

AGENDA ITEM SUMMARY

DATE: December 28, 2009

DEPARTMENT: Planning

DEPT. HEAD SIGNATURE: 

SUBJECT: Findings of Fact – Approval of Final Plat of Lots 1AA, 2AA, and 3AA, Block 104, Hailey Townsite.

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

BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:

On December 14, 2009, the Hailey City Council held a public hearing and considered the application by ARCH for Final Plat approval of Lots 1AA, 2AA, and 3AA, Block 104, Hailey Townsite.

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:

Review the draft Finding of Fact and approve as drafted or as amended.

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)

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION

On December 14, 2009, the Hailey City Council considered the application by ARCH Community Housing Trust for Final Plat approval of Lots 1AA, 2AA, 3AA, Block 104, Townsite Overlay. The Council, having been presented with all information and testimony in favor and in opposition to the proposal, hereby makes the following Findings of Fact, Conclusions of Law and Decision.

FINDINGS OF FACT

Notice

Notice for the public hearing was published in the Idaho Mountain Express and mailed to property owners within 300 feet on November 25, 2009.

Application

ARCH Community Housing, represented by Galena Engineering, Inc., has submitted an application for Final Plat approval of Lots 1AA, 2AA, 3AA, Block 104, Townsite Overlay. The current legal description of the property is Lots 1A & 2A, Block 104, Townsite Overlay, located at 410 Croy St. East and 411 Walnut St. East. The plat would subdivide Lot 2A to create 2 lots and adjust the southern lot line of Lot 1A. The total land area of the subdivision is 22, 015 square feet. Lot sizes range from 6,058 square feet to 9,895 square feet.

Blaine County is currently the owner of Lot 2A and is allowing ARCH to develop community housing on the property. Lot 2A is not large enough to subdivide and meet the minimum lot size requirement. The owner of the lot currently known as Lot 1A has agreed to deed 15 feet of the southern portion of Lot 1A to Blaine County to provide for the minimum lot area for a two lot subdivision.

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

Procedural History

The preliminary plat application was heard by the Hailey Hearing Examiner on July 13, 2009 and approved with the following conditions:

Hailey Hearing Examiner Conditions of Preliminary Plat Approval

- a) **All Fire Department and Building Department requirements shall be met and shall be completed at the applicant's sole expense.**
- b) **All City infrastructure requirements shall be met as outlined in Section 5 of the Hailey Subdivision Ordinance. Detailed plans for all infrastructure to be installed or improved at or adjacent to the site shall be submitted for Department Head approval and shall meet City Standards where required. Infrastructure to be completed at the applicant's sole expense include, but will not be limited to, the following requirements and improvements:**
1. **A sidewalk shall be installed adjacent to Walnut Street, along the frontage of proposed Lot 3AA.**
 2. **Where water main lines within the alley are less than six (6) feet deep, the developer shall install insulating material (blue board insulation or similar material) for each and every individual water service line and main line between and including the subject property and the nearest public street.**

These conditions are carried over.

- c) **The final plat shall not include plat notes 1 through 5, as stated on the approved preliminary plat (plat notes 1-5 shall be removed). The following plat note shall be added:**
- **A utility easement for the operation, maintenance, and reconstruction of a water meter to benefit the City of Hailey and a utility easement for the installation, operation, maintenance, and reconstruction of a water service line on Lot 2AA, to benefit Lot 1AA.**

This condition has been met.

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

This condition is carried over.

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

This condition is carried over.

- f) **An easement for Lot 1AA's water meter shall be provided on proposed Lot 2AA, to benefit Lot 1AA, and shall be shown on the final plat.**

This condition has been met.

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

This condition is carried over.

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

This condition is carried over.

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

No development impact fees are required at this time because no construction is occurring concurrently.

j) Driveways shall be constructed with an all weather surface and shall have a minimum width of 12 feet.

This condition is carried over.

Standards of Evaluation

For each of the following pertinent standards of the Subdivision Ordinance (shown in bold print), the Council makes the following Findings of Fact:

SECTION 4 – DEVELOPMENT STANDARDS

Development standards were reviewed in detail during the preliminary plat approval process. Please refer to the preliminary plat Findings of Fact and Decision.

SECTION 5 - IMPROVEMENTS REQUIRED.

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

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

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

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

5.2 The Developer shall construct all streets, alleys, curb and gutter, lighting, sidewalks, street trees and landscaping, and irrigation systems to meet City Standards, the requirements of this ordinance, the approval of the Council, and to the finished grades which have been officially approved by the City Engineer as shown upon approved plans and profiles. The Developer shall pave all streets and alleys with an asphalt plant-mix, and shall chip-seal streets and alleys within one year of construction.

5.2.1 Street cuts made for the installation of services under any existing improved public street shall be repaired in a manner which shall satisfy the Street Superintendent, shall have been approved by the Hailey City Engineer or his authorized representative, and shall meet City Standards. Repair may include patching, skim coats of asphalt or, if the total area of asphalt removed exceeds 25% of the street area, the complete removal and replacement of all paving adjacent to the development. Street cut repairs shall also be guaranteed for no less than one year.

5.2.2 Street name signs and traffic control signs shall be erected by the Developer in accordance with City Standards, and the street name signs and traffic control signs shall thereafter be maintained by the City.

N/A

5.2.3 Street lights in the Recreational Green Belt, Limited Residential, General Residential, and Transitional zoning districts are not required improvements. Where proposed, street lighting in all zoning districts shall meet all requirements of Chapter VIII B of the Hailey Zoning Ordinance.

N/A

5.3 The Developer shall construct a municipal sanitary sewer connection for each and every developable lot within the development. The Developer shall provide sewer mains of adequate size and configuration in accordance with City Standards, and all federal, state, and local regulations. Such mains shall provide wastewater flow throughout the development. All sewer plans shall be submitted to the City Engineer for review and approval. At the City Engineer's discretion, plans may be required to be submitted to the Idaho Department of Environmental Quality (DEQ) for review and comments.

Meeting this requirement is a condition of approval.

5.4 The developer shall construct a municipal potable water connection, water meter and water meter vault in accordance with City Standards, or other equipment as may be approved by the City Engineer, for each and every developable lot within the development. The Developer shall provide water mains and services of adequate size and configuration in accordance with City Standards, and all federal, state, and local regulations. Such water connection shall provide all necessary

appurtenances for fire protection, including fire hydrants, which shall be located in accordance with the IFC and under the approval of the Hailey Fire Chief. All water plans shall be submitted to the City Engineer for review and approval. At the City Engineer's discretion, plans may be required to be submitted to the Idaho Department of Environmental Quality (DEQ) for review and comments.

Meeting this requirement is a condition of approval.

- 5.4.1 Within the Townsite Overlay District, where water main lines within the alley are less than six (6) feet deep, the developer shall install insulating material (blue board insulation or similar material) for each and every individual water service line and main line between and including the subject property and the nearest public street, as recommended by the City Engineer.

Meeting this requirement is a condition of approval.

- 5.5 The Developer shall provide drainage areas of adequate size and number to meet the approval of the Street Superintendent and the City Engineer or his authorized representative.

- 5.6 The Developer shall construct each and every individual service connection and all necessary trunk lines, and/or conduits for those improvements, for natural gas, electricity, telephone, and cable television to the property line before placing base gravel for the street or alley.

- 5.7 The Developer shall improve all parks and Green Space areas as presented to and approved by the Commission and Council.

N/A

- 5.8 All improvements are to be installed under the specifications and inspection of the City Engineer or his authorized representative. The minimum construction requirements shall meet City Standards or the Department of Environmental Quality (DEQ) standards, whichever is the more stringent.

- 5.9 Installation of all infrastructure improvements must be completed by the Developer, and inspected and accepted by the City prior to signature of the plat by City representatives, or according to a phasing agreement. A post-construction conference shall be requested by the Developer and/or contractor and conducted with the developer and/or contractor, the City Engineer, and appropriate City departments to determine a punch list of items for final acceptance.

- 5.9.1 The Developer may, in lieu of actual construction, provide to the City security pursuant to Section 3.3.7, for all infrastructure improvements to be completed by Developer after the final plat has been signed by City representatives.

- 5.10 Prior to the acceptance by the City of any improvements installed by the Developer, three (3) sets of “as-built plans and specifications” certified by the Developer’s engineer shall be filed with the City Engineer.**

CONCLUSIONS OF LAW AND DECISION

Based upon the above Findings of Fact, the Council makes the following Conclusions of Law and Decision:

1. Adequate notice, pursuant to Section 3 of the Hailey Subdivision Ordinance, was given for the public hearing.
2. Upon compliance with the conditions noted below, the application substantially meets the standards of approval set forth in the Hailey Subdivision Ordinance.
3. The application for Final Plat, dated November 2, 2009, is approved by the Hailey City Council, with the following conditions:
 - a) The final plat submitted for signature shall include plat notes 1 through 3 as stated on the approved final plat and shall include an additional condition, #4 as follows:
 1. A utility easement on Lot 2AA is hereby dedicated to the City of Hailey for the operation, maintenance and reconstruction of water meters.
 2. A utility easement on Lot 2AA is hereby dedicated to Lot 1AA for the installation, operation, maintenance, and reconstruction of a water service line.
 3. All new utility shall be installed underground.
 4. If access is granted to the east of Lots 1AA, 2AA, and 3AA, by the Idaho Department of Transportation, the City of Hailey shall not be responsible for plowing or maintenance of the alley to the west of Lots 1AA, 2AA, and 3AA. If access is not granted by ITD, the city will plow the alley as if it was a street.
 - b) All Fire Department and Building Department requirements shall be met and shall be completed at the applicant’s sole expense.
 - c) All City infrastructure requirements shall be met as outlined in Section 5 of the Hailey Subdivision Ordinance. Detailed plans for all infrastructure to be installed or improved at or adjacent to the site shall be submitted for Department Head approval and shall meet City Standards where required. Infrastructure to be completed at the applicant’s sole expense include, but will not be limited to, the following requirements and improvements:
 1. A sidewalk shall be installed adjacent to Walnut Street, along the frontage of proposed Lot 3AA.
 2. Where water main lines within the alley are less than six (6) feet deep, the developer shall install insulating material (blue board insulation or similar material) for each and every individual water service line and main line between and including the subject property and the nearest public street.

3. Prior to recording the final plat sewer and water service shall be installed to Lot 3AA or the applicant can provide security for 150% of the estimated cost.
- d) Issuance of permits for the construction of buildings within the proposed subdivision shall be subject to Section 2.9 of the Subdivision Ordinance.
 - e) All improvements and other requirements shall be completed and accepted, or surety provided pursuant to Sections 3.3.7 and 5.9.1 of the Subdivision Ordinance, prior to recordation of the final plat.
 - f) The final plat shall be recorded within one year of the date of final plat approval. The final plat submitted for signature shall conform to the requirements found in Article 50-1301 (et. seq.) of the Idaho Code (as amended) and to the requirements set forth by Blaine County for digital plat submittals. The applicant shall provide the City with a letter-size or ledger-size photocopy of the recorded plat showing the instrument number and date of recordation.
 - g) Any subdivision inspection fees due shall be paid prior to recording the final plat.
 - h) Any applicable development impact fees shall be paid prior to recording the final plat.
 - i) Driveways shall be constructed with an all weather surface and shall have a minimum width of 12 feet.
 - j) A 5 foot wide utility easement shall be shown on the west side of Lots 2AA and 3AA on the final plat, prior to recording the final plat.
 - k) If access is granted to the east of Lots 1AA, 2AA, and 3AA, by the Idaho Department of Transportation, the City of Hailey shall not be responsible for plowing or maintenance of the alley to the west of Lots 1AA, 2AA, and 3AA. If access is not granted by ITD, the city will plow the alley as if it was a street. Access shall be finalized prior to recording of the final plat. If access is granted to the east of Lots 1AA, 2AA, and 3AA, by the Idaho Department of Transportation the easement shall be recorded prior or concurrent to recording the final plat.

Approved this _____ day of _____, 2009.

Richard L. Davis, Mayor, City of Hailey

Attest:

Mary Cone, City Clerk

SUMMARY OF HAILEY ORDINANCE NO. 1041

The following is a summary of the principal provisions of Ordinance No. 1041 of the City of Hailey, Idaho, duly passed and adopted December 14, 2009, by the City Council and Mayor of the City of Hailey:

AN ORDINANCE OF THE CITY OF HAILEY, IDAHO, AMENDING ARTICLE 11 OF HAILEY'S ZONING ORDINANCE, ORDINANCE NO. 532, BY AMENDING SECTION 11.4, TO ESTABLISH A NEW SECTION, SECTION 11.4.2, TO ESTABLISH CONDITIONAL USE PERMIT STANDARDS FOR SMALL SCALE WIND ENERGY SYSTEMS; BY AMENDING SECTION 11.8.2, TO REQUIRE SMALL SCALE WIND ENERGY SYSTEMS TO BE REMOVED ONCE EXPIRED AND TO SPECIFY WHEN A SMALL SCALE WIND ENERGY SYSTEM IS CONSIDERED TO BE DISCONTINUED; 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.

Hailey Ordinance No. 1041 amends the Hailey Zoning Ordinance No. 532, as follows:

Section 1 amends Hailey Zoning Ordinance No. 532 by adding a new Section 11.4.2 which establishes conditional use permit standards for roof-mounted and free standing Small Scale Wind Energy Systems to be reviewed by the Hailey Planning and Zoning Commission or Hearing Examiner.

Section 2 amends Hailey Zoning Ordinance No. 532 by adding a new Section 11.8.2(a) which provides that a conditional use permit for a Small Scale Wind Energy System is void if such a system not maintained in good repair and that such a system shall be completely removed.

Section 3 provides for a severability clause.

Section 4 provides for a repealer clause.

Section 5 provides for an effective date of the ordinance.

The full text of Ordinance No. 1041 is available at Hailey City Hall at 115 South Main Street, Suite H, Hailey, Idaho 83333 and will be provided to any citizen upon request during regular business hours.

CERTIFICATION OF CITY ATTORNEY

I, the undersigned Attorney at Law, as attorney for the City of Hailey, Idaho, hereby certify that I have read the foregoing summary of Ordinance No. 1041 of the City of Hailey, that I have compared it to the full text of Ordinance No. 1041, and that in my opinion, the above summary is true and complete and provides adequate notice to the public of the contents of said Ordinance.

Dated this ____ day of December, 2009.

Ned Williamson, Hailey City Attorney

Publish: Idaho Mountain Express, December ____, 2009.

SUMMARY OF HAILEY ORDINANCE NO. 1042

The following is a summary of the principal provisions of Ordinance No. 1042 of the City of Hailey, Idaho, duly passed and adopted December 14, 2009, by the City Council and Mayor of the City of Hailey:

AN ORDINANCE OF THE CITY OF HAILEY, IDAHO, AMENDING ARTICLE 2 AND ARTICLE 4 OF HAILEY'S ZONING ORDINANCE, ORDINANCE NO. 532, BY AMENDING SECTION 2.2, TO ADD THE DEFINITION OF SMALL SCALE WIND ENERGY SYSTEMS AND SOLAR PANELS; AMENDING SECTIONS 4.2.3, 4.3.3, 4.4.3, 4.5.3, 4.6.3, 4.7.3, 4.8.3, 4.9.3, 4.11.3, 4.12.2.2, AND 4.12.3.2, TO ALLOW FOR FREESTANDING SOLAR PANELS AS CONDITIONAL USES; AMENDING SECTIONS 4.2.4, 4.3.4, 4.4.4, 4.5.4, 4.6.4, 4.7.4, 4.8.4, 4.9.4, 4.11.4, 4.12.2.3, AND 4.12.3.3, TO ALLOW FOR ROOF-MOUNTED SOLAR PANELS AS AN ACCESSORY USE; AMENDING SECTIONS 4.7.3, 4.12.2.2, 4.12.3.2, 4.8.3, AND 4.11.3, TO ALLOW FREESTANDING WIND ENERGY SYSTEMS AND ROOF-MOUNTED WIND ENERGY SYSTEMS AS A CONDITIONAL USE; 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.

Hailey Ordinance No. 1042 amends the Hailey Zoning Ordinance No. 532, as follows:

Section 1 amends Hailey Zoning Ordinance No. 532 by adding definitions for Small Scale Wind Energy Systems ("WES") and Solar Panels.

Section 2 amends Section 4.3.3, General Residential District, of the Hailey Zoning Ordinance No. 532, is hereby amended by addition of Freestanding Solar Panels as a conditional use.

Section 3 amends Section 4.3.4, General Residential District, of the Hailey Zoning Ordinance No. 532, is hereby amended by addition of Roof-mounted Solar Panels as an accessory use.

Section 4 amends Section 4.5.3, Limited Business District, of the Hailey Zoning Ordinance No. 532, is hereby amended by addition of Freestanding Solar Panels as a conditional use.

Section 5 amends Section 4.5.4, Limited Business District, of the Hailey Zoning Ordinance No. 532, is hereby amended by addition of Roof-mounted Solar Panels as an accessory use.

Section 6 amends Section 4.6.3, Transitional District, of the Hailey Zoning Ordinance No. 532, is hereby amended by addition of Freestanding Solar Panels as a conditional use.

Section 7 amends Section 4.6.4, Transitional District, of the Hailey Zoning Ordinance No. 532, is hereby amended by addition of Roof-mounted Solar Panels as an accessory use.

Section 8 amends Section 4.2.3, Limited Residential District, of the Hailey Zoning Ordinance No. 532, is hereby amended by addition of Freestanding Solar Panels as a conditional use.

Section 9 amends Section 4.2.4, Limited Residential District, of the Hailey Zoning Ordinance No. 532, is hereby amended by addition of Roof-mounted Solar Panels as an accessory use.

Section 10 amends Section 4.7.3, Business District, of the Hailey Zoning Ordinance No. 532, is hereby amended by addition of Roof-mounted and Freestanding WES and Freestanding Solar Panels as conditional uses.

Section 11 amends Section 4.7.4, Business District, of the Hailey Zoning Ordinance No. 532, is hereby amended by addition of Roof-mounted Solar Panels as an accessory use.

Section 12 amends Section 4.12.2.2, Service Commercial Industrial-Sales and Office Sub-District, of the Hailey Zoning Ordinance No. 532, is hereby amended by addition of Roof-mounted and Freestanding WES and Freestanding Solar Panels as conditional uses.

Section 13 amends Section 4.12.2.3, Service Commercial Industrial-Sales and Office Sub-District, of the Hailey Zoning Ordinance No. 532, is hereby amended by addition of Roof-mounted Solar Panels as an accessory use.

Section 14 amends Section 4.12.3.2, Service Commercial Industrial-Industrial Sub-District, of the Hailey Zoning Ordinance No. 532, is hereby amended by addition of Roof-mounted and Freestanding WES and Freestanding Solar Panels as conditional uses.

Section 15 amends Section 4.12.3.3, Service Commercial Industrial-Industrial Sub-District, of the Hailey Zoning Ordinance No. 532, is hereby amended by addition of Roof-mounted Solar Panels as an accessory use.

Section 16 amends Section 4.8.3, Light Industrial District, of the Hailey Zoning Ordinance No. 532, is hereby amended by addition of Roof-mounted and Freestanding WES and Freestanding Solar Panels as conditional uses.

Section 17 amends Section 4.8.4, Light Industrial District, of the Hailey Zoning Ordinance No. 532, is hereby amended by addition of Roof-mounted Solar Panels as an accessory use.

Section 18 amends Section 4.11.3, Airport District, of the Hailey Zoning Ordinance No. 532, is hereby amended by addition of Roof-mounted and Freestanding WES and Freestanding Solar Panels as conditional uses.

Section 19 amends Section 4.11.4, Airport District, of the Hailey Zoning Ordinance No. 532, is hereby amended by addition of Roof-mounted Solar Panels as an accessory use.

Section 20 amends Section 4.9.3, Technological Industry District, of the Hailey Zoning Ordinance No. 532, is hereby amended by addition of Freestanding Solar Panels as a conditional use.

Section 21 amends Section 4.9.4, Technological Industry District, of the Hailey Zoning Ordinance No. 532, is hereby amended by addition of Roof-mounted Solar Panels as an accessory use.

Section 22 amends Section 4.4.3, Neighborhood Business District, of the Hailey Zoning Ordinance No. 532, is hereby amended by addition of Freestanding Solar Panels as a conditional use.

Section 23 amends Section 4.4.4, Neighborhood Business District, of the Hailey Zoning Ordinance No. 532, is hereby amended by addition of Roof-mounted Solar Panels as an accessory use.

Section 24 provides for a severability clause.

Section 25 provides for a repealer clause.

Section 26 provides for an effective date of the ordinance.

The full text of Ordinance No. 1042 is available at Hailey City Hall at 115 South Main Street, Suite H, Hailey, Idaho 83333 and will be provided to any citizen upon request during regular business hours.

CERTIFICATION OF CITY ATTORNEY

I, the undersigned Attorney at Law, as attorney for the City of Hailey, Idaho, hereby certify that I have read the foregoing summary of Ordinance No. 1042 of the City of Hailey, that I have compared it to the full text of Ordinance No. 1042, and that in my opinion, the above summary is true and complete and provides adequate notice to the public of the contents of said Ordinance.

Dated this _____ day of December, 2009.

Ned Williamson, Hailey City Attorney

Publish: Idaho Mountain Express, December ____, 2009.

SUMMARY OF HAILEY ORDINANCE NO. 1043

The following is a summary of the principal provisions of Ordinance No. 1043 of the City of Hailey, Idaho, duly passed and adopted December 14, 2009, by the City Council and Mayor of the City of Hailey:

AN ORDINANCE OF THE CITY OF HAILEY, IDAHO, AMENDING ARTICLE 6A OF HAILEY'S ZONING ORDINANCE, ORDINANCE NO. 532, BY AMENDING SECTIONS 6A.7.2.1(C)(2), 6A.7.2.2(C)(3), 6A.7.2.3(C)(3), AND 6A.7.2.4.III(C)(10), TO EXCLUDE SMALL SCALE WIND ENERGY SYSTEMS FROM ROOFTOP SCREENING REQUIREMENTS; 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.

Hailey Ordinance No. 1041 amends the Hailey Zoning Ordinance No. 532, as follows:

Section 1 amends Section 6A 7.2.1(C) (2) of the Hailey Zoning Ordinance No. 532 by excluding Small Scale Wind Energy Systems with a conditional use permit from design review for non-residential buildings..

Section 2 amends Section 6A 7.2.2(C) (3) of the Hailey Zoning Ordinance No. 532 by excluding Small Scale Wind Energy Systems with a conditional use permit from design review for non-residential buildings in Light Industrial (LI), Service Commercial Industrial (SCI), Technological Industrial (TI), and Airport (A) Districts.

Section 3 amends Section 6A 7.2.3(C) (3) of the Hailey Zoning Ordinance No. 532 by excluding Small Scale Wind Energy Systems with a conditional use permit from design review for multi-family buildings in General Residential (GR), Transitional (TN), Limited Business (LB), Business (B), Neighborhood Business (NB), and Service Commercial Industrial (SCI), Light Industrial (LI), Service Commercial Industrial (SCI), Technological Industrial (TI), and Airport (A) Districts.

Section 4 amends Section 6A 7.2.4III(C)(10) of the Hailey Zoning Ordinance No. 532 by excluding Small Scale Wind Energy Systems with a conditional use permit from the screening requirements of design review for residential and non-residential buildings in the Townsite Overlay District.

Section 5 provides for a severability clause.

Section 6 provides for a repealer clause.

Section 7 provides for an effective date of the ordinance.

The full text of Ordinance No. 1043 is available at Hailey City Hall at 115 South Main Street, Suite H, Hailey, Idaho 83333 and will be provided to any citizen upon request during regular business hours.

CERTIFICATION OF CITY ATTORNEY

I, the undersigned Attorney at Law, as attorney for the City of Hailey, Idaho, hereby certify that I have read the foregoing summary of Ordinance No. 1043 of the City of Hailey, that I have compared it to the full text of Ordinance No. 1043, and that in my opinion, the above summary is true and complete and provides adequate notice to the public of the contents of said Ordinance.

Dated this ____ day of December, 2009.

Ned Williamson, Hailey City Attorney

Publish: Idaho Mountain Express, December ____, 2009.

SUMMARY OF HAILEY ORDINANCE NO. 1045

The following is a summary of the principal provisions of Ordinance No. 1045 of the City of Hailey, Idaho, duly passed and adopted December 14, 2009, by the City Council and Mayor of the City of Hailey:

AN ORDINANCE OF THE CITY OF HAILEY, IDAHO, REPEALING CHAPTERS 8.04 AND 8.08 OF THE HAILEY MUNICIPAL CODE, AND REPLACING CHAPTER 8.04 OF THE HAILEY MUNICIPAL CODE TO PROVIDE A PURPOSE SECTION, TO PROVIDE DEFINITIONS, TO ENUMERATE SPECIFIC NUISANCES, TO ESTABLISH A NUISANCE ABATEMENT NOTICE, TO REQUIRE ABATEMENT OF A NUISANCE, TO PROVIDE AN APPEAL PROCESS, TO ALLOW THE COLLECTION OF ABATEMENT COSTS BY THE CITY, TO ESTABLISH PROHIBITED ACTS, AND TO PROVIDE A PENALTY PROVISION FOR VIOLATIONS OF CHAPTER 8.04 OF THE HAILEY MUNICIPAL CODE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A REPEALER CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE UPON PASSAGE, APPROVAL AND PUBLICATION ACCORDING TO LAW.

Hailey Ordinance No. 1045 amends the Hailey Municipal Code, as follows:

Section 1 repeals Chapters 8.04 and 8.08, and replaces Chapter 8.04 with a new Chapter 8.04, entitled Health and Safety, which

- a) provides a purpose section;
- b) establishes definitions for Building Materials, Garbage, Garbage Container, Junk, Noxious Weeds, Nuisance, Owner, Occupant, Public Place, Refuse, Rubbish, Street Tree and Waste;
- c) enumerates specific nuisances;
- d) establishes a procedure for the creation and service of a nuisance abatement notice;
- e) requires the abatement and removal of a nuisance and authorizes the city to take legal action to remove the nuisance;
- f) establishes an appeal process, allowing 15 days to appeal to the Hailey City Council following service of a nuisance abatement notice and providing that the decision of the Hailey City Council is final and conclusive;
- g) authorizes the City to remove a nuisance if it is deemed an immediate health hazard and exigent circumstances exist, authorizes the City to remove a nuisance upon court order with the cost of removal to be paid by the owner or occupant or other person in control of the property, and establishes that the cost of removal of a nuisance shall constitute a lien upon the property;
- h) establishes that failure to remove a nuisance in accordance with a nuisance abatement notice, that throwing or depositing refuse or waste on public or private property, that burning refuse or waste on a street or alley, and that dumping garbage, refuse, waste or rubbish on private property or in a garbage container without the consent of the owner of the property are prohibited acts; and
- i) provides that a violation of Chapter 8.04 is a misdemeanor punishable by a fine of not more than one thousand dollars (\$1000.00) or imprisonment in the county jail for a period of not more than six (6) months, or by both such fine and imprisonment, and provides that the city may

institute a civil action for the removal and the abatement of such Nuisance, or may institute a criminal action under this Chapter 8.04, and provides that a private party may seek private enforcement of Chapter 8.04.

Section 2 provides for a severability clause.

Section 3 provides for a repealer clause.

Section 4 provides for an effective date of the ordinance.

The full text of Ordinance No. 1045 is available at Hailey City Hall at 115 South Main Street, Suite H, Hailey, Idaho 83333 and will be provided to any citizen upon request during regular business hours.

CERTIFICATION OF CITY ATTORNEY

I, the undersigned Attorney at Law, as attorney for the City of Hailey, Idaho, hereby certify that I have read the foregoing summary of Ordinance No. 1045 of the City of Hailey, that I have compared it to the full text of Ordinance No. 1045, and that in my opinion, the above summary is true and complete and provides adequate notice to the public of the contents of said Ordinance.

Dated this _____ day of December, 2009.

Ned Williamson, Hailey City Attorney

Publish: Idaho Mountain Express, December ____, 2009.

