

**Minutes of the
Hailey Planning & Zoning Commission
May 4, 2009**

The meeting was called to order at 6:30 p.m. by Commission Chair Owen Scanlon. Commissioners present were Geoff Moore, Mark Johnstone, David Lloyd and Mike Pogue. Staff present included Planning Director Beth Robrahn, Planner Mariel Platt and Planning Assistant Becky Mead.

Consent Agenda

Tab 1 Approval of Minutes – April 20, 2009

Tab 2 Findings of Fact - McDonald's Restaurant Alteration of Exterior Building

Commissioner Scanlon requested to pull Tab 2 and move it to a regular P&Z Hearing. Commissioner Scanlon said he did not dispute the Administrative decision; he has issues with the Design Review, Section 6A, 7.2.3, B. Building Design, 4. Item b *south facing windows with eaves are encouraged to have eave coverage*; and Item 6 *Roof design should reduce the mass and scale of buildings and add visual interest and prevent reflective glare*. He stated the walls are moved out to the bottom of the fascia, there is no eave over south facing and west facing windows. He suggested louvers of some sort should be used. He stated his main concern were coverage for the south and west side windows. Director Robrahn asked if he felt comfortable approving it conditionally. Commissioner Scanlon agreed. Director Robrahn asked Commissioner Scanlon to propose a condition that addressed his concerns and if the Commission agreed, then they could approve this application conditionally.

Commissioner Scanlon requested a motion on the consent agenda without Tab 2.

Commissioner Pogue moved to approve Tab 1 of the Consent Agenda. Commissioner Moore seconded, Commissioners Johnstone, and Scanlon were in favor, and Commissioner Lloyd abstained.

Bill Kyle, the new owner of the local Mc Donald's stated he owns several stores in Twin Falls and mentioned he has a couple of other restaurants where the walls go out to the exterior of the eave, and the problem that Commissioner Scanlon is identifying he does have at those restaurants. He stated they are proposing to replace all of the glass throughout the entire building and bring everything up to code. He asked if Commissioner Scanlon was only concerned about the south side or the north side also. Commissioner Scanlon stated his concerns are that the windows will not be shaded and there will be quite a heat load. Kyle stated they are planning to put inside shades. Commissioner Scanlon stated there are two items in the Design Review that address reflective glare. Kyle stated when the inside shades are down they can be seen through to the outside but cannot be seen through from the outside in, thus shielding some of the solar heat. He said if there is anything else they can do to address his concerns they are open to suggestions.

Commissioner Scanlon asked the rest of the Commission if they had any concerns or comments. He said he wanted to bring these issues up because they are in the guidelines and should not go unaddressed.

Commissioner Pogue stated it did not raise a flag for him.

Commissioner Lloyd stated his biggest concern was with creating flatter lines in the building, but after visiting the site that was not as much of a concern.

Commissioner Pogue asked Commissioner Scanlon if the interior window shade address his concern about the heat loss. Commissioner Scanlon stated that would mitigate the heat concern but he still had the issue of the reflective glare especially on the side facing Main Street.

Commissioner Moore stated it is just the one wall adjacent to the lobby that would be affected. Commissioner Scanlon agreed.

Kyle said there is a new support beam to be installed on the south side of the building. Commissioner Scanlon asked him to point that out on the plans. Commissioner Scanlon pointed out where he thought there should be a support beam added. He asked Kyle to suggest to his architect some kind of shading for the window or some kind of canopy. Kyle stated he would contact his architect. Scanlon stated he would like to see about 2-3 feet of canopy. Commissioner Scanlon requested Kyle to discuss with his architect the possibility of extending something to support a pergola or canopy of some sort to shade the windows on the south and west side 2 to 3 feet.

Commissioner Moore moved to approve Tab 2 with amended conditions. Pogue seconded, the motion passed unanimously.

Kyle asked staff if he could apply for a building permit immediately. Director Robrahn stated yes he could. She said she would review whatever kind of shading they came up with.

New Business

Director Robrahn stated the owners of the Drug Store did not like the color brown the building was painted. The owners would like to change the color to a more reddish brown and rather than approving the color administratively she felt more comfortable having the Commission make this decision.

Jay Cone, 651 El Dorado Lane, architect for the project presented the new color for the old Drug Store to the Commission.

The Commission agreed on the color change.

Unfinished Business

Continuation of a public hearing upon an application by Bruce Allen for Design Review of a new commercial building, to be known as R. Davis Business Center Bldg. #2, located on Lot 2, R.

Davis Business Center Subdivision (940 Fourth Ave. South), within the Limited Business (LB) district.

Director Robrahn wanted to clarify for the record that page 8 of the staff report was replaced and noted there was not a parking garage proposed in the revised plans, and there are bicycle racks added to both entrances to the building. The entrance to the building is on the corner of Main & Fourth. She identified concerns with pedestrian circulation and access. She has also highlighted potential issues and highlighted standards that she wanted to be sure the Commission would discuss and make findings so the final approval will reflect whether those specific standards have been met.

Commissioner Pogue asked if there are particular concerns that have not been met. Director Robrahn stated yes and referred to page 8, standard 3. *The site should be designed to support pedestrian circulation and provide pedestrian amenities* and under that standard she read from the staff report, *"A pedestrian connection from the pathway along Main Street to the east side of the building and the north entrance to the pharmacy is depicted to the east of the drive-through access lane; this pedestrian connection, as proposed, would require people to walk across the drive-through lane to access the north entrance to the building, which is the only public entrance to the space proposed for the pharmacy."* She stated the issue is that there is no entrance to the pharmacy off of Main Street which results in issues for pedestrian circulation, which is also stated in standard 4. *Conflicts between different circulation needs and uses should be minimized.* She felt she could not make a recommendation for the findings so she left it open for the Commission to decide what finding they wanted to make for this. She said it was more an issue of opinion whether the standards have been met.

Tobin Dougherty, Architect for the project wanted to address Commissioner Pogue's concerns. He stated he has tried to address the standards in the drawing. He said he has taken the time to redesign the building and address the standards and accommodate the tenant who has a requirement for a drive-through. There will be a main building with three different tenants. The main entrance addresses two separate tenants, the pharmacy being the main tenant. He stated if he flipped the design it would not meet the criteria of the tenant and there would not be a drive-through, and there would not be a tenant. He stated he understood a direct route to an entry was desirable but there is a definite need for the drive-through. He stated he has kept as much planting areas around the drive-through for screening. The building is still four feet below the highway. The gable structures at each end were added to anchor the building. He suggested using sidewalks and crosswalks across the drive-through.

Commissioner Lloyd asked about Lot 1, in the future, steps going down into the pedestrian sidewalk would go over to pedestrian crosswalks. Dougherty stated yes. Commissioner Lloyd asked if that would be built up on this phase, potentially to build those stairs and part of that sidewalk. Dougherty stated yes, the building would not be built but the passageway, the sidewalk would be built. Commissioner Lloyd referred to the retaining wall being three feet tall and would need a railing and asked if there would be the ability to put an additional wall back from that area by the bike path. Dougherty stated they would be crossing the property line. He said there would be enough room for plantings there. **Bruce Allen**, owner of the property, said he did not think the wall was that tall. Commissioner Lloyd asked if the upper roof had snow clips. Dougherty stated they did not have a roof plan but all things required would be added to meet the standards.

Commissioner Lloyd asked if there were potential roof top mechanical equipment. Dougherty stated yes, on each gable end there will be mechanical equipment which will be inside of the gable and the compressors will be outside and hidden behind the gable. He said the parapets are 36 inches high plus another 36 inches on the gables.

Commissioner Pogue referred to sheet two and asked if there was a window on the south facing wall of the pharmacy in the office area. Dougherty stated the owner did not want windows in the office and windows are not shown on the elevation.

Commissioner Johnstone referred to sheet C1 and asked if the snow storage was at the south end of the drive-through. Dougherty stated there were some slight changes to snow storage and pointed those out on the plans to Commissioner Johnstone.

Director Robrahn stated there were no calculations of the snow storage area on the plans and there is no way to tell if the standards are being met. She said they will need the numbers in order to verify that standards are being met.

Commissioner Moore asked if the bike path adjacent to the property on Main Street is a maintained path throughout the year and if the proposed ramps and stairs will be maintained. Allen stated yes. He believed that people will enter at the main entrance if they are walking down Main Street. Dougherty made a comment that behind the parking lot on Lot 1 will be a Community Garden and mentioned that people will be walking from the bike path to the Community Garden so they have added sidewalks there also.

Commissioner Pogue asked if they have any exterior samples. Dougherty stated that was presented at the last meeting. Planner Platt presented the samples again. Commissioner Scanlon asked if there was a landscaping plan. Dougherty apologized for not redoing a landscape plan. Director Robrahn presented the color rendering submitted at the previous meeting. Commissioner Pogue asked Dougherty what colors went where. Dougherty pointed out on the elevation where the colors would be and what would be changed. Commissioner Pogue requested that a window be installed on the back side of the gable. Dougherty stated they could do that. He said that area along Main will be a great area for landscaping.

Public Hearing Opened

Peter Lobb, 403 Carbonate St. East liked the first design better. He thought because this was such a difficult piece of property the Commission should compromise a little bit, not for safety, but give the applicant a little more leeway than normally. He thought it was a good design and thought the Commission should cut the applicant some slack.

Public Hearing Closed

Commissioner Scanlon asked staff about one of the comments regarding the concern that the entrance on the southwest corner was the only entrance into those two professional offices and mentioned there should be an entrance directly from the parking lot but he did not see anything in the staff report and asked if he missed that. Director Robrahn stated there is a similar issue with units a and b on the north side of the building as with there being no entrance on Main

Street to the pharmacy; if someone were coming from the parking lot they would not have access to those units. Dougherty stated the doors on the north elevation could be utilized as entrances. Director Robrahn stated canopies above the doors to make them look like an entrance, as opposed to the doors on the south side which clearly look like service doors, then there would not be an issue with entrances on the north side.

Commissioner Moore asked if a concern for those doors would come up at the time of a tenant improvement. Director Robrahn stated not if it were a condition of approval that the doors remain operable to public use. Commissioner Moore asked if they could make a condition for those doors to remain operable during business hours.

Commissioner Moore stated that Director Robrahn wanted them to go through and address the highlighted areas. Director Robrahn stated if they think the standards are being met that is fine, she just wanted to make sure to bring the Commissioners' attention to those standards.

Commissioner Moore addressed the screening for the drive-through. He stated coming from the south end in the small area he suggested some small shrubs; he would like to see the ramps and walkways maintained year round; the sidewalks need to be posted with signage. He thought this area is filled with ugly buildings and this building would definitely improve the corner. He is fine with all of the materials.

Commissioner Johnstone thought there were two big challenges; the shape of the lot and how it is dropped below grade. He did not like the idea of someone looking down from the drive-through window. He agreed there should not be anything else added to the building.

Commissioner Pogue liked the design and the colors. He said in terms of pedestrian access with the drive-through there was a concern but he thought it would be okay with appropriate signage and the way the cars will be moving slowly. He suggested maybe some low shrubs along the drive-through. He mentioned the "south tower" sticks out like a sore thumb to him and would like to see some kind of exterior element like a window added there. He suggested moving some of the trees over.

Commissioner Lloyd agreed with pedestrian signage, low shrubs by the drive-through and something to break up that southern corner, maybe some low shrubs would work well and a window. He had no other concerns.

Commissioner Scanlon wanted to address the fact that there is no south side entrance to the pharmacy.

Commissioner Lloyd stated it did not bother him; neither did it bother Commissioner Pogue. Commissioner Johnstone sees the bike path as a walking entrance. Commissioner Moore did not see a problem.

Commissioner Scanlon stated the applicant has done exactly what they requested. He would like to see, as conditions of approval, the doors on the north elevation accessible and canopies added above the doors. He said there will always be an issue with pedestrian access and he does not have any issues with that. He commented on energy conservation with lighting and shade trees.

He agreed with the screening of the drive-through. He suggested a canopy be extended all the way across underneath the windows on the south elevation.

Commissioner Moore noticed on the site plan there were 26 parking places and asked if Lot 1 will have an ADA parking place. Dougherty stated yes, there will be a third ADA parking space added to that lot. Their requirements are 22 stalls and they currently have 26.

Dougherty appreciated the Commission's desire to screen the drive-through. He stated there will be trees and it will be hard to see visually. He said too much screening was not good either and he would present a revised landscape plan to staff. He agreed with the suggestion of creating the doors to be more pedestrian friendly. He said they will design the building as energy conserving as they can be.

Director Robrahn clarified the conditions of approval as follows: recommended conditions of approval a through m adding the following conditions;

n – A revised landscape plan showing shrubs on Main Street and also by the drive-through, a better defined sidewalk to the south of the drive-through; trees planted in front of the taller portions of the building on the south elevation. This landscape plan will be approved administratively.

o – Awnings over the doors on the two units on the north elevation, west side of the building

p - Doors on the north elevation to remain accessible to the public and perpetuity.

q - Extend the canopy on the south elevation below the windows on the west side of the building.

r - Add two windows to the tower element of the south elevation of the pharmacy office area.

Commissioner Pogue moved to approve the design review application for R. Davis Business Center, Building 2, located on Lot 2, R. Davis Business Center Subdivision (940 Fourth Ave. South), finding that the project is in conformance with the Comprehensive Plan; the project does not jeopardize the health, safety, or welfare of the general public; and the project conforms to the applicable specifications outlined in the Design Review Guidelines, as set forth herein, applicable requirements of the Zoning Ordinance, and City Standards; with conditions a through m noted in the staff report with conditions n through r as discussed. Commissioner Moore seconded, the motion passed unanimously.

Continuation of a public hearing upon a City initiated application for a text amendment to Article 2, Definitions Section and Article 4.13, Townsite Overlay, of the Hailey Zoning Ordinance No. 532. The amendment would create a definition of "New Building."

Planner Platt said she did some research into the impetus for the creation of the lot line vacation section of the ordinance and looked at the meeting minutes as well as the staff report and it appears that basically the objective was to create a standard or a section that supported our section in the zoning ordinance that pertains to nonconformity so no conforming lots and buildings would be consistent with that section of our zoning ordinance. She explained if there

was a minor addition to a house, positioned on top of one or multiple lot lines, it would increase that degree of nonconformity. It would also be creating a high expense for someone doing something pretty minor to their property. She stated that staff recommended to the Commission to continue reviewing the definition for "new building" that was discussed at the last hearing which was, "an addition or any reconstruction or construction of a building that creates 50% greater floor area than what was originally there requires a vacation of the underlying lot lines". She said this is consistent with the criteria which triggers a project to go through design review within the Townsite Overlay as well. Commissioner Scanlon clarified that if something was smaller it would not. She explained the city does not want to make it a burden to apply that fee for something fairly minor. Commissioner Pogue stated unless it was built prior to 1941 and considered a historic structure. Planner Platt clarified that is only one of the criteria that requires design review in the Townsite Overlay.

Commissioner Pogue asked what the nonconforming use was. Planner Platt clarified it was nonconforming lots and buildings in regards to setbacks or lot sizes. Commissioner Pogue asked what the nonconformity was. Director Robrahn stated it usually has to do with setbacks. Commissioner Pogue said then we are not talking about setbacks of the perimeter of all the lots. Director Robrahn stated that is why we ask for the underlying lot lines to be removed so the underlying lots become the actual legal description of the property so the setbacks are met. She explained as long as those lot lines are still there Commissioner Pogue stated the original lots were platted as small lots. Planner Platt stated since then they have adopted the nonconforming section in the zoning ordinance to help clean up those parcels or eliminate the continuation of nonconforming use.

Commissioner Scanlon asked about pg 1 of 2 of the Ordinance under section 2, and asked if "new building" a noun or a verb. Planner Platt explained that is what they are trying to do under Section 1 of that ordinance is define "new building" because that is the confusion. Commissioner Scanlon asked why she removed the word "any" and replaced it with "a". Planner Platt stated that by removing "any" it makes it more specific

Commissioner Johnstone pointed out a misspelled word in the Ordinance, the fifth line down "letters".

Commissioner Moore stated it sounded vague with the word "reconstruct".

Commissioner Pogue had a problem with creating any burden to the homeowner to determine what setbacks apply, looking at the existing lot lines, not looking at the lot lines underneath. Unless he sees a reason to clean up an ordinance he does not see asking homeowners to spend the money. He said how are they going to interpret what "new building" is. He said at this point new building is a demolition of the existing structure. He suggested if that is not said he thought at least it needed to be said just adding 50% and not be constructed. He commented on Commissioner Moore's point, when does a significant remodel become a reconstruction?

Commissioner Moore stated it is a gray line who makes that determination and by whom. Director Robrahn stated that is my job.

Commissioner Pogue stated he would like "new building" to mean complete demolition of the

existing structure. He thought that was the fair way to do it.

Public Hearing Opened

Peter Lobb was confused and did not have a chance to read about this but thought it had to do with vacating lot lines such as four lots becoming one. Lobb asked Director Robrahn if this would affect the lot on 3rd and Croy. Director Robrahn stated no. Lobb was hoping that if there were contiguous lots they treat them all as one.

Public Hearing Closed

Commissioner Scanlon asked how you would get rid of the lot lines. Director Robrahn stated the City adopts ordinances that have setbacks which are overlooked, a haphazard way with dealing with issues. They want to compromise with cleaning up some of the properties with the underlying lot lines and they can not just overlook the nonconformities.

Director Robrahn was explaining how there was no zoning ordinance at one time to Original Townsite was platted, so therefore there were no setbacks. She said if someone is trying to add on to their house, and technically the setbacks are not met because there were no setbacks back then, they can't overlook it now. She said they are trying to come up with a compromise that recognizes this may be over burdensome for some people to pay for that expense of eliminating the underlying lot line but they will eliminating the underlying lot lines on some lots so nonconforming issues will not have to be dealt with anymore. She stated the reality is there is an ordinance and it can not be overlooked.

Commissioner Pogue suggested addressing in the ordinance the section that talks about setbacks so when a lot has internal lot lines, setbacks can be calculated from the boundary of all of the lots combined. Director Robrahn stated that may be a way that it could be dealt with.

Lobb stated if these became one lot there would not be problem with setbacks.

Commissioner Scanlon asked who determines who cleans up the lot lines and who determines the cost and why could this not be stipulated under city ordinance. Director Robrahn said the way lot lines are determined is by the way it is platted. She explained if someone owns three lots they are recorded that way. Director Robrahn said to ask the engineering firms why the costs are so high.

The Commissioners had further discussion regarding the setbacks.

Commissioner Scanlon suggested continuing this so staff can have further discussion with the City Attorney regarding the setback issue and nonconformity.

Director Robrahn wanted to stop using the term "clean up" because what they are doing is trying to make the ordinance clearer. She said staff would look to the idea of amending how the setbacks in the Townsite Overlay are measured and whether the legal description of a property can be changed without having it replatted.

Director Robrahn stated there will be no meeting on May 18th but suggested continuing this public hearing to June 1st.

Commissioner Moore moved to continue this City initiated application for a text amendment to Article 2, Definitions Section and Article 4.13, Townsite Overlay, of the Hailey Zoning Ordinance No. 532 to a date certain of June 1, 2009. Commissioner Johnstone seconded, the motion passed unanimously.

Adjourn

Commissioner Moore moved to adjourn the meeting at 8:20 p.m. Commissioner Johnstone seconded, the motion passed unanimously.