

**Hailey Planning and Zoning Commission  
Meeting Minutes, April 5, 2010**

Commissioner Scanlon called the meeting to order at 6:30 pm. Commissioners present were Michael Pogue, David Lloyd, Mark Johnstone, and Geoff Moore. Staff present was Planning Director Beth Robrahn, Planner Mariel Platt, and Assistant Becky Mead.

**Public Comment** for items not on the agenda.

Brian Yeager of Galena Engineering wanted to comment on Tab 1 of the consent agenda.

**Consent Agenda**

Tab 1 Approval of Crittenden Remodel Design Review Findings of Fact

Commissioner Pogue pulled Tab 1 of the Consent Agenda for discussion. He asked Yeager if this had to do with the orientation of the driveway off the alley.

**Brian Yeager**, Galena Engineering stated yes, the orientation of the garage door. He mentioned it is a recommended condition to have the garage doors access off the alley rather than off the street. He said the current building configuration is accessed off of the street. He said what they are proposing to do is remove the existing garage and reconstruct a new garage. They are proposing to construct the new garage to conform to all the setbacks from the alley and the street right-of-way. They would like to keep the same orientation for the driveway allowing them to preserve the existing parking. He said with coming off the alley they would lose some of the parking. He said there is an issue with the neighbors to the west who have a metal roof on their shed which is on the edge of the alley and the snow drops into the alley. He said it would be simpler all the way around to redo the existing configuration and would like to request to access off of the street.

**Dennis Kavanagh**, Kavanagh Construction, 214 Dakota Drive representative for the applicant submitted pictures showing the property and the property to the west, both are nonconforming buildings in the right-of-way.

Commissioner Scanlon asked Commissioner Pogue how he felt about the configuration of the garage. Pogue said he would first like to hear from staff.

Director Robrahn noted the existing garage is nonconforming in terms of setbacks and was not addressed in the findings because it is planned to be demolished and replaced. She said there are five guidelines that encourage alley access. She stated on page 4 of the findings, it talks about use of alleys as a preferred access, page 8 at the bottom it states as a general rule garages and parking shall be accessed from the alley side of the property and not the street side, and page 9 at the top it states garages that access from the alley are strongly encouraged. She said there are two guidelines that talk about when garages are accessed from the street side which tells you that it is possible that garages can be accessed from the street. She said there are two more standards at the bottom of page 9 that talk about alleys as the preferred access to garages and on page 10, the third guideline states general accessory structures shall be located to the rear of the lot and

accessed off of the alley unless found to be impractical. She said given the fact that there are so many standards that talk about alley access being preferred, she took the more conservative approach in drafting these findings and stated it as a condition of approval.

Yeager stated with the garage access off of the alley there is always the problem of turning into it being narrow. He said to continue the use in its current configuration and conformance with the zoning setbacks makes it easier to get the vehicle in and out. He said they have perceived the generalization in the ordinance to set the goal for the building to come off of the alley and they respect that but when you are doing infill in an existing lot and when it is configured in this manner it makes it easier to access from the street. Yeager said they are concerned with losing parking and the snow storage.

Commissioner Pogue had no comments at this time and would like to reserve his judgment until he hears more.

Commissioner Lloyd said they have brought up some great points but being one of the first houses in an alley and with the existing roof that goes into the alley, and if their roof is to be metal, it takes away the potential access for other neighbors; when a person's portion of the alley is not maintained it negates access by others. He said there are a lot of ways to look at this and he would like to reserve his judgment until he hears a little more.

Commissioner Moore stated he does not have a problem with the snow in the alley because there is already an ordinance in place that forbids the shedding of snow from a roof or the removal of snow from a property to a city right-of-way, and that it also addresses alleys as a city right-of-way. He is more concerned for the applicant having to deal with the foam insulation of the water lines in the alley. He has a problem with forcing the applicant to dig up the full length of the alleyway and making them use the alleyway. He sees the word shall and that it is a key thing to him, and one guideline states in general shall be located in the rear of the lot and off of the alley unless found to be impractical. He does not want to see the applicant have to incur the expenses of digging up the length of the alleyway, unless it were to be determined by the City Engineer that it is was not necessary.

Commissioner Johnstone said he had a problem with the roof sliding and that neighbor being obligated to clear the snow, and asked if that obligation were relevant if it was an unplowed access way.

Yeager stated they did not want to burden the neighbor with snow plowing and would not have to by the current configuration. He said they respect the goals of the city's ordinance but it is not the wishes of the applicant to have alley access. He said generally is a softer word and there is the flexibility to interpret this as generally which does not mean everyone.

Commissioner Johnstone asked what the access was for the loft storage area. Kavanagh said a pull down ladder. Johnstone asked why the structure of the garage was not located closer to the house. Kavanagh said it appears there is a lot of distance in the yard. He said there will be a courtyard in the back where the breezeway is being constructed.

Commissioner Scanlon asked Kavanagh what the setback was for the new garage off of the property line. Kavanagh replied it is 10 feet. Scanlon asked what the setback was off of the alley. Kavanagh replied 10 feet. Scanlon asked about a jog drawn on the plans by the side of the garage. Kavanagh stated it was a dog fence. Scanlon asked where the existing parking was. Yeager said the existing parking is off of Silver Street. There was discussion about parking verses the alley and street side.

Commissioner Johnstone asked if there was anyone else using the alley for access. Director Robrahn said the guidelines seem to encourage alley access when the opportunity arises; there is also flexibility written in the guidelines.

Commissioner Pogue and Yeager had discussion regarding the access.

Commissioner Scanlon asked if there were any problems with the interior property lines. Director Robrahn said they are in the process of being vacated.

Commissioner Moore did not see any hardship here and supports alleyway access and the use of the alley.

Commissioner Lloyd said if there were other neighbors accessing the alley he would agree to the alley access.

Commissioner Pogue said there is a preference shown for alley access. He does not see a compelling hardship to not access the alleyway.

Scanlon pointed out the current configuration and did not see a hardship and agreed to keep the condition as is.

Yeager and Kavanagh explained how the applicant felt about not using the alleyway to access. Yeager said they want to create jobs for the contractor and also keep the project. If the applicant was made to access off of the alley, to insulate the pipes, and snowplow the alley, the project might just go away.

There was further discussion between Yeager, Kavanagh, and the Commission.

Commissioner Moore suggested removing the 25' setback in the condition of approval regarding alley access.

**Commissioner Pogue moved to approve the Findings of Fact, Conclusions of Law and Decision of the alteration of the exterior of the existing building located at 218 Silver Street East, within the Limited Residential zoning district, amending condition 6 a) the garage access shall be accessed from the alley, and the submittal for building permit shall show garage access from the alley.** Commissioner Moore seconded, the motion passed unanimously.

Director Robrahn stated the applicant can appeal this decision to the Council within 15 days of this decision.

## **New Business**

### City Initiated Amendment to the Hailey Zoning Lots 1-3, Block 69, Hailey Townsite

A public hearing upon a city initiated amendment to the Hailey Zoning Map. The proposed amendment would change the zoning of Lots 1-3, Block 69, Hailey Townsite from General Residential (GR) to Limited Business (LB). A rezone of Lots 4-10, Block 69 was approved by Council on February 8, 2010.

Planner Platt stated Lots 1-3 are surrounded by Business and Limited Business. This rezone was requested by the Council.

## **Public Hearing Opened**

**Tony Evans** Idaho Mountain Express asked if this property were the apartments next to the Uhrig staging area.

## **Public Hearing Closed**

Commissioner Moore said his opinion has not changed in regards to the Comprehensive Plan.

Commissioner Johnstone is irked that their original decision was ignored. He felt there should have been a development agreement made with the Uhrig rezone of Lots 4-10.

Commissioner Pogue was satisfied with their original decision regarding the rezone of Lots 4-10. He does think since Lots 4-10 were rezoned, they should rezone Lots 1-3.

Commissioner Scanlon felt they should rezone the three lots.

Director Robrahn said their findings will reflect their issues from the first rezone and that given the other lots were rezoned it is logical to rezone these lots. She said their findings could reflect the spirit of their comments.

Commissioner Lloyd asked if there was a potential hardship for the owner of these lots. Planner Platt stated it is an up\_zone and will likely increase the property value.

**Commissioner Lloyd moved to recommend to the City Council the city initiated application for a rezone from General Residential (GR) to Limited Business (LB) of Lots 1-3, Block 69, Hailey Townsite (620 First Avenue North), finding, after considering vacancy rates and distance from the Central Core Overlay, that the amendments are in accordance with the Comprehensive Plan, that 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, that the proposed uses are compatible with the surrounding area, and that the proposed amendment will promote the public health, safety and general welfare.** Commissioner Pogue seconded, Commission Scanlon voted in favor, Commissioners Moore and Johnstone opposed, the motion passed.

City Initiated Text Amendment to the Hailey Zoning Ord. No. 532, Article 2, Definitions

A public hearing upon a city initiated text amendment to the Hailey Zoning Ordinance No. 532, Article 2, Definitions, to add definitions for terms used in Article 6A, Design Review.

Director Robrahn said this amendment adds definitions of architectural terms and accompanies the design review section of the zoning code.

Commissioner Scanlon said a fenestration is an opening in a wall; it does not differentiate between a door or a window. He suggested saying it is the arrangement of windows and doors in a building wall.

**Public Hearing Opened**

No comments made.

**Public Hearing Closed**

Commissioner Pogue referred to the definition of enclosure, and asked if they used enclosure in another sense in the design review guidelines or does this definition just apply to the phrase “sense of enclosure”. Director Robrahn stated this only refers to a “sense of enclosure”. Pogue said he would be inclined to leave sense of in parenthesis because there is probably another use of enclosure that we are not referring to an experience or feeling. Robrahn said that would be a different definition. She said this is specifically for a sense of enclosure. Pogue said maybe they would want to indicate that by leaving the parenthesis with a sense of here. Robrahn concurred.

Commissioner Pogue had a question about infill, a placement of new buildings in established urban areas; he understood infill was a placement of buildings within the existing city boundaries or the city proper. Director Robrahn said it would be clearer if the definition read, placement of new buildings within the existing city limits. Pogue suggested changing urban areas to city limits. Robrahn read the definition again with the change.

**Commissioner Moore moved to recommend to the City Council the proposed amendments, as amended, to Articles 6A and 2, finding that the amendments are in accordance with the Comprehensive Plan, essential public facilities and services are available to support the full range of proposed uses without creating excessive additional requirements at public cost for the public facilities and services; the proposed uses are compatible with the surrounding area; and the proposed amendment will promote the public health, safety and general welfare.** Commissioner Johnstone seconded, the motion passed unanimously.

**Unfinished Business**

City Initiated Text Amendment to the Hailey Zoning Ord. No. 532, Article 6A, Design Review

Continuation of a public hearing upon a city initiated text amendment to the Hailey Zoning Ordinance No. 532, Article 6A, Design Review, to remove redundancy and clarifying standards and guidelines, to allow Public Utility Facilities or Public Uses to install chain link fences, to allow sidewalks to be constructed in an alternative location, to add a procedure for the resubmittal of an application, and to add guidelines for mural projects and Article 2, Definitions, to add definitions related to mural projects and to clarify the definition of Home Occupation.

Director Robrahn referred to the staff report for April 5<sup>th</sup> and pointed out the changes that were in response to their discussion at the last meeting on March 29<sup>th</sup>. She said after speaking with Commissioner Johnstone, who is also the chair for the Arts Commission, regarding the mural guidelines, thought it would be more appropriate for separate procedures and standards for murals that the Arts Commission would handle on their own. She stated to facilitate that they will have to exempt murals from the design review requirements. She said the mural related definitions were taken out of Section 2 amendments. She said pages 2 and 3 of Article 6A amendments contain minor changes that Commissioner Moore requested at the last meeting. She said pages 4 and 5 addressed the reordering of the requirements for a set of plan sheets. She said the Commission discussed whether the plans needed to be stamped and she went back through the city files to understand the history of the requirement, she also spoke to the Building Official and came to the conclusion that they should be exempting single family dwellings and accessory structures from the requirement of having the plans stamped by a licensed engineer or architect. She said the commercial and multi-family plans will still need to be stamped. She thought this was appropriate at the design review level and would take that burden off of a home owner who wanted to submit their own designs and involve an architect or engineer later on. She said all plans must be stamped when submitted to the Building Department which is consistent with the building code. She referred to page 7 and said this was to address the issues brought up with the area development plan; she did research into that and included the copy of the background from the 2004 staff report as reference for the Area Development Plan requirements. She explained further to the Commission and read from the 2004 staff report. She said on page 8 the language regarding being forced to walk within any vehicle circulation was deleted.

Commissioners Moore and Lloyd had no questions.

Commissioner Johnstone referred to site circulation on page 8, and wanted to know if that conflicts with what is on page 14 under C, Site Planning. Director Robrahn said it does not conflict at all.

Commissioner Pogue had a question involving a scenario of owning two old Hailey lots and wanting to remodel an accessory structure which would require design review approval and asked if they would have to file an area development plan. Director Robrahn said according to the way that it is worded they would.

Director Robrahn and the City Attorney agreed that the area development requirement does not necessarily do what it was originally intended to do. She thought the issue was when there is a large parcel with no existing infrastructure, meaning streets, alleys, and gave the example of the River Street extension at Empty Saddle and some other larger properties.

Commissioner Pogue said there is really a good idea behind this; looking back at the staff report it says it would be beneficial to plan the basic infrastructure elements, the sidewalks, sewers and that makes sense. Director Robrahn said maybe they should just exempt the Townsite Overlay. Pogue said it was like they were using a sledge hammer to address an issue. Commissioner Lloyd was asked if there was no longer the language which binds the owner and owner's successors. Pogue said it was at the bottom of C and Scanlon asked if that had to be there. Robrahn said this is written for a worse case scenario of someone being sneaky and doing

something devious. Robrahn asked why a development agreement was any different then saying the owner and the owner's successors. Pogue said it is exactly the same thing but with a development agreement there is the opportunity to analyze each development on a case-by case basis.

Planner Platt said right now the city has the discretion for a development agreement for rezones why would there not be the discretion for an area development plan or for design review.

Director Robrahn felt there still needed to be some language that says the city requires a development agreement. Commissioner Pogue suggested saying any approval that requires design review, the city may request or has the option of requiring a development agreement. Commissioner Moore said if the applicant has continuous lots then put it to the case by case basis. Robrahn said she could draft something that could say that and pull language from other sections and apply it here. Pogue said that would be a good approach. Robrahn said she could draft that for the next meeting. She asked if everything else was okay and the Commission concurred.

#### **Public Hearing Opened**

No comments made.

#### **Public Hearing Closed**

**Commissioner Johnstone moved to continue the public hearing upon a city initiated text amendment to the Hailey Zoning Ordinance No. 532, Article 6A, Design Review to April 19, 2010. Commissioner Moore seconded, the motion passed unanimously.**

#### City Initiated Text Amendment to the Hailey Subdivision Ord. No. 821, Section 4.2, Sidewalks and Pathways

Continuation of a public hearing upon a city initiated text amendment to the Hailey Subdivision Ordinance No. 821, Section 4.2, Sidewalks and Pathways; removing language related to the construction of buildings, to refer to applicable City Standards, and to allow sidewalks to be constructed in an alternative location.

Director Robrahn said the problem with the zoning and subdivision ordinances is that they have the same or similar language in both regarding sidewalk requirements. She said she would like to have a development ordinance that combines the common parts of both into one and have a section of zoning and a section on subdivision. In the meantime, if there is something changed to the Zoning Ordinance and if there is something similar in the Subdivision Ordinance the change has to be made in both places. She said this particular amendment is to correct a mistake made the last time the sidewalk section of the subdivision ordinance was amended; the exact same language for sidewalks was used for both the zoning and subdivision ordinances. She said this amendment will clarify the provision that sidewalks can be constructed in another area to connect sidewalks that exist. Commissioner Scanlon asked if a sidewalk is placed in another location does it have to be equal to the value of the sidewalk that was to be put on the property. Robrahn said yes, in Section 4.2.1 it is tied to the length of the property line and an equivalent length will be constructed somewhere else.

Commissioner Lloyd asked if the subject's property is just one sidewalk and we were to connect three sidewalks that would cost more, should there is a price tied to it. Robrahn said the length converts into a dollar amount and that dollar amount is applied to construct a sidewalk in another location.

**Public Hearing Opened**

No comments made.

**Public Hearing Closed**

**Commissioner Johnstone moved to recommend to the City Council approval of the proposed amendments to Sections 4.2.1 and 4.2.3 of the Hailey Subdivision Ordinance No. 821, finding that the amendments are in accordance with the Comprehensive Plan.** Commissioner Lloyd seconded, the motion passed unanimously.

City Initiated Text Amendment to all Sections of the Hailey Comprehensive Plan

Continuation of a public hearing upon a city initiated text amendment to all sections of the Hailey Comprehensive Plan. The amendments will change the format and consolidate information, goals and objectives.

Director Robrahn said this is the essence of the Comprehensive Plan, but the draft still needs a lot of filling in. She said she included some goals, indicators, and benchmarks and they should hone in on the best indicators. She asked for the Commissions' thoughts. She said at each of the next few meetings she would like to go back to the beginning and fill in what was left blank.

Commissioner Scanlon asked if the bulk of their next meeting were to discuss this. Director Robrahn stated what will be on the next agenda.

Commissioner Pogue was concerned that they might be setting themselves up with something that would be difficult to monitor. He still has a problem with indicators and benchmarks for each section that are so extensive. Director Robrahn clarified that the benchmark in the Land use section are ranges of growth that could occur, not saying there should be a certain amount of growth.

Commissioner Johnstone mentioned that the Comp Plan is to be reviewed every five years.

**Public Hearing Opened**

No comments made.

**Public Hearing Closed**

**Commissioner Johnstone moved to continue the public hearing on the Comprehensive Plan to April 19<sup>th</sup>.** Commissioner Moore seconded, the motion passed unanimously.

**Commission Reports and Discussion**

Commissioner Lloyd will be absent next meeting April 19<sup>th</sup>.

**Commissioner Pogue moved to adjourn at 8:30 pm.** Commissioner Lloyd seconded, the motion passed unanimously.