

CITY OF HELENA
REGULAR CITY COMMISSION MEETING
March 24, 2008
6:00 P.M.

Time & Place A regular City Commission meeting was held on Monday, March 24, 2008 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 Elsaesser were present. City Manager Tim Burton, City Attorney David Nielsen and Deputy City Clerk Robyn Brown were present. Others present were Marshall Gingery 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 10, 2008 were approved as submitted.

Appointments APPOINTMENTS:
A. Non-Motorized Travel Advisory Council
B. Public Art Committee

Mayor Smith asked for Commission concurrence on the following appointments:

Non-Motorized Travel Advisory Council – Appointment of the following persons:
Chris Bardash – Term will expire March 31, 2009
Peter Carparelli – Term will expire March 31, 2010
Cedron Jones – Term will expire March 31, 2011
Bruce Newell – Term will expire March 31, 2009
Greg Olsen – Term will expire March 31, 2010
Stacy Tureck – Term will expire March 31, 2011
David Warner – Term will expire March 31, 2009
Commissioner Paul Cartwright
HCC Representative Matt Cohn

Public Art Committee – Appointment of the following person: Mike Dyrdaahl – Term will begin upon appointment and expire December 31, 2010

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

Motion **Commissioner Elsaesser moved approval of the appointments to the Non-Motorized Travel Advisory Council and Public Art Committee as outlined above.** Commissioner Peura seconded the motion. All voted aye, motion carried.

Consent Agenda CONSENT AGENDA:
A. Claims
B. Buy-sell agreement for the sale of Lots 1 & 2 of Helena Townsite Block 75 to John and Susan Maki

- C. Installation of temporary 3-way stop signs at the Billings Avenue and Roberts Street intersection

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 Peura moved approval of items A through C on the consent agenda. Commissioner Oitzinger seconded the motion. All voted aye, motion carried.

Communications COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS
No communications were given.

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)
HCC member Marshall Gingery reported the HCC met with the City Commission and City Manager Burton on March 18, 2008; members have commented it was a very informational meeting.

Public Hearings PUBLIC HEARINGS:
A. CONSIDER A RESOLUTION FOR A CONDITIONAL USE PERMIT (CUP) TO ALLOW AN OFFICE USE IN A R-3 (MEDIUM DENSITY RESIDENTIAL) DISTRICT. THE PROPERTY IS LEGALLY DESCRIBED AS LOTS 14, 15, 16 AND 17 IN BLOCK 36 OF THE CENTRAL ADDITION #2, HELENA, MONTANA; GENERALLY LOCATED NORTH OF 16TH STREET AND EAST OF JACKSON STREET WITH A PROPERTY ADDRESS OF 1001 JACKSON STREET.

Staff Report City Planner Naren Garg reported on Tuesday, February 12, 2008 the Helena Zoning Commission recommended conditional approval (4:1 vote) for a Resolution granting a Conditional Use Permit (CUP) to allow 3,401 square feet of general office space to be located in an R-3 (Medium Density Residential) District. Legally described as Lots 14, 15, 16, and 17, in Block 36 of the Central Addition, Helena Montana; north of 16th Street and east of Jackson Street with a property address of 1001 Jackson Street. He noted the applicant has not indicated any specific use under the general office use category.

Mr. Garg recommended approval of the CUP as it would allow a higher intensity use to be accommodated within existing residential building without adversely impacting the surrounding residential area or generating measurable increase in traffic, noise or other concerns.

Commission comment Commissioner Peura referred to Criteria 2a. - "The proposed use will not adversely affect nearby properties or their occupants by: Measurable and substantially reducing the value or marketability of such properties" and asked if there is any data to show how many full time employees (FTE) would be employed at an office building of 3400 square feet? Mr. Garg explained the applicant had no specific use to

report with her application so the amount of employees could not be calculated. Commissioner Peura asked City Attorney Nielsen if the traffic count of 5.3 trips generated per day listed in the staff report could be considered clear and appropriate criteria for review. City Attorney Nielsen stated yes. Commissioner Peura asked for more information on parking problems in the area. Community Development Director Sharon Haugen stated the Community Development Department does not deal with on-street parking problems or junk/abandoned vehicles; the Police Department would deal with those issues. She is aware of a few complaints regarding junk/abandoned vehicles and they have been resolved through the established methods. City Manager Burton added Public Works staff has responded to a few requests, at the neighborhood level, for yellow curbing to indicate "no parking" areas, they have been painted.

Commissioner Elsaesser asked what zoning district the property lies in? Mr. Garg explained the subject property is in the R-3 (Medium Density Residential) District, but is identified in the residential/commercial land use category according to the City of Helena Growth Policy.

Public Testimony

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

Tricia Hayes, 1021 North Jackson; expressed concern with letters of support submitted for the project.

Melissa Kaiser-Synness, 812 Jackson; spoke in opposition to the CUP.

Mollie Plummer, applicant; gave the history of the proposal and urged the Commission to vote in favor of the CUP.

Cher Justo, Executive Director of Montana Preservation Alliance; spoke in opposition to the CUP.

Susan Hughes, Realtor, Helena; spoke in favor of the CUP.

Lynne Boone, 638 1st Street; spoke in opposition to the CUP.

Curt Synness, 812 Jackson; spoke in opposition to the CUP.

Lori Ulgrin, 1015 N. Jackson; spoke in favor of the CUP.

Deborah Pistoria, 2820 Baxendale; spoke in support of the CUP.

Bruce Hayes, 1021 North Jackson; spoke in opposition to the CUP.

Denise Tarr, 527 Barson Boulevard; spoke in support of the CUP.

Gene McMahon, 818 N. Jackson; spoke in opposition to the CUP.

Joe Bower, 1015 N. Jackson; spoke in favor of the CUP.

Beth Cargo, 12 Logan Street; spoke in opposition to the CUP.

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

Discussion

Commissioner Peura asked for the future effect of the CUP; if granted what authority would the existing property have now and going forward? Mr. Garg explained the CUP is for general office use. If granted, it would come into effect upon completion of the required conditions. If those conditions are met and the CUP were active, the use could only be for general office use and must be a continuous use. If that use were abandoned, the property would revert back to a residential use. Commissioner Elsaesser asked if the CUP would be voided if the structure were modified, such as heightened. Mr. Garg stated yes, the

CUP is issued for a specific square footage only; there can't be major modifications of the structure.

Commissioner Peura indicated he would not support the CUP. He referred to Chapter 8 of the city's Growth Policy, there are a number of references to the need for affordable housing for low income families; this neighborhood would fit that need. He referred to the section on Housing Strategy in the same Growth Policy chapter, specifically "the need for strategies that preserve housing and reuse structures for new housing opportunities". It also states "the city could evaluate the impact on housing costs when making decisions on land use regulations, particularly the shortage of lower cost housing in the community". He commented it is essential the Commission watch out for the low and moderate income city residents. The Growth Policy also states "there is a shortage of available buildable lots within the city, and housing costs are normally more affordable outside the city limits". He noted as transportation costs increase, and failing wells and septic systems continue and traffic impacts intensify from workers commuting into the city from outlying areas, costs associated with owning a home in town should decrease and it is important that the city keep its eye on a strategy of protecting low and moderate income residents. He referred to Chapter 9 of the Growth Policy regarding development patterns and future land use. There is a specific reference to downtown, which talks about the vital importance to the continuing strength of downtown Helena; that importance is in housing because people who live downtown tend to shop downtown. Therefore, maintaining this housing stock in the downtown area and creating more opportunities for downtown residential areas is important for the long-term historic fabric of our downtown area. Commissioner Peura stated he strongly disagrees with staff's analysis that finds this recommendation upon the Growth Policy. Looking at the criteria related to granting a CUP, he referred to the unknown number of FTE and the operating hours of 9:00a.m. to 5:00p.m.; speaking specifically to "measurably and substantially reducing the value of the marketability of such properties", the operating hours are exactly the times of day when this neighborhood is under pressure related to traffic and parking. He noted a request has been received from the Jackson Street neighborhood to perform a traffic study because of concerns for speeding and excessive traffic in the neighborhood. Commissioner Peura contended there is a measurable and substantial threat to the value of the area both as a residential neighborhood as well as the marketability of the neighborhood. Finally, in terms of traffic and parking in the area, 5.3 trips generated per day sounds like an insubstantial amount but in the context of this fragile neighborhood, that poses a substantial increase in traffic and nuisance and threatens the ability for the residents to use their homes. He commented it is important to have a bright line to help with predictability in zoning but in this case, that bright line should be Jackson Street in terms of residential versus commercial. That bright line currently exists on the map in the staff report and the map given out by the applicant; they show all residential uses other than a tiny bit of commercial at the north end of the block. Commissioner Peura commended the neighborhood for their work with Center for Mental Health.

Motion

Commissioner Peura moved to deny approval of a resolution granting a CUP to allow 3,401 square feet of general office space to be located in an R-3 (Medium Density Residential) District for property legally described in the staff report, subject to the following conditions:

Curb cuts- Access must be provided for ingress and egress to all on-site parking spaces.

Sidewalks- Sidewalk must be provided along right-of-way adjacent to property along 16th Street.

Timeframe- All conditions and required improvements must be completed within one year and before utilizing property for the new use.

Commissioner Oitzinger seconded the motion.

Discussion

Commissioner Cartwright asked Director Haugen if she has heard that the State of Montana may move out of the old Shodair Building on Helena Avenue thus providing property for the Center for Mental Health to move into? Director Haugen stated the Community Development Department has received no information on that subject. Commissioner Cartwright spoke against piecemealing the neighborhood. While this area is likely to become commercial, he would like to see it happen in a more organized way, such as the way the city is working with the 6th Ward neighborhood. He indicated he would not support the CUP even though the applicant has a good read of where the community is going in that area.

Mayor Smith explained his lobbying firm has represented Mental Health Centers since 1989 but he is not directly involved with them and would still vote on the proposal. He stated this neighborhood has been under a lot of stress and he does not want to add to it by supporting the CUP. He noted he is curious to see what happens with the new ownership of property at the corner of Lyndale Avenue and Jackson Street and is also curious to see what happens with the Center for Mental Health in the neighborhood. There may be a time in the future where a CUP would be appropriate for the property, or perhaps a total rezoning of parts of the neighborhood, but it is not the right thing to do right now.

Commissioner Elsaesser spoke in opposition to the CUP because of concern for property values of the adjacent properties.

Vote

All voted aye, motion carried.

Comment

Commissioner Peura commented as the 6th Ward Neighborhood wraps up their neighborhood plan, perhaps staff could look into providing assistance to the Jackson Street neighborhood.

B. CONSIDER FIRST PASSAGE OF AN ORDINANCE REPEALING CHAPTERS 1 THROUGH 15, 17 THROUGH 21, 27 THROUGH 34, AND 42 THROUGH 50, ADOPTING NEW CHAPTERS 1 THROUGH 8, RESERVING CHAPTER DESIGNATIONS 9 THROUGH 15, 17 THROUGH 21, 27 THROUGH 34 AND AMENDING CHAPTERS

24, 25, 26 AND 40 OF TITLE 11 OF THE HELENA CITY CODE, THE ZONING ORDINANCE OF THE CITY OF HELENA.

Staff Report

Director Haugen thanked the Zoning Commission and City Planner Kathy Macefield, City Attorney Nielsen and Deputy City Attorney Thomas Jodoin for their work on the proposed updates to the Zoning Ordinance. Director Haugen reported the Helena Zoning Commission had numerous work sessions over the past couple of years and drafted proposed amendments for the City of Helena Zoning Ordinance. The Zoning Commission held two public meetings in September 2006 prior to holding their public hearings on March 27, May 1, and July 24, 2007. The Zoning Commission recommended a series of revisions to the current ordinance as described in the "Executive Summary of the Zoning Commission Recommendations for 2008 Revisions to the Helena Zoning Regulations", which was included in the Commission packet.

The Helena City Commission had work sessions twice a month from August 2007 to February 20, 2008 to consider the July 24, 2007 Zoning Commission recommendations for amendments to the Zoning Ordinance. As a result of those work sessions, the City Commission will also be considering several proposals that have been incorporated into the City Commission draft ordinance at tonight's public hearing. The City Commission proposals were described in the "Executive Summary of the City Commission Draft for 2008 Revisions to the Helena Zoning Regulations", which were included in the Commission packet.

The proposed ordinance has been posted on the City of Helena website, and has been made available to the HCC and at the Library. Several articles about the proposal have appeared in the Independent Record and the Queen City News in addition to legal advertisements and block ads.

Director Haugen stated the proposal would assist with implementing goals, objectives and policies of the Helena Growth Policy. Applicable elements of the Growth Policy include affordable housing; sustainability and environmental protection; efficient use of land, energy, infrastructure and other resources; and protecting the public health and safety. The Helena Zoning Ordinance would be improved in terms of content, organization, readability, and usability. New and updated concepts will be incorporated; information will be provided on tables instead of scattered throughout the document; and zoning review processes will be clarified.

Commission comment

Commissioner Cartwright listed the following recommendations. Under the current draft, certain kinds of housing are not allowed by right in B-2 and B-3 Districts; he indicated he would support changing that in some fashion. Rear setbacks are 10-feet for all districts and types of buildings; when there is an alley he would support allowing outbuildings or any building to be closer to the alley than 10 feet and suggested 5 feet. He believes three-story apartments should be allowed in the R-3 District, which would require a modification to the allowable height. Lot coverage in R-1 and R-2 should be greater than it is now.

Commissioner Elsaesser stated as the city is being more permissive with zoning and allowing increased structure size, he would recommend adding some sort of system to ensure the structures are more energy efficient. He indicated support to hold off on increasing lot coverage and building height until staff can figure out a process

regarding energy efficiency. He noted he is committed to keeping the allowable building height at 24 feet for the R-1 and R-2 Districts.

Public Testimony

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

Martin Holt, 576 3rd Street; suggested allowing artisan shops and co-communities in the R-1, R-2 and R-3 Districts.

Jennifer Mickey, 827 5th Avenue; spoke in support of the proposed zoning changes.

Bob Lemm, 710 Dearborn; spoke in opposition to any changes in the R-2 District.

Polly Pfister, 4 Harrison; spoke against increasing the allowable building height and increased lot coverage.

Lisa Tieberg, Montana Home Choice Coalition; read a letter from Montana Home Choice Coalition Director Michael O'Neil into the record.

Col. Joe Goldes, 642 Dearborn; spoke against any changes to the R-1 District.

Dallas Miller, 805 Madison Avenue; spoke against any changes to the R-1 and R-2 District. He expressed concern over traffic, parking and infrastructure in his neighborhood and urged the city to perform a traffic study in the area.

John Palmquist, 428 Floweree; spoke in opposition to zoning changes in R-1 and R-2 Districts.

Carol Westine, 619 Dearborn; spoke in opposition to zoning changes in the R-1 and R-2 Districts.

Stephanie Wallace, 906 Stuart Street, Plan Helena; spoke in support of the Commission's draft ordinance with the amendments to Chapter 4 as suggested by Commissioners Cartwright and Peura.

Mark Runkel, Mountain View Meadows Subdivision developer; spoke in support of increasing the allowable building height.

Lynne Boone, 638 1st Street; spoke in opposition to the proposed changes and read excerpts from written testimony that was included in the Commission packet.

George Oshenski, 4 Harrison Avenue; concurred with concerns from historical neighborhood residents and spoke in opposition to increased lot coverage and building heights.

Norm Mullen, 7 Harrison Avenue; spoke in opposition to proposed changes in the R-1 and R-2 Districts.

Lila Goldes, 642 Dearborn; spoke against changes that would affect the historical neighborhoods.

Virginia Frankenfield, 643 Dearborn; spoke against any changes that would affect the R-1 District and historical neighborhoods.

MC Beeby, 1620 Townsend; spoke in support of changes to the R-1 and R-2 Districts and suggested residents of the historical neighborhoods form a neighborhood plan.

Jack Walch, 2024 8th Avenue, representing HBIA; spoke in support of the proposed revisions to the zoning ordinance.

Linda Soll, 565 5th Avenue; spoke against increased building heights and elimination of the minimum lot size.

Greg Dahl, R & D Partners; submitted written comments into the record and spoke in support of increased building heights.

Gene Meegan, Helena; spoke in support of infill development.

Matt Maes, 206 W. Lawrence; noted that a lot of Helena doesn't fit into its current zoning.

Leah Dietz, 707 Dearborn Avenue; asked the Commission to table the update to the zoning ordinance in order to review how it would affect different neighborhoods.

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

Motion

Commissioner Peura moved approval of first passage of an ordinance amending Title 11 of the Helena City Code (the Zoning Ordinance of the City of Helena- Ordinance No. 2359) by repealing Chapters 1 through 15, 17 through 21, 27 through 34, and 41 through 50, adopting new Chapters 1 through 8, reserving Chapter designations 9 through 15, 17 through 21, 27 through 34, and amending Chapters 24, 25, 26 and 40, and as contained in the ordinance. Commissioner Cartwright seconded the motion.

Amendment

Commissioner Cartwright moved to amend the ordinance by: (pg.14) delete Table 1. "Crematorium"; (pg. 18) amend "Animal Shelter" to say "may include a crematorium"; (pg. 27) amend the definition of "freight terminal" to include all ground transport; (pg. 13) amend Table 1 "Outdoor Entertainment" in B-3 to CUP; and (pg. 50) to amend 11-5-5 (E) - by changing "is" to "can be".

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

Amendment

Commissioner Oitzinger moved to amend 11-2-5 Supplemental Requirements: C., to include the following language after "Residential uses in the B-2, B-3, CLM, and M-I Districts": "are permitted by right on a story that is above the retail or commercial use. A conditional use permit is required for residential uses that are above industrial uses", and strike ~~must be accessory to the commercial or industrial use of the property.~~ Commissioner Cartwright seconded the motion.

Discussion

Mayor Smith asked if it was the staff's intention not to allow the residential uses by right? Director Haugen explained when the amendments to the Zoning Ordinance were drafted a caveat was placed on the above named section that it had to be an accessory use; subsequently it very much limited the residential uses in commercial districts. It was the intent of the Zoning Commission to make residential uses in B Districts more easily achieved, Commissioner Oitzinger's amendment would accomplish that.

Vote

All voted aye, motion carried.

Amendment

Commissioner Cartwright moved to amend 11-4-2 to add Section A. 4 to add "the lot line set back is five feet (5') for any lot line that abuts a dedicated public right of way that provides only a secondary means of access to property and is not intended for general travel". Commissioner Peura seconded the motion.

Discussion

Commissioner Cartwright stated the effect of the amendment is to allow garages within five feet of an alley. If someone is building a detached garage, floating it ten feet off the setback will use up a lot of space that could be better used for yard. There is difficulty in defining

what is and what is not a garage, this would be five feet in general but the other setbacks don't change and it would not change lot coverage.

Commissioner Peura stated the proposed amendment would allow more efficient use of land and prevents the wasted concept of five additional feet of concrete pavement for a driveway by reducing the setback. It also has an effect of potentially incentivising garages in the back of the home.

Commissioner Elsaesser asked if there are any safety concerns with having the garage so close to the right of way? Director Haugen stated the only concern would be if the alleys become particularly busy and people are not being cautious enough while backing into the alley. Fire Chief Larson indicated he did not have any issues related to the amendment.

Vote

All voted aye, motion carried.

Amendment

Commissioner Elsaesser moved to amend the Commission draft of the Zoning Ordinance to retain the original height and lot coverage from the current Zoning Ordinance. Commissioner Oitzinger seconded the motion.

Commissioner Elsaesser explained his reasoning behind the amendment is to protect the integrity of existing neighborhoods. Also, he recommended the city look toward the future with energy efficiency and those expansions.

Commissioner Peura stated he would not support the amendment because it negates the work of the Zoning Commission over the past couple of years, in terms of incremental increases in lot coverage and modest increases in building height. He indicated he was persuaded by discussion of the opportunity to increase affordable housing and to address the city's sprawl issues.

Commissioner Cartwright indicated he would not support the motion and presented maps of lot coverage amounts in Reeder's Village and a section of the upper Westside. Reeder's Village is located in an R-1 District but was developed as a PUD and lot coverage in the subdivision ranges from 26% up to 37%; houses in the subdivision are selling well. Regarding the upper Westside, lot coverage ranges from 15% to 48%, and it is a mixture of duplexes, apartments, single-family and mansions; people are choosing to move into the neighborhood. He does not believe higher lot coverage needs to be forbidden.

Commissioner Cartwright presented an additional map that showed the taxable value of the City of Helena. The upper Westside has a number of blocks with high tax value but also the area between the Capitol and downtown have a very high taxable value. People should not be denied the right to build houses that pay more than their share of the taxes, especially when it costs less to serve them because they are a more compact development.

Commissioner Oitzinger stated the amendment would maintain the existing situation and allow for time to learn about the state of the art techniques for "green building". She referenced the construction of Exploration Works as an example of how valuable "green building" can be. She noted she would not support increasing R-1 and R-2 District building heights. Regarding lot coverage, it's one thing to show examples of areas where it works but if you take a 35% lot coverage with a 34-foot building height and put it next to a home on Hudson Street, it

wouldn't be harmonic. She spoke in support of Commissioner Elsaesser's amendments because the Commission can meet the concerns of the community regarding rushing through the update, and would be taking the proposal of the Zoning Commission and adding to it. She spoke in support of adding LEED Standards to the update.

Mayor Smith indicated he would not support the motion because he can't support the restrictions on lot coverage but he would be interested in keeping the height limit at 24 feet. He gave the history of zoning, which was originally a health and safety measure, and designed to prevent the worst, not stimulate some ideal. He commented he would support keeping zoning as close to its original purpose as possible. The zoning code should not be used to give people incentives to do the right thing or to encourage smart growth, mitigate global climate change or to promote affordable housing. The zoning update should be used to simplify the regulations for citizens and to create a high priority for neighborhood preservation; those goals have been accomplished. He indicated he would support revisions that aid in infill development.

Commissioner Elsaesser stated the Commission has talked a lot about the city's Growth Policy; to help low income and renting residents and provide infill with design towards environmental benefit. But in various ways there is a lack of quid pro quo. There is more under consideration than updating the zoning, the Commission is looking at being much more permissive, allowing larger structures. The city needs to look at how it can add a component that when these newer, bigger houses or commercial structures go in the owners invest up front and in the right way to conserve energy. It will be an investment in the long-term quality of life in the community.

Vote

Motion failed 2-3, with Mayor Smith and Commissioners Peura and Cartwright voting no.

Amendment

Commissioner Oitzinger moved to revert to existing law in the R-1, R-2 and R-3 Districts for height to the existing allowable height of 24 feet. Commissioner Elsaesser seconded the motion.

Commissioner Peura thanked the Zoning Commission for their work on the update. Underlying the update is growth data; part of what motivated this discussion is that data and the problem it creates; urban sprawl in the Helena Metro Valley. Since 1960, 77% of the population growth in the Helena Valley has been outside the city limits, only 23% has moved into the city. This creates problems with vehicle traffic, parking issues, water quality, environmental concerns and global warming. The Commission has done many laudable things over the past year to address these issues: created a neighborhood transportation program to improve pedestrian and bike transportation, voted to improve and increase public transit, designed a public transit center, supported county interim zoning and joint development standards, supported funding for the Heritage Lands Initiative, supported a Parks Bond, began a neighborhood parks development process, supported efforts to deal with homelessness, the Commission said "no" to Highwood Coal and created a Global Climate Change Task Force. Commissioner Peura noted the Zoning Ordinance has an impact on all of the issues listed above. This is the Commission's time to go beyond what has already been done to address these issues and put solutions in one of the foundational documents of the city, the Zoning Ordinance. By increasing

compact development opportunities through increased building heights, no minimum lot size and increased lot coverage, vehicle miles traveled will be reduced by encouraging and incentivizing infill development. The city is essentially protecting the historical neighborhoods by creating a Zoning Ordinance that speaks to where they are and where they have been; many of the historical homes are actually out of compliance with the ordinance. In addition, increasing infill development and allowing more compact development by increasing lot coverage improve the opportunity for affordable housing. Commissioner Peura spoke in support of using the Zoning Ordinance to provide opportunities to reduce vehicle miles traveled, reduce the impact on current growth, and reduce the impact on the environment and global warming.

Commissioner Cartwright reviewed the allowable building heights in other major cities in Montana, all of which are greater than Helena's 24 feet; these other cities seem to be doing okay. He spoke of concerns that an increased building height will allow McMansions to be built. He asked Director Haugen how many knockdowns there have been in Helena during the height of the housing boom? Director Haugen stated staff has only identified two knockdowns where the houses have increased in size in the past eight years. Commissioner Cartwright stated 28 feet is higher than 24 feet, if you build a two story building at 24 feet next to a one story it blocks it just as effectively. If you are on a sloping area, the extra 11 feet of shadow that 4 feet throws on December 21st goes over the house of your neighbor next to you, as would the shadow of a 24-foot house. There is a reason that people don't build low-income housing on the upper Westside or upper Eastside; it is expensive in those areas. Commissioner Cartwright referred to energy efficiency and noted with a height limit of 24 feet it is very difficult to put in energy trusses unless you are building a high-end home and willing to spend \$10,000. Commissioner Cartwright noted he would not support the motion because he is afraid if you connect an increase in height to energy efficiency, rich people will have efficient housing and poor people will live in the valley.

Vote Motion carried 3-2, with Commissioners Peura and Cartwright voting no.

Amendment Commissioner Peura moved to amend Section 11-4-1 that redefines and resets the downslope from 6 feet back up to 10 feet. Cartwright seconded the motion.

Discussion Director Haugen spoke in support of Commissioner Peura's motion.

Vote All voted aye, motion carried.

Motion Commissioner Peura moved an amendment stating in the R-1, R-2 and R-3 Districts, that in addition to the allowable lot coverage level the city will allow an additional 5% for a front porch, including any definitions that are required to operationalize the 5% bonus. Commissioner Cartwright seconded the motion. Motion carried 4-1, with Commissioner Oitzinger voting no.

Motion Commissioner Cartwright moved approval to amend Section 11-2-4 to add a definition of "two dwelling unit", which is "two

dwelling units that are situated on one lot". Commissioner Peura seconded the motion. All voted aye, motion carried.

Motion

Commissioner Cartwright moved approval for an amendment for R-1, R-2 and R-3 Districts, stating the area covered by the second largest and subsequent buildings can be no greater collectively than 60% of the area covered by the largest building.
Commissioner Peura seconded the motion.

Commissioner Cartwright explained the intent of the amendment is the largest building, whatever its purpose, will cover a certain square footage. You can build other buildings but their combined footprint can be no bigger than 60% of the largest building. The amendment would not allow two large houses to be built on one large lot and would ensure the second building would be a smaller one. Commissioner Peura concurred the objective of the amendment is to allow the compact development goals that have been discussed and the Zoning Commission has been aiming at.

Commissioner Oitzinger asked if garages and sheds would be considered secondary buildings? Commissioner Cartwright explained use won't be considered; the largest building could be a studio. The amendment states there won't be two large buildings in residential districts, you will be allowed one large building and one small building or one large and two small buildings. By putting a limit on it, in many areas, if you have a large lot and you want to put a second building on, you won't reach the 30% lot coverage because the second and third buildings will be tied to the size of the first building. Commissioner Oitzinger noted she was not sure, in execution, how this amendment would play out. Commissioner Cartwright gave the example that if you had a 2,000 square foot large building footprint, you could do a cumulative amount of 1,200 square feet in garage, granny flat or shed.

Commissioner Elsaesser commented he is not sure how the amendment fits in with the other goals of the update.

Vote

Motion carried 4-1, with Commissioner Elsaesser voting no.

Comment

Commissioner Elsaesser asked Director Haugen if there is any way to mitigate parking or other unforeseen impacts of allowing boarding houses, or duplexes by right? Director Haugen stated currently two off-street parking spaces are required for each dwelling unit; subsequently, any of those dwelling units would have to comply with that requirement. The same condition applies to a family with five teenagers and may cause parking problems. The Commission could review the parking ordinance, looking at the requirements for boarding houses and community residential facilities. Commissioner Elsaesser commented he would like the Commission to work on a way to mitigate possible parking issues. Commissioner Cartwright explained boarding houses are allowed in all districts but only with one to three residents. Mobile home parks are not allowed by right, only by CUP and community residential facilities of thirteen or more are only allowed by CUP also. Multiple dwelling units of three or more in the R-1 and R-2 Districts are only allowed by CUP.

Attorney Nielsen stated if you have a garage, that space counts so if you have a two-car garage with a driveway you actually have four parking spots on site.

Motion

Commissioner Peura moved approval of first passage of an ordinance amending Title 11 of the Helena City Code (the Zoning Ordinance of the City of Helena- Ordinance No. 2359) by repealing Chapters 1 through 15, 17 through 21, 27 through 34, and 41 through 50, adopting new Chapters 1 through 8, reserving Chapter designations 9 through 15, 17 through 21, 27 through 34, and amending Chapters 24, 25, 26 and 40, and as contained in the ordinance, as amended. Commissioner Cartwright seconded the motion.

Commissioner Elsaesser thanked the Zoning Commission for their work. He referred to Commissioner Peura and Cartwright's comments and stated he very much supports the concept of infill development and using land efficiently. However, he feels there is more that could be added to the Zoning Ordinance regarding energy efficiency, low-income housing and renters and for those reasons he would not support the motion. Commissioner Oitzinger spoke in support of the updates to the ordinance. Commissioner Elsaesser added the right for people to utilize their property is very important.

Vote

Motion carried 4-1, with Commissioner Elsaesser voting no.

Ord #3097

Comment

Commissioner Peura asked to hold discussions at a future Administrative Meeting about the possibility of allowing increased building height in new subdivisions and neighborhoods.

C. CONSIDER FIRST PASSAGE OF AN ORDINANCE AMENDING CHAPTER 3 OF TITLE 7 OF THE HELENA CITY CODE TO ADD SIGHT DISTANCE TRIANGLE AS AN OBSTRUCTION, AND TO CLARIFY BUILDING NUMBERING BY AMENDING SECTION 7-6-1 OF TITLE 7.

Staff Report

City Attorney Nielsen reported the City Commission has considered changes to the Helena Zoning Ordinance. The proposed additions to Title 7 are language from the current zoning ordinance. The proposed zoning update eliminates the language proposed be added to Chapters 3 and 6 of Title 7.

Staff feels the subject language is inappropriately located in Title 11. Attorney Nielsen recommended approval of first passage of the proposed ordinance as the amendment would relocate the language on sight distance triangle and building numbering to a more logical location in the Helena City Code. This language does not involve zoning and should not be located in Title 11.

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 Peura moved approval for first passage of an ordinance amending Chapters 3 and 6 of Title 7 of the City Code to add site distance triangle as an obstruction and to clarify building numbering. Commissioner Elsaesser seconded the motion. All voted aye, motion carried. **Ord #3098**

Public Communications

PUBLIC COMMUNICATIONS

Leroy Beebe, 1620 Townsend Avenue; referred to Commissioner Cartwright's amendment regarding the allowable size of secondary buildings and recommended he work to clarify the language.

Meetings of Interest

MEETINGS OF INTEREST

The next Administrative Meeting is Wednesday, April 2, 2008 and the next Commission Meeting is Monday, April 7, 2008. The City/County Joint Work Session on April 3, 2008 will be held in the Commission Chambers. Commissioner Peura stated the BID and HCC will sponsor a discussion on growth and development, specific to downtown, at 6:00p.m. on April 3, 2008 in the Civic Center Auditorium.

Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 10:37p.m.

Mayor James E. Smith

ATTEST:

Clerk of the Commission