

AGENDA ITEM SUMMARY

DATE: March 22, 2010 DEPARTMENT: Planning

DEPT. HEAD SIGNATURE: BR

SUBJECT: Updates to Colorado Gulch Staff Report.

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

BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:

I made some updates to the March 22 Colorado Gulch staff report. The notice section was updated (pg 1) the applicant's proposal to place a conservation easement on the 17 acres below the bench was not updated in previous staff reports, that information is now included (pg 2, 5 and 12), the intent of the policy table was clarified (bottom two paragraphs, pg 5), the city wide total units per acre was updated to 2.15 (bottom pg 10) and the growth projection section updated with the 2.15 U/A figure (pg 11). Also included with the staff report are correspondence and comments received by Wednesday March 17 at 11:00 am. If any correspondence arrives before 5:00 Friday, I will forward it to the Council by email.

FISCAL IMPACT / PROJECT FINANCIAL ANALYSIS: Case # _____
Budget Line Item # _____ YTD Line Item Balance \$ _____
Estimated Hours Spent to Date: _____ Estimated Completion Date: _____
Staff Contact: _____ Phone # _____
Comments: _____

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:

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)

Beth Robrahn

From: Carol Brown
Sent: Wednesday, March 17, 2010 6:41 AM
To: mhogan@cox.net
Cc: Beth Robrahn
Subject: FW: CO Gulch annexation

Hi Mary,

I'm sorry for the delayed response to your e-mail. I'm traveling all this week and have limited access to the internet. I'm copying your e-mail to our City Planner, Beth Robrahn. She will ensure your comments get distributed to staff and the other City Council and are made part of the public record.

I appreciate the time you and Dennis took to write in and have read your thoughtful comments. As with all annexation applications, there are pluses and minuses - annexation proposals raise strong emotions on both sides. By communicating your thoughts, you help the City Council make a better decision.

I refrain from commenting specifically on public applications except in a city council meeting where everyone can hear my thoughts. That way I avoid any 'ex-parte' communications. But I did want to acknowledge your email.

Carol

Carol Brown - Hailey City Council (208) 788-4221
All messages sent and received from this mailbox are part of the public record

From: mary hogan [mhogan@cox.net]
Sent: Sunday, March 14, 2010 9:11 PM
To: Carol Brown
Subject: CO Gulch annexation

Dear Council Members,

We were shocked to read the threat from the developer Jeff Pfaeffle and Grant Stevens. We live on Queen of the Hills Drive and have not been in favor of the annexation of that property.

Our concern has been the increased traffic on Broadford Road and Queen of the Hills Drive. Many of the drivers do not go the speed limit. It seems the city of Hailey and Blaine county do not have the time or budget for traffic enforcement, or for maintenance of Broadford road north of Silver Star Drive.

I am not in favor of more development in the flood plain.

We do not think our neighbors should be forced to be annexed if they do not want to be.

It would be great to have that open space for the trail along the river. Why doesn't the Wood River land trust step up and offer to purchase that property for river trail access from Heagle park to CO gulch? We were not impressed with the Wood river Land trust executive's letter to the editor in favor of the developer. The city should not be responsible for maintaining that trail and access. There are many county residents who use the park and trail too. Unfortunately the property will eventually be developed. It is crazy to see it be annexed when there are other subdivisions and lots empty in Hailey. If it stays in the county, there would be less density and less traffic. Why not be a great developer and sell the easement along the river to the open space for the wild life and people to enjoy?

We would also like to add a disturbing observation by one of our neighbors who saw the land owner kill the beautiful beavers over a year ago. They had made a dam on the canal. The neighbors saw the dead beavers in the back of the guys truck.

It makes us think this developer really does not care about nature and our way life here in Idaho.

Our other concern is we really do not think the land owner takes care of that property. The property has been taken over by knap weed and thistle. We wonder if he really cares about the land and we feel they are only in it for themselves.

Thank you so much for your time and energy. We know it is a tough issue.

We hope you will make the right decision.

Mary Hogan

Dennis Botkin

1320 Queen of the Hills, Dr.

since 2/1993

Please forward this to the other council members as their email did not go through

Beth Robrahn

From: B Keefer [b.keefe@cox.net]
Sent: Thursday, March 11, 2010 7:32 AM
To: Beth Robrahn
Cc: Jeff Pfaeffle
Subject: Colorado Gulch

Hi Beth,

At their meeting last week, the Parks & Lands Board had a short conversation about the Colorado Gulch annexation application, and wanted the following statement as part of the record:

Recreational access to the river corridor is important to the citizens of Hailey. The P&L Board would be open to review of proposed solutions to provide public access.

Thanks, and let me know if you have any questions.

Becki

Beth Robrahn

From: kimberlee m. johnson [plobb@msn.com]
Sent: Sunday, February 07, 2010 1:46 PM
To: Becky Mead; Beth Robrahn
Subject: Letter-Colorado Gulch Preserve Annexation Meeting Feb 22
Attachments: Colorado Gulch Annex letter.docx

Could you please make sure this gets in the Council packet for the February 22nd Colorado Gulch Annexation meeting? Thank you.
Peter Lobb

FEB 08 REC'D

To: Hailey City Council

Since I will not be able to attend the February 22nd public meeting on the Colorado Gulch Preserve Annexation, I would like to express my views in this letter. As you might expect, I am very much against the annexation of this property into the City of Hailey at this time. I say this for the following reasons:

First, let's look at the trail the applicant proposed to give to the public. The public is currently trespassing on private property, but will the trail cease to exist if the City does not annex this property? I don't think so. The Stevens family has the option to post no trespassing signs, but who would enforce this action? The County Sheriff does not have the will or the man power to do so. The other alternative would be to fence off access. This would not be in the best interest of the Stevens Family as it creates ill will within the community which would not serve them well if they come back to the city in the future to annex this property. Nor would it create a positive response from the county if that is the route they choose. The reality is that the applicant is giving us something we already have. This may not be fair; it is simply the nature of the situation. It also may well be better for the wildlife if this trail ceases to exist.

Secondly, the applicant has stated that at some point the city will need new housing. This may or may not be true. We currently have large inventories of land and houses all over Hailey so this project will probably not be built for many years. So why would the applicant want to annex now? I think if you look to the north valley you will see the answer. Three large projects have been approved in Ketchum recently. Three years ago, they probably would not have been approved at their present scale. I think the Ketchum City Council is afraid of being seen as uncooperative in a poor economy. I believe the Stevens family may be thinking the same thing about the Hailey City Council. In other words, now is the time to get this project through, it might be more difficult later on.

Next, the airport will probably be moving in the not too distant future. The City does not know specifically what will be done with this land or what the zoning will be, partly because the FAA will have a large say in the matter. As a result we do not know what the demands will be on the City infrastructure. Is it wise to annex the Stevens family ranch before we know the answers to some of these questions? Since this project will likely not be built for years, why hamstring the City now? Once land is annexed, it is permanent.

The applicant has also stated that there is a Comp Plan mandate to generate growth. I don't believe this is the case. The Comp Plan cannot mandate that the City Council approve annexations. There is no right to annexation. The Council can be as capricious as they wish in reference to annexations, not that I would ever recommend this. It is also unnecessary as there are many good reasons for denying this annexation.

The applicants' representative also stated that there is no opposition to this annexation because no one appeared at the public meetings to oppose it except people that live adjacent to the property. This is not true, I oppose it and there were a few letters from people in other areas of town. This is also not a logical argument. It should be noted that through this whole process I don't remember one person from the community coming forth to support this annexation. Using the same logic, does this mean that no

one supports this annexation? You can't make that supposition. It has been my experience is that most people do not attend and speak out at meetings unless the issue at hand impacts them directly.

I believe for annexation to be approved the City must benefit in some substantial way. It is common knowledge that in the long run residential developments do not pay for themselves. It costs more to provide services than you can recover in taxes. This development could someday produce large profits for the Stevens family, while being subsidized by the tax payers of Hailey.

I hope on February 22nd you will decide that this development is not in the best interests of the citizens of Hailey and deny it. I would appreciate it if you would put this into the public record. As always, thank you for time,

Sincerely,

Peter Lobb, Hailey resident

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OTHER VIEWS

Annexations can protect open space

By SCOTT BOETTGER

Production Manager
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Graphic Designers
Erik Elson
Coly McCauley

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Ben Varner

In the 2008 Idaho Press Club awards competition, held in May 2009, the Express won the Pinnacle Award for winning 35 awards for weekly newspapers.

With the downturn in our economy, we continue to hear how important it is to diversify our opportunities for growth. But in the rush for new growth we shouldn't lose sight of what makes this valley special. We also need to plan for the protection of water, wildlife and recreational opportunities that set this valley apart and will ultimately hasten our recovery.

In a recent study, analysis showed that Coloradans reap roughly \$6 in benefits for every \$1 invested in efforts to keep agricultural land and other open spaces from being developed. Additionally, John Swartout, executive director of the Colorado Coalition of Land Truists, said that Colorado can't offer the kind of financial incentives other states can to attract businesses. "I think the beauty of this state and preserving what we call quality-of-life investments is an economic driver," he said.

While I realize every state is different, Idaho is similarly situated to Colorado—in *Scott Boettger is the executive director of the Hailey-based Wood River Land Trust.*

at least geography, beauty, agriculture and recreation—and the Wood River Valley also needs to look at open space protection as an economic driver.

Annexations, planned properly, can actually protect open space, provide for smart sustainable growth, and enhance the very things we all value in our valley. Annexations are one of the few ways city officials can provide incentives for landowners to do what's best for all. By providing density in areas where future development is most sustainable, officials can also require other lands (such as wildlife habitat, greenways, floodplains and areas that provide for recreation) are protected. These dedications should be more than just what is not developable (or left over) but include areas that add to the overall employment and livability of our communities.

We need to look beyond our current condition and take this opportunity to plan for a better tomorrow. The current Colorado Gulch Preserve annexation request is a perfect example of how we can plan for a more sustainable tomorrow.

All planners are taught that if you want to protect open space, you need to encourage

density. When you look around this valley, you will quickly see that there are many places we would all like to see protected, but it is more difficult to identify areas acceptable or appropriate for future development. I am a big proponent of infill (developing or re-developing existing vacant lots in the city) but to develop these sites beyond their currently zoned densities is fraught with controversy.

Similarly, rezones in the county are also difficult and financially taxing. We are left with annexations as the only real alternative for future growth in this valley. That is why it is important that city officials look at annexation requests as their best opportunities to plan not just for growth, but also for protection of the things that make this valley such a special place to call home.

I encourage you all to support the upcoming Colorado Gulch Preserve annexation Monday night in Hailey. The plan is the "smartest" I have seen in the valley, providing for future compact growth on a small portion (less than 10 percent) of the property, while protecting and providing public access to over one-half mile of invaluable Big Wood River frontage.

Beth Robrahn

From: Scott Boettger [sboettger@woodriverlandtrust.org]
Sent: Friday, March 12, 2010 8:11 PM
To: Carol Brown; Fritz Haeemmerle; Don Keirn
Cc: robingrwd@gmail.com; tjones@hallandhall.com; John Seiller; Keri York; Johntflattery@aol.com; Nathan Welch; Jim Keating; jadams; Tom Bergin; Beth Robrahn; Heather Dawson
Subject: support for Colorado Gulch Preserve

Dear Hailey City Council,

Please find this email in support of the upcoming Hailey city council's meeting on the Colorado Gulch Preserve annexation. I understand the P& Z has not recommended the plan for approval. I would hope you would 1st take into consideration the following when you make your decision.

I feel fortunate to have been able to call Hailey home for the last 13 years. Much of my enjoyment has come from my love of the outdoors. As residents we are blessed with abundant opportunities to enjoy the wilds (for many of us) right out our back door. Some of my favorites include:

Hiking Della Mountain for exercise and a spectacularly rewarding view, fishing the Green Drake hatch on a warm spring evening,

teaching more than one young hunting dog how to water retrieve, being awed by the untamed beauty of moose, deer, otters and eagles, and discovering the delicious wild treasure we know as morels. These simple pleasures are the spice of my life and make living here in Hailey truly special. You probably already guessed my point... All of these things, I have had the fortune to enjoy on the open spaces being offered in the Colorado Gulch annexation.

It's easy to take these things for granted – "if we did it before we should always be able to do it" is a feeling I share with many residents. But unfortunately not everyone sees it that way. I am terribly disappointed in the landowners current threats to close off trail accesses. But I hope you can find a way to raise the level of debate so we, as a community, can take a step forward, and make the most of this opportunity to provide for future growth but also secure permanent protection for the places that make this City special.

Here are a few suggestions I offer; propose a density for the annexation that the City would like to see, require that the proposed trails and public access be established where it makes the most sense, and require donations of lands (as Recreational Green Belt, RGB) on land currently adjacent to the City that would avoid the need for forced annexation of neighboring County residents. I realize no plan is ever perfect right out of the box. It takes an effort on both side of the table. But I feel this property is worth the extra effort and now is the time to move the discussion forward not backwards.

Thanks you for your consideration.

Scott Boettger
920 Foxmoor Drive
Hailey, Idaho
788-8536

STAFF REPORT

TO: Hailey City Council
FROM: Beth Robrahn, Planning Director 
RE: Annexation- Colorado Gulch Preserve
HEARING: March 22, 2010

Applicant: Hartland Development Company, LLC
Property Owner: Stevens Family Ranch, LLC
Project: Application for annexation of 21.81 acres
General Location: west of Airport West Subdivision and south of Della View/Broadford Estates Subdivision
Legal Description: Lot 1, Block 1, Stevens Family Ranch, LLC Subdivision (70 Broadford Road)

Notice

Notice for the public hearing on January 25, 2010 was published in the Idaho Mountain Express on January 6, 2010. The notice was mailed to property owners within 300 feet, to public agencies, and to area media, on January 6, 2010. Notice was posted on site on January 15, 2010. On January 25 the public hearing was continued in the record to February 22, 2010, continued on February 22 to March 8, 2010 without any discussion and continued on March 8 to March 22, 2010 without any discussion.

Application

Hartland Development Company LLC has submitted an application for annexation of 21.81 acres of the Colorado Gulch Preserve located within Lot 1, Block 1, Stevens Family Ranch, LLC Subdivision (70 Broadford Road). The parcel is located west of Airport West Subdivision and south of Della View/Broadford Estates Subdivision.

The applicant is proposing development of 94 residential units and requesting General Residential (GR) zoning of the property should annexation be approved. The property is currently located in the County and is zoned Residential - 1 acre lots (R-1) and Flood Plain (FP)

Pursuant to Idaho Code Section 50-222, (3) (a), the subject application represents a Category A annexation, because it involves "residential enclaved lands of less than one hundred (100) privately-owned parcels... which are bounded on all sides by lands within a city and by the boundary of the city's area of city impact." The subject property is within the Area of City Impact. Category "A" annexations do not require the consent of the property owners, however in this instance the property owner has given consent to the applicant.

The subject property is directly adjacent to Della View Subdivision for approximately 12,200 feet to the north. Airport West Subdivision lies across Broadford Road to the east. Two small parcels of property (Tax Lots 3913 and 7505) also lie to the east, and are located outside City Limits. County land lies to the south, and the Bigwood River and Della View Mountain are to the west.

The proposed annexation, if approved, would leave Tax Lots 7196, 3913 and 7505, and Broadford Road as small islands of county land, surrounded on four sides by City Land. The Council will consider whether a city-initiated annexation of those tax lots and Broadford Road is appropriate. No indication of agreement to annexation has been received from the owners of the tax lots.

The property owner owns an additional 160 acres to the west of the 21.81 acres proposed for annexation. This other portion includes floodplain, wetland, mountain overlay and avalanche areas under County zoning and would remain in the County under the applicant's proposal. The applicant is negotiating a conservation easement on this portion of the property with two home sites to be developed within the County. During the Planning and Zoning Commission public hearing process the applicant did propose a conservation easement on 17 acres between the bench and the east side of the river.

Procedural History

The application for annexation was received December 6, 2007 and certified complete as of the date of receipt of the draft annexation agreement on January 29, 2008.

The application raises the issue of the potential forced annexation of four (4) parcels currently located in the County between the property to be annexed and Airport West Subdivision and between the property to be annexed and Della View/Broadford Estates Subdivision. The applicant requested a discussion with the Council on the issue of forced annexation prior to proceeding with the application. The Council discussed the issue on May 11, 2009. The minutes from that meeting reflect the following:

- Haemmerle believes that there are cases around the city which are good candidates for forced annexation
- Brown believes that these situations should be considered on a case by case basis and that like Haemmerle, there are times where forced annexation is appropriate.
- Burke is concerned with the potential of a forced annexation where it would potentially create "islands" of city property and where the developer benefits from the annexation and individuals forced to annex into the city receive liabilities (water hook up fees).

The Planning and Zoning Commission held public hearings on August 3, 2009, September 8, 2009, October 5, 2009, November 2, 2009 and November 16, 2009 and recommended denial of the application.

Studies

Pursuant to Section 14.01.050, Submittal Requirements, “unless the Administrator determines, in the Administrator’s sole and absolute discretion, one or more of the following studies are not warranted based on the size, scope and impact of a proposed annexation, the following studies are required to be submitted”:

a) Traffic study showing impact on adjacent streets and streets that would serve the proposed project.

A traffic study has been submitted and updated to address the City Engineer’s comments.

b) Floodplain study (if applicable).

The established Flood Plain boundary is shown on the plans; a study was not required at the time of application submittal.

c) Avalanche study (if applicable).

The Red and Blue Avalanche zones are depicted on the existing constraints map. The portion of the property requested for annexation is not located within close proximity of these avalanche zones, therefore a avalanche study was determined to not be warranted.

d) Wetland study (if applicable).

Determined to not be warranted at time of application submittal. See letter from Steve Fisher dated August 23, 2009.

e) Wildlife study.

Determined to not be warranted at time of application submittal. A study was requested by the Commission and was presented by the applicant on October 5, 2009.

f) A Level I environmental study showing the presence of any hazardous waste.

Determined to not be warranted at time of application submittal and was not requested by the Commission.

g) Contour map depicting 15% and 25% slope lines measured at two foot (2’) intervals.

The property is not within the County Mountain Overlay District. Therefore, a contour map was determined to not be warranted at time of application submittal and was not requested by the Commission.

Additional studies can be requested by the Council.

Council Review

Pursuant to Section 14.01.090, Council Review, of Hailey Ordinance No. 889, the Council's review shall include:

A. Conduct and Notice of Council Hearing. Upon receipt of the Commission's findings of fact and conclusions of law, the Council shall schedule a public hearing to review the application for annexation. Notice of the public hearing shall be conducted in the same manner as the notice for a Commission hearing pursuant to Section 14.01.070 of this Chapter. The Council shall have the right to request further information deemed necessary by the Council at any time during the proceedings.

The Council received the Commission's Finding of Fact on December 28, 2009 and directed staff to notice a public hearing for January 25, 2010.

B. Fiscal Impact. To assist the Council in the determination whether an annexation will have any negative fiscal impact, the Council may, in its sole and absolute discretion, require the applicant for annexation, at the applicant's sole expense, to submit a fiscal analysis or an updated fiscal analysis by a qualified and independent person or firm acceptable by the Council and in a format acceptable by the Council, to determine the proposed annexation's impact and to recommend the base amount of annexation fees. The Council retains the right to require further monetary or non-monetary contributions for any annexation. The applicant has the right to seek the City's approval of such a fiscal impact study at any point in the annexation process.

C. Findings. During the public hearing process of the application for annexation, the Council shall make its own findings of fact and conclusions of law to determine:

- 1) whether the proposed application will be harmonious and in accordance with specific goals and policies of applicable components of the Hailey Comprehensive Plan, and
- 2) whether the proposed annexation generally complies with the Hailey Comprehensive Plan, and
- 3) to the extent possible, whether the proposed annexation will have a negative fiscal impact upon the existing citizens of Hailey at the time of an annexation and in the future.

If the Council finds general compliance with the Hailey Comprehensive Plan, the Council shall then consider the application for a zoning classification and consider any and all factors it deems, in its sole and absolute discretion, important to determine whether an application for annexation shall be granted or denied. If the Commission made negative findings related to the Comprehensive Plan under Section 14.01.080 and therefore did not make a recommendation on zoning classification for the property sought to be annexed, but the Council subsequently made favorable findings related to the Comprehensive Plan and wishes to proceed with the annexation, the Council shall remand the proceedings to the Commission for its recommendation on zoning classification.

Determination of compliance with the above standards will be dependent upon the Council's review of the Comprehensive Plan policies relative to the annexation application. Findings for

each standard will be drafted in accordance with the Council's discussion of the three standards of evaluation.

Summary of Applicant's Proposal

The applicant proposes development of 94 residential units on 21.81 acres (4 units per acre). The units are a mix of single family on lots ranging between 4,159 and 6,370 square feet, lots for larger custom single family homes ranging between 11,429 and 19,445 square feet and 12 triplex unit buildings intended to look like larger homes.

A park, approximately 0.47 acres, is proposed to be developed within the center of the subdivision for the benefit of the homeowners. Trail access to the portion of the property to the west, below the bench and within the floodplain, is conceptually shown on the site plan submitted by the applicant to connect Heagle Park to Colorado Gulch Road. This trail is proposed to replace the existing unauthorized trail running through private property near the river. During the Planning and Zoning Commission public hearing process the application stated that a conservation easement would be placed on the 17 acres between the bench and the river (the portion of the property the applicant proposes the trail) and suggested including that portion of the property in the annexation application.

Refer to the applicant's project description for additional information on the proposal.

Comprehensive Plan Analysis and Discussion

The following analysis is intended to help the Council in its review of the Comprehensive Plan in determining whether the application is in specific and general compliance and what conditions would need to be met if portions of the proposal are not in compliance, or if there is insufficient information available at the time of the Council's review for a final determination of compliance to be made.

The Comprehensive Plan includes approximately over 100 goals and policies that may be considered applicable to this application. For convenience staff initially categorized them into general topics; Growth and Land Use, Transportation, Recreation, Environment and Natural Resources and summarized the general themes within the Comprehensive Plan policies related to each topic. These common themes are what staff analyzed for the Council's consideration.

On January 25, 2010 the Council requested a more detailed compilation of information from the Comprehensive Plan.

The Council should note which Comprehensive Plan item(s) the application does or does not generally comply with. Some items may be considered more important than others. Staff purposefully did not indicate a plus or minus because it would be inappropriate to guess what the Council's collective thoughts might be given that the specific interpretation of many policies is subjective.

The italicized items in the following table are those indicated by Council members to staff since the January 25th public hearing as being particularly applicable in this application and items that the proposal may not be considered to be consistent with.

Notes re Compliance	Applicable Comprehensive Plan Goals and Policies	
	1.1	Retain and preserve watercourse and wetlands
	1.1.2	Preserve and establish water related recreation activities
	1.1.3	Preserve water courses
	1.1.4	Preserve wetlands
	1.3	Preserve and protect upland and green space
	1.4	Enhance/Protect wildlife populations
	1.5	<i>Protect and enhance physical environment of Hailey</i>
	1.6	Promote the use of renewable energy sources
	2.8.2	Regulate uses that diminish water quality
	3.2	Protect scenic value of Wood River Valley
	3.4	Promote creation and presentation of green space.
	4.1	Create and maintain interconnected system of parks, recreation facilities and trails
	4.2	Establish funding for land acquisition and maintenance of recreation facilities
	4.3	Maximize recreation activities and minimize tax dollars
	5.4	<i>To provide for a balanced mix of land uses suitably related to each other and their natural setting. Include sufficient space in all types of districts to accommodate future growth. Direct density of development towards the community core, with increasing green space and generally decreasing density toward the edges of the community and within the Area of City Impact.</i>
	5.4.1	<i>Encourage integration of compatible land uses in order to retain a compact City comprised of a central downtown with surrounding diverse neighborhoods, thereby reducing sprawl and traffic, increasing efficiency, and creating neighborhood and community character.</i>
	5.4.5	Enhance new and existing neighborhoods, encourage mix of housing
	5.4.7	Preserve green space, create parks.
	5.5.2	Utilize planning tools to address areas of concern

Notes re Compliance	Applicable Comprehensive Plan Goals and Policies	
	5.6	<i>To emphasize efficient use of resources, including all infrastructure, and the land itself.</i>
	5.6.1	Ensure development does not exceed water capacity
	5.6.2	<i>Establish land use policies that ensure orderly residential development relative to public facilities and services.</i>
	5.6.2.c	<i>Promote higher density developments adjacent to commercial areas, collector roads, or other services or infrastructure that can efficiently serve those developments.</i>
	5.6.3	<i>Promote the creation of neighborhood businesses in order to protect environmental quality, provide for greater convenience, and furnish residents with neighborhood centers.</i>
	5.6.4	<i>Encourage energy efficient design in the use of land through sound land use planning policies.</i>
	5.7	<i>To increase opportunities for alternative transportation, reduction of vehicle traffic, creation of safe and walkable neighborhoods, creation and preservation of public spaces and green space, and efficiency of services by promoting appropriate housing densities.</i>
	5.7.1	Promote density near city core, discourage sprawl.
	6.3	<i>Explore the creation of an area within the Central Business District to encourage business by allowing flexibility with applications and requirements due to the physical limitations of Original Townsite Lots. Encourage the retention of historic Hailey with renovations and new buildings to mirror the old Hailey design and character.</i>
	6.3.1	<i>Neighborhood business are those which are designed and operated to primarily serve and/or employ residents in the areas in which they are located, and are generally less than an acre in size.</i>
	7.1.5	Assure clean renewable energy resources
	7.2	Maintain quality of Hailey's social fabric
	8.1	Establish community and neighborhood character.
	8.1.4	Pedestrian oriented design
	8.1.5	Promote human scale architecture.
	8.2	Community Housing
	9.0.1	Maintain/improve level of service of city utilities and facilities
	9.0.2	Water storage

Notes re Compliance	Applicable Comprehensive Plan Goals and Policies	
	9.0.3	Upgrade wastewater
	9.0.4	Improve/augment city parks
	9.1.1	<i>Continue to improve City streets and transportation services to meet projected needs.</i>
	9.1.2	<i>Upgrades of the municipal water storage and distribution systems should be accomplished according to the adopted Master Plan. Recognize that water is a finite resource in the Wood River Valley.</i>
	9.1.3	<i>Upgrades of the municipal wastewater treatment systems should be accomplished as needed or according to a revised Master Plan as adopted.</i>
	9.1.4	<i>Continue to strive for improvements and augmentation of the City park system according to the adopted Recreation Master Plan.</i>
	9.1.5	<i>Support Police Department improvements to meet projected Law Enforcement needs.</i>
	9.1.6	<i>Support Fire Department improvements to meet projected fire protection and emergency incident response needs.</i>
	9.1.7	<i>Support Library improvements to meet projected needs of the Community.</i>
	9.1.8	<i>Ensure adequate service to citizens at City Hall.</i>
	9.4	Strive for park improvements
	9.6	Support fire department
	10.1	Create pedestrian/bicycle friendly community
	10.1.3	<i>Ensure an interconnected community that provides multi-modal access from and to all neighborhoods.</i>
	10.1.5	Promote land development that discourages sprawl and connects the community.
	10.2	Create street designs to manage transportation demands
	10.3	Ensure growth does not place undue demands on infrastructure
	10.3.1	Growth does not place undue demands on transportation infrastructure

Notes re Compliance	Applicable Comprehensive Plan Goals and Policies	
	12.1	<i>To manage and accommodate growth due to infill development and to control and/or limit expansive development within the City of Hailey, through flexible, responsive, and consistent controls, in order to provide for a community that is well-defined in terms of distinct boundaries, compact in terms of human scale elements and distances between structures and uses, and surrounded by and integrated with green space. To provide for alternative modes of transportation, sustainable economic development, a balanced mix of housing, serviceable annexations and adequate infrastructure.</i>
	12.1.1	<i>Ensure that growth does not outpace infrastructure, services or capacity of resources. The following implementation items are considered high priority for the City.</i>
	12.1.2	Promote infill within community core.
	12.1.3	<i>Support infill development, generally the preferred method of growth, while recognizing that expansion of city boundaries will also be required to accommodate various uses compatible with this Plan.</i>
	12.1.4	Guide and direct growth to maintain green spaces in and around the city, and to preserve identified historic, cultural and other sites of importance.
	12.1.5	<i>Ensure that development, both within current city limits and in future annexation areas, pays all cost associated with additional services required. Future growth should pay for itself.</i>
	12.1.6	Ensure neighborhood character in future development
	12.1.8	Promote alternate modes of transportation to less dependency on automobile
	13	Community design
	13.1	<i>Maintain a City that emphasizes the human being and places less emphasis on the automobile.</i>
	15.12	School transportation

General Staff Analysis

Growth and Land Use

Land Use Efficiency - Efficient land use practices reduce the excessive consumption of land (commonly referred to as sprawl) while accommodating projected growth. Comp Plan Policy 5.4 encourages highest densities at the city center with generally decreasing densities toward the edges of the city. This principle should be applied using land use calculations appropriate for towns and cities, which are not the same as land use calculations appropriate for rural areas of the County. If density increases are applied to a baseline density in the city center and edges that is already lower, or as low, as densities typical for outlying County land, the result would be inefficient land use practices within the city that mimic the land use pattern typically found, and more appropriate in unincorporated parts of the County. This leads to the policy question of whether the existing densities within the city are at the appropriate levels to support population growth projections through infill.

Policy 5.7.1 states; promote the highest housing density within the Community Core (within a ½ mile of the Business District) and discourage sprawling residential development. The wording of Policy 5.7.1 is more consistent with the underlying principles of efficient land use.

Units per Acre and Residential Units per Acre are units used to measure land use efficiency. Units per Acre (U/A) is the number of households (residential lots, sub-lots or units) divided by the underlying acreage, including public right-of-way.

Residential Units per Residential Acre (RU/RA) is the number of households (residential lots, sub-lots or units) divided by the underlying acreage, excluding all land in non-residential use, easements and public right-of-way.

The differences in what is included when calculating each of the above measures can result in confusion when attempting to make comparisons. As the size of the area of land being considered increases, there are typically more non residential uses included in the calculation which results in a lower number of units per acre. The units per acre measure is a more inclusive measure and provides a better overall sense of the relative walkability (uses within ¼ to ½ mile) of a site. However, measuring only the units per acre can make compact or clustered development on a large area of land with a significant amount of open space or commercial uses appear to be an inefficient use of land. Therefore, both units per acre and residential units per acre will be discussed in this analysis.

Hailey Development Trends - The Hailey Townsite was originally platted with a land use efficiency of approximately 5 U/A. Using this historic context, Hailey's "small town character" can be translated into a land use pattern of 4 to 5 units per acre. As the city grew beyond the Townsite, the units per acre reduced to 2.15¹ U/A. Hailey's current land use efficiency is equivalent to that which is typically associated with sprawling single family developments. If Hailey continues to develop in the same trend as the last 50 years, the city should expect to consume 19 acres per year.

If the City of Hailey determined its overall aim was to maintain land use efficiency of 4 to 5 U/A for the city as a whole, this would be approximately equivalent to 7 to 10 RU/RA and an *average*

¹ updated in February 2010 as part of Comprehensive Plan update process using City and County data.

lot size of 6,000 square feet. It should be noted that the residential units per acre calculation for specific sites would be higher (e.g. Sweetwater at approximately 15 U/A).

Hailey Growth Projections – It is the responsibility of the city to plan for the projected growth in a manner that is consistent with the adopted goals and policies of the Comprehensive Plan. Several facility master plans adopted by the City Council have used growth projections ranging from 4.5% to 6%. The growth projections in the most recent facility plan, the Hailey Wastewater Facility Plan (WFP), uses 4.5% average annual growth and estimates that Hailey may have a population of approximately 19,000 by 2025; an increase of approximately 10,000 people. This is equivalent to 3,906 households assuming an average of 2.56 people per household.

To plan this 4.5% average annual rate of growth *without* expanding the current city boundaries (infill only), the number of units per acre would have to change from 2.15 U/A to 9 U/A. Current zoning would have to adapt to allow for this change in overall land use efficiency. Otherwise the city boundaries would have to be expanded by approximately 1,520 acres if developed at the same land use efficiency trend of 2.15 U/A.

The Colorado Gulch proposal would accommodate approximately 2% of the projected 2025 growth within 22 acres (4.27 U/A). For comparison, the proposed Quigley Canyon development, also being considered by the city for annexation, would accommodate approximately 9% of the projected 2025 growth within 720 acres (0.49 U/A).

Transportation and Infrastructure

The distance for “walkability” is generally defined as a quarter to a half mile. The midpoint of the proposed development along Broadford Road is over a mile (approximately 6,200 feet) to the center of downtown (Main and Bullion Street) and over a half-mile (approximately 3,400 feet) to the post office. The nearest bus stop (Main and Maple) is just over three-quarters of a mile (approximately 4,000 feet) from the midpoint of the proposed development along Broadford Road.

The proposed development is within walking distance of Airport West and the airport site which may have more neighborhood commercial uses in the future. Pedestrian and bicycle connections from Broadford Road, through Parcel A of Airport West, to connect to Gulf Stream and Domier Way, should be required to accommodate non-motorized connectivity to existing and future land uses within Airport West and the airport site.

The property has direct access to Broadford Road, however Broadford Road is sub-standard and improvements will be necessary in order to meet City Standards. The applicant has indicated a willingness to pay for these improvements. If the annexation of Broadford Road occurs, the City would be responsible for the maintenance of that portion of Broadford Road located within the city boundary.

City services have been extended east of this area into Airport West Subdivision. Concerns exist regarding irrigation of green spaces within the proposed development and increased water

demand on the City system. Water rights issues will need to be addressed should the Council wish to consider the application further.

Environment and Natural Resources

The annexation request does not include the portion of the property below the bench which is sensitive floodplain and wetland area. A portion of the lots proposed at the edge of the bench include floodplain area. It is suggested that the city prohibit any development within the floodplain or restrict development on the portion of the property within the floodplain with a conservation easement should the property be annexed. During the Planning and Zoning Commission public hearing process the applicant did propose a conservation easement on 17 acres between the bench and the east side of the river to maintain that area as open space.

Recreation

In a November 16, 2009 memo to the Planning Department, the Parks & Lands Board reasserted that the goal for any recreational trail is to connect assets to neighborhoods, and in the case of new development, connect the residents of the new development to existing and new recreational assets. The Board had several concerns with the proposal:

1. The property along both sides of the river at the Colorado Gulch bridge that is currently being managed by Wood River Land Trust has no guarantee for continued or future public access. Any recreational value that these properties may present, which are outside of the property considered for annexation and not a part of the application, are contingent on guaranteed public access. Although the WRLT has a proven track record with managing sensitive areas, sometimes that management restricts or prohibits public access. The P&L Board feels that public access to the river is important at Colorado Gulch, and recommends that any conservation easements on these properties include guaranteed public access where appropriate.
2. The current trail that runs from Heagle Park along the river to Colorado Gulch is on private property; the property owner is under no obligation to provide public access. The P&L Board finds that public expectation to continue to trespass is unreasonable; one Board member noted that a Fun Run was scheduled for this past weekend, and the Board felt strongly that an organized event that takes place on private property without that property owner's permission is simply wrong.
3. Angler access along the Big Wood River is guaranteed by state code. The P&L Board discussed that some places should be available to just anglers, and not to everyone and their dogs. The Board supports Idaho Fish & Game in its concerns with general public access to the sensitive areas that run along the river and the potential for wildlife conflicts.
4. The Board was not comfortable with making a recommendation of what properties should or should not be included in the annexation application. However, the Board recommended that the trail connecting Heagle Park to Colorado Gulch Road as depicted in the application would have public benefit, not only to current residents of Hailey, but for the residents of the proposed development, as well. The trail should have two or three connections back into the proposed development in order to increase connectivity. If all trail corridors were designated at thirty-five feet wide and dedicated to the City of Hailey, the applicant could meet the parks dedication

requirement of 2.60 acres, regardless of whether those corridors were on property annexed into the city or not (Lions Park is owned and managed by the city, but remains in Blaine County).

5. The Board discussed the maintenance costs of a developed park dedicated to the city of Hailey, as opposed to the maintenance costs of a trail or for restoration and management of several acres restored to its natural state. While weed control can be expensive, it is still less than the cost of weekly mowing and irrigation for a typical neighborhood park. The Board was reluctant to recommend that the city acquire another 2.60 acres of park space that will need to be maintained, especially in view of the proximity of Heagle Park and the public's current enjoyment of undeveloped property along the river. Any trail system will also need to be maintained, and should be constructed in a sustainable manner to minimize future maintenance needs.

Planning and Zoning Recommendation

While the Planning and Zoning Commission recommended denial of this annexation application, the following conditions were discussed and agreeable to the applicant should the annexation be considered favorably by the Council:

- a) Any annexation shall be subject to an acceptable annexation agreement which will, at a minimum, address dedication and contributions.
- b) The applicant shall make dedications and contributions, as determined by the City Council, to ensure no negative fiscal impact to the City and its existing residents.
- c) Any development within the floodplain shall be prohibited.
- d) All building lots be located entirely out of the flood plain area and not include the steep slope of the bench.
- e) A Wildland/Urban Interface (W/UI) fire plan as described in the W/UI fire code adopted by the City of Hailey shall be completed. The plan should address the impacts that the upper bench subdivision may have on the lower bench area may include, but is not limited to, the maintenance of as "defendable space" for wild fires and adequate fire apparatus access roads to the lower bench for fire suppression.
- f) The proposed fire hydrant plan shown on the proposed subdivision plan does not meet fire department requirements. It is assumed that these hydrants will be supplied by Hailey's municipal water system. The layout of the fire hydrants will need to be approved by the Hailey Fire Department prior to installation, however the actual layout is not needed for annexation consideration.
- g) Improvements to Broadford Road to mitigate the impact associated with development are required to be paid for by the developer and shall meet City Standards and Fire Code. An improvement plan shall be presented by the applicant to the City Engineer for recommendation to the Mayor and City Council for final approval.
- h) Pedestrian and bicycle connections from Broadford Road, through Parcel A of Airport West, to connect to Gulf Stream and Domier Way are required to accommodate non-motorized connectivity to existing and future land uses within Airport West and the airport site.
- i) The feasibility of connecting sewer lines from the property to the Airport West lift station or existing Airport West collection system shall be presented to the City Engineer for review and comment. If a lift station is the only feasible solution for proper wastewater management, it shall be to city standards and reviewed by a city hired engineer.

D. Decision. The Council has the sole and absolute discretionary right to approve, approve with conditions or deny an application for annexation. In addition, the Council is authorized to require, as a condition of approval, that the applicant and the City enter into an annexation agreement providing for the terms and conditions of an approved annexation. In the event a subsequent development proposal materially differs from the development shown in approved annexation, the annexation agreement shall provide that the proposed development may be denied, that the applicant shall be responsible for any increased annexation fees and/or that the property may be deannexed. There shall be no right of an appeal by an applicant or by an affected party from an adverse recommendation by the Commission or from an adverse decision of the Council on an annexation application. If the Council elects to approve the application for annexation with or without conditions, the Council shall also establish the appropriate zoning district(s) for the annexed property in accordance with the procedures set forth in Article XIV of the Hailey Zoning Ordinance.

Motion Language

Compliance with Comprehensive Plan

The proposed application for annexation of Lot 1, Block 1, Stevens Family Ranch, LLC Subdivision is harmonious and in accordance with specific goals and policies of applicable components of the Hailey Comprehensive Plan, and generally complies with the Hailey Comprehensive Plan subject to conditions a) through i). Staff is authorized to begin to negotiate an annexation agreement with the applicant which will at the minimum include the items that have been identified as being subject to an annexation agreement for review and final approval by the Council.

Non-Compliance with Comprehensive Plan

The proposed application for annexation of Lot 1, Block 1, Stevens Family Ranch, LLC Subdivision is not harmonious and is not in accordance with specific goals and policies of applicable components of the Hailey Comprehensive Plan, and does not generally comply with the Hailey Comprehensive Plan.

Mary Cone

From: Beth Robrahn
Sent: Friday, March 19, 2010 9:12 AM
To: Carol Brown; Don Keirn; Fritz Haemmerle; Martha Burke; Rick Davis
Cc: Ned Williamson; Mary Cone
Subject: FW: For City Council
Attachments: colorado gulch letter to editor.docx

another comment submitted after the staff report was handed in on Wednesday for the packet

From: Jeff Pfaeffle [mailto:pfaeffle@cox.net]
Sent: Friday, March 19, 2010 8:19 AM
To: Beth Robrahn
Subject: Fw: For City Council

Hi Beth,
Here is the letter.
Jeff

----- Original Message -----

From: [Jeff Pfaeffle](mailto:pfaeffle@cox.net)
To: [Beth Robrahn](mailto:beth@robrahn.com)
Sent: Thursday, March 18, 2010 8:36 PM
Subject: For City Council

Hi Beth,
This is the article that is appearing in the Mountain Express that will hopefully straighten some things up. I would like you to make this a part of the Council's packet so I am sure they see it first hand and not hear about it piecemeal. I don't think any of us can stand more issues over this annexation than there already exists.
Thanks,
Jeff

Colorado Gulch Annexation – The Truth Unwrapped

By Jeff Pfaeffle, Hartland Development

I wish to use this opportunity to address some of the misconceptions surrounding this annexation. This property is located on the north end of Broadford Road, across from Airport West light industrial park and the city maintenance yard. The only reason I have brought this annexation request to the City of Hailey is to attempt to provide additional access and open space to its citizens. A development in the County, both simple and profitable, would not allow for this financial consideration. I would like to touch upon three issues that I understand to be of the most public concern - public access, forced annexation, and density.

Public Access – The landowner is not denying access to Colorado Gulch. Access is still granted through prescriptive easement from Broadford Road to the Colorado Gulch Road and bridge and the removal of trails and bridges referred to in the landowner's letter to the Hailey City Council is not in reference to this prescriptive easement. It has never been the intention of the Justus family or the current landowner to allow access to Colorado Gulch beyond this prescriptive easement. Additionally, the Stevens Family has added a 10' fisherman's easement running the full length of the property, in addition to conservation gifts to the Wood River Land Trust.

It has been a priority of ours for the past 6 years to develop, hopefully in partnership with the City, a legal trail through our property for the benefit of the community. This trail would connect directly to Colorado Gulch Road (not Broadford, as reported), incorporating portions of the already existing trail on our property. An additional trail could be established which would parallel Broadford Road, connecting Colorado Gulch Road with Silver Star, to promote public safety and trail connectivity.

Forced Annexation - Based on a previous city council decision, we have questioned the need to force annex any properties not associated with our project. When Airport West was annexed into Hailey, its original county zoning was changed to business/light industrial. This property completely surrounded two residential properties, the subjects of potential current forced annexation, but the council (on which at least 2 current members sat) chose not to annex them at that time. Despite this previous decision, we were asked by the city to see if all property owners affected by our annexation would be willing to be annexed in conjunction with our application. We contacted these owners, offering to pay any expenses incurred by them and asked the city to allow them to delay connecting to city services until they sold or changed use of their properties.

Additionally, our property already shares a common boundary with the City of Hailey and its city limits, potentially negating the need for other properties to act as the necessary link to the city.

Density - The density of this property is also an important issue to us. Density is determined by a number of factors, and not necessarily by those driven by the financial needs of the developer. When making an application for annexation the applicant is expected to follow the guidelines of the city's planning department, as reflected by its comprehensive plan, and not reflective of current county zoning. The stated preference of the planning department is to create residential density within the city

limits of 4 units per acre to accommodate future growth and the efficient use of land. Additionally, a 20% community housing component must be added to the density. Following this formula would result in 100 units on our property, absent Planning and Zoning recommendations to the contrary, which we were not given. I must be clear - the conceptual plan we presented, including the approximately 90 units that continues to be brought up in public discourse, was only to illustrate potential densities following these expected guidelines – **it is of greater magnitude than we would ever wish to develop.**

The acquisition of desired open space along the river for public benefit incurs costs that can only be offset through additional density, available only in the city, due to county septic limitations. However, development in the city creates millions of dollars of additional fees and expenses, which in turn drives the need for further density to offset these costs. We would be more than willing to work with the City of Hailey to find ways to reduce the density of this project.

There are no home sites in the floodplain as part of this application. The Stevens Family's large river parcel, not a part of this annexation request, has sites for a home, separate guest house, and out buildings, and will not be subdivided. This has been made clear by me at numerous public hearings.

As part of the public record to the city council, in reference to our development, the Hailey Parks and Land Board stated, "Recreational access to the river corridor is important to the citizens of Hailey". We agree. We have been, and will continue to be, open-minded given a fair chance.

AGENDA ITEM SUMMARY

DATE: March 22, 2010 DEPARTMENT: Planning DEPT. HEAD SIGNATURE: BR

SUBJECT: Zoning Code Amendment to address "urban agriculture"

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

BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:

The amendments recommended by the Planning and Zoning Commission had been put on hold last year while the Council spent time on the Quigley Annexation application. With spring around the corner, the Planning Department has received several calls from residents interested in raising chickens, as a result we requested the Mayor allow time on an agenda. The amendments were scheduled and noticed for March 22. The agenda is now full with a presentation on the Home Energy Rating System demonstration results, the Rodeo Park and the Colorado Gulch Annexation application. In addition, it was determined some of the amendments would be better placed in Article 7 of the Zoning Code. Therefore, the amendments will be renoticed for April 12, 2010.

As additional background for the discussion on April 12, an article from the American Planning Association on sustainable community development codes is attached. In 2007 the City Council adopted emissions reduction and sustainability goals. The amendments pertaining to urban agriculture were originally part of a package of amendments that were intended to bring the Zoning Code more in line with the adopted goals and offer community members more options to individually choose to address critical issues related to energy, food supply and health.

FISCAL IMPACT / PROJECT FINANCIAL ANALYSIS: Case # _____
Budget Line Item # _____ YTD Line Item Balance \$ _____
Estimated Hours Spent to Date: _____ Estimated Completion Date: _____
Staff Contact: _____ Phone # _____
Comments: _____

ACKNOWLEDGEMENT BY OTHER AFFECTED CITY DEPARTMENTS: (IF APPLICABLE)

<input type="checkbox"/> City Administrator	<input type="checkbox"/> Library	<input type="checkbox"/> Safety Committee
<input 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:

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)

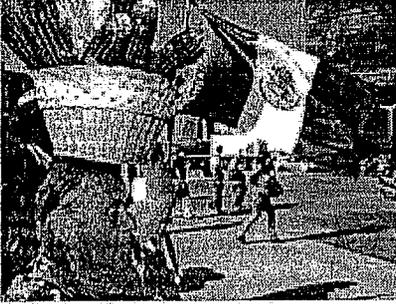
January 2008

Saving the World Through Zoning

The sustainable community development code comes to the rescue.

By Chris Duerksen

A couple of winters ago, being the quintessential zoning attorney, I was curled up in front of the fire at my mountain cabin reading a good development code.



It had all the latest bells and whistles that a progressive modern code should have: a form-based TND residential district, hillside protection performance standards, gateway design overlays tied to the city's recently updated comprehensive plan, illustrative tables, flow charts, and pretty graphics. I was proud of it — one of the best my firm had produced. But I had a gnawing feeling inside thanks to environmental guru Lester Brown.

I had just finished reading Brown's troubling book, *Plan B: Rescuing a Planet Under Stress and a Civilization in Trouble*. In it, Brown paints a dark picture of Earth's future unless we as a society make some big changes in the way we live and do business. He documents how oil production is peaking while world demand is expected to increase by 50 percent by 2030, and how China will demand more food by 2030 than the entire world produces today. He warns of another species extinction event, this one linked to global warming and man's destruction of habitat by development. Brown reports that a 2005 random analysis of newborn umbilical cords in the U.S. detected 287 chemicals, 180 known to cause cancer and 208 to cause birth defects.

What, I thought to myself, would this state-of-the-art zoning code do to address these critical issues? Sadly, I concluded, very little. It might nibble around the edges of habitat protection by preserving trees and river buffers or help reduce carbon dioxide emissions that contribute to global warming by encouraging mixed use development and pedestrian mobility. But overall, there was precious little in it addressing climate change, energy conservation and production, community health, food supply, safety, and other critical challenges. Our code devoted almost a dozen pages to nonconforming uses and nothing to solar and wind energy. Something was out of whack.

It dawned on me that the wonderful flavors of zoning regulations we have to sample and draw upon — Euclidean, form-based, performance, hybrid — all have their strengths, but all have serious blind spots when it comes to sustainable development and sustainable communities. Worse yet, I thought, was that if zoning codes did not evolve dramatically, they would become irrelevant. Zoning attorneys suffer enough without being accused of irrelevance. Thus was hatched the idea of what I call the sustainable community development code. The idea is simple: Make sure development codes directly address sustainability issues like energy conservation and production — for example, by removing impediments to compact residential wind turbines or requiring subdivisions to be laid out to take advantage of solar power.

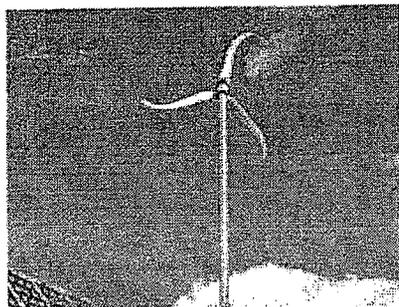
Definition, please

At this point, it is useful to step back and define key terms — like "sustainability" and "sustainable development." Thomas Jefferson said it in a way that appeals to me: "Then I say the earth belongs to each generation during its own course, fully and in its own right, but no generation can contract debts greater than can be paid during the course of its own existence." A more modern definition of a sustainable community was offered by the Brundtland Commission, which studied sustainability in the 1980s: "[Sustainable developments] meet the needs of the present while ensuring that future generations have the same or better opportunities."

By these definitions, it is fair to say that few of our communities can claim to be sustainable, though many are trying. As a father of two young men, I worry that we are not giving our children the same opportunities that our generation had and that we are undermining that most cherished American value: choice. Simply put, unless we clean up our houses, our children will not have the same choices we have enjoyed.

We must act now — there is no time to lose. Polar ice is melting at an alarming rate. We are beginning to run out of fossil fuels just when China and India are creating enormous new demands. A global population surge will gobble up enormous amounts of food just as our land base is being diverted to fuel crops. Witness the tortilla riots in Mexico City caused by skyrocketing corn prices in the U.S. linked to ethanol production. High grain prices have also contributed to a huge surge in milk prices — 46 percent worldwide since November 2006 (a rise one newspaper headlined as "udderly amazing"). On the health front, obesity continues to soar in western countries — in 2004, it was estimated that 60 percent of the U.S. population and 15 percent of our children were overweight or obese — with dire health consequences and costs. In 1960 we spent about five percent of our GNP on health care, but by 2005 that had increased to 16 percent — \$2 trillion in all.

Zoning to the rescue?



But what can a local zoning code do about these huge global issues? Plenty! Ask any local elected official what their most powerful and effective tool is to shape and protect their community and most will say, "our zoning code." A recent issue of *Time* magazine devoted to global warming provided a list of 51 steps the average person can take to save the planet, including 13 pertinent to land use and zoning regulations, like "ditching the McMansion" and installing compact wind turbines.

Local action is key. While the federal government seems to be in denial, mayors and local governments are leading the way in implementing sustainable policies and plans. If local governments do not act, they risk being preempted by state governments — already in California and Nevada the state legislatures have partially stripped cities and counties of their powers to regulate solar and wind power devices.

So what is wrong with the existing zoning models? While each type has its strengths, all have glaring weaknesses when it comes to sustainability. Euclidean zoning can protect neighborhoods by keeping out incompatible uses, but it can also stifle mixed use developments that may help reduce auto traffic and air pollution. At the same time, it can contribute to sprawl by forcing uses apart and limiting density.

Form-based regulations have admirably promoted mixed use development and pedestrian mobility, but often ignore natural resource issues or favor design over the environment — "design without nature" according to some critics. Indeed, one leading new urbanist spokesman recently suggested that wetlands laws be weakened because they do not allow us to build "the places we love," as he put it. This at a time when Louisiana is looking to spend \$25 billion to recreate wetlands to protect that state's cities from another round of devastating storms and floods.

The answer is to build on the best attributes of these other code approaches, but address a far wider range of issues like energy, climate change, food security, and health. The sustainable code must be tailored, and it must help shape new development to live in harmony with nature rather than trying to trump it.

Some details

How would a sustainable code work and what would it look like? The sustainable community development code of the future is beginning to take shape under the auspices of the Rocky Mountain Land Use Institute at the University of Denver School of Law. This code will follow three paths to sustainability:

- **Removing obstacles:** Most modern codes create barriers to sustainability, often unintentionally. For example, small wind turbines and solar panels are often prohibited by residential zoning regulations, height controls, or design standards.
- **Creating incentives:** Some sustainable technologies are relatively new and experimental — like green roofs. Zoning codes can foster increased density and other incentives to encourage use of such technologies.
- **Enacting standards:** While removing obstacles and creating incentives will be important, no zoning code can succeed without mandatory regulations that require certain actions or prevent harm. As Teddy Roosevelt once said, a smile and a six-shooter sometimes work better than a smile alone. For example, protective regulations may be essential to preserving trees that help sop up carbon dioxide.

How might these three approaches play out in the context of key sustainability issues like energy conservation and production, climate change, food security, and health and safety?

Saving energy



While fossil fuels and nuclear power will undoubtedly continue to supply most of our energy needs in the near term, alternative fuels like solar and wind power are quickly gaining ground. A federal research lab estimates that wind power could realistically provide 20 percent of the nation's energy needs. Using current technology, a microturbine with six-foot blades on a 50-foot pole could supply all of the energy needs for two homes in a moderate wind area. Passive solar and solar panels offer similar promise.

Unfortunately, when the Joneses go solar, planners are often the ones to feel the heat. In California, zoning restrictions on residential rooftop solar panels led the state to prohibit local governments from denying solar energy panels solely on aesthetic grounds. Local planners can get ahead of the game by reexamining their accessory use and design standards for residential areas to make sure small-scale solar and wind power devices are not unduly restricted. Solar and wind power devices need not be ugly. Already companies are producing solar roof panels that are almost indistinguishable from ordinary shingles, and compact wind turbines are not much bigger than the average house box fan. Yet most zoning ordinances prohibit their use out of hand or indirectly through height regulations or aesthetic standards.

Local zoning regulations can also help promote solar power by making sure buildings have access to the sun. After all, light access was one of the powerful rationales for adopting zoning ordinances back in the early 1900s.

During the energy crisis in the 1970s, Colorado and some other states adopted legislation requiring local governments to protect solar access at the site level. Boulder, Colorado, is one of the few cities in the state that still has such a regulatory regime in place. It assesses every residential building application to ensure that new homes do not encroach on the solar envelope of neighboring parcels. In urban areas where planners are promoting taller, denser developments to support transit and limit sprawl, protecting solar access will be an interesting juggling act.

Ambitious jurisdictions will go beyond protecting solar access building by building — they will require developers to consider solar access in laying out entire subdivisions. Western cities like Cheyenne, Wyoming, were laid out over 100 years ago with wide streets canted at an angle to take advantage of the bright western winter sun. Already subdivisions in such widely disparate locations as Drake Landing, Alberta, and Davis, California, are being designed so that each lot receives maximum solar exposure. A few cities like Fort Collins, Colorado, and Multnomah, Oregon, have enacted regulations requiring that a specified percentage of lots in new subdivisions — 20 to 30 percent — must be oriented to take advantage of solar. Do not be surprised to see other communities going further, following the lead of Aspen, Colorado, which assigns an energy budget to new developments and imposes an energy fee if the budget is exceeded.

Climate change

Local zoning regulations are also being used to combat climate change. New urbanists have made a major contribution to local development codes by promoting mixed use developments that reduce reliance on the automobile, thus cutting back carbon dioxide emissions. Research shows that a compact mixed use development can reduce auto use by five to 15 percent.

A good first step for local governments is to create districts that remove hurdles to mixed use developments. They can do much more, however. Portland, Oregon, has created a powerful incentive for green roofs that can soak up carbon dioxide emissions (and reduce stormwater runoff) by giving developers a height bonus for installing them on commercial buildings. Similarly, Austin, Texas, gives bonus points toward meeting commercial design standards for developments that use "cool" roofs.

Tree preservation regulations, which have become increasingly common over the past 20 years, will be even more important as local officials recognize that protecting and planting trees is one of the keys to rein in skyrocketing carbon dioxide levels.

Do not be surprised to see more and more American cities requiring developments to be "carbon neutral," as European cities are reportedly already doing. The concept is similar to the "no net loss" offset idea being applied to wetlands. In this approach, the total amount of carbon emissions projected from a development (additional

traffic, use of energy in producing building materials) must be offset, for example, by planting trees.

Food security

Food security and self-sufficiency promise to become a critical sustainability issue in the near future. In 2006, the U.S. for the first time imported more food products by value than it exported. Food increasingly comes from distant sources, the average food item traveling over 1,500 miles in this country. With the population booms in China and India and the competition for land by agricultural-based fuels like ethanol, there is little doubt that food security will become an issue for developed nations, not only for underdeveloped ones. To feed their citizens at reasonable cost and reduce energy consumption related to food transportation, pioneer cities are setting goals for local food production and self-sufficiency. Toronto hopes to supply 25 percent of its fruit and vegetable production from within city limits by 2025.

The problem is that planners (like most everyone) see urban communities as food consumption areas and rural areas as food production sources. Urban agriculture and husbandry are either not addressed or outright prohibited in most places — but that is beginning to change. A growing list of cities including New York and Chicago allow raising of animals and fowls for noncommercial purposes. Having a few chickens poses no public health issues, but take a tip from a Kansas farm boy: Be sure to prohibit roosters unless neighbors want an early morning wake-up call.

Those vast expanses of vacant lots in cities also have enormous potential for urban gardens. Surveys show that Chicago has over 70,000 vacant lots and Detroit 60,000. Not only can these lots help provide healthy food at low cost to city dwellers, but as the national Urban Agriculture report observed, urban agriculture has a "regenerative effect ... when vacant lots are transformed from eyesores — weedy, trash-ridden dangerous gathering places — into bountiful, beautiful, and safe gardens that feed people's bodies and souls."

Zoning regulations can help push this transformation. Think of all the tot lots that have been created to satisfy local open space requirements. Why not allow urban gardens as an alternative or require mixed use developments to buy one of those vacant lots and make it available for local food production? Far-fetched? Planning history teaches us otherwise. Witness the Mormons, who embraced one of the most sophisticated town planning laws in the world as they settled the West — they required each home owner to plant two fruit trees to help make their communities self-sufficient.

Health and safety

My grandmother would often tell me that if you had your health, you had everything. As a young invincible teenager, that refrain puzzled me no end; it seemed so unambitious. Now as I approach 60, I know exactly what she meant. Having your health, enough food to eat, and a decent job is about 90 percent of the game of life. But the signs are troubling for the richest nation in the world when it comes to health and safety of its population.

The U.S. just fell out of the top 40 countries in the world when it comes to life expectancy. No surprise there in view of the troubling national statistics about obesity, diabetes, and other ailments. The public health community is telling us diets or surgery will not get us out of this crisis. They are joining with planners in calling for healthier and safer communities. Safety is a handmaiden of health. As we witness the consequences of building in harm's way — the grim lessons of Katrina and the wildfires in the West — national leaders are finally waking up to the value of good planning.

Strong zoning and design standards can pave the way for healthy communities by requiring connectivity among developments. One study found that counties with higher residential densities and smaller block sizes had residents who walked more, had lower body mass index, and were less likely to be obese or have high blood pressure.

Many communities are taking on the challenge. Franklin, Tennessee, a progressive suburb of Nashville, has adopted a numerical connectivity index for new developments, as have Orlando and San Antonio. Franklin requires a minimum number of connections both within new subdivisions and to surrounding developments.

Development standards can also help preserve access to public lands. That access is increasingly being cut off by new projects, especially in the West. Losing it can have significant health consequences because city and town dwellers have less room to exercise and fewer opportunities for stress-reducing recreation.

By requiring new master planned communities and residential developments to lay out safe pedestrian routes to

schools, commercial centers, and public buildings, planners can put a stop to grim statistics like this: The major cause of death among Hispanics in Los Angeles is traffic accidents — not in cars but as pedestrians because of lack of sidewalks and safe walking routes. Many Americans say they would like to walk or bike to work if it were safe and convenient, yet one-fourth of all walking trips are made on roads with no sidewalks or wide shoulders.

The time is ripe

Sustainability encompasses many other issues: housing, wildlife habitat protection, water conservation, and transportation — almost to the point of being overwhelming. Believe me, however, people are ready for the sustainable development code. While rooftop gardens on cars like the one I saw in Anchorage may be a stretch, the average Joe and Jane Homeowner and elected officials are asking — no, demanding, "What can we do?"

There has never been a more exciting time to be a planner and to make the world a better place, which after all is why most of us chose this career path. But some planners I speak with, both in small and large communities, seem beleaguered. They say they are swamped with day-to-day demands, leaving them little time to think about the big picture. The solution? Pursue what I call the low-hanging fruit strategy — go after the easy wins at the local level.

Getting started has great power and genius. But be smart about how you come out of the starting gate, for example by using menus of standards instead of just command and control zoning regulations that give developers few options.

Begin by trolling through your existing code and removing obstacles to sustainability like those described here. Add optional mixed use zoning districts and sugar-coat them with incentives so they are easier to use than the standard Euclidean single-use zones. Allow for urban gardens as an optional way to provide open space. Take a cue from Austin, Texas, or Boulder, Colorado, and adopt menus of sustainable options (green roofs, showers in office buildings to promote bicycling to work) that allow developers to pick and choose how they will meet commercial or residential design standards.

And don't forget that a successful sustainable development code will have its roots in a sustainable community plan that lays a strong foundation based on thoughtful, thorough deliberation and citizen engagement, not quick three-day charrettes.

Building sustainable communities is the great challenge of our lives. To paraphrase Marjorie Stoneman Douglas, that great protector of the Everglades: This is a test. If we pass it, we may get to keep our planet. The sustainable community development code can play a key role in passing that test.

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Resources

Images: Top — Last January, women in Mexico City demonstrated in the streets against the rising price of corn, which has been linked to the U.S. demand for ethanol. Photo Omar Torres, AFP/Getty Images. Middle — Planners should consider codes that allow wind turbines and solar panels in residential neighborhoods. Photo courtesy Skystream Energy. Bottom — An old car gets new life as a garden in Toronto — part of the Community Vehicular Reclamation Project put on by a local group called Streets Are For People. Photo Bruce Darnell, www.foodurbanism.blogspot.com.

In print. Lester Brown's book, *Plan B: Rescuing a Planet Under Stress and a Civilization in Trouble*, was published in 2006 by W.W. Norton.

APA publications that address climate change include *Smart Growth in a Changing World*, edited by Jonathan Barnett, and the August/September 2007 issue of *Planning*.

For a report on green zoning ordinances in the U.S., see "Building Green: Onus or Bonus?" in the April 2007 issue of *Zoning Practice*, published by APA.

More. *Planners Guide to Sustainable Development* (PAS 467) by Kevin Krizek and Joe Power (APA Planning

Advisory Service, 1996)

Environmental Planning Handbook by Tom Daniels and Katherine Daniels (APA Planners Press, 2003).

CD-ROM Training. *Green Community Planning* (American Institute of Certified Planners); *Contemporary Zoning and Codes: Best of Contemporary Community Planning 2004* (APA Education and Lincoln Institute of Land Policy).

Coming soon. Model provisions for a sustainable zoning code will be available this spring from the Rocky Mountain Land Use Institute: www.law.du.edu.rmlui

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