

CITY OF HELENA
REGULAR CITY COMMISSION MEETING
October 5, 2015
6:00 P.M.

Time & Place A regular City Commission meeting was held on Monday, October 5, 2015 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 Deputy City Clerk Robyn Brown were present. Others present were Dick Sloan 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 September 28, 2015 were approved as submitted.

Proclamation PROCLAMATION:
A. Helena Sun Run Day

Mayor Smith read the proclamation designating October 11, 2015 as "Helena Sun Run Day", to raise funds to purchase a solar photovoltaic array for the Lewis & Clark County Library and inform the Helena community about clean, renewable energy.

Mr. Jayson O'Neill thanked Mayor Smith for the proclamation and provided details on the festivities that will occur to celebrate "Helena Sun Run Day" and explained the purpose of the event. He thanked coalition members for making the project possible and listed the financial goals of the program.

Ben Brauwer, Montana Renewable Energy Association; spoke in support of the event.

Moffie Funk, Helena; thanked the City for their support of the project.

Consent Agenda CONSENT AGENDA:
A. Claims
B. Acceptance of the FY16 100% State of Montana funded Hazmat Team Grant in the amount of \$44,167.
C. Final passage of Ordinance No. 3212 rezoning to R-3 (Residential) District Lot 4A of COS #303546 prior to annexation; generally located east of Green Meadow Drive and north of Benton Avenue and Andesite Avenue. **Ord #3212**
D. Resolution authorizing the submission of a Big Sky Economic Development Trust Fund application on behalf of Pioneer Aerostructures, LLC. **Res #20216**

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

Public comment Mayor Smith asked for public comment.

Brian Obert, MBAC Executive Director; spoke in support of Item D and thanked Community Development Director Sharon Haugen for working so rapidly to organize submission of the application.

Motion

Commissioner Ellison moved approval of items A through D on the consent agenda. Commissioner Haladay seconded the motion. All voted aye, motion carried.

Communications

COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS

Commissioner Ellison announced the City is currently seeking volunteers to fill vacancies on the following boards and committees: ADA Compliance Committee, City/County Planning Board, Non-Motorized Travel Advisory Council, Zoning Commission and Public Art Committee. He urged interested parties to apply by contacting the City Clerk's Office.

Commissioner Haque-Hausrath announced she had attended the final negotiation meeting with Helena Recycling regarding the City's new curbside recycling program and gave an overview of how the program is anticipated to operate. Manager Alles acknowledged the contract should be before the Commission for approval within the next month.

She noted the Commission has asked staff to investigate the option of picking up residential trash bi-weekly instead of weekly to help offset the cost of the recycling program.

Commissioner Elsaesser thanked Mayor Smith for agreeing to issue the "Helena Sun Run Day" proclamation.

Commissioner Elsaesser urged staff to move forward with the proposal for the TIF Railroad District quickly so it can be put in place this year, 2015. He also discussed transportation safety issues in the areas that surround schools in the neighborhood.

Mayor Smith announced Wednesday, October 7th is "Walk to School Day" and encouraged Helena's citizens to participate by walking their children to school.

Report of the City Attorney

REPORT OF THE CITY ATTORNEY

No report was given.

Report of the City Manager

REPORT OF THE CITY MANAGER

Manager Alles announced an informational meeting on the West Main Project would be held on October 15th at 6:00 pm in City/County Building- Room 426.

He reported the following regarding plastics recycling: Types 1 and 2 no longer need to be separated; they can be dropped off combined. Also, Yellowstone E-Waste has informed its clients effective October 1, 2015, they are no longer taking CRT TVs or computer monitors larger than 36 inches, and also no console TVs.

Commissioner Elsaesser asked if their refusal to take these items is non-compliant with their contract. Manager Alles explained he had just received notification of the changes and had not had time to review their contract with the City; he will investigate the matter and report back to the Commission.

Report from the Helena Citizens Council

REPORT FROM THE HELENA CITIZENS COUNCIL

HCC member Dick Sloan reported most HCC members have agreed to post signs in their front yards indicating they are a Citizens Council member and inviting residents to contact them about City

government by knocking on their doors. He also reported the HCC is still working to organize public meetings with Winne Avenue residents to gather input and gauge interest on the installation of sidewalks in the area.

Council member Sloan expressed appreciation to the Commission for their continued work toward implementing a curbside recycling program.

Mayor Smith commended HCC members for locating signs in their yards welcoming their neighbors to contact them.

Regular Items

REGULAR ITEMS:

- A. CONSIDER A RESOLUTION OF INTENTION TO ANNEX INTO THE CITY OF HELENA, LOT 4A OF COS# 3035465 AND ADJACENT GREEN MEADOW RIGHT-OF-WAY (ROW), LEWIS AND CLARK COUNTY, MONTANA AND ESTABLISH CONDITIONS FOR ANNEXATION.

- B. CONSIDER THE PRELIMINARY PLAT FOR THE GREEN MEADOW MINOR SUBDIVISION CREATING THREE (3) LOTS AND STREET RIGHT-OF-WAY (ROW) FROM LOT 4A OF COS# 3035465.

Staff Report

City Planner Lucy Morell-Gengler announced if the resolution of intention to annex is approved, staff is recommending a decision on the preliminary plat be tabled to October 19th, as advertising requirements for the proposal could not be completed within a 10-day window, per City Code.

She reported on May 1, 2015, applications for annexation of Lot 4A of COS# 3035465, rezoning to R-3 (Residential) District, and a three-lot minor subdivision were submitted to the City by Green Meadow Helena, LLC. and the property owners. The Helena City Commission, on August 24, 2015, denied the property owner's petition to annex the subject property. After reviewing the record, the property owner has requested reconsideration of that City Commission denial.

The property is bordered by the City to the south and is located within the City of Helena 2011 Growth Policy "Urban Standards Boundary Area." With annexation, extension of the water and wastewater service boundary will automatically occur. The adjacent Montana Department of Transportation (MDT) Green Meadow Drive ROW will also be annexed. Lot 4A contains approximately 20 acres and is undeveloped. If the R-3 zoning is approved and the property is annexed, the property could be developed with any use permitted in the R-3 District.

Annexation of this property would promote the orderly extension of City services and infrastructure and encourage higher density development near an urban area. Annexation of the subject property is consistent with guidance from the City Growth Policy and could reduce pressure to develop property in the County farther from employment, shopping, and other services.

Planner Gengler recommended approval of the resolution of intention to annex and to establish conditions for annexation as set forth in the resolution.

Discussion

Commissioner Elsaesser clarified the Commission could first approve the resolution originally contained in the Commission packet, next consider proposed amendments by staff, and finally the applicant's

amendments. Manager Alles stated yes and explained the resolution titled "Amendment #2" was City staff's attempt to capture the desires of the Commission based on discussion of the development at the September 30th Administrative Meeting.

Public comment

Mayor Smith called for public comment.

Mark Brooke, Morrison-Maierle Engineering; representing the applicant; stated the September 30th Administrative Meeting was very informative for the applicant, and as a result of those discussions they have provided amendments to the original resolution in order to meet the desires of the Commission.

He read the language contained in the applicant's proposed amendments to the resolution of intention and gave a detailed explanation of said amendments. He summarized the proposed project meets all applicable state and City subdivision requirements and urged the Commission to vote in favor of the proposal. He referred to the transportation plan and the traffic study performed for the project. He requested the Commission direct any questions regarding the proposal to him or the applicant.

Jack Walsh, HBIA representative and City of Helena resident; spoke in support of the project, as any additional property development is welcomed by the HBIA. As a taxpayer of the City, he spoke in support of the project as it will add to the tax base and aid in supporting improvements to the entire community.

Randall Green, 645 S. Tamarack, representing the applicants; gave an overview of the layout of the proposed rental properties and spoke to the importance of the proposed type of development.

Marc Parriman, representing the applicant; thanked the Commission for reconsidering the proposal. He stated he felt the first time it was proposed there was some confusion as to what would be built. He noted the applicant is willing to make a substantial monetary contribution to the community and would like to think Helena is open to business.

He commented if the proposal was not approved by the City, it would be developed in the County with wells and septic tanks and become a future problem for the City once it needs to be annexed. He urged the Commission to approve the proposal.

Leroy Beeby, 1620 Townsend Avenue; urged the Commission to support the proposal.

Cal Kunkel, applicant; discussed the history and gave a detailed overview of the project, and pointed to the Planning Department's recommendation of approval for the proposal. He strongly urged the Commission to vote affirmatively for the development and the amendments being proposed by the applicants.

Peter Donovan, property owner; stated he has owned the property for 11 years and has watched the existing development surround it. He noted they have been very picky regarding plans for this property as they want to see it utilized in the best way possible.

Discussion

Commissioner Elsaesser stated he feels the Commission has been provided with a great opportunity by the developer. He spoke in support of the applicant's amendments to replace items c and d in the resolution of intention.

Motion

Commissioner Ellison moved conditional approval for a resolution of intention to annex Lot 4A and adjacent Green Meadow

ROW as legally described in the attached resolution and establish conditions for annexation as set forth in the resolution.

Commissioner Elsaesser seconded the motion.

Amendment

Commissioner Elsaesser moved to amend Section 1 a. and b. with the language contained in "Amendment #2", and Section 1 c. and d. with the language contained in the "Applicant Amendment".

Commissioner Ellison accepted the amendment.

The amendments read as follows:

"Amendment #2 (1 a. & b.)"

1. **Infrastructure:** ~~The property owners must dedicate right of way for the northward extension of Benton Avenue across the subject property. The property owner must install all infrastructure improvements required by the City to City standards, or enter into a development agreement acceptable to the City that defines responsibility for installation or deferment of the improvements listed below.~~

a. Signing a waiver of the right to protest an SID for future street improvements.

b. Dedicate and install public right-of-way for the northward extension of Benton Avenue across the subject property. The property owner is responsible for costs of surveying and dedication.

"Applicant Amendment (1 c. & d.)"

c. Install two five foot wide, east-west sidewalks or a 10 foot wide combination bike/pedestrian path (or some combination thereof) that connects Green Meadow Drive to Benton Avenue and from Benton Avenue to the open space part to City Engineering Standards as part of a combined total 20'

wide non-motorized public access easement. The property owner is responsible for costs of surveying and dedication.

d. Dedicate a 20' wide non-motorized public access easement to connect Sandstone Way to the above mentioned east-west non-motorized public access easement. Install a 10 foot wide combination bike/pedestrian path to City Engineering Standards within this easement. The property owner is responsible for costs of surveying and dedication.

Discussion

Commissioner Haque-Hausrath referred to the applicant's amendments and noted the reason for boulevard sidewalks is to provide an area for tree planting and effective snow removal. Other concerns are connectivity and inadvertent dead ends in cul-de-sacs. Commissioner Haque-Hausrath stated she does not feel any member of the Commission is opposed to dense development or has ever indicated so.

Commissioner Elsaesser indicated he would support the amendments proposed by staff and the applicant. He spoke in support of the density of the subdivision and commended the applicant for including sidewalks within their development. He stated he feels this is a great addition to the community and welcomed its future residents.

Commissioner Haladay listed several Montana cities that have requirements for the construction of private streets and commented on a related lawsuit in Columbia Falls. He indicated that Attorney Jodoin had stated he would prefer the City acquire ROW instead of obtaining some sort of easement in these situations. Attorney Jodoin stated that is correct in the context of providing generalized transportation connectivity; not necessarily providing pedestrian access within the property. He noted he is unsure why there aren't provisions for motorized access, why only non-motorized, if the important idea is to provide connectivity.

Attorney Jodoin stated because he does not believe the City has clear standards for when a private drive is required in the first place, at this point he does not feel there is anything the City can point to in order to require a private drive. Given this, it is vague to begin designing aspects of the development on the fly.

Attorney Jodoin provided an overview of the Columbia Falls lawsuit referenced by Commissioner Haladay. The lawsuit related to the City of Columbia Falls' liability for a death in a Planned Unit Development because the Commission became intimately involved with the design of the development.

He reiterated that since the City does not have regulations on requiring private drives, his opinion would be if the Commission were to require one, it would be because there is a general need to provide connectivity for all modes of transportation. The best way to accomplish

that is via ROW as it keeps the City out of legal liability and takings issues.

Commissioner Elsaesser again spoke in support of the proposal and the access and connectivity being proposed, as it will ensure safety of the residents of the development.

Mayor Smith indicated he would support the motion for approval and thanked the applicant for thorough discussion of the subdivision. He stated it is very important for the Commission to turn their attention to the standards discussed by City Attorney Jodoin.

Commissioner Haladay stated the City's Transportation Standards in the City's Engineering Standards state, in Section 5, "Establishes minimum standards for public and private transportation facilities for vehicles, public transit, pedestrians and bicycles, herein after be constructed or approved as a condition of City approval of a development". He stated there is no distinction between public and private streets and the issue has been discussed ad-nauseam.

He thanked the applicant for bringing more information forward for the Commission; however, a larger discussion needs to be held on the City's requirements for private drives. He stated he feels the City does have standards; they are just not being applied. If they are not going to be applied, it should be presented on a case-by-case basis. He indicated it makes him very nervous liability-wise to approve any level of development where the reasons for not applying health and safety standards have been explicitly ignored.

Commissioner Haque-Hausrath thanked the applicant for submitting a thorough development plan to the Commission, and went on to list the following concerns: the private drive leading to open space, connectivity with Sandstone resulting in a deadend road, lack of trees and the installation of curbside sidewalks instead of boulevard.

She agreed with Commission Haladay that the City's Engineering Standards do apply to private streets and recommended a resolution be brought forward that clarifies said standards apply to private streets in order to make it clear going forward.

She referenced the preliminary plat for the development and stated access to the open space, deadend streets and block length need to be addressed during the hearing on October 19th.

Commissioner Haladay asked for the City's liability in approving a subdivision that is not built to City standards. Attorney Jodoin indicated he would need to research the issue.

Commissioner Ellison spoke in support of the project and thanked the Commission for reconsidering the proposal. He indicated he shares the concerns of Commissioners Haladay and Haque-Hausrath; however, a few weeks ago the Commission approved two annexations on the Westside, to which you could not apply the Complete Streets Policy and design standards applied to proposals located elsewhere. Those annexations were approved unanimously, so to apply different criteria to this one for reasons that are unclear, scares him. He thanked the developer and entire development team for the accommodations they are willing to make and providing the Commission with a great deal of additional information.

Vote as amended

Motion carried 3-2, with Commissioners Haladay and Haque-Hausrath voting no. **Res #20217**

Discussion

Commissioner Haladay asked if anything approved tonight will affect the preliminary plat. Planner Morell-Gengler indicated staff will

review the amendments and address any changes or issues on October 19th.

Public comment

Mayor Smith called for public comment; none was received.

Motion

Commissioner Elsaesser moved to table the preliminary plat for the Green Meadow Minor Subdivision creating three lots (3) and street right-of-way (ROW) from Lot 4A of COS #3035465 to October 19, 2015. Commissioner Ellison seconded the motion. All voted aye, motion carried.

C. CONSIDER A RESOLUTION ESTABLISHING A RESIDENTIAL ENERGY EFFICIENCY AND RENEWABLE ENERGY LOAN PROGRAM.

Staff Report

Community Development Director Sharon Haugen reported the City Commission has directed staff to begin the process of establishing a loan program so that individual property owners can invest in photovoltaic systems, solar panels for hot water and/or space heating, and other renewable energy improvements or energy efficiency improvements. The proposed loan program is intended to encourage Helena citizens to make energy efficiency improvements to their homes and to create an environment in the community that encourages this and other sustainable practices. The City Commission has set aside \$200,000 to fund this program.

As proposed, the resolution establishes a maximum loan of \$12,000 for each residential property owner that is to be paid back over 10 years through the property owner's property tax bill. There is no interest to be charged for the loan. Residential property is limited to property that contains 3 or fewer dwelling units per lot or tract or group of lots or tract under common ownership.

Director Haugen the establishment of this loan program implements some of the objectives identified in the 2011 Growth Policy, including: *Encourage green building and renewable energy investments to provide jobs that will increase property values, reduce energy costs, and strengthen the community's sustainability; Promote energy efficiency in new and existing housing and Promote energy efficiency and conservation with development standards, land use regulations, public/private partnerships and education, and consider the use of incentives where appropriate.*

This program, along with the incentives for solar panels, the associated building permit fees, and the improvements that the City has made to its own facilities, shows Helena's commitment to providing a sustainable community for its current and future citizens. When the loans are repaid, the program could result in a revolving loan fund for the continuation of the program giving the City the ability to further promote their goals relating to energy conservation and sustainability.

Director Haugen recommended approval of the resolution to establish the program.

Public comment

Mayor Smith called for public comment.

Ben Brauer, Montana Renewable Energy Association; spoke in support of the program.

Jayson O'Neill, chair of the Sleeping Giant Citizens Council; urged the Commission to support the resolution and indicated he would love to be a model user of the program.

Shiloh Hernandez, Helena; thanked the Commission for considering establishment of the program.

Motion

Commissioner Haladay moved approval of a resolution establishing a residential energy efficiency and renewable energy loan program. Commissioner Haque-Hausrath seconded the motion.

Discussion

Commissioner Ellison commented positively regarding the program; however, it will be funded by the one-time telecom settlement and he cannot support using that as the funding source. If it were paid timely, that money would've gone to the departments that operate off the general fund, like the Parks, Police and Fire Departments so these funds are being diverted from public safety and essential services. He indicated if a different funding source were found, he'd be happy to support creation of the program.

Commissioner Elsaesser expressed support for the program, as it is a wise investment in the community. He too expressed concern for future funding of the program but believes it should be started.

Commissioner Haque-Hausrath spoke in strong support of the program and thanked Commissioner Haladay for his work to move the proposal forward.

Mayor Smith noted all of the Commissioners had various ideas for how to spend the one-time windfall from the telecom settlement. After discussing all recommendations, this was decided on by the majority of the Commission. He indicated he would support the program and thanked Commissioner Haladay for bringing the proposal forward.

Commissioner Haladay thanked the rest of the Commission for their support and also expressed support for the program. He spoke about his belief that misappropriation or misuse of funding could apply to tax abatements for large corporations or traffic improvements on Boulder and Cutler. He spoke to benefits it will bring to the City and pointed out the program will only be available to residential property owners inside the City limits.

Vote

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

Res #20218

D. CONSIDER THE PRELIMINARY PLAT FOR A SUBSEQUENT MINOR SUBDIVISION CREATING THREE LOTS FROM LOT 1A-1E1C OF THE SHOPKO MINOR SUBDIVISION.

Public Hearings

PUBLIC HEARINGS:

A. CONSIDER A VARIANCE FROM THE FROM SECTION 12-4-11 B-C OF THE CITY CODE TO REDUCE THE REQUIRED WETLANDS VEGETATIVE BUFFER AND ELIMINATE THE 100-FOOT IMPERVIOUS AREA RESTRICTION FOR PROPERTY LEGALLY DESCRIBED AS LOT 1A-1E1C OF THE SHOPKO MINOR SUBDIVISION; GENERALLY LOCATED WEST OF SANDERS STREET AND NORTH OF MARKET AVENUE.

Staff Report

Planner Gengler reported the applicant submitted applications for a subsequent three-lot minor subdivision/preliminary plat of the Shopko Minor Subdivision and a variance request from the wetlands buffer/setback requirements. At the August 10, 2015 City Commission meeting, the applicant requested additional time to review the draft

subdivision findings and conditions; the City Commission tabled consideration of the minor subdivision and variance requests to October 5, 2015. The applicant has subsequently submitted a request to revise Condition number three (#3). The applicant has also submitted proposed changes to the draft Findings of Fact in relation to that request.

Planner Gengler recommended approval of the minor subdivision, noting it would promote commercial development within the City of Helena.

Additionally, on May 1, 2015 applications were submitted to the City for a three-lot subsequent minor subdivision of approximately 2.6 acres and a variance request from Section 12-4-11 B-C of the City Code to reduce the required wetlands buffers. Specifically, the applicant is requesting that the minimum vegetative buffer distance of 50 feet in Section B be reduced to 25 feet and the 100-foot no build area in Section C be waived entirely. The property is zoned B-2 (General Commercial) District; proposed lot 1A-1E1C3 contains the stormwater detention pond and wetlands.

When a subdivider requests a variance from the City Subdivision Regulations, the City Commission will first consider whether the subdivision application should be approved, conditionally approved, or denied. If the subdivision application is approved or conditionally approved, the Commission shall then consider whether or not to grant any requested variance.

When granting variances, the City Commission may impose conditions that, in its judgment, will substantially secure the objectives of City Subdivision Regulations.

Planner Gengler reported the City Attorney's Office recommended staff not make a recommendation to approve or deny the variance request.

Discussion

Commissioner Haque-Hausrath requested more information on the Lewis & Clark Water Quality Protection District's (WQPD) comments on the proposal. Planner Gengler indicated staff had presented the applicant's amendments to the WQPD and they had no concerns with the revised conditions; neither did Planning Department staff.

Public Works Director Randall Camp stated Engineering Department staff also had no concerns with the applicant's proposed amendments. He added staff would prefer the cash donation be used to enhance a functioning wetland instead of a non-functioning wetland.

Commissioner Elsaesser asked if the existing stormwater pond would still be maintained as a wetland. Planner Gengler stated the developed wetlands are very poor and she is unsure if they could ever achieve better quality. Commissioner Elsaesser referred to stormwater capacity and asked if it would still be maintained if this proposal is approved. Planner Gengler stated yes.

Public Testimony

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

Tim Bury, Morrison-Maierle Engineering, representing the applicant; announced the applicant is willing to donate three times (3x) the value of the land in relation to the size of the area to be remediated, and urged the Commission to support the proposal and amendments submitted by the applicant.

Mary Hollow, Prickly Pear Land Trust Executive Director; acknowledged the existing man-made wetlands are no longer functioning and spoke to the concept of creating new wetlands, which does not work

unless there is already a riparian system in place. She recommended investing the monetary donation into the Tenmile and/or Prickly Pear watersheds, since water does not know or follow City boundaries.

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

Discussion

Commissioner Ellison asked Mr. Bury for the status of the draft findings of fact that are required to be written and submitted by the applicant. It was noted the document was submitted to Planning Department staff in the form of a letter (pages 62-65 of the Commission Meeting packet).

Motion

Commissioner Haque-Hausrath moved conditional preliminary plat approval for the Amended Plat of Lot 1A-1E1C Shopko Minor Subdivision creating three lots and to adopt the amended Findings of Fact and the conditions contained therein, as amended, to add Revised Condition #3 and insert related language shown on pages 62-64 of the Commission Meeting packet to revise Findings E. and N. in the Findings of Fact drafted by City staff; for property legally described in the Findings of Fact.

Commissioner Ellison seconded the motion.

Comment

Commissioner Elsaesser thanked the applicant for creating the wetlands in 2009 and spoke in support of the preliminary plat and variance.

Commissioner Haladay indicated he would support the proposal; however, he encouraged future Commissioners to identify disturbances and work toward fixing such issues at the outset instead of accepting cash in lieu later if the initial requirements do not work out.

Commissioner Haque-Hausrath stated mitigation is never as good as preservation and encouraged future Commissions to preserve wetlands already existing in new developments.

Commissioner Ellison stated there is almost nothing as important to our landscape as existing wetlands. He asked if language authorizing the monetary donation to be used in the City and/or County should be added to the conditions of the variance. Planner Gengler responded staff recommended the funds be used to enhance wetlands located within the City limits and will report on how and where the donation was spent at the time of final plat consideration.

Vote on preliminary plat

All voted aye, motion carried.

Motion

Commissioner Ellison moved conditional approval for a variance from Section 12-4-11 B-C of the City Code to reduce the required wetlands 50-foot vegetative buffer to 25 feet and eliminate the 100-foot restriction on impervious area for property described in the staff report and applying the conditions recommended by Planning Department staff listed on page 107 of the Commission Meeting packet. Commissioner Haque-Hausrath seconded the motion.

Comment

Commissioner Elsaesser commented in agreement with the rest of the Commission regarding the need to protect already existing wetlands rather than design them to fit into new developments. He commented the subject wetlands were functioning for several decades

prior to installation of the Custer Interchange, which could possibly have destroyed them as they currently exist.

Vote

All voted aye, motion carried.

B. CONSIDER A RESOLUTION GRANTING A CONDITIONAL USE PERMIT TO ALLOW AN EDUCATION USE (K-12) FOR UP TO 40 STUDENTS IN GRADES K THROUGH 6 TO BE LOCATED IN THE B-3 (CENTRAL BUSINESS) DISTRICT; FOR PROPERTY LEGALLY DESCRIBED AS TRACT A OF THE AMENDED PLAT OF PARCELS 44, 45, 46, 56 AND 98 OF THE 3RD SUBDIVISION OF THE LAST CHANCE REVISION OF A PORTION OF THE ORIGINAL TOWNSITE OF THE CITY OF HELENA, MONTANA AS FILED UNDER DOCUMENT NUMBER 389500, DEED BOOK M5, PAGE 8584; WITH A PROPERTY ADDRESS OF 121 NORTH LAST CHANCE GULCH.

Staff Report

City Planner Elroy Golemon reported the applicant and property owner are seeking to obtain a Conditional Use Permit to allow an K-12 Education Use to be located in the Medical Arts Building at 121 North Last Chance Gulch. The property is located in the B-3 zoning district. Helena City Code requires a Conditional Use Permit (CUP) be obtained to establish an educational use grades K-12 in the B-3 District.

The adjacent uses in this the area include retail sales, restaurants and licensed premises, medical and general professional offices, parking lots and structures, residential uses, and a daycare center located in Suite D of the Medical Arts Building.

According to the applicant's submitted information, Bloom Montessori School will provide educational activities and programs for up to 40 students enrolled in grades ranging from kindergarten to 6th grade. Hours of the school are intended to generally parallel the public school schedule.

In addition, Bloom Montessori School is also a licensed Daycare Center and will provide supplemental care for children age 2 ½ to 6 on a regular basis. Both uses of the Montessori School are proposed to be located in the Medical Arts Building, Suites A & B, which has an operational area of approximately 1,923 square feet (sf) of gross floor area. The lot on which the Medical Arts Building is located on contains approximately 12,450 sf.

On Tuesday, September 08, 2015 the Helena Zoning Commission recommended unanimous approval (4:0 vote) for a CUP to allow an Education Use (K-12) for up to 40 students in grades K through 6 to be located in the B-3 (Central Business) District; for property legally described as Tract A of the amended plat of Parcels 44, 45, 46, 56 and 98 of the 3rd Subdivision of the Last Chance Revision of a portion of the Original Townsite of the City of Helena, Montana as filed under Document No. 389500, Deed Book M5, Page 8584; with a property address of 121 North Last Chance Gulch.

Planner Golemon recommended approval of the proposed CUP, as it would allow for reutilization of a vacant commercial space and utilize existing City infrastructure. In addition, the proposed educational use is consistent with CUP criteria.

Discussion

Commissioner Elsaesser asked for confirmation that the proposal will not result in noncompliance with regulations regarding schools and their proximity to licensed premises. Planner Golemon indicated approval of the CUP will not cause any issues in that regard

due to the proposed CUP being for a private school instead of public; in such cases there are no restrictions between licensed premises locations and private schools. However, any future proposals to locate a licensed establishment within 600 feet of the school would have to apply for a CUP to do so.

Commissioner Haque-Hausrath referred to an upcoming meeting between the City Commission and Helena School District and indicated this CUP shows that families are now willing to pay for Montessori education, when there used to be a public school in the same area that offered Montessori teaching methods at no cost to parents. She summarized it would behoove the City to inform the Superintendent of Helena Schools about this CUP request.

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 Elsaesser moved approval for a resolution granting a CUP to allow an education use (K-12) for up to 40 students in grades K through 6 to be located in the B-3 (Central Business) District; for property legally described in the resolution.

Commissioner Haladay seconded the motion.

Comment

Commissioner Haladay disclosed he had held discussions with the applicant regarding this CUP previous to tonight's meeting, during which he expressed support for the application.

Vote

All voted aye, motion carried. **Res #20219**

Public Communications

PUBLIC COMMUNICATIONS

No public communications were given.

Meetings of Interest

MEETINGS OF INTEREST

The next Administrative Meeting is October 14, 2015 and the next Commission Meeting is October 19, 2015.

Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 8:58 p.m.

/S/ JAMES E. SMITH

Mayor

ATTEST:

/S/ DEBBIE HAVENS

Clerk of the Commission