

**Minutes of the
Hailey Planning & Zoning Commission
October 20, 2008**

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

Consent Agenda

- a. Approval of Findings of Fact – **Airport Commerce Building Design Review**
- b. Approval of Findings of Fact – **Hailey Commercial Building Design Review**
- c. Approval of **Design Review of an Exterior Remodel of Albertsons**
- d. Approval of Minutes – **October 6, 2008**

Commissioner Scanlon requested that items c and d be pulled from the consent agenda.

Director Robrahn requested that item a also be pulled.

Commissioner Marvel stated that she would not be voting on anything on the consent agenda because she was not present at the previous meeting.

Commissioner Pogue moved to approve item b of the consent agenda. Commissioner Spears seconded, the motion passed unanimously.

Director Robrahn stated she received a phone call from the applicant of the Airport Commerce Building with concerns regarding the wording of two of the conditions. She referenced to page 13 of the Findings of Fact, condition d, #1 & #4, and stated she wanted to add "if applicable" to both of those conditions for clarification.

Commissioner Moore moved to approve item a as amended, Findings of Fact for the Airport Commerce Building Design Review. Commissioner Spears seconded, the motion passed unanimously.

Commissioner Scanlon asked staff if the width of the door had been resolved with Albertsons. Director Robrahn stated that it was and is reflected on page 3 of the Findings for Albertson's Alteration, number 3, letter a, first bullet, 'the door shall be a minimum of 32 inches and the maximum of 48', which addresses the fire departments concerns; the door width is within that range.

Commissioner Scanlon moved to approve item c, Findings of Fact for Design Review of an Exterior Remodel of Albertsons. Commissioner Pogue seconded, the motion passed unanimously.

Commissioner Scanlon pointed out that a Commissioner's name was missing from item d, in the minutes for October 6, 2008. Commissioner Moore stated it should have his name there.

Commissioner Scanlon moved to approve the minutes from October 6, 2008 as amended. Commissioner Pogue seconded, the motion passed unanimously.

New Business

CSM Building Design Review

An application by Leargulf, LLC for Design Review of a new building, to be known as the CSM Building, located on Lot 1A, Block 3, Airport West Subdivision (1760 Lear Lane) within the Service Commercial Industrial-Industrial (SCI-I) zoning district. The application was heard by the Commission and received Design Review approval from the Commission on June 16, 2008.

The applicant has submitted minor changes to the building plans and has requested that the changes be reviewed by the Commission as a new application rather than reviewed administratively as the conditions of approval allow. The minor changes include the following:

- The addition of a second story deck on the east and west elevations
- Change of windows to doors leading out to the deck on the east and west elevations
- Removal of the lower roof standing seam on the east and west elevations
- The addition of a trellis on the south elevation

Commissioner Moore stated on June 27, 2008 after the hearing he had an ex parte discussion with the applicant. He said the applicant had concerns with the sidewalks and told him that he would be talking to staff about that. Commissioner Moore stated he wished him luck and that was the extent of the conversation.

Attorney Williamson asked Commissioner Moore how long between was the decision prior to approval and the conversation.

Commissioner Moore stated it was eight days after. Attorney Williamson asked if there was any discussion about an appeal. Commissioner Moore stated the applicant said he would be presenting his concerns to staff.

Attorney Williamson referred to the letter received from Attorney Jim Phillips, counsel representing the applicant, on October 20, 2008. He said the applicant has expressed concern about the approval of sidewalks and wanted to argue that condition. He stated sidewalks were a condition in the previous application heard by the Commission in June. Attorney Williamson stated that there was no appeal submitted to that application and the time to submit an appeal had expired. He stated the applicant has submitted this revised application and Attorney Williamson stated that he and Director Robrahn met with the applicant to discuss options, but the applicant insisted on presenting this application to the Commission. Attorney Williamson stated that Director Robrahn noted in the staff report that the changes to the application were minor and could be approved administratively and did not require another public hearing. Attorney Williamson stated Design Review Article 6A.3.g sets forth a procedure for minor modifications to design review. Attorney Williamson stated a building permit has not been issued for this project but it has received design review approval. Attorney Williamson suggested if the Commission thought these changes listed in the staff report were minor, then that would be the end of the discussion; if not, then he suggested proceeding with a public hearing.

Attorney Williamson also said the Commission should allow the applicant to weigh in on their issues. If the Commission agrees that these are minor modifications, then the City will be refunding the application fee for this application.

Commissioner Pogue asked if there was a definition of minor. Attorney Williamson read 6A.3.g; The Administrator shall make the determination as to what constitutes minor modifications and may include, but are not limited to changes to approved colors and/or siding materials, changes to site plans that do not increase building footprints or significantly change driveway or road alignment, changes to enclosures, changes to exterior lighting fixtures and location, or changes to windows that do not significantly affect project design, appearance or function.

Commissioner Spears stated the Administrator has the right to approve these minor modifications administratively.

Marc Corney, 565 Motherlode Loop, with Red Canoe Architecture presented the application. Director Robrahn assisted and pointed out the modifications to the application from the plans submitted and approved in June. She stated the changes are all minor modifications and she recommended that the changes be approved administratively.

Corney stated they have added to the square footage to the building and stated this is more than a minor change.

Commissioner Moore asked where the square footage was added. Corney stated the second story deck and the removal of the lower roof standing seam.

Jim Phillips, attorney for the applicant, stated he agreed the changes were not minor. He pointed out in this application there are no sidewalks proposed to be installed. He said he did not think this application presents itself for administrative approval.

Attorney Williamson said it was his understanding that the sidewalks were not submitted during the first application either. He stated there is a condition of approval requiring the sidewalks in the first application.

Phillips commented that requirement was part of the last approved application. Commissioner Spears asked if this separate application was submitted on August 28th. Phillips stated that was on August 28, 2008 a separate application for a building with different design elements. Commissioner Spears asked Phillips at the time the letter was submitted on August 28th there had already been a letter submitted on July 25th and asked if he was part of that letter also. Phillips stated the only letter he submitted to the City was dated October 20th in response to the recent staff report.

Commissioner Spears stated it is mentioned in the staff report in the background, the applicant submitted a letter to the City dated July 25, 2008 objecting to the sidewalk requirements. The Findings of Fact and Conclusions of Law were approved by the Commission on July 7, 2008. The appeal period is 15 days from the date of decision. The last day to appeal was July 22, 2008.

Scott Miley, 510 Elm Street East, applicant, stated he submitted the letter dated July 25, 2008.

Commissioner Scanlon asked why he did not submit the letter within the 15 day allowable appeal period. Miley stated he did not know that he had 15 days to appeal. Commissioner Scanlon asked if that information was withheld from him. Miley stated he just did not know.

Commissioner Marvel stated the Commission should make a decision whether this application was a minor modification.

Commissioner Spears did not feel that there was a footprint change and if it is stated that the Administrator shall make the decision whether the changes are minor or not, he believed she has.

Commissioner Pogue stated the Administrator does have that authority to make that determination. He felt the balance of these changes were minor.

Commissioner Scanlon agreed with Commissioner Pogue.

Commissioner Moore stated that these changes could be approved administratively.

Commissioner Marvel felt that these were minor modifications and agreed to the administrative approval.

The Chair allowed public comment on this issue.

Peter Lobb, 403 Carbonate St East, did not understand why this application was even brought before the Commission because the administrator has made the decision.

Phillips stated they have presented their case and he does not believe that there are any specific findings by the administrator that these are minor changes. He said he did see in the staff report where the administrator and city attorney recommended this application as minor but felt the Commission had an obligation to consider the new application that has been filed by the applicant.

Miley asked if the changes were being approved administratively. Director Robrahn stated she would write a memo to the file and notify the applicant. Attorney Williamson stated there is a standard authorizing the administrator to approve minor modifications.

Director Robrahn wanted to make clear that the original conditions to this application stand and these are minor modifications to that approval.

Commissioner Pogue moved that the proposed changes are minor and the Commission concurs that these changes may be approved by the administrator. Commissioner Moore seconded, the motion passed unanimously.

Text Amendment to Article 4.6 of Hailey Zoning Ord. No. 532 - TN District

A city initiated text amendment to Article 4.6 of Hailey Zoning Ordinance No. 532. The amendments would clarify the purpose of the Transitional District, add multi-family residential as a permitted use and delete multi-family residential as a conditional use.

Text Amendment to Article 14.6 of Hailey Zoning Ord. No. 532 - Rezones

A city initiated text amendment to Article 14.6 of Hailey Zoning Ordinance No. 532. The amendments would add criteria for rezones to Business, Limited Business and Transitional Districts.

Director Robrahn stated these changes stem from the Commission's discussion on September 2, 2008. These changes to the transitional zone are to clarify its purpose and to further protect the residential nature of that area. Director Robrahn stated amendments to the rezone chapter of the ordinance establish criteria to be applied to anyone who wanted to rezone a residential property either transitional, business or limited business. Her recommended changes to the transitional district were limited to clarification language regarding the townsite overlay that the transitional zoning district was intended to be applied only within the townsite overlay district and changing multi-family dwelling from a conditional uses to a permitted use.

Director Robrahn stated she recommended two criteria for the rezone chapter, section 14.6. She stated any time the city evaluates a rezone request of a residential property to business, limited business or transitional zoning two criteria will be looked at. One is the level of intensity of use of the existing business, limited business, or transitional zoning districts, including but not limited to vacancies and underutilization of land, which gets to the question of infill. Second, is the distance of the parcel proposed for rezone from the central core overlay which is a six block area in the middle of town. The further away from the center of town the less likely there would be a rezone approved in order to keep business within the central core overlay.

Commissioner Marvel felt these changes addressed her concerns.

Commissioner Pogue thought it was an appropriate level of change.

Commissioners Scanlon and Moore concurred.

Public Hearing Opened

Peter Lobb, 403 Carbonate St East, mentioned that changing from a conditional use to a permitted use really took power away from the City. He recommended that this change not be made.

Public Hearing Closed

Commissioner Pogue asked what the reason for the change to the Transitional District Lobb referred to.

Director Robrahn stated it seemed logical to keep the residential uses permitted in the transitional district similar to the uses in the general residential district, which is currently what surrounds the business district.

Commissioners Scanlon, Moore, and Spears agreed.

Commissioner Spears moved to recommend to the City Council approval of the proposed amendments of the Hailey Zoning Ordinance Section 4.6, finding that the amendments are

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. Commissioner Moore seconded, the motion passed unanimously.

Commissioner Moore moved to recommend to the City Council the approval of the proposed amendments to the Hailey Zoning Ordinance, Section 14.6, finding that the amendments are 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. Commissioner Scanlon seconded, the motion passed unanimously.

Text Amendment of Article 3.8.5 of Hailey Zoning Ord. No. 532 - Inclusionary Housing

A city initiated text amendment to Article 3.8.5 of Hailey Zoning Ordinance No. 532. The amendments would add community housing, Energy Star and LEED certified projects to the applications eligible for fast track status.

Director Robrahn stated there has been discussion within the City of providing incentives for both green building practices and community housing. She said fast tracking is one incentive commonly used to expedite the application and permit approval process and reduce the costs associated with the application.

Commissioner Marvel asked about projects within the Central Business District, that they may be eligible and asked Director Robrahn if the City will decide if they are eligible or not. Director Robrahn stated the City would like to maintain some discretion.

Public Hearing Opened

Kelly Jackson, Citizens for Smart Growth, felt this was a very positive amendment. She felt the Planning Department should be commended for looking at the ordinances and looking for ways to tighten and improve them.

Peter Lobb said these are great things, community housing and energy star projects. He stated he was against fast tracking and felt there are rules in the city for a reason and felt the city should stick to their rules.

Public Hearing Closed

Director Robrahn stated fast tracking is a way for the City to prioritize projects and if a project was eligible for Energy Star or LEED then that project would be heard first before others that were not.

The Commissioners had discussion and made comments regarding fast tracking.

Commissioner Scanlon moved to recommend to the City Council approval of the amendments to the Hailey Zoning Ordinance Section 3.8.5, finding that the amendments are 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. Commissioner Pogue seconded, the motion passed unanimously.

Unfinished Business

Text Amendment to Article 10 of Hailey Zoning Ord. No. 532 - P.U.D.

A city initiated text amendment to Article 10, of Hailey Zoning Ordinance No. 532 proposed by the City. The amendments would amend the Planned Unit Development to delete all amenities except Community Housing from Section 10.3.8. **(Continued from October 6, 2008)**

Director Robrahn asked if the Commission could continue this again to the next meeting which would be on November 3, 2008.

Commissioner Pogue moved to continue the Text Amendment to Article 10 of the Hailey Zoning Ordinance No. 532 - P.U.D. to a date certain of November 3, 2008. Commissioner Spears seconded, the motion passed unanimously.

Commission Reports and Discussion

Commissioner Moore wanted to amend Section 4.6 of the Comprehensive Plan, where it allows commercial uses, and to reword that somehow. Director Robrahn stated at some point in the near future the Commission should look at an update to the Comprehensive Plan.

Adjourn

Commissioner Spears moved to adjourn the meeting at 7:40 p.m. Commissioner Scanlon seconded, the motion passed unanimously.