

Minutes of the Hailey Planning & Zoning Commission August 19, 2008

The meeting was called to order at 6:30 p.m. by Commission Chair Stefanie Marvel. Commissioners present were Owen Scanlon, Geoff Moore, Mike Pogue, and Mark Spears. Staff Present included Planning Director Beth Robrahn, Planner Mariel Platt, Planning Assistant Becky Mead, City Attorney Ned Williamson, City Engineer Tom Hellen, Parks Project Coordinator Becki Keefer, Fire Chief Mike Chapman, and Captain and Fire Marshal Mike Baledge.

Consent Agenda

Approval of Minutes – August 4, 2008

Commissioner Scanlon moved to approve the consent agenda. Commissioner Moore seconded, the motion passed unanimously.

Unfinished Business

Continuation of the application for annexation by Quigley Green Owners, LLC

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 RG B, NB, LR-1, LR-2, and GR zoning, a total of approximately 379 residential units and an 18 hole public golf course and Nordic facility.

Documents presented to the Commission:

- Letter to Mike Chatterton, BCSD, Business Manager, from David Hennessy, August 14, 2008
- Letter to Hailey Fire Chief Mike Chapman, from Tom Johnson, BSFP, Fire Protection Solutions, August 12, 2008
- Email to David Hennessy, applicant, from Planning Director Beth Robrahn, August 15, 2008
- Applicant response to email, to Planning Director Beth Robrahn, August 15, 2008
- Email from Park Projects Coordinator Becki Keefer, to Planning Director Beth Robrahn
 - Staff Memo, Quigley Ranch Annexation and Active Play Fields

Commission Deliberation Continued

Commissioner Marvel explained the agenda for the evening; first the applicant will be given the opportunity to present their responses to the Commission's proposed conditions and to the Commission's discussion from the previous meeting, then the Commission will continue their deliberation and discussion of the conditions proposed.

Evan Robertson, Attorney for the applicant asked Commissioner Marvel if they were to be looking at the draft conditions of approval and the staff report dated August 19, 2008. Commissioner Marvel stated yes. Robertson stated if there are subsequent

conditions added could they comment when they are being considered. Commissioner Marvel agreed.

David Hennessy, applicant addressed the draft conditions of approval. He stated opposition to conditions 1, 2, 10, and 11 and reiterated the importance of the balance between the cost of providing the recreational amenities and the need to have those lots to make the project work financially.

Robertson and Hennessy addressed the draft conditions of approval.

- Robertson stated they were fine with condition 3.
- Robertson asked if condition 4 was intended to include the portions of private lots with slopes equal to or greater than 15% in the RGB zoning. He said that didn't seem workable.
- Robertson stated they were fine with condition 5.
- Condition 6, Hennessy asked if the units would all be listed as income deed restricted Community Housing or possibly the alternative deed model.
- Hennessy wanted to add to condition 7, where it stated the applicant shall implement said approved plan that it is in conjunction with the approved phases of the project. Director Robrahn asked what he meant by that addition. Hennessy stated they would want to implement components of the fire plan in conjunction with each phase, for example the components of the fire plan associated with Phase 1 would be implemented in that phase.
- Hennessy stated they are fine with conditions 8 and 9. He stated he addressed conditions 10 and 11 earlier.
- Hennessy stated in condition 12, the 400 acres that are outside of the annexation should not be part of this discussion.
- Hennessy stated conditions 13 and 16 through 18 were fine but they would like some consideration with their annexation fees in the discussion with City Council. **John Gaeddert** noted the mitigation plan that was put together by the neighbors referred to in condition 13 and the sidewalks that are mentioned in condition 16 are in conflict. The mitigation plan proposed by the Deerfield neighborhood was for a bike path on the north side of Quigley Road; in condition 16 it is stated that the applicant shall install sidewalks on both sides of Quigley Road.
- Hennessy stated they are fine with conditions 14 and 15 except for in condition 15 there might be an issue with physically installing the roundabout and he thought there needed to be a modification to it. Robertson stated assuming they have authority from the City to construct in the right-of-way they are fine with that condition.
- Hennessy stated they are fine with condition 19.
- Robertson stated an issue with the maintenance of the road in condition 20, regarding the public roads being dedicated to the City and maintained by the homeowners association. He stated if the homeowners association is maintaining the public roads then it would be a liability for the City. Robertson stated if they are truly public roads then the City should maintain them.
- Hennessy stated they do not have a problem with condition 21.

- Hennessy stated he is not sure what condition 22 involved and said they would like more information.
- Hennessy stated they are fine with condition 23 Option B.
- Hennessy stated they are fine with condition 24 and stated he addressed condition 25 in their letter regarding the golf course and the Nordic facilities.
- Hennessy stated they are fine with condition 25 Option B. Gaeddert stated the language written in Option B was taken out of the language used in the Woodside Elementary PUD agreement.
- Hennessy stated they are fine with condition 26.
- Robertson stated in condition 27 there is some inconsistency with the dedication to the City of the areas that belong to the homeowners. He stated this condition needed to be defined as to which of the parks are private and which are public.
- Hennessy stated they are fine with condition 28.
- Hennessy referred to the last portion of condition 29, “the golf course and Nordic facility shall remain for public use in perpetuity, and the land shall revert to open space and playing fields”. He stated the playing fields raises some questions as to who would be building and maintaining these. Robertson said this condition seemed wide open to them. Robertson referenced the first part of this condition where it stated the land occupied by the golf course and Nordic facility shall be deeded to the City; he mentioned the applicant had proposed that the land would be deeded to the Recreation District as had been discussed by the former owner of the property and the Recreation District before the property was sold to the applicant. Robertson stated the previous Mayor did not want the city to have anything to do with the golf course.
- Hennessy stated they are fine with condition 30.
- Hennessy stated they are fine with condition 31 and reiterated that no private parks are intended to be dedicated to the City.
- Hennessy stated they are fine with conditions 32 and 33.
- Hennessy stated they are fine with condition 34 and mentioned there is one spot where they are 450 feet from building envelope to building envelope which is subject to review during the PUD process.
- Hennessy stated they are fine with condition 35.
- Hennessy stated in condition 36, they would like the definition of early priority water rights. He said he is not sure exactly what that meant.
- Hennessy stated they are fine with condition 37 as long as they are given consideration with their annexation fees.
- Robertson made comment on conditions 37 and 38. He stated they would have to keep their water rights that would be used for irrigation. He stated they would convey water rights that are not required for their improvements, anything in excess of what they would be using on the project. Robertson stated there needed to be parameters made as to the payment for the installation of a new municipal well. He stated they would need to know who would dictate the size of the well, where the water rights would be coming from to go into the well, and the expense of the equipment installation. Hennessy stated they would like to be involved in selecting the location of the well.

- Hennessy stated they are fine with conditions 39 through 41.
- Hennessy stated they are fine with condition 42 as long as they are given consideration with their annexation fees.
- Condition 43, Hennessy stated they have made an offer to the School District and he copied Director Robrahn on that. He stated they are in favor of condition 43 Option B.
- Hennessy stated they are fine with conditions 44 through 49. Robertson addressed condition 45 and stated they would not be making a blanket contribution and stated there needs to be limitations made.
- Hennessy addressed condition 50 and stated their issues with hillside open spaces have been previously addressed. In regards to all park areas and their dedication to the City and construction of trails and trail heads, he stated they would do the trails and trail heads and they would build the parks within each phase as each phase is developed.
- Hennessy stated they are fine with conditions 51 through 55.

Commissioner Marvel stated they would address their comments and questions. Director Robrahn addressed the workforce housing comment and said she had previously spoken to the applicant regarding this and the deed restriction. She stated the City Council's current position on the workforce deed restriction is to see how the units already approved work out, before approving more. She thought it is highly unlikely that the City Council would want to approve additional alternative deed restrictions. Regarding the lots that contain a slope of 15% or greater she stated she was not sure it was the intent to include portion of private lots in the RGB zoning and suggested discussion on this.

Attorney Williamson told the Commission they needed to discuss and make a recommendation for the zoning of the property if they recommend annexation. He also stated that if an area is being zoned RGB that it needed to be dedicated to the City. He did not think that there would be an issue with RGB zoning crossing a residential lot.

Hennessy asked to have the cul-de-sacs in condition 32 addressed. Director Robrahn explained a pedestrian connection between cul-de-sacs provides connectivity to the neighborhoods for pedestrian access. Hennessy stated they would be fine with that and that could be something they could address in the PUD process when they get in to more detail.

Commissioners addressed the Draft Conditions of Approval:

- Condition 1: Commissioner Marvel stated they are all in agreement with this condition as previously discussed. Commissioner Spears suggested an independent 3rd party opinion before a final decision is made to give the applicant the benefit of doubt. He stated that he is not saying that he is changing his mind about that area and he feels that area is too delicate for development.
- Condition 2: Commissioner Marvel noted the Commission is to clarify whether this condition included proposed Parcel 7 and Parcel 6 or whether all or a portion of Parcel 6 was acceptable.

- Commissioner Pogue felt development beyond the pond and Deadman's Gulch was not appropriate.
- Commissioner Scanlon said he would allow development to Parcel 5 and up to the intersection of the road but nothing up the narrow road into Deadman Gulch. He stated he was fine with Parcel 6 and did not want any development on Parcel 7.
- Commissioner Moore stated his opinion has not changed; he is against development beyond the pond.

Commissioner Marvel stated it seemed that the Commission was in approval of these conditions and would conclude these as conditions of approval. Director Robrahn said it sounds like all in agreement with no development in Parcel 7; however she needed clarification of which portions of Parcel 6 were acceptable. Hennessy stated if the lots in those areas are not annexed they would not be able to provide for the recreational amenities financially. Attorney Williamson stated each Commissioner's thoughts on this condition would be forwarded to the City Council.

- Condition 3: was accepted by the applicant, Commissioners were all in favor.
- Condition 4: the applicant questioned the hillside areas as being zoned RGB and requested not to be zoned RGB if they were located within a lot or building envelope. Keefer stated this was the Parks and Lands Board's intent, that the hillsides greater than a 15% slope would be publicly owned land and noted that some of the lots in Parcel 6 go up the hillside on slopes that are greater than 15%. She also addressed condition 10 regarding no lots shall be greater than 1/2 acre. She stated since those are the larger lots, limiting them to 1/2 acre would resolve the conflict with condition 4.
- Conditions 5 through 9: Commissioners were all in favor.
- Condition 10: three Commissioners in favor and two opposed. Robertson made comment on this condition.
- Condition 11: two Commissioners are in favor and three opposed.

Kristin Anderson asked Commission Chair Marvel if there would be any public comment at this meeting. Commissioner Marvel stated no, public comment was closed at the August 4th meeting.

- Condition 12: the Commissioners were all in favor of not including this as a condition.
- Conditions 13 through 19: Commissioners were all in favor.
- City Attorney Ned Williamson commented on Condition 20. He stated the main questions were with the roads within Parcel 1. Attorney Williamson stated this condition addressed the main arterial roads to be publicly maintained. He said the private roads within the parcels should be privately dedicated and maintained by the homeowners association with a plat noting where public access would be located. He said private dedication does make sense to the City because it is a major cost to the City for snowplowing and maintaining roads. Attorney Williamson felt arterial roads were very important for access all the way up and down the canyon and would be guaranteed by the City. Engineer Hellen mentioned where the road splits to the left and right, one way to a Fox Acres Road, one way to the Clubhouse road, and a couple of main roads on

the south side, that these roads would benefit by being maintained by the City. Engineer Hellen stated there would be snowplowing in Parcel 1 and on Fox Acres Road but he did not see plowing any of the other parcels within the subdivision. Commissioner Marvel made comments on private roads. Director Robrahn stated to be consistent with Engineer Hellen, the only change would be the first sentence of this condition, "all roads within Large Block Parcel 1 shall be dedicated to the public and maintained by the City", and the remainder of the condition would remain the same. The Commissioners were all in favor of this condition.

- Director Robrahn stated that condition 21 addressed private roads. She stated what they addressed first in condition 21 was that all private roads shall be platted as a separate parcel which separates the roads from the adjacent lots and second, all private roads shall be platted as public access. The Commissioners were all in favor of this condition.
- Condition 22: the Commissioners were all in favor.
- Condition 23: the Commissioners were all in favor of Option B.
- Condition 25 Option A:
 - Commissioner Pogue did not think that Quigley Road should be extended at all. He said it would significantly change the development characteristics and also noted that emergency access was provided for in the original plan.
 - Commissioner Marvel asked Chief Chapman if he would be in favor of Option B. Chief Chapman replied yes and made a clarification that the road does not necessarily have to be Quigley Road, that all they were requesting for was a secondary access road.
 - Commissioners Moore and Scanlon agreed with Option A to extend to Parcel 5.
- Commissioner Marvel addressed the applicant's issue with condition 27. Attorney Williamson stated to change the first line to read the applicant shall build the bike paths, trails and public parks.
- Condition 29: Commissioner Marvel stated the issue of whether the golf course is deeded to the city is an issue that should be determined by the City Council. Keefer said it was the intent of the Parks and Lands Board that the space revert to open space; dedicating this as open space should address the applicant's concerns with future homeowners.

Commissioner Marvel called for a five minute break. Commissioner Marvel called the meeting to reconvene.

- Attorney Williamson asked Commissioner Marvel why she wanted "early priority" in condition 36. Commissioner Marvel stated it would insure the water rights would be useful. Attorney Williamson stated the City will have to accept the water rights and mentioned it is the quality and quantity that would be accepted. Commissioner Marvel stated there is not a need for the early priority water rights to be included and Attorney Williamson concurred. Attorney Williamson stated the City would have to make the determination whether what was being proposed would be acceptable to the City. There was further discussion on the adjudication process.
- Addition to condition 38 would be, "in collaboration with the applicant".

- Condition 43 Options A or B: The applicant stated they are proposing community housing units for the school district. **Mike Chatterton** stated the School District received the proposal from the applicant but they have not had the opportunity to review it. He said in light of the growth the city is facing they would need a 15 acre parcel adjacent to the high school, or a 20 acre site in another location, for an elementary school. Director Robrahn stated the option that provided the most flexibility was Option B. Commissioner Pogue stated he was uncomfortable making a recommendation at this point and the School District has not had an opportunity yet either. Commissioner Pogue thought Option B would be appropriate. Commissioner Spears concurred. Chatterton stated the school district was not asking the applicant to pay for the entire school. He said they were looking at the land values and projected amount of students this land was going to have. He stated the land request is 40% of the cost of an elementary school site. Commissioner Marvel asked Chatterton if there was any kind of agreement made with the previous owners. Chatterton replied there was not any type of agreement made with Stoney Burke or Fred Judd in regards to the contribution they would make to the School District. Chatterton stated when they decided to build the high school, the School District had to buy that land from the previous owners. Chatterton stated they hired an eminent domain attorney from New York who investigated the property and pulled both parties together. Hennessy stated he has a meeting with Chatterton and Jim Lewis on Monday in hopes to come to an agreement with this. The Commissioners were all in favor of Option B.

- Commissioner Spears wanted to make a correction to condition 41: if the applicant had to tap into the City's wastewater because DEQ did not approve their proposed system, he suggested there should be some language added for a gray water return and asked if this would be something the Commission would want to consider. Commissioner Marvel asked Engineer Hellen to reply and he stated that currently the city does not have the capability of a gray water return. He stated they have a wastewater master plan study in progress. Robertson stated they would agree to accept reclaimed water when approved by the DEQ. Attorney Williamson stated to flag this issue for now. Director Robrahn stated she would work on drafting something in regards to this.

- Condition 50 was acceptable to the Parks and Land Board. The Commissioners were all in favor.

- Commissioner Scanlon went back to condition 45: Robertson stated this language was not clear enough and stated they were not going to commit to a blanket contribution.

Director Robrahn spoke to the issue of public comment. She stated that something should have been said in the beginning of the meeting notifying the public that there would not be any more public comments accepted. She felt it was important that the public understood the process of this application and stated the Planning and Zoning Commission have had 9 public meetings with 9 public hearings. She stated on August 4th the public comment was closed. She explained that the Planning and Zoning Commission will make their recommendations to the City Council for this application. She stated there will be opportunity for public comment again when this application goes before the City Council, at which time the meetings will be noticed in the paper, the

property owners will be noticed and the recommendations that are made from the Planning and Zoning Commission will be provided.

Robertson expressed a procedural concern. He felt their application has been redesigned. He referenced to section 14.01.080 of the Annexation Ordinance that authorized findings on the application. He stated they have not changed their application. He asked if there were findings of fact and conclusions of law on their application. Attorney Williamson stated to the Commissioners they could make their recommendations on an appropriate design with conditions.

Robertson stated they were entitled to what was stated in section 14.01.080 of the Annexation Ordinance. He stated that was the extent of the jurisdiction as he saw it.

Commissioner Pogue stated that the applicant has preserved the record and the Commission has taken one extra step with making a sufficient decision on this application.

Commissioner Spears asked staff if it would be appropriate for a letter be written to the public. Director Robrahn stated that all information is on the website and has been through out the whole process. Commissioner Spears stated that some of the public are troubled and he did not want anyone to feel that the Commission wanted to stop anyone from having input. Attorney Williamson suggested contacting the public to let them know that there will be future hearings and would be notified when these hearings would take place.

Director Robrahn said the second half of the staff report addressed the zoning recommendations. She stated there are four standards of evaluation on page 4 of the staff report. Attorney Williamson stated these standards are located in the zoning ordinance. Director Robrahn stated the zoning recommendations laid out are consistent with the findings discussed by the Commission throughout the course of this application related to Comprehensive Plan compliance.

Commissioner Pogue asked the applicant if they had any input or comments in regards to the zoning. Hennessy stated they based the proposed zoning upon their plan and they are not comfortable with Parcels 6 and 7 being zoned RGB. Attorney Williamson said assuming there would not be any development in that area, what would be their preference to how that was handled. Robertson stated if it was stated in the contract that no development was allowed in those parcels then they would approve the zoning that was recommended.

Director Robrahn suggested for the Planning and Zoning Commission to recommend any undeveloped portions of the site be zoned RGB.

Commissioner Pogue thought the four standards of evaluation had been satisfied and stated he was content with the proposed zoning recommendations.

Commissioner Spears asked Attorney Williamson if the classifications or restrictions could be amended later. Attorney Williamson stated that RGB does allow for limited uses. He stated that everything has to be zoned when annexed.

Commissioner Scanlon asked about the conditions that they do not agree upon if they would be noted in the findings of fact. Attorney Williamson stated the council will see exactly where each Commissioner stands. He said this information will all be included in the findings of fact that will be presented to the City Council.

Commissioner Marvel stated she was not comfortable with the conditions that they did not all agree upon and said that she would not be recommending this application for annexation.

Commissioner Pogue moved to recommend to the City Council approval of this annexation of Quigley Canyon, finding that if the recommended conditions of approval are met, the proposed annexation will be harmonious and in accordance with specific goals and policies of applicable components of the Hailey Comprehensive Plan and the proposed annexation generally complies with the Hailey Comprehensive Plan, and it is anticipated that the proposed findings and conclusions of fact will reflect that the majority votes of the Commission on the particular conditions and issues as well as the disagreements on the particular conditions and those Commission members who were opposed to the proposed conditions. Commissioner Spears seconded. Commissioners Pogue, Spears, Scanlon and Moore were in favor and Commissioner Marvel opposed.

Commissioner Scanlon moved to recommend to the City Council zoning of the annexed Quigley Canyon property as RGB, NB, LR-1, LR-2 and GR, finding that the recommended conditions of approval are met, the proposed zoning is in accordance with the Comprehensive Plan; essential public facilities and services are available to support the full range of proposed uses without creating excessive additional requirements at public cost for the public facilities and services; the proposed uses are compatible with the surrounding area; and the proposed amendment will promote the public health, safety and general welfare, and the findings of fact will show further that all undeveloped land shall remain as open space and shall be zoned RGB. Commissioner Spears seconded. Commissioners Scanlon, Spears, Pogue and Moore were in favor and Commissioner Marvel opposed.

Commissioner Pogue moved to adjourn the meeting at 8:50 p.m. Commissioner Moore seconded, the motion passed unanimously.