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STAFF REPORT

CITY OF HELENA PLANNING DIVISION
316 North Park Avenue
Helena, Montana 59632

DATE: May 11th 2021
File: Conditional Use Permit
Telephone: (406) 447-8492

TO: City of Helena Zoning Commission

FROM: Michael McConnell, City Planning

SUBJECT: **Consider a Resolution for a Conditional Use Permit per Section 11-2-3 of City Code to allow a Sexually Oriented Business in the Commercial Light Manufacturing (CLM) zoning district.**

OVERVIEW

GENERAL INFORMATION

DATE OF APPLICATION: April 1, 2021

PUBLIC HEARING DATES:

Zoning Commission --	6:00 P.M. Tuesday, May 11, 2021
City Commission --	6:00 P.M. Monday, June 21, 2021

PUBLIC NOTICE:

Legal notice has been published in the Independent Record; and letters have been sent to adjacent property owners.

PUBLIC COMMENT:

1. As of Wednesday, May 4, 2021, 5 comments were received. Community comments for this application are included as exhibit 1 of the application regarding this proposed CUP. There are 3 that reference opposition based on morals, one on perceived devaluing of property and 1 expressing indifference.

APPLICANT: Don Hanson
ADDRESS: 1523 Grizzly Gulch Drive
EMAIL: dnhnsn@msn.com

PROPERTY OWNER: Blake Creek Enterprises LLC
ADDRESS: PO Box 7325, Helena, 59604
EMAIL: None listed

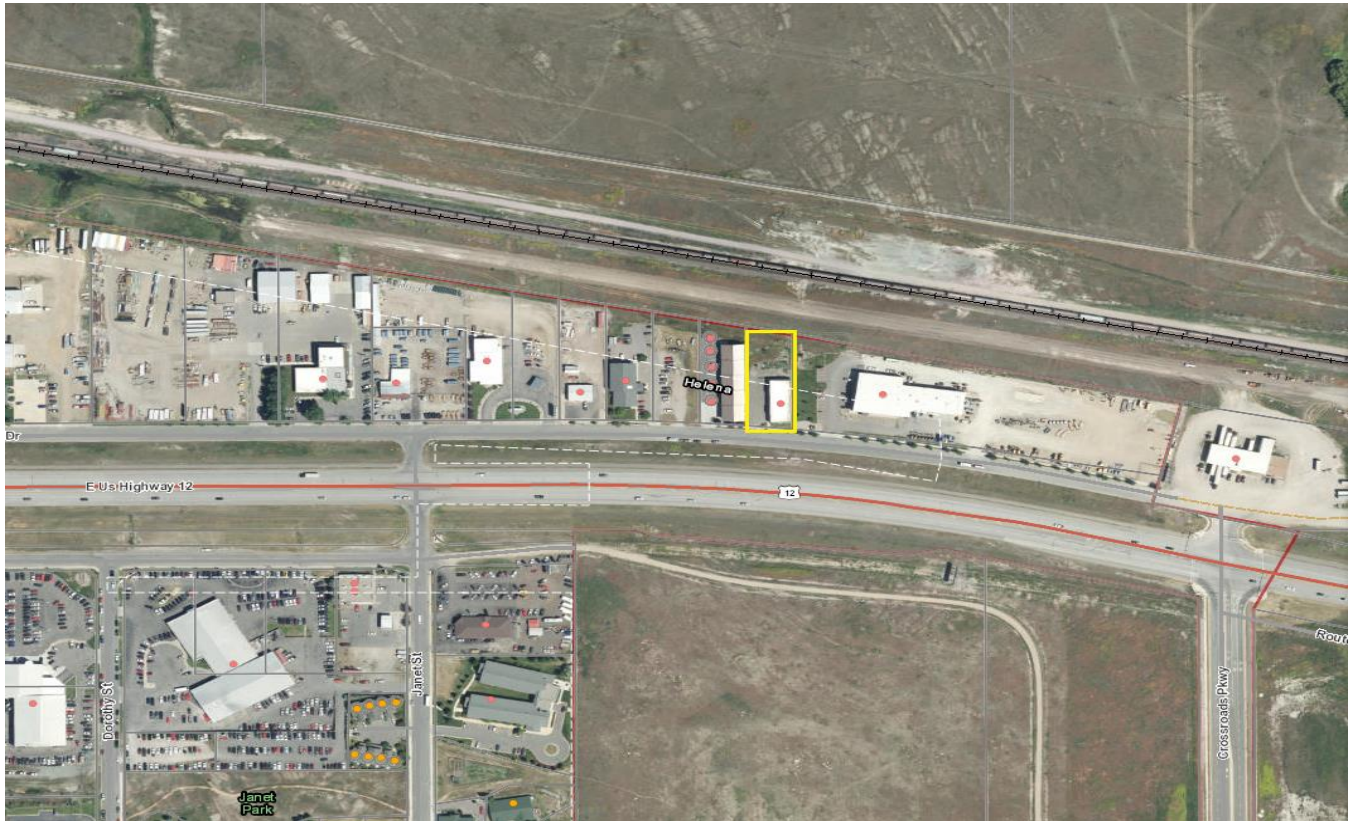
SUBJECT PROPERTY ADDRESS: 3540 Centennial Drive, Helena, MT 59601

LEGAL DESCRIPTION:
County, Montana.

Lot 14 Block 6 of the Intercity Commercial Sub of Lewis & Clark

GENERAL LOCATION: The property is generally located 750 feet east of the intersection of Janet Street and Centennial Drive.

Vicinity map:



DESCRIPTION / BACKGROUND

The applicant/property owner is seeking to obtain a Conditional Use Permit (CUP) to allow a sexually oriented business use in the CLM (Commercial Light Manufacturing) zoning district.

ZONING USE DEFINITIONS:

The CLM (Commercial Light Manufacturing) District provides for the community's commercial and light manufacturing needs. These uses generally need access to the City's transportation amenities and should be located to reduce adverse impacts upon residential neighborhoods in the City.

GENERAL RETAIL SALES: The retail sale of a diverse product line of consumer goods and products.

SEXUALLY ORIENTED BUSINESS: A business that primarily offers goods, services, and entertainment for compensation that appeal to the prurient interest of adults, including escort agencies, nude modeling studios, sexual encounter centers, and related services.

PRESENT LAND USE: The property is currently occupied by fitness studio.

ADJACENT LAND USE:

North: Railroad
South: Industrial
East: Industrial
West: Industrial

PRESENT ZONING:

CLM (Commercial Light Manufacturing) Zoning

ADJACENT ZONING:

North: Lewis & Clark County – No Zoning

South: CLM (Commercial Light Manufacturing)

East: CLM (Commercial Light Manufacturing)

West: CLM (Commercial Light Manufacturing)

RECOMMENDATION

Staff recommends Conditional **Approval** of a Resolution granting a conditional use permit to allow sexually oriented business use in the CLM (Commercial Light Manufacturing) District for a property with a legal description of Lot 4, Block 6 Intercity Commercial Sub, of the City of Helena, according to the official map or plat on file and of record in the office of the County Clerk and Recorder of Lewis and Clark County, Montana, with an address of 3540 Centennial Drive, Helena, MT 59601.

Condition #1: Strip all parking spaces within the existing paved area Including a van accessible ADA space.

Condition #2: No future expansion of use or structure will be allowed as part of this permit.

REVIEW CRITERIA FOR THE CONDITIONAL USE

Section 11-3-4 of the Helena Zoning Ordinance includes certain criteria that must be reviewed as part of the conditional use permit procedure.

A. A conditional use permit may be granted by the city commission only upon a finding, supported by substantial credible evidence in the record that the following standards are met:

1. The proposed conditional use, as conditioned, will not adversely impact the public health, safety, or general welfare.
2. The proposed conditional use will not adversely impact or impair the peaceful use of existing property or improvements in the vicinity and the zoning district in which the subject property is located.

B. In considering whether sections 11-3-4(A1) and (A2) of this chapter have been met, the following factors must be considered in determining the impacts of the proposed conditional use on the abutting properties and the neighborhood:

1. Location, character, and natural features of the subject property as it currently exists.
2. Type and size of the proposed structure and improvements and their relative location on the subject property.
3. Historical uses, established use patterns, and recent changes and trends in the neighborhood.
4. Conformity of the proposed use with the neighborhood plan, if one has been adopted.
5. Current and proposed pedestrian, vehicular, and bicycle traffic including ingress and egress, circulation and parking.
6. Whether the use is consistent with the Helena Climate Change Action Plan.
7. Whether the proposal meets the zoning dimensional standards requirements for the zoning

- district without the need for a variance.
8. Hours of operation.
 9. Noise.
 10. Glare.
 11. Odor.
 12. Expressed public opinion related to factors identified above.

C. The above factors are weighed and evaluated depending on the circumstances of each case. Any one factor may be sufficient to find adverse impacts for the purposes of Section 11-3-4A1 and A2 justifying denial of the permit or placement of special conditions.

EVALUATION

The subject property is located at 3540 Centennial Drive in the southeast quadrant of Helena, approximately 700 feet east of the intersection of Janet Street and Centennial Drive. The property is generally flat and slopes down on the northern end of the lot. There is one 2,500 square foot structure located on the lot which formerly was home to an exercise studio; the applicant does not propose to alter the existing structure and the structure meets all the setbacks and other requirements in the CLM zone district. In addition to the thirteen (13) onsite parking spots, there is room for three (3) on street spaces as well as one (1) ADA space (Exhibit 4 & 5). As a condition of approval staff is recommending the applicant strip parking spaces located within the existing paved area including marking of the ADA space consistent with current ADA regulations (**Condition #1**). There is a loading area on the northern side of the building (Exhibit 2 & 5).

Centennial Drive is a two lane multi directional right of way with sidewalks on the northern side only. Pedestrian and vehicular access to the site will remain the same (Exhibit 7). Solid waste service will remain and be picked up in the rear of the lot (Exhibit 3 & 6). Based on the square footage of the structure the use is estimated to produce approximately 125 vehicle trips per day and will not require a traffic study as part of this application. The applicant is projecting 40-50 trips per day based on customer trips at other stores around the state.

There currently isn't a neighborhood plan adopted for this area. The use appears to be consistent with the Climate Change Action Plan

The proposed use as a sexually oriented business is not expected to generate any additional noise, odor, or glare as the existing structure, lighting fixtures, windows or treatments and landscaping are not expected to change with the new use. To avoid any future impacts from new structures or additions on site this conditional use permit will be confined to the existing structure only, with no expansions allowed (**Condition #2**). With the nature of the exercise studio that occupies the space currently it can be assumed that the noise level will drop as the studio on occasion operated outside the structure.

The applicant is proposing two signs that would total 200 square feet on the building and 200 square feet on a pole (Exhibit 8). These limits are well below the 300 square feet that would be allowed in the CLM (Commercial Light Manufacturing) zone district. Both signs will be subject to separate sign permit processes. The applicant is also not planning on any changes to the lighting on site. Any changes in the future will require permitting through the City Building department and will comply with any lighting ordinances in force at the time of permit.

The applicant will be adjusting hours of operation based on sales and demand but is going to begin operations with hours of 10a.m. to 10p.m. 7 days per week. Given the nature of the immediate area on the section of Centennial Drive between Janet Street and Crossroads Parkway, this use is not expected to cause any additional impacts.

CONCLUSION

1. As proposed the conditional use will not adversely impact the public health, safety, or general welfare.
2. As proposed the conditional use will not adversely impact or impair the peaceful use of existing property or improvements in the vicinity and the zoning district in which the subject property is located.

