

# GALLATIN COUNTY

## STAFF REPORT REGULAR AGENDA

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**To:** Gallatin County Commission

**From:** Sean O'Callaghan, AICP, Director  
Department of Planning & Community Development

**Subject:** Request by Hall/Spire Climbing Center for a Conditional Use Permit to Expand an Existing Health and Exercise Establishment in the Residential Office (RO) District

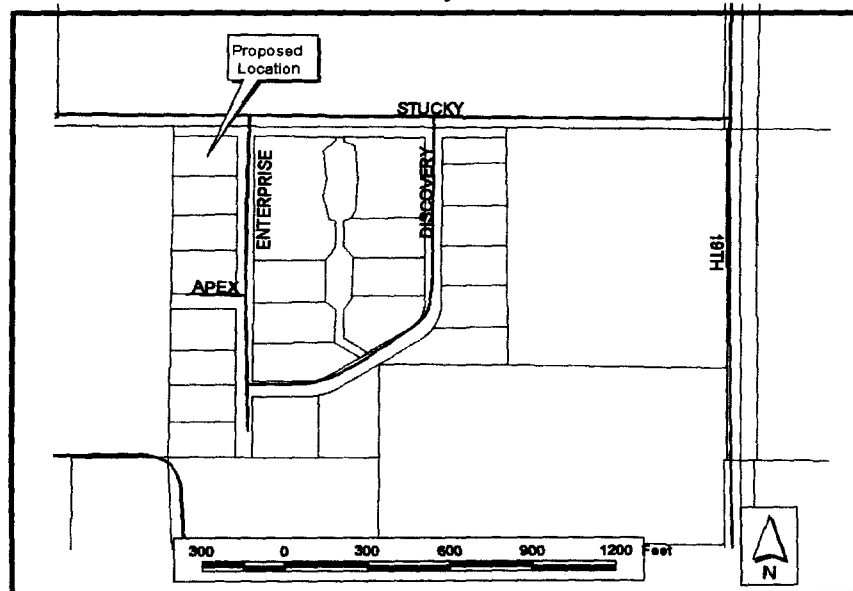
**Hearing Date:** August 27, 2013 9:00 AM

**Location:** Courthouse Community Room  
311 West Main, Bozeman

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Margaret Hall, of Spire Climbing Center, has requested a conditional use permit (CUP) to allow expansion of an indoor climbing facility (health and exercise establishment) of 10,000 square feet in the Residential-Office (R-O) District of the Gallatin County/Bozeman Area (GCBA) Zoning District. The applicant received a CUP and building-height variance on December 23, 2003 and another CUP on May 17, 2006 to facilitate a modest expansion.

The proposed location for the facility is lots 18 and 19 of Genesis Business Park, which combined are approximately 1.64 acres, located in the Northeast One-Quarter (NE $\frac{1}{4}$ ) of Section 23, Township Two South (T2S), Range Five East (R5E), P.M.M., Gallatin County, Montana. The property is generally located at 13 Enterprise Blvd., approximately  $\frac{1}{2}$  mile west of intersection of 19<sup>th</sup> Avenue and Stucky Road.



## STAFF FINDINGS:

1. **Issue.** In order to expand the indoor climbing facility already in use on property, the applicant must obtain a CUP. Applicant is seeking to purchase Lot 19 of the Genesis Business Park and expand the existing structure by approximately 10,000 square feet. Because Health and Exercise Establishments are a conditional use, the expansion of the facility is subject to a Conditional Use Permit. (**Note:** Concurrent with this application, the applicant is seeking a variance in order to exceed the maximum building height. The variance was considered by the Board of Adjustment on August 20 and approved with a 4:1 vote.)
2. **Adjacent Land Uses.** The properties to the east and south are also located in Genesis Business Park and zoned R-O. Oracle (Right Now Technologies) is located east of the site. Lot 20 to the south is vacant. The properties to the west and north are zoned Agriculture Suburban (AS) and are currently being used as agriculture.
3. **Topography.** The site is mostly flat.
4. **Access.** Access to the applicant's property is provided by Enterprise Drive via Stucky Road.
5. **Fire District.** The applicant's property is located within the Sourdough Rural Fire District. The application was forwarded to the fire district; however, as of the publication of this report no comments have been received.
6. **Gallatin County/Bozeman Area Zoning Regulation**
  - **Intent.** Section 26.010 describes the intent of the R-O District:

*...the intent of the R-O residential office district is to provide for and encourage the development of professional offices, business headquarters, and compatible multifamily and apartment development that would blend well with adjacent land uses.*
  - **CUP.** Health and exercise establishments were added as a conditional use in the R-O District (Section 26.020) on May 6, 2003, via Commission Resolution 2003-049.
  - **Definition.** *Health and exercise establishments* are defined as follows (Section 4.810):

*Health and exercise establishments means an establishment designed and equipped for the conduct of sports, exercise activities, and other customary and usual recreational activities, including tennis, racquetball, handball and squash courts, weight and aerobic exercise rooms, running facilities, swimming pools, and whirlpool and sauna facilities. Permitted accessory uses shall include child care, sun tanning booths, massage, health and nutrition counseling services, retail sales of sporting goods, and restaurant services.*

7. **Zoning Development Standards.** As shown on the submitted site plan, all new construction will need to meet the applicable requirements of the Gallatin County / Bozeman Area Zoning Regulation (“Zoning Regulation”), including but not limited to verification of setbacks, parking, landscaping, lighting, and grading. Concurrent with this application, the applicant is seeking a variance in order to exceed the maximum building height. The variance will be considered by the Board of Adjustment on August 20 at 4:00 p.m. If the CUP and variance are approved, the applicant will prepare final plans for review with the Land Use Permit application.

- **Parking.** The additional square footage being added to the existing climbing gym requires additional parking improvements in accordance with Section 47 of the Zoning Regulation. The applicant will be required to provide a total of 66 parking spaces and has provided a preliminary parking plan as part of the application submittal. A final parking plan will be required with the Land Use Permit application.
- **Landscaping.** The applicant has prepared a preliminary landscaping plan to illustrate how the landscaping requirements of Section 46 of the Zoning Regulation will be satisfied. A final landscaping plan will be required with the Land Use Permit application.

8. **Conditional Use Permits**

Section 53.010 of the Zoning Regulation sets forth the following guidelines for issuing a CUP:

*Certain uses, while generally not suitable in a particular zoning classification, may, under certain circumstances, be acceptable. When such circumstances exist, a conditional use permit may be granted by the Commission. Conditions may be applied to the issuance of the permit and periodic review may be required. The permit shall be granted for a particular use and not for a particular person or firm...*

In approving a CUP, the Commission shall find as follows (Section 53.030A):

- A. The site for the proposed use is adequate in size and, topography to accommodate such use, and all yards, spaces, walls and fences, parking, loading and landscaping are adequate to properly relate such use with the land uses in the vicinity;*

**Staff Comment:** The applicant is working to purchase Lot 19, which is immediately south of the existing facility. With both lots taken together, the total footprint of the expanded facility will cover less than 17% of the lot area. Other than the height variance being requested concurrent with this CUP application, the project will meet all other applicable design standards specified by the Zoning Regulation. Compliance with these standards will be verified as part of the Land Use Permit application review. See additional comments included in Applicant’s submittal.

*B. That the site for the proposed use relates to streets and highways adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed use;*

**Staff Comment:** Access to the site is provided via Enterprise Drive, which is just south of Stucky Rd, a County road. Other businesses in the business park gain access off of Enterprise Drive.

*C. That the proposed use will have no adverse effect on the abutting property;*

**Staff Comment:** The application states: "With the appropriate architectural design, parking, open space, and landscaping, the 10,000 sq. ft. addition to Spire will neither disrupt adjacent businesses nor the overall aesthetics of Genesis Park. In fact professionals at these businesses will have access to an improved fitness center that they can walk to during the day or after work.

In addition, the facility will not impact agricultural land located to the west and across Stucky Road to the north."

*D. That the conditional use has complied with all conditions stipulated in Sections 46, 47, and 50;*

**Staff Comment:** The Applicant has provided preliminary parking and landscaping plans which appear to meet the minimum requirements of the Zoning Regulation. Review of the final plans will take place as part of the Land Use Permit review process.

*E. That any additional conditions stated in the approval are deemed necessary to protect the public health, safety, and general welfare. Such conditions may include, but are not limited to:*

- i. Regulation of use,*
- ii. Special yards, spaces, and buffers,*
- iii. Special fences, solid fences, and walls,*
- iv. Surfacing of parking areas,*
- v. Requiring street, service road or alley dedications and improvements or appropriate bonds,*
- vi. Regulation of points of vehicular ingress and egress,*
- vii. Regulation of signs,*
- viii. Requiring maintenance of the grounds,*
- ix. Regulation of noise, vibrations, odors,*
- x. Regulation of hours for certain activities,*
- xi. Time period within which the proposed use shall be developed,*
- xii. Duration of use,*
- xiii. Requiring the dedication of access rights,*
- xiv. Other such conditions as will make possible the development of the zoning jurisdiction in an orderly and efficient manner.*

**Staff Comment:** Should the County Commission find that additional mitigation or conditions are required pursuant to the above language, such conditions may be added as part of the hearing process

9. **General Conditions.** The Commission shall, in addition to all other conditions, impose the following general conditions upon every conditional use permit granted (Section 53.030.B):
- a. *That the right to a use and occupancy permit shall be contingent upon the fulfillment of all general and special conditions imposed by the conditional use permit procedure;*
  - b. *That all of the special conditions shall constitute restrictions running with the land use, shall be binding upon the owner of the land, his successors or assigns, and shall be recorded as such with the Gallatin County Clerk and Recorder's Office by the property owner prior to the issuance of any building permits, final site plan approval or commencement of the conditional use;*
  - c. *That all conditions specifically stated under any conditional use listed in this title shall apply and be adhered to by the owner of the land, successors or assigns;*
  - d. *That all of the special conditions shall be consented to in writing by the applicant.*

**Staff Comment:** No special conditions are proposed by staff to be attached to this CUP, thus no recording of conditions as suggested by *b* above is necessary. Should the County Commission find that additional mitigation or conditions are required pursuant to the above language, such conditions may be added as part of the hearing process and will need to be recorded as required by *b* above.

10. **Notice.** Notice of this public hearing was sent to adjacent property owners via certified mail, and published in the *Bozeman Daily Chronicle* on July 28 & August 4, 2013. As specified in the Regulation, notice was posted on the site in at least one conspicuous location and in one other location in the vicinity. Several written comments are attached; please see Exhibits A-R.
11. **Planning Board Recommendation.** The Gallatin County Planning Board considered the CUP request on August 13, 2013. The Board voted unanimously (6:0) to recommend approval of the CUP. The Planning Board's written recommendation is attached as Exhibit 1.

**STAFF SUGGESTED ACTION:**

**After hearing and considering all public testimony, the County Commission needs to make a determination as to whether or not the proposed conditional use permit meets the criteria of Section 53.030A (staff finding #8) of the Gallatin County/Bozeman Area Zoning Regulation.**

**If the County Commission finds the application meets the relevant criteria and wishes to recommend the County Commission approve the Conditional Use Permit, the following conditions of approval are suggested:**

1. According to Section 53.030.B of the Regulation, the Commission shall, in addition to all other conditions, impose the following general conditions upon every conditional use permit granted:
  - a. *That the right to a use and occupancy permit shall be contingent upon the fulfillment of all general and special conditions imposed by the conditional use permit procedure;*
  - b. *That all of the special conditions shall constitute restrictions running with the land use, shall be binding upon the owner of the land, his successors or assigns, and shall be recorded as such with the Gallatin County Clerk and Recorder's Office by the property owner prior to the issuance of any building permits, final site plan approval or commencement of the conditional use;*
  - c. *That all conditions specifically stated under any conditional use listed in this title shall apply and be adhered to by the owner of the land, successors or assigns;*
  - d. *That all of the special conditions shall be consented to in writing by the applicant.*
2. Prior to commencing construction on the project the applicant shall obtain a land use permit from the County as well as all required building permits from the State of Montana Building Codes Bureau.
3. The conditional use permit shall not be considered valid until all conditions of approval have been satisfied and documentation submitted to the Planning Department.

Exhibits:

1. Planning Board Recommendation  
A-R – Public Comment

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**BEFORE THE  
GALLATIN COUNTY PLANNING BOARD  
GALLATIN COUNTY, MONTANA**

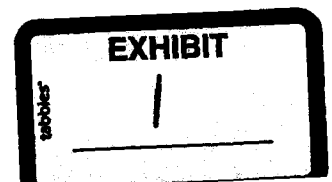
<b>IN THE MATTER OF THE APPLICATION OF MARGARERT HALL, ON BEEHALF OF SPIRE CLIMBING CENTER, FOR A CONDITIONAL USE PERMIT TO ALLOW EXPANSION OF AN EXISTING HEALTH AND EXERCISE ESTABLISHMENT</b>	<b><u>FINDINGS OF FACT</u> <u>CONCLUSIONS OF</u> <u>LAW AND RECOMMENDATION</u></b>
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PURSUANT to the Gallatin County/Bozeman Area Zoning Regulations (adopted July 27, 1999 and amended thereafter), after notice given, a public hearing was held before the Gallatin County Planning Board (Planning Board, at the Gallatin County Courthouse, 311 W. Main Street, Bozeman, Montana, on August 13, 2013, beginning at approximately 6:00 p.m., to consider a request for a Conditional Use Permit (CUP) submitted by Margaret Hall, on behalf of Spire Climbing Center, to allow an approximately 10,000 square foot expansion to an existing "health and exercise establishment" (the Spire Climbing Center) located within the Residential-Office (R-O) District of the Gallatin County/Bozeman Area Zoning District

The following is the record upon which the Planning Board based its recommendation for this CUP request:

1. The Staff Report of County Planner, Sean O'Callaghan; (*Staff Report*);
2. Applicants' complete submittal (*Application*);
3. Written comments from the public entered into the record as Exhibits A-Q (*Public Comment*);
4. The audio recording of the August 13, 2013 Planning Board hearing on this application, time stamped 6:51:04 p.m. to 7:10:05 p.m. (*Hearing Record*).

The Planning Board having allowed the opportunity for testimony and public input considering the same, being fully advised of all matters presented to it regarding this matter, make the following:



## I. FINDINGS OF FACT

A. The Planning Board adopted the following from the Staff Report as part of its Findings of Fact:

1. **Subject Property.** The proposed location for the facility is lots 18 and 19 of Genesis Business Park, which combined are approximately 1.64 acres, located in the Northeast One-Quarter (NE¼) of Section 23, Township Two South (T2S), Range Five East (R5E), P.M.M., Gallatin County, Montana. The property is generally located at 13 Enterprise Blvd., approximately ½ mile west of intersection of 19<sup>th</sup> Avenue and Stucky Road. The Subject Property is located in the Residential Office (R-O) District of the Gallatin County/Bozeman Area Zoning District.
2. **Request/Background.** Health and exercise establishments were added as a conditional use in the R-O District (Section 26.020) on May 6, 2003, via Commission Resolution 2003-049. The applicant received a CUP and building-height variance on December 23, 2003 and again on May 17, 2006. Applicant is seeking to purchase Lot 19 of the Genesis Business Park and expand the existing structure by approximately 10,000 square feet. Because Health and Exercise Establishments are a conditional use, the expansion of the facility is subject to a CUP. Concurrent with this CUP application, the applicant is seeking a variance in order to exceed the maximum building height. The variance application is within the jurisdiction of the Gallatin County Consolidated Board of Adjustment and is considered separately from the CUP application.
3. **Adjacent Land Uses.** The properties to the east and south are also located in Genesis Business Park and zoned R-O. Oracle (Right Now Technologies) is located east of the site. Lot 20 to the south is vacant. The properties to the west and north are zoned Agriculture Suburban (AS) and are currently being used as agriculture.
4. **Topography.** The subject site is mostly flat.
5. **Access.** Access to the Applicant's property is provided by Enterprise Drive via Stucky Road.
6. **Fire District.** The applicant's property is located within the Sourdough Rural Fire District. The application was forwarded to the fire district; however, the Fire District did not provide any comments.



7. **Notice.** Notice of the public hearing was sent to adjacent property owners via certified mail, published in the *Bozeman Daily Chronicle* on July 28 and August 4, 2013, and posted on-site and in one additional conspicuous location in the vicinity of the project.
- B. The Planning Board made additional Findings of Fact as set forth in the recorded Hearing Record.

## **II. CONCLUSIONS OF LAW**

- A. The Planning Board has jurisdiction to hear and make recommendations for Conditional Use Permits pursuant to Section 53.020(B) of the Gallatin County/Bozeman Area Zoning Regulations.
- B. The Planning Board sets forth the following portion of the relevant Zoning Regulations that it used for recommendation of this matter. Sections refer to the Gallatin County/Bozeman Area Zoning Regulations quoted or paraphrased.
1. **Residential-Office District (R-O) (Section 26.010 Intent).** It is the intent of the intent of the R-O residential office district to provide for and encourage the development of professional offices, business headquarters, and compatible multifamily and apartment development that would blend well with adjacent land uses.
  2. **Requirement for CUP (Section 26.020.B).** Health and exercise establishments were added as a conditional use in the R-O District on May 6, 2003, via Commission Resolution 2003-049.
  3. **Health and Exercise Establishment Definition (Section 4.810):** Health and exercise establishments means an establishment designed and equipped for the conduct of sports, exercise activities, and other customary and usual recreational activities, including tennis, racquetball, handball and squash courts, weight and aerobic exercise rooms, running facilities, swimming pools, and whirlpool and sauna facilities. Permitted accessory uses shall include child care, sun tanning booths, massage, health and nutrition counseling services, retail sales of sporting goods, and restaurant services.

4. **Zoning Development Standards (Sections 46, 47, and 50).** All new construction will need to meet the applicable requirements of the Gallatin County / Bozeman Area Zoning Regulation ("Zoning Regulation"), including but not limited to verification of setbacks, parking, landscaping, lighting, and grading.

- In terms of parking requirements, the additional square footage being added to the existing climbing gym requires additional parking improvements in accordance with Section 47 of the Zoning Regulation. The applicant will be required to provide a total of 66 parking spaces and has prepared a preliminary parking plan as part of the Application consistent with those requirements. A final parking plan will be required with the Land Use Permit application.
- In terms of landscaping requirements, the applicant has prepared a preliminary landscaping plan to illustrate how the landscaping requirements of Section 46 of the Zoning Regulation will be satisfied. A final landscaping plan is a requirement of the Land Use Permit application.
- Concurrent with this application, the applicant is seeking a variance from the building-height limitations of the R-O District. The variance application is within the jurisdiction of the Gallatin County Consolidated Board of Adjustment.

5. **CUP Criteria (Section 53.030).** Section 53.010 of the Zoning Regulation states Certain uses, while generally not suitable in a particular zoning classification, may, under certain circumstances, be acceptable. When such circumstances exist, a conditional use permit may be granted by the Commission. Conditions may be applied to the issuance of the permit and periodic review may be required. The permit shall be granted for a particular use and not for a particular person or firm...

In approving a CUP, the Commission shall find as follows (Section 53.030A):

- A. *The site for the proposed use is adequate in size and, topography to accommodate such use, and all yards, spaces, walls and fences, parking, loading and landscaping are adequate to properly relate such use with the land uses in the vicinity;*
- B. *That the site for the proposed use relates to streets and highways adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed use;*
- C. *That the proposed use will have no adverse effect on the abutting property;*

- D. *That the conditional use has complied with all conditions stipulated in Sections 46, 47, and 50; and*
- E. *That any additional conditions stated in the approval are deemed necessary to protect the public health, safety, and general welfare. Such conditions may include, but are not limited to:*
  - i. *Regulation of use,*
  - ii. *Special yards, spaces, and buffers,*
  - iii. *Special fences, solid fences, and walls,*
  - iv. *Surfacing of parking areas,*
  - v. *Requiring street, service road or alley dedications and improvements or appropriate bonds,*
  - vi. *Regulation of points of vehicular ingress and egress,*
  - vii. *Regulation of signs,*
  - viii. *Requiring maintenance of the grounds,*
  - ix. *Regulation of noise, vibrations, odors,*
  - x. *Regulation of hours for certain activities,*
  - xi. *Time period within which the proposed use shall be developed,*
  - xii. *Duration of use,*
  - xiii. *Requiring the dedication of access rights,*
  - xiv. *Other such conditions as will make possible the development of the zoning jurisdiction in an orderly and efficient manner.*

6. **General Conditions (Section 53.030.B).** The Commission shall, in addition to all other conditions, impose the following general conditions upon every conditional use permit granted:

- a. That the right to a use and occupancy permit shall be contingent upon the fulfillment of all general and special conditions imposed by the conditional use permit procedure;
- b. That all of the special conditions shall constitute restrictions running with the land use, shall be binding upon the owner of the land, his successors or assigns, and shall be recorded as such with the Gallatin County Clerk and Recorder's Office by the property owner prior to the issuance of any building permits, final site plan approval or commencement of the conditional use;
- c. That all conditions specifically stated under any conditional use listed in this title shall apply and be adhered to by the owner of the land, successors or assigns;
- d. That all of the special conditions shall be consented to in writing by the applicant.

C. The Planning Board made additional Conclusions of Law as set forth in the recorded Hearing Record.

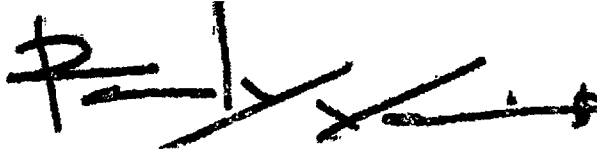
## RECOMMENDATION

After evaluating the record, the testimony of public, the Applicant and the Gallatin County Planning Staff, Board Member Amsden made a motion (7:06:56 p.m.) to recommend approval of the CUP to the Gallatin County Commission with the conditions suggested by Staff. Board Member Baker seconded said motion. Additional findings, conclusions and amendments to the motion were made between (7:07:15 p.m. and 7:09:46 p.m.). The motion passed unanimously upon a vote of 6 in the affirmative and 0 in the negative (7:09:48 AM).

THEREFORE IT IS NOW HEREBY RECOMMENDED by the Gallatin County Planning Board that the request to obtain a Conditional Use Permit to authorize the expansion of Spire Climbing Center, a health and exercise establishment located in the R-O District of the Gallatin County/Bozeman Area Zoning District, should be approved by the Gallatin County Commission with the following conditions of approval:

1. According to Section 53.030.B of the Regulation, the Commission shall, in addition to all other conditions, impose the following general conditions upon every conditional use permit granted:
  - a. *That the right to a use and occupancy permit shall be contingent upon the fulfillment of all general and special conditions imposed by the conditional use permit procedure;*
  - b. *That all of the special conditions shall constitute restrictions running with the land use, shall be binding upon the owner of the land, his successors or assigns, and shall be recorded as such with the Gallatin County Clerk and Recorder's Office by the property owner prior to the issuance of any building permits, final site plan approval or commencement of the conditional use;*
  - c. *That all conditions specifically stated under any conditional use listed in this title shall apply and be adhered to by the owner of the land, successors or assigns;*
  - d. *That all of the special conditions shall be consented to in writing by the applicant.*
  
2. Prior to commencing construction on the project the applicant shall obtain a land use permit from the County as well as all required building permits from the State of Montana Building Codes Bureau.

3. The conditional use permit shall not be considered valid until all conditions of approval have been satisfied and documentation submitted to the Planning Department.



Randy Visser, President  
Gallatin County Planning Board

8/16/2013

Date

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## **Index of Public Comments:**

- A. Ben Avery
- B. Deann Snyder
- C. Gabriella Pannell
- D. Grace Pannell
- E. Janet Pannell
- F. Britt Bodtker
- G. Thomas “Tommy” Bass
- H. James Ellwood
- I. Casey Smith
- J. Cole Janssen
- K. Denise A. Helin MD
- L. Holly Janssen
- M. Jack Harris
- N. Max Bechdel
- O. Tom & Peggy Olliff
- P. Aaron Hjelt, Touch the Sky
- Q. The Applicant’s submittal also included comments in support of the expansion from Jason Triantis of Oracle, Megan Stout of Coughlin, Henning, Brink & Berger LLP, and John P. Nesbitt of GNP Attorneys at Law
- R. Ted Lange