

CITY OF HELENA
REGULAR CITY COMMISSION MEETING
January 13, 2020 - 6:00 P.M.
City Commission Chambers, Room 330

- Time & Place** A regular City Commission meeting was held on Monday, January 13, 2020 at 6:00 p.m., in the City Commission Chambers, 316 N. Park Avenue, Helena, Montana.
- Members Present** Mayor Wilmot Collins requested Interim City Clerk Clayborn call roll call: City Attorney Jodoin, Acting City Manager David Knoepke, Commissioner Haladay, Commissioner Dean, Commissioner Logan, Commissioner O'Loughlin all responded present.
- Pledge of Allegiance** Mayor Collins asked those persons present to please stand and join him in the pledge of allegiance.
- Minutes** The minutes of the November 13, 2019 Special Meeting and the December 16, 2019 Regular City Commission meeting were approved as submitted.
- Board Appointments** BOARD APPOINTMENTS
- Citizen Conservation Board**
- Appointment of Patricia Heiser, Earth Science Field Educator, to a first term on the Citizen Conservation Board. Terms will begin upon appointment with no specific expiration date, per Resolution 20375.
- Appointment of Makenna Sellers, Environmental Organization Representative, to a first term on the Citizen Conservation Board. Terms will begin upon appointment with no specific expiration date, per Resolution 20375.
- Appointment of Mark Judeman, Citizen at Large, to a first term on the Citizen Conservation Board. Terms will begin upon appointment with no specific expiration date, per Resolution 20375.
- Appointment of Steven Costle, Business and Building Representative, to a first term on the Citizen Conservation Board. Term will begin upon appointment with no specific expiration date, per Resolution 20375.
- Public Comment** Mayor Collins asked for public comment on the Board Appointments to the Citizen Conservation Board.
- Motion** **Commissioner O'Loughlin moved to approve the board appointments to The Citizen Conservation Board.** Commissioner Haladay seconded the motion. Interim City Clerk Clayborn called a roll call vote, as follows: Commissioner Haladay voted aye, Commissioner Dean voted aye, Commissioner Logan voted aye, Commissioner O'Loughlin voted aye and Mayor Collins voted aye. **The motion carried, 5-0.**
- City Golf Advisory Board** Reappointment of Sue Bannon to a second term on the Golf Advisory Board. Term will begin

upon appointment and expire on October 31, 2023

Reappointment of Judy Reddy to a second term on the Golf Advisory Board. Term will begin upon appointment and expire on October 31, 2023

Appointment of Jack Gregg, as City Staff member representative on Golf Advisory Board. Term will begin upon appointment and expire on October 31, 2023.

Motion **Commissioner Haladay moved to approve the board appointments to the Golf Advisory Board.** Commissioner O'Loughlin seconded the motion. Interim City Clerk Clayborn called a roll call vote, as follows: Commissioner Haladay voted aye, Commissioner Dean voted aye, Commissioner Logan voted aye, Commissioner O'Loughlin voted aye and Mayor Collins voted aye. **The motion carried, 5-0.**

City-County Planning Board

Appointment of Quinlan O'Connor to a first term on the City-County Planning Board. First term will begin upon appointment and expire on September 1, 2022.

Appointment of Dr. Gregory Thomas, to a first term on the City-County Planning Board. First term will begin upon appointment and expire on September 1, 2022.

Motion **Commissioner Logan moved to approve the board appointments to The City- County Planning Board.** Commissioner O'Loughlin seconded the motion. Interim City Clerk Clayborn called a roll call vote, as follows: Commissioner Haladay voted aye, Commissioner Dean voted aye, Commissioner Logan voted aye, Commissioner O'Loughlin voted aye and Mayor Collins voted aye. **The motion carried, 5-0.**

City-County Library Board

Appointment of Judy Meadows to a first term on the City-County Library Board. First term will begin upon appointment and expire on January 1, 2025

Motion **Commissioner Dean moved to approve the board appointment to the City-County Library Board.** Commissioner Logan seconded the motion. Interim City Clerk Clayborn called a roll call vote, as follows: Commissioner Haladay voted aye, Commissioner Dean voted aye, Commissioner Logan voted aye, Commissioner O'Loughlin voted aye and Mayor Collins voted aye. **The motion carried, 5-0.**

Consent Agenda

CONSENT AGENDA:

- A. Claims
- B. Final passage of Ordinance No. 3278 increasing lot coverage in the R-1 (Residential) and R-2 (Residential) Zoning Districts; increasing maximum building height in the R-1 (Residential), R-2

(Residential), R-3 Residential), R-4 (Residential-Office), and B-2 (General Commercial) Zoning Districts; and eliminating minimum lot sizes for multiple dwelling units in the R-3, R-4/R-O Zoning Districts by amending Chapter 4 of Title 11 of the Helena City Code.

- C. Final passage of Ordinance No. 3279 revising the Conditional Use Permit (CUP) process by amending Chapter 3 of Title 11 of the Helena City Code to provide better guidance for applicants and decision makers.
- D. Resolution authorizing municipal elected officials to participate in the employee benefits program

Acting City Manager Knoepke recommended approval of the Consent agenda, Claims and items B - D.

Discussion Commissioner Dean requested item B and C. be removed from the Consent Agenda and moved to Regular Items for more substantive discussion. These items will now be considered Items E and F on the Regular Agenda Items respectively.

Public Comment Mayor Collins asked for public comment on the Consent Agenda, items A and D. None was received.

Motion Commissioner O’Loughlin moved to approve the claims and consent agenda items D. Commissioner Haladay seconded the motion. Interim City Clerk Clayborn called a roll call vote, as follows: Commissioner Haladay voted aye, Commissioner Dean voted aye, Commissioner Logan voted aye, Commissioner O’Loughlin voted aye and Mayor Collins voted aye. **The motion carried, 5-0.**

Communications from City Commissioners COMMUNICATIONS/PROPOSALS FROM CITY COMMISSIONERS
None.

Report of the City Attorney REPORT OF THE CITY ATTORNEY
City Attorney Jodoin stated there was nothing to report.

Litigation Strategy LITIGATION STRATEGY
City Attorney Jodoin stated there was nothing to report.

Report of the City Manager REPORT OF THE CITY MANAGER
Acting City Manager Knoepke stated there was nothing to report.

Report from the HCC REPORT FROM THE HELENA CITIZENS COUNCIL
John Andrew from the Helena Citizens Council reported the HCC would have the first meeting of the year on January 22, 2020. The Mayor will swear in the entire Council. The meeting will include a meet and greet and all members of the public and Commission are welcome to attend.

Regular Items REGULAR ITEMS

- A. CONSIDER FIRST PASSAGE OF AN ORDINANCE ADOPTING BY REFERENCE THE STATE ADOPTED 2018 EDITIONS OF THE INTERNATIONAL BUILDING CODE (IBC) ALONG WITH APPENDIX CHAPTER C GROUP U, AGRICULTURAL BUILDINGS, THE INTERNATIONAL RESIDENTIAL CODE (IRC) ALONG WITH APPENDIX CHAPTER Q TINY HOUSES

AND APPENDIX CHAPTER S STRAWBALE CONSTRUCTION, THE INTERNATIONAL EXISTING BUILDING CODE (IEBC), INTERNATIONAL MECHANICAL CODE (IMC), INTERNATIONAL FUEL GAS CODE (IFGC), UNIFORM PLUMBING CODE (UPC) AND 2017 EDITION OF THE NATIONAL ELECTRICAL CODE (NEC) AND CLARIFYING PROVISIONS RELATING TO THE ADMINISTRATION AND ENFORCEMENT OF THESE CODES BY REPEALING CHAPTERS 2, 3, 4, 5, 7, AND 13, AMENDING CHAPTER 1, AND ADOPTING A REVISED CHAPTER 2 OF TITLE 3, HELENA CITY CODE.

Staff Report

Community Development Director Haugen introduced Chief Building Official Kim Mack to report to the Commission on this agenda item. Ms. Mack reported currently the building construction related codes and related State mandated amendments are in several chapters within Title 3 of the Helena City Code. Each chapter is representative of separate ordinances related to the adoption of building construction related codes.

Currently, the Building Division for the city of Helena is enforcing the 2012 editions of the IBC, IRC, IEBC, IMC, IFGC, UPC and the 2014 NEC. Effective December 7, 2019 the state of Montana Building Codes Program adopted new Administrative Rules of Montana (ARM) implementing the use of the above codes and mandating their adoption. ARM 24.301.202 requires the code adoption by certified local jurisdictions be the same as those adopted by the State and they have 90 days from December 4, 2019 to adopt this version of the codes. The codes as adopted by the State may not be altered and must be adopted by certified jurisdictions in the same editions with the same amendments as adopted by the State. Once the City has adopted the above codes, notification must be sent to the state informing them of the adoption and copies of the ordinances are to be sent to them.

MCA 7-5-108 requires when an ordinance is proposed for adoption that incorporates by reference the provisions of any code or amendments, the codes and amendments shall be available for public inspection and examination a minimum of 30 days prior to final adoption in the City Clerk's office.

The State deleted Section 116 – Unsafe Structures and Equipment in its entirety when they adopted the current edition of the IBC. This decision was based on an Attorney General's opinion and provision in Title 50, Chapter 60 MCA, that states the building and construction standards do not apply to existing building and equipment that become unsafe. The International Fire Code (IFC) has a comparable section, Section 111 – Unsafe Building, that does provide for the regulations of buildings or structures that have become unsafe. The enforcement of this section will begin with the Fire Department.

The purpose of the proposal is to present the above series of codes, as amended through the state of Montana, to the City Commission for first passage and set a hearing for February 24, 2020. City staff is recommending the proposed consolidation of all the building construction related codes into a single chapter and adopting by reference the amendments to the above stated codes required by the state.

The State of Montana has chosen not to adopt the 2018 International Energy Conservation Code (IECC) at this time to provide further discussion through public listening sessions throughout the state.

We will bring the adoption of the 2018 IECC to the Commission at a later date.

The 2018 International Fire Code (IFC) is not being adopted at this time. The State's adoption of the IFC is through the State Fire Marshal's Office. That process has not been completed and will put forward to the Commission by the Fire Department at a later date.

The 2018 International Wildland-Urban Interface Code (IWUIC) is not being considered for adoption at this time. The city of Helena is engaging stakeholders and will bring forth a recommendation regarding the adoption of the WUI at a future date.

The 2018 International Swimming Pool and Spa Code (ISPSA) is not being considered for adoption by the City as it is currently being enforced by the Lewis and Clark County Public Health Department and DPHHS, along with several other pool codes. Having multiple agencies enforcing the same code may lead to multiple interpretations of provisions and confusion for the applicant.

Director Haugen recommended approval of first passage of an ordinance adopting by reference the State adopted 2018 editions of the International Building Code (IBC) along with appendix Chapter C – Group U, Agricultural Buildings, the International Residential Code (IRC) along with Appendix Chapter Q – Tiny Houses and Appendix Chapter S – Strawbale Construction, the International Existing Building Code (IEBC), International Mechanical Code (IMC), International Fuel Gas Code (IFGC), Uniform Plumbing Code (UPC) and 2017 edition of the National Electrical Code (NEC) and clarifying provisions relating to the administration and enforcement of these codes by repealing Chapters 2, 3, 4, 5, 7, and 13, amending Chapter 1, and adopting a revised Chapter 2 of Title 3, Helena City Code and to set a public hearing dated for February 24, 2020.

Public Comment

Mayor Collins asked for public comment, none was received.

Motion

Commissioner O'Loughlin moved to approve the first passage of an ordinance adopting by reference the State adopted 2018 editions of the International Building Code (IBC) along with appendix Chapter C – Group U, Agricultural Buildings, the International Residential Code (IRC) along with Appendix Chapter Q – Tiny Houses and Appendix Chapter S – Strawbale Construction, the International Existing Building Code (IEBC), International Mechanical Code (IMC), International Fuel Gas Code (IFGC), Uniform Plumbing Code (UPC) and 2017 edition of the National Electrical Code (NEC) and clarifying provisions relating to the administration and enforcement of these codes by repealing Chapters 2, 3, 4, 5, 7, and 13, amending Chapter 1, and adopting a revised Chapter 2 of Title 3, Helena City Code and to set a public hearing dated for February 24, 2020. Commissioner Haladay seconded the motion. Interim City Clerk Clayborn called a roll call vote, as follows: Commissioner Haladay voted aye, Commissioner Dean voted aye, Commissioner Logan voted aye, Commissioner O'Loughlin voted aye and Mayor Collins voted aye. **The motion carried, 5-0**

B. CONSIDER A RESOLUTION AUTHORIZING PARTICIPATION IN THE BOARD OF INVESTMENTS OF THE STATE OF MONTANA SHORT TERM INVESTMENT POOL (STIP) AND AUTHORIZING THE EXECUTION AND DELIVERY OF

DOCUMENTS RELATED THERETO AND REPEALING
RESOLUTION NO. 20448.

Staff Report

City Controller Liz Hirst reported On June 18, 2018, the Commission passed Resolution 20448 authorizing participation in the STIP program and appointing Glenn Jorgenson, Administrative Services Director, as the City's authorized representative. His retirement requires the City to pass a new resolution. Currently the City has \$52,250,851.71 in this investment pool.

Adopt the resolution authorizing the City of Helena to continue participation in the Montana Board of Investment's investment pool (STIP), and appointing Liz Hirst, Controller/Treasurer as Authorized Representative, and authorizing the execution and delivery of documents related thereto.

Public Comment

Mayor Collins asked for public comment. None was received

Motion

Commissioner Dean moved to approve a resolution authorizing participation in the Board of Investments of the State of Montana Short Term Investment Pool, authorizing the execution and delivery of documents related thereto, and repealing Resolution 20448. Commissioner Logan seconded the motion. Interim City Clerk Clayborn called a roll call vote, as follows: Commissioner Haladay voted aye, Commissioner Dean voted aye, Commissioner Logan voted aye, Commissioner O'Loughlin voted aye and Mayor Collins voted aye. **The motion carried, 5-0**

C. CONSIDER A RESOLUTION OF INTENTION TO CREATE THE BUSINESS IMPROVEMENT DISTRICT IN THE CITY OF HELENA FROM AUGUST 11, 2020 UNTIL AUGUST 10, 2030.

Staff Report

Budget Analyst Chris Couey reported The City created the Business Improvement District (BID) in August 2010. BID's have a life of 10 years according to State Law. There is not a specific renewal option in State Law, but the BID may be recreated for another 10 years at the will of the City Commission. State law requires we receive petitions from owners of at least 60% of the area of the proposed district shown in the attached "Exhibit A - Proposed BID Boundary." The BID staff collected petitions equal to 70%. Electronic and hard copies of the signed petitions are available in the Finance office. The current BID expires August 10, 2020. A resolution of intention was passed on December 16, 2019 and a public hearing set for January 13, 2020. A notice of public hearing was sent via mail to all property owners of record and published in the Independent Record.

Public Comment

Mayor Collins asked for public comment.

Executive Director of the BID, Micky Zurcher spoke in favor of the resolution and thanked the City Staff for all their help in the process. Ms. Zurcher gave a summary of the process and statistics related to the Petition.

Kevin Hamm, Big Sky pride, spoke in favor of the resolution and stated the BID and Executive Director were great to work with.

Dave Galen, spoke in opposition to the BID and stated while he spoke in opposition to this item tonight it was not directed at the BID specifically, but Mr. Galen did express concern related to the implementation of the Parking meters within the downtown area.

Discussion

Commissioners Dean and Commissioner O'Loughlin both thanked Ms. Zurcher and the BID for their efforts in gaining the signatures for the petition.

Commissioner Haladay stated for the record he would recuse himself from the vote.

Motion

Commissioner Logan moved to approve a resolution of intention to create the Business Improvement District within the City of Helena, Montana and to set a public hearing date on January 13, 2020. Commissioner O'Loughlin seconded the motion. Interim City Clerk Clayborn called a roll call vote, as follows: Commissioner Haladay abstained, Commissioner Dean voted aye, Commissioner Logan voted aye, Commissioner O'Loughlin voted aye and Mayor Collins voted aye. **The motion carried, 4-0, with one abstention. Resolution 20586**

- D. CONSIDER ACCEPTING THE DEDICATION OF THE SEVENTY-FOOT (70) WIDE SANDERS STREET RIGHT-OF-WAY (ROW) AND THE FIFTY-FOOT (50) WIDE VANDELAY PLACE ROW GENERALLY LOCATED SOUTH OF PROSPECT AVENUE, NORTH OF 11TH AVENUE, AND EAST OF ROBERTS STREET, IN THE CITY OF HELENA, MONTANA.

Staff Report

Community Development Director Sharon Haugen reported the City has received a request from Capital Hill Investment, LLC to reestablish Sanders Street and a portion of Twelfth Avenue (Vandelay Place). The subject section of Twelfth Avenue was vacated in 1958 and Sanders Street was vacated in 1979 to accommodate the construction of the Capital Hill Mall. The mall has recently been demolished and the property is being redeveloped. As a component of that redevelopment project, an amended plat has been submitted showing reestablishment of the north/south Sanders Street connection between Prospect Avenue and 11th Avenue and east/west Vandelay Place. The subject property is in a B-2 (General Commercial) District.

The applicant's objective is for the City to accept the dedication of the seventy-foot (70') wide Sanders Street ROW located south of Prospect Avenue and north of 11th Avenue and the fifty-foot (50') wide Vandelay Place ROW located east of Roberts Street between Prospect Avenue and 11th Avenue.

The proposed Sanders Street ROW width is consistent with existing Sanders Street located north and south of the proposed dedication. The proposed Vandelay Place ROW is fifty-foot (50') wide. The City Engineering and Design Standards indicates all streets should accommodate the complete streets policy including sidewalks, boulevards, and on-street parking. A sixty-foot (60') wide ROW is generally required to meet those components although the design standards also allow deviations. The standards state eliminating on-street parking may be allowed with a showing that adjoining uses would provide sufficient off-street parking. The adjacent property is currently undeveloped; when adjacent properties are developed all required parking would have to be provided off-street if the proposed fifty-foot (50') wide Vandelay Place ROW is accepted. The Transportation Department has expressed concerns with the narrower right-of-way due to snow removal.

The subject survey is exempt from subdivision review per Montana Code Annotated for creating rights-of-way, boundary line

relocations, and aggregations. The only part of the plat the City Commission is reviewing is the acceptance of the ROW dedication.

The creation of the Sanders Street extension and Vandelay Place will provide for better transportation connectivity and pedestrian access. The new street ROW will provide better access for proposed commercial lots promoting redevelopment of vacant property and encouraging economic vitality within Helena. The proposed Sanders Street ROW will provide a better location for existing city utilities.

Accepting the dedication of street ROW will provide shorter block lengths, better vehicular connectivity, and a more walkable area and may reduce vehicle miles traveled in the Helena area. The City will be responsible for additional street maintenance and traffic enforcement. The fifty-foot (50') wide ROW may result in a narrower street that hinders snow removal.

Community Development Director Haugen and staff recommended to accept the dedication of the seventy-foot (70') wide Sanders Street right-of way (ROW) and the fifty-foot (50') wide Vandelay Place ROW generally located south of Prospect Avenue, north of 11th Avenue, and east of Roberts Street, in the City of Helena, Montana.

Public Comment

Mayor Collins asked for public comment. None was received.

Motion

Commissioner Haladay moved to accepting the dedication of the seventy-foot (70) wide Sanders Street right-of-way (ROW) and the fifty-foot (50) wide Vandelay Place ROW generally located south of Prospect Avenue, north of 11th Avenue, and east of Roberts Street, in the City of Helena, Montana. Commissioner O'Loughlin seconded the motion.

Discussion

Commissioner O'Loughlin referenced public interest in the development of the former mall area and the redesign of the streets to create more connectivity, without the large mall structure on the property. Commissioner O'Loughlin stated she was excited to see what the future for the property held and thanked the developers and City Staff for their work on this project.

Vote

Interim City Clerk Clayborn called a roll call vote, as follows: Commissioner Haladay voted aye, Commissioner Dean voted aye, Commissioner Logan voted aye, Commissioner O'Loughlin voted aye and Mayor Collins voted aye. The motion carried, 5-0.

E. FINAL PASSAGE OF ORDINANCE NO. 3278 INCREASING LOT COVERAGE IN THE R-1 (RESIDENTIAL) AND R-2 (RESIDENTIAL) ZONING DISTRICTS; INCREASING MAXIMUM BUILDING HEIGHT IN THE R-1 (RESIDENTIAL), R-2 (RESIDENTIAL), R-3 RESIDENTIAL), R-4 (RESIDENTIAL-OFFICE), AND B-2 (GENERAL COMMERCIAL) ZONING DISTRICTS; AND ELIMINATING MINIMUM LOT SIZES FOR MULTIPLE DWELLING UNITS IN THE R-3, R-4/R-O ZONING DISTRICTS BY AMENDING CHAPTER 4 OF TITLE 11 OF THE HELENA CITY CODE.

Staff Report

Community Development Director Haugen reported on December 16, 2019 the Helena City Commission held a public hearing on the proposed amendments to the Conditional Use Permit Chapter. No one from the public spoke regarding the proposed changes. The City Commission unanimously voted (4:0) to approve the Ordinance.

Subsequent to the public hearings, City Planning Staff sent notice of the CUP Chapter changes to representatives of the architecture community, HBIA, and realtors in an effort to solicit public comment. Staff received two (2) comments in response which are included below. The two (2) comments received were regarding Section 11-3-8 (B) which indicates that a property's CUP may be revoked if not used for its purpose for 30 continuous business days. Those expressing concerns included situations where a property may be vacant such as, time between rental/sale occupants, or maintenance situations. For clarification, the 30-day time frame only applies when a use is intentionally abandoned; time for remodeling, maintenance, or new owner/tenants does not indicate abandonment provided the same use is continued after the vacancy. Chapter 3 of Title 11 of the City Code contains language to guide the process for a Conditional Use Permit (CUP) including CUP limitations, application requirements, application review, the role of the Zoning and City Commissions, conditions of approval and cessation, or change of conditional uses. The Zoning Commission held three (3) work sessions to evaluate the current CUP Chapter for increasing language clarity and to better define the decision-making parameters. Other communities' regulations, past CUP applications, and the current Helena review process were considered. On December 3, 2019 the Zoning Commission held a public hearing on revising the Conditional Use Permit Chapter and reviewed the proposed Ordinance. No members of the public spoke or submitted comments on the proposed changes. The Zoning Commission voted (5:0) to approve the Ordinance with one additional amendment.

The amendments to Chapter 3 of Title 11 are identified in the attached Ordinance. Five (5) major areas impacted by the ordinance are:

1. CUP Review Standards. The review criteria language is changed from "significantly increase" or will not "significantly reduce or impair" to will not "adversely impact."
2. CUP Impact Evaluation. The existing factors have been reorganized and clarified, as well as new factors have been added. A greater emphasis on impacts to adjacent properties and the larger neighborhood is a new focus. Clearer direction for considering public input is also included.
3. CUP Mitigating Conditions. Possible conditions of approval are enumerated in the chapter to provide more direction for the Zoning and City Commissions. Although additional conditions may be imposed depending on the impacts, this list is expected to be beneficial to the applicant and can help provide predictability in the process.
4. Changing Conditions. The fourth change is intended to fill a gap in the limitations to a CUP approval as it relates to changes in the site plan as a CUP is developed. It is important to have a process in place to be able to determine if a "material change" has occurred in a CUP. This change will allow staff to work with applicants to keep CUPs up to date.
5. CUP Revocation. The fifth substantive change to the ordinance comes in the section regarding the ability to revoke a

CUP. The proposed Ordinance would include a new process with standards to revoke a CUP that is not in compliance with the approved conditions or has ceased to operate on the property.

The proposed changes give the Zoning Commission and the City Commission the ability to vet CUP applications against a new standard of “adverse impacts” instead of “significantly increase,” and will help clarify the chapter by updating the language to match the new standards and factors. The proposed language more clearly relates back to the potential impacts on the adjacent neighborhoods.

Director Haugen recommended approval of final passage of Ordinance No. 3278 revising the Conditional Use Permit process by amending Chapter 3 of Title 11 of the Helena City Code.

Discussion

Commissioner Dean asked if there were others which shared the concern expressed regarding and B2, and if this an example of moving to quickly using the Growth Policy from 2011 before the passage of the 2020 Growth Policy. Ms. Ray stated the 2020 Growth Policy has been reviewed for goals and recommendations specific to the housing market and these were considered when Staff brought the proposed amendment to this ordinance to the Commission.

Commissioner Haladay asked if the Commission wanted to amend the B2 zoning to raise the height restriction to 75-feet would Ms. Ray clarify the restrictions, if any, to amend the height restrictions for this district. Ms. Ray stated as long as the area was not adjacent to residential property, the height restriction could be amended. Commissioner Haladay stated the 2011 Growth Policy Update was not in his opinion the most ambitious from a density and infill stand point.

Commissioner Logan asked if the updates were approved tonight, what opportunity would an existing landowner have to protest the zoning changes made tonight. Director Haugen stated if the proposed changes were adopted, they were considered final, and tonight would be the appropriate opportunity for anyone to express concern regarding the changes to the Commission to consider.

Commissioner Dean asked the average height of the R2 zone home. How significant is the difference in the height allowances in two different zoning districts. Director Haugen stated the standard height for residential housing in the Helena area is approximately 24 feet, however, there was not a data point being tracked specifically for “average” height.

Public Comment

Mayor Collins asked if there was any public comment on this matter.

Jason Davis, SMAR Architects, spoke regarding a letter he wrote to the Commission, regarding the use of the updates to allow for a dense and economic building option to offer additional housing in the area.

Michael O’Neill, Helena Housing Authority, spoke in favor of the ordinance. This would provide options which will allow for much more efficient and effective use of the land, and this would put less burden on the City and its taxpayers.

Greg Wirth, Stahly Engineering and resident 3530 Centennial Dr., spoke in favor of the ordinance. Mr. Wirth also spoke in favor of an amendment to allow for in increased height restrictions in the B2 district.

Jacob Kuntz, Director of Habitat for Humanity, spoke in favor of the Ordinance, stating this would allow for additional options for acquisition of remodel options of blighted properties within the City limits and give additional options for affordable housing.

William Galen, of Helena Board of Realtors, spoke in favor of the ordinance and stated this would assist in providing more affordable housing.

George Harris, Executive Officer of Helena Board of Realtors, stated he would be in favor of the ordinance.

Discussion

Commissioner O'Loughlin asked Director Haugen to expand staff's decision on height restrictions within the B2 district, and what staff's recommendation would be regarding an amendment tonight to allow for the height restriction to be raised to 75 feet; and to also clarify the process for moving outside the parameters of a zoning ordinance, would this require a variance or CUP. Director Haugen stated it would be a variance to build higher than the zoning ordinance would allow. Director Haugen stated City Staff would not be opposed to raising the height restrictions, especially due to follow up comment in favor of the higher standard in the architectural and design community.

Commissioner Haladay asked Mr. Davis if he would speak to the other cities which are adopting these types of policies. Mr. Davis stated the City of Bozeman was allowed up to 70-feet to top of structure with an allowance of 4-5 feet for additional architectural structures, if needed. Mr. David stated variances would be a burdensome way of dealing with the allowance for additional building height.

Motion

Commissioner O'Loughlin moved to approve final passage of Ordinance No. 3278 increasing lot coverage in the R-1 (Residential) and R-2 (Residential) Zoning Districts; increasing maximum building height in the R-1 (Residential), R-2 (Residential), R-3 Residential, R-4 (Residential-Office), and B-2 (General Commercial) Zoning Districts; and eliminating minimum lot sizes for multiple dwelling units in the R-3, R-4/R-O Zoning Districts by amending Chapter 4 of Title 11 of the Helena City Code.

Commissioner Haladay seconded the motion.

Discussion

Commissioner Logan stated the concerns he had raised previously were related to the property owners who have owned homes in the area for decades and the zoning may allow structures of significant height to build adjacent to their property, however, it was clear with the public commentary received prior to and during the meeting tonight there was support for the Ordinance.

Amendment to Original Motion

Commissioner Haladay moved to amend the motion to increase the height to 75 feet in a B2 district. Commissioner O'Loughlin seconded the motion.

Discussion

Commissioner Haladay stated the purpose of the changes to the zoning ordinances was to remove regulatory encumbrances to the process for those who would like to build within these districts and adding the additional height would avoid forcing those interested in building having to apply for variances.

Vote on Amendment

Interim City Clerk Clayborn called a roll call vote, as follows: Commissioner Haladay voted aye, Commissioner Dean voted aye, Commissioner Logan voted aye, Commissioner O'Loughlin voted aye and Mayor Collins voted aye. The motion carried, 5 - 0.

Discussion

Commissioner Dean asked if “floating” height restrictions in some of the zoning districts. Director Haugen stated this was not part of previous discussions, and it could possibly involve administrative problems for implementation for this type of restriction.

Commissioner O’Loughlin stated she supported the ordinances and respected the feedback and support from public and City Staff, and this amendment was consistent with previous discussions about the development of the downtown district.

Commissioner Haladay stated the passage of these types of changes to zoning districts were being discussed throughout the country, in order to remove barriers to affordable housing for populations, and he was in support of the changes.

**Vote on
Motion as Amended**

Interim City Clerk Clayborn called a roll call vote, as follows: Commissioner Haladay voted aye, Commissioner Dean voted aye, Commissioner Logan voted aye, Commissioner O’Loughlin voted aye and Mayor Collins voted aye. The motion carried, 5 - 0. Ordinance 3278

- F. FINAL PASSAGE OF ORDINANCE NO. 3279 REVISING THE CONDITIONAL USE PERMIT (CUP) PROCESS BY AMENDING CHAPTER 3 OF TITLE 11 OF THE HELENA CITY CODE TO PROVIDE BETTER GUIDANCE FOR APPLICANTS AND DECISION MAKERS.

Staff Report

Community Development Director Haugen introduced City Planner Hillary Taylor who would report on this item. Ms. Taylor reported on December 16, 2019 the Helena City Commission held a public hearing on the proposed amendments to the Conditional Use Permit Chapter. No one from the public spoke regarding the proposed changes. The City Commission unanimously voted (4:0) to approve the Ordinance. Subsequent to the public hearings, City Planning Staff sent notice of the CUP Chapter changes to representatives of the architecture community, HBIA, and realtors in an effort to solicit public comment. Staff received two (2) comments in response which are included below. The two (2) comments received were regarding Section 11-3-8 (B) which indicates that a property’s CUP may be revoked if not used for its purpose for 30 continuous business days. Those expressing concerns included situations where a property may be vacant such as, time between rental/sale occupants, or maintenance situations. For clarification, the 30-day time frame only applies when a use is intentionally abandoned; time for remodeling, maintenance, or new owner/tenants does not indicate abandonment provided the same use is continued after the vacancy. Chapter 3 of Title 11 of the City Code contains language to guide the process for a Conditional Use Permit (CUP) including CUP limitations, application requirements, application review, the role of the Zoning and City Commissions, conditions of approval and cessation, or change of conditional uses. The Zoning Commission held three (3) work sessions to evaluate the current CUP Chapter for increasing language clarity and to better define the decision-making parameters. Other communities’ regulations, past CUP applications, and the current Helena review process were considered. On December 3, 2019 the Zoning Commission held a public hearing on revising the Conditional Use Permit Chapter and reviewed the proposed Ordinance. No members of the public spoke or submitted comments on the proposed changes. The Zoning Commission voted (5:0) to approve the Ordinance with one

additional amendment. Proposal/Objective: The amendments to Chapter 3 of Title 11 are identified in the attached Ordinance. Five (5) major areas impacted by the ordinance are: 1. CUP Review Standards. The review criteria language is changed from “significantly increase” or will not “significantly reduce or impair” to will not “adversely impact.” 2. CUP Impact Evaluation. The existing factors have been reorganized and clarified, as well as new factors have been added. A greater emphasis on impacts to adjacent properties and the larger neighborhood is a new focus. Clearer direction for considering public input is also included. 3. CUP Mitigating Conditions. Possible conditions of approval are enumerated in the chapter to provide more direction for the Zoning and City Commissions. Although additional conditions may be imposed depending on the impacts, this list is expected to be beneficial to the applicant and can help provide predictability in the process. 4. Changing Conditions. The fourth change is intended to fill a gap in the limitations to a CUP approval as it relates to changes in the site plan as a CUP is developed. It is important to have a process in place to be able to determine if a “material change” has occurred in a CUP. This change will allow staff to work with applicants to keep CUPs up to date. 5. CUP Revocation. The fifth substantive change to the ordinance comes in the section regarding the ability to revoke a CUP. The proposed Ordinance would include a new process with standards to revoke a CUP that is not in compliance with the approved conditions or has ceased to operate on the property. The proposed changes give the Zoning Commission and the City Commission the ability to vet CUP applications against a new standard of “adverse impacts” instead of “significantly increase,” and will help clarify the chapter by updating the language to match the new standards and factors. The proposed language more clearly relates back to the potential impacts on the adjacent neighborhoods.

Discussion

Commissioner Dean stated her concerns on this item were similar to the previous items, asking if this was an example of making revisions prior to the adoption of the 2019/2020 Growth policy update. Commissioner Dean asked if clarification was needed to the 30-day discontinuation of use given some of the public commentary received.

Ms. Taylor stated the 30-day time frame only applied when the use was intentionally abandoned, and in reference to the Growth Policy concerns expressed, the updates to the Growth Policy were taken into consideration when addressing the updates to the process for CUP.

Director Haugen stated this process was in answer to a much needed update to the CUP for both the public and the Commission, and Director Haugen concurred the updates were developed in conjunction to the Growth Policy updates.

Public Comment

Mayor Collins asked for public comment. None was received.

Motion

Commissioner O’Loughlin moved to approve Move to approve final passage of Ordinance No. 3279 revising the Conditional Use Permit process by amending Chapter 3 of Title 11 of the Helena City Code. Commissioner Haladay seconded the motion.

Discussion

Commissioner O’Loughlin stated she had not been looking at this particular item as it pertains to the Growth Policy Update and appreciated the questions in this regard. The Commissioner stated she felt previous CUP process had some challenges and this shifts the burden of the CUP process onto the applicant from staff and this made

sense, making for a cleaner and clearer process moving forward.

Vote

**Interim City Clerk Clayborn called a roll call vote, as follows: Commissioner Haladay voted aye, Commissioner Dean voted aye, Commissioner Logan voted aye, Commissioner O’Loughlin voted aye and Mayor Collins voted aye. The motion carried, 5-0
Ordinance 3279**

Public Hearings

PUBLIC HEARINGS

- A. CONSIDER FINAL PASSAGE OF AN ORDINANCE AMENDING THE HELENA CITY CODE TO ALLOW FOR THE DISCRETIONARY WAIVER OF CITY FEES ON AFFORDABLE HOUSING PROJECTS TO BE CONSTRUCTED IN THE CITY OF HELENA.

Staff Report

Community Development Director Sharon Haugen reported the Helena City Commission established as a priority the creation and/or rehabilitation of workforce housing into the Helena community and developed a housing strategy to address some of these issues. The consideration of the waiver or partial waiver of building-related fees is part of this affordable housing strategy. Other mechanisms such as zoning changes, establishment of a land trust, and surplus underutilized property are also actions being considered by the Commission. On December 9th, the Commission approved the first passage of a resolution that would allow the Commission to waive a portion or all of any fee imposed by the City for an affordable housing project. During the December 9th meeting, representatives of two local nonprofits testified as to the advantage the fee waiver would have to their affordable housing projects. Jacob Kunz and Greg Wirth, representing Habitat for Humanity, stated the waiver of all or a portion of the fees would allow Habitat to spend limited resources on more materials. Andrew Chanania, representing RMDC, discussed that waiver of fees from the City makes local projects more competitive. The fee waiver will assist in keeping the per-unit costs lower to satisfy the funding agencies. The City has limited resources to support affordable housing, and the waiver program outlined in this ordinance will provide the opportunity to assist in addressing the problem of housing affordability. Proposal/Objective: The purpose of this ordinance is to establish a mechanism for the City of Helena to provide an incentive for affordable housing units within the City. The mechanism being proposed is the waiver of building related fees. Advantage: Cost reductions in any form (fee waivers being one of them) can help projects more than additional capital. Many developers are running into a problem with the per-unit cost limit. When the developer exceed the per-unit cost limit on a project, the developer gets penalized with the next competitive 9% tax credit project. This might even have an impact for other projects proposed in the City. The assistance provided by the City for affordable housing also meets the housing goals identified in the Growth Policy. Notable Energy Impact: None identified Disadvantage: The waiver or partial waiver of building related fees will cause a decrease in revenue for the building division. The City Commission will balance the benefit of a fee waiver with the other factors the Commission deems relevant. The loss to the Building Division and possible other Departments will be offset by the community benefit associated with the projects by providing the affordable housing.

City Staff recommended the approval of final passage of an Ordinance amending the Helena City Code to allow for the discretionary waiver of City fees on affordable housing projects to be constructed in the City of Helena.

Discussion

Commissioner Haladay asked Director Haugen to speak to the concerns raised regarding the adoption of this fee waiver tonight. Director Haugen stated there were valid concerns regarding changes to the Average Minimum Income (AMI) required, and there would be potential for a loss of revenue to the City given the size and scope of the project allowed to be eligible for this fee waiver.

Commissioner O'Loughlin asked what the City's mechanism would be for applying the 60% AMI. Director Haugen stated, as written, 100% of units would need to meet the 60% AMI in order to qualify.

Public Testimony

Mayor Collins declared the public portion of the hearing open and called for any public testimony on this item.

Michael O'Neill, Executive Director of Helena Housing Authority, and spoke in favor of the fee waiver. Mr. O'Neill stated the waiver of fees would be a benefit to so many projects which serve to offer affordable housing and clarifying the language which speaks to new construction vs. preservation of existing would also allow for further options in order to address the affordable housing shortage. Mr. O'Neill also encouraged the Commission to consider the 80%, since many other the groups which seek to provide affordable housing have adopted the 80% standard.

Jacob Kuntz, Exec Director Habitat for Humanity, stated the vast majority of the families served by Habitat fall into 60% or below, however, recently the group has adopted the changes to reach the 80% threshold. The group was also working to provide repairs to homes to make the homes sustainable. Mr. Kuntz stated the increase to the AMI for the projects would be helpful and this allow for further service to others who can't quite meet the 60% standard.

Liz Mogstad, Exec Director of Housing for Rocky Mountain Development Council, spoke in favor of the fee waivers. Ms. Mogstad echoed the remarks of the others, but also spoke to the Economic advantages locally.

Mariah Ramirez, Community Impact of the United Way, spoke in favor of the fee waiver.

Katie Loveland, 1507 E Broadway St, spoke in favor of the fee waivers.

Jaqueline Isley, Lewis and Clark Public Health, spoke in favor of the fee waivers, and an increase of the AMI to a threshold of 80%.

Greg Wirth, spoke as Board Chair of Habitat for Humanity, spoke in favor of the Ordinance, and the increase of the AMI threshold to 80%.

William Galen, Helena Association of Realtors, spoke in favor of the Ordinance.

Discussion

Commissioner O'Loughlin asked Ms. Mogstead to speak to the Red Alder project, as to how many units were in the project and what the average AMI was of the project. Ms. Mogstead stated the project consisted of 85 units, and the Project consisted of a variety of AMI thresholds. Commissioner O'Loughlin asked Mr. Kuntz to speak to the same type of issues, as Ms. Mogstead spoke to. Mr. Kuntz stated there were difficulties in the process of combining many different funding sources and revenue donations made the process difficult. Mr. Kuntz

stated different models were being utilized to service the populations, including a land trust model.

Commissioner O'Loughlin stated she appreciated the Commission for considering this ordinance this evening and thanked the City Staff for work providing yet another resource in response to the need of affordable housing. The Commissioner stated in respect to the requests for the increase of the AMI from 60% to 80% was something to consider at a later date, but was comfortable passing as written this evening.

Motion

Commissioner Haladay to approve final passage of an Ordinance amending the Helena City Code to allow for the discretionary waiver of City fees on affordable housing projects to be constructed in the City of Helena. Commissioner Dean seconded the motion. Interim City Clerk Clayborn called a roll call vote, as follows: Commissioner Haladay voted aye, Commissioner Dean voted aye, Commissioner Logan voted aye, Commissioner O'Loughlin voted aye and Mayor Collins voted aye. **The motion carried, 5-0.**
Ordinance 3277

Public Communications

PUBLIC COMMUNICATIONS

Kyle Mackert spoke to the Commission about the lack of affordable housing, and the homeless issue in the Helena area. Mr. Mackert stated these are multiple issues which face those who have felony backgrounds.

Mary Williams, 1717 Euclid Ave, thanked the Com

Brienne Harrington, owner Painted Pot, thanked the Commission and the City Manager for their efforts,

Sabrina Harding, spoke in favor of the Commission and the City Manager's efforts.

Nick Wilder, thanked the Commission and spoke in favor of the Parking Meter changes.

Adjournment

There being no further business to come before the City Commission, the meeting adjourned at 8:27 p.m.

Meetings of Interest MEETINGS OF INTEREST

Administrative Meeting – January 22, 2020 – 4:00 p.m. – Room 326, City-County Building

Regular City Commission Meeting – January 27, 2020 - 5:00 p.m. - Commission Chambers, City-County Building

MAYOR

ATTEST:

CLERK OF THE CITY COMMISSION