

**MINUTES OF THE
HAILEY PLANNING AND ZONING COMMISSION
Monday, November 19, 2007**

The meeting was called to order at 6:30 p.m. by Commission Chair Stefanie Marvel. Commissioners present were Elizabeth Zellers, Owen Scanlon and Michael Pogue. Commissioner Nancy Linscott was excused. Planning Director Beth Robrahn, City Planner Diane Shay, Planning Technician Mariel Platt, Planning Assistant Becky Mead, and City Attorney Ned Williamson were present.

Public Hearings:

Proposed draft Hailey/Blaine County Area of City Impact (ACI) Ordinance, establishing an area of city impact, providing for an application of plans and ordinances for the area, delineating four areas within the Area of City Impact, each with general requirements, and addressing annexation, Transfer of Development Rights, governing plans, notification and meetings between the City and County; continued from November 5, 2007.

Proposed draft ordinance adopting a map identifying the Area of City Impact within the unincorporated area of Blaine County delineating four areas within the Area of City Impact; continued from November 5, 2007.

Marvel asked Robrahn if this would be continued.

Robrahn requested the Commission continue the public hearings for the proposed draft of the Hailey/Blaine County ACI Ordinance as well as a proposed draft of an Ordinance Map identifying the areas of city impact for a date certain of December 3, 2007.

Pogue moved to continue the public hearing for the proposed draft Hailey/Blaine County Area of City Impact (ACI) Ordinance and the public hearing for the proposed draft ordinance adopting a map identifying the Area of City Impact of the until a date certain of December 3, 2007. Scanlon seconded, the motion passed unanimously.

Replat of Birdwood Subdivision

Replat of Birdwood Subdivision, Lot 15, Block 1, located at 911 Silver Star Drive, Birdwood Subdivision. The plat would create 2 lots. The property is within the Limited Residential-1 (LR-1) zoning district and also is located with the Flood Hazard Overlay District.

Robrahn requested that the agenda be rearranged before moving on. She stated Fritz Haemmerle, who is the representative for Hailey Business Park South and WIB, LLC would like to request a continuation of the text amendment of Article IV, Section 4.9, Technological Industry (TI) District. Haemmerle stated they had a text amendment scheduled for today but they are in the process of gathering more information. He stated that Mr. Roark was present to object to their project. He said instead of putting the Commission on the spot and request a continuance, they would rather withdraw their application, obtain more information and file a new application at a later date.

Marvel continued with the application for the replat of Birdwood Subdivision.

Zellers announced that she had an ex parte discussion with Amy Browning with regard to the status of pending litigation.

John Bulotti, represented by Brian Yeager of Galena Engineers was present. Yeager stated that the applicant's attorney, Gary Slette was not able to attend. Yeager read a letter written by Slette into the record, outlining some procedural history. Yeager stated that the application was submitted some time ago and the Commission recommended denial to the City Council. There was a period of two to three years where Slette had worked with the city's attorney and the Mayor, and Yeager was not privileged to that information and stated he could not speak to that in detail but would like to explain what has happened up to that point.

Yeager addressed staff's comments from the Staff Report.

Yeager addressed the letter submitted by Hailey Fire Chief Mike Chapman, which is part of the record.

Yeager asked if the Commission could make a decision tonight so the application could be heard by the City Council before the new mayor and council took office.

Chuck Brockway from Engineering stated he would clarify some of the points that Yeager discussed. The property is declared by FEMA to be in the 100 year floodplain. FEMA has specified base flood elevation of 5286 along the north side. The flood in 2006 was a 160 to 170 year event, at the Hailey gauge which is located at the Bullion Street Bridge. Observation and computer modeling shows some specific deficiencies with FEMA's delineation in the low lying area of the city. The base flood elevations that FEMA computed do not line up with reality. The City needs to regulate what is on the map until when, or if, it is changed by FEMA. Brockway stated when looking at the base flood elevation of 5386, taking that as the truth, and then defining an area that is actually higher than that elevation. FEMA stated if there was an area of a lot, which was higher than FEMA's computed base flood elevation, and if that was proven by a survey, FEMA would write a Letter of Map Amendment (LOMA) to take those areas out of the floodplain, even if the lines on the map and base flood elevations themselves did not change. FEMA looked at this situation and approved the LOMA, removing two areas in this application from the floodplain. Yeager stated there was quite a bit of standing water on the property in 2006.

A LOMA was received October 23, 2007 with a letter from Engineering (on file for the record). Extensive survey work was done and the applicant submitted a request to FEMA for them to determine that two areas within Lot 15 are no longer considered to be in the floodplain. One of the areas appeared to be a portion of the lot wherein the existing house was situated. The other area was above base-flood elevation and was the area the applicant had identified as the building envelope for the proposed new lot.

Brockway stated he did not believe there was any flooding across the road, as FEMA predicted there would be. In 2006 there was high ground water, which came up, then went back down. There wasn't a threatening flood situation on this property. He stated he did not agree with the 5386 base flood elevation, but since FEMA deemed it so, then that is what they have to go by.

Scanlon asked Brockway if flooding was different if water comes up from the sub-surface or if it runs across the top of the ground; for the rules of FEMA's interpretation of flooding. Brockway stated that FEMA does not care about the sub-water and according to FEMA's floodplains, they called them riverines; related to a river.

Scanlon asked if there was a core area, and asked if there had been instances where there was high sub-water and the river had been in its channel. Brockway replied not in this lot because the ground water in this area is related to the river. In 2006 the river raised high because of the large amount of infiltration from the snow pack.

Shay read the procedural history of this project that was outlined in the Staff Report. She stated on October 22, 2007 the City Council remanded this application back to the Commission for its review. Shay referenced the letter in the packet from the Hailey Fire Chief who made recommendations after his review (on file for the record).

Shay stated the City Engineer recommended drainage swales which would help contain water on the site, and the design of the drainage swales which would be reviewed and approved prior to the issuance of a Building Permit and prior to the issuance of a Certificate of Occupancy for the structure.

Shay stated that she was not sure if there was a homeowners association to be established for these two lots but suggested that a plat note to be added to state that the Homeowners Association would be responsible for the maintenance of the road.

Williamson stated there was mediation after the original application went to the Commission and to the City Council. He stated there was mediation with the neighbors, the applicant and the City. That mediation did not result in any agreement. Williamson stated shortly the mediation took place he received a call from the applicant's attorney, proposing a 2 lot subdivision, instead of four and requesting to go before the Commission. Williamson stated that he and the City Planner did agree with that. Williamson stated that was the extent of the agreement between the City and the applicant. He stated to the Commission that there are no limitations and no restrictions on their review. He suggested analyzing the application as a brand new application. Williamson referenced the 2006 flood and suggested that the Commission ask Brockway if it was a 100 year event or was it a greater or lesser event. Williamson stated he would like to clarify that because the present ordinance is based on a 100 year event.

Brockway stated it was a 160 year or 170 year event. Marvel asked where that information came from. Brockway stated it is more extreme than the 100 year and the way that is calculated is with a standard statistical protocol the US Geological Service and FEMA uses to make these types of calculations. He stated if the 2006 flood was included in that analysis, from the early 1900s through 2006, it came out to 160. Prior to the 2006 event it came out to be 6250 or 6500 cubic feet per second (cfs). He stated the peak flow at the Hailey gauge in 2006 was 7800 cfs.

Yeager asked him to identify how FEMA identified the survey. Brockway replied stating the way FEMA delineates floodplain is using computer models. They take survey process with the river and they fly the river to get ground quality and they use that information in what is called

the Heckrass River Model. He explained with that model, giving it a certain flow, it will predict what the water surface elevations are and that is where they get their base flood elevations. They then take those flood elevations and try to map them to the ground based on ground photography. Brockway stated it was not an exact science. He stated that especially with a populated area such as Hailey, it is not possible for FEMA to get the ground photography as accurate as it could be and that is what induces errors with the mapping of the base flood elevations.

Zellers asked what the process for a Flood Development permit, who issues that permit. Shay stated the Commission issues that for a subdivision, as stated in the Zoning Ordinance. All other Floodplain Development Permits are issued by the Floodplain Development Permit Administrator.

Scanlon asked Yeager or Brockway, when the flood occurred in 2006, did Mr. Bulloti come out to look at his lot to see where the water was. Scanlon asked if anyone went out to look at the lot.

Brockway stated at the peak of the flood he was not present but he was there within a day or two of the peak when the flow at the Hailey gauge was more than the 100 year event and he drove around because he wanted to see how the FEMA map related to what was actually happening. Brockway stated this is what he has based his statements on. In the area, from Bullion Street down, there were definitely some problems with the floodplain; it does not agree with what was happening on the ground.

Marvel asked Shay if someone in the city took an aerial photo of the flood. She stated the county has a set of photos but she did not know who took them.

Yeager stated the county did sponsor a flight using infrared and took aerial photos. He stated the county took those photos but never really caught the peak but did catch a significant part of the flooding when it was at the 100 year level or higher. He stated those photos do exist and are on file at the county.

Pogue asked Yeager how they related to the lots in question. Yeager stated he hesitated to comment and stated there are people who will comment who were on the ground. Pogue referenced the procedural history asking if the hydrology study that was requested in April of 2007 was ever performed.

Williamson stated the applicant responded by submitting a LOMA report which is a very detailed physical survey of land. FEMA's response to that was to issue the LOMA. Pogue stated the goal of the hydrology study was to determine what floodplain variations could be on a particular lot. Williamson stated he thought that was correct.

Shay agreed that was correct and stated she did have a discussion with Brockway regarding the hydrology study. Shay stated to Brockway there were a lot of questions from the public with regard to what a hydrology study actually looks like. She explained it points out the high spots and the low spots of the property and she stated she didn't feel that she was qualified to dispute whether or not that constitutes a hydrology study.

Pogue stated he had a couple of questions with regard to the Fire Chief's letter and didn't know if the staff was prepared to address it or if he might get his answer someplace else. He referred to the request of the building height to be a maximum of 30 feet and asked if that had to do with getting the ladder trucks near the structure. Williamson replied that would strictly be a function of the International Fire Code (IFC). Pogue asked how that would relate to the floodplain issue. Williamson stated he didn't know if it does. Shay stated she thought it did have to do with the ladder truck. She stated the maximum building height in that zone is 30 feet.

Pogue referred to the recommendation for the access road to be developed to accommodate fire apparatus loads and widths so the portions of the access road are not submerged by ponding subsurface waters during non-flood years. Pogue stated he thought the only way to prevent ponding would be to build the road up. He stated he wasn't sure how to construct the road, in its current elevation, in a manner that would avoid ponding. Williamson replied that he was referring to non-flood years and recognizing by that condition there would be time where the water would be over the road.

Pogue asked how often the Commission or Council allowed a building permit in the floodplain. Shay asked if he was asking about granting building permits. Pogue stated building permits or approved plats. Shay stated she only recalls one with the exception of the annexation of the Colorado Gulch property that was heard about three or four years ago. She stated a great deal of that property was located under water during the flood event. Shay stated in terms of a subdivision she cannot recall of one that has been approved since the floodplain ordinance was amended some years ago.

Zellers asked if that was before there was a flood hazard overlay. Shay stated they have always had a flood hazard overlay district. She mentioned there are subdivisions in the floodplain such as Sherwood Forest, Cedar Bend and China Gardens. She stated they all have been developed. She thought when the ordinance was revised in 2001 the floodplain development permit criteria was added. She stated she did not think that criteria existed prior and she did not think that was required to pull a floodplain development permit. Williamson stated his point was that the present day standards have to be looked at regardless.

Public Hearing Opened

Shay stated this was a very passionate issue for everyone and asked everyone try to be civil. Marvel added that this is a small community and suggested that everyone continue being neighbors.

Carmen Northen, 340 Cedar St. West stated she was there when the river rose to 7.92 feet of water; and it was flowing river water. She stated she did have ground water on her property. Along her fence in the back the water was up to about eight inches of flowing water.

Jamie Coulter, 320 Cedar St. West stated he objects to the project primarily because of the detriment to the health and safety to the general public in and around the area. Flood water causes damage to adjacent and existing properties. He mentioned without fire department access due to ground water over the road, that was a clincher in itself. There is an old river channel that runs through his property and also is in the Army Corps of Engineers delineated flood plain area.

He stated if this were to go forward that it would be essential that it be addressed and evaluated by the Army Corps of Engineers. He pointed out there is no turn around for fire equipment. Coulter stated this area was established from the Wood River Land Trust, and he was concerned about the wildlife habitat. He stated this would create a triple frontage lot. He expressed that this application created a burden on Hailey to protect the subject property as well as the adjacent neighbors. He suggested that the Commission deny this application.

Robert Payne, 320 Della Vista Dr. stated he has had water on their property on three different occasions. His property is in the floodplain, but above the floodplain, and they've still had water in their crawl spaces. He mentioned that Cedar Bend was sandbagged which changed the course of the flood to go down Della View and then changed it to go down Red Elephant. Sandbagging isn't always an option.

Craig Lawrence, 910 Silverstar Dr. stated during the flood in 2006 there was plenty of standing water in the applicant's lot. He was concerned about safe access to the property, referring to the flood ordinance, for both emergency and local vehicles. He mentioned the driveway, or road, creates a double/triple frontage situation. He stated it is now 20' wide. But on Silverstar the pavement is 24' wide. He noted that he has seen deeper snow in the past 30 years in the valley than there was in 2006.

Amy Browning, 331 Della Vista Dr. showed to the Commission a picture prior to the flood event peaked in 2006. Williamson stated to Browning that she needed to leave the picture for the record. She stated she was the President of the Birdwood Homeowners Subdivision and she stated to the Commission that they should wait to hear from the Supreme Court regarding their decision on the validation of the language in the CC&Rs. Browning commented since 2003 Bulotti was a rude builder and didn't seem to be a responsible citizen.

Tom Drougus, 821 Silverstar Dr. stated he lived within the three frontage road. He mentioned in 2006 he was paying attention to the flow of the river. He stated all forecasting is great but in the future no one knows what will happen. He asked the Commission to make a judgment regarding the past and where they want to go with this community, following ordinance of course, and take into consideration all the density that would be affected in the area. Drougus made the comment that this land has to be very precious to Mr. Bulotti and to have a beautiful home on 2 lots in the middle of town is pretty nice too. Drougus stated that he has open space on either side of his house and he really liked that. He didn't think that Bulotti would be taking a very big hit if he didn't get another lot on his property.

John Seiller, 1315 Warm Springs Rd. represented the Birdwood Subdivision Homeowners Association and owners of property in Cedar Bend Subdivision. He stated he thought the staff report was written well as far as pointing out the law. He stated in order for a Floodplain Hazard Development Permit to be granted for the subdivision, a permit must be granted also for the property. He stated he was on the Planning and Zoning Commission the last two times this application was heard. He stated one of the reasons this application was turned down was because the property couldn't meet the floodplain hazard overlay permit requirement. He mentioned this lot has never been subdivided as mentioned previously by Yeager. It has always been one lot since Birdwood Subdivision was created. He thought Yeager was misleading because somehow some of the standards from the floodplain hazard overlay permit application

don't apply. Seiller stated he wrote a letter after the hearing on May 7th to the City Council stating they couldn't grant the subdivision without it going before the Planning and Zoning Commission on their procedure set out in their subdivision ordinance. The fact was there was still a flood and this was not distinguished. There was an issue of the infrared photos, which Seiller stated he had seen, and he stated because of how it was so heavily treed; the area could not be accurately seen. He said that the photos are of very little use and if they were useful that the Commission would have them. Seiller stated the proposed use is compatible with existing development and development anticipated in the foreseeable future. He mentioned that there are half acre lots in the area and lots that have been developed in the floodplain. He stated when the Floodplain Development Permit was created it was something in addition that an applicant had to acquire in order to subdivide in the floodplain. He stated the subdivision has been subdivided all around but that doesn't mean that the subdivision is a problem area. He stated the problem or pattern does not need to be repeated by the applicant. He stated to the Commission that they have evidence of the problem and he hoped they would take that into consideration and make the right decision.

Cindy Ward, 10065 Hwy. 75, Bellevue stated she use to live on Cedar Bend. She stated that she and her husband developed Cedar Bend Subdivision. She wanted to comment on Williamson's statement to the Commission that they needed to be hearing this as a new application. When they bought their property, she referred to the two lots that existed as part of the Birdwood Subdivision plat. She made comment to the Commission that their predecessors platted this subdivision and all the homeowners relied on that decision. The applicants of the subdivision platted the subdivision for a reason because they didn't have deep lots. Ward stated when she and her husband developed Cedar Bend they approached the owner of Birdwood Subdivision to buy their property and include it as part of Cedar Bend but the owner didn't want to have anything to do with it. Ward stated they created backyards to backyards. Bulotti purchased the one lot and acknowledged it was one lot and then proceeded to try to subdivide. He is not a good neighbor to his neighbors; he has had a dumpster on his property continually; he has not abided by the Birdwood Association's CC&Rs as he and his wife had agreed to when the CC&Rs were developed; he has not landscaped his property. She referenced Fire Chief Chapman's letter that perhaps if a home were built there, the home owner might have to agree to take the risk of certain times of the year that they would not have fire protection. She pointed out that the surrounding neighbors would be in jeopardy if there was a fire in the area. She commented that she didn't think the current neighbors would be willing to take that risk.

Ed Northen, 340 Cedar St. West stated there was definitely running water coming from the Big Wood River through his property in 2006. He stated to the Commission that he didn't see how they think it is okay to build a house where there wouldn't be any fire protection in times of high water.

Janis Pane, 321 Della Vista Dr. stated that in 2006 she did go back on the property looking for her cat and was on the road that goes along Bulotti's house on the path, the proposed road, goes down and stated the ground water was up to her knees. She commented if this were to be filled in to make a road she wondered where the water would go. They purchased their property for the open land and for the enjoyment of the animals that inhabit the area and would like to see it remain that way.

Public Hearing Closed

Marvel asked Yeager to respond. She asked Yeager if the Army Corps Engineer's wetland was different from what he was already discussing.

Yeager replied the wetlands have been delineated on the subject site and were acknowledged by the Army Corps of Engineers as being a line of wetland tendencies, deemed to be non-jurisdictional due to lack of continuity of other surface levels. Yeager stated that was part of the application submitted.

Marvel asked Williamson if the CC&Rs had anything to do with this application. He stated he didn't see where the city's standards relate to them.

Yeager stated when the 2006 flood took place he was not working on the property. He couldn't argue because he was not on the site himself. He could only go by what he had been told. He stated there are some minor issues he would address. For instance crawl spaces that are full of water in houses that are ten years old. Approximately three or five years ago FEMA changed the standard for the IRS certificates requiring crawl spaces to be elevated up to or above the flood elevation. He said prior to that period of time the FEMA first floor elevation, the crawl space could actually be below the base flood elevation. He mentioned there are several homes in the community that are expected to flood, based on the base flood elevations. Currently the crawl space has to be at the base flood elevation.

Yeager replied to the previous comment regarding his comment of this application being previously subdivided into four lots. He made the correction to that statement for clarification and said it was previously applied for 4 lots, and now they are applying for 2 lots

Yeager commented that FEMA can re-study the river at any time, depending upon funding, and could come up with a new set of flood elevations, a new set of floodways, and new base flood elevations. He stated that if FEMA were to do a re-study that the 2006 flood would probably be used heavily to make their decisions.

Brockway addressed the building envelope that was delineated based on the effected FEMA base flood elevation and the actual survey. He stated the irregular shape comes from those two factors. He stated they did not petition FEMA to change the base flood elevation. Brockway explained that if a structure of any type is placed in an area that is physically above the base flood elevation there will be zero displacement of flood water and therefore no impact in terms of re-routing flood water or increasing flood heights on this property or any other property. Generally water in crawl spaces indicates high ground water; it is not necessarily an indication of a floodplain.

Zellers stated she lives on Red Elephant and did walk around the neighborhood during the flood and learned that it is amazing how the placement of sandbags or a house or driveways really changes everything. She stated Mother Nature is unpredictable and she didn't think that any science was an exact science. She expressed concern that more construction done on the applicant's lot would be a detriment to the neighbors as well as to the city for expenditures, public safety, and she would like more clarification regarding the property that will be fronted by

three roads. What makes a road verses a driveway; she understands it is 150 feet but the road is 175 feet. She stated that is a road not a driveway which is also a detriment to the surrounding neighbors. Zellers couldn't, with a good conscience, say she could agree with approving this preliminary plat.

Scanlon stated he also lived in a floodplain to the north and has concerns about what every spring will bring. Scanlon understood the applicant's right to build on his land and he also stated that the Comprehensive Plan limits the amount of injuries or potential injuries a person can encumber another person's property with. Scanlon referred to the Comprehensive Plan, Section 2.5 Flood Hazard, listed in the Staff Report under Implementation; item **h. Safe access to the property shall be available in times of flood for ordinary and emergency vehicles.** Scanlon referenced the Fire Chief's recommendation; **1.) That a plat note be included which indicated that "the city may suspend any or all municipal services to this property during a natural disaster such as a flood". This or similar language will insure that the current or future property owners acknowledge and accept the risk of their home being inaccessible by flood waters, due to their own design choices in the development of the property.** Scanlon pointed out that it was recently observed during the last fire in the valley how quickly embers can be carried with the winds and start other fires.

Scanlon referenced again the Staff Report, item **q. All construction shall meet the requirements of the International Building Code and the International Fire Code.** Scanlon stated that **the driving surfaces must be above the base flood elevation.** He stated if these two sections are ignored it will violate another section of the Comprehensive Plan which states the application cannot endanger the public. Scanlon believed these issues caused him to agree with the surrounding neighbors who have invested in this property and have been living on their property and have as much right to due process as Bulloti does.

Pogue stated this is a question about density and how much density is proper in this neighborhood. He understands the neighbors don't want that density and Pogue agreed. Pogue was concerned about using the floodplain ordinance to restrict density. Pogue referenced the City Engineer's recommendation in the Staff Report, page 13, **Floodplain Development Criteria, item b. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage. The City Engineer has reviewed the plans and believes that drainage swales should contain all water on the lot. The areas the swales should be placed are not noted as part of the present application. The previous 4 lot subdivision application had a 480 foot long road for access to all lots. This present application for one additional lot shows the driveway stopping at the edge of the building envelope for proposed Lot 15A. Portions of the driveway are approximately 2 feet below the base flood elevation.** Pogue stated it is significant to him that a property owner is not allowed to cause water to flow on adjacent lots; it is also significant that the LOMA was sought and obtained and has removed the proposed building envelope from the floodplain. Pogue referenced the Floodplain Development Criteria, item **f. The proposed use is compatible with existing development and development anticipated in the foreseeable future.** Pogue commented that the area is highly developed and the proposed development is not out of character. Item **b. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.** Pogue stated the opinion from the City Engineer was that has been met. Pogue referenced the criteria, which he thought was the most important to him, **a. There will be no danger to life and property due to**

increased flood heights or velocities or any materials may be swept on to other lands or downstream to the injury of others. Pogue stated if the owner is willing to sign away their rights, and that is their decision, then so be it. Pogue expressed concern about the impact upon the surrounding neighbors. Pogue referenced to the Fire's Chief's letter which Pogue wished that he was present to address.

Pogue was disturbed and troubled by the lack of access of this proposed lot during flood events, which would not so much affect proposed 15A lot, but the neighbors' issues of blowing embers previously mentioned. Pogue stated he was hesitant to burden the surrounding land owners with an increased risk which is based on the criteria for the safety for the surrounding property. Pogue was concerned about the impact on the surrounding neighbors; the lack of access during a flood and the issue of blowing embers if there were a fire and no fire protection provided by the City.

Marvel stated the bottom line for her on this application was the safety issue for the potential homeowner and the surrounding neighbors. She thought it would be irresponsible to approve a plat which would include a plat note saying the city may suspend any or all municipal services to this property during a natural disaster, such as a flood. Marvel stated she agreed with Scanlon regarding the emergency personnel watching from a distance due to no access. She stated since this seemed dangerous to everyone it didn't seem appropriate to approve this application.

Williamson asked in the last Planning & Zoning hearing that the Commission focus on certain standards. He stated the Findings of Fact and Conclusion of Law still need to be established by the Commission. Williamson suggested the Commission focus on the standards of the Floodplain Development Permit. He referenced page 13 of the Staff Report and said he would state which ones the prior Commission relied on; Floodplain Development Criteria, items a, b, d, e, f, g and h. Williamson asked the Commission to state what they thought about each item and why.

Zellers referred to item a. and stated she felt this preliminary plat increases the danger to the life and property for the reasons stated in the Staff Report.

Scanlon agreed with Zellers stating that they've seen pictures and heard testimonies from the surrounding neighbors. He stated he would make a condition to build the road up and for the road to be 26' wide so there could be emergency access to the property. Scanlon asked where all the water would go then; he stated it would be displacing a natural reservoir and to place a road there would move the water on to the adjacent properties.

Williamson stated the ordinance that is in effect at this time would prohibit any fill disassociated with the construction of the house, which is also an issue.

Marvel stated she agreed and mentioned that item b was addressed.

Scanlon asked Williamson if he agreed with Marvel's statement.

Pogue stated he thought that had been satisfied by the applicant. Zellers stated the separate portions of the driveway. Pogue asked Staff if that was correct. Pogue stated he was looking at Section 4.3.7 of the Staff Report where it states on page 6 under staff's comments; **The City**

Engineer believes drainage swales should contain any surface drainage on the subject property and not allow it to flow onto adjacent properties. A grading plan will be necessary to assure compliance. Pogue asked if that statement qualified, by the statement, except for portions of the driveway, approximately 2' below the base flood elevation, which may eventually impact adjacent properties.

Williamson stated he wasn't going to go into deliberation; that was for the Commission to start.

Pogue stated it was his opinion that the applicant has satisfied this.

Marvel referenced item c, **the proposed water supply and sanitation systems and the ability of these systems will prevent disease, contamination and unsanitary conditions.** Williamson stated that was not one of the items he asked them to focus on.

Zellers asked Williamson if he referenced item d, and Williamson replied he did because in the last hearing the Commission found non-compliance, and stated "we in the Staff Report found it to be not applicable".

Scanlon stated if he understood public comment correctly it seemed like the building envelope was rather oddly shaped and he couldn't see how a standard rectangular house would fit on that piece of property unless there was allowance for a percentage to be outside of the envelope. Williamson stated building envelopes traditionally eliminate the possibility of building outside the building envelope. Scanlon stated he didn't know what the CC&Rs said, but some subdivisions allow a certain percentage of the footprint to be outside of the building envelope. .

Marvel stated it does not meet the qualifications of item a due to the unsafe location.

Pogue asked if they were on item d; Zellers stated she thought they were on d.

Shay asked what their finding on item d was.

Zellers stated she had no comment on d.

Pogue stated he thought the applicant has attempted to place the building envelope in the area to minimize flood damage. Pogue felt it was in the area where LOMA has indicated it is not within the floodplain. Pogue stated he didn't think there was any indication in the record or Staff Report, whether or not there was standing ground water in the area of the proposed building envelope. Pogue mentioned there was public comment regarding flowing water.

Williamson said that item d talks about proposed facility and its content and stated the Commission was talking about the plat and suggested to simply draw a line for the lots. He stated there still needs to be a Flood Hazard Development Permit to consider the house if it was ever built. Williamson stated that this section focuses on the structure itself. He suggested to the Commission to go with Non Applicable (N/A) for item d.

Pogue thought the Commission agreed that no where on the lot is safe. Pogue stated the action of the requirement in item e stated; **the proposed location represents the safest location for**

the proposed use. In this case the applicant has drawn a creative looking building envelope to try and meet the LOMA defined area that is outside the floodplain. Pogue stated it is the safest location for the proposed use. Scanlon and Zellers concurred.

Marvel read the contents of item f; **the proposed use is compatible with existing development and development anticipated in the foreseeable future.** Marvel stated it is surrounded by single family homes.

Pogue thought the applicant has complied and the criteria are satisfied.

Marvel read the contents of item g; **the proposed use is harmonious and in accordance with the general objectives or any specific objective of the Comprehensive Plan.**

Zellers stated she disagreed with that and referenced **Section 2.5 Flood Hazard, I. Goal: the goal of this section is to reduce the potential threat to loss of life, limb or property and minimize public expenditures due to flooding.** She thought this didn't minimize public expenditures due to flooding.

Scanlon and Pogue concurred. Pogue stated his conclusion is based upon the lack of fire access. Marvel stated she agreed also.

Marvel read the contents of item h; **Safe access to the property shall be available in times of flood for ordinary and emergency vehicles.**

Pogue stated no, for the reasons that it does not meet that criteria.

Zellers and Scanlon concurred. Marvel stated she agreed and referenced Section 2.5 Flood Hazard, I. Goal.

Williamson stated the Commission has two applications; the Flood Hazard Development Permit and the Preliminary Plat. He suggested the Commission cover the Floodplain Development standards and make findings for that application, followed by a separate motion. Then make findings related to the Preliminary Plat, also followed by a motion. Williamson referenced to page 11 of the **Staff Report, Section 4.9 Floodplain. Section 4.9.1 Subdivisions within the floodplain shall comply with all provisions of Section 4.10, Flood Hazard Overlay District, of the Hailey Zoning Ordinance, as amended.** Williamson stated complying with the floodplain standards.

Zellers asked Williamson if they could do this in one motion. Williamson suggested making two separate motions.

Pogue made a motion for the Commission to deny the application for the Floodplain Development Permit because it does not comply with Section 4.10.7.2 requirements of the Hailey Zoning Ordinance, specifically items a, g and h. Zellers seconded, the motion passed unanimously.

Pogue made a motion for the Commission to deny the application for Preliminary Plat of Lot 15, Birdwood Subdivision because of the failure of the applicant to obtain the Floodplain Development Permit as required in Section 4.9.1. Scanlon seconded, the motion passed unanimously.

Western Supply Design Review

An application by John Slaughter for Design Review of a new building (Western Supply), located at 110 Otter Lane, Lot 1D, Block 2 in the airport West Phase II within the Service Commercial Industrial-Industrial (SCI-I). The applicant plans a two story building with 9,667 square feet of the first floor and 9,392 square feet on the second floor.

Jay Cone presented the application on behalf of Western Supply and Three R's, LLC, owners of Western Supply. Cone stated Western Supply is a plumbing wholesale supply company. They are proposing to construct a two story building, which will be used primarily as a warehouse. Cone stated on the first floor there will be some wholesale sales, a warehouse, and a showroom in the front. Cone stated the second floor will be entirely warehouse. Cone stated he would like to address the Staff Report and has noted his site plan changes, which he gave to the Commission reflecting the recommended conditions of approval listed in the staff report, for the record. Three R's, LLC owns Lot 1D, Block 2, of Airport West Subdivision, Phase II and is zoned SCI-I, Service Commercial Industrial-Industrial. Cone stated the uses listed in the SCI-I include warehouse and contractor sales; construction sales is exactly what this will be.

Cone stated on the site plan the main road is Aviation Drive. As stated in the SCI-I district, businesses, who need substantial storage area, are encouraged to establish themselves in the SCI-I district. Cone stated the majority of the lot will be exterior material storage area. Cone stated the storage area will be screened by a fence that would connect to the building on the northeast corner and the southeast corner, going around the entire property and tying to the Friedman Airport fence. The building at the front will have a main entrance to the north. There will be additional parking to the back of the building, which is meant to provide access to the wholesale sales room, e in the middle of the first floor. There will be a third parking area which will be used primarily by the employees. As required by the ordinance, there have been two loading spaces provided, and a total parking load of twenty spaces.

Cone mentioned that Airport West was platted with several easements. He pointed out along the front there is a ten foot wide public utility snow storage and landscape easement. Sidewalks are installed per the subdivision agreement. Cone stated there is a 10' setback, which is required in this zone, that will be extensively landscaped. Cone showed the 10' setback on both Lear and Otter Lanes. He stated there is a 26' wide lane easement on the north and south of the property, 13' of which is included in the subject property's boundary.. He stated the parking started at the 13' point complying with the setbacks. Cone referred to vehicular circulation and stated trucks and public access can occur from Otter or Lear Lane through two different entrances, providing ample space for large trucks. All three adjoining properties share the same access roads. Cone stated that Robrahn has recommended possible pedestrian access to the airport be considered. Cone stated he is currently working with Robrahn and Williamson on that issue, but would not address that at this time. The private snow storage has not changed and Cone stated he would continue to work on that with Robrahn.

Cone stated he would like to address the five items on the Staff Report that refer to the site plan.

There is no fence on the west; the building provides screening for the service yard. There will be a curb built with plantings added around the existing transformer. Cone stated when calculating the snow storage areas he did not include the two loading spaces, which are 776 square feet because he assumed that was covered and wouldn't be plowed. Cone stated it is requested by staff for the square footage to be included in the snow storage calculations. Cone mentioned the new site plan, distributed to the Commission, includes the additional 776 sq. ft. The west side is the primary elevation; there will be landscaping, tall elements, trees, in-filled with sod lawn, not shrubs along the front of the building. There will be parking at the north and south with heated paving. He stated to provide screening for vehicles he has provided shrubs and trees and has tried not to hide the building. The lawn will be irrigated. Vast majority of the landscaping will be drought tolerant. The only species that will be used that are not drought tolerant will be some Swedish Aspen. There will be professional maintenance provided for the duration of occupancy.

Cone addressed the building itself, which is over 150' long, and stated he has used different materials to show changes in depth and in roof height. There will be trim bands, a steel pergola and steel awnings. These elements continue on the north and south side of the building. The Airport West Design Review asked for them to change the south elevation. Cone identified the materials and colors and noted the window frames will be white. The building has a flat roof with no drip lines on the building; water will flow into dry wells. There will be solar access in the winter. Cone stated it is an ICF building with foam blocks, making it 36% above compliance. The windows will be double glazed 40-50 on the roof, which will be heated by a radiant system. The building is over 53' wide. He noted that there will be a couple of air conditioning units placed on the roof and said they will be screened. The height of the building is 35', 33' 6" and the lowest point is 34' 6". Cone referenced to the City Engineer's comments in the Staff Report; he has asked for a concrete gutter detail, which will be forthcoming and agreed to have that as a condition of approval. The City's Engineer would also like a final grading plan; sewer and water connections need to be shown on the plans and if the building will have fire sprinklers, he will need the details on the water line into the building. Cone stated he would certainly provide this for him. Cone appreciated the suggestions of combining the dry wells into one to save on inspection and inventory fees and will try to do that. Cone stated he is aware that signs are under a separate application which will be filed with the city. Cone understood the change of occupancy cannot only change the code requirements of the building but could also change the parking requirements. Cone stated he tried to cover all the bases and hoped that he hadn't missed anything.

Pogue recused himself because the applicant is represented by a member of his firm.

Platt stated Cone seems to have correctly covered all of the conditions listed in the report.

Robrahn stated Cone covered some of their conditions of approval and would be reflected in the Findings of Fact.

Scanlon said he liked the articulation and the mixed materials proposed. Scanlon stated he was distressed with the new drawing submitted; he believed it went a little too far. Scanlon stated he

didn't care for the steel wall on the south elevation. Cone replied they primarily put it there at Airport West's request, but they could reduce the height. Scanlon stated it doubled the size of the elevation and Cone agreed. Scanlon stated on the south elevation it does not show any steel siding around the corner. He noted is shown as stucco on the new drawing submitted that evening. Cone stated it is definitely steel and that was a drafting error.

Scanlon referred to the west elevation and stated it seemed larger than the new drawing submitted. The new elevation showed fairly significant differences in window sizes. Scanlon wondered with the new elevations, submitted that evening, depicted smaller windows; they seemed to be 25 percent smaller. He wanted to know if there was a guarantee that they would have larger windows. Cone stated the drawing was not to scale but was proportional. Scanlon wanted to know which drawing was accurate. Cone presented a watercolor drawing of the building and referred to the first and second story windows and stated they will remain at 4' square.

Scanlon referred to the pergola with elements on the top of the band which is not shown on the new drawing and wondered if this will be shown; Cone replied it will and said there will be knee braces. Scanlon stated in the presentation Cone called out both fabric and steel and wanted to know what the specific materials proposed. Cone replied the corrugated metal is steel and all other awnings will be fabric. Scanlon asked what for the gage of the steel on the man guard. Scanlon asked if there will be tin canning or a rib. Cone stated there are panel joints every 3' that are all flat and will be supported. Scanlon asked if the corrugated steel siding would be sealed to keep the color or would it rust eventually. Cone stated it will stay gray for a long time because it is a different type of galvanizing process.

Scanlon questioned the lighting fixtures on the east elevation. Scanlon asked Cone why he picked the fixture which looked like a small exhaust hood. He asked what color it would be and Cone replied black. Scanlon asked if all the other light fixtures will be white including the Gooseneck. Cone replied the Gooseneck will be dark blue. Scanlon asked if the pavers will be heated electrically or with hot water. Cone replied the pavers will be heated with hot water and stated there is a mechanical room on the second floor.

Marvel questioned the window proportion on the south side. Cone stated every window will be changed to 2x6. Marvel stated the airport is above the property and will be viewing the top of the building and was concerned about the screening of the air conditioning units. She pointed out that Western Supply backs up to the Airport's property. There is a chain link fence, which is open. She suggested for a solid fence rather than chain link to shield the outside storage at the back of the property. Cone stated they weren't planning on putting a fence there; they were going to butt up against the existing fence. Marvel suggested that a solid fence would be good because all the storage can be seen from the airport.

Scanlon asked if it could be filled with vinyl slates. Marvel replied no; the material should be similar to the fencing material proposed for the perimeter fence shown on the site plans. Marvel stated it has not been approved to use the fill for the chain link fence even though the airport uses the chain link fencing. She thought there really needed to be a solid fence.

Scanlon referred to the area above the overhead door and asked Cone if he was going to load it with hoisters. Cone confirmed that it would be. Scanlon asked if Cone was calling it a temporary guard rail. Cone replied yes. Scanlon asked Cone if he could recall what section of the IBC that was. Scanlon stated he had not seen a temporary guard rail addressed. Cone stated maybe temporary is the wrong word and stated there will be a removable guard rail which could be removed for fork lift access. Scanlon asked if the guard rail would be there for safety purposes and Cone replied yes and also for ventilation.

Public Hearing Opened

Gene Corby, 1730 Laurelwood, stated he was representing the owners of 1515 Colibri, which is across Otter Lane. The owner was concerned about the fencing that shielded the yard and asked if it was possible that there be some taller screening with trees. From their second floor they can see down into the yard and they would like the project to incorporate the Swedish Aspens that were mentioned. They would also like for the lot to be paved to prevent any dust.

Pat Purdy, 3945 N. Burkside Lane in Boise, representing Western Supply, stated they are willing to work with the city on this project and are trying to be a good neighbor. He stated they understand that the city wanted to upgrade the look of the area and they agreed with that. They would be happy to increase the size of the windows. They will do the best they can to accommodate the screening issues. The company will provide some important services and materials to support the City's and County's needs, such as: plumbing, irrigation, heating, and ventilating products. He thought Cone has done an excellent job.

Public Hearing Closed

Cone responded by stating the entire yard will be paved. The fence will be the same metal mat gray around both sides. He stated there is no room for a fence along the roadway due to vegetation. In regards to Corby's request, Cone said they are required by the city to screen their storage, but to screen their screen seemed a bit redundant regarding the request of their neighbor. He believed that they have presented a nice appearance.

Zellers liked it; she thought it was a nice building and stated that Cone did a good job.

Scanlon referred to the staff comment on softening the fence line with some shrubs; he asked Cone if there was room for shrubs. Cone replied there is not. Scanlon asked staff how they would expect anything to survive winter, considering it was a snow storage area.

Platt stated the way the snow storage is presently being presented; it is not adjacent to the perimeter fence, but towards the back.

Marvel said she did not fully understand and Zellers agreed.

Cone stated what makes it confusing is the lot and the way it was platted. Cone pointed to an area depicted as private snow storage on the site plane. The required snow storage areas are in the yard as well as the corners of the property. He stated the snow storage on the northeast and southeast are for private snow storage for the adjacent Lanes. He pointed out they are providing

required landscaping in the required areas. The remaining required areas are within their screening fence.

Scanlon referred to the Staff Report on page 8. The staff commented, “the proposed fencing material around the storage yard is proposed to be corrugated steel with a grey finish, erected in a post and rail fashion. The Commission may choose to require the integration of landscaping along the fence perimeter to the north and south, in order to soften the visual impact.” Scanlon asked Platt if he misunderstood her intentions and asked if she was referring to the fence along Lear and Otter Lanes, not inside the property but outside the property, which she would like to maybe soften. Platt replied yes, it is a tall and long 8’ high fence and it may be more visually appealing if it was broken up with additional landscaping. She said it was just a recommendation for them to consider.

Scanlon asked Cone how he felt about that. Cone replied that it would be screening their screen. He said their fence is required as a screen and now they want to screen their screen with trees; it seemed a little redundant.

Marvel stated the screening fence is along the property line and there is not space outside that for planting. Cone replied correct.

Zellers said she was totally confused.

Robrahn stated that was just a suggestion and wasn’t carried over as a condition of approval. She said when the staff report was written the site plan was different, showing the fence being a little bit farther in.

Robrahn asked for clarification regarding Scanlon’s requested changes to the south elevation. She asked what changes he expected. Scanlon stated according to Airport West they wanted to see a solid wall underneath the overshoot storage area; originally it was all open. He stated he was just commenting on the visual how the metal siding doubles the mass of the elevation. Cone pointed out the columns for the roof with the wall on one side. Robrahn clarified, so there will be an 8’ wall. She asked about the corrugated metal around the door. Cone stated that was a mistake on his part showing stucco when in fact it should be steel siding. Robrahn asked if the only change would be the 8’ fence. Marvel added also the proportions of the windows.

Robrahn wanted clarification regarding the electric transformer. She asked if it is shown with a fence around it. Cone pointed out how the fence would be placed. Robrahn stated that it is a requirement for the transformer to be shielded. Cone stated his landscape designer suggested that they keep the landscaping pruned to keep them low. Cone stated he would be more than happy to change the screening to Evergreens.

Marvel would like to include solid fencing facing the airport.

Robrahn asked if they would like to add, as a condition of approval, a solid fence in front of the chain link fence that faces the airport.

Marvel suggested they require that now. Scanlon agreed with Marvel and thought it was a good point. He was concerned about encumbering the owner with the additional expense and asked if a different type of fence could be used instead of the corrugated metal which might be less expensive, but compatible.

Marvel stated that would certainly be acceptable to her. Scanlon asked Cone if he would be willing to work with staff on selecting an appropriate fencing material for the fence along the property line shared by the Airport. Cone stated he would definitely be willing to work with staff. Cone stated he did not know how Friedman would look at the fence; surely TSA or someone will have something to say if the fence is a security fence for the airport. Cone stated there might need to be some intermediate process where they might need some advice from the airport in regards to the fence. Cone stated he appreciated the sensitivity to cost and if they could find something acceptable that would be great. Robrahn stated they could not make a condition that requires the approval of a third party. Robrahn suggested the Commission make the condition and if there is a security issue with the airport they will respond accordingly. Scanlon suggested wording it in that way. Robrahn stated the condition could not be worded in that way. She suggested the condition of approval be stated in the following manner: "solid fencing shall be placed adjacent to the chain link fence." If for some reason that would be prohibited by the airport she would have that recorded in the file.

Marvel stated that sounds acceptable.

Scanlon moved to approve the Design Review application for Western Supply Blue Team building, located at 110 Otter Lane, Lot 1D, Block 2 in the Airport West Phase II, within the Service Commercial Industrial-Industrial (SCI-I) zone based upon compliance with life safety, water and sewer issues, the standards of evaluation as set forth in the Hailey Comprehensive Plan and contingent upon meeting conditions a through o; with the addition of condition p for an additional screened fence to be built along the common property line of Friedman Airport, based upon approval from staff.

Robrahn stated changing the landscaping around the transformer to Evergreens.

Scanlon stated with condition q for changing the landscaping around the transformer to Evergreens.

Zellers seconded with an **amendment that this application has also met the Design Review Guidelines for the City of Hailey and adding condition r to enlarge the windows by six inches.** Scanlon second; the amendment passed unanimously.

Robrahn suggested adding the loading area fence shall be a maximum of 8 feet in height.

Scanlon moved, amending the motion for the architect to add 6" to the windows on the second story, as discussed as condition r and condition s, to eliminate the metal siding on the south elevation making it an 8 foot tall wall on the south end of the delivery canopy. Zellers seconded; the amendment passed unanimously.

Marvel referred to the original motion; Zellers seconded; the motion passed unanimously.

Approval of Findings of Fact:

There were none.

Commission Reports:

There were none.

Staff Reports:

There were none.

Adjourn:

Zellers moved to adjourn at 9:40 p.m. Pogue seconded, the motion passed.