

FOR IMMEDIATE RELEASE

January 7, 2009

CONTACT: Heather Dawson, Hailey City Administrator
788-4221, ext. 18

HAILEY SOLICITS PUBLIC COMMENT ON RELOCATED AIRPORT GOVERNANCE

(Hailey, Idaho) – Mayor Rick Davis and the Hailey City Council will hold a public hearing on Monday, January 12, 2009 to solicit public comment on governance models for the relocated airport.

The City of Hailey and Blaine County are currently co-sponsors of the Friedman Memorial Airport, which lies fully within the city limits of Hailey. The proposed relocated airport is now undergoing the final phases of its site selection process for sites not within the city limits of Hailey. The Hailey City Council has previously held discussions about whether the new, relocated airport should be co-sponsored by Hailey, as such sponsorship may have higher liabilities than benefits for the citizens of Hailey. Information will be presented by Friedman Memorial Airport Authority representatives during a public hearing on January 12, 2009, and input will be sought from citizens relative to this discussion.

The mayor and council will also be seeking ideas from Hailey residents and businesses on potential governance models for the relocated airport. In the Blaine Regional Leadership Council meeting of December, the mayors of all cities within Blaine County discussed with County Commissioner Chair Tom Bowman that they would like city participation on the “Blue Ribbon Commission (BRC)” to include an elected official from each jurisdiction.

In a letter summarizing that meeting, county officials state that “the purpose of the BRC will be to make a recommendation to the Board of Blaine County Commissioners on a structure and composition of the governing board of the airport contemplated to replace Friedman Memorial Airport....It is anticipated that the BRC would hear presentations from experts about the different facets of building and operating a replacement airport within Blaine County, including local governance models of the past, examples of other successful boards, and additional topics they determine necessary.”

The first meeting of the BRC is scheduled later in January, and Hailey elected officials will take the opportunity during their City Council meeting on January 12 to take input, comments, and ideas from the public about these airport matters. The public hearing is scheduled to begin at 5:30 p.m. on January 12, 2009, in the Hailey City Council meeting room, and will be integral to Hailey’s representation in airport relocation governance matters.

Hailey City Council President Martha Burke, also the current Friedman Memorial Airport Authority Board President, was appointed as Hailey’s elected official representative to the Blue Ribbon Committee.

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AGENDA ITEM SUMMARY

DATE: 01-12-09

DEPARTMENT: Planning

DEPT. HEAD SIGNATURE: 

SUBJECT: Rimrock Cottages Phase I, Final Plat and Rimrock Phasing Agreement

AUTHORITY: ID Code _____ IAR _____ City Ordinance/Code _____
(IF APPLICABLE)

BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:

An application by Old Cutters, Inc. for final plat approval of Rimrock Cottages Phase I, Lot 4, Block 10, Old Cutters Subdivision, located at addresses 940 - 1030 Myrtle Street East. The plat would create 7 units for currently existing and/or under construction single dwelling cottages (townhouses). The parcel is within the General Residential (GR) district. The Hearing Examiner reviewed this application on November 7, 2008 and November 14, 2008 and recommended approval of the application with conditions.

Old Cutters Inc. is concurrently being considered for final plat approval of Phase I. They propose to construct the project in two phases. Section 3.3 of the Subdivision Ordinance allows for phasing of subdivision applications. The City Attorney and Planning Director have reviewed the Phasing Agreement.

The timeline for constructions needs to be discussed by the council and applicant and incorporated into the agreement.

FISCAL IMPACT / PROJECT FINANCIAL ANALYSIS: None

ACKNOWLEDGEMENT BY OTHER AFFECTED CITY DEPARTMENTS: (IF APPLICABLE)

- | | | |
|---|--|---|
| <input type="checkbox"/> City Administrator | <input type="checkbox"/> Library | <input type="checkbox"/> Safety Committee |
| <input checked="" type="checkbox"/> City Attorney | <input type="checkbox"/> Mayor | <input type="checkbox"/> Streets |
| <input type="checkbox"/> City Clerk | <input type="checkbox"/> Planning | <input type="checkbox"/> Treasurer |
| <input type="checkbox"/> Building | <input type="checkbox"/> Police | _____ |
| <input type="checkbox"/> Engineer | <input type="checkbox"/> Public Works, Parks | _____ |
| <input type="checkbox"/> Fire Dept. | <input type="checkbox"/> P & Z Commission | _____ |

RECOMMENDATION FROM APPLICABLE DEPARTMENT HEAD:

Review the phasing agreement, determine a timeline for construction to be incorporated into the agreement and move to approve.

ADMINISTRATIVE COMMENTS/APPROVAL:

City Administrator _____ Dept. Head Attend Meeting (circle one) Yes No

ACTION OF THE CITY COUNCIL:

Date _____

City Clerk _____

FOLLOW-UP:

*Ord./Res./Agmt./Order Originals: Record
Copies (all info.): _____
Instrument # _____

*Additional/Exceptional Originals to: _____
Copies (AIS only)

STAFF REPORT

TO: Hailey City Council
FROM: Mariel Platt, Planner *MP*
RE: Final Plat Townhouse Subdivision - Rimrock Cottages, Phase I
HEARING: January 12, 2009

Applicant: Old Cutters Inc.
Location: Lot 4, Block 10, Old Cutters Subdivision (940 Myrtle Street East)
Zoning: General Residential (GR)
Note: Staff analysis is in lighter type.

Notice

Notice for the public hearing was published in the Idaho Mountain Express and mailed to property owners within 300 feet, on December 24, 2008.

Application

Old Cutters, Inc., represented by Alpine Enterprises, Inc., has submitted an application for final Plat approval for the subdivision of Rimrock Cottages, Phase 1, into 7 townhouse sub-lots. The total land area of Lot 4, Block 10, is 40, 512 square feet. The cottages are shown on a portion of Lot 4, which is 21,780 square feet, to be known as Phase 1.

Section 3.4.1 of the Subdivision Ordinance allows for applications for platting townhouse units in existing or approved structures to be reviewed through the short plat procedure. In this procedure, the Hearing Examiner or Commission reviews the preliminary plat only. Upon approval, the applicant submits a final plat for Council approval.

Procedural History

The preliminary plat application was heard by the Hailey Hearing Examiner on November 7, 2008, and November 14, 2008 and approved with conditions.

Hailey Hearing Examiner Conditions of Preliminary Plat Approval

- a) **The applicant shall submit a phasing plan, prior to final plat application, including, but not limited to the following items:**
- **Number of sub-lots on each phase**
 - **Deadline for completion of each phase**

- Amenities to be constructed with each phase
- Infrastructure planned for completion with each phase

This condition has been met.

- b) **A phasing agreement shall be submitted prior to final plat application and shall incorporate the elements of the phasing plan. The phasing plan shall be reviewed and approved by the City Council prior to final plat approval.**

A portion of this condition has been met. The City Council should concurrently review the Phasing Agreement and approve, amend, or deny. The approval of this application is contingent on the approval of the Phasing Agreement.

- c) **The final plat shall eliminate plat notes 2 and 6, include plat notes 1, and 3-5 as stated on the approved preliminary plat, received on November 12, 2008, as follows:**

- 1) **Basis of Bearing is Idaho State Plane Coordinate System, NAD83(1992), Central Zone, at Grid, in US Survey Feet. Vertical Datum is NAV83.**
- 3) **Utility locations are based on field data and construction plane. Locations should be verified before any excavation.**
- 4) **The Current Zoning is GR.**
- 5) **All Owners shall have mutual reciprocal easements for existing water cable TV, sewage, telephone and electrical lines over, under and across their sub-lots for the repair, maintenance and replacement thereof subject to any restoration of the easement premises for any damage resulting from such repair or replacement.**

And add three (3) additional plat notes to the final plat:

- **The final plat shall include a note stating that the subdivision is subject to the recorded Party Wall Agreement and CC&R's, along with the instrument numbers thereof.**
- **The final plat shall include a note stating, sub-lots 3, 4, and 5 shall not install fences closer than five (5) feet from the south property line of Lot 4 and the five (5) foot fire access lane shall be maintained in a manner that ensures no pathway obstructions exist.**
- **The final plat shall include a note stating that the subdivision is subject to the Old Cutters Annexation Agreement recorded as Instrument No. 534733 and the Community Housing Agreement recorded as Instrument No. 559842, and the original Old Cutters Subdivision plat recorded as Instrument No. 553651, records of Blaine County, Idaho.**

This condition has been met.

- d) **All Fire Department and Building Department requirements shall be met. The following is a recommended condition of approval and is required for compliance with the IBC:**

- **The sub-lot line between sub-lot 1 and 2 shall be moved one (1) foot north.**
- **The south eave of cottage 1 shall be fire rated to one (1) hour construction.**
- **The western portion of the north sub-lot line of sub-lot 4 shall be moved at least one (1) foot north.**

- **The sub-lot line between sub-lot 6 and 7 shall be moved one (1) foot south.**
- **The north eave of cottage 6 shall be fire rated to one (1) hour construction.**

The sub-lot lines have been moved accordingly; however, the condition regarding the requirement for the cottage eaves to be built to one (1) hour fire-rated construction, shall be carried over.

- e) **All City infrastructure requirements shall be met as outlined in Section 5 of the Hailey Subdivision Ordinance. Detailed plans for all infrastructure to be installed or improved at or adjacent to the site shall be submitted for Department Head approval and shall meet City Standards where required.**

This condition has been met.

- f) **Issuance of permits for the construction of buildings within the proposed subdivision shall be subject to Section 2.9 of the Subdivision Ordinance, requiring certain improvements.**

This condition should be carried over.

- g) **All improvements and other requirements shall be completed and accepted, or surety provided pursuant to Sections 3.3.7 and 5.9.1 of the Subdivision Ordinance, prior to recordation of the final plat.**

This condition should be carried over.

- h) **The final plat must be submitted within one (1) calendar year from the date of approval of the preliminary plat, unless otherwise allowed for within a phasing agreement.**

This condition has been met.

- i) **Any subdivision inspection fees due shall be paid prior to recording the final plat.**

This condition should be carried over.

Department Head Comments

Life/safety: The five (5) foot wide access lane, located south of Lot 4 shall be labeled “emergency access” instead of “fire lane.” Plat note #3 shall reflect this change in language as well.

Water and Sewer: No comment was provided.

Engineering: No comment was provided.

Standards of Evaluation

4.3.5 Bulk Requirements. For other supplementary location and bulk regulations, see Article VII.

- a. **Minimum Lot size - six thousand (6,000) square feet except as follows:**
1. **Townhouse sub-lots shall have an aggregate density of no more than**

ten lots per acre.

Lot 4, Block 10 is a 40,512 square foot lot (0.93 acres) will, in accordance with this standard, accommodate nine (9) units. The Old Cutters Subdivision Preliminary and Final Plat Findings of Fact, signed by the Council on February 26, 2007 and August 13, 2007, allowed nine (9) units, platted by sub-lots, on Lot 4, Block 10, Old Cutters Subdivision. The Old Cutters Subdivision Findings state that there are to be seven (7) single townhouse or “cottage” units and one (1) duplex (two (2) units) on Lot 4. The two-unit duplex will be platted during Phase two (2), on the remainder of Lot 4.

The City Council shall review and approve the Phasing Agreement prior to or concurrently with approval of the final plat application.

b. Maximum Multi-Family Residential Density - One (1) dwelling unit for each one-tenth (1/10) of an acre.

Lot 4, Block 10 is a 40,512 square foot lot (0.93 acres) will, in accordance with this standard, accommodate nine (9) units. The Old Cutters Subdivision Preliminary and Final Plat Findings of Fact, signed by the Council on February 26, 2007 and August 13, 2007, allowed nine (9) units, platted by sub-lots, on Lot 4, Block 10, Old Cutters Subdivision. The Old Cutters Subdivision Findings state that there are to be seven (7) single townhouse or “cottage” units and one (1) duplex (two (2) units) on Lot 4. The two-unit duplex will be platted during Phase two (2), on the remainder of Lot 4.

c. Minimum Lot Width - fifty (50) feet except as follows:

1. Townhouse sub-lots shall conform to the standards established in the IFC.

Sub-lot widths are exempt from the 50 foot minimum standard; however, they shall conform to IFC standards. The Fire Department has reviewed this application and has no issue with the lot widths shown on the plat. The width of Lot 4 (Phase 1 and 2), is approximately 302 feet.

d. Maximum Building Height - thirty five (35) feet.

The applicant is hereby notified of this standard.

e. Minimum Front Yard Setback - twenty (20) feet.

The front yard setback measures twenty (20) feet from the northern (front) wall plane of sub-lots 1 and 7 to Myrtle Street. The eaves of the cottages residing on these two sub-lots extend into the twenty (20) foot front yard setback by two (2) feet. Eaves may extend into required setbacks by three (3) feet.

f. Minimum Side and Rear Yard Setback - ten (10) feet except as follows:

1. Townhouse Units shall be allowed zero setbacks from the lot lines created by a Townhouse Sub-Lot; and

The easterly side yard setback of Lot 4 cannot be determined until the building footprint for the duplex unit and the sub-lot lines are established on the remainder of Lot 4 (Phase 2). To the west, the side yard setback is ten (10) feet from west lot line to the cottages' west wall plane and eight (8) feet from the eaves. The rear setback is ten (10) feet from the rear lot line to the cottages' south wall and eight (8) feet from the eaves.

2. **The separation of the buildings containing Townhouse Units in a Townhouse Development parcel shall be not less than six (6) feet as measured between any wall or any projection of a building, including but not limited to eaves, cornices, canopies or other similar roof overhang features, pergolas, chimney chases, bay windows, decks, steps, wainscot, and utility meters; or the minimum distance required by the IBC and IFC, whichever is greater.**

The minimum separation, measured between cottage eaves, found within the development of the seven (7) cottages is eight (8) feet. Some cottages show greater separation.

The Building Department has reviewed the application and has determined that the separation between the seven (7) cottage units does not comply with the IBC. Separation between each cottage's deck eave or building eave must be at least five (5) feet from the sub-lot line, unless fire-rated construction of one (1) hour or more is used. The following is a condition of approval and is required for compliance with the IBC:

- The south eave of cottage 1 shall be fire rated to one (1) hour construction.
- The north eave of cottage 6 shall be fire rated to one (1) hour construction.

- g. **Detached Accessory Dwelling Units shall have a minimum gross floor area of 300 square feet and a maximum gross floor area of 950 square feet.**

No detached accessory dwelling units are proposed.

- h. **Total lot coverage of all buildings on any property which includes an accessory detached dwelling unit shall not exceed 40%.**

The preliminary plat shows seven (7) cottage buildings, which comprise 3,600 square feet; and a carport, which comprises an additional 2,125 square feet of lot coverage. Phase one (1) as proposed is 21,780 square feet, which equates to a lot coverage of 26%. The lot coverage of Phase 1 for the entire Lot 4 (40,152 square feet) is 14%. The remaining portion of Lot 4 should be developed in a manner that does not exceed the maximum standard of 40% lot coverage. The seven (7) cottages, carport, future duplex (Phase 2), and any other future structures shall all be considered when determining the lot coverage of any future applications (i.e. Phase 2).

SECTION 2 - PERMITS.

- 2.9 **No permit for the construction of any building shall be issued upon any land for which all improvements required for the protection of health and the provision of safety, (including but not necessarily limited to an approved potable water system, an approved wastewater system to accept sewage, and asphalt paving of the streets) have not been installed, inspected, and accepted by the City of Hailey, with the following exception:**

Building permits may be issued for any building in a development for which plats have been recorded and security provided, but the streets have not yet been completed with asphalt due to winter conditions. In such instances, the street

shall be constructed as an all-weather surface to City Standards to the satisfaction of the City Engineer, and shall be kept clear to the satisfaction of the Fire Chief. Final Inspection approval or Certificate of Occupancy shall not be granted until all improvements, including asphalt, have been installed, inspected and accepted.

All seven (7) cottages have received Building Permits, but have yet to receive Certificates of Occupancy. Notice of this requirement is hereby given to the applicant, and included as a recommended condition of approval.

SECTION 3 – PROCEDURE

3.3 The final plat, prepared by a Professional Land Surveyor, must be submitted within one (1) calendar year from the date of approval of the preliminary plat, unless otherwise allowed for within a phasing agreement or as otherwise provided herein. Plats not submitted for final approval within one (1) year or according to the phasing agreement, shall be considered expired and preliminary plat approval shall become null and void. The Council may extend the deadline for submitting the final plat upon holding a public hearing.

The Hearing Examiner's approval of the preliminary plat was on November 14, 2008.

3.3.2 The administrator shall review the final plat application to ensure that the application submitted is consistent with the approved preliminary plat. The conditions imposed on the preliminary plat approval must be either completed or shown on plans or the plat prior to any public notice for final plat approval.

The final plat is consistent with the preliminary plat approved by the Hearing Examiner. Conditions of preliminary plat approval have been met or are carried over.

SECTION 4 – DEVELOPMENT STANDARDS

4.11 Inclusionary Community Housing.

Pursuant to the Annexation Agreement, the Community Housing (CH) Agreement was recorded on June 23, 2008, which requires 25 CH units throughout Old Cutters Subdivision. The CH Plan, incorporated into the CH agreement as Exhibit B, states, 13 of the CH units shall be income restricted and 12 shall be alternatively deed restricted. In addition, the CH plan states, Lot 4, Block 10, shall have one (1) income restricted and four (4) resident/worker restricted cottages. The plat shows seven (7) cottages; therefore, the additional two cottages shall be market rate units. The one (1) duplex (two (2) units) proposed for the remainder of Lot 4 shall be market rate as well. No additional CH is required with this subdivision application.

All development standards pertaining to Section 4, were reviewed in detail during the preliminary plat approval process. Please refer to the preliminary plat Findings of Fact and Decision. No changes have been made to the plat since preliminary plat approval, other than those required by the preliminary plat Findings of Fact and Decision.

SECTION 8 - TOWNHOUSES

8.1 Plat Procedure. The Developer of the townhouse development shall submit with the preliminary plat application and all other information required herein a

copy of the proposed party wall agreement and the proposed document(s) creating an association of owners of the proposed townhouse sub-lots, which shall adequately provide for the control (including billing where applicable) and maintenance of all common utilities, commonly held facilities, garages, parking and/or Green Spaces. Prior to final plat approval, the Developer shall submit to the City a final copy of the party wall agreement and any other such documents and shall record the documents prior to or at the same time of the recordation of the plat, which plat shall reflect the recording instrument numbers thereupon.

Draft CC&Rs have been submitted. Prior to recordation of the final plat, the final CC&Rs shall be received by the City and recorded prior to or at the same time of the recordation of the plat. The City has not and will not in the future determine the enforceability or validity of townhouse declarations, party wall agreements, or other private agreements.

8.2 Garage. All garages shall be designated on the preliminary and final plats and on all deeds as part of the particular townhouse units. Detached garages may be platted on separate sub-lots, provided that the ownership of detached garages is appurtenant to specific townhouse units on the townhouse plat and that the detached garage(s) may not be sold and/or owned separate from any dwelling unit(s) within the townhouse development.

There is a carport, with an attached 50 square foot storage space for each of the eight parking spaces within the carport structure.

8.3 Storage/Parking Areas. Residential townhouse developments shall provide parking spaces according to the requirements of Article IX of the Zoning Ordinance.

The following standards are taken from Article IX of the Zoning Ordinance:

9.4.1 Residential: No parking space, or portion thereof, shall be located in any right-of-way or public thoroughfare, unless otherwise provided herein. Parking spaces within any garage, carport or similar structure shall be credited at 1 space per nine (9) feet of floor width and 21 feet of floor length.

- a. **Single family residences: 2 per residence minimum, 6 per residence maximum. The City will allow the use of 100' right-of-ways within the Hailey Original Townsite for licensed passenger vehicle parking for single family dwellings. Parking for accessory dwelling units must be provided on site.**
- b. **All residences less than 1,000 square feet, including accessory dwelling units: a minimum of 1 space per unit.**
- c. **Multiple family dwellings: A minimum of 1.5 spaces per unit.**

The applicant proposes seven (7) cottage units, which under standard c., the calculations would be 10.5 spaces. Pursuant to Section 9 of the Zoning Ordinance, parking calculations that exceed ten (10) are rounded down to the nearest whole number. Therefore, 10.5 is rounded down to ten (10) spaces required. There are eleven (11) spaces shown. Eight (8) spaces are provided under a carport structure. The spaces under the carport measure 10 feet wide and are striped to show 21 feet long.

8.4 Construction standards. All townhouse development construction shall be in accordance with the IBC, IRC and IFC. Each townhouse unit must have separate water, sewer and utility services, which do not pass through another building or unit.

8.5 General Applicability. All other provisions of this Ordinance and all applicable ordinances, rules and regulations of the City and all other governmental entities having jurisdiction shall be complied with by townhouse developments.

Upon meeting proposed conditions of approval, the proposed application does not appear to conflict with other provisions.

8.6 Expiration. Townhouse developments which have received final plat approval shall have a period of three calendar years from the date of final plat approval by the Council to obtain a building permit. Developments which have not received a building permit shall be null and void and the plats associated therewith shall be vacated by the Council. If a development is to be phased, construction of the second and succeeding phases shall be contingent upon completion of the preceding phase unless the requirement is waived by the Council. Further, if construction on any townhouse development or phase of any development ceases or is not diligently pursued for a period of three years without the prior consent of the Council, that portion of the plat pertinent to the undeveloped portion of the development shall be vacated.

The applicant is hereby notified of this requirement.

8.7 Conversion. The conversion by subdivision of existing units into Townhouses shall not be subject to Section 4.10 of this Ordinance.

Rimrock Cottages, Phase I subdivision is not a conversion by subdivision. The seven (7) cottage units have been newly constructed.

Section 4.10.3.1 required the applicant to provide at least 3.43 acres of park land for the subdivision of Old Cutters. In accordance with the annexation agreement, the applicant has provided a 5.08 acre park. No additional parks shall be required by this subdivision application.

8.8 The maximum number of Cottage Townhouse Units on any parcel shall be twelve (12), and not more than two (2) Cottage Townhouse Developments shall be constructed adjacent to each other.

The proposal would create seven (7) cottage units in Phase I and one (1) duplex in Phase II. The proposal does not exceed the maximum number of cottage townhouse units allowed on a parcel. In accordance with the Annexation Agreement and Community Housing Agreement, there are no other proposed cottage townhouse developments adjacent to Lot 4.

Summary And Suggested Conditions

The City Council shall hold a public hearing and approve, conditionally approve, or deny the final plat application. The following conditions are suggested to be placed on any approval of this application:

- a) The final plat submitted for signature shall include plat notes 1 through 6 as stated on the submitted final plat, with the following amendments and additions:
 - Plat note #3 shall replace “fire access lane” with “emergency access lane.”
 - A plat note shall be added to the plat that states, “Sub-lots 3, 4, 5, and 6, shall be resident/worker restricted. Sub-lot 1 shall be income restricted to Category 3, as defined by Blaine County Housing Authority.”
- b) All City infrastructure requirements shall be met as outlined in Section 5 of the Hailey Subdivision Ordinance. Detailed plans for all infrastructure to be installed or improved at or adjacent to the site shall be submitted for Department Head approval and shall meet City Standards where required.
- c) The five (5) foot wide access lane, located south of Lot 4 shall be labeled on the plat as “emergency access” instead of “fire lane.”
- d) Prior to recordation of the final plat, the final CC&Rs shall be received by the City and recorded prior to or at the same time of the recordation of the plat.
- e) All provisions of the Zoning Ordinance #532, including but not limited to use regulations and parking requirements shall continue to be met. Additional parking may also be required upon subsequent change in use, in conformance with Hailey’s Zoning Ordinance at the time of the new use.
- f) All improvements and other requirements shall be completed and accepted, or surety provided pursuant to Sections 3.3.7 and 5.9.1 of the Subdivision Ordinance, prior to recordation of the final plat.
- g) The final plat shall be recorded within one year of the date of final plat approval. The final plat submitted for signature shall conform to the requirements found in Article 50-1301 (et. seq.) of the Idaho Code (as amended) and to the requirements set forth by Blaine County for digital plat submittals. The applicant shall provide the City with a letter-size or ledger-size photocopy of the recorded plat showing the instrument number and date of recordation.
- h) This approval is contingent on the applicant executing a Phasing Agreement acceptable to the City. The subdivision shall be developed in Phase I and Phase II.
- i) All Fire Department and Building Department requirements shall be met. The following is a recommended condition of approval and is required for compliance with the IBC:
 - The south eave of cottage 1 shall be fire rated to one (1) hour construction.
 - The north eave of cottage 6 shall be fire rated to one (1) hour construction.
- h) Issuance of permits for the construction of buildings within the proposed subdivision shall be subject to Section 2.9 of the Subdivision Ordinance, requiring certain improvements.

- i) Any subdivision inspection fees due shall be paid prior to recording the final plat.

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DATE: 01-12-09

DEPARTMENT: Planning

DEPT. HEAD SIGNATURE: 

SUBJECT: Rimrock Cottages Phase I, Final Plat and Rimrock Phasing Agreement

AUTHORITY: ID Code _____ IAR _____ City Ordinance/Code _____
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The timeline for constructions needs to be discussed by the council and applicant and incorporated into the agreement.

FISCAL IMPACT / PROJECT FINANCIAL ANALYSIS: None

ACKNOWLEDGEMENT BY OTHER AFFECTED CITY DEPARTMENTS: (IF APPLICABLE)

- | | | |
|---|--|---|
| <input type="checkbox"/> City Administrator | <input type="checkbox"/> Library | <input type="checkbox"/> Safety Committee |
| <input checked="" type="checkbox"/> City Attorney | <input type="checkbox"/> Mayor | <input type="checkbox"/> Streets |
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| <input type="checkbox"/> Building | <input type="checkbox"/> Police | <input type="checkbox"/> _____ |
| <input type="checkbox"/> Engineer | <input type="checkbox"/> Public Works, Parks | <input type="checkbox"/> _____ |
| <input type="checkbox"/> Fire Dept. | <input type="checkbox"/> P & Z Commission | <input type="checkbox"/> _____ |

RECOMMENDATION FROM APPLICABLE DEPARTMENT HEAD:

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ADMINISTRATIVE COMMENTS/APPROVAL:

City Administrator _____ Dept. Head Attend Meeting (circle one) Yes No

ACTION OF THE CITY COUNCIL:

Date _____

City Clerk _____

FOLLOW-UP:

*Ord./Res./Agmt./Order Originals: Record
Copies (all info.): _____
Instrument # _____

*Additional/Exceptional Originals to: _____
Copies (AIS only)

**PHASING AGREEMENT
RIMROCK COTTAGES AND TOWNHOUSES
OLD CUTTERS SUBDIVISION**

THIS AGREEMENT ("Agreement") is dated this ___ day of January, 2009, by and between the CITY OF HAILEY, IDAHO, a municipal corporation (the "City") and OLD CUTTERS, INC., an Idaho corporation ("OCI", and together with the City, the "Parties").

RECITALS

A. The City is a municipal corporation possessing all powers granted to municipalities under the applicable provisions of the Idaho Code, including the power to approve the subdivisions of property within its municipal boundaries pursuant to the provisions of its Subdivision Ordinance No. 821 and other relevant ordinances, and the power to contract.

B. OCI owns Lot 4, Block 10, OLD CUTTERS SUBDIVISION, City of Hailey, Blaine County, Idaho, according to the official plat thereof recorded at the Office of the County Recorder for Blaine County, Idaho as Instrument No. 553634 (the "Lot"). On _____, 2009, the City Council signed and entered its Findings of Fact, Conclusions of Laws and Decision (the "Decision") approving the subdivision of the Lot into seven (7) townhouse sub-lots to be known as the Rimrock Cottages and Townhouses: Phase 1 and a future Phase 2 consisting of two (2) townhouse sub-lots (the "Townhouse Development"). A copy of the approved plat is attached hereto as **Exhibit "A"** and made a part hereof by this reference (the "Plat").

C. Condition __ (h) of the Decision provides for the Townhouse Development to be developed in two (2) phases. The parties desire to enter into this Agreement to address the requirements of the Ordinance for this phased development.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants, promises, agreements, terms and conditions set forth herein, the Parties covenant and agree as follows:

1. INCORPORATION OF RECITALS. The Recitals set forth above are an integral part of this Agreement and are fully incorporated herein by this reference.

2. PHASE 1. Phase 1 shall consist of Sub-lots 1 through 7 on which Cottages shall be constructed and related common areas as depicted on the Plat. All infrastructure, amenities and other improvements depicted on the Plat and required by the Decision within Phase 1 shall be completed and a final certificate of occupancy issued for the seven Cottages on or before February 28, 2009. This shall include the construction of the Cottage buildings, covered parking structures, other parking spaces, sidewalks and utilities.

3. **PHASE 2.** Phase 2 shall consist of two townhouse sub-lots on which two townhouse units in a single duplex building shall be constructed. The two townhouse sub-lots will cover all of the Phase 2 property designated on the Plat. The water and sewer service lines serving these two townhouse sub-lots have already been installed. The application for subdivision of Phase 2 property into the two townhouse sub-lots shall be filed with the City on or before _____, 2009. Upon approval of this application the owners of the two townhouse sub-lots will start and complete construction no later than _____, 2011.

4. **SECURITY.** In the event OCI fails to obtain final plat approval for the two sub-lots in Phase 2 or fails to complete construction of the two townhomes on or before the dates set forth in Paragraph 3, above, then City shall have the right, but not the obligation, to revegetate and seed the remainder of the Property with native drought resistant grasses ("Landscaping"), after first giving OCI notice and a sixty (60) day period within which to complete the Landscaping. Landscaping shall also include sufficient irrigation for two growing seasons. At the time of the execution of this Agreement, OCI has posted sufficient security in the form of a cash deposit, a set aside agreement or a letter of credit, equivalent to 150% of an engineer's estimate for the complete performance of the Landscaping and to provide irrigation. The City shall retain such security until all Landscaping has been completed as set forth in this Agreement, at which time the City shall release such security. If the cost to complete the Landscaping is greater than the amount of the security, OCI agrees to reimburse the City within ten (10) days of demand by the City and hold harmless the City for any and all reasonable additional costs incurred by the City when completing the Landscaping. Notwithstanding the foregoing, the security posted may be reduced on a pro rata basis to reflect the partial completion of the Landscaping, such that the amount of the security shall at all times be equal to at least 150% of the cost to complete the remaining Landscaping.

5. **REMEDIES.** In the event of a breach of this Agreement, in addition to all other remedies of law or in equity, this Agreement shall be enforceable by specific performance by either party hereto. All remedies shall be cumulative.

6. **NOTICES.** All notices and communications under this Agreement shall be in writing and shall be (i) delivered in person or (ii) mailed, postage prepaid, either by registered or certified mail, return receipt requested, or by overnight express carrier, addressed in each case to the party's address as follows:

To City:

The City of Hailey
c/o Director, Planning Department
115 Main Street South, Suite H
Hailey, Idaho 83333
(208) 788-4221 (telephone)
(208) 788-2924 (facsimile)

To OCI:

Old Cutters, Inc.
P.O. Box 4944
Ketchum, Idaho, 83340
(208) 578-3636 (telephone)
(208) 578-7682 (facsimile)

With a copy to:

James P. Speck, Esq.
SPECK & AANESTAD
A Professional Corporation
PO Box 987
120 East Avenue
Ketchum, Idaho, 83340
(208) 726-4421 (telephone)
(208) 726-0752 (facsimile)

or (iii) sent by facsimile with the original to follow by mail in the manner described above. It is provided, however, that any party may change its respective address for purposes of receipt of any such communication by giving ten (10) days prior written notice of such change to the other party hereto in the manner provided above. All notices sent pursuant to the terms of this paragraph shall be deemed received (i) if sent by overnight, express carrier, on the next business day immediately following the day sent, (ii) if sent by registered or certified mail, on the third business day following the day sent or (iii) if sent by facsimile on the date so sent.

7 RELIANCE BY PARTIES. This Agreement is intended by OCI to be considered by the City as part of OCI's application for subdivision plat approval, and is contingent upon final plat approval for the Subdivision. OCI acknowledges and intends the City to consider and rely upon this Agreement in its review and consideration of said subdivision application.

8 RELATIONSHIP OF PARTIES. It is understood that the contractual relationship between the City and OCI is such that neither party is the agent, partner, or joint venturer of the other party.

9 SUCCESSORS AND ASSIGNS; COVENANT RUNNING WITH LAND. This Agreement shall inure to the benefit of the City and OCI and their respective heirs, successors and assigns. This Agreement, including all covenants, terms, and conditions set forth herein, shall be and is hereby declared a covenant running with the land with regard to the Property or any portion thereof, and is binding on both parties to this Agreement as well as their respective heirs, successors and assigns.

10. RECORDATION. This Agreement shall be recorded with the Blaine County Recorder.

11. NO WAIVER. In the event that the City or OCI, or its successors and assigns, do not strictly comply with any of the obligations and duties set forth herein, thereby causing a default under this Agreement, any forbearance of any kind that may be granted or allowed by OCI, the City, or their successors and assigns, to the other party under this Agreement shall not in any manner be deemed or construed as waiving or surrendering any of the conditions or covenants of this Agreement with regard to any subsequent default or breach.

12. PARTIAL INVALIDITY. In the event that any provision of this Agreement is deemed to be invalid by reason of the operation of any law, or by reason of the interpretation placed thereon by any court or other governmental body, this Agreement shall be construed as not containing such provision and the invalidity of such provision shall not affect the validity of any other provision hereof, and any and all other provisions hereof which otherwise are lawful and valid shall remain in full force and effect.

13. ENTIRE AGREEMENT. This Agreement sets forth the entire understanding of the parties hereto, and shall not be changed or terminated orally. Any other agreements between the parties, express or implied, are hereby cancelled and of no further force nor effect. It is understood and agreed by the parties hereto that there are no verbal or written promises, agreements, stipulations or other representations of any kind or character, express or implied, other than as set forth in writing in this Agreement.

14. EXHIBITS. All exhibits referred to herein are incorporated in this Agreement by reference, whether or not actually attached.

15. AUTHORITY. Each of the persons executing this Agreement represents and warrants that he has the lawful authority and authorization to execute this Agreement, as well as all deeds, easements, liens and other documents required hereunder, for and on behalf of the entity executing this Agreement.

16. **NO THIRD PARTY RIGHTS.** This Agreement shall be for the sole benefit of the Parties and/or their successors and assigns, and no covenants or agreements herein shall be for the benefit of or create any rights in favor of any third parties.

17. **GOVERNING LAW.** The validity, meaning and effect of this Agreement shall be determined in accordance with the laws of the State of Idaho applicable to agreements made and performed in that state.

18. **TIME OF ESSENCE.** Time is of the Essence in this Agreement.

19. **NECESSARY ACTS.** Each party agrees to perform any further acts and execute any documents that may be reasonably necessary to effect the purpose of this Agreement.

20. **CAPTIONS TO PARAGRAPHS.** The captions to the paragraphs of this Agreement are for convenience only and shall not be deemed to enlarge, diminish, explain or in any manner affect the meaning of such paragraphs.

21. **ATTORNEY'S FEES.** If a suit, action, or other proceeding arising out of or related to this Agreement is instituted by any party to this Agreement, the prevailing party shall be entitled to recover its reasonable attorney fees, expert witness fees, and costs (i) incurred in any settlement negotiations, (ii) incurred in preparing for, prosecuting or defending any suit, action, or other proceeding, and (iii) incurred in preparing for, prosecuting or defending any appeal of any suit, action, or other proceeding. For the purpose of this section, "attorney's fees" shall mean and include (i) attorney's fees and (ii) paralegal fees. This section shall survive and remain enforceable notwithstanding any rescission of this Agreement or a determination by a court of competent jurisdiction that all or any portion of the remainder of this Agreement is void, illegal, or against public policy.

22. **POLICE POWERS.** Except as otherwise provided, nothing contained herein is intended to limit the police powers of City or its discretion in review of subsequent applications regarding development of the Lot. Except as provided herein, this Agreement shall not be construed to modify or waive any law, ordinance, rule, or regulations, including, without limitation, applicable building codes, fire codes, the City's Zoning Ordinance, and the City's Subdivision Ordinance requirements for the Property.

23. **AMENDMENT.** This Agreement may be revised, amended, or canceled in whole or in part, only by means of a written instrument executed by all parties hereto.

24. **FORCE MAJEURE.** Neither party shall be responsible for any loss, damage, detention or delay caused by fire, strike, civil or military authority, governmental restrictions, moratoriums or controls, insurrection or riot, railroad, marine or air embargoes, lockout, tempest, accident, breakdown of machinery, delay in delivery of material by other parties, or any other cause which is unavoidable or beyond its reasonable control. Any time periods provided herein shall be

STAFF REPORT

TO: Hailey City Council
FROM: Beth Robrahn, Planning Director 
RE: Final Plat - Lots 15A and 15B, Birdwood Subdivision
HEARING: January 12, 2009

Applicant: Idaho Capital, LLC
Location: Lot 15, Birdwood Subdivision (911 Silver Star Drive)
Zoning: Limited Residential (LR) and Flood Hazard Overlay (FH)
Note: Staff analysis is in lighter type.

Notice

Notice for the public hearing on January 12, 2009 was published in the Idaho Mountain Express on December 24, 2008; the notice was mailed to property owners within 300 feet on December 24, 2008.

Application

Idaho Capital, LLC has submitted an application for Final Plat approval for the subdivision of Lot 15, Birdwood Subdivision into two (2) lots; Lot 15B is proposed to be 20,040 square feet and Lot 15A is proposed to be a 75,875 square foot flag lot. Both lots would be accessed by a private driveway directly off of Silver Star Drive..

Section 3.4.1 of the Subdivision Ordinance allows for applications for platting four (4) or fewer residential parcels to be reviewed through the short plat procedure. In this procedure, the Hearing Examiner or Commission reviews the preliminary plat only. Upon approval, the applicant submits a final plat for Council approval.

In the case of this subdivision Lot 15A is within the Flood Hazard Overlay District. Section 4.10.7.1 of the Zoning Ordinance requires both Commission and Council approval for subdivisions in the floodplain. Therefore both the Commission and the Council held hearings on the preliminary plat.

The preliminary plat and the Floodplain Development Permit applications were received in 2003. The standards in place at the time the original application was submitted are the standards that are required be applied to this application.

Procedural History

The preliminary plat was submitted by Bulotti Construction, Inc. The City Council heard the application for Preliminary Plat and Flood Hazard Development permit approval of Lots 15A and 15B, Block 1, Birdwood Subdivision on August 18, 2008. The City

Council approved the application with conditions in a two to one vote (Burke and Keirn in favor and Haemmerle opposed).

Since preliminary plat approval, the property went into foreclosure and was purchased by Idaho Capital, LLC.

SECTION 2 - PERMITS.

2.9 No permit for the construction of any building shall be issued upon any land for which all improvements required for the protection of health and the provision of safety, (including but not necessarily limited to an approved potable water system, an approved wastewater system to accept sewage, and asphalt paving of the streets) have not been installed, inspected, and accepted by the City of Hailey, with the following exception: Building permits may be issued for any building in a development for which plats have been recorded and security provided, but the streets have not yet been completed with asphalt due to winter conditions. In such instances, the street shall be constructed as an all-weather surface to City Standards to the satisfaction of the City Engineer, and shall be kept clear to the satisfaction of the Fire Chief. No Final Inspection approval or Certificate of Occupancy shall be granted until all improvements, including asphalt, have been installed, inspected and accepted.

Notice of this requirement is hereby given to the applicant, and included as a recommended condition of approval.

SECTION 3 – PROCEDURE

3.3 Final Plat Approval.

The final plat, prepared by a Professional Land Surveyor, must be submitted within one (1) calendar year from the date of approval of the preliminary plat, unless otherwise allowed for within a phasing agreement or as otherwise provided herein. Plats not submitted for final approval within one (1) year or according to the phasing agreement, shall be considered expired and preliminary plat approval shall become null and void. The Council may extend the deadline for submitting the final plat upon holding a public hearing.

The preliminary plat application was heard by the Hailey City Council on August 18, 2008. Final plat application was received on December 5, 2008.

3.3.2 The administrator shall review the final plat application to ensure that the application submitted is consistent with the approved preliminary plat. The conditions imposed on the preliminary plat approval must be either completed or shown on plans or the plat prior to any public notice for final plat approval.

The final plat is consistent with the preliminary plat approved by the City Council. Conditions of preliminary plat approval have been met or are carried over.

Hailey City Council Conditions of Preliminary Plat Approval

- a) All Fire Department and Building Department requirements shall be met. Items to be completed at the applicant's sole expense include, but will not be limited to, the following requirements and improvements:
- An approved fire department turnaround will be required for Lot 15A before any construction begins.
 - The driveway shall be posted for no parking and will not be named. All homes shall have Silver Star Drive addresses; all addresses should be posted at the driveway entrance.
 - No encroachment of the fire lane width will be allowed without written approval from the City.
 - Turn-arounds or turnout and fire lanes must be permanently signed as such.
 - The driveway shall meet all regulations of the International Fire Code.
 - The interior of the culvert shall contain the elevations of the property, shown at six inch (6") intervals.
 - Hydrant locations should be identified and pre-approved.
 - Building height shall be a maximum of 30'.

This condition should be carried over.

- b) All City infrastructure requirements shall be met as outlined in Section 5 of the Hailey Subdivision Ordinance. Detailed plans for all infrastructure to be installed or improved at or adjacent to the site shall be submitted for Department Head approval and shall meet City Standards where required. Infrastructure to be completed at the applicant's sole expense include, but will not be limited to, the following requirements and improvements:

- Sewer service for Lot 15A shall be a pressure system.
- A new water meter vault shall be installed in the driveway easement for Lot 15A.
- All drainage shall be contained on site.
- Drainage swales shall be designed and created on both lots to contain any surface drainage on the subject property and not allow it to flow onto adjacent properties. The drainage plan shall also include details for the design and appropriate placement of a box culvert to insure that there will be safe access to Lot 15A during times of high water. Such drainage shall be depicted on a grading plan and submitted to the City Engineer for his approval prior to Final Plat approval.
- A drainage inspection to ensure surface drainage remains on the subject property shall be conducted and approved prior to issuance of a certificate of occupancy for new construction on the Lot 15A.
- Water and sewer service lines shall be designed to minimize or eliminate infiltration of flood waters into the systems and utilities shall be located and constructed to minimize flood damage.

This condition should be carried over.

- c) **Issuance of permits for the construction of buildings within the proposed subdivision shall be subject to Section 2.9 of the Subdivision Ordinance.**

This condition should be carried over.

- d) **Plat notes shall be added to the final plat stating:**

- **The beneficiaries of the driveway easement shall be the owners of Lots 15A and 15B. This easement shall also be designated as a utilities access easement.**

Plat note 9

- **Irrigation for Lot 15A a plat note should be added restricting irrigation of Lot 15A to not more than one-half acre**

Plat note 10

- **The homeowners association or in the event the homeowners association is dissolved, the owners of Lots 15A and 15B shall be responsible for the maintenance of the sewer and water service lines between the residences and the mainline within Silver Star Drive and the private driveway within the subdivision.**

Plat note 11

- **The homeowners association, or in the event the homeowners association is dissolved, the owners of Lots 15A and 15B shall be responsible for the maintenance of the driveway and culvert located on Lot 15A. The culvert shall be inspected annually and sediment and debris within the culvert removed as it accumulates. Certification of sediment and debris removal shall be submitted to the City Engineer by May 1 of each year following the construction of the driveway and culvert on Lot 15A. The City of Hailey shall have the right to inspect the culvert for compliance of the sediment and debris removal. The owner(s) of Lot 15A, and the successors, heirs and assigns, shall indemnify, defend and hold the City of Hailey harmless, from and against any claims, demands, actions, liability, damages, costs, expenses and attorney fees related to the approval of the subdivision or flood hazard development permit or to any inspection of the culvert or to any flooding caused in any way by the construction of the driveway and culvert, or any matters connected thereto, no matter how remotely.**

Plat note 12

- **The owner of Lot 15A shall seek and obtain a flood hazard development permit before there is construction of a single family residence or construction of the driveway and culvert on Lot 15A.**

Plat note 4

- e) **All improvements and other requirements shall be completed and accepted, or security provided pursuant to Sections 3.3.7 and 5.9.1 of the Subdivision Ordinance, prior to recordation of the final plat.**

This condition should be carried over.

- f) **The final plat must be submitted within one (1) calendar year from the date of approval of the preliminary plat, unless otherwise allowed for within a phasing agreement.**

This condition has been met.

- g) **Any subdivision inspection fees due shall be paid prior to recording the final plat.**

This condition should be carried over.

- h) **Any applicable development impact fees shall be paid prior to recording the final plat.**

This condition should be carried over.

Standards of Evaluation

SECTION 4 – DEVELOPMENT STANDARDS

Development standards were reviewed in detail during the preliminary plat approval process. Please refer to the preliminary plat Findings of Fact and Decision. No changes have been made to the plat since preliminary plat approval.

SECTION 5 - IMPROVEMENTS REQUIRED.

- 5.1 **It shall be a requirement of the Developer to construct the minimum improvements set forth herein and any required improvements for the subdivision, all to City Standards.**

- 5.1.1 **Six (6) copies of all improvement plans shall be filed with the City Engineer and made available to each department head. Upon final approval two (2) sets of revised plans shall be returned to the Developer at the pre-construction conference with the City Engineer's written approval thereon. One set of final plans shall be on-site at all times for inspection purposes and to note all field changes upon.**

- 5.1.2 **Prior to the start of any construction, it shall be required that a pre-construction meeting be conducted with the Developer or his authorized representative/engineer, the contractor, the City Engineer and appropriate City departments. An approved set of plans shall be provided to the Developer and contractor at or shortly after this meeting.**

- 5.1.3 **The Developer shall guarantee all improvements pursuant to this Section for no less than one year from the date of final acceptance by the City, except that parks shall be guaranteed and maintained by the Developer for a period of two years.**

- 5.2 The Developer shall construct all streets, alleys, curb and gutter, lighting, sidewalks, street trees and landscaping, and irrigation systems to meet City Standards, the requirements of this ordinance, the approval of the Council, and to the finished grades which have been officially approved by the City Engineer as shown upon approved plans and profiles. The Developer shall pave all streets and alleys with an asphalt plant-mix, and shall chip-seal streets and alleys within one year of construction.**
- 5.2.1 Street cuts made for the installation of services under any existing improved public street shall be repaired in a manner which shall satisfy the Street Superintendent, shall have been approved by the Hailey City Engineer or his authorized representative, and shall meet City Standards. Repair may include patching, skim coats of asphalt or, if the total area of asphalt removed exceeds 25% of the street area, the complete removal and replacement of all paving adjacent to the development. Street cut repairs shall also be guaranteed for no less than one year.**
- 5.2.2 Street name signs and traffic control signs shall be erected by the Developer in accordance with City Standards, and the street name signs and traffic control signs shall thereafter be maintained by the City. N/A**
- 5.2.3 Street lights in the Recreational Green Belt, Limited Residential, General Residential, and Transitional zoning districts are not required improvements. Where proposed, street lighting in all zoning districts shall meet all requirements of Chapter VIIIB of the Hailey Zoning Ordinance. N/A**
- 5.3 The Developer shall construct a municipal sanitary sewer connection for each and every developable lot within the development. The Developer shall provide sewer mains of adequate size and configuration in accordance with City Standards, and all federal, state, and local regulations. Such mains shall provide wastewater flow throughout the development. All sewer plans shall be submitted to the City Engineer for review and approval. At the City Engineer's discretion, plans may be required to be submitted to the Idaho Department of Environmental Quality (DEQ) for review and comments.**
- 5.4 The developer shall construct a municipal potable water connection, water meter and water meter vault in accordance with City Standards, or other equipment as may be approved by the City Engineer, for each and every developable lot within the development. The Developer shall provide water mains and services of adequate size and configuration in accordance with City Standards, and all federal, state, and local regulations. Such water connection shall provide all necessary appurtenances for fire protection, including fire hydrants, which shall be located in accordance with the IFC and under the approval of the Hailey**

Fire Chief. All water plans shall be submitted to the City Engineer for review and approval. At the City Engineer's discretion, plans may be required to be submitted to the Idaho Department of Environmental Quality (DEQ) for review and comments.

- 5.4.1 Within the Townsite Overlay District, where water main lines within the alley are less than six (6) feet deep, the developer shall install insulating material (blue board insulation or similar material) for each and every individual water service line and main line between and including the subject property and the nearest public street, as recommended by the City Engineer. N/A
- 5.5 The Developer shall provide drainage areas of adequate size and number to meet the approval of the Street Superintendent and the City Engineer or his authorized representative.
- 5.6 The Developer shall construct each and every individual service connection and all necessary trunk lines, and/or conduits for those improvements, for natural gas, electricity, telephone, and cable television to the property line before placing base gravel for the street or alley.
- 5.7 The Developer shall improve all parks and Green Space areas as presented to and approved by the Commission and Council. N/A
- 5.8 All improvements are to be installed under the specifications and inspection of the City Engineer or his authorized representative. The minimum construction requirements shall meet City Standards or the Department of Environmental Quality (DEQ) standards, whichever is the more stringent.
- 5.9 Installation of all infrastructure improvements must be completed by the Developer, and inspected and accepted by the City prior to signature of the plat by City representatives, or according to a phasing agreement. A post-construction conference shall be requested by the Developer and/or contractor and conducted with the developer and/or contractor, the City Engineer, and appropriate City departments to determine a punch list of items for final acceptance.
- 5.9.1 The Developer may, in lieu of actual construction, provide to the City security pursuant to Section 3.3.7, for all infrastructure improvements to be completed by Developer after the final plat has been signed by City representatives.
- 5.10 Prior to the acceptance by the City of any improvements installed by the Developer, three (3) sets of "as-built plans and specifications" certified by the Developer's engineer shall be filed with the City Engineer.

Summary and Suggested Conditions

The City Council shall hold a public hearing and approve, conditionally approve, or deny the final plat application. The following conditions are suggested to be placed on any approval of this application:

- a. All Fire Department and Building Department requirements shall be met. Items to be completed at the applicant's sole expense include, but will not be limited to, the following requirements and improvements:
 - i. An approved fire department turnaround will be required for Lot 15A before any construction begins.
 - ii. The driveway shall be posted for no parking and will not be named. All homes shall have Silver Star Drive addresses; all addresses should be posted at the driveway entrance.
 - iii. No encroachment of the fire lane width will be allowed without written approval from the City.
 - iv. Turn-arounds or turnout and fire lanes must be permanently signed as such.
 - v. The driveway shall meet all regulations of the International Fire Code.
 - vi. The interior of the culvert shall contain the elevations of the property, shown at six inch (6") intervals.
 - vii. Hydrant locations should be identified and pre-approved.
 - viii. Building height shall be a maximum of 30'.

- b. All City infrastructure requirements shall be met as outlined in Section 5 of the Hailey Subdivision Ordinance. Detailed plans for all infrastructure to be installed or improved at or adjacent to the site shall be submitted for Department Head approval and shall meet City Standards where required. Infrastructure to be completed at the applicant's sole expense include, but will not be limited to, the following requirements and improvements:
 - i. Sewer service for Lot 15A shall be a pressure system.
 - ii. A new water meter vault shall be installed in the driveway easement for Lot 15A.
 - iii. All drainage shall be contained on site.
 - iv. Drainage swales shall be designed and created on both lots to contain any surface drainage on the subject property and not allow it to flow onto adjacent properties. The drainage plan shall also include details for the design and appropriate placement of a box culvert to insure that there will be safe access to Lot 15A during times of high water. Such drainage shall be depicted on a grading plan and submitted to the City Engineer for his approval prior to Final Plat approval.
 - v. A drainage inspection to ensure surface drainage remains on the subject property shall be conducted and approved prior to issuance of a certificate of occupancy for new construction on the Lot 15A.
 - vi. Water and sewer service lines shall be designed to minimize or eliminate infiltration of flood waters into the systems and utilities shall be located and constructed to minimize flood damage.

- c. The final plat submitted for signature shall include plat notes 1 through 12 as stated on the approved final plat dated December 2008.
- d. Issuance of permits for the construction of buildings within the proposed subdivision shall be subject to Section 2.9 of the Subdivision Ordinance.
- e. All improvements and other requirements shall be completed and accepted, or surety provided pursuant to Sections 3.3.7 and 5.9.1 of the Subdivision Ordinance, prior to recordation of the final plat.
- f. The final plat shall be recorded within one year of the date of final plat approval. The final plat submitted for signature shall conform to the requirements found in Article 50-1301 (et. seq.) of the Idaho Code (as amended) and to the requirements set forth by Blaine County for digital plat submittals. The applicant shall provide the City with a letter-size or ledger-size photocopy of the recorded plat showing the instrument number and date of recordation.
- g. Any subdivision inspection fees due shall be paid prior to recording the final plat.
- h. Any applicable development impact fees shall be paid prior to recording the final plat.

Beth Robrahn, AICP
Planning Director
City of Hailey
208 788-9815 x13

RECEIVED

DEC 05 2008

RE: 911 Silver Star Dr., Hailey Final Plat Application

December 5, 2008

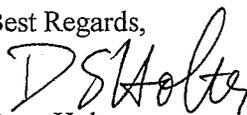
Dear Beth:

As required by the City of Hailey Subdivision Final Plat application we are hereby responding to the conditions of approval for the preliminary plat. In general, all requirements in items 3.a. through 3.c. will be adhered to prior to residential construction on Lot 15A with the exception that we desire clarification of the meaning of 3.a, bullet point #6, and we have the following request:

1. We are currently evaluating alternative property uses which may include the sale or donation of Lot 15A and therefore infrastructure construction through this area may ultimately be unnecessary and wasteful. Therefore, we propose that all actual infrastructure associated with Lot 15A be conditioned upon a building permit associated with Lot 15A.
2. In the alternative, if the City deems that infrastructure is necessary for final plat approval, then we propose that we construct the driveway and utilities to the eastern boundary of lot 15A as required by the City of Hailey subdivision code.

Also, plat notes identified in item 3.d have been added to the plat, and remaining items 3.e through 3.h will be addressed as suggested in the plat conditions. Please contact me if you have any questions.

Best Regards,


Dean Holter
dean@idahocapital.com
(208) 721-8007 cell

STAFF REPORT

TO: Hailey City Council
FROM: Beth Robrahn, Planning Director 
RE: Vacation of public right of way – Cedar Street between 3rd Ave and 4th Ave
HEARING: January 12, 2009

Applicant: Idaho Army National Guard
Request: Vacation of public right of way
Location: Cedar Street between 3rd Avenue and 4th Avenue
Adjacent Property: Lots 12 and 14, Block 125
Lots 1 and 13, Block 136
Zoning: General Residential (GR) and Recreation Green Belt (RGB)
Note: Staff analysis is in lighter type.

Notice

Notice for the public hearing on January 12, 2009 was published in the Idaho Mountain Express on December 24, 2008 and on December 31, 2008; the notice was mailed by certified mail to property owners within 300 feet on December 24, 2008.

Application

The applicant has requested the vacation of Cedar Street between 3rd Avenue and 4th Avenue, which has a 100 foot wide right-of-way.

The State of Idaho and the City of Hailey each has half interest in Block 126 and jointly own Block 125, Lots 8-12 and 20-24.

Procedural History

The Hearing Examiner held a public hearing on December 5, 2008 and recommended approval of the right-of-way vacation.

Standards of Evaluation

Right-of-way vacations are regulated by Section 9 of Hailey's Subdivision Ordinance.

- 9.1 Applications for vacation of a public right-of-way, alley or easement (other than utility easements) shall comply with Idaho Code §50-311 and §§50-1317 through 50-1325, as amended, and the provisions of this Ordinance. Applications for vacation of utility easements shall comply with Idaho Code §50-1306A, as amended.

Only sections 50-1311 and 50-1321 apply to vacation of public right-of-way. Idaho Code Section 50-311 states “Cities are empowered to...vacate” any street “whenever deemed expedient for the public good...” This section further provides that “whenever any street, avenue, alley or lane shall be vacated, the same shall revert to the owner of the adjacent real estate, one-half on each side thereof, or as the city council deems in the best interests of the adjoining properties, but the right of way easements and franchise rights of any lot owner or public utility shall not be impaired thereby.”

The vacation of the Cedar Street is requested by the National Guard in order to meet the Anti-terrorism/Force Protection requirements for parking and roadway stand off distances mandated by the Unified Facilities Criteria Guidelines for National Guard Facilities that use federal Funding for improvements. The minimum stand off distance for parking and roadways is 33 feet for roadways without a controlled perimeter.

The Hearing Examiner found that the vacation of this portion of Cedar is expedient for the public good in order to meet the Anti-terrorism/Force Protection requirements for parking and roadway stand off distances mandated by the Unified Facilities Criteria Guidelines for National Guard Facilities.

9.2 Applications for vacation of streets, alleys, or easements shall be submitted to the Hearing Examiner, except that the Administrator and Chair of the Commission, jointly, shall have discretion and authority to refer a vacation application to the Commission. The Hearing Examiner or Commission shall make a recommendation, concerning the application for vacation, to the Council. The Hearing Examiner or Commission shall consider the following items in making their recommendation:

9.2.1 The application and testimony of the applicant and such other information as may come before it with regard to the proposed vacation or dedication.

No testimony has been received at the time of writing this report. Public testimony will be taken at the public hearing on January 12, 2009.

9.2.2 The interests of the adjacent property owners and public utilities.

Notice was sent to public utilities. The City of Hailey and the State of Idaho are joint owners of the property adjacent to the portion of Cedar Street requested to be vacated.

9.2.3 Conformance of the proposal with the Comprehensive Plan.

The Goals of the Transportation and Circulation section of the Plan include (I.) “To promote the safe and efficient movement of people” and (II.) To minimize public expenditures for road maintenance and improvement”.

A portion of the right-of-way should be kept open for public vehicular and pedestrian access; a minimum of 26 feet paved road width is required to meet Street and Fire Department requirements. This can be achieved by an easement over the portion of the right-of-way vacated to Block 136.

9.2.4 The future development of the neighborhood.

The current use and general configuration of the right-of-way would not change given the Armory was built partially within the right-of-way. However the infrastructure and parking configuration would be improved. This is not anticipated to effect the future development of the neighborhood.

9.2.5 That the public right-of-way, alley, or easement no longer serves a public purpose.

The current use and general configuration of the right-of-way would not change given the Armory was built partially within the right-of-way. However the infrastructure and parking configuration would be improved. A portion of the right-of-way should be kept open for public vehicular and pedestrian access; a minimum of 26 feet paved road width is required to meet Street and Fire Department requirements. This can be achieved by a public access and utility easement over the portion of the right-of-way vacated to Block 136 which the State is agreeable to.

Summary

Section 9 of the Hailey Subdivision Ordinance states that the Hearing Examiner or Commission shall consider the application and testimony of the applicant and such other information as may come before it with regard to the proposed vacation. The Hearing Examiner or Commission shall consider the items noted in Section 9.2 of the Ordinance. The Commission shall make its recommendation to the Council for approving or denying said application, including findings that the right-of-way in question is no longer needed for public use.

The Hearing Examiner found that the vacation of this portion of Cedar is expedient for the public good in order to meet the Anti-terrorism/Force Protection requirements for parking and roadway stand off distances mandated by the Unified Facilities Criteria Guidelines for National Guard Facilities.

A 26 foot public access easement over the portion of the right-of-way vacated to Block 136 should be platted concurrently with the right-of-way vacation.

If the Council decided vacation is appropriate, then staff will prepare and present an ordinance, deed and easement.

Motion Language

- Motion to approve the vacation of public right of way – Cedar Street between 3rd Ave and 4th Ave, finding that the vacation is expedient for the public good, is in accordance with the Comprehensive Plan, the future development of the neighborhood will not be compromised, the current use and general configuration of public access would not change.
- Motion to authorize execution of a 26 foot wide public access and utility easement.

Applicable Idaho Code Sections

50-311. CREATION -- VACATION OF STREETS -- EMINENT DOMAIN -- REVERSION OF VACATED STREETS. Cities are empowered to: create, open, widen or extend any street, avenue, alley or lane, annul, vacate or discontinue the same whenever deemed expedient for the public good; to take private property for such purposes when deemed necessary, or for the purpose of giving right of way or other privileges to railroad companies, or for the purpose of erecting malls or commons; provided, however, that in all cases the city shall make adequate compensation therefore to the person or persons whose property shall be taken or injured thereby. The taking of property shall be as provided in title 7, chapter 7, Idaho Code. The amount of damages resulting from the vacation of any street, avenue, alley or lane shall be determined, under such terms and conditions as may be provided by the city council. Provided further that whenever any street, avenue, alley or lane shall be vacated, the same shall revert to the owner of the adjacent real estate, one-half (1/2) on each side thereof, or as the city council deems in the best interests of the adjoining properties, but the right of way, easements and franchise rights of any lot owner or public utility shall not be impaired thereby. In cities of fifty thousand (50,000) population or more in which a dedicated alley has not been used as an alley for a period of fifty (50) years [such alley] shall revert to the owner of the adjacent real estate, one-half (1/2) on each side thereof, by operation of the law, but the existing rights of way, easements and franchise rights of any lot owner or public utility shall not be impaired thereby.

50-1321. NECESSITY FOR CONSENT OF ADJOINING OWNERS -- ACKNOWLEDGMENT AND FILING OF CONSENT -- LIMITATION ON RULE -- PREREQUISITES TO ORDER OF VACATION. No vacation of a public street, public right of way or any part thereof having been duly accepted and recorded as part of a plat or subdivided tract shall take place unless the consent of the adjoining owners be obtained in writing and delivered to the public highway agency having jurisdiction over said public street or public right of way. Such public street or public right of way may, nevertheless, be vacated without such consent of the owners of the property abutting upon such public street or public right of way when such public street or public right of way has not been opened or used by the public for a period of five (5) years and when such nonconsenting owner or owners have access to his, her or their property from some other public street, public right of way or private road. However, before such order of vacation can be entered it must appear to the satisfaction of the public highway agency that the owner or owners of the property abutting said public street or public right of way have been served with notice of the proposed abandonment in the same manner and for the same time as is now or may hereafter be provided for the service of the summons in an action at law. Any vacation of lands within one (1) mile of a city shall require notification and consent of the city.