

**CITY OF HELENA
REGULAR CITY COMMISSION MEETING
November 24, 2014
6:00 P.M.**

Time & Place

A regular City Commission meeting was held on Monday, November 24, 2014 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 Elsaesser, Ellison, Haque-Hausrath and Haladay were present. City Manager Ron Alles, City Attorney Thomas Jodoin and City Clerk Debbie Havens were present.

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 November 10, 2014 were approved as submitted.

PRESENTATIONS:

- A. Confirmation of probationary Firefighter David Maslowski.
Fire Chief Logan reported Firefighter David Maslowski successfully completed his one year probation on November 18, 2014, and is qualified to be promoted to Confirmed Firefighter.
Chief Logan recommended Firefighter Maslowski be confirmed.

Public Comment

Mayor Smith asked for public comment, none was received.

Motion

Commissioner Haque-Hausrath moved the confirmation of Firefighter Maslowski. Commissioner Haladay seconded the motion. All voted aye, motion carried.

Mayor Smith administered the Oath of Office to Firefighter Maslowski.

B. Recognition of Outstanding Performance

Fire Chief Logan reported in the spring of 2013, Capt. Fred Stout, the Helena Fire Department's EMS Administrator, identified that due to a planned change in Pre-hospital medical protocols from the State of Montana, the community was at risk of losing some capabilities of the Fire Department's EMTs. Though various options were evaluated, the Fire Department opted to increase its level of EMS delivery from EMT with varied endorsements to Paramedic level. After that change, the Department was able to fully use the capabilities of its four Paramedics and one EMT-I99, Battalion Chief Roy Swanby, and Firefighters Mike McDaniel, Brandt Buresh, Doug Fischer and Louis Menghini.

In addition, in June of 2013 the Department launched its I-99 course. The course started with six department personnel attending. The classroom portion of the program lasted through June and July, with additional classes held occasionally throughout the fall, totaling over 80 hours of classroom training. The students were then required to complete their clinical training phase in cooperation with St. Peter's Hospital, St. Peter's Ambulance Service, and with the Paramedics of the Helena Fire Department. The clinical phase included "precepting"

through a varied number of medical patients to practice the skills and knowledge learned in the classroom phase. Each of the department members completed over 200 hours of clinical training.

In the spring and summer of 2014 four students, Capt. Frederick Stout and Firefighters Steve Finstad, Owen Koeppen and David Gambill completed the classroom and clinical phases. They then took, and successfully passed their practical exams with the Board of Medical Examiners.

With the new licensure levels, our personnel are now providing a higher level of patient care including diagnosis and care for cardiac patients, patients who have experienced an overdose or poisoning, pediatric patients, as well as increased abilities in patients suffering from traumatic injury.

Chief Logan recognized the outstanding efforts of Capt. Frederick Stout and Firefighters Steve Finstad, Owen Koeppen, David Gambill and the staff at St. Peter's Hospital who helped make this happen.

Commissioner Elsaesser recognized and thanked all who stepped up to the plate. This is a very important component of the Fire Department.

Commissioner Haque-Hausrath also thanked the firefighters for doing the work in order to provide the service to the citizens. It is important to continue to fund the fire department at the full level

Mayor Smith stated it is invaluable for the firefighter's knowledge, skills and abilities to perform their duties and he thanked the firefighters for taking the initiative to obtain the certification.

Consent Agenda

CONSENT AGENDA:

- A. Claims
- B. Amended plat showing aggregation of the vacated alley adjacent to Lots 12-16, Block 8 of the Courthouse Addition and dedication of right-of-way (ROW) adjacent to Beattie Street per Resolution #20062. Property is generally located south of Iowa Street and east of Beattie Street.
- C. Resolution declaring tangible personal property owned by the City of Helena to be surplus property and authorizing the disposal of that property (Smith Machine and Pro Spot P100 Cable Guide Machine). **Resolution 20139**
- D. Acceptance of a donation from Target in the amount of \$1,000 to the Helena Police Department.

City Manager Ron Alles recommended approval of the claims and the consent agenda.

Commissioner Elsaesser requested Item E be removed for further discussion.

Public comment

Mayor Smith asked for public comment. None was received.

Motion

Commissioner Elsaesser moved approval of items A through D on the consent agenda. Commissioner Haque-Hausrath seconded the motion. All voted aye, motion carried.

- E. Resolution authorizing participation in the Board of Investments of the State of Montana annual adjustable rate tender option municipal finance consolidation act bonds (INTERCAP Revolving

Program), approving the form and terms of the loan agreement and authorizing the execution and delivery of documents related thereto (\$600,000 for the Bill Roberts Golf Course irrigation project)

Commissioner Elsaesser asked what is the city's cap on ITERCAP loans and is the city near the capacity. Manager Alles stated he does not have the percentages; however, he knows it is not near capacity.

Public comment Mayor Smith asked for public comment. None was received.

Motion Commissioner Elsaesser moved approval of item E on the consent agenda. Commissioner Ellison seconded the motion. All voted aye, motion carried. Resolution 20140

Bid Awards BID AWARDS:

A. One (1) new 2015 Truck Chassis (Tandem Axle) with one (1) new 4200 gallon sprayer body for the Wastewater Division.

Staff Report

Assistant Public Works Director Phil Hauck reported two bids were received for one new 2015 truck chassis (tandem axle) with one new 4200 gallon sprayer body for the City of Helena Wastewater Division. The low bid was submitted by I-State Truck Center for a 2015 Freightliner 122SD with a Marengo Fabricated Steel 4200 gallon sprayer body. The analysis of the bids indicates the submitted item meets specification and is a reasonable bid. The submitted price of 183,286.00 will not exceed the Wastewater Division budget appropriation of \$185,000.00. This is Phase II of the fleet replacement for the bio-solids program, which has been ongoing for 35 years. This vehicle is replacing three older, high maintenance pieces of equipment which impacts capital purchases, repairs and maintenance, fuel and fuel emissions by a considerable extent.

Staff recommends the purchase of the 2015 Freightliner 122SD truck chassis (tandem axle) with a new 4200 gallon Marengo fabricated steel sprayer body for the City of Helena Wastewater Division at the bid price of \$183,286.00.

This purchase will allow the Wastewater Division to continue regular maintenance operations with reliable equipment.

This piece of equipment will replace Units 473/474, a 2005 Freightliner truck with a 1982 Fruehauf semi-tank trailer and Unit 472, the 1985 Big A sludge injector, which is an older high maintenance machine. The costs saving of purchasing this one vehicle to eliminate three pieces of equipment is approximately \$400,000.00. The purchase of this equipment will allow the City to continue to upgrade the Wastewater Division fleet providing reliable equipment and reducing maintenance costs and continue the beneficial reuse of bio-solids.

Staff pursued research into alternative fuel vehicles, however, the infrastructure for fueling compressed natural gas and biodiesel equipment is not currently available in the Helena area. The extra cost for a CNG fueled truck would be a minimum of \$60,000.00. Research into hybrid heavy duty trucks revealed that there is no hybrid alternative that is considered heavy duty enough for this piece of equipment. The diesel trucks submitted will run on biodiesel without any added

conversions to the truck. The only requirement would be a fuel additive to inhibit algae growth in the fuel lines. As previously stated, Helena does not currently provide a biodiesel fueling station.

Assistant Director Hauck recommended awarding the bid to I-State Truck Center for one (1) new 2015 Freightliner 122SD truck chassis (tandem axle) with one (1) new 4200 gallon Marengo Fabricated Steel sprayer body for the City of Helena Wastewater Division in the amount of \$183,286.00.

Discussion

Commissioner Haque-Hausrath thanked staff for looking at the alternative energy vehicles. If there is not a supplier in Helena for the biodiesel maybe the city could look into providing it. Assistant Director Hauck noted staff is doing a lot of research and will bring forward the information to the commission.

To draft a policy to include the city's fleet will be interesting; due to the variety of vehicles. However, staff will continue to do the research.

Commissioner Elsaesser asked if Units 473/474 will be surplus. Assistant Director Hauck stated if it is determined the vehicles should be surplus, staff will bring forward a resolution for commission consideration. At this time, staff is doing an analysis on the future use of the vehicles.

Commissioner Elsaesser concurred with Commissioner Haque-Hausrath's previous comments on the research of alternative energy vehicles.

Public comment

Mayor Smith asked for public comment, none was received.

Motion

Commissioner Ellison moved to award the bid to I-State truck Center for one (1) new 2015 Freightliner 122SD truck chassis (tandem axle) with one (1) new 4200 gallon Marengo Fabricated Steel sprayer body for the City of Helena Wastewater Division in the amount of \$183,286.00. Commissioner Haladay seconded the motion.

Vote

All voted aye, motion carried.

Communications

COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS

Commissioner Elsaesser stated he saw a bicyclist with lights using the Benton Avenue bike lane and was encouraged the bike lanes are being used and did not cost a lot to install. The construction for Centennial Trail East has been shut down for winter. However, the section from Centennial Park to National is finished to the point that asphalt will be added in the spring.

Commissioner Ellison wished the commission, staff and citizens a Happy Thanksgiving.

Commissioner Haque-Hausrath reminded everyone the City-County building is fragrance free.

Commissioner Haque-Hausrath referenced a national newspaper article regarding a protest that is happening in Oklahoma in support of victims of sexual assault and referred people to #yesalldaughters. Commissioner Haque-Hausrath encouraged anyone who has been sexually assaulted to report it to the Helena Police Department.

Mayor Smith also wished everyone a Happy Thanksgiving.

Report of the City Attorney

REPORT OF THE CITY ATTORNEY
No items to report on.

Report of the City Manager

REPORT OF THE CITY MANAGER
Manager Alles stated he put a copy of the Storm Notice from Street Superintendent Ben Sautter on each of the commission member's desk.
Commissioner Elsaesser thanked Manager Alles for the update. He continues to support looking at the snow removal policy to improve service.

Report from the Helena Citizens Council

REPORT FROM THE HELENA CITIZENS COUNCIL
No HCC report given.

Regular Items

- A. CONSIDER THE FINAL PLAT FOR THE AMENDED PLAT OF LOT 1A-1E1 SHOPKO MINOR SUBDIVISION, CREATING THREE LOTS; GENERALLY LOCATED WEST OF SANDERS STREET AND NORTH OF CUSTER AVENUE.
- B. CONSIDER RELEASE OF THE CITY'S INTEREST IN THREE (3) EASEMENTS LOCATED IN THE AMENDED PLAT OF LOT 1A-1E1, SHOPKO MINOR SUBDIVISION

Staff Report

City Planner Morell-Gengler reported on August 9, 2010, the Helena City Commission conditionally approved the preliminary plat for the Shopko Minor Subdivision creating 3 lots from 6.8-acres located in a B-2(General Commercial) District. On October 20, 2014 the Commission approved a third extension of the preliminary plat approval that will expire December 1, 2014. The applicant is now requesting approval of the final plat for this subdivision.

The approval of the preliminary plat was subject to the conditions stated in the Findings of Fact which have been completed. For reference, a list of the original subdivision conditions and how the applicant met those conditions is attached. Although water, wastewater, and stormwater facilities have been installed and accepted by the city, the second access for the subdivision has not been completed. The access has been installed to the edge of the subdivision property; a financial guarantee has been established for the off-site 40 foot long western section of Market Avenue or for the installation of the 30-foot wide north-south public access. The financial guarantee also includes a portion of the sidewalk on Sanders street and tree replacement around the storm water pond.

The applicant is requesting approval of a final plat creating 3 lots on approximately 6.8 acres zoned B-2 District. Approving the final plat would allow the sale of the lots, and would encourage the development of property in this area with city services including municipal water and wastewater.

Approving the final plat allows infill development to city densities which has the potential to reduce vehicle miles traveled in the Helena area.

The applicant is also requesting the city release its' interest in portions of a 30-foot and a 20-foot wide "Utility Easement Public" created in 1994 by the Dakota Square Minor Subdivision COS # 514476 and

located on Lot 1 of that plat. The applicant is also requesting the city release its' interest in a portion of the 20-foot wide "Public Access & Utility Easement" created in 2009 by the Amended Plat of Lot 1A-1 Shopko Minor Subdivision COS # 3171732 and shown bisecting Lot 1A-1E of that plat. The Certificate of Dedication on this plat states, "The access and utility easements as shown on this Plat are for the purpose of ingress and egress for tenants, contractors, employees, agents customers, licensees, invitees, and emergency vehicles to include fire, police, and ambulance services. These easements are also intended for the benefit of installation, operation, maintenance, repair, and replacement of public or private utilities located within said easements." The city can only release the city's interest in this easement. There are no city facilities in these easements and access is being provided by Market Street or other access easements within the Shopko subdivision. As part of the infrastructure installation for completion of the conditions of final plat, water and stormwater mains were installed outside of these established easements to facilitate development of the lots. New easements are provided to accommodate the current water and stormwater main locations.

Approving the release of the city's interest in these easements would facilitate the development of this property.

Planner Morell-Gengler recommended approval of the final plat for the Amended Plat of Lot 1A-1E1 Shopko Minor Subdivision creating three lots and to accept the dedication to the city of the easements designated thereon.

Planner Morell-Gengler recommended approval for the release of three (3) easements located in the Amended Plat of Lot 1A-1E1, Shopko Minor Subdivision as described in the attached Release of Interest in Utility Easements.

Public Comment

Mayor Smith asked for public comment. None was received.

Motion

Commissioner Ellison moved approval of the final plat for the Amended Plat of Lot 1A-1E1 Shopko Minor Subdivision creating 3 lots; generally located west of Sanders Street and north of Custer Avenue. Commissioner Elsaesser seconded the motion.

Commissioner Elsaesser referred to conditions 2A and 2B that address the effects on the Natural Environment, specifically the wetlands in the area. He stated this is a great model to protect wildlife.

Commissioner Haladay commented he read through staff's memo, specifically the "Notable Energy Impact – Approving the final plat allows infill development to city densities which has the potential to reduce vehicle miles traveled in the Helena area" and stated he does not see this development as infill when it is the last property adjacent to the city limits. Commissioner Haladay suggested staff should not call it infill when it is not, in his opinion.

Mayor Smith stated he has not seen a true definition of infill and will look at the definition in the Growth Policy.

Vote

All voted aye, motion carried.

Motion

Commissioner Ellison moved approval for the release of the City's interest in three (3) easements located in the Amended Plat of

Lot 1A-1E1, Shopko Minor Subdivision. Commissioner Elsaesser seconded the motion. All voted aye, motion carried.

C. CONSIDER A RESOLUTION ANNEXING INTO THE CITY OF HELENA, TRACT 2A OF COS#3232717; GENERALLY LOCATED WEST OF MCHUGH LANE AND NORTH OF CUSTER AVENUE

Staff Report

Planner Morell-Gengler stated the owners of this property, Glenn and Beverly Clevenger, have requested annexation for approximately 8.83 acres described as Tract 2A of COS#3232717. On July 8, 2013 the Helena City Commission conditionally approved a Resolution of Intent to Annex (Resolution # 20027) and B-2 (General Commercial) District rezoning for this property (Ordinance 3182).

On June 23, 2014 the City Commission granted a one year extension for that Resolution of Intent to Annex (Resolution # 20083). The applicant, Remington Helena, LLC, has submitted a letter on behalf of the property owners indicating the conditions have been completed.

The proposed annexation is adjacent to the city; water and sewer mains, stormwater, and streets are available to the subject property. Annexing this property is a logical expansion of the city, an opportunity to promote compatible urban growth, and would be consistent with the efficient use of land, infrastructure, energy and resources and the 2011 Helena Growth Policy.

Annexation into the city and development to city densities has the potential to reduce vehicle miles traveled in the Helena area. Approval would facilitate city infill development consistent with the 2011 Helena Growth Policy.

Planner Morell-Gengler recommended approval of a resolution of annexation for Tract 2A of COS #3232717 as legally described in the resolution of annexation into the City of Helena.

Discussion

Commissioner Elsaesser asked if the commission will be seeing a subdivision request. Planner Morell-Gengler stated no subdivision is required. The applicant is proposing apartments and staff is not anticipating any further action.

Public Comment

Mayor Smith called for public comment. None was received.

Motion

Commissioner Haque-Hausrath moved approval of a resolution annexing into the City of Helena, Tract 2A of COS#3232717 as legally described in the resolution. Commissioner Ellison seconded the motion. All voted aye, motion carried. **Resolution 20141**

D. CONSIDER A RESOLUTION ANNEXING INTO THE CITY OF HELENA, PROPERTY LEGALLY DESCRIBED AS LOTS 305 OF BLOCK 145 OF THE BARRETT-BRADFORD ADDITION AND THE ADJACENT HAUSER BOULEVARD, GLENDALE STREET AND ALLEY RIGHTS OF WAY.

Staff Report

Senior Planner Ramoie reported the property owners requested annexation into the city of Helena for future development of their property that is partially in Lewis and Clark County as well as partially in the city of Helena. The Helena City Commission approved a Resolution of Intent to

annex #20135 on October 20th, 2014 and set conditions. The property owners have met those conditions and now wish to have their property annexed.

Annexation of the property will eliminate an irregularity of the city boundary and encourage infill development in the city. Annexation of the property will allow use of the city's water and wastewater services, which is more efficient than individual well and septic.

Senior Planner Ramoie recommended approval of the resolution annexing into the City of Helena property legally described as lots 3-5 of Block 145 of the Barrett-Bradford Addition, and the adjacent Hauser Boulevard, Glendale Street, and alley rights of way.

Public Comment

Mayor Smith called for public comment. None was received.

Motion

Commissioner Haladay moved approval of a resolution annexing into the City of Helena property legally described as Lots 305 of Block 145 of the Barrett-Bradford Addition and the adjacent Hauser Boulevard, Glendale Street and alley rights of way.

Commissioner Ellison seconded the motion. All voted aye, motion carried. **Resolution 20142**

E. CONSIDER A RESOLUTION OF INTENTION TO ESTABLISH FEES TO BE CHARGED FOR THE BILL ROBERTS MUNICIPAL GOLF COURSE, 2015 SEASON

Staff Report

Parks & Recreation Director Teegarden reported annually city staff and the Golf Advisory Board (GAB) review the season's expenses, revenues, and trends in comparison to budget projections and the local market. To date the golf course has a profit of \$95,600 (net FY14). While a review of trends show a decline in the number of rounds played, there has been an increase of revenue in advertisement/sponsorships, merchandise sales, Ladies League and Junior Golf, private cart servicing and winter golf program (simulator). Simultaneously, there has been a decrease in expenses associated with golf maintenance and operations. Trends show that the course continues to save money and continues to make money.

In previous years, recommendations to increase fees were partially based on the need to close the gap between revenue projections and the annual increase in administrative internal charges. This year, there is a \$6,000 decrease in internal charges. In addition, staff reviewed the existing fee services and considered which items might be considered for increase. It was agreed fees are reaching the "tipping point" within the local golf market.

Based on these considerations, city staff and the GAB do not recommend any increases or changes to the existing fee structure for the 2015 season. While the FY15 approved budget indicates a loss of \$25,362, the budget figures are an estimate and staff believes this is a manageable loss that can be controlled through savings in expenditures and alternative revenue. Current fees will help maintain a competitive edge in the local golf market.

Director Teegarden recommended approval of the resolution of intention to establish fees to be charged for the Bill Roberts Municipal Golf Course and set a public hearing date for December 8, 2014.

Public Comment

Mayor Smith asked for public comment. None was received.

Motion Commissioner Haladay moved approval of the resolution of intention to establish fees to be charged for the Bill Roberts Municipal Golf Course and set a public hearing date for December 8, 2014. Commissioner Haque-Hausrath seconded the motion.

Commissioner Ellison congratulated staff for a great job, resulting in the recommendation. Commissioner Elsaesser concurred and noted this is a large parcel of open lands that is being well maintained.

Vote **All voted aye, motion carried. Resolution 20143**

Public Hearings

PUBLIC HEARINGS:

- A. CONSIDER A RESOLUTION GRANTING A CONDITIONAL USE PERMIT (CUP) TO ALLOW FOR A TRIPLEX (3) DWELLING UNITS TO BE LOCATED IN AN R-2 (RESIDENTIAL) DISTRICT; FOR PROPERTY LEGALLY DESCRIBED PER COS#3262133 AS LOT 4-A-1 IN BLOCK 4 OF THE BROADWATER SECOND ADDITION, CITY OF HELENA, LEWIS AND CLARK COUNTY, MONTANA WITH A PROPERTY ADDRESS OF 1717 LESLIE AVENUE

Staff Report

Planner Golemon reported the applicant is seeking to obtain a Conditional Use Permit (CUP) to allow a triplex (3) dwelling units to be located at 1717 Leslie Avenue, in an R-2 District zoned property. City Code requires a Conditional Use Permit (CUP) be obtained for multiple dwelling units that are proposed to be located in an R-2 District. On Wednesday, November 12, 2014 the Helena Zoning Commission recommended approval (2:1 vote) for a Conditional Use Permit (CUP) to allow a 3,680 square foot triplex (3) dwelling units to be located in an R-2 (Residential) District for property legally described per COS #3262133 as Lot 4-A-1 in Block 4 of the Broadwater Second Addition, City of Helena, Lewis and Clark County, Montana; with a property address of 1717 Leslie Avenue (See attached minutes). The CUP approval is subject to the following condition: A building permit must be obtained within 1 year of the approval date of the Resolution.

The applicants' objective is to obtain approval for a CUP to allow construction of a triplex (3) dwelling units in an R-2 (Residential) District. As proposed the triplex would be constructed with 2 dwelling units located on the lower level, with a third unit on the upper level. In addition, off street parking for multi dwelling unit and proposed building setbacks, lot coverage and building height would comply with the zoning requirements.

Granting of the CUP would allow for infill development on vacant land which uses existing city infrastructure. The proposed triplex is consistent with the CUP criteria, subject to the condition stated in the attached resolution.

Granting of the CUP would allow for more efficient infill development of underutilized land that has access to city services.

Planner Golemon recommended approval of a resolution granting a Conditional Use Permit (CUP) to allow a 3,680 square foot triplex (3) dwelling units to be located in an R-2 (Residential) District; for property legally described in the resolution.

One letter in support and one letter in opposition were submitted at the zoning commission hearing.

Discussion

Commissioner Elsaesser asked what the minimum lot size is for the R-2 District. Planner Golemon stated currently there is no minimum lot width or size. Commissioner Elsaesser asked if this is one lot. Planner Golemon concurred.

Commissioner Elsaesser noted the adjacent zoning district is R-O-T #13 and asked what the T stands for. Planner Golemon explained the R-O-T #13 standards state due to these properties locations near a major traffic arterial, at an entrance to the city and near residential development, any development in this area should be planned to enhance an entrance to the city as well as protect any existing or future residential uses.

Commissioner Haladay asked could the property owners subdivide as a matter by right. Planner Golemon stated yes.

Commissioner Haladay asked if the property was subdivided, are there set back requirements on all sides in the R-2 District. Planner Golemon stated yes and then gave the setback requirements for the R-2 District.

Commissioner Haladay asked how feasible would it be to build two units on a subdivided lot. Planner Golemon stated as long as the applicant could design the units within the restrictions of the zoning requirements, it is feasible.

Commissioner Haladay asked what the average number of trips per day is for a single family dwelling. Planner Golemon stated the average trips for a single family dwelling is approximately between 9.5 and 9.8 trips per day.

Commissioner Haladay referenced one of the zoning commission member's comments regarding his apprehension about the proposed design and asked staff to speak on the comments. Planner Golemon stated his overall remembrance goes to the design standards for aesthetics for the building. Commissioner Haladay asked if the zoning commissioner did not like the proposed design. Planner Golemon stated he believes it was the visual of the design and not the site-plan.

Commissioner Haladay stated when the commission looks at a conditional use permit application; they look at the current circumstances to include impacts on parking and whether or not it will have an impact on the adjacent property owners. Planner Golemon stated staff looks at the criteria in the current city codes and any impacts are based on that. In general it is an overview of what things could be and what the future could hold.

Commissioner Haladay commented if this CUP is approved, then another CUP application is submitted for an adjacent property, the commission would base their decision on the current conditions, not reverting back to what the property was prior to the first CUP. Planner Golemon stated each CUP application is reviewed and evaluated on the current criteria in the zoning ordinance.

Commissioner Haladay reiterated if the commission approves this CUP and then in two months someone seeks to build another triplex, the impact on the neighborhood would be evaluated on the current uses, including this triplex. Commissioner Haladay commented with the current CUP review, a neighborhood could see an incremental change to their neighborhood, one project at a time. However a neighborhood could be significantly impacted with continuous CUP approvals. Planner Golemon concurred that is how the CUP process works.

Public Testimony

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

The following persons appeared before the commission:

Jerry Ryan, 1708 Leslie, asked if the applicant will add lighting and sidewalks to the neighborhood or just to his property.

Applicant Tom Weida spoke in support of the proposal. He gave the history of the property and what he could build by right if he subdivided the property into two lots. He currently lives adjacent to the property and would eventually occupy one of the units.

Attorney Jack Conners representative of Melanie Matson, owner of property at 1722 Leslie, submitted a written letter of opposition. He asked the commission to take note the resolution is incorrect when it states a 3,680 square foot triplex will be constructed and in feet in reality it will be 5,000 square feet.

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

Discussion

Commissioner Haque-Hausrath asked Planner Golemon to address the comment of Attorney Conners regarding the discrepancies with square footage in the resolution. Planner Golemon stated he believes the discrepancy is caused by the foot print of the building, which is the 3,680; the overall floor space was not discussed.

Commissioner Haque-Hausrath asked if the triplex has the same height requirements of a single family home or duplex. Planner Golemon stated this building height would be the same for any single family, duplex and multi-dwelling unit in the R-2 District. Commissioner Haque-Hausrath asked is this the same lot coverage as a single family home or duplex. Planner Golemon stated that is correct.

Commissioner Haque-Hausrath asked would the building codes allow the applicant to have a guest wing with a second kitchen and a separate entrance by right and not officially call it an apartment. Planner Golemon stated he cannot answer the building code questions. City Attorney Jodoin stated a dwelling unit is based on a bathroom and a kitchen. As far as building codes they have to have ingress/egress. Commissioner Haque-Hausrath stated the applicant has indicated he wants his parents to live in one of the units, is he required to characterize this as three separate units to be able to do that. Attorney Jodoin stated each unit could have multiple kitchens and bathrooms.

Commissioner Ellison asked if lighting and sidewalks would be installed in the neighborhood or on the applicant's property. Planner Golemon stated the applicant would be required to install sidewalks adjacent to his property and is not required to do for the complete block. The applicant can install lighting on property but must comply with the dark sky ordinance.

Commissioner Ellison asked if the applicant wanted to divide the lot and build two duplexes that were two stories high would that be allowed so long as he complied with the setback and height restrictions in the zoning regulations. Planner Golemon stated the applicant could if the city allowed the lot to be divided and this property appeared to meet those criteria.

Commissioner Ellison stated the square footage inside the units is irrelevant; the footprint square footage is what has to meet the R-2 District requirements. Planner Golemon concurred, the actual

recommendation from the Zoning Commission, did not note the square footage of the units.

Commissioner Elsaesser asked if this CUP were granted, is the design shown in staff's report required. Planner Golemon stated if the CUP is approved it would be for a triplex and not the specific design.

Commissioner Elsaesser referred to the front elevation design and asked could the building have the standard 24' height. Planner Golemon stated that is correct, the height in the R-2 is 24'. Due to the slope of the lot, the actual height of the triplex will be approximately 17'.

Attorney Jodoin clarified if the lot is subdivided, it would require commission action.

Commissioner Haque-Hausrath stated she would invite the commission to consider another form of zoning where duplexes would be approved only if it is owner occupied. This is something she will bring up at a future date. If the city had this zoning, it would address some of her concerns.

Motion

Commissioner Ellison moved approval of a resolution granting a Conditional Use Permit (CUP) to allow a 3,680 square foot triplex (3) dwelling units to be located in an R-2 (Residential) District; for property legally described in the resolution.

Commissioner Haque-Hausrath seconded the motion.

Discussion

Commissioner Ellison stated he appreciates the public testimony and stated he also visited the property. This is a residential area; although it is a quiet neighborhood he does not agree is it rural living. There did not appear to be a parking issue.

He continued if the applicant did come back for a subdivision, there could be two buildings built with 25% more traffic than what is being proposed. Commissioner Ellison stated even with the public comments from the attorney representing the resident, he is having a hard time finding a reason to deny the CUP.

Commissioner Elsaesser stated he will oppose the motion and has concerns with allowing a triplex with no specific conditions. If approved, the project is almost a commercial use; if it were a fourplex it would be subject to certain conditions, including ADA requirements. The character of the neighborhood is residential. He believes the applicant is sincere; however, it still is a triplex. The city's criteria are not based on the triplex being used as a mother-in-law apartment.

Commissioner Elsaesser stated when discussing density and infill, he believes where we are losing in Helena is that for every six houses built in the county there is one house built in the city. He is concerned if the triplex is approved, it will not encourage single family development and becomes a problem that affects the city's ability to capitalize our utilities and provide essential services. Nothing weakens are ability more than development outside the city limits. In addition, if the CUP applications continue to be approved, there are citizens who will believe they are allowed by right. For those reasons, he will be voting against the motion.

Commissioner Haque-Hausrath stated she feels conflicted with these types of CUP applications. Her understanding of the law is if the applicant meets the criteria, they have the expectation for approval. The commission needs to look at ways to continue density and continue to protect residential neighborhoods. Despite her concerns, she will support the motion.

Commissioner Haladay shared Commissioner Elsaesser's concerns as he expressed earlier by his previous questions. There is no method to stop these from continuing from one application to the next. It will become incremental and be improved. The triplex will have an impact on the residential neighborhood. He too believes the zoning criteria needs to be reviewed. However, he too will support the motion.

Commissioner Elsaesser stated the biggest thing with infill is to meet the demand for residential neighborhoods and this application does not meet those criteria. At this time, the commission does not know what impact this development may have on the neighborhood as there are no conditions. He believes there are reasons for denial.

Vote **Motion carried 4-1 with Commissioner Elsaesser voting no.**
Resolution 20144

Public Communications PUBLIC COMMUNICATIONS
No public communications were given.

Meetings of Interest MEETINGS OF INTEREST
The next Administrative Meeting is December 3, 2014, the City-County Joint Work Session is December 4, 2014 and the next Commission Meeting is December 8, 2014.

Adjournment There being no further business to come before the Commission, the meeting was adjourned at 8:05 p.m.

/S/ James E. Smith
Mayor James E. Smith

ATTEST:

/S/ Debbie Havens
Clerk of the Commission