

**Minutes of the  
Hailey Planning & Zoning Commission  
March 16, 2009**

The meeting was called to order at 6:30 p.m. by Commission Chair Owen Scanlon. Commissioners present were Geoff Moore, Mark Johnstone, Mike Pogue, and David Lloyd. Staff present included City Planner Mariel Platt and Planning Assistant Becky Mead.

**Consent Agenda**

- a. Approval of Minutes – **March 2, 2009**
- b. Approval of Findings of Fact – **Airport Commerce Bldg. Design Review Modifications**

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

**New Business**

**AMENDMENT TO THE ZONE DISTRICT MAP**

A public hearing upon an application by the Idaho Army National Guard for an amendment to the zone district map for the City of Hailey. The application would change the zoning of Lots 8-12 and 20-24, Block 125, Hailey Townsite and north half of vacated Cedar Street (311 Cedar St. East) from General Residential (GR) to Limited Business (LB). The purpose of the Limited Business district is to provide areas for a wide range of residential uses, restricted business uses, and medical facilities. The LB District is intended to allow for commercial uses that would not detract from the established downtown retail businesses, hence general retail is not allowed.

Planner Platt pointed out the property on the zoning map. She noted that this rezone would allow for the Armory to receive a Conditional Use Permit for freestanding towers. The current use is a public use which is a non-conforming use for general residential zoning and has been that way since 1973. She stated with the rezone would not change the use to conforming; however, these applications being heard tonight would not increase the degree of non-conformity of the current use and the rezone would allow the Armory to apply for a Condition Use Permit for a public use, if, in the future, there was a desire to expand the use of the building, thereby increasing the degree of non-conformity.

**Lt. Colonel Eugene Gussenhoven** of the Idaho Army National Guard stated they wanted to remodel some of the building and dress up the area a bit. He said they want to bring the property up to the standard of condition for Hailey. He explained the zone change would allow for them to use the wireless systems they currently have.

Commissioner Moore asked what the applicant has been using to transmit and receive messages. Gussenhoven stated it is an antenna, a Harris Radio, which is a HF radio that they use to communicate to other Armories across the state of Idaho and for public and national emergencies. He said they have discovered a bi-pole antenna works best. He explained it is two masks which allow them to talk five feet from the building to as far as New York City and Washington, D.C.

Commissioner Johnstone was curious why the zone change and the wireless permit were not submitted with the design review. Gussenhoven stated they are learning the process of the planning department and they were also aware that they needed to do separate applications. Commissioner Johnstone stated given the age of the facility and the problems that they have experienced he asked if it was cost effective to remodel. Gussenhoven replied yes it is, they are paying 50 percent of the cost to replace the facility. He explained that the state and government have already funded the project. This will not only be for the Armory but for the community also.

Commissioners Pogue and Lloyd had no comments.

Commissioner Scanlon stated Planner Platt said changing the zoning from General Residential to Limited Business would not increase the non-conforming use. Planner Platt elaborated, stating in Limited Business they would be able to obtain a Conditional Use Permit for their current use, if they increased the use of the building as a public use in the future, which would trigger an increase in the degree of non-conformity. Commissioner Scanlon stated the Conditional Use Permit for a public use brings them closer to conforming. Planner Platt said without the conditional use permit it is non-conforming, but that they are not required to have a Conditional Use Permit for the use of the building at this time, only for the freestanding towers. Commissioner Scanlon asked if these towers would increase the non-conformity of the building. Planner Platt stated no, it does not because they are obtaining a permit for the freestanding wireless tower, which is conforming to the LB standards. If it is not rezoned to LB, or if they don't obtain a Conditional Use Permit, it would not be conforming and would be considered to be increasing the degree of non-conformity.

### **Public Hearing Opened**

**Linda Havvik**, 608 Third Ave South stated she lived three houses north of the Armory on Third Avenue. She expressed concern if the use of the facility changing, if the Armory ever moved. She is supportive of the Armory providing several activities for the community. She said in the past there have been private parties going into all hours of the night.

**Peter Lobb**, 403 Carbonate St. East, asked if there were anything they could put into the development agreement to return the zoning back to General Residential if the Armory should ever move.

### **Public Hearing Closed**

Commissioner Lloyd was in favor of the development agreement. His initial concerns were health concerns for the neighbors. He asked the Commission if they had any ideas regarding a development agreement.

Commissioner Pogue stated his comments would be along the lines of what Lobb was speaking about. He stated if the use should ever change the City should revert the zoning of the property back to General Residential from Limited Business zoning. He asked what they could do to allow the tower within the General Residential district. Planner Platt stated it would not be allowed.

Planner Platt stated that a development agreement could accommodate Pogue's request to revert back to General Residential, if the Armory ever ceased to exist.

Commissioner Johnstone said he loves having the National Guard in Hailey and it also seems like a community center because they allow for our community to use it so many times during the year. He said if the Armory could be relocated in the Light Industrial area, then their old building could be used as a community center, but after hearing what Planner Platt had stated that would not be so easy. Commissioner Johnstone asked whether the City and State had originally planned for this property to be used as an Armory. Planner Platt stated she has not been able to locate any specific documents stating that, but does know that the Armory has been there since 1973, which was most likely before the General Residential zoning use restrictions were in place for this property. Commissioner Johnstone also asked with a development agreement like this, whose law supersedes whose. Planner Platt stated they would have to be approved by both parties, in order for the rezone to occur and a development agreement was not something that the state could override or waive, if required by the City. Commissioner Johnstone was also in agreement with the other Commissioners as far as changing the zoning back to General Residential, if the Armory ever ceased its operations at this location.

Planner Platt mentioned as an alternative development agreement, to the property reverting back to General Residential, all uses, aside from the permitted "government offices and public administration" and the conditional uses of a "public use, public service, and public utility facility," and "freestanding tower" in the Limited Business district, could be prohibited. She reminded the Commission that the property is jointly owned by the city and the state of Idaho and it may be in the City's best interest to not limit or restrict its ability to conduct these types of public uses on its own property.

Commissioner Moore was also in agreement with keeping the zoning General Residential if the Armory should ever move from that location.

Commissioner Scanlon stated he agreed with Commissioner Moore's comments. He said he was in favor of the rezone because of the purpose of the Armory and if anyone else were to move there the zoning should be returned to General Residential.

**Commissioner Pogue moved to recommend to the City Council the proposed amendment to the Hailey Zoning Map for this application to be granted to change from General Residential (GR) to Limited Business (LB) with a Development Agreement stating if the Armory should ever relocate that the zoning would go back to General Residential; the proposed amendment is in accordance with the Comprehensive Plan; essential public facilities and services are available to support the full range of proposed uses without creating excessive additional requirements at public cost for the public facilities and services; the proposed uses are compatible with the surrounding area; and the proposed amendment will promote the public health, safety and general welfare. Commissioner Moore seconded, the motion passed unanimously.**

## WIRELESS PERMIT APPLICATION

A public hearing upon applications by Idaho Army National Guard for a **Wireless Permit**, **Conditional Use Permit**, and **Design Review** of dual 35 foot towers, located on Lots 8-12, 20-24, Block 125, Hailey Townsite and the north half of vacated Cedar Street (311 Cedar Street East), within the General Residential (GR) District and Hailey Townsite Overlay. A Rezone Application has concurrently been submitted for a zone change from GR to Limited Business (LB). Freestanding towers are a permitted conditional use within the LB District, with approval of a Conditional Use Permit.

Planner Platt stated they needed to look at the three applications and make three separate motions. She said the Commission may speak about the applications as one.

Planner Platt stated the applicant proposes freestanding, dual 35 foot wireless towers. She said the applicant has concurrently submitted a zone change application to change the zoning from General Residential to Limited Business. She noted that freestanding towers are a conditional use within the Limited Business district. She mentioned there was an error under the suggested conditions, under the Design Review section; (b) is listed twice. The first (b) should actually be placed under the Wireless Permit application's suggested conditions. She showed new pictures of the monopole design. She said there is some potential issues with public safety that the Fire Department has expressed; however, the Fire Chief has been on vacation, but she has been coordinating with the Mike Baladge during his absence. She said she has included in the suggested conditions that signage be installed and that the southern most tower be secured from public access, but open to emergency services, as determined by the Fire Chief.

Gussenhoven stated the poles will be non-climbing poles. Unfortunately the meters are located in the same location, so securing the southernmost tower within a fence may be problematic.

Commissioner Scanlon asked if the southernmost pole would be behind a fence. Gussenhoven stated it would not.

Commissioner Pogue asked why the tower was necessary. Gussenhoven explained for communication purposes and it would also provide clearance on the top of the building to transmit their radio signals. He said they cannot remote their signal to any other tower. Commissioner Pogue asked if this could be co-located to some other existing tower. Gussenhoven stated no; each Armory has to have some kind of communication system on-site, to communicate with the Department of Defense, Homeland Security, State Emergency Response, if there were some kind of war or worse. Commissioner Pogue was concerned about radioactivity. Gussenhoven stated the frequency bands they use for military use are predominately low and they are not using microwave antennas.

Commissioner Johnstone asked how the locations of the poles were determined. Gussenhoven stated it was done by a radio engineer, which they call a frequency manager and he searches for the best orientation to allow for the broadest range of signals. Commissioner Johnstone referenced that the applicant should make a good faith effort to allow other wireless carriers to co-locate on the proposed tower when economically feasible and asked how likely that was to happen. Gussenhoven stated this could not happen with commercial or private agencies because they have very strict rules; it would be for government agencies only. He said they do not have a

problem working something out with the fire or police departments as long as the frequencies would not conflict with each other.

Commissioner Moore asked about the existing antenna and how high the flag pole was. Gussenhoven stated he believed it was about 35 feet.

Commissioner Lloyd said the staff report stated the proposed tower would not create any noise. Gussenhoven stated that is correct.

Commissioner Scanlon referred to the existing system and asked if it worked. Gussenhoven stated it does and the problem with the antenna is it is an inch and a half wire that is damaged; Scanlon asked how tall it was and Gussenhoven stated it is about 30 feet. Commissioner Scanlon asked if there was any way to co-locate their tower. Gussenhoven explained what happens is the signal dissipates after 300 feet. Scanlon was trying to think of a way to have one tower instead of two. Gussenhoven said it is one antenna connected by two poles, which support it. He mentioned that he has had satellite communications go out on him when he was in Iraq. He said this facility will allow them to change their frequency band to talk to other agencies. They do not want to be in the position where they cannot communicate in an emergency; they must have a back-up like a HF radio.

### **Public Hearing Opened**

Havvik said she is in total support of this communication. She asked if the cable that stretched between the two poles was ridged or flexible and if it was the actual antenna. Gussenhoven stated the cable is stretched between the two, which provides support and strength and on top of that is the actual wire antenna. Havvik said if another agency were to co-locate, what would be added to the pole. Gussenhoven stated it could come down five feet from the pole and a smaller short wave radio antenna could be added. She said it looked like a zip line, so you don't want any kids to get up there. Gussenhoven said no, that is why they are not using a lattice.

**Howard Blake**, 2030 Briarwood, asked if 13 parking spaces were enough and he realizes there is parking along the fence facing the Senior Center. Gussenhoven stated based solely on the occupancy of the facility it is. He said they vacated the right-of-way of Cedar Street, which cleaned up a property issue. He stated they will be allowing more parking, with a total number of about 50 stalls, when considering off-site and on-site parking in the area. They will also be vacating the alleyway.

Lobb said these towers are a lot more attractive than a light or flag pole. He said he did not see where this would impact anyone unless some other agency added to these poles. He suggested that if some other agency wanted to add something they would have to be heard before the Council for approval.

### **Public Hearing Closed**

Gussenhoven said the only other agencies that could add anything would be the city or the county and microwave dishes would not be allowed.

Planner Platt said if anyone wanted to co-locate on the towers they would have to get a Conditional Use Permit and go through the same public process the Armory is tonight. She mentioned that the Commission may want to consider requiring the Armory to add some screening along the west or south side of the chain link fence. She said the Armory shared some standards regarding not having any visual obstruction within 33 feet of the building. She mentioned there are some places along the fence line, which are 33 feet from the building where landscaping could be installed to help soften not only the fence, but help screen the lower portion of the towers.

Commissioner Lloyd thought it was something the neighbors could live with.

Commissioner Pogue said in general he was not in favor of more towers, but this is definitely needed. He said the benefit outweighs the cost and he did not have a problem with this.

Commissioner Johnstone stated he did not have any problems with it.

Commissioner Moore asked what color the brushed aluminum would be. Gussenhoven stated it would be a bronze and would absorb any light. He said they are open to any color. Commissioner Moore said he did not see any real issues with this.

Commissioner Scanlon asked if they spoke to the FAA about lights on top of the towers. Gussenhoven stated yes and there were not any requirements for lights on the towers.

**Martin Powell**, 565 W. Myrtle, Boise, stated they filed an FAA form 7460-1 and have not received a response from the FAA, but they are confident that the response will be that it would not have to be painted or lighted.

Commissioner Scanlon stated that communications are essential. He asked how close to the wall the pole would be to prevent any kids trying to shimmy up there. Gussenhoven stated they would look at that.

Commissioner Scanlon asked the Commissioners if they had any comments about the planting along the chain link fence. He also asked Planner Platt about sidewalks and she stated that sidewalks will be installed per conditions of approval for design review, which were required by the previous design review application for the remodel of the building. Commissioner Scanlon said the sidewalk would lessen the area available for planting. Planner Platt mentioned that some a climbing vine or something similar could be used along the fence or wooden slats could be woven within the chain link fence, which would be more tasteful than green plastic. Commissioner Moore said he was okay with no planting. The other Commissioners said they were okay with that.

**Commissioner Johnstone moved to approve the Wireless Permit Application for the Hailey Readiness Center, also known as the Armory, located on Block 125, Lots 8-12, and 20-24, and Vacated Cedar Street, Hailey Townsite (311 Cedar St. East), finding that the project is in conformance with the Comprehensive Plan; the project does not jeopardize the health, safety, or welfare of the general public; and the project conforms to the applicable standards of the Hailey Zoning Ordinance, as set forth herein, applicable requirements of the Zoning Ordinance, and City Standards; subject to conditions a through n.** Planner Platt stated conditions a through o, o being any future additions or changes may require a Master Development Plan to be filed with the City. Commissioner Moore seconded, the motion passed unanimously.

### **CONDITIONAL USE PERMIT APPLICATION**

**Commissioner Pogue moved to approve Conditional Use Permit application for the Hailey Readiness Center's (Armory) freestanding wireless towers, located on Block 125, Lots 8-12 and 20-24 and Vacated Cedar Street, Hailey Townsite (311 Cedar Street), finding that the project is in conformance with the Comprehensive Plan; the project does not jeopardize the health, safety, or welfare of the general public; and the project conforms to the applicable standards of the Hailey Zoning Ordinance, as set forth herein, applicable requirements of the Zoning Ordinance, and City Standards; subject to conditions a and b.** Commissioner Johnstone seconded, the motion passed unanimously.

### **DESIGN REVIEW APPLICATION**

**Commissioner Moore moved to approve the Design Review application for the Hailey Readiness Center's (Armory) Wireless Facility, located on Block 125, Lots 8-12 and 20-24 and Vacated Cedar Street, Hailey Townsite (311 Cedar Street East), finding that the project is in conformance with the Comprehensive Plan; the project does not jeopardize the health, safety, or welfare of the general public; and the project conforms to the applicable standards of the Hailey Zoning Ordinance, as set forth herein, applicable requirements of the Zoning Ordinance, and City Standards; subject to conditions a through h, with the deletion of the first b.** Commissioner Johnstone seconded, the motion passed unanimously.

## **Workshops**

### **Planning and Zoning Commissioner's 2009 Goal and Priority Setting Workshop**

Planner Platt presented the Planning Department's Priorities for 2009 and reviewed the Department's accomplishments at Scanlon's request. Planner Platt, stated objectives and goals will go before the City Council on March 30<sup>th</sup>. She asked if the Commissioner's had anything they wanted to add to the any of the sections, starting with the mission and vision statement. Planner Platt asked the Commission if their goals were in line with the Planning Department's. None of the Commissioners had any comments. Scanlon suggested they email their comments to Planner Platt. Planner Platt asked for the Commission to review the Departments document and give any feedback or add anything they wanted. Commissioner Scanlon said they would. Planner Platt stated she needed their comments by Wednesday, March 18<sup>th</sup> by noon.

### **Staff Reports and Discussion**

Planner Platt stated the meeting on April 6th will be held at the Blaine County Old Courthouse because the City Council continued the Quigley meeting to the same date.

### **Adjourn**

**Commissioner Pogue moved to adjourn at 7:50 p.m.** Commissioner Moore seconded, the motion passed unanimously.