

HCC Discussion Summary

DATE: October 22, 2003

TOPIC: Clark Street Zoning Request

Proposed land-use zone change for multiple properties including five existing single-family dwellings and one undeveloped lot from Public Lands and Institutions (PLI) to Single-Family Residential (R-2). Adjacent landowners are concerned that development of additional dwellings would adversely affect the integrity of the neighborhood and/or remove existing trail access to Mt. Helena. Many believe the undeveloped lot should be purchased by the city for open space. Helena Zoning Commission and city planning staff recommended approval for zone change. City Commission table issue until further notice.

SUMMARY: HCC members present believed there were no compelling reasons to deny the zone change. However, HCC expressed a preference for affected parties to continue to work together to seek a compromise before approaching the Commission for final action. To date, HCC believes the public involvement and decision-making process on Clark Street has been fair and equitable.

HCC discussed issues involved with zoning requests: (1) property rights, (2) public involvement, and (3) powers of the Commission.

- **Property Rights:** Those who own property may develop their land as allowed under existing zoning ordinances. Property owners have the right to request a change in zoning status following a public hearing process. However, property owners are not guaranteed their desired outcome. The Commission must consider public comments and other information such as the 2001 Helena Growth Policy and the 2003 Helena Open Space Plan when determining the fair application of facts.
- **Public Involvement:** The Helena City Codes at Title 11 - Zoning has public notice requirements that allow for interested parties to submit oral and/or written comments regarding zoning requests before either the Helena Zoning Commission or the City Commission.
- **Powers of the Commission:** City Charter affords Commissioners the power to make decisions, taking into consideration rights of property owners, public comments, and recommendations from appointed boards. The Commission shall adhere to existing regulations and policies and make every attempt to apply them fairly and equitably. Consistent application of regulations is necessary to avoid litigation against the City for any claims of personal property "takings", e.g. Timberline development.

DISCUSSION: City Commissioners are elected upon majority vote and are considered to represent the interests of the entire community. Citizens will always voice discontent at process and outcome. However, their remedy remains at the election polls; pursuing an elected office; direct interaction with affected parties; and/or if applicable, within the court system. Following input from interested persons, the Commission is presumed to make decisions to the benefit of the entire community based upon the fair application of facts.

Regarding Clark Street, the Commission may determine the undeveloped property best serves the general public as R-2 by creating opportunities for in-fill housing development, thus reducing urban sprawl. A zone change may also assist the community by adding to the tax-base. This action would be consistent with the 2001 Helena Growth Policy and with past Commission approvals for rezoning.

Conversely, the Commission may determine the public is best served by leaving the undeveloped land as PLI to allow for recreation and public service activities, or acquisition and creation of additional open space consistent with the 2003 Helena Open Space Plan.

Irrespective of Commission action on Clark Street, Commissioners are encouraged to disclose their rationale for decision-making. This procedure will provide the public with an understanding of how community interests are being served on a reasonable and consistent basis.