention/detention will be available with this subdivision at this time.

The subject property currently contains an office building with dental and physical therapy offices which would be located on proposed Lot 4A. The subdivision could facilitate the sale of the property for individual development.

Ms. Morell-Gengler recommended approval of the preliminary plat subject to the following findings of fact and conditions:

Findings of Fact

1. Effects on Agriculture and Agricultural Water User Facilities

Findings:

The property is not presently in agricultural use.

Conclusion:

The proposed subdivision is not expected to have a significant impact on agriculture of agricultural water user facilities.

2. Effect on Local Services

Findings:

Water, Wastewater and Solid Waste Disposal

- An 8-inch water main and an 8-inch wastewater main are located in Colonial Drive which can serve proposed Lots 4A and 4C.
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- Water and wastewater service lines would be extended within the proposed access and utility easement to serve proposed Lot 4B.

- Building size and location on the lot will determine future fire hydrant spacing.
- The city of Helena or another provider in accordance with State laws can provide solid waste disposal.
- Adequate municipal facilities for the supply of water and disposal of sewage and solid waste are available.

Stormwater

- Providing stormwater detention/retention basins and easements that restrict encroachment into stormwater drainages may control stormwater and mitigate possible impacts to adjacent properties.
- The preliminary plat indicates a stormwater retention basin will be located on proposed Lot 4C which may serve more than one lot.
- The stormwater basin should be located on public land. If the basin is on private land, an easement should be granted to the city that provides for maintenance and which restricts any encroachments that could inhibit stormwater drainage. If an easement were required, the size of the easement would be determined during the review of the stormwater drainage plan.
- A stormwater drainage plan, complete with drainage calculations provided by an engineer, must be submitted to the city engineer for review and approval. Any easements required to accommodate the plan should be shown on the final plat.
- The applicant must submit the subdivision application to the Department of Environmental Quality (DEQ) for review unless the applicant certifies the subdivision complies with a DEQ exemption as described in MCA 76-4-125 (2).
- To be eligible for an adequate municipal facilities exemption, MCA 76-4-125 (2) (d) the city commission must certify adequate stormwater drainage and municipal facilities will be provided. To date, an engineered stormwater plan, staff cannot recommend a municipal facility exemption for this subdivision.

Access and Traffic

- The subject property is currently vacant and undeveloped and thus does not generate measurable traffic; therefore, any development of the property will create more traffic on adjacent streets.
- Proposed Lots 4A and 4C would have direct access onto Colonial Drive; proposed Lot 4B would access Colonial Drive via a 20-foot wide 115-foot long access and utility easement. This easement could accommodate a driveway serving a single lot. An emergency turn around would be required if the driveway exceeds 150 feet.
- Providing access to Lot 4B through an easement instead of a street may limit future subdivision of that lot.
- The property is adjacent to Colonial Drive; the most recent traffic count done in 2003 indicates there were 6,951 vehicles trips per day on Colonial Drive 500 feet north of Broadway. Colonial Drive is classified as a

Minor Arterial in the 1993 Helena Area Transportation Plan and is anticipated to accommodate higher traffic volumes.

- A curb sidewalk is currently installed on Colonial Drive to provide pedestrian access. Proposed Lot 4B would access Colonial Drive via a 20-foot wide 115-foot long access and utility easement.
- The 20-foot width would allow vehicular traffic but may not be adequate space for pedestrian access. Therefore, the easement should be increased to 25-foot width to allow for a 5-foot wide pedestrian access to be constructed when Lot 4B is developed.

Conclusion:

There would be minimal impacts on local services associated with the proposed subdivision. However, the impacts can be mitigated with the completion of the conditions for subdivision approval.

3. Effects on Natural Environment and Wildlife and Wildlife Habitat

Findings:

The proposed subdivision of the property would have little additional impact on the natural environment or wildlife or wildlife habitat. New landscaping and erosion control measures can help mitigate the changes that will occur to the natural environment.

Conclusion:

Adverse impacts on the natural environment and wildlife and wildlife habitat would be minimal.

4. Effects on Public Health and Safety

Findings:

City water and wastewater services, fire hydrants, stormwater drainage, the current adopted building and fire codes, zoning ordinances and city codes are intended to promote the public health and general welfare. Thus, land use changes on this property must comply with city standards. The Helena Police and Fire Departments will also serve the property to help protect the public health and general welfare.

Conclusion:

Adverse impacts on public health and safety should be minimal as conditioned.

5. Survey Requirements

Findings:

Providing the final plat tied to the city coordinate system on acceptable digital formats facilitates archival and mapping.

Conclusion:

Compliance with survey requirements will be more thoroughly evaluated when the final plat is submitted for review and approval.

6. Helena Subdivision Regulations

Findings:

- Section 12-1-6 requires new lots to conform to the zoning requirements of the underlying zoning for that property.
- Proposed Lot 4A is currently developed with an office building. The submitted site plan for the proposal does not provide parking information for this building.
- A revised site plan should be submitted indicating the square footage of the existing building and available parking to determine compliance with the Zoning Ordinance parking requirements. If adequate parking is not available for the existing building a variance must be obtained or additional parking must be provided.
- Parkland dedication is not required for minor subdivisions.

Conclusion:

The proposal may not comply with all of the applicable subdivision requirements. However, as conditioned, these requirements can be satisfied when the final plat is prepared and submitted for review and approval.

7. Easements

Findings:

- The preliminary plat indicates Lot 4B does not have direct vehicular access from Colonial Drive. A 20-foot wide access easement is proposed to provide legal and physical access to Lot 4B. This easement width and purpose must be shown on the final plat.
- Once a stormwater drainage plan is approved and the size of the drainages determined, easements for the stormwater drainage facilities and/or basin(s) that cross lots or serve multiple lots must be shown

Conclusion:

The proposal in its present form does not comply with easement requirements. However, as conditioned, these requirements can be satisfied when the final plat is submitted for review and approval.

8. Legal and Physical Access

Findings:

Legal and physical access is provided by the existing Colonial Drive right-of-way and proposed 20-foot wide access easement.

Conclusion:

Once the access easement is established, the proposal will comply with the applicable access requirements.

Conditions

I. Access and Traffic

The access and utility easement for Lot 4B must be a minimum of 25 feet wide to allow a 5-foot wide pedestrian access to be installed when Lot 4B is developed.

II. Stormwater Drainage

A stormwater drainage plan, complete with drainage calculations provide by an engineer, must be submitted to the city engineer for review and approval. Any easements required to accommodate the plan must be shown on the final plat and any required improvements must be installed by the developer.

III. The Survey Requirements

The final plat for this subdivision must be provided to the city on acceptable digital formats for archival and mapping purposes.

IV. Helena Zoning Regulations

Lot 4A must be able to accommodate the required parking for the existing building.

Discussion

Commissioner Cartwright asked if 25-foot requires a curb? Ms. Morell-Gengler stated no.

Mayor Smith asked regarding the parking requirements and asked if the parking lot meets requirements. Ms. Morell-Gengler concurred.

Commissioner Cartwright stated the property boundaries show on the other property. Ms. Morell-Gengler stated there are two parking lots, although not clearly defined from the air. Commissioner Cartwright asked regarding staff's thoughts on the conditional uses and if staff could make recommendations as they come up? Ms. Morell-Gengler stated the preliminary plat process is established so the conditions can be placed on the plat for the final plat which would come back before the commission.

Public Testimony

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

Dr. Arnold Lion, 1955 Oropheno Gulch asked the commission for approval of the findings of fact and the conditions.

There being no further persons wishing to address the commission, the public portion of the hearing was closed.

Motion

Commissioner Parriman moved to conditionally approve the preliminary plat for the East Slope minor subdivision creating 3 lots from Lot 4, Block 1, of the East Park Number One Addition, containing 63,178 square feet, in the R-O (Residential-Office) District; generally located west of Colonial drive and north of Broadway, with a property address of 2615 Colonial Drive, Helena, Montana, and to adopt the Findings of Fact and the conditions outlined above. Commissioner Pouliot seconded the motion. All voted aye, motion carried.

Preliminary Plat

B. CONSIDER A PRELIMINARY PLAT CREATING TWO LOTS FROM ONE LOT CONTAINING 87,675 SQUARE FEET LOCATED IN THE B-2 (GENERAL COMMERCIAL) DISTRICT; GENERALLY LOCATED BETWEEN ROAD RUNNER DRIVE AND DREDGE DRIVE AND SOUTH OF PTARMIGAN LANE

Staff Report

City Planner Lucy Morell-Gengler reported Dave Crofts has applied for a minor subdivision/preliminary plat creating two lots from one lot containing 87,675 square feet located in the B-2 (General Commercial) District. The applicant has requested additional time to meet the adjacent property owner to review infrastructure requirements.

The applicant has requested to delay the public hearing on this minor subdivision proposal until June 7, 2004.

Ms. Morell-Gengler recommended tabling the minor subdivision proposal until June 7, 2004.

Public Testimony

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

There being no persons wishing to address the commission, the public portion of the hearing was closed.

Motion

Commissioner Pouliot moved to table the public hearing until June 7, 2004 for a minor subdivision/preliminary plat creating two lots from one lot in the B-2 (General Commercial) District. Legally described as Lot 10A, Block 1, Skelton Addition; generally located between Road Runner Drive and Dredge Drive and south of Ptarmigan Lane. Commissioner Cartwright seconded the motion. All voted aye, motion carried.

Ordinance

C. CONSIDER FIRST PASSAGE OF AN ORDINANCE AMENDING SECTION 11-13-2 OF THE HELENA ZONING ORDINANCE TO ALLOW CHURCHES (SIC INDUSTRY NUMBER 8661, RELIGIOUS ORGANIZATIONS; DIVISION I, SERVICES) AS A PERMITTED USE IN THE CLM (COMMERCIAL-LIGHT MANUFACTURING) DISTRICT

Staff Report

City Planner Lucy Morell-Gengler reported new federal legislation for Religious Institutions and Land Use Regulations was passed in 2000. This law states when zoning restrictions are placed on churches, a compelling government interest must be shown, the regulation must be the least restrictive, and it can't be discriminatory. Recently several inquires have been received about locating a church in the CLM District; churches are not currently allowed in that zoning district. Staff prepared several alternatives to amend the Zoning Ordinance for the Zoning Commission's consideration.

On December 9, 2003 the Helena Zoning Commission held a public hearing on the proposed adoption of an Ordinance that would either amend Section 11-13-2 of the Helena zoning Ordinance to allow Churches (SIC #8661, Religious Organizations) as a permitted use, or amend Section 11-21-5 (I)(3) to allow churches with a conditional use permit (CUP), in the CLM (Commercial-Light Manufacturing) District. The Zoning Commission unanimously (4:0 vote) tabled action to obtain additional information for the city attorney.

On April 13, 2004 the Helena Zoning Commission unanimously (4:0 vote) recommended approval for an amendment to Section 11-13-2 of the Helena Zoning Ordinance to allow Churches (SIC #8661, Religious Organizations) as permitted use in the CLM (Commercial Light Manufacturing) District.

Ms. Morell-Gengler recommended approval for first passage of an ordinance.

Discussion

Mayor Smith asked if there are other zones in which churches are not permitted? Ms. Morell-Gengler stated they are not permitted by right in residential zones, R1 and R2 and are permitted by right in the remaining residential zones. Mayor Smith asked if there was consideration given to allowing churches anywhere or in any zone? Ms.

Morell-Gengler stated the CLM zone is the only zone that has made a request. Mayor Smith asked if this proposal comes from new Federal Legislation for religious institutions or to a specific request? City Attorney David Nielsen explained in 2000 Congress passed the Religious institutions and land use regulations and it stated if there is a zoning that effects the placement of churches there must be a compelling government interest, has to be the least restrictive and it can't be discriminatory. Helena's ordinances seemed to follow these rules closely enough because there can be a compelling government interest in residential because of traffic and congestion.

Commissioner Oitzinger asked if this is a zone change to permit and not to create a CUP opportunity? Ms. Morell-Gengler concurred. Commissioner Oitzinger stated to follow up on the concerns expressed at the zoning commission; if churches can have daycare facilities by right then does that mean that if this proposal is passed, a daycare could accompany the church? Ms. Morell-Gengler stated in certain circumstance that's correct; daycares are a conditional use in the CLM.

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, the public portion of the hearing was closed.

Motion

Commissioner Pouliot moved approval for first passage of an Ordinance amending Section 11-13-2 of the Helena Zoning Ordinance to allow churches (SIC #8661, Religious Organizations; Division I, Services) as a permitted use in the CLM (Commercial-Light Manufacturing) District. Commissioner Cartwright seconded the motion. All voted aye, motion carried. Motion carried 4:1 with Commissioner Oitzinger voting no. **Ord. #2992**

Public Communications

PUBLIC COMMUNICATIONS

No report given.

Meetings of Interest

MEETINGS OF INTEREST

Mayor Smith stated the next Budget Work Session would be held on Wednesday, May 19, 2004 at 3:00 and Monday, May 24, 2004 at 3:00, the next Administrative Meeting would be held on Wednesday, June 2, 2004, the Joint City/County Work Session would be held on Thursday, June 3, 2004, the next regular City Commission meeting would be held on Monday, June 7, 2004.

Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 8:30 p.m.

Mayor James E. Smith

ATTEST:

Clerk of the Commission