

**MEETING MINUTES OF THE  
HAILEY PLANNING AND ZONING COMMISSION  
Monday, July 21, 2008**

The meeting was called to order at 6:30 p.m. by Commission Chair Stefanie Marvel. Commissioners present were Owen Scanlon, Geoff Moore, Michael Pogue, and Mark Spears. Staff present included Planning Director Beth Robrahn, City Planner Mariel Platt, Planning Assistant Becky Mead, Planning Intern Eric Grootveld, City Engineer Tom Hellen, and City Attorney Ned Williamson.

**Consent Agenda**

Approval of Findings of Fact Hailey Cemetery Gazebo Design Review - approval  
Minutes – June 16, 18, 19, 24 and 25, 2008

Commissioner Moore stated they were not given minutes for June 24, 2008 but did have minutes for June 16, 18, 19, 25 & 26, 2008.

**Commissioner Pogue moved to approve the Consent Agenda except for the minutes for June 25 & 26, 2008.** Commissioner Scanlon seconded, motion passed unanimously.

Director Robrahn stated the minutes for June 24, 2008 will be presented in the next meeting packet for approval.

**Commissioner Scanlon moved to approve the minutes for June 25 & 26, 2008.** Commissioner Moore seconded, the motion passed unanimously.

**New Business**

Appeal by Peter Lobb of administrative approval of Lot 16A, Block 25, Hailey Townsite.

Attorney Williamson stated this application was approved by the administrator and the Commission should not discuss any new evidence that might be presented. There needs to be substantial evidence of administrator's decision and they should base their decision on the record. He stated the last paragraph of Lobb's letter suggested a change in procedures, a legislative change, which is not applicable to this appeal. He told Lobb that he could request that separately. He said the Commission to look at the standards and ordinance applicable to the application.

Commissioner Scanlon asked what a denovo hearing was. Attorney Williamson explained that a denovo hearing is started brand new with new evidence and noted that this hearing was not a denovo and is based upon the record.

**Peter Lobb, 403 Carbonate St. East,** reviewed his letter that was submitted to the Commission. He said the appeal concerns a lot on Third and Croy, the Brashears' old house and the southeast two lot lines being vacated. The reason they are vacating that lot line is because you cannot build across a lot line. His problem was with the 2 lots to the north that has a house 30 inches from the lot line and 25 to 30 feet tall which was built across the two lots. He stated under the regulations it should be 12 ft from the lot line for it to conform to setback requirements. He stated the house presently

conforms to setback requirements because it is on 4 lots. The problem will be when the lots are subdivided. Lobb stated about a year and half ago conforming lot lines were discussed. Lobb quoted from Section 2 of the Hailey Comprehensive Plan, Community Design, and from the Hailey Zoning Ordinance Section 1, Purpose. He then read the section on non-conforming buildings. He said the city has adopted setbacks and to allow another building to be built that doesn't conform to the setbacks does not meet the Comprehensive Plan or the specific ordinances. He gave examples of how other cities in the county notify property owners when there is a lot line shift.

**Doug Werth, attorney representing Mary Ann Evans, the applicant.** He stated the important fact is there are 4 lots of record as defined by the ordinance. He stated the Comprehensive Plan and the provisions of the ordinance should be applied. He stated the administrator did follow the letter of the ordinances with this application. He stated this is not a subdivision application even though the appellant is describing it as such. The fact, in respect to this application, is that the only modification to any lot lines are to the interior lot lines between Lots 15 & 16. The exterior line is not being changed at all. Lobb is bringing an argument of non-conformity on a structure that does not even exist on either Lot 15 or 16; it exists on Lot 14; that argument does not hold water at all. There are 4 separate lots, Lots 13, 14, 15 & 16 and Lots 15 & 16 in this application will become one lot which will make it more conforming with the minimum 6,000 sq. ft. lot size. Because the adjacent lot has an existing historic building that is too close to the lot line should not preclude a lot line adjustment with respect to Lots 15 & 16. The appellant points out that the rules need to apply within the district and he is asking the Commission to make decisions on two lots that are not within the lot in question. This application only deals with 2 lots. The single lot will be in conformance with Section 14.13.1. The ordinance mandates that the interior lot line be removed prior to the issuance of a building permit. This application is consistent with the Purpose and Intent; Section 4.13.1 of the Townsite Overlay District and all requirements for this lot line adjustment have been met. Werth stated that he backs the administrator's decision and asked the same from the Commission.

Attorney Williamson stated that Lobb has a right for rebuttal.

Lobb stated there is a conflict within the ordinances with the nonconforming structure with a 30 foot wall. He felt this to be prudent not to let this application go through. He stated the intent of the ordinances is not to create more non conformity. He said he checked with other cities in the state and they said that both lots would have to conform and they would not allow this.

Commissioner Scanlon asked if the applicant owns the existing home and all the 4 lots. He stated it is important for infill to be allowed but he shared Lobb's concern with the nonconformity. He stated the line between Lots 14 & 15 is a lot line of record and asked whether the lot line could be moved over ten feet. Werth said that would be a different application and the problem with moving that lot line over between Lots 14 & 15 is that the resulting lot would not meet the minimum requirements for the Townsite Overlay District. Werth stated they are dealing with an interior lot line with this application.

Attorney Williamson believes that the existing house as it relates to the lot line between Lots 14 and 15 is a legal nonconforming use and structure. He did not think that this application creates a nonconforming situation but rather it acknowledges a legal nonconformity. Scanlon said the

ordinance speaks to not increasing the nonconformity of a lot. Attorney Williamson stated the lot line adjustment is not increasing the nonconformity, it is continuing the nonconformity. He stated this is a proper lot line adjustment because there is not an additional lot being created and what is proposed does not go below the minimum bulk requirements. Werth added Article 13 of the zoning ordinance states that it is the intent of this ordinance to allow the continuation of nonconforming uses and buildings. He stated the building was a prior nonconforming building for years and years before the adoption of these ordinances.

Commissioner Pogue asked Werth what was the significance in his mind of this not being a subdivision application. Werth said the reason he mentioned that was because the appellant seemed to describe this as a subdivision application. The main differences are the administrator can approve the lot line adjustment and the ordinance provides different standards for lot line adjustments.

Commissioner Spears commented about the existing house being there prior to the ordinances going into effect made it an existing nonconforming building. He did not see that they could do anything about that.

Commissioner Marvel thinks the previous owner treated this property as one property in terms of setbacks. She asked if the deck and remodel of this house was treated as a nonconforming building in the building permit application. She asked if the setbacks were based on 4 lots or if the property was treated as one lot for the purposes of determining setbacks. She stated if it had been treated as 4 lots in terms of setbacks then the deck would be over the property line. Director Robrahn stated she was not sure when that approval occurred or what regulations were in place at the time; if that application were to come through now the property owner would be required to eliminate the lot lines.

Attorney Williamson stated information related to Commissioner Marvel's question was not included in the record. He stated the preliminary plat shows a deck but it doesn't show the elevation. Marvel said deck was removed when fence was put in. Julie Evans, on behalf of the applicant, said the deck was carved back not removed. Marvel said these 4 lots were treated as one. Attorney Williams said there is a house on Lots 13 & 14 which does not meet setback requirements between Lots 14 & 15.

Commissioner Scanlon asked if a plat note could be added for a 20 foot separation for the safety of the owners. He suggested to increase normal set back to follow the set back ordinance. Attorney Williamson said this application has been looked at by the Fire and Building departments and is in conformance with the IFC & IBC.

Director Robrahn stated her job is to follow the ordinance and standards and in her opinion all applicable standards have been complied with.

Commissioner Marvel felt they should revisit this ordinance related to nonconforming uses. Commissioner Spears agreed to revisit this ordinance. Commissioner Pogue stated based on the record it the residence on Lots 13 and 14 is an existing nonconforming use. He thinks the Administrator's decision should be upheld.

Attorney Williamson suggested to the Commission either affirm or reverse the Administrator's decision.

**Commissioner Pogue moved to affirm the Administrator's decision for approval of the Lot Line Adjustment of Lot 16A, Block 25, Hailey Townsite.** Commissioner Scanlon seconded, the motion passed unanimously.

### **Unfinished Business**

Continuation of the Public Hearing upon an application by Quigley Green Owners, LLC for annexation of Quigley Canyon Ranch. The parcel contains 1,109 acres and is located to the east of Hailey, within Blaine County, and is zoned R-5 and A-10. The applicant is proposing RGB, NB, LR-1, LR-2 & GR zoning, a total of approximately 379 residential units and an 18 hole public golf course and Nordic facility.

### **Comments Presented To Commission:**

- Letter from L. Leigh Morse, received July 14, 2008
- Letter from Linda S. Haavik received July 7, 2008
- Comments from Libby Massey, received July 7, 2008
- Comments from Arlene Tapia, received July 7, 2008
- Letter from Bob Rosso, received July 10, 2008
- Comments from Norm Clark, received July 10, 2008
- Comments from Karna Schafer, received July 10, 2008
- Letter from L. Leigh Morse, received July 9, 2008
- Email from Chip Stanek, received July 11, 2008
- Email from David Hennessy, received July 14, 2008 With attachment of Clubhouse Staking Elevations - Conceptual
- Staff Memo from Becki Keefer, received July 16, 2008
- Email from Greg Peterson, received July 17, 2008
- Letter from Rinker Company, received July 21, 2008

### **Public Comment Opened**

**Craig Travelsted**, 621 4<sup>th</sup> Avenue has read the media reports regarding the water plans and feels the commission should seek further information. He stated that being annexed is a privilege. He is concerned about the unmeasured cost of water and mentioned the city already has a water problem

**Kathy Besle**, 1041 Silver Star Drive feels this would be a great opportunity for the city.

**Wendy Pabich**, 613 Fourth Avenue North stated she is a hydrologist and said there hasn't been much study done on this application and she felt the city needs to conduct an analysis to understand the water demands that will accompany this city expansion, the city's current water rights situation, and the impact of potential increased water demand on city taxpayers, in order to make an informed decision regarding annexation. She said it is not sufficient to assume that this project has plenty of water rights. She presented a letter to city staff of her analysis.

**Larry Newton**, 601 Beech St. Bellevue stated the habitat out the canyon is the best of the habitat they have left. He has been here 30 years and feels the habitat needs to be protected. They are a productive herd. Fish and Game manages this area closely. He disagrees with the study given by the applicant. He stated there are no public access roads shown to the public lands that the public has always used. He feels that we need to protect the habitat, protect the public access and public land. The citizens for public access have put out BLM signs; he mentioned Greenhorn annexation and how the homeowners were to keep their animals caged to protect the wildlife.

**Lee Jensen**, 441 Eastridge Drive supports the annexation and sees the cons that go with this development. She said there are also a lot of pros with this. The city has benefits of the recreation being offered.

**John DeLorenzo**, 100 Mustang Lane asked if this annexation meets the Comprehensive Plan and Hailey's needs for the future. They are putting forth big carrots but feels the cost is too high for what the city is getting. He mentioned the Commission should be limiting sprawl and protecting wildlife habitat. He doesn't feel this project meets the needs of Comprehensive Plan. There are designated areas considered critical for wildlife. He expressed concern about public access and the historical road. He felt there needs to be an environmental impact study done before there is any development there. He does not think this is the right plan for that area.

**Public Comment Closed**

No response from the applicant.

**Commission Deliberation**

Commissioner Marvel suggested using the staff reports as a guide for discussion. She referenced page 9 of the June 18<sup>th</sup> staff report where it lists the Comprehensive Plan Summary with growth and land use policies. On page 4 there are a list of waiver request of sidewalks and she stated that it should not be waived; on page 5 lot sizes are to remain in accordance with city standards; page 6 suggests not to waive street widths.

Commissioner Scanlon expressed concern with the motorized path and referenced pages 3 & 4 of the applicant's proposed conditions.

Commissioner Moore agreed with secondary access should be open for use by everyone. He expressed concern with the street widths.

Director Robrahn ask the Commission to reach a consensus on each item so staff knows what to put into the conditions.

Commissioner Marvel stated she does not want the sidewalk requirements to be waived. Commissioners Moore and Scanlon agreed.

Commissioner Pogue said the city does have desecration to make waivers and modifications if appropriate. He said the narrower streets have a more calming effect. Some waiver requests increase density, expansion to allow growth through annexation and he thinks in the first phase there is significant density. He thinks there should not be any waiver for streets width which will impact how many units will be able to be built. Given the amenities he thinks sidewalks at 5 feet are appropriate.

Commissioner Spears agreed with the principle of sidewalks on both sides. He understands there is language in the ordinance requiring that. Commissioner Pogue stated they are not being called at this point to say anything about the waivers.

Commissioner Marvel wanted consensus on the secondary access roads. Commissioner Moore said the secondary access roads should be open to motorized and nonmotorized purposes. Commissioner Pogue asked if this would be a condition to the annexation. Attorney Williamson stated the Commission will be making a recommendation to Council with recommended conditions. Commissioner Marvel mentioned the secondary access beyond the clubhouse. Commissioner Moore stated, for emergency purposes, there needs to be connectivity with existing neighborhoods. Commissioner Marvel said there is conflict with the secondary emergency access from the clubhouse to the pond. Commissioner Pogue feels the emergency access requirements have been met. Commissioner Spears said Fish & Game would like for the north side of the canyon to remain undeveloped. He agreed with Commissioner Pogue, as long as the Fire Chief approves of it.

Commissioner Marvel asked Director Robrahn if the emergency access roads were adequate. Director Robrahn referred the Commission to the memo from the Fire Chief dated June 25, 2008 and given to the Commission on June 26.

Commissioner Pogue did not see the benefit of an additional concrete street. He said based on comments from the fire department he felt the emergency access proposed will function in an emergency. Commissioner Spears agreed and said if the Fire Chief feels he can get his engine in and out then he did not feel there needed to be another access road.

Commissioner Marvel said there is a conflict with the secondary access road. She feels there is a safety and interconnectivity issue.

Commissioner Pogue asked to move to the growth issues.

Commissioner Marvel referenced to page 9 of the June 18 staff report Comprehensive Plan policy 4.4, "Ensure that future growth does not place undue demands on our current quality of life, recreational opportunities, and/or facilities". She stated this backs up her statement for the need of parks for active playing fields. She said the city needs to maintain the active playing fields they have now in relation to the population. Commissioner Marvel stated there was a comment submitted from Becki Keefer from the Parks and Lands Board. She asked Becki Keefer if she would like to speak to this.

**Becki Keefer** stated, in short, the city has established a history of asking for hillside triangles. Quigley Canyon has a lot of hillside triangles associated with it. Most of the development is

confined to the valley floor but there are private lots that extend up the hillside. Public access to public lands is important to the community. Having city control over these hillside parcels would help guarantee public access. She stated that a soccer field active play space requires 2.2 acres minimum for a useable size soccer field.

Commissioner Marvel referenced Section 7.1, “ensure that increasing total population does not diminish the quality of life in Hailey and its environs”; Section 3.2, “Preserve hillsides in and around Hailey as green space in order to preserve those areas as a community resource”; Section 10.3 assures that future growth speaks to transportation mitigation issues; Section 12.1.1, “ensure that growth does not outpace infrastructure, services or capacity of resources”. Commissioner Marvel noted that libraries cannot be funded without taxes. She wanted to include a recommendation regarding finding for the library because libraries are often forgotten.

Commissioner Marvel said the traffic issue from the view of the residents on the streets and public transportation support is needed. Commissioner Scanlon said in the past month the public transportation has increased due to the rise in gas prices. The applicant is willing to facilitate the transit system.

Commissioner Pogue asked Keefer if they have received recommendations for an active playing field. Keefer said the Parks and Land Board has noted there is a lack of active playing fields in Hailey. He asked if there could be a property less than 2.2 acres that could be used. Keefer said active playing fields depends upon what sport would be played. A small field would be limited to smaller kids. Commissioner Pogue feels the applicant’s response to active playing fields was they are giving a golf course in lieu of that. He felt this is a concern for the children and felt the Commission should pass on to the Council to look at a contribution for an active playing field outside the development or one added into the development. He felt the applicant’s proposed conditions 20-22 are sufficient.

Commissioner Spears would like to see a park that could be used by everyone. The transportation design does give room for public transportation. The walkable portion will need sidewalks added for connectivity.

Commissioner Marvel said this is their opportunity to tell the applicant what they would like to see. She would like to see one park for an active playing field within the development; public transportation, maybe buying a bus, rather than just turnouts and benches. The annexation fees should be applied to these.

Commissioner Pogue asked if the Commission could for specifics Regarding annexation fees. Attorney Williams said they could ask for contributions. Commissioner Moore did not think it is out of line to ask for donation to Mt Rides. Attorney Williamson said every jurisdiction has contributed to Mt. Rides. Director Robrahn clarified that the staff report tonight had a list of suggested conditions based upon what the Commission has discussed to date. She said they could make recommendations for additional conditions.

Commissioner Marvel wanted to make sure the recommendations did not conflict with the Comprehensive Plan. Director Robrahn suggested the Commission prepare their thoughts in terms

of the Comprehensive Plan compliance and what their various issues are and reasons for those issues. She said each one could discuss a synopsis of their conclusions and list out the policies in the Comprehensive Plan that relate to each issue and then talk about possible conditions. Attorney Williamson said to go through and look at the big picture and state what they support and what they do not. Commissioner Marvel stated she has done this herself in preparation for this meeting.

**Evan Robertson**, attorney for the applicant, Box 1906, Twin Falls is having a hard time following the Commission with their specific issues.

Commissioner Spears suggested coming to next meeting with a list of what their issues are.

Commissioner Pogue suggested going through the draft conditions and the applicant's proposed conditions and refer to the Comprehensive Plan sections as they come up.

The Commission agreed.

Director Robrahn would like to note that the lists of conditions are grouped under the same topic headings as the Comprehensive Plan.

**Commissioner Pogue moved to continue to a date certain of August 4, 2008 at 6:30 p.m.** Commissioner Scanlon seconded, the motion passed unanimously.

### **Commission Reports and Discussion**

Commissioner Spears will not be present on August 4<sup>th</sup> but will turn in to staff his concerns.

### **Adjourn**

**Commissioner Pogue moved to adjourn.** Commissioner Scanlon seconded, the motion passed unanimously.