

**MINUTES OF THE SPECIAL MEETING  
OF THE HAILEY PLANNING AND ZONING COMMISSION  
HELD THURSDAY, September 28, 2006  
IN THE UPSTAIRS MEETING ROOM WITHIN HAILEY CITY HALL**

The special meeting of the Hailey Planning and Zoning Commission was called to order at 6:30 p.m. by Commission Chair Kristin Anderson. Commissioners Trent Jones, Stefanie Marvel, and Nancy Linscott were present. Commissioner Elizabeth Zellers was excused. Staff present included City Planner Diane Shay, City Attorney Ned Williamson and Planning Assistant Tara Hyde.

**PUBLIC HEARINGS**

**PROPOSED AMENDMENTS TO HAILEY SUBDIVISION ORDINANCE #821**

Proposed amendments to the Hailey Subdivision Ordinance, amending various sections including but not limited to:

- Section 1 – Definitions: revising and adding new definitions
- Section 2 – Procedure: clarifying procedures
- Section 4 – Development Standards: revising and adding new standards of evaluation
- Section 5 – Improvements Required: clarifying and adding improvements
- Section 8 – Townhouses: adding standards
- Section 9 – Street Vacations: clarifying procedures
- Section 11 – Exceptions: clarifying procedures
- Section 12 – Appeals & Mediation: clarifying procedures
- Section 13 – Enforcement: clarifying procedures
- Section 14 – Violation & Penalty: clarifying procedures
- Section 15 – Amendments: clarifying procedures

Williamson gave an overview of additional changes proposed to the various sections. Section 1.1 was added to address the interpretation of terms or words used in the Ordinance. A definition for “Developer” was added and the definition for “Owner” was removed. Williamson explained that the two words were previously used interchangeably and this will give clarity. Jones asked why the City would allow a developer, who may not have a monetary interest in a property, to bring forth an application for subdivision instead of the property owner. Williamson explained that it is very standard and many land deals would not happen and land might not develop as a municipality hoped. He stated it was more of a public policy.

Williamson advised that Section 2 has been changed from “Procedure” to “Administration”, with “Appeals” and “Mediation” added to the section. Section 3 now contains “Procedure” information.

There was discussion, related to Section 3.1, with Williamson explaining that a date of certification is the date the applicant has vested rights. Applications will be required to be complete before certification happens.

There was discussion about condominium final plat applications, as they relate to legal descriptions, with Williamson referencing the Copper Ranch application for final plat. Final plat for Copper Ranch was requested before any of the buildings were constructed. He believed traditional law allowed that a condominium plat could not be granted until the sheetrock was up, to delineate airspace. However, State law allows for final plat under the following four scenarios:

- Before construction
- Final plat for condominiumization when the foundation is started.
- With a 3-D survey
- With inclusion of sheetrock and handrails to address life/safety issues.

Discussion continued about when the Commission wished to see Final Plat applications, with Williamson explaining that banks and other entities associated with new construction typically require a legal description, which can make financing difficult if there is not a legal description of the condominium until final plat which is when the legal description is revised to what is actual. He stated the Planning Director believed it should tie to the foundation. Anderson thought final plat should be done after a building receives a certificate of occupancy, and added that any buyer should be aware of what they are getting in relation to a condominium. Marvel did not believe a final plat should be allowed before anything was built. Williamson explained clarity is needed in the ordinance and asked the Commission to come to a consensus on when they would prefer to see the final plat. After further discussion the Commission agreed it should be tied to the foundation.

Jones suggested minor formatting changes for ease in reading.

Williamson then addressed Section 4, Development Standards, stating that 4.0.1 language of the “general vicinity” addressed character in comparison with a broader area. Section 4.0.2, language of the “nearby vicinity” addressed areas close to the subdivision. He clarified that in 4.0.1, “existing character” is how a development turned out and “intended character” was addressed through the CCRs of a subdivision.

There was discussion about the “lots, streets and other improvements” language in 4.0.1 and 4.0.2, with Commission wondering if it should read “and/or”. Williamson explained the burden fell to the applicant to prove a development would fit in. He believed the “and” language as proposed allowed for more enforcement.

Marvel believed the language was very subjective in 4.0.1, wondering what constituted “harmonious and appropriate”, and expressed concern about a developer massaging the language to get what they want.

Jones believed that a developer should be held to a high standard and prove why a development should be accepted by the City.

Linscott agreed with both Marvel and Jones’s comments.

Anderson expressed concern that the language in Section 4.0.1 required a developer to maintain the status quo.

Jones asked what the word “damage” encompassed; emotional, physical, financial damage? Williams said it could be all of the above.

Jones referenced an application that had previously been heard by the Commission, wondering if this language would have headed off the scenario taking place now. Williamson advised the Commission that the application should not be discussed at this point because of its status. Williamson said it was incumbent on the City to place the burden on the applicant to prove the application would not place undue burden on public services and that the Commission should address that issue with each application.

Marvel suggested removing the word “general” in 4.0.1, believing it may tighten up the ordinance. Williamson advised that some of the language was very consistent with the Conditional Use Permit standards and that the verbiage used comes from the Local Planning Act.

Linscott supported the goal but believed the language to be nebulous and needed to be defined in a more localized sense. She suggested changing the word “vicinity” to “within the City of Hailey” or “neighborhood”. She also suggested using the verbiage “surrounding neighborhood” to preface “damage” in Section 4.0.2.

Jones stated his preference was to keep the language more broad. He stated the Commission was talking about more than just design of a subdivision and that an applicant should prove the subdivision is a quality one.

There was further discussion related to use of the word “nuisance” in 4.0.2 with Williamson explaining that Idaho Law recognized “nuisance” as more of a health hazard. Jones suggested the addition of the verbiage “significant adverse impact” as is used in the County ordinance. Williamson said the word “nuisance” added objectivity and stated his preference to leave it in.

Anderson opened the public hearing.

Peter Lobb, 403 E. Carbonate Street, believed the Commission would be deciding what is a hazard/nuisance at a hearing and that if the decision was contested, a judge would then decide.

Williamson said that with this standard the Commission would have to make findings of fact and if the findings were within the bounds of the Commission’s discretion, the findings should be upheld.

Williamson addressed additional changes to the document. Section 4.1.4 has added language addressing traffic calming measures as approved by the City Engineer. Section 4.1.10.3 addresses easements. Section 4.2.1 addresses the need for sidewalks on both sides of a public street with sidewalk width required at six (6) feet, and on one side of a private street with sidewalk width required of five (5) feet. It also addresses material construction of sidewalks.

Section 4.2.3 addresses in-lieu contributions for sidewalks in residential and clarifies that in-lieu contributions cannot be done in Business, Limited Business, Neighborhood Business, Technological Industry or Service Commercial Industrial zone districts.

Linscott suggested changing the word “Parcel” to “Plat” in 4.1.10.3.

Anderson expressed concern with the alternative material language in 4.2.1. She suggested adding language that material should be superior instead of alternative to avoid asphalt sidewalks. She believed asphalt was fine for pathways and bike paths, but not sidewalks. There was additional discussion related to other sidewalk materials.

Linscott addressed merchant wares located on sidewalks; Williamson advised that was not a subdivision issue.

Marvel stated she preferred to see sidewalks constructed versus collection of an in-lieu fee, stating that eventually the sidewalks would connect.

Anderson added she liked the language requiring an in-lieu contribution of 150%, believing people may choose to build the sidewalk instead of paying the inflated in-lieu contribution.

Williamson stated a new section 4.5.1.1 was added addressing large lot size with relation to lot arrangement to allow for large block plats.

Linscott suggested removing the word “latest” from section 4.8.2.5 believing it redundant when addressing Federal, State and local regulations.

Williamson advised of the addition of the Neighborhood Business District to section 4.11.6.2 dealing with Community Housing. Language added to section 5.1 will now bring the section into LLUPA compliance. He stated the addition of section 8.8 came about to address the Fire Chief’s concerns with small setbacks.

Anderson closed the public hearing.

**Jones moved to recommend approval of the amendments to the Subdivision Ordinance with inclusion of the changes discussed tonight, finding conformance to the Comprehensive Plan, specifically Sections 5.0-Land Use, 9.0-Public Facilities, Utilities and Services, 10.0-Transportation and Circulation, and 12.0-Growth Management.** Marvel seconded and the motion carried unanimously.

## **PROPOSED AMENDMENTS TO HAILEY MUNICIPAL CODE, TITLE 12 - ADDING NEW CHAPTER 12.18 - HAILEY TREE ORDINANCE**

Proposed amendments to Hailey Municipal Code, Title 12, Streets, Sidewalks and Public Places, adopting a new chapter 12.18, Hailey Tree Ordinance. The ordinance would set forth definitions, establish a Community Forest Committee, set forth standards and require permits for

removal, planting and maintenance of public trees, set forth adjacent property owner responsibilities, declare public nuisances related to public trees and establish procedures.

Williamson gave an overview of how the Tree Ordinance came about. Debra Vignes was hired to research protection of trees on public property versus private property. The recommendation came back to regulate only trees in the public right-of-way. The proposed ordinance does not regulate trees on private property.

Marvel was concerned that verbiage requiring a permit from the City to address pruning of trees in the City right-of-way might be overly restrictive.

Linscott believed the proposed ordinance was more heavy-handed than necessary. She stated her belief that there are many more trees in the valley than there were 100 years ago.

Anderson opened the public hearing.

Peter Lobb, 403 E. Carbonate, reminded all in attendance of the public outcry that took place when the private trees were removed from the Forest Service block. He suggested the City listen to the public when addressing this ordinance.

Marvel stated she supports a tree ordinance to encourage tree lined streets.

Lobb said that with increased density, more trees will be cut.

Linscott stated her belief that when trees are taken out and buildings built, more trees would be planted around those buildings.

Jones suggested the process as presented appeared to be quite cumbersome if someone just needed to trim a limb from a tree. He believed the permit process may be excessive.

Anderson reminded the Commission they were just to look at the document and add comments for submission to the Council because the ordinance was not a part of the Zoning Ordinance, but would instead be administered through the Municipal Code.

Marvel stated she has been asked why private trees were not included in the ordinance.

Linscott and Jones both suggested the Council may wish to give further consideration to the requirements addressing pruning of public trees.

Anderson closed the public hearing.

**Jones moved to state that the Planning and Zoning Commission was in general agreement that the ordinance addressing trees in the public right-of-way was good, however they were disappointed that it did not address trees on private property. They also would like to add the suggestion that the Council review and modify the language addressing pruning of the public right-of-way trees. Marvel seconded for discussion.**

Linscott stated she does not agree with regulation of private trees.

Marvel stated she would prefer to see language addressing preservation of large trees on private land related to certain specimen trees.

Jones believed it important to identify and keep legacy trees. He suggested giving incentives through the ordinance to address legacy trees.

Linscott suggested the Commission make it clear that they put a high value on legacy trees.

There was discussion related to the possibility of allowing wiggle room through the setbacks for construction on a lot if that lot contained legacy trees. Jones suggested the Council expand the ordinance to encompass that idea.

Linscott suggested the need for public outreach was important for education of the public. Anderson agreed and suggested a policy be added to create public awareness.

The vote was taken on the motion with all in favor of forwarding to the Council with the changes discussed.

#### **FUTURE ACQUISITIONS MAP (FAM)**

Proposed amendments to the Hailey Future Acquisition Map, adding certain properties and removing certain properties already acquired by the City, pursuant to Article V-A of the Hailey Zoning Ordinance and Idaho Code §67-6517.

Shay reminded the Commission that the FAM had been worked on for use as a planning tool a couple of years ago. This map is an update to include what changes have transpired since that time, mostly as it relates to City owned land. She explained the color designations on the map and how they related to land acquisition.

Shay advised that “wish list” property outside of the City limits had been removed from the map. It was determined that any property outside the City limits that was needed by the City would be handled through annexation agreements. Therefore certain parcels of land, mainly for snow storage areas, had been deleted from this map.

Parcel “O” in Woodside is now owned by the City and the map now reflects that change.

River Street Extension has not been added to the map, however it is almost complete.

Regarding the highlighting of airport property, Shay advised that some of the areas are owned in whole or in part by the City.

She advised the southern most Woodside triangle had been colored for future needs.

Shay advised that a draft ordinance for adoption of FAM was included in the Commission's packet. Because there are no standards of evaluation or criteria to evaluate, she suggested the Commission may wish to recommend that the Council adopt, by ordinance, the map as presented.

Anderson opened the public hearing.

There being no comments, Anderson closed the public hearing.

**Linscott moved to recommend to the Council adoption of the map, by ordinance, as presented.** Marvel seconded and the motion carried unanimously.

### **FINDINGS OF FACT**

Block 16 and Block 21, Hailey Townsite Rezone- **Marvel moved to approve as written,** Jones seconded and the motion carried with Linscott abstaining.

Block 39, Hailey Townsite Rezone- **Jones moved to approve as written,** Marvel seconded and the motion carried with Linscott abstaining.

Block 125, Hailey Townsite Rezone- **Jones moved to approve as written,** Linscott seconded and the motion carried unanimously.

### **MINUTES**

September 13, 2006- **Marvel moved to approve as written,** Jones seconded and the motion carried unanimously.

September 18, 2006- **Marvel moved to approve as written,** Linscott seconded and the motion carried with Jones abstaining.

### **COMMISSION REPORTS**

Anderson advised she was attending the Sustainability Conference, currently taking place, and said the speakers were very good.

**Jones moved to adjourn,** Linscott seconded and the motion carried unanimously. The meeting adjourned at 9:05 p.m.