

**CITY OF HELENA
REGULAR CITY COMMISSION MEETING
November 21, 2005
6:00 P.M.**

Time & Place

A regular City Commission meeting was held on Monday, November 21, 2005 at 6:00 p.m., in the Commission Chambers, 316 N. Park Avenue, Helena, Montana.

Members Present

Mayor Smith indicated for the record that Commissioners Cartwright, Oitzinger, Parriman, and Pouliot were present. City Manager Tim Burton, City Attorney David Nielsen and Deputy City Clerk Robyn Brown were present. Others present were Tom Warsinski 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 meetings of October 31 and November 7, 2005 were approved as submitted.

Proclamation

PROCLAMATION

A. Animal shelter Appreciation Week

Mayor Smith read the proclamation designating November 20-26, 2005 as Animal Shelter Appreciation Week and presented it to Sandy Newton. Ms. Newton thanked the Commission.

Consent Agenda

CONSENT AGENDA:

- A. Claims
- B. Equipment lease agreement with Canyon Creek Volunteer Fire District for use of a Helena Fire Department mini-pumper on a 1987 Ford truck chassis.
- C. A resolution declaring tangible personal property owned by the City of Helena to be surplus property, and authorizing the disposal of that property (Police Department vehicle equipment) **Resolution #19296**
- D. Accept a grant reimbursement of \$5,185.00 and authorize City to approve a budget amendment to replenish the Fire Department overtime line item
- E. Accept the 2004 Homeland Security Grant not to exceed \$15,000 for interoperable radio communications
- F. Award the purchase of City of Helena police patrol and service vehicles
- G. Consider final passage of Ordinance No. 3045 for pre-zoning to R-2 (Single Family) District for Blocks 14 and 15 in the Highland Park Addition in Lewis and Clark County prior to annexation into the City of Helena. **Ordinance #3045**

City Manager Tim Burton recommended approval of the claims and the consent agenda.

Public Comment

Mayor Smith asked for public comment, none was received.

Motion

Commissioner Pouliot moved approval of item A through G on the consent agenda. Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

Communications

COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS

Mayor Smith spoke of the recent city election and thanked all of the candidates for a clean campaign. He thanked Commissioner Parriman for his service and recognized incoming City Commissioner Alan Peura and wished him congratulations.

Commissioner Cartwright congratulated Mr. Peura, Commissioner Oitzinger and Mayor Smith on their election wins and stated he will miss Commissioner Parriman. He added he was disappointed with voter turnout.

Commissioner Cartwright also noted the House of Representatives is planning to cut funding for the Missouri River Drug Task Force and stated he believes the funding could have been cut from a different source.

Commissioner Parriman thanked the Commission for their kind words and praised city staff for their continuing hard work.

Commissioner Pouliot stated he too would miss Commissioner Parriman and thanked him for his service. He also spoke of many streets in Helena that have the same name in different locations and asked Addressing Coordinator John Hinshaw to work toward correcting the problem.

Commissioner Oitzinger thanked Commissioner Parriman and stated she would miss working with him. She also congratulated the re-elected and newly elected HCC members.

Report of the City Attorney

REPORT OF THE CITY ATTORNEY

City Attorney Nielsen reported over the past two years his office has worked to develop a series of contract forms for city use. At the League of Cities and Towns Convention the forms were distributed to other city attorneys. As a reimbursement for the work on the contract forms the Montana Municipal Insurance Authority recently sent the City of Helena a check for \$2000.

He also reported his office has been working with the State of Montana, Department of Administration to collect fees and provide encouragement to residents operating businesses without a license. The remaining seven businesses that haven't responded will be sent misdemeanor citations.

Report of the City Manager

REPORT OF THE CITY MANAGER

City Manager Burton welcomed Mr. Peura to the City Commission and thanked Commissioner Parriman for his service to the City of Helena.

City Manager Burton referred to Commissioner Pouliot's comments and explained an Address Committee has been formed to work on a plan to fix the problems. The Committee will be bringing their recommendations forward to the Commission in the future.

Mayor Smith spoke of the new Commission Chamber murals, Discovery, Commerce and Government; which were painted by Bob Morgan.

**Report from the
Helena Citizens
Council**

REPORT FROM THE HELENA CITIZENS COUNCIL

HCC member Tom Warsinski gave a review of the November 16, 2005 HCC Meeting.

Mayor Smith asked City Clerk Havens to schedule a meeting between the HCC and City Commission for January or February to meet the new members.

Commissioner Cartwright urged the HCC to get involved with budget considerations.

I-15 Interchange

CONSIDER A SUPPLEMENTAL FUNDING AGREEMENT FOR THE I-15 SOUTH HELENA INTERCHANGE.

Staff Report

Public Works Director John Rundquist reported on May 23, 2005, the City Commission approved a Memorandum of Agreement (MOA) defining the roles and responsibilities of Montana Department of Transportation (MDT), developers, and local governments relative to preparation and review of design and construction plans for the new South Helena Interchange. The MOA left the funding roles undefined because of the variability of construction costs and funding sources, but allowed for a supplemental agreement to be approved when an estimate of final costs could be more accurately predicted and when federal funding eligibility was better known.

The South Interchange Project design has progressed to the point where construction plans are being reviewed and the project is nearing readiness for final approval and bidding. Bid letting could occur as early as next June. With costs and funding eligibility better defined, MDT has requested the funding agencies – MDT, Lewis and Clark County, Jefferson County, and the City of Helena – agree to a Supplemental Funding Agreement which expands the roles and responsibilities to include the respective funding. The developer is not a part of this funding agreement because their contribution to the project has been in-kind services for design and property donations for right-of-way.

Under the Supplemental Funding Agreement, the city would provide direct funding through a \$400,000 allocation of gas tax revenues. Also, State Urban Program funds, Urban Highway Pilot Improvement Program funds, and CTEP funds would expand the city's contribution to a total of \$2,924,000.

Director Rundquist recommended approval of the Supplemental Funding Agreement and stated this project will complete the highest priority project identified in the I-15 Corridor Study and EIS. When completed, it will provide a third interchange for Helena's growing east side and will reduce demand on the congested Capital Interchange.

Director Rundquist referred to questions from Commissioner Cartwright regarding the size of the pedestrian and bike lanes and compared the project with Colonial Drive and explained the road will be 40 feet wide with two 12 foot lanes and two eight foot wide shoulders suitable for pedestrian and bicycle traffic.

Public comment

Mayor Smith called for public comment, none was received.

Motion

Commissioner Cartwright moved approval of the Supplemental Funding Agreement for the I-15 South Helena

Interchange and west side Frontage Road. Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

Comment

Commissioner Cartwright suggested identifying CTEP projects earlier in the future. City Manager Burton explained this project was identified years ago and the agreement has taken over two years to work through.

City Code Amendment CONSIDER FIRST PASSAGE OF AN ORDINANCE AMENDING THE HELENA CITY CODE TO PROHIBIT FEEDING DEER IN THE CITY LIMITS.

Staff Report

Police Chief Troy McGee reported the urban deer population has grown considerably in the last few years. The deer wander around on the city streets, creating potential traffic hazards, and ruining landscaping on both public and private property within the city.

Staff is proposing to amend the Helena City Code to prohibit purposely or knowingly feeding deer within the city limits, and make any violation thereof a misdemeanor, with a fine not to exceed \$500 and/or a jail term not to exceed six (6) months. This would discourage deer from congregating in certain areas and in herds that may foster disease, and encourage the deer to feed outside the city limits. It would also provide City staff with the tools necessary to discourage deer feeding in the city limits. The Department of Fish, Wildlife & Parks is the only entity with that authority at this time.

Chief McGee recommended approval of first passage of an ordinance amending Chapter 3 of Title 5 of the Helena City Code to prohibit feeding deer in the city limits, and set a public hearing date for December 5, 2005.

Commission comment

Commissioner Cartwright asked for clarification of "feeding". Chief McGee explained it would be knowingly or purposely feeding deer, planting vegetation is not considered feeding.

Public comment

Mayor Smith called for public comment.

Jo Lynn Eggert, 1505 Missoula Ave, spoke of concerns with the ordinance and asked that clarification of "feeding" be included in the ordinance.

Ken Hanson, 2050 York Road, representing Mule Deer Foundation, spoke in support of the ordinance and urged citizens not to feed deer.

Discussion

Commissioner Pouliot referred to Ms. Eggert's comments regarding birdfeeders and asked if having the feeders would be considered a violation? Chief McGee responded no.

Motion

Commissioner Cartwright moved approval for first passage of an ordinance amending Chapter 3 of Title 5 of the Helena City Code to prohibit feeding deer in the city limits, and set a public hearing date for December 5, 2005. Commissioner Pouliot seconded the motion. All voted aye, motion carried. **Ordinance #3046**

Comment

Mayor Smith asked City Attorney Nielsen to give the background and purpose of the proposed ordinance at the December 5, 2005 Commission meeting.

Final Plat- Lowe's CONSIDER THE FINAL PLAT FOR LOWE'S, HIW 2-LOT MINOR SUBDIVISION CONSISTING OF APPROXIMATELY 32.12 ACRES; GENERALLY LOCATED NORTH OF CUSTER AVENUE, WEST OF INTERSTATE 15, AND EAST OF THE PROPOSED SANDERS STREET AND THE PARTIAL ASSIGNMENT OF THE CITY'S INTEREST IN THE DEVELOPMENT AGREEMENT WITH SHOPKO, INC.

Staff Report City Planner Belinda Waters reported the applicant is requesting approval of the final plat for the Lowe's HIW minor subdivision creating two commercial lots from 32.12 acres. On September 12, 2005, the City Commission gave preliminary plat approval subject to the conditions stated in the Findings of Fact and listed on pages two and three of the transmittal memo. All of the conditions of the preliminary plat have been met or are financially guaranteed.

Also under consideration is a partial assignment of the Agreement for Public Improvements in a Subdivision between the City of Helena and Shopko, dated May 7, 2003, that assigns to LOWE'S HIW, INC. Shopko's Agreement to participate pro rata in the expenses of the street improvement project for Sanders Street.

Ms. Waters recommended approval of the final plat and Development Agreement and noted the 2001 Helena Growth Policy promotes more intense and efficient use of land and facilities. The proposed commercial business will provide efficient use of the property by utilizing a vacant tract in the City with in-fill development. Infrastructure (water, sewer, stormwater drainage, and streets) to serve the proposed use is adjacent to the site along Custer Avenue.

Commission comment Commissioner Cartwright referred to the gas line easement that is being vacated and asked if there are alternative routes for the gas line? Ms. Waters explained the applicant is working with Northwestern Energy to move the gas line and provide continuing access. Commissioner Parriman referred to the future I-15 Interchange on Custer and asked if the plat can be amended in the future to accommodate the Interchange? Ms. Waters agreed.

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

Motion Commissioner Pouliot moved approval of the final plat for Lowe's HIW Minor Subdivision and acceptance of the dedication to the City of the property for public improvements designated thereon, and approval of the partial assignment of the City's interest in the Development Agreement between the City of Helena and Shopko, Inc. Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

Annexation- Bradford Addition, Lots 10-12 CONSIDER A RESOLUTION OF ANNEXATION FOR LOTS 10-12, IN BLOCK 190 OF THE BRADFORD ADDITION, AND THAT PORTION OF UNIVERSITY STREET AND THE ALLEY ADJACENT THERETO; GENERALLY LOCATED ON UNIVERSITY STREET BETWEEN LINDEN AND LAUREL STREETS.

Staff Report Community Development Project Manager Debra LaFontaine reported the applicant, Mr. Ron Bartsch, is proposing to complete the

annexation for Lots 10-12, in Block 190 of the Bradford Addition. This property is adjacent to the existing City limits on the west side of Helena.

On August 18, 2003, the City Commission adopted the resolution of intention to Annex Lots 10-12 in Block 190 of the Bradford Addition and established pre-zoning designations for the property (Ord.# 2975).

Conditions for annexation established in the resolution included the following:

1. Infrastructure: Applicant must install infrastructure improvements 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. Pre-zoning: Applicant must complete the process of having the property pre-zoned in a City Zoning District.
3. New Construction: Applicant must submit plans for all construction commenced subsequent to the adoption of this resolution of intention for review by the City of Helena to ensure compliance with infrastructure, zoning, and Uniform Fire Code requirements. Applicant must pay all fees for such review in the same manner and upon the same basis, as do owners of property already in the City.
4. Taxes and Assessments: Taxes and assessments must be paid and current at the time of filing the resolution of Annexation.
5. Completion of Conditions: The applicant must notify City Planning in writing upon completion of the conditions for approval of annexation, which must be on or before the date of completion of conditions for subdivision of this property and is subject to the same time limitations. If the conditions are not completed within that time frame, the City is under no obligation to annex the property and may discontinue any City services, including water and sewer.

The conditions of annexation have been fulfilled, and all procedural and due process requirements have been completed. For annexation, 7-2-4211, MCA, requires that the municipality must include the full width of any public streets or roads, including the rights-of-way that are adjacent to the property being annexed. Therefore, this annexation includes that the 18 foot wide alley south of and adjacent to lots 10 through 12 in block 190 of the Bradford Addition and the 66 foot right of way of University Street north of and adjacent to lots 10 through 12 in block 190 of the Bradford Addition. Ms. LaFontaine stated annexation has been requested by the applicant and is recommended by staff.

Public comment

Mayor Smith called for public comment, none was received.

Motion

Commissioner Cartwright moved approval for a resolution annexing Lots 10-12 in Block 190 of the Bradford Addition and that portion of University Street and alley adjacent thereto into the City

of Helena. Commissioner Pouliot seconded the motion. All voted aye, motion carried. **Resolution #19297**

Annexation- Bradford Addition, Lot 1-B

CONSIDER A RESOLUTION OF ANNEXATION FOR LOT 1-B, IN BLOCK 188 OF THE BRADFORD ADDITION (NOW SHOWN AS LOTS LOT 6A-1 AND 8 A-1 ON THE AMENDED PLAT FILED UNDER DOCUMENT NO. 3094453) AND THAT PORTION OF LEGRANDE CANNON BOULEVARD AND THE ALLEY ADJACENT THERETO, GENERALLY LOCATED EAST OF GLENDALE STREET AND NORTH OF LEGRANDE CANNON BOULEVARD.

Staff Report

Community Development Project Manager Debra LaFontaine reported the applicant, Mr. Jerry Hamlin, is proposing to complete the annexation of Lot 1-B, in Block 188 of the Bradford Addition, in Lewis and Clark County.

On September 12, 2005, the City Commission adopted the Resolution of Intention to Annex Lot 1-B, in Block 188 of the Bradford Addition and established pre-zoning designations for the property (Ord.# 2975).

Conditions for annexation established in the resolution included the following:

1. Infrastructure: The property owner must install necessary infrastructure improvements to City Standards, as required by the City, including paved street, curb, gutter and sidewalks, or enter into a development agreement acceptable to the City that defines responsibility for installation or deferment of the improvements.
2. Review of New Construction: The property owner must submit plans 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 reviews in the same manner and on the same basis as do owners of properties already in the City.
3. Taxes and Assessments: Taxes and assessments must be paid and current at the time of filing the Resolution of Annexation.
4. Completion of Conditions: The Property Owner must notify City Planning in writing upon completion of the conditions for approval of annexation, which must be on or before the date of completion of conditions for subdivision of this property and is subject to the same time limitations. If the conditions are not completed within that time frame, the City is under no obligation to annex the property and may discontinue any City services, including water and sewer.

The conditions of annexation have been fulfilled and all procedural and due process requirements have been completed. Annexation has been requested by the applicant and is recommended by staff.

For annexation, 7-2-4211, MCA, requires that the municipality must include the full width of any public streets or roads, including the rights-of-way that are adjacent to the property being annexed. Therefore, this annexation includes that portion of the 100-foot wide right

of way of Le Grande Cannon Boulevard south of and adjacent to Lot 1-B in Block 188 of the Bradford Addition, bounded on the west by the east line of Glendale Street projected south to the south line of Le Grande Cannon Boulevard and bounded on the east by a line from the southeast corner of Lot 1-B perpendicular to the south line of Le Grande Cannon Boulevard, as shown on Exhibit "A" attached to the resolution and by this reference made a part hereof.

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

Motion Commissioner Pouliot moved approval for a resolution annexing Lot 1-B, in Block 188 of the Bradford Addition (now shown as Lots Lot 6A-1 and 8 A-1 on the Amended Plat filed under Document No. 3094453) and that portion of LeGrande Cannon Boulevard and the alley adjacent thereto, into the City of Helena. Commissioner Cartwright seconded the motion.

Comment Commissioner Cartwright stated he does not usually like such large lots within the city because he feels it runs up the cost of emergency services but he would support the motion, as the area is adjacent to Mt. Helena Park.

Vote All voted aye, motion carried. Resolution #19298

City Code Amendment CONSIDER FIRST PASSAGE OF AN ORDINANCE AMENDING CHAPTERS 1 AND 2 OF TITLE 5 OF THE HELENA CITY CODE TO ALLOW THE DISCHARGE OF FIREARMS IN THE HELENA CITY LIMITS FOR THE MANAGEMENT AND POPULATION CONTROL OF WILD OR DANGEROUS ANIMALS.

Staff Report Police Chief Troy McGee reported Montana Department of Fish, Wildlife and Parks wardens have been using firearms in the City to destroy marauding and dangerous deer that have frightened citizens. From time to time, City police officers have used firearms to euthanize deer that are seriously injured after being hit by automobiles or illegally hunted in the City. Section 5-1-4 of the Helena City Code prohibits the discharge of firearms in the city. Section 5-2-30 of the Helena City Code only allows the animal control officer to use a tranquilizer gun to subdue dangerous and vicious animals, but in reality the Police Department's tranquilizer gun has not been used in years because of unavailability of the appropriate drug. There are more modern and better methods to control dangerous animals, such as netting. On rare occasions, however, lethal action may be the only alternative to controlling and subduing dangerous animals.

Chief McGee recommended approval of the proposed ordinance and noted the amendment would clarify that the discharge of firearms in the City is permissible in limited situations. If the city adopts a plan with Fish, Wildlife and Parks for the control of the deer population, the code change would accommodate that plan, and it would allow the animal control officer to use reasonable methods, including lethal ones, to handle dangerous animals.

Commission comment Commissioner Parriman asked who would authorize the person being allowed to discharge firearms? Chief McGee stated if the city

enters into an Urban Wildlife Management Plan, Fish, Wildlife and Parks (FWP) could be the authorized party. City Attorney Nielsen explained an authorization would probably come from the City Commission or a contract with Fish, Wildlife and Parks. Commissioner Parriman stated he believes the ordinance should include the authorizing party. City Manager Burton concurred with Commissioner Parriman.

Commissioner Cartwright asked what would happen if FWP hired a private tracker to track mountain lions coming into town? City Attorney Nielsen explained the ordinance was drafted using loose language because he was uncertain of what kind of scenarios could occur; there are too many variables to put the authority in one entity. Commissioner Cartwright noted FWP has expressed concern over their authority to use firearms within the city.

Mayor Smith stated he believes language should be added to the ordinance that states the City Commission is responsible for authorizing the discharge of firearms. Commissioner Parriman concurred with Mayor Smith.

Motion

Commissioner Pouliot moved approval to amend the proposed ordinance to include the following language: by law enforcement officers or other persons legally authorized by the City Commission for. Commissioner Parriman seconded the motion. All voted aye, motion carried.

Motion

Commissioner Cartwright moved approval for first passage of an ordinance amending Chapters 1 and 2 of Title 5 of the Helena City Code to allow discharging of firearms in the Helena city limits by law enforcement officers or other persons authorized by the City Commission for the management and population control of wild or dangerous animals, and set a public hearing date of December 5, 2005. Commissioner Pouliot seconded the motion.

Public comment

Mayor Smith called for public comment, none was received.

Vote

All voted aye, motion carried. **Ordinance #3047**

Resolution of Intent to Annex- Aspen Trails

CONSIDER A RESOLUTION OF INTENTION TO ANNEX TRACT 1A COS #598543/B AS AMENDED PER QUIT CLAIM DEED #3025005 BK -M26, PG.9866 LEWIS AND CLARK COUNTY, MONTANA, ALSO KNOWN AS THE ASPEN TRAILS RANCH MAJOR SUBDIVISION, INTO THE CITY OF HELENA AND ESTABLISH CONDITIONS FOR ANNEXATION; PROPERTY IS GENERALLY LOCATED EAST OF JUNIPER DRIVE, NORTH OF YORK ROAD, WEST OF PRICKLY PEAR CREEK, AND SOUTH OF MUNGER ROAD.

Staff Report

City Planner Lucy Morell-Gengler reported the owners of this property, LeRoy and Ruby Jean Belling, have requested annexation for 267.76 acres into the City of Helena. Richard Bowen proposes to subdivide the property into 341 lots. The property is not currently located adjacent to existing City limits and City services; the annexation of the proposed Aspen Trails Road and a portion of York Road would create a contiguous link with the City. These roadway annexations would also create a 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. The applicant is requesting R-1 (Single - Family Residential) District for 280 single-family lots and 15 parkland lots; R-4 (High Density Residential) District for 45 lots; and B-2 (General Commercial) District for one lot. This proposal is accompanied by three simultaneous proposals affecting the same property:

1. Pre-zoning to R-1 (Single-Family Residential) District for Blocks 1 (except Lot 62), 3, 5, and 6, and Lots 1 through 6 in Block 2; and Lots 1 and 14 through 28 in Block 4. The Zoning Commission has recommended R-2 zoning instead of the proposed R-1 zoning for these lots. R-2 zoning is also a single-family district but allows slightly higher density; R-4 (High Density Residential) District for Lots 7 through 42 in Block 2, and Lots 2 through 13 in Block 4; and B-2 (General Commercial) District for Lot 62 in Block 1;
2. Major Subdivision /Preliminary Plat for proposed Aspen Trails Ranch Subdivision creating 280 single-family lots, 45 multifamily lots, 15 park lots and one commercial lot for a grand total of 341 lots; and
3. Conditional Use Permit to allow mini-storage units in a B-2 District.

Ms. Morell-Gengler recommended approval of the proposed resolution and added the proposed annexation and subdivision would develop an area that is near the city with urban density residential uses. This annexation and subdivision would reduce sprawl and ease some of the pressure to develop lots in the county with septic systems, which could have a negative impact on ground water. Annexation allows city standards to be applied to development of this property. Once the conditions are met, an infrastructure plan would be established facilitating future development of the area.

Public Hearings

PUBLIC HEARINGS:

A. CONSIDER FIRST PASSAGE OF AN ORDINANCE PRE-ZONING ASPEN TRAILS RANCH MAJOR SUBDIVISION TO R-2 (SINGLE-FAMILY RESIDENTIAL); R-4 (HIGH DENSITY RESIDENTIAL) DISTRICT; AND B-2 (GENERAL COMMERCIAL) DISTRICT; PRIOR TO ANNEXATION INTO THE CITY OF HELENA, MONTANA FOR PROPERTY GENERALLY LOCATED EAST OF JUNIPER DRIVE, NORTH OF YORK ROAD, WEST OF PRICKLY PEAR CREEK, AND SOUTH OF MUNGER ROAD.

Staff Report

Ms. Morell-Gengler stated the applicant is requesting the adoption of an ordinance pre-zoning prior to annexation into the City of Helena, Montana to: R-1 (Single -Family Residential – Large Lot) for 280 single-family lots, and 15 parkland lots; R-4 (High Density Residential) District for 45 lots; and B-2 (General Commercial) District for 1 lot. All are shown on the preliminary plat for the proposed Aspen Trails Ranch major subdivision.

On October 11, 2005, the Zoning Commission recommended (2:1 vote) approval for the adoption an ordinance pre-zoning prior to annexation into the City of Helena, Montana to:

R-2 (Single family Residential) for Blocks 1(except Lot 62), 3, 5, and 6, and Lots 1 through 6 in Block 2; and Lots 1 and 14 through 28 in Block 4; (The Zoning Commission has recommended R-2 zoning instead of the proposed R-1 zoning for these lots. R-2 zoning is also a single-family district but allows slightly higher density); R-4 (High Density Residential) District for Lots 7 through 42 in Block 2, and Lots 2 through 13 in Block 4; and B-2 (General Commercial) District for Lot 62 in Block 1; all as shown on the preliminary plat for the proposed Aspen Trails Ranch major subdivision.

The applicant is requesting the Aspen Trails Ranch Subdivision be annexed to the City of Helena; the City of Helena Zoning Ordinance requires property to be pre-zoned prior to annexation. Therefore, the applicant is requesting pre-zoning to R-1, R-4 and B-2 as shown on the preliminary plat for the proposed Aspen Trails Ranch major subdivision. The Zoning Commission recommended R-2 zoning, a slightly higher zoning, for the proposed R-1 lots. The recommended R-2 zoning would not require any changes to the proposed preliminary plat but could allow for future subdivision of some of those lots.

Ms. Morell-Gengler added the proposed zoning would allow residential and commercial development in accordance with city zoning on property in close proximity to the city. This annexation would allow the extension of city services and infrastructure to this area assuring compliance to city approved infrastructure plans, building codes, fire codes and stormwater plans. Chapter 11 of the City of Helena Growth policy defines the six criteria for subdivision review and gives a summary of how those criteria will be utilized during the review of individual subdivision proposals. Under Agricultural this section states: *Urban densities of development within the City of Helena will facilitate the preservation of agriculture in Lewis and Clark County by providing a location for the development of residential and employment activities in a dense and efficient manner; thereby reducing the pressure to change agricultural lands to non-agricultural uses in the county.* The recommended R-2 zoning is more consistent with this section of the Growth Policy than the proposed R-1 zoning.

B. CONSIDER THE PRELIMINARY PLAT FOR THE PROPOSED ASPEN TRAILS RANCH MAJOR SUBDIVISION CREATING 341 LOTS FROM 267.76 ACRES GENERALLY LOCATED EAST OF JUNIPER DRIVE, NORTH OF YORK ROAD, WEST OF PRICKLY PEAR CREEK, AND SOUTH OF MUNGER ROAD.

Staff Report

Ms. Morell-Gengler further reported on October 18, 2005 the Consolidated Planning Board held a public hearing for a major subdivision/preliminary plat, to be known as Aspen Trails Ranch Subdivision, creating 341 lots. Although a quorum was not present for the hearing, the Planning Board took public testimony and closed the public hearing.

The Planning Board met again on October 25, 2005 to discuss the proposal and make a recommendation. The Planning Board recommended denial (3:1 vote and one abstention) of the preliminary plat for the Aspen Trails Ranch major subdivision creating 341 lots (325 residential lots, one commercial lot and 15 lots for parkland) from 267.76 acres proposed to be located in a R-1 (Single-family), R-4 (High Density Residential) and B-2 (General Commercial) Districts, and to adopt the Findings of Fact as amended for property legally described in the Findings of Facts.

Ms. Morell-Gengler noted development of the proposed subdivision would require extending infrastructure through an area of undeveloped land, thus promoting urban development of that area. Development at the proposed density could lower some of the pressure to develop property in the county and as a result reduce sprawl. The proposal would provide single-family detached housing, and some multifamily uses which would provide a variety of housing types in the city.

Commission comment

Commissioner Cartwright asked how much of this area was flooded in 1981? Ms. Morell-Gengler stated the previous owner, Mrs. Olsen, indicated the area did flood. Commissioner Cartwright asked if the city would be responsible for damage if the area did flood? Ms. Morell-Gengler responded the applicant would submit a stormwater drainage plan that would be responsible for the property and the city would be responsible for city-owned property such as parkland.

Commissioner Cartwright referred to Condition 27 regarding placement of the affluent ditch underground and asked if it is not placed underground can the Commission reconsider the parkland dedication? Ms. Morell-Gengler explained the affluent ditch is part of the parkland dedication. The Army Corps of Engineers, when evaluating the wetlands, recommended the ditch not be placed underground. The applicant is going to submit their wetlands plan to the Army Corp of Engineers; if it is approved as placed underground and with the wetlands mitigated in another location it will comply with the Parks Board recommendation. If not, the Park Board recommended not accepting the current ditch as parkland.

Commissioner Cartwright referred to the proposed annexation and also the transportation plan and stated it seems logical to run the east west connector on Sable Street and suggested placing requirements on the property that the homeowner must participate in a Special Improvement District (SID). Ms. Morell Gengler explained that route would be through wetlands and would not be possible. Commissioner Cartwright asked if the applicant is willing to financially participate in the development of the connection road to the south of the subdivision? Ms. Morell-Gengler stated she believes the responsibility of those road improvements would fall to the developers of the North and South of the right-of-way (ROW). City Manager Burton explained the road network would be similar to the Barney II Subdivision where the roads dead-end within the subdivision and future developers extend the roads.

Commissioner Cartwright asked if the area proposed for annexation requires city services in order to be developed, or would it comply with county standards? Ms. Morell-Gengler stated she is unfamiliar with county standards but is aware there is high groundwater in the area, which could make development costly. Commissioner

Cartwright asked if staff could speculate whether or not the land is developable without using city services, as it is a rapidly growing area of town. City Manager Burton stated the county has similar subdivision law in that if impacts can be mitigated then the subdivision can be approved. He referred to a map shown during Ms. Morell-Gengler 's presentation and stated there has been a trend of development in the Helena valley over the past fifteen years. The opportunity for development exists in the subject area as well, relative to county subdivision and development standards.

Commissioner Cartwright asked Police Chief McGee and Fire Chief Larson how the Helena Police Department (HPD) and Helena Fire Department (HFD) propose to serve an area so far removed from the city? Chief McGee stated the area is not too far from existing city limits and would not be hard to serve. Fire Chief Larson explained the HFD is currently going through a Fire Service Review, many factors, such as response time and roadway design, that affect services are being studied. The Commission will receive the information from the review and will be able to decide what level of service to offer citizens.

Commissioner Pouliot asked for clarification of the length of Olsen Road that would be improved? Ms. Morell Gengler explained the entire road would be improved, however, the level of improvement will depend on if the road is annexed into the city. Commissioner Pouliot referred to wholly surrounded property on York Road that would result from this annexation and asked for the size of the property? Ms. Morell Gengler stated she is unsure but believes it is a single-family residence. He asked for clarification of comments made about difficult access to and from York Road. Ms. Morell-Gengler explained York Road is currently Montana Department of Transportation ROW, they will make a determination as to the safety of the intersection and require any amendments to the roadway to improve safety in the area.

Mayor Smith referred to the Planning Board hearing on the subdivision and a board members statement that the harm to the area would outweigh the benefits of the development and asked how the city's record would reflect the obvious impact. Ms. Morell-Gengler explained whenever you subdivision vacant land there will be an impact to the habitat. The record shows the applicant is providing a 300-yard setback to the creek as well as numerous corridors for animals to travel through the area; there are mitigations provided for the impacts of the development. City Manager Burton added one of the questions for Commission consideration is to what sustainable standard does the city allow development to occur. This is private property and the Commission doesn't have the authority to not allow development.

Mayor Smith asked Commissioner Cartwright if he believes the property would not be amenable to wells or septic systems? Commissioner Cartwright stated he is not an expert, but thinks it is a valid question that needs to be answered.

Commissioner Parriman suggested Mayor Smith limit public testimony to a specific time period.

Commissioner Pouliot encouraged citizens giving public comment to minimize redundant testimony.

Public Testimony

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

Kevin Wood, KD Wood Construction Company, spoke in support of the subdivision and believes the problems of the area can be mitigated.

Dick Bowen, 2476 Avalon Lane, Couville, WA; applicant, spoke in support of the subdivision and related proposals. He explained the area would provide housing for a whole spectrum of people, and be a self-contained community. He referred to wells and septic systems and stated they were looking at building the subdivision with its own sewer treatment plant but decided the area would be better served by city services. He explained they have worked with city staff to form agreements to problems and they accept all conditions for approval. He also noted this has been an incredible collaborative effort between the US Army Corps of Engineers, State of Montana and City of Helena. He referred to traffic issues and stated they would be happy to provide whatever improvements are needed. He also noted there is a possibility of this subdivision becoming a geothermal community.

Bob Lee, Morrison-Maierle, Inc, stated the applicant has come up with a design that is compatible to the needs of the area. The design of the subdivision will be a very safe and livable neighborhood with good vehicular, pedestrian, and recreational access and accommodations for wildlife. He stated this is large property that allows an opportunity to plan for infrastructure in a sane fashion, which is better than piecemeal infill. He noted large projects such as this can afford to contribute to enhancements, such as transportation networks. He added offsite drainage is an issue for the property and by working with city staff there will be resolution to the longtime drainage problems of the area.

Todd Lorenzen, Jefferson City, Pioneer Technical Services. Mr. Lorenzen conducted a geotechnical survey and liquefaction study on the area. In his opinion the area does not have a great potential for liquefaction unless there is a seismic event larger than a magnitude 6.3 earthquake.

Michael Thomas, 3645 Juniper Drive, stated he is not opposed to development but is concerned with increased traffic in the area, as it will affect wildlife and privacy. He also spoke of not requiring fencing of the area. He added he is concerned with the density of the subdivision.

Glen Daly, 3545 Juniper Drive, spoke of concerns with traffic in the area. The intersection of Custer Avenue and the Frontage Road is a problem and is a dangerous situation.

Mark Brook, Morrison Maierle, Inc, submitted additional petitions supporting annexation for the record. He spoke in support of the subdivision and discussed stormwater and wetlands issues. He referred to a map of drainages for the property and explained the history of the drainages, which were built over and blocked. He stated annexation would put the control of the land under city regulations and ordinances and the application under consideration is in conformance with city standards. Part of the application required the developer to handle stormwater flows from upgradient parcels. They have designed drainage ways to route the flow to Prickly Pear Creek, which will solve a lot of the regional drainage issues the city is currently facing. He added the applicant feels very strongly about protection of the environment. He also noted the application does conform to the Lewis and Clark County Growth Policy and Montana subdivision review law.

Pete Elliot, adjacent landowner, spoke in opposition to the proposal because of the affect on wildlife and wetland habitat. He also stated he believes flooding will be a problem.

George McCauley, 926 5th Avenue, asked if the proposed lift station would be put in by the developer and according to their timeframe?

Stewart Fuller, 1355 Lariat, spoke in opposition to the subdivision because of the length of road miles between the nearest fire station and the property, and the impact to wetlands.

Ken Hanson, 2050 York Road, spoke of poor traffic conditions on York Road and floodwater problems in the area.

Don Zelenka, 2030 York Road, spoke of concerns with the maintenance of York Road and the safety of the people that would live in the subdivision. The affluent ditch and sewer lagoon may not be safe for people to live around.

Gary Burnam, 2405 York Road, stated he thought the subdivision would alleviate many of the stormwater issues of the area. He also noted this area would be developed in the future if not tonight, and it's good to see it being developed using a smart proposal.

Tony Kolnick, Gallatin County, septic installer and excavator, spoke in support of the subdivision. He stated the problems with the area could be safely mitigated.

Leroy Belling, property owner, spoke in support of the subdivision.

Mike Griffith, 5495 York Road, spoke of concerns with proposal and urged the city of Helena to perform due diligence with the subdivision and require the developer to provide proof of their financial support. He urged the Commission to require a condition stating the applicant must acquire the necessary right of way to perform the realignment of the Frontage Road.

John McGlaughlin, 5290 Stoneridge Court, stated the applicants have submitted a very impressive financing package and spoke in support of the subdivision.

Don Burnam, spoke of growth in the area over the past 50 years.

Scout Farrell, Boston Road, spoke in support of the subdivision because she believes it is an intelligent proposal.

Bob Lee, Morrison-Maierle, Inc, engineer for the applicant, stated the FEMA maps for the property do account for the 1981 flood, the development's design will take frost heave into account, and expressed the applicants willingness to alleviate traffic concerns.

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

Discussion

Commissioner Pouliot asked if there are development restrictions with the 500-year floodplain? Ms. Morell-Gengler stated there are restrictions with the 100 year floodplain, she is not aware of any in the 500 year floodplain. He referred to Olson Road and asked if the developer could build it to city standards? Ms. Gengler explained it is a county road, if it is annexed then the city could require city standards. If it is not annexed, the county could require it be developed to city standards.

Commissioner Cartwright asked about the history of flooding in the area and if the area does flood, what is the cities responsibility? Ms. Morell-Gengler stated she is unsure of the cause of the flood in 1981. Commissioner Cartwright asked how reliable are the FEMA maps? City Manager Burton explained FEMA maps are legal documents, they establish floodplains and they are the law by which you have to mitigate development of property. Commissioner Cartwright stated he is

concerned the city is taking on liabilities they are not aware of. City Attorney Nielsen stated the city would not be liable for flooding merely because there is natural flooding; the city's liability would be from negligence or failure to perform a duty. City Manager Burton stated the city's responsibility is to follow and enforce the FEMA map and the building codes associated with it. When a flood event occurs, the responsibility of city government is emergency response.

Commissioner Cartwright asked how the city will guarantee the planned infrastructure would be installed. City Manager Burton stated infrastructure improvements would be performed or financially guaranteed before the applicant can file a plat and sell a lot.

Mayor Smith referred to Mr. McCauley's question about the lift station and stated the applicant would be financially responsible for the station.

Motion

Commissioner Cartwright moved approval for a resolution of intention to annex Tract 1A COS #598543/B as amended per Quit Claim Deed #3025005 Bk -M26, Pg-9866 Lewis and Clark County, Montana, also known as the Aspen Trails Ranch Major Subdivision, into the City of Helena as legally described in the attached resolution of intention to annex into the City of Helena, and establish conditions for annexation as stated in the resolution.

Commissioner Parriman seconded the motion. All voted aye, motion carried. **Resolution #19299**

Motion

Commissioner Pouliot moved approval for first passage of an ordinance pre-zoning prior to annexation into the City of Helena, Montana to R-2 (Single-Family Residential) for Blocks 1(except Lot 62), 3, 5, and 6, and Lots 1 through 6 in Block 2; and Lots 1 and 14 through 28 in Block 4; R-4 (High Density Residential) District for Lots 7 through 42 in Block 2, and Lots 2 through 13 in Block 4; and B-2 (General Commercial) District for Lot 62 in Block 1; all as shown on the preliminary plat for the proposed Aspen Trails Ranch major subdivision, for property legally described in the attached ordinance. Commissioner Parriman seconded the motion.

Comment

Commissioner Cartwright stated this kind of planned development is better than the alternative that can lead to trouble in the future. Commissioner Pouliot spoke of failed septic systems in the valley and stated this kind of subdivision that uses city water and sewer is part of the solution. Commissioner Parriman stated this area is difficult because of the high groundwater and needed improvements to Custer Avenue but he believes the improvements to the area will be performed as the subdivision is completed, not one before the other. This subdivision will help solve some of the problems with the valley.

Mayor Smith stated he knows the subdivision will be disruptive to the existing neighbors but every reasonable effort to mitigate the effects will be taken.

Vote

All voted aye, motion carried. **Ordinance #3048**

Discussion

Commissioner Parriman stated he believes Olson Road should be annexed into the City of Helena. City Manager Burton stated it would be a separate process and staff can investigate the proposal and bring it

forward for consideration at a later date. There was Commission concurrence to direct staff to investigate the annexation of Olsen Road.

Motion

Commissioner Parriman moved conditional approval of the preliminary plat for the Aspen Trails Ranch major subdivision creating 341 lots (325 residential lots, one commercial lot and 15 lots for parkland) from 267.76 acres, and to adopt the Findings of Fact and the conditions contained therein, including the two amended conditions, for property legally described in the Findings of Facts. Commissioner Cartwright seconded the motion. All voted aye, motion carried.

C. CONSIDER A RESOLUTION GRANTING A CONDITIONAL USE PERMIT (CUP) TO ALLOW MINI STORAGE UNITS TO BE LOCATED IN A B-2 (GENERAL COMMERCIAL) DISTRICT FOR PROPERTY GENERALLY LOCATED EAST OF JUNIPER DRIVE, NORTH OF YORK ROAD, WEST OF PRICKLY PEAR CREEK, AND SOUTH OF MUNGER ROAD.

Staff Report

Ms. Morell-Gengler reported the applicant is requesting a resolution granting a CUP to allow mini-storage units and outdoor storage of recreational vehicles and boats in a B-2 District. This request is part of a development plan for a larger area, which includes requests for annexation to the City of Helena; pre-zoning; and preliminary plat approval for proposed Aspen Trails Ranch major subdivision creating a total of 341 lots.

On October 11, 2005, the Zoning Commission recommended (2:1 vote) denial for the adoption of a CUP to allow mini-storage units and outdoor storage, described as "General Warehousing and Storage" (1987 Standard Industrial Classification Industry Group #422) to be located in a B-2 (General Commercial) District.

The applicant is requesting a resolution granting a CUP to allow an unknown number of mini-storage units and outdoor storage for recreational vehicle, motorboat, sailboat, and off-road vehicles. This proposal is intended to primarily serve the residents of the Aspen Trails Subdivision and adjacent properties. This use would be constructed in phases as the subdivision develops and as the market dictates.

According to the application, there is sufficient area on this parcel for a number of mini-storage pads that would cover approximately 1/3 of the lot. The parcel would have a perimeter security chain link fence with woven plastic or wood slats to obstruct the view of the mini-storage units. In addition, landscaping of the parcel would provide a visual separation between the storage area and adjacent properties. The application indicates the mini-storage units would be offset from the landscaping by a minimum of 30 feet to allow adequate access to the units and create sufficient buffer between the units and adjacent properties.

Ms. Morell-Gengler noted the proposed storage facility is designed to complement the residential uses anticipated in the area by providing a convenient location for storage of personal and household items. The facility will also provide an area for outdoor storage of recreational vehicles and boats that will reduce congestion in the streets and minimize clutter on individual lots.

Commission comment Mayor Smith asked if the Commission has historically denied storage units in B2 zones? Ms. Morell-Gengler stated the Commission has approved them in the past.

Commissioner Cartwright suggested a condition be added that would notify purchasers of the storage units. Ms. Gengler stated the covenants will mention the storage units and the applicant has indicated he would like a deed restriction placed on the property so that it can only be used for storage for the subdivision.

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

Dick Bowen, applicant, explained the purpose of the storage units was to store boats, boat trailers and horse trailers to get them off of the street. He stated they are willing to do whatever necessary to make the units a design amenity for the subdivision.

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

Motion Commissioner Oitzinger moved approval of a resolution granting a Conditional Use Permit to allow mini-storage units and outdoor storage, described as "General Warehousing and Storage" (1987 Standard Industrial Classification Industry Group #422) to be located in a B-2 (General Commercial) District for property legally described in the staff report. This approval is subject to the conditions in the staff report. Commissioner Parriman seconded the motion.

Discussion Commissioner Pouliot stated he does not believe the area is appropriate for storage units and would not support the motion.

Vote Motion carried, 4-1 with Commissioner Pouliot voting no. **Resolution #19300**

D. CONSIDER A RESOLUTION CREATING SPECIAL IMPROVEMENT LIGHTING DISTRICT NO. 212 ALONG THE STREETS AND AVENUES IN PARTS OF THE RAVEN ROCK SUBDIVISION.

Staff Report Administrative Services Director Tim Magee reported the property owner has petitioned to have a light district created. There are five properties that will be included in the light district. A petition was circulated among the affected property owners and all property owners have signed the petition.

The proposed facilities will consist of nine units, with underground wiring, fiberglass or metal poles for 14-foot mounting heights, and Acorn Style luminaries with 100-watt high-pressure sodium vapor lamps. The estimated cost of maintenance, electrical energy, and administration for the first year is \$6,087 with the estimated cost being \$.00796 per square foot of property owned, said amount to be paid by the property owners. This amount includes an additional assessment to be charged by the City to establish a cash reserve and recover any costs of the district incurred prior to receipt of the first assessments. Thereafter, the annual assessment will be approximately one-half of the first year's assessment.

Director Magee recommended approval of the resolution of intention to create Special Improvement Lighting District No. 212.

Public Testimony

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

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

Motion

Commissioner Pouliot moved approval of the resolution of intention to create Special Improvement Lighting District No. 212 and set a public hearing date for November 21, 2005. Commissioner Oitzinger seconded the motion. All voted aye, motion carried.
Resolution #19301

E. CONSIDER A RESOLUTION TO CHANGE THE NAMES OF STIRRUP DRIVE IN THE SUNRISE LOOP SUBDIVISION AND SADDLE DRIVE IN THE NOB HILL SUBDIVISION, BOTH IN THE CITY OF HELENA, TO NOB HILL DRIVE.

Staff Report

City/County Address Coordinator John Hinshaw explained Sunrise Loop Subdivision was platted with Stirrup Drive and Nob Hill Subdivision was platted with Saddle Drive. This leaves the city with a short section (approximately 650 feet) of Stirrup Drive between two Saddle Drives. There are no address assignments on either of these new streets at this time so this would be the best time to make the changes.

The proposal is to amend both plats to reflect the street name changes from Stirrup Drive and Saddle Drive to Nob Hill Drive or Saddle Drive. The Nob Hill subdivider has agreed to pay for the amended plats.

The advantage of this proposal is the address range for the new street would be consistent with existing City address numbering. The street name would be continuous instead of being divided by a short segment of Stirrup Drive.

Address Coordinator John Hinshaw recommended approval of the resolution of intention to change the name of Stirrup Drive in Sunrise Loop Subdivision and Saddle Drive in Nob Hill Subdivision to Nob Hill Drive or Saddle Drive.

Public Testimony

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

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

Motion

Commissioner Cartwright moved approval of the resolution to change the name of Stirrup Drive in Sunrise Loop Subdivision and Saddle Drive and in Nob Hill Subdivision to Nob Hill Drive. Commissioner Oitzinger seconded the motion.

Comment

Commissioner Pouliot stated Saddle Drive should stay Saddle Drive between the on and off ramp it attaches to, therefore he would not support the motion. Commissioner Oitzinger withdrew her second. Motion died for lack of a second.

Amended Motion

Commissioner Pouliot moved approval of a resolution to change the name of Stirrup Drive in Sunrise Loop Subdivision to Saddle Drive. Commissioner Oitzinger seconded the motion. Motion carried 3-2 with Commissioners Cartwright and Mayor Smith voting no. **Resolution #19302**

F. CONSIDER A RESOLUTION ESTABLISHING A TYPE B RESIDENTIAL PARKING DISTRICT FOR THE WEST SIDE OF NORTH PARK AVENUE ADJACENT TO THE PROPERTY AT 1004 AND 1108 NORTH PARK AVENUE IN THE CITY OF HELENA.

Staff Report

City Engineer Ryan Leland reported the applicant is experiencing problems with vehicles blocking driveways and mailboxes and do not allow parking space for domestic workers, particularly caused by Carroll College student and faculty when school is in session. Apparently, students and faculty park in this area rather than on the college grounds.

In July 2004, the City Commission passed an ordinance creating fees for new Residential Parking Districts. These fees are designed to cover the cost for the city to create the district, which includes signs, installation of signs, and administrative signs. These fees include a \$100 application fee and a \$2.25/lineal foot of frontage installation fee.

The applicant has requested a Residential Parking District (residents only) for the west side of North Park Avenue adjacent to the property at 1004-1108 North Park Avenue between the hours of 7:00am and 4:00pm, Monday through Friday, to help alleviate parking problems in the neighborhood.

Public Testimony

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

Bob Korizek, 2520 Southridge Drive, spoke in support of the residential parking district.

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

Motion

Commissioner Oitzinger moved approval for a resolution to establish a Type B Residential Parking District for a portion of North Park Avenue. Commissioner Pouliot seconded the motion. All voted aye, motion carried. **Resolution #19303**

G. CONSIDER A RESOLUTION VACATING THE REMAINING UNIMPROVED NORTH STREET RIGHT-OF-WAY NEAR THE INTERSECTION OF US HIGHWAY 12 AND 18TH STREET IN THE CITY OF HELENA.

Staff Report

City Engineer Ryan Leland reported Colvin Properties, LLC, has petitioned for the vacation of the remaining North Street right-of-way (ROW) near the intersection of US Highway 12 and 18th Street. A portion of the North Street ROW adjacent to the new First Community Bank was vacated in July of 2004. Colvin Properties intends to construct a new Pizza Hut on its property adjacent to the remaining ROW.

North Street is currently platted, but unimproved, and lies between the MDT frontage road and the adjacent land. Traffic currently uses the frontage road ROW instead of the North Street ROW.

The applicant is requesting the vacation of the remaining North Street ROW. The City has a water main in this ROW and will retain a 20'

utility easement for operation and maintenance of the main. The applicant will pay the established fee for the vacated ROW it received.

City Engineer Leland recommended approval of the resolution.

Public Testimony

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

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

Motion

Commissioner Cartwright moved approval of the resolution to vacate the remaining unimproved North Street ROW. Commissioner Pouliot seconded the motion. All voted aye, motion carried. **Resolution #19304**

H. CONSIDER THE PRELIMINARY PLAT FOR THE AMENDMENT OF LOT 3D OF THE HELENA MALL SUBDIVISION, A SUBSEQUENT MINOR SUBDIVISION, CREATING TWO COMMERCIAL LOTS FROM ONE LOT, GENERALLY LOCATED ON THE EAST SIDE OF WINNE AVENUE BETWEEN COLONIAL DRIVE AND SADDLE DRIVE.

Staff Report

City Planner Lucy Morell-Gengler reported the applicant is requesting approval for a preliminary plat for the Amendment of Lot 3D of the Helena Mall Subdivision, a subsequent minor subdivision, creating two lots, 4B containing 1.01 acres and Lot 3E containing 27.01 acres, from one 28-acre (approximate size) lot in the B-2 (General Commercial) District.

The Helena Mall Subdivision was approved in 1983 creating five lots. A number of changes to the subdivision have occurred and currently there are four lots within the subdivision identified as Lots 1A, 2, 3D and 6A. Lot 4 was aggregated into what is now Lot 3D and the applicant would like to reestablish the original number of lots with this minor subdivision.

On October 25, 2005, the Planning Board unanimously (5:0 vote) recommended conditional preliminary plat approval for the Amendment of Lot 3D of the Helena Mall Subdivision, a subsequent minor subdivision, creating two lots from one lot located in a B-2 (General Commercial) District, and to adopt the Findings of Fact and the conditions contained therein for property legally described Lot 3D of Amendment Number 5 of the Plat of the Helena Mall Subdivision, COS #476381/B, Helena, Montana; generally located on the east side of Winne Avenue between Colonial Drive and Saddle Drive

The subdivision would allow development of property adjacent to City services and would promote in-fill development.

Public Testimony

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

Tim Bury, representative for the applicant, spoke in support of the subdivision.

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

Motion

Commissioner Parriman moved to conditionally approve the subsequent minor subdivision preliminary plat of the Amendment of Lot 3D of the Helena Mall Subdivision, creating two lots from one lot, and to adopt the Findings of Fact and the conditions contained

therein for property legally described in the Findings of Facts.

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

***Public
Communications***

PUBLIC COMMUNICATIONS

***Meetings of
Interest***

MEETINGS OF INTEREST

The next Administrative Meeting is November 30, 2005 and the next Commission Meeting is December 5, 2005.

Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 10:47p.m.

Mayor James E. Smith

ATTEST:

Clerk of the Commission