

## HAILEY ORDINANCE NO. 1067

AN ORDINANCE OF THE CITY OF HAILEY, IDAHO, AMENDING HAILEY'S ZONING ORDINANCE, ORDINANCE NO. 532, BY AMENDING ARTICLES 10.5.4(c), 11.4.1 AND 12.4 TO DELETE ANY STANDARD OF EVALUATION OR CRITERIA FOR REVIEW RELATING TO THE HAILEY COMPREHENSIVE PLAN; 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 Idaho Supreme Court in *Urrutia v. Blaine County*, 134 Idaho 355 (2000), has held that a comprehensive plan is intended as a general guide involving zoning decisions such as revising or adopting a zoning ordinance and that the comprehensive plan cannot be used to deny an application based completely on non-compliance with a comprehensive plan; and

WHEREAS, the Hailey City Council intends to amend Hailey's Zoning Ordinance to be consistent with the Idaho Supreme Court's decision in *Urrutia v. Blaine County*.

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

Section 1. Article 10.5.4(c) of the Hailey Zoning Ordinance No. 532 is amended by the deletion of the stricken language and renumbering as follows:

- c. Standards of Evaluation:
1. The proposed development can be completed within one (1) year of the date of approval or phased according to a development schedule as submitted in accordance with Article 10.4.5 of this Ordinance and approved by the City; and
  2. The streets and thoroughfares proposed are suitable and adequate to carry anticipated traffic; and
  3. The PUD will not create excessive additional requirements at public cost for public facilities and services; and
  - ~~4. The PUD is in general conformance with the Comprehensive Plan; and~~
  54. The existing and proposed utility services are adequate for the population densities and non-residential uses proposed; and
  65. The development plan incorporates the site's significant natural features; and
  76. Each phase of such development shall contain all the necessary elements and improvements to exist independently from proposed future phases in a stable manner; and
  87. One or more amenities as set forth in Article 10.3.8 of this Ordinance shall be provided to ensure a public benefit; and

98. All exterior lighting shall comply with the standards set forth in Article VIII B of this Ordinance; and
109. The proposed PUD Agreement is acceptable to the applicant and the City.

Section 2. Article 11.4.1 of the Hailey Zoning Ordinance No. 532 is amended by the deletion of the stricken language and relettering as follows:

11.4.1. The Commission or Hearing Examiner shall review the particular facts and circumstances of each proposed conditional use in terms of the following standards, and if approved, shall find adequate evidence showing that such use at the proposed location:

- a. Will, in fact, constitute a conditional use as established for the zoning district involved; and
- b. ~~Will be harmonious with and in accordance with the general objectives or any specific objective of the Comprehensive Plan and requirements of this Ordinance; and~~
- eb. Will be designed, constructed, operated, and maintained to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area; and
- ec. Will not be hazardous or disturbing to existing or future neighboring uses; and
- ed. Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, and drainage structure. Agencies responsible for the establishment of the proposed use shall be able to provide adequately any such service; and
- fe. Will not create excessive additional requirements at public cost for public facilities and services; and
- gf. Will not involve uses, activities, processes, materials, equipment, or conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, dust, odors, vibration, water or air pollution, or safety hazards; and
- hg. Will have vehicular approaches to the property which shall be designed so as not to create an interferences with traffic on surrounding public thoroughfares; and
- ih. Will not result in the destruction, loss, or damage of a natural, scenic, or historic feature.

Section 3. Article 12.4 of the Hailey Zoning Ordinance No. 532 is amended by the deletion of the stricken language and relettering as follows:

12.4 Criteria for Review.

The Commission or Hearing Examiner shall review the application for variance from this ordinance and shall approve, conditionally approve or deny the variance application. A variance shall not be considered a right or special privilege, but may be granted to an applicant only upon a showing of undue hardship because of

characteristics of the site and the variance is not in conflict with the public interest. Before any variance can be granted, the Commission or Hearing Examiner must make all of the following findings:

- a. ~~That the variance, when granted, will not conflict with, or cause or allow any situation which is in conflict with, the Comprehensive Plan.~~
- ba. That the variance, when granted, will not conflict with, or cause or allow any situation which is in conflict with, any existing federal, state, or local law, or which may result in injury to the public.
- eb. That the variance, when granted, will not effect a change in zoning.
- dc. That the variance, when granted, will not cause damage or significant negative impact to the property of others.
- ed. That without the variance, the property owner shall suffer undue hardship and will be substantially deprived, by ordinance, of the privileges legally enjoyed by property owners of property within the vicinity of the subject property.

Section 4. 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 5. Repealer Clause. All Ordinances or parts thereof in conflict herewith are hereby repealed and rescinded.

Section 6. 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 9<sup>th</sup> day of August, 2010.



Richard L. Davis, Mayor  
City of Hailey

ATTEST:

  
Mary Cone, City Clerk

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Published Summary