

**MINUTES OF THE MEETING OF THE  
HAILEY PLANNING & ZONING COMMISSION  
Monday, September 26, 2016  
Hailey City Hall  
5:30 p.m.**

**Present:** Owen Scanlon, Jeff Engelhardt, Dan Smith, Richard Pogue, Janet Fugate

**Staff:** Lisa Horowitz, Robyn Davis, Heather Dawson, Ned Williamson

***Call to Order***

[5:28:20 PM](#) Chair Fugate called the meeting to order.

***Public Comment***

No public comments

***Consent Agenda***

[CA 1](#) Motion to approve minutes of September 12, 2016

[CA 2](#) Motion to FF for Terence and Kim Hayes

[CA 3](#) Motion to approve a Request for Reconsideration for Wise Guy

[5:29:20 PM](#) **Richard Pogue motioned to approve the September 12, 2016 Meeting Minutes. Dan Smith seconded and all were in favor.**

***New Business and Public Hearings***

[NB 1](#) *Consideration of a Design Review Application submitted by Terence and Kim Hayes for a new 2,400 square foot Detached Accessory Building, which consists of a 1,200 square foot garage, a 900 square foot Accessory Dwelling Unit and 300 square feet of storage for an existing residence, located at 313 South Second Avenue (Lots 5-7, Block 22, Hailey Townsite) in the General Residential (GR) and Townsite Overlay (TO) Zoning Districts.*

[5:29:31 PM](#) Lisa Horowitz presented the application for Design Review and noted that a Record of Survey was completed to show where property boundaries are located. Horowitz also noted that the proposed addition be located on three of the five lots owned. Two lots would stay vacant and the other three would house the new addition, as well as the existing residence. The Hayes' are in the process of applying for a Lot Line Adjustment, which is required.

[5:30:40 PM](#) Horowitz noted that the garage would be accessed from the alley. Horowitz also noted that with the existing residence, a total of five parking places would be available. Horowitz stated that the Accessory Dwelling Unit would total 900 square feet, which is the maximum, and the owner's are proposing an owner's attic storage that would have no access from the unit. This space would be accessed by a pull-down staircase located in the proposed garage. Horowitz also stated that the staircase was not calculated in the total square footage of the Accessory Dwelling Unit.

[5:31:55 PM](#) Horowitz stated that a balcony is proposed; however, it overhangs in to the required side yard setback in excess of three feet (3'). The Applicant is aware that this will need to be altered to comply with the ordinance.

[5:33:10 PM](#) Owen Scanlon inquired about lighting plan and the location of the exterior lights. Kim Hayes informed the Commission that they are proposing a total of five lights on the new garage and Accessory Dwelling Unit. Lights would be located on either end of the garage doors (two lights in total), one at the entry door, one by the deck, and one by the other entry door in to the garage. Horowitz noted that the site plan could be modified to indicate lighting requirement. Horowitz also noted that one light, on the proposed residence, would need to be altered to comply with the City's dark sky ordinance

[5:35:52 PM](#) Chair Fugate inquired about location of snow storage. Horowitz noted that snow storage would remain on lots 5-7, and the site plan would be revised to show this.

[5:37:14 PM](#) Jeff Engelhardt inquired about the deck conforming to the required setbacks. The Applicant informed the Commission that they would accommodate and shorten deck by three feet to comply.

[5:39:13 PM](#) Chair Fugate opened the item for public hearing. Geoffrey Moore read Article 68.3 Permits: No permit shall be issued by an Administrative Office or Inspector of the City for construction of any building project or any other improvement requiring a permit before the requirements specified in this article are met or approval is granted. Moore questioned continuation of project. Moore also referenced Article 4.3.6E: Accessory Dwelling Units shall have a minimum gross floor area of 300 square feet and a maximum floor area of 900 square feet. Moore read the definition of gross floor area: "... the gross floor area within the surrounding exterior walls of a building or portion thereof, including all floor levels, exclusive of outdoor courts, attics or garages, or other enclosed automobile areas.." and noted that the Accessory Dwelling Unit cannot exceed 900 square feet regardless of what they label the room. Moore noted that per definition and City Ordinance, the Applicant would need to remove 300 square feet from the proposed unit.

[5:44:00 PM](#) Chair Fugate closed the item for public hearing. Horowitz explained that a building permit was inadvertently issued and a stop work order was put in place immediately, and informed the Applicant that Design Review required. Horowitz also noted that the City agreed to allow the Applicant to complete the foundation, with the understanding that the Applicant would be proceeding at own risk prior to a Design Review hearing.

[5:47:36 PM](#) Chair Fugate inquired about the original plans and whether or not they have been adjusted to comply with City Ordinance. Horowitz noted that the Applicant has adjusted their drawings based on Design Review requirements and to comply with City Ordinances.

[5:48:13 PM](#) Owen Scanlon referenced the definition of gross floor area and suggested that if the Applicant keep the floor, ceiling and walls unfinished, the space could be labeled as an attic, which is exempt, per the definition of gross floor area. Scanlon noted that a mistake was made and that he would like to work with Applicant to help make process more palatable and conforming.

[5:49:46 PM](#) Jeff Engelhardt noted that a review or a revision of maximum square footage amounts for Accessory Dwelling should be considered. Dan Smith suggested a 300 square foot patio in lieu of a storage space or bedroom.

[5:52:33 PM](#) Richard Pogue agreed with Scanlon and believes the space should be treated as an attic, which should be left unfinished, unheated and un-conditioned.

[5:53:01 PM](#) Geoff Moore requested that the Commission read and interpret the ordinance of the City of Hailey; not design Applicant's home. Moore also noted his concerns about the precedent that would be set if no action was taken to comply with City ordinances.

[5:56:18 PM](#) Ned Williamson suggested that use be set as a condition (as an attic) and be framed to comply with ordinance, as well as meet gross floor minimum and maximum requirements. Chair Fugate agreed.

[6:01:03 PM](#) Kim Hayes informed the Commission of their intentions to complete the project by the book, with plans to accommodate the requests of Staff and Commissioners.

[6:02:57 PM](#) Chair Fugate mentioned that she would like to see the following items noted or made as conditions of approval: unfinished attic, LLA, snow storage calculations, construction layout, balcony/deck, and lighting.

**[6:03:58 PM](#) Owen Scanlon motioned to approve a Design Review Application by Terence and Kim Hayes for a new 2,400 square foot Detached Accessory Building, which consists of a 1,200 square foot garage, a 900 square foot Accessory Dwelling Unit and 300 square feet attic, located at 313 South Second Avenue (Lots 5-7, Block 22, Hailey Townsite) in the General Residential (GR) and Townsite Overlay (TO) Zoning Districts, finding that the project does not jeopardize the health, safety or welfare of the public and the project conforms to the applicable specifications outlined in the Design Review Guidelines, applicable requirements of the Zoning Ordinance, Title 18, and City Standards, provided conditions (a) through (m) are met. Richard Pogue seconded and all were in favor.**

**[NB 2](#)** *Consideration for Request for Reconsideration, pursuant to Hailey Municipal Code 17.03.050(D) by Wise Guy Pizza, of a decision of the Hailey Planning and Zoning Commission regarding a condition of approval to retain a City street tree located at 411 Main Street (s. ½ of Lot 3, Lots 4-5, Block 56, Hailey Townsite).*

[6:08:33 PM](#) Horowitz presented the Memorandum from Ned Williamson, City Attorney and noted that per Idaho Statute, a Request for Reconsideration is required prior to an appeal. Horowitz noted that new information came from the Applicant, which was voted on and approved at the last Planning and Zoning Meeting on September 12, 2016.

[6:09:11 PM](#) Horowitz included both the site plan that was approved during Design Review, as well as a revised site plan for the building permit. Horowitz noted that the trees shown on the site plan during Design Review appeared to be in and under the canopy, and it was clarified that a strip of City land, approximately 4' in width, was intervening. The revised site plan shows that the tree, in relation to the front door, is slightly off center. A survey was completed and the City street tree in this plan is more accurate and aligned with the proposed building's front door.

[6:10:42 PM](#) Lee Ritzau noted that the drawings were crafted to illustrate issues with City street tree and requested reconsideration of the removal of said tree. Ritzau also noted that opinions were provided from the general contractor and a certified arborist explaining the possible mortality of the City street tree, if denied removal.

[6:13:30 PM](#) In reviewing the information that was submitted, City staff member Stephanie Cook noted that the tree is in good health and should be preserved. Cook suggested proper root and canopy pruning techniques, as well as minimal use of large construction equipment surrounding the tree, to continue to preserve the tree.

[6:17:12 PM](#) Chair Fugate noted her concerns with the Applicant's argument and doesn't agree with removing a healthy tree because the construction process would kill the tree, and/or damage or hinder its growth.

[6:18:08 PM](#) Lee Ritzau noted that transporting the tree doesn't seem like a practical solution and removal of, and replacement of the tree is more logical. Ritzau also noted that the Applicant would pay the City for removal of said tree, as well as plant a new tree elsewhere, per City's choice.

[6:21:14 PM](#) Chair Fugate questioned the removal of a healthy, valuable tree due to construction of a building. Dan Smith agreed. Owen Scanlon noted that the City Ordinances encourages eyes on Main Street, and believes that the code allows the Applicant to replace the tree. Dan Smith believes City is in favor of maintaining an urban forest, which is part of the character of Hailey and the tree should remain.

[6:24:20 PM](#) Ritzau noted that removal or replacement is an option per City Code, and the Applicant would be willing to work with Commissioners and Staff to replace the trees or reimburse the City monetarily for said tree. Dan Smith inquired about the replacement trees and type of trees that the street tree would be replaced with. Ritzau suggested replacing the City street tree with a more columnar style of tree: Swedish Aspens.

[6:29:40 PM](#) Jeff Engelhardt doesn't believe the tree should remain, as this business is investing in the City of Hailey and believes Commissioners and Staff should work with Applicant to meet their requests.

[6:31:02 PM](#) Jay Cone noted the extensiveness of trimming and pruning that would happen if the tree remained. Cone also clarified that the property line is at the edge of the marquee and the sign overhangs into City property. Horowitz noted that the City would need to grant permission to have the sign overhang City property.

[6:33:48 PM](#) Cone referenced the Design Review site plan and noted that the pavers will be surrounding the tree, which would not be a patio but an extension to entry. Ned Williamson noted the approved plan did not include pavers in the City right of way around the trees. Cone reiterated the Design Review language in that the business's main façade should be presented on Main Street and access shall be from Main Street. Cone noted that given the Design Review requirements, the tree could be removed. Cone believes pruning of the tree would be severe and reiterated that the language of the code allows the Applicant to remove or replace the tree, which he believes to be a reasonable request to promote said business within the City of Hailey.

[6:40:48 PM](#) Derek Ruhter noted that the root pruning of street tree would be severe and regardless of how well it's done, still have a tree with a diminished root system. Derek Ruhter also noted that removing part of a root ball would create a potential hazard, which could create issues in the future.

[6:46:45 PM](#) Chair Fugate opened the item for public hearing. Tony Evans commented on the tree and the design and believes there is a sign getting in the way of a tree. Evans believes that the business should alter the design of their marquee to accommodate the tree.

[6:49:18 PM](#) Chair Fugate closed item for public hearing. Chair Fugate noted her concerns regarding removal of the street tree. Chair Fugate also noted that this business selected the property and then proceeded to design their business. Chair Fugate believes the design should've been more thought out to accommodate the tree. Dan Smith agreed.

[6:52:10 PM](#) Jeff Engelhardt doesn't believe this business should be held up because of a tree. Richard Pogue noted that in the interest of the business, he would also remove the tree. Pogue noted that it

would likely require substantial pruning and recommended that the Commission allow the tree to be removed and replaced by another tree at the City's discretion. Scanlon agreed.

[6:58:32 PM](#) Chair Fugate inquired about the replacement of the tree and whether or not the City would be reimbursed monetarily or by the business planting another tree.

[6:58:55 PM](#) Heather Dawson noted that the feel and the quality of the block are of more importance than the cost of the tree. Dawson noted that removal of the tree could diminish the feel of the block; however, Dawson also noted that two columnar style trees would make a beautiful frame for the area/business.

[7:01:16 PM](#) Chair Fugate suggested discussing the specifics and sending matter to Tree Committee for the final decision. Dan Smith believes removal of this tree sets a precedent for future businesses. Engelhardt believes a healthy tree is being traded for a healthy business.

[7:03:46 PM](#) Ned Williamson recommended discussing the options available and having a clear understanding (from both sides) what will happen if tree is removed (i.e., will the Applicant replace it with another tree and if so, what size and where?, etc).

[7:04:45 PM](#) Horowitz suggested the option of sending the request over to the Tree Committee for final recommendation. Chair Fugate noted her concerns with removal of the City street tree and the precedent the Commission is setting.

[7:06:34 PM](#) Ned Williamson suggested that if a decision is made to remove the street tree, language would be written out in the Findings of Fact stating this as a very unique circumstance. Dan Smith noted that he does not want the business to change hands to be an excuse to eliminate more City property. Smith would like to maintain the downtown business core, including maintenance and care of the City street trees. Jeff Engelhardt believed new development should not be held hostage because of a tree.

[7:07:53 PM](#) Richard Pogue questioned what the Applicant would do if the removal of the City street tree was approved. Lee Ritzau noted that the Applicant provided a range of \$2,630 to \$3,970 and the City could decide where it should fall: average of the two or the higher end of the range is acceptable. Chair Fugate suggested connecting with the Tree Committee regarding a Master Plan of location and type of trees. Pogue agreed with recommendation.

[7:09:53 PM](#) Lisa Horowitz suggested a modification to condition (g), which could state: All City street trees shall be retained with the exception of the middle tree near the front entrance. Decision as to whether replacement trees on site or in another City location with regards to this tree shall be made by the Hailey Tree Committee, or payment in lieu.

[7:10:55 PM](#) **Jeff Engelhardt motioned to modify condition (g) from the Planning and Zoning Findings of Fact, Conclusions of Law and Decision dated August 1, 2016 regarding City street trees located at 411 Main Street (S. ½ of Lot 3, Lots 4-5, Block 56, Hailey Townsite). Richard Pogue seconded the motion. Owen Scanlon, Jeff Engelhardt and Richard Pogue voted in favor; Dan Smith and Chair Fugate voted nay.**

## **Old Business**

### **Commission Reports and Discussion**

[7:12:56 PM](#) Lisa Horowitz informed the Commissioners that two meetings would be held in October: Tuesday, October 11, 2016 and Monday, October 24, 2016.

## **Staff Reports and Discussion**

SR 1 Discuss of current building activity and upcoming projects  
*(no documents)*

SR 2 Discuss of the next Planning and Zoning meeting: Tuesday, October 11, 2016  
*(no documents)*

## ***Adjourn***

**7:13:51 PM Jeff Engelhardt motioned to adjourn. Dan Smith seconded and all were in favor.**