

CITY OF HELENA
REGULAR CITY COMMISSION MEETING
April 10, 2006
6:00 P.M.

Time & Place

A regular City Commission meeting was held on Monday, April 10, 2006 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, Peura, and Pouliot were present. City Manager Tim Burton, City Attorney David Nielsen and Deputy City Clerk Robyn Brown were present. Others present were Thom 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 meeting of March 27, 2006 were approved as submitted.

Consent Agenda

CONSENT AGENDA:

- A. Claims
- B. Utility Bill Insert - Helena Police Department/Animal Control

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 Oitzinger moved approval of items A and B on the consent agenda. Commissioner Pouliot seconded the motion. All voted aye, motion carried.

Communications

COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS

Commissioner Cartwright referred to the proposed Cornerstone Village Subdivision which will be considered by the Lewis and Clark County Commission on April 11, 2006 and commented the city has available property for the subdivision should it not work out with the county. He spoke of a resolution proposed by the Helenans Support for Troops and Military Withdrawal and noted the Commission has not taken up the resolution yet. He encouraged citizens to attend a community meeting regarding the war on April 25, 2006 at 7:00pm at Carroll College.

Commissioner Peura reminded citizens of the upcoming City Government 101 sessions. He also gave an overview of the community meeting regarding the proposed Golden Triangle Mental Health Crisis Intervention Center on North Jackson Street, which was held Saturday, April 8, 2006. He noted the City Commission has no role in the proposal.

Mayor Smith referred to Commissioner Peura's comments on the community meeting and commended the neighborhood and Golden Triangle for the communication that resulted. He spoke of attending the Lewis and Clark County Humane Society Fundraiser on Saturday, April 8, 2006 and commented the Humane Society and Pads for Paws are currently working on an agreement with the City for a new animal shelter;

the city would donate the land. City Manager Burton concurred and explained the City Attorney's office is currently reviewing the project, which should come forward for Commission consideration in the next couple months.

Report of the City Attorney

REPORT OF THE CITY ATTORNEY
No report was given.

Report of the City Manager

REPORT OF THE CITY MANAGER
No report was given.

Report from the Helena Citizens Council

REPORT FROM THE HELENA CITIZENS COUNCIL
HCC member Thom Warsinski noted the Meth Town Hall meeting will be held May 9, 2006 at 7:00pm at the Civic Center. Mayor Smith thanked the HCC for their work on the meeting.

Resolution of Commission Intent

CONSIDER A RESOLUTION OF COMMISSION INTENT FOR THE FY2007 ANNUAL BUDGET

Staff Report

Administrative Services Director Tim Magee reported the city must provide essential services while living within its means. Staff is in the process of developing a Constraint Budget for FY 2007. Revenue and resource limitations are the bottom line constraint for each fund. An important part of annual budget development is the ability to work within financial constraints while still addressing community dynamics and changing priorities.

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

Director Magee recommended approval of the resolution of Commission intent for the FY 2007 annual budget as it provides the authoritative and definitive direction staff needs to most efficiently and effectively meet community needs and priorities. The resolution provides staff with a clear and concise statement of direction from the policy-making authority that focuses staff on the highest priorities.

Public comment

Mayor Smith called for public comment, none was received.

Motion

Commissioner Cartwright moved approval a resolution of Commission Intent for the FY 2007 annual budget. Commissioner Peura seconded the motion. All voted aye, motion carried. **Resolution #19328**

Annexation-Overlook Estates

CONSIDER A RESOLUTION ANNEXING OVERLOOK ESTATES SUBDIVISION; GENERALLY LOCATED SOUTH OF HIGHWAY 12 AND WEST OF GRANITE STREET.

**Final Plat-
Overlook Estates**

CONSIDER THE FINAL PLAT FOR THE OVERLOOK ESTATES MAJOR SUBDIVISION, CREATING 55 RESIDENTIAL LOTS AND ONE RESIDENTIAL/OFFICE LOT FROM PROPERTY GENERALLY LOCATED SOUTH OF HIGHWAY 12 AND WEST OF GRANITE STREET.

Staff Report

City Planner Lucy Morell-Gengler reported Overlook Homes LLC is proposing to complete the annexation for the Overlook Estates Subdivision. Completing this annexation is a prerequisite to enabling the City to approve the Overlook Estates major subdivision final plat.

On October 21, 2002, the City Commission established conditions to annexation of the Overlook Estates Subdivision (Res. #11830), and established pre-zoning designations for the properties (Ord. #2947). On that same date, the Commission conditionally approved the Overlook Estates major subdivision preliminary.

Conditions for annexation included the following:

1. Taxes and Assessments: Taxes and assessments must be paid and current at the time of filing the Resolution of Annexation.
2. Completion of Conditions: The applicant must notify City Planning in writing upon completion of the conditions for approval of annexation, which must occur on or before the date of completion of conditions for subdivision of this property. 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.

Ms. Morell-Gengler further reported on October 21, 2002, the City Commission gave conditional preliminary plat approval for the Overlook Estates Subdivision and a one-year extension was granted on October 17, 2005. The approval of the preliminary plat was subject to the conditions stated in the Findings of Fact and these conditions have been completed. For reference, a list of the original subdivision conditions and their status is attached to this transmittal memo. Final annexation of the property into the city was also proposed with this application.

The applicant is requesting approval of the final plat for a major subdivision creating 56 lots; one lot is located in a R-O (Residential Office) District, 30 lots are located in a R-2 (Single-Family Residential District, and 25 lots are located in a R-3 (Medium Density Residential) District. The plat also dedicates all the public improvements, such as the streets, to the City.

Ms. Morell-Gengler recommended final plat approval and stated approval of the final plat would allow the sale of the lots; would encourage the development of property in this area; and would facilitate in-fill development and compliance with city regulations.

Commission comment Commissioner Oitzinger referred to the original requirement to install a lift station and asked why one is no longer needed? Ms. Morell-Gengler stated the north area of the property lied considerable lower than the rest of the property; the applicant has filled that area, so a lift station is no longer needed to bring the wastewater up to the rest of the network.

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

Motion **Commissioner Cartwright moved approval for a resolution annexing Overlook Estates Subdivision into the City of Helena for property legally described in the resolution.** Commissioner Pouliot seconded the motion. All voted aye, motion carried. **Resolution #19329**

Motion **Commissioner Pouliot moved approval for the Overlook Estates major subdivision creating 56 lots and to accept the dedication to the city of property for public improvement designated thereon.** Commissioner Cartwright seconded the motion. All voted aye, motion carried.

Public Hearings PUBLIC HEARINGS:

A. CONSIDER SIMULTANEOUS CONDITIONAL USE PERMITS (CUP)S FOR THE SAME PROPERTY, GENERALLY LOCATED EAST OF MCHUGH LANE AND NORTH OF ROAD RUNNER DRIVE, TO ALLOW CONSTRUCTION OF:

1. A 145-UNIT RETIREMENT COMMUNITY WITH INDIVIDUAL APARTMENTS FOR RESIDENTS 55 YEARS OF AGE AND OLDER WHICH EXCEEDS THE DENSITY ALLOWED BY THE R-O DISTRICT; AND

2. A 33-FT. HIGH BUILDING THAT EXCEEDS THE 24-FT. BUILDING HEIGHT LIMITATION OF THE R-O DISTRICT.

Staff Report City Planner Kathy Macefield reported on March 14, 2006 the Helena Zoning Commission unanimously recommended approval (5:0 vote) for a Resolution granting two simultaneous Conditional Use Permits (CUPs) for the same property located in the R-O (Residential-Office) District, legally described as Lots 1 and 2, Block 9, Second Addition of the Skelton Addition, Helena, Montana; generally located east of McHugh Lane and north of Roadrunner Drive, to allow construction of:

1. A 145-unit retirement community with individual apartments for residents 55 years of age and older, plus a large social room, activities and crafts room, exercise room, library, computer room, tv theater, beauty shop, game room, private dining room, and individual patios and decks, exceeding the density of the R-O District by 10 units; and

2. A 33-foot high building on Lot 2 that exceeds the 24-building height limitation of the R-O District.

This approval is subject to two conditions:

1. Parking

A. Onsite parking spaces must be provided based upon .89 spaces/dwelling unit, plus handicap-accessible spaces and bicycle spaces, in accordance with Chapter 22 of the Helena Zoning Ordinance.

B. Screening must be installed along the eastern property boundary to minimize vehicular headlight glare, noise and odor onto the adjacent residential properties.

2. Building Permit

A building permit must be obtained within one year.

Ms. Macefield recommended approval of the CUPs and stated the proposal represents infill development, and efficient use of energy, infrastructure and resources. This proposal is consistent with the 2001 Helena Growth Policy and Zoning Ordinance, and is compatible with the surrounding land uses.

Commission comment

Commissioner Pouliot asked Ms. Macefield to clarify why this proposal had been postponed. Ms. Macefield explained it was postponed because of concerns regarding covenants. The applicant has made some design changes to address those concerns. Commissioner Pouliot asked for the height of the adjacent Morrison Maierle building. Ms. Macefield stated she was unsure but the building is located in a B-2 District which has a 34 foot building height limit.

Public Testimony

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

Charles Morgan, 7301 Beverly Lane, Everett, Washington; spoke in support of the CUPs.

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

Motions

Commissioner Cartwright moved approval for a resolution granting a Conditional Use Permit (CUPs) to allow construction of:

1. A 145-unit retirement community with individual apartments for residents 55 years of age and older that exceeding the density of the R-O (Residential-Office) District by 10 units. Commissioner Pouliot seconded the motion. All voted aye, motion carried.

Commissioner Cartwright moved approval for a resolution granting a Conditional Use Permit (CUPs) for the same property to allow construction of:

2. A 33-foot high building on Lot 2 that exceeds the 24-building height limitation of the R-O District.

Said property is subject to the stated conditions and as legally described in the staff report. Commissioner Pouliot seconded the motion.

- Comment Commissioner Pouliot stated he would support the motion since the Morrison-Maierle building is nearby, the proposed building will not look out of place.
- Vote** All voted aye, motion carried. **Resolution #19330**
- B. CONSIDER A RESOLUTION GRANTING A CONDITIONAL USE PERMIT (CUP) TO ALLOW A DISTILLERY TO BE LOCATED IN A CLM (COMMERCIAL LIGHT MANUFACTURING) DISTRICT; GENERALLY LOCATED SOUTH OF POPLAR STREET AND WEST OF DODGE STREET WITH A PROPERTY ADDRESS OF 1015 POPLAR.
- Staff Report City Planner Belinda Waters reported the applicant proposes to utilize approximately 461 square feet of the existing 12,200 square foot building. There are currently three other uses located in this building: HCTV that utilizes 3,533 square feet; the International Church of Helena using 4,933 square feet; and the Hays Chiropractic business using 1,568 square feet.
- On Tuesday, March 14, 2006, the Helena Zoning Commission unanimously recommended approval (5:0 vote) for the adoption of a Resolution for a Conditional Use Permit (CUP) to allow a distillery to be located in the Gateway Economic Development Corporation building in a CLM (Commercial Light Manufacturing) District. The property is legally described as Lots 4, 5, and 6 and ½ of closed alley and Lots 8, 9 and ½ of closed alley, Block 20, Grand Avenue Addition, Helena, Montana; and is generally located south of Poplar Street and west of Dodge Street with a property address of 1015 Poplar.
- The Zoning Commission recommended approval of the CUP was subject to the following conditions:
- 1. Improvements:**
All of the following improvements must be installed or financially guaranteed:
- a. A new sidewalk must be installed along Poplar Street from the west end of the curb cut into the existing parking lot to the property's west property line.
 - b. The required ADA space must be designated with appropriate striping and signage.
 - c. A minimum of 3 bicycle parking spaces must be provided within 50 feet of the main building entryway.
 - d. Landscaping must be installed as approved on the submitted landscaping plan.
- 2. Cross-Parking Agreement:**
The proposed cross-parking agreement between Gateway Economic Development and Qwest Communications, to provide parking for the church on Wednesday evenings and Sundays, must be submitted to the City for review and approval.
- 3. Site Plan:**
The location of the dumpster must be shown on a revised site plan.
- 4. Building Permit:**
The applicant must obtain a building permit within one year.

Ms. Waters recommended approval of the CUP and noted the proposed land use will operate in context with current land uses and development patterns. The area consists of mixed retail-service type uses to the north and west with commercial/light industrial type uses to the south and east. The proposed use will provide efficient use of the property by utilizing a small portion of an existing structure. Infrastructure (water, sewer, storm water drainage and streets) to serve the proposed use is already in place, which represents an efficient use of land, infrastructure, energy and other resources.

Commission comment Commissioner Peura stated he would recuse himself from voting on the CUP application, as he is a member of the Gateway Economic Development Board. City Attorney Nielsen concurred with Commissioner Peura and explained it is a technical violation. Staff is working with the League of Cities and Towns to try to revise the statute.

Commissioner Pouliot asked if the Gateway Building is an incubator? Ms. Waters stated yes. Commissioner Pouliot asked if there is a defined length of time for businesses to inhabit the building? Ms. Waters indicated she was unsure.

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

Sheldon Bartel, Executive Director of Gateway Economic Development Corporation, 225 GoldRush Avenue; referred to Commissioner Pouliot's questions and explained there is a three-year stipulation in the lease for businesses moving in.

Robert Franz, 1632 Colorado Gulch, applicant; announced he was available to answer questions.

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

Comment Commissioner Cartwright commended the project.

Motion **Commissioner Cartwright moved approval for a resolution granting a Conditional Use Permit (CUP) to allow a distillery to be located in the Gateway Economic Development Corporation building in a CLM (Commercial Light Manufacturing) District as legally described in the staff report and subject to the conditions recommended by the Zoning Commission** Commissioner Oitzinger seconded the motion. All voted aye, motion carried 4-0 with Commissioner Peura abstaining. **Resolution #19331**

Public Communications

PUBLIC COMMUNICATIONS

Sheldon Bartel noted Gateway Economic Development Corporation is in the process of changing its name. He invited the Commission members to attend focus groups regarding the name change and gave the following schedule:

- Monday, April 17, 2006 – 5:30-7:30p.m.
- Wednesday, April 19, 2006 – 5:30-7:30p.m.
- Thursday, April 20, 2006 – Noon-2:00p.m.

***Meetings of
Interest***

MEETINGS OF INTEREST

The next Administrative Meeting is Wednesday, April 19, 2006
and the next Commission Meeting is Monday, April 24, 2006.

Adjournment

There being no further business to come before the Commission,
the meeting was adjourned at 6:57p.m.

Mayor James E. Smith

ATTEST:

Clerk of the Commission