

AGENDA ITEM SUMMARY

DATE: 6/9/2008 DEPARTMENT: Legal DEPT. HEAD SIGNATURE: _____

SUBJECT:

Resolution No. 2008-06 – amending Planning and Zoning Commission's Bylaws

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

BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:

The Council requested a revision to the language in 6.4.4 of the Commission's bylaws. The revised language is shown as both underlined and shaded language. The ordinance revising Chapter 2.40 of the Municipal Code has been revised in a consistent fashion. If you have any questions, please contact me. Thanks.

Ned

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)

___ City Attorney	___ Clerk / Finance Director	___ Engineer	___ Building
___ Library	___ Planning	___ Fire Dept.	___
___ Safety Committee	___ P & Z Commission	___ Police	___
___ Streets	___ Public Works, Parks	___ Mayor	___

RECOMMENDATION FROM APPLICABLE DEPARTMENT HEAD:

Motion to approve Resolution No. 2008-06 and authorize the Mayor to sign the resolution.

FOLLOW-UP REMARKS:

**CITY OF HAILEY
RESOLUTION 2008-06**

**A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF HAILEY,
IDAHO, AMENDING THE HAILEY PLANNING AND ZONING COMMISSION BYLAWS.**

WHEREAS, bylaws for the Hailey Planning and Zoning Commission provide direction to the members in the performance of their duties;

WHEREAS, the Hailey City Council has received and reviewed recommendations from the Planning and Zoning Commission for amendments to the Planning and Zoning Commission Bylaws, attached as Exhibit "A"; and

WHEREAS, the amendments on the attached bylaws are consistent with state law and will promote effective decision making of the Planning and Zoning Commission.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Hailey to amend to the Planning and Zoning Commission Bylaws, attached as Exhibit "A", with additions shown as underlined language and deletions shown as stricken language.

THIS RESOLUTION is adopted by the Mayor and Hailey City Council and is in full force and effect upon its adoption this _____ day of June, 2008.

Richard L. Davis, Mayor, City of Hailey

Attest:

Mary Cone, City Clerk

Exhibit "A"

BYLAWS FOR THE HAILEY PLANNING AND ZONING COMMISSION

PURPOSE

These bylaws provide direction to the members of the Hailey Planning and Zoning Commission in the performance of their duties.

ARTICLE I - GENERAL PROVISIONS

The Hailey Planning and Zoning Commission, hereinafter referred to as "the Commission", shall be governed by the following statutes, ordinances, and rules:

1.1 Applicable State Statutes and Local Ordinances and Rules.

To the extent that they remain in force and in effect or as they are amended, the Commission and its members shall be governed by state statutes and local ordinances and policies including the following:

- a. State statutes applying to public boards, members and officials, and those dealing with disclosure.
- b. State statutes governing the activities of Planning Commissions in relation to planning and zoning, including but not limited to Idaho State Code 67-6501 et seq.
- c. The Hailey Zoning Ordinance, the Hailey Subdivision Ordinance, the Hailey Annexation Ordinance, the Hailey Blaine County Area of Impact Ordinance, and the Hailey Comprehensive Plan, all as approved by the Hailey City Council.

1.2 Requirements of Familiarity with State Statutes and Local Ordinances and Rules Affecting the Commission.

Upon taking office, all members of the Commission shall familiarize themselves with the forgoing and, while in office, shall maintain such knowledge, including knowledge of amendments and additions, and shall be governed thereby in the conduct of Commission affairs. The Ethical Principles in Planning, as set forth by the American Planning Association, shall also be used by the Commission as a guide in the conduct and performance of their duties.

1.3 Basic Principles.

- a. Equality of Members. As the Commission conducts its affairs in accordance with these rules, each member has the same rights, privileges and duties as any other member.
- b. Freedom of Discussion. Each Commission member has the right to be heard and to hear what others have to say about any application or motion before voting.
- c. One Motion. Only one motion may be considered at any given time.
- d. Members' Right to Know. Members have a right at all times to know the pending motion, and have it restated prior to any vote.
- e. Meeting Properly Called. The Commission may take official action only in meeting properly called and with a quorum of members present.

1.4 Rules of the Commission to be Available at the office of the Hailey City Clerk.

An official copy of the By-laws of the Commission shall be available as a public record from the Hailey City Clerk. Additional copies shall be provided to the members of the Commission and

made available to the public upon request.

ARTICLE II - OFFICERS, COMMITTEES, STAFF, DUTIES

2.1 Regular Election of Chair, Vice Chair

Annually, as the first item of business at the first regular meeting of the Commission at which a quorum is present, the Commission shall elect a Chair and Vice Chair.

2.2 Succession of Vice Chair to Office of Chair.

Should the Chair resign or be removed, the Vice Chair shall succeed to the office for the remainder of the original one year term. Should the Vice Chair resign, be removed, or succeed to the office of Chair, a special election shall be held to fill the vacancy of the Vice Chair until the expiration of the original one year term. Said election shall occur at the next regularly scheduled meeting of the Commission at which a quorum is available.

2.3 Duties of the Chair and Vice Chair; Appointment of Temporary Chair to Preside at Meetings.

The Chair shall preside at all meetings and hearings. If the Chair is absent or unable to preside, the Vice Chair shall preside. If both are absent or unable to preside, the members present shall elect from among their number a Temporary Chair to preside. The Temporary Chair shall abide by all rules and policies set forth herein.

The Chair shall maintain order and decorum, and to that end, after suitable warning, may order removal of disorderly or disruptive persons.

The Chair should, to the extent practical, remain impartial.

Whenever the Chair rules a motion out of order, the Chair shall explain why it is so and advise the mover of corrections needed to make the motion in order.

2.4 Other Responsibilities of Chair; Delegation to Vice Chair.

The Chair may delegate duties generally to the Vice Chair, or may authorize the Vice Chair to perform specific duties during his or her absence or in the case of his or her disability to perform necessary Commission functions in a timely manner.

2.5 Managerial Responsibilities.

The Chair shall conduct all meetings of the Commission, interface with and may request Staff assistance from the Planning and Zoning Administrator in the conduct and affairs of the Commission, and exercise management of the affairs of the Commission consistent with these rules, City Ordinance, and State and Federal Law.

2.6 Appointment of Committees.

The Chair may appoint standing or ad hoc committees as may be found necessary to successfully and efficiently carry out the functions of the Commission.

ARTICLE III - CONDUCT OF COMMISSION MEMBERS, STAFF

3.1 Conflict of Interest.

Each Commission member shall abide by the provisions of Idaho Code §67-6506, as amended. No members of the Staff or of any agency serving the Commission shall prepare or present arguments or reports, or attempts to influence the decision of the Commission, in any case in which they have similar interest and which would constitute a conflict of interest, under Idaho Code §67-6506.

3.2 Expression of Bias, Prejudice, or Individual Opinion Prior to Hearing and Determination.

Commission members may seek information from other members or Staff, but no member shall express any bias, prejudice or personal opinion on judgment of the case prior to its public hearing and determination. Violation of this rule shall constitute malfeasance and be deemed grounds for dismissal from the Commission.

3.3 Voting.

No Commission member shall express an opinion at any public hearing or vote on any matter deciding an application or petition except after attending the public meeting and/or hearing on the matter and listening to all testimony presented. However, a member may qualify to participate in further discussion and vote on the matter by examining the evidence and listening to a record of the hearing at which the member was absent.

ARTICLE IV - APPLICATION REQUIRED

4.1 Complete Application Required.

Where required by City Ordinance, an item may not be heard by the Commission unless a complete application is filed with the Hailey Planning Department. Applications must be received at least thirty-seven (37) days prior to the meeting at which it will be considered. Determination of a complete application will be made by Staff in conformance with applicable City Ordinances.

ARTICLE V - MEETINGS, HEARINGS

5.1 Regular Meetings.

Regular meetings of the Commission will be held at such time and place as is established by the Commission and at least one time in at least nine (9) months of the calendar year. Special meetings of the Commission may be as scheduled by the chair.

5.2 Open to the Public.

All meetings of the Commission are open to the public.

5.3 Meetings with the Hailey City Council.

The Planning and Zoning Commission ~~or the City Council shall may schedule request joint meetings with the Hailey City of the Commission and Council~~ to evaluate development direction and ongoing programs.

5.4 Special Meetings.

Special meetings for any purpose, other than application to be heard under the Local Land Use and Planning Act, may be held at the call of the Chair, the Hailey City Council, or the Planning and Zoning Administrator. Notice of Special ~~Meetings~~ meetings shall be posted at least twenty-four (24) hours prior to the scheduled meeting time, ~~published in at least one publication of general circulation at least 15 days prior to a Special Meeting.~~

5.5 Site Review.

Should the Chair find that need exists, trips to view application sites shall be scheduled by the Chair. Commission members should establish an optimal time for site inspection through group consensus. The date and time of any site visit shall be scheduled during a public meeting devoted to an application, or noticed in accordance with the requirements of the applicable ordinance and state law.

5.6 Recess or Adjournment.

Any regular or special meeting may be recessed or adjourned from day to day, or to the time of any previously announced regular or special meeting, and such recess or adjournment to a certain time and place does not require additional public notice.

5.7 Cancellation.

If no business is scheduled before the Commission, or if it is apparent that a quorum of the Commission will not be available, any meeting may be canceled by the Chair by giving notice to all members and applicants not less than 48 hours before time set for such meeting.

5.8 Quorum.

A quorum of the Commission shall consist of a simple majority of members. An affirmative vote of a simple majority of the present members of the Commission shall decide all matters under consideration. The Chair shall vote on all matters being considered by the Commission in which a vote of the members of the Commission results in a tie, and may participate in any vote.

5.9 Agenda, Order of Business.

The City Planning Office shall prepare an agenda for each Commission meeting. The Agenda may consist of the following but not necessarily in the following order: Order of business shall be as follows:

1. Call to Order
2. Consent Agenda
3. Proclamations and Presentations
4. Unfinished Business
5. New Business
6. Workshops
7. Staff Reports and Discussion
8. Commission Reports and Discussion
9. Adjourn Meeting

Public hearings that have been continued from a previous meeting shall be placed on the agenda as

Unfinished Business. New public hearings shall be placed on the agenda as New Business.

- ~~1. Call to Order~~
- ~~2. Consent Agenda~~
- ~~3. Public Hearings~~
- ~~4. Old Business~~
- ~~5. New Business~~
- ~~5. Approval of Findings of Fact and Conclusions of Law~~
- ~~6. Approval of Minutes~~
- ~~7. Commission Reports~~
- ~~8. Staff Reports~~
- ~~9. Adjourn~~

5.10 Consent Agenda.

The Planning and Zoning Commission may use the procedure of a "Consent Agenda" at its meetings. The Planning and Zoning Commission Chair or Member may request that an item be placed upon the Consent Agenda. The Planning and Zoning Commission by single motion and vote may approve all items on the Consent Agenda. Prior to voting upon the Consent Agenda, the Planning and Zoning Commission Chair or Member, or any staff member of the city, shall have the right to remove an item on the Consent Agenda, which item shall be discussed and decided upon separately at the meeting. Items to be included in a Consent Agenda may include, but are not limited to, approval of minutes and findings of fact and conclusions of law.

ARTICLE VI - HEARING PROCEDURES

6.1 Representation at Hearings.

Any person may Applicants shall appear personally or be represented by authorized agents at a public hearing for their application.

6.2 Public Hearing Procedure.

If Idaho law or Hailey Ordinance requires a public hearing, the following procedure shall be followed with regard to all public hearings conducted by and before the Planning and Zoning Commission:

1. City staff shall present an introduction and orientation;
2. The applicant or interested party shall be then afforded the opportunity to present an explanation of the application, request or other matter being considered by the Planning and Zoning Commission;
3. The members of the Planning and Zoning Commission shall then have the opportunity to direct questions to the staff, the applicant or interested party;
4. Public hearing shall then take place, members of the public being afforded the opportunity to be heard. The presiding officer shall have the discretion to set limits as to the time each individual may speak and/or the number of times each individual may speak. The presiding officer shall also have the authority to set an overall time limit for the entire public hearing;
5. After completion of all testimony and/or public comment, or at the conclusion of the time limit set for the public hearing, whichever shall first occur, the public hearing shall be closed;
6. The members of the Planning and Zoning Commission shall then have an opportunity to direct questions to the staff and/or the applicant or interested party;

7. ~~The applicant shall be afforded a right to rebut any testimony or evidence presented as public comment;~~
8. ~~If new evidence is introduced after the public hearing is closed, the presiding officer may open the public hearing again for the purpose of addressing the new evidence.~~
9. ~~A decision may then be rendered on the merits of the application or matter before the Planning and Zoning Commission, and shall be based on written findings of fact and conclusions of law to be prepared by the staff and presented for adoption at the next meeting of the Planning and Zoning Commission; and~~
10. ~~Any matter under consideration by the Planning and Zoning Commission may by a motion properly made, seconded, and passed, be tabled to a date uncertain or continued, upon a motion properly made, seconded, and passed, to a date certain, at which time the matter will be taken up again for action or decision.~~
 - a. ~~The Commission Chair shall introduce the item.~~
 - b. ~~The applicant or interested party shall present an explanation of the application, request, or other matter being considered by the Commission.~~
 - e. ~~City Staff shall present additional comments and information.~~
 - d. ~~The members of the Commission shall then have the opportunity to question the Staff, the applicant or interested party.~~
 - e. ~~Public hearing shall then take place, with members of the public being afforded the opportunity to be heard. At the discretion of the Chair a time limit may be established for each individual making comment. The Chair may also establish an overall time limit for the entire public hearing.~~
 - f. ~~After the completion of all testimony and / or public comment, or at the conclusion of the time limit set for the public hearing, whichever shall first occur, the public hearing shall be closed.~~
 - g. ~~The Commission shall then have an opportunity to direct questions to the Staff and / or the applicant or interested party.~~
 - h. ~~Upon the conclusion of public comment and questions by the Commission to the Staff and/or applicant, the applicant shall have an opportunity for a final response.~~
 - i. ~~If the Commission Chair believes new evidence is introduced after the public hearing is closed, the Chair may open up the public hearing again for the sole purpose of addressing the new evidence.~~
 - j. ~~A decision may then be rendered on the merits of the application or matter before the Commission, based either on findings of fact adopted by the Commission, or, at the discretion of the Commission, proposed findings and conclusions may be prepared by the Staff for adoption at the next meeting of the Commission.~~
 - k. ~~Any matter under consideration by the Commission may be tabled, upon a motion properly made, seconded and passed, or continued to a date certain, at which time the matter will be taken up again for action or decision.~~

6.3 Conduct During Hearings.

During the hearings all persons providing testimony shall proceed without interruption except that from the Commission. All comments, arguments and pleadings shall be addressed to the Chair. There shall be no debate or argument between individuals.

Documents and correspondence may be presented during the hearing, ~~but documents and correspondence in excess of two pages must be received by the Planning Department at least 4 days before the public hearing to be entered into the record at the hearing.~~

Any member of the Commission or Staff may, upon recognition by the Chair, direct questions to the applicant, witnesses, or any person speaking from the audience, to bring out pertinent facts. No

Commission or Staff member may debate or argue with persons in the audience.

6.4 Robert's Rules of Order. Motions and Reconsideration

~~The Commission hereby adopts the procedures set forth in the current edition of Robert's Rules of Order for all procedures and conduct not set forth herein.~~

1. All actions and decisions of the Commission are formalized by the process of making and voting on motions. After a public hearing is closed the Commission shall deliberate. After deliberation a motion shall be made and seconded. Further deliberation may occur once a motion is made and seconded. The chair shall ask for a motion and vote. Those Commissioners in favor of the motion say "aye"; those Commissioners opposed to the motion say "no".
2. After a motion is made and there has been discussion on the motion, if an amendment has been suggested and discussed, then a motion to amend the motion is required. A motion should be amended as follows:
 - a. A Commissioner makes a motion to amend stating the amendment
 - b. A Commissioner seconds the amendment
 - c. Chair asks for a vote on the amendment
 - d. If amendment carries, the Chair then asks for a vote on the "entire motion as amended"
 - e. If amendment fails, Chair asks for a vote on the "original motion"
3. If a motion has been voted on and the motion needs to be withdrawn, then a motion to withdraw the approved motion is required. A motion should be withdrawn as follows:
 - a. A Commissioner makes a motion to withdraw stating what motion is being withdrawn
 - b. A Commissioner seconds the motion to withdraw
 - c. Chair asks for a vote on the motion to withdraw
 - d. If the motion to withdraw carries, then a new motion can then be made, seconded and voted on
4. If a motion has been voted on and if voting members believe it is appropriate to reconsider the motion, then a motion for reconsideration is required at the next scheduled meeting of the Commission. Motions for reconsideration shall only be made by a Commission member. A motion for reconsideration should be made as follows:
 - a. A Commissioner who voted in support of the motion in question has to makes a motion for reconsideration stating what motion is being reconsidered
 - b. A Commission who voted in favor of the motion in question has to second
 - c. Chair asks for a vote on the motion for reconsideration
 - d. If the motion for reconsideration carries, deliberation can then occur on the matter and a new motion can be made, seconded and voted on

6.5 Notification.

Findings made by the Commission shall be given by the Planning and Zoning Administrator to the applicant, petitioner or any party making a written request for such.

ARTICLE VII - REQUEST TO WITHDRAW APPLICATIONS

7.1 Withdrawal.

Upon written request from the applicant or authorized agent, an application or petition may be withdrawn at any time before the Commission makes a decision in the case.

ARTICLE VIII - AMENDING OR WAIVING BY-LAWS

8.1 Amending By-Laws.

These by - laws shall be amended only by resolution of the City Council after receiving a recommendation by the Commission.

HAILEY ORDINANCE NO. 1010

AN ORDINANCE OF THE CITY OF HAILEY, IDAHO, AMENDING SECTION 2.04.010.06 OF THE HAILEY MUNICIPAL CODE BY DELETING ANY REFERENCE TO ROBERT'S RULES OF ORDER AND CREATING PROCEDURES FOR MOTIONS; BY PROVIDING FOR A SEVERABILITY CLAUSE; BY PROVIDING FOR A REPEALER CLAUSE; AND BY PROVIDING FOR THE EFFECTIVE DATE OF THIS ORDINANCE UPON PASSAGE, APPROVAL AND PUBLICATION ACCORDING TO LAW.

WHEREAS, the City of Hailey has adopted an ordinance, creating Chapter 2.04 of the Hailey Municipal Code, providing for procedures for public hearings;

WHEREAS, the Hailey City Council believes it prudent to establish procedures for making motions; and

WHEREAS, the Mayor and the City Council find that amendments to Chapter 2.04 of the Hailey Municipal Code will clarify the procedures of public meetings by the Hailey City Council and Planning and Zoning Commission.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF HAILEY, IDAHO, AS FOLLOWS:

Section 1. Section 2.04.010.06 of the Hailey Municipal Code is amended by the deletion of the stricken language and addition of the underlined language, as follows:

2.04.010.06 ~~Robert's Rules of Order. All actions taken shall be pursuant to Robert's Rules of Order, except that an item may be discussed and deliberated upon without a motion.~~

Motions.

1. All actions and decisions of the City Council or Planning and Zoning Commission are formalized by the process of making and voting on motions. After a public hearing is closed, the City Council or Planning and Zoning Commission shall deliberate. After deliberation a motion shall be made and seconded. Further deliberation may occur once a motion is made and seconded. The chair shall ask for a motion and vote. Those Council Members or Commissioners in favor of the motion say "aye"; those Council Members or Commissioners opposed to the motion say "no".
2. After a motion is made and there has been discussion on the motion, if an amendment has been suggested and discussed, then a motion to amend the motion is required. A motion should be amended as follows:
 - a. A Council Member or Commissioner makes a motion to amend stating the amendment.
 - b. A Council Member or Commissioner seconds the amendment.
 - c. Chair asks for a vote on the amendment.
 - d. If amendment carries, the Chair then asks for a vote on the "entire motion as amended."

- e. If amendment fails, Chair asks for a vote on the "original motion."
3. If a motion has been voted on and the motion needs to be withdrawn, then a motion to withdraw the approved motion is required. A motion should be withdrawn as follows:
 - a. A Council Member or Commissioner makes a motion to withdraw stating what motion is being withdrawn.
 - b. A Council Member or Commissioner seconds the motion to withdraw.
 - c. Chair asks for a vote on the motion to withdraw.
 - d. If the motion to withdraw carries, then a new motion can then be made, seconded and voted on.
 4. If a motion has been voted on and if voting members believe it is appropriate to reconsider the motion, then a motion for reconsideration is required at the next scheduled meeting of the City Council or Planning and Zoning Commission. Motions for reconsideration shall only be made by a Council Member or Commissioner. A motion for reconsideration should be made as follows:
 - a. A Council Member or Commissioner who voted in support of the motion in question has to makes a motion for reconsideration stating what motion is being reconsidered.
 - b. A Council Member or Commissioner who voted in favor of the motion in question has to second.
 - c. Chair asks for a vote on the motion for reconsideration.
 - d. If the motion for reconsideration carries, deliberation can then occur on the matter and a new motion can be made, seconded and voted on.

Section 2. Severability Clause. If any section, paragraph, sentence or provision hereof or the application thereof to any particular circumstances shall ever be held invalid or unenforceable, such holding shall not affect the remainder hereof, which shall continue in full force and effect and applicable to all circumstances to which it may validly apply.

Section 3. Repealer Clause. All Ordinances or Resolutions or parts thereof in conflict herewith are hereby repealed and rescinded.

Section 4. Effective Date. This Ordinance shall be in full force and effect after its passage, approval and publication according to law.

PASSED AND ADOPTED BY THE HAILEY CITY COUNCIL and approved by the Mayor this _____ day of _____, 2008.

Richard L. Davis, Mayor
City of Hailey

ATTEST:

Mary Cone, City Clerk

AGENDA ITEM SUMMARY

DATE: 06-09-08

DEPARTMENT: Planning

DEPT. HEAD SIGNATURE: 

SUBJECT: 2nd reading of Ordinance No. 1009 – amending Hailey's Zoning Ordinance, Ordinance No. 532, by amending Article 6A.3, Review of Proposals and Authority of the Administrator.

BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:

The amendments will allow for design review exemption of certain projects and would establish procedures for review of modifications to design review approval. The Commission recommended approval on April 21, 2008.

The public hearing and first reading of this ordinance was conducted on May 19, 2008. For the second reading the Council requested limiting the authority the Planning and Zoning Commission recommended be given to the administrator to approve minor modifications to design review approval. In response to the Council's request item g. was changed to require approval or denial of and modifications to projects that have received design review approval by the Commission be subject to final decision by the Commission on its consent agenda. This will result in a minimum 2 week delay between a request to modify design review and a decision from the city.

The City Attorney is addressing this in a separate memo.

ACKNOWLEDGEMENT BY OTHER AFFECTED CITY DEPARTMENTS: (IF APPLICABLE)

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

ACTION OF THE CITY COUNCIL:

Date _____

City Clerk _____

FOLLOW-UP:

*Ord./Res./Agmt./Order Originals: _____ *Additional/Exceptional Originals to: _____
 Copies (all info.): _____ Copies (AIS only)
 Instrument # _____

MEMORANDUM

TO: Mayor and City Council
FROM: Ned C. Williamson
DATE: June 2, 2008
RE: Ordinance No. ~~1010~~ 1009

At your last meeting, you considered an amendment to the zoning ordinance that would have expressly authorized the Planning Administrator to make minor modifications to projects which previously received design review approval. This amendment was proposed by the Administrator to expressly authorize a standard condition that the Commission has been placing on design review approvals.

I was very involved in the history of that condition. When I went through by office remodel in 2001, my architect placed a second exit on the south side of my building. The plans were approved by the P&Z Commission. Then during the construction process, the lead carpenter suggested that I put the exit on the west end of the building. For a number of reasons, that suggestion made total sense. I went to Kathy Grotto and she agreed. She did not make me go through an amendment to the DR approval. If I had to go through a DR amendment, I would have probably installed the door on the south, came in with an alternative plan and then ripped out the south door and reinstalled on the south side. I suspect that would have cost me several thousand dollars and caused me significant resentment.

So, when I became city attorney in 2002, I suggested a condition to design review approval which allows the Administrator to make minor modifications.

As I understand the council's decision, this condition will no longer be allowed and any minor modification will require an amendment to a DR approval. I believe Hailey should allow the Administrator to make minor modifications. I would have been extremely bummed if I could not have made the change to the door in my office. I found the administrator's willingness to modify reasonable and user friendly. By not allowing minor modifications, people will be more likely to just do the modification and force the city to be the enforcer. If we enforce, we will come off as the bureaucratic heavy in many of the cases. Finally, the proposed language is legal. Idaho law allows delegation of duties provided there are standards and an opportunity to appeal any decision of the administrator.

So, there you have it. When this goes to the second reading, I will ask that the matter be pulled from the consent agenda and you will know what I will say in advance.

HAILEY ORDINANCE NO. 1009

AN ORDINANCE OF THE CITY OF HAILEY, IDAHO, AMENDING HAILEY'S ZONING ORDINANCE, ORDINANCE NO. 532, BY AMENDING ARTICLE 6A, DESIGN REVIEW, SECTION 6A.3, TO ADD PROVISIONS FOR DESIGN REVIEW EXEMPTION AND TO ADD PROCEDURES FOR REVIEW OF MODIFICATIONS TO DESIGN REVIEW APPROVAL; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A REPEALER CLAUSE; AND PROVIDING FOR THE EFFECTIVE DATE OF THIS ORDINANCE UPON PASSAGE, APPROVAL AND PUBLICATION ACCORDING TO LAW.

WHEREAS, the Hailey City Council has found that the following amendment to the Hailey Zoning Ordinance will generally conform with the Hailey Comprehensive Plan;

WHEREAS, the amendments will not create excessive additional requirements at public cost for public facilities and services; and

WHEREAS, the amendment will be in accordance with the safety and welfare of the general public.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF HAILEY, IDAHO, AS FOLLOWS:

Section 1. Section 6A.3, Review of Proposals and Authority of the Administrator, of the Hailey Zoning Ordinance No. 532, is hereby amended by the addition of the following language:

- f. The Administrator has the authority to recommend exemption of certain projects from the design review requirements, upon finding; the project is minor, will not conflict with the design review standards of this Chapter and will not adversely impact any adjacent properties. Examples include, but are not limited to minor deck additions, changes to siding materials, changes to an existing window or door, an addition of a window or door, and minor landscape changes. Such recommendation for exemption shall be drafted in the form of Findings of Fact and Conclusions of Law, subject to final decision by the Commission on its consent agenda prior to issuance of a building permit. Should the Commission deny the Administrator's recommendation or should the Administrator determine that the proposal does not meet all of the above evaluation criteria, the project shall be subject to the provisions of this chapter prior to issuance of a building permit.
- g. The Administrator has the authority to recommend approval or denial modifications to projects that have received design review approval by the Commission prior to, and for the duration of a valid Building Permit. Such recommendation for approval or denial shall be drafted in the form of Findings of Fact and Conclusions of Law, subject to final decision by the

Commission on its consent agenda. Any Commissioner may cause a recommended action on modifications to design review approval to be pulled from the consent agenda for discussion and final decision.

Section 2. Should any section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

Section 3. All City of Hailey ordinances or resolutions or parts thereof, which are in conflict herewith, are hereby repealed.

Section 4. This ordinance shall be in full force and effect from and after the required three (3) readings, approval, and publication according to law.

PASSED AND ADOPTED BY THE HAILEY CITY COUNCIL AND
APPROVED BY THE MAYOR THIS ____ DAY OF _____, 2008.

Richard L. Davis, Mayor, City of Hailey

Attest:

Mary Cone, City Clerk