

**MINUTES OF THE REGULAR MEETING
OF THE HAILEY PLANNING AND ZONING COMMISSION
HELD WEDNESDAY, SEPTEMBER 18, 2006
IN THE UPSTAIRS MEETING ROOM WITHIN HAILEY CITY HALL**

The regular meeting of the Hailey Planning and Zoning Commission was called to order at 6:30 p.m. by Commission Chair Kristin Anderson. Commissioners Stefanie Marvel, Elizabeth Zellers, and Nancy Linscott were present. Commission Vice Chair Trent Jones was excused. Staff present included Planning Director Kathy Grotto, City Planner Diane Shay, City Attorney Ned Williamson, and Transcribing Secretary Caitlin Lonning.

PUBLIC HEARINGS

PROPOSED AMENDMENTS TO HAILEY ZONING ORDINANCE #532

Proposed amendments to the Hailey Zoning Ordinance. The amendments include but are not limited to:

a) Clarification and revisions to the following articles:

- Article I, Purpose, Title and Interpretation
- Article III, Administration;
- Article V, Official Zoning Map;
- Article VI, District Regulations
- Article VIA, Design Review;
- Article VII, Supplementary Location and Bulk Regulations;
- Article VIII, Fences, Signs;
- Article IX, Offstreet Parking and Loading Spaces;
- Article X, Planned Unit Developments;
- Article XI, Conditional Use Permits;
- Article XII, Variances;
- Article XIII, Nonconforming Uses;
- Article XIV, Amendment;
- Article XV, Enforcement.

b) Revisions and addition of new definitions to Article II, Definitions; and,

c) Revisions to permitted, conditional and accessory uses and to bulk and other regulations in the various zoning districts in Article IV, Establishment and Purpose of Zone Districts; and the creation of two new districts – Neighborhood Business District and Central Core Overlay District.

Anderson opened the public hearing.

Grotto advised that one of the goals of the proposed amendments was to make the Zoning Ordinance clearer and more appropriate with grammatical and organizational changes, along with some substantive changes.

Grotto explained the proposed substantive amendments to Article I, Purpose, Title and Interpretation.

Williamson advised that section 1.5.2, which states: “If a use is not specifically listed as a permitted, conditional or accessory use, then the use is prohibited, except as follows: the Administrator may determine that a proposed use not listed is equivalent to a listed permitted, conditional or accessory use,” etc., was added to make the interpretation of uses easier and smoother with the help of NAICS guidelines.

Grotto explained the proposed substantive amendments to Article II, Definitions. She noted that an additional change had been made: the addition of the sentence: “Words and phrases used in this Ordinance shall have the meanings set forth in this article; all other words and phrases shall be given their common, ordinary meaning, unless the context clearly requires otherwise” to the beginning of the Article.

Linscott asked if the proposed added language regarding airports would prevent private parties from purchasing an airport and making it a private use.

Grotto advised that this was the intent.

Grotto noted that the proposed amendments to Article III, Administration are organizational, rather than substantive.

Regarding Article II, Linscott asked for clarification of the regulatory language regarding condominiums.

Williamson explained that the outdoor common space in a condominium compound is regarded as equally owned property among the condominium owners. He added that the language was taken from the Idaho Code’s Condominium Act.

Linscott asked if the removal of the definition of “Variance” means that variance is no longer permitted.

Grotto advised that the definition of “Variance” is clearly explained in Article XII, and is therefore unnecessary in Article II.

Regarding Article III, section 3.8.5, Linscott asked if a definition of “Fast Track” might be included in Article II.

Grotto said that the addition would be contemplated.

Grotto explained the proposed substantive amendments to Article IV, Establishment and Purpose of Zoning Districts, Section 4.1, Recreational Green Belt District (RGB).

Linscott asked for clarification regarding the removal of the conditional use of snowmobiles on the ITD right-of-way.

Grotto explained that the matter was outside the City's jurisdiction, and therefore not necessary to be included in the Ordinance.

Grotto explained the proposed substantive amendments to Article IV, Section 4.2, Limited Residential District (LR). She noted the proposal that golf courses no longer be permitted in LR.

Anderson asked if the proposal means that homes cannot be built on golf courses.

Grotto advised that the proposal means residences and golf courses cannot be similarly zoned.

Linscott expressed concern over the removal of horses as an Accessory Use in LR, stating her feeling that the inclusion of horses within the Townsite gives Hailey a unique and rural feeling.

Shay explained that there are safety and hygiene issues with maintaining horses in residential areas, including potential damage to the space, the difficulty of enforcing hygienic upkeep of horses on private residences, and the threat of equestrian diseases.

Marvel stated her opinion that an acre is not a large enough space to maintain horses, adding that the population of Hailey is too large and dense to keep horses within the City. She added her opinion that, while Hailey is not urban, it is no longer rural. She stated her support of the removal of horses from permitted LR Accessory Uses.

Zellers concurred with Marvel.

Peter Lobb, 403 E. Carbonate, agreed with Linscott that horses and other livestock in the City increase the unique character of Hailey.

Fritz Haemmerle, 112 4th Ave. N., stated his opinion that horses are not compatible with LR uses.

After much discussion, Anderson suggested that the Commission return to the issue at a later time.

Grotto explained the proposed substantive amendments to Article IV, Section 4.3, General Residential District (GR). She noted that the language regarding rounding land parcels was proposed for removal.

Zellers, Linscott, and Marvel expressed their approval of the proposed removal.

Linscott asked if the removal of manufactured home parks from Conditional Uses for GR is appropriate.

Williamson stated that Idaho state law requires the allowance of manufactured homes wherever single-family dwellings are allowed, but it is not required to allow manufactured home parks.

Grotto noted that manufactured homes could be placed on any residential lot within the City, stating that the proposed amendment only prohibits manufactured homes being placed on small parcels of land that are not platted lots, which is typical of manufactured home parks.

Grotto explained the proposed Section 4.4, Neighborhood Business District (NB).

Anderson approved of the proposed district, but noted that some people have expressed concerns with it.

Marvel asked why churches were listed as a Conditional Use.

Grotto noted that churches are also a Conditional Use in the Business district, explaining that the intention is to keep churches and purely residential buildings out of NB. She stated that any residence in NB must have some commercial use within the structure.

Zellers expressed her approval of NB.

Peter Lobb, 403 E. Carbonate, expressed his concern with the creation of a new district, worrying that NB might decrease residential areas.

Grotto explained that the two areas intended for rezoning to NB are currently B. She agreed that there should be a size limit for NB zones.

Lobb reiterated his concern, stating his belief that placing businesses in a residential area would upset neighbors.

Williamson reiterated Grotto's point that the areas intended for rezoning to NB are currently B; thus the intended change would protect neighbors from large businesses in their neighborhoods.

Linscott asked if Design Review is required for NB.

Williamson advised that NB is already included in Design Review.

Grotto explained the proposed substantive amendments to Article IV, Section 4.5, Limited Business. She explained that the amendments to section 4.5.1, Purpose, are intended to clarify the purpose of LB, not as a transitional zone, but as a business area that would not allow retail that would draw business away from the central B district.

Linscott asked why bed and breakfast inns and hotels had been removed from 4.5.2, Permitted Uses.

Grotto explained that these uses are proposed to be consolidated under 4.5.2.e, Lodging Establishments.

Linscott asked if 4.5.2.c, Dwelling Units within Mixed Use Buildings, does not allow retail.

Grotto stated that mixed use could include retail.

Linscott noted that wholesale distributors are allowed conditionally, and wondered if this use shouldn't be restricted to SCI. She expressed her opinion that garden supply nurseries should remain allowable as a conditional use in LB. She asked if it would be possible to restrict banks, real estate offices, and insurance firms to LB, thus aiding in the consolidation of retail in the central commercial area of downtown Hailey.

Grotto noted that there are currently no nurseries in LB. She explained that they are retail, and also require more space and are therefore more appropriate for SCI. She added that nurseries are allowed in B.

Linscott asked if ADUs could be allowed on a business's property, noting that this would encourage live/work scenarios.

Grotto agreed to add language to allow for this.

Zellers agreed with Linscott that wholesale distributors should be restricted to SCI.

Anderson pointed out that there are wholesale distributors that are not retail, and therefore should be allowable in LB.

Zellers asked why convenience stores (4.5.3.d) are permitted in LB, as they are retail.

Grotto noted that convenience stores are only conditionally allowed.

Anderson asked why only indoor restaurants (4.5.3.b) are permitted.

Grotto explained that this specificity is intended to prohibit drive-through windows.

Linscott asked if there is another way of disallowing drive-through without simultaneously prohibiting outdoor patios.

After discussion, Linscott suggested simply allowing restaurants conditionally and then adding conditions as necessary.

After discussion, the Commission decided to conditionally allow convenience stores and wholesale distributors.

Grotto explained the proposed substantive amendments to Article IV, Section 4.6, Transitional District (TN). She noted that some of the proposed amendments are per the Commission's previous hearings.

Grotto explained the proposed substantive amendments to Article IV, Section 4.7, Business District (B).

Williamson noted that Mayor Susan McBryant requested the amendment to allow Dwelling Units within Mixed Use Buildings (4.7.2.b), which requires that a minimum of 50% of the building's ground floor be dedicated to commercial use. He stated that this amendment is intended to keep purely residential projects out of B.

Linscott asked if financial and real estate firms could be allowed only conditionally or restricted to LB, pointing out that these uses in B kill retail vibrancy.

Grotto expressed uncertainty as to how this restriction could be made.

After much discussion, Grotto suggested a straw poll. Marvel, Zellers, and Anderson voted in support of banks in B, and Linscott voted against banks in B.

Linscott asked if section 4.7.5.f.2, which states: "Buildings or structures containing an Grouped Retail/Wholesale Trade shall be limited to an aggregate gross floor area of 50,000 square feet," would be sufficient to prohibit superstores.

Grotto stated that Individual Retail (4.7.5.f.1) is restricted to 36,000 square feet.

Peter Lobb, 403 E. Carbonate, asked if businesses could put two 36,000 square foot buildings next to one another.

Grotto explained that businesses that share management may not be within 800 feet of one another.

Grotto explained the proposed substantive amendments to Article IV, 4.8, Light Industrial District (LI).

Grotto explained the proposed substantive amendments to Article IV, 4.9, Technological Industry District (TI).

Linscott asked if the allowance of deciduous trees as landscape screening should be removed from section 4.9.6.d.2, noting that deciduous trees would not provide adequate screening during certain seasons.

Grotto agreed and made the alteration.

Fritz Haemmerle spoke on behalf of Mark and Dave Dawson of Hailey Business Park South. He asked if the Business Park is the only TI zone in Hailey.

Grotto advised that the TI zone includes Hailey Business Park South, the Dawsons' property, and the Post Office, and that it is indeed the only TI zone in the City.

Haemmerle asked the Commission to consider adding residential uses to TI under section 4.9.3, Conditional Uses. He argued that the area is a buffer between current industrial and residential areas. He added that buildings could be mixed use, containing both commercial and residential uses, and thus supporting live/work scenarios.

Robert Lowe, 1111 Broadford Rd., spoke on behalf of the residential property owners on Broadford Rd., arguing that the TI zone should not include residential uses under any circumstances. He stated that the area is too industrial and not safe for residential uses.

Grotto suggested that the Dawsons apply separately for permission to include residential uses on their property, noting that the issue is a contested one and as such deserves its own public hearing.

Marvel, Linscott, and Zellers agreed with Grotto's suggestion.

Anderson called for a recess at 8:20 p.m.

Anderson called the meeting back to order at 8:30 p.m.

Grotto explained the proposed substantive amendments to Article IV, Section 4.11, Airport District (A).

Linscott asked why Aircraft Maintenance had been removed from section 4.11.2, Permitted Uses.

Grotto stated that Aircraft Maintenance would either be left in section 4.11.2, or added to its definition in Article II, Definitions.

Grotto explained the proposed substantive amendments to Article IV, Section 4.12, Service Commercial Industrial District (SCI).

Anderson asked why ADUs had been removed from section 4.12.2.3, Accessory Uses.

Grotto stated that ADUs could be allowed, but must be complying with the overall density. She agreed to add language permitting this change.

Zellers expressed concern with the allowance of Multi-Family Dwellings in SCI (4.12.2.1). She stated that she was comfortable with Mixed Use buildings, but felt multi-family would be out of place in a business park.

Grotto agreed and removed Multi-Family Dwellings from section 4.12.2.1, Permitted Uses.

Grotto explained the proposed substantive amendments to Article IV, Section 4.13, Townsite Overlay District (TO).

Peter Lobb, 403 E. Carbonate, expressed concern with the language that allows “Original Townsite Lots that are slightly less than 3,000 square feet (in blocks where lots are 25 feet wide) or 3,600 square feet (in blocks where lots are 30 feet wide), due only to lot dimensions being slightly less than 120 feet deep or 25 feet or 30 feet wide shall be considered as full size lots of 3,000 square feet or 3,600 square feet when calculating lot size and shall not be considered non-conforming lots.” He pointed out that “slightly less” is a subjective term, and asked if there was a limit to how much smaller a lot could be than 3,000 square feet before it was considered non-conforming.

Grotto stated that the intention of the language is to allow Original Townsite Lots that are described as complete lots by the Assessor to be considered full-size lots, despite the fact that they vary slightly in size. New lots will be platted more accurately in regards to square footage.

Grotto explained the new Central Core Overlay District (CC).

Anderson expressed her approval of the CC Overlay District, stating that it will prevent downtown from being controlled by parking restraints.

Zellers added that the CC ordinances would be a good way to increase and improve sidewalks downtown.

Grotto explained the proposed amendments to Article V, Official Zoning Map.

Grotto explained that the language in Article VI, District Regulations, had been moved to Article I, Purpose, Title and Interpretation.

Williamson and Grotto explained the proposed substantive amendments to Article VI A, Design Review.

Williamson explained that the sections of Article VI A had been rearranged to make the process clearer.

Referring to Section 6A. 7.d, Williamson explained that the City of Hailey is considering creating a Historical District that would parallel the Townsite Overlay. At the time of this meeting, it is unclear whether the City will create a Historic District in which any alteration would require Design Review, or if the Hearing Examiner will be required to look at alterations to historic structures on a case by case basis. He noted that the Commission would not be confronted with these cases.

Marvel asked if the Certificate of Appropriateness would force property owners to re-do poorly constructed historical buildings.

Anderson asked if these cases would come through the Planning and Zoning Commission.

Williamson advised that they would not. He explained that the Historic Preservation Commission (HPC) would review the cases and make a recommendation to the City Council. He added that the Certificate of Appropriateness allows the HPC to review and make a finding on whether proposed alterations, erections, or restorations meet certain standards.

Anderson expressed her concern that the standards for historic structures might smother variance and creativity.

Williamson explained that the standards are intended to ensure that alterations to a building match the historic style of the existing building.

Zellers asked if, when a historical building is demolished, the property owner would be required to erect a structure with a similar style in its place.

Williamson stated that the answer to Zellers's question is yet to be determined.

Marvel expressed concern with approving the process without knowing what process will be put into effect.

Williamson explained that, until the City makes a decision, the language regarding historic preservation should remain in the Zoning Ordinance, advising that it could be rescinded at a later time if it becomes inaccurate or unnecessary.

Grotto added that the language in question is something of a placeholder until the issue has been resolved by the City Council. She explained that the decision would be made before the proposed Zoning Ordinance amendments go into effect.

Peter Lobb, 403 E. Carbonate, asked if there is a way to prevent the demolition of historic structures.

Williamson advised that, under state law, it is not possible to prohibit the demolition of historic buildings.

Grotto explained the proposed substantive amendments to Article VII, Supplementary Location and Bulk Requirements.

Marvel suggested section 7.2, Vending Machines, should be clarified to state that vending machines should not be visible from the street.

Linscott expressed concern over 7.3.1, Construction Trailers, which states that construction trailers may be utilized as an office during the time of actual construction,

but not as a temporary residence. She asked if construction trailers could be utilized temporary residences with a time limit.

Grotto advised that all zoning districts conditionally allow temporary structures, and that this allowance would remedy the issue Linscott brought up.

Marvel asked if there is a time limit imposed on these temporary structures.

Grotto advised that the time limit is one year. She stated that individuals would be able to apply for a CUP for their temporary structure.

Peter Lobb, 403 E. Carbonate, asked if RVs may be parked on the right-of-way for extended periods of time.

Williamson advised that this is an issue of municipal code, rather than zoning.

Grotto advised that the matter should be addressed by the City Council.

Grotto explained the proposed substantive amendments to Article VIII, Fences, Signs. She advised that an additional amendment had been made to section 8.2.8.3.b, as follows: “~~Business developments are limited to~~ Only one free standing sign per building.”

Anderson suggested that section 8.2.9.2, which reads, “In no case will any total sign area for any use, occupancy or development exceed 150 square feet,” be altered to allow less square footage for internally illuminated signs.

Linscott agreed with Anderson’s suggestion.

Anderson suggested seventy-five (75) square feet as the new maximum for internally illuminated signs.

The Commission agreed, and the alteration was made.

Linscott noted that NB is not included in either Table 8.2.8, Sign Types by District, or Table 8.2.10, Sign Lighting by District.

Grotto agreed to add regulations for NB to the tables. She suggested that NB lighting regulations be similar to those in GR. After discussion, it was decided that Grotto would bring proposed sign type regulations for NB to the Commission hearing held on Wednesday, September 20, 2006.

Grotto explained the proposed substantive amendments to Article IX, Parking and Loading Spaces.

Grotto suggested that section 9.2.8.b be altered to allow stacking in residential areas and in additional, non-required parking in commercial areas.

The Commission agreed, and Grotto agreed to come up with language to this effect for the Commission hearing held on Wednesday, September 20, 2006.

Linscott remarked on section 9.4.6, which reads, “No use shall provide on-site parking for more than 300% of the number of spaces required by the Ordinance unless permitted by specific action of the Commission...”, and stated her opinion that 300% is too high.

Marvel suggested changing the percentage to 200% or 150%.

Grotto agreed and changed the number to 200%.

Zellers moved to continue the public hearing for the proposed amendments to the Hailey Zoning Ordinance including but not limited to clarification and revisions to Articles I, III, V, VI, VII, VIII, IX, X, XI, XII, XIII, XIV, XV, revisions and addition of new definitions to Article II, Definitions, and revisions to permitted, conditional and accessory uses and to bulk and other regulations in the various zoning districts in Article IV and the creation of two new districts – Neighborhood Business District and Central Core Overlay District to the date of September 20, 2006. Marvel seconded and the motion carried unanimously.

COMMISSION REPORTS

Marvel stated she would be absent from the meeting on October 2, 2006.

Linscott stated she would be absent from the meeting on September 20, 2006.

Marvel moved to adjourn, Zellers seconded and the motion carried unanimously. The meeting adjourned at 9:29 p.m.