

Hailey Planning & Zoning Commission
Meeting Minutes
May 17, 2010

The meeting was called to order at 6:30 pm by Commission Chair Owen Scanlon. Commissioners present were Geoff Moore, Michael Pogue, and David Lloyd. Staff present was Planning Director Beth Robrahn, Planner Mariel Platt, and Planning Assistant Becky Mead.

Consent Agenda

Approval of Minutes – May 3, 2010

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

New Business

Variance Extension Request by Richard Nelson, Hailey Investors, LLC

Public hearing upon an application by Richard Nelson, Hailey Investors, LLC for an extension of a variance to the riparian setback of the Hailey Zoning Ordinance. The property is located on Lot 1, Block 8, Della view subdivision (921 War Eagle Drive) with the Limited Residential-1 (LR-1) and Flood Hazard Overlay (FO) districts.

Director Robrahn gave the history of this application. She said there have been two prior 3 year extensions and now the owner is requesting a 10 year extension to allow time to build. She said staff does not see any issue with extending a ten year extension.

Richard Nelson, applicant, said the lot cannot be built on because of the setback. The variance will allow for a decent size lot to build on. He said with the 100 foot setback the lot size would be a triangular piece. He said he has plans to build on this lot but he does not know when that will be.

Commissioner Pogue said the ten year extension seems long. He commented on what the applicant said in his letter about the construction cost rapidly rising. He said it was his understanding that construction costs were decreasing.

Commissioner Scanlon asked Commission Lloyd if construction cost was increasing. Commissioner Lloyd said the last few months they have, for the materials only, not labor.

Commissioner Lloyd asked Nelson if there has been any attempt to look at a building with a 75 foot setback and have a small jog in the building. Nelson said before the 100 foot setback requirement the home could have been larger than that square footage and closer to the river; then the regulation came through with the setback leaving a little triangular piece as a building envelope. He said the compromise was to go with a reasonable size building footprint of 2,500 feet and said he is okay with that.

Commissioner Moore asked Director Robrahn if the river shifts over the next ten years are we bound by this setback. Director Robrahn said the setback is measured from the mean high water mark. She said the setback is currently 67 feet from the mean high water mark. Commissioner Moore said if the river shifted, then the setback would move with the high water mark. Robrahn stated that was correct.

Commissioner Scanlon asked if Hailey Investors LLC was a family corporation. Nelson said yes, it is owned by his family and they would like to build a home there. He said they have four kids and have been coming to the valley for twenty years. Scanlon asked if he lived here now. Nelson said he lives in Southern California.

Director Robrahn said condition (a) should be modified to read “the applicant shall be permitted to encroach into the riparian setback up to 67 feet from the mean high water mark of the Big Wood River” as clarification.

Commissioner Scanlon asked Nelson if he was okay with that. Nelson said he was not sure what that means. His understanding is that this plan was giving him the ability to build on this rectangular envelope. Director Robrahn said it still provides for that under condition (c). Nelson said okay because he does not want someone saying that he has to take a chunk off of it and make it some odd shape again because they are trying to get away from that.

Director Robrahn referenced the modification of condition (a) and said if the river were to move within the next ten years they would have to go through this process again. She said this is a precautionary measure on the City’s part.

Commissioner Moore said with the flood in 2006 there was high water in places particularly down Broadford where the river shifted 100 feet. He told Nelson if the river were to go that far it would render his property useless.

Nelson said he did not know what the change in language did for him. Director Robrahn said it clarifies that the reference for measuring the setback is to the mean high water mark.

Mike Keller, friend of the applicant, said wherever that is, it could be closer or it could be further away.

Nelson said the intent of this was to provide the building footprint. He said if the river shifted 10 feet and the setback would be 67 feet which would back up the envelope 10 feet. He said the compromise was not with the setback but to define from the street what the setback was and what the 2500 foot envelope would be and measured it from the river which was 67 feet. He said this was not the way this was done before measuring it from the river because that could really shrink the building envelope way back down.

Director Robrahn stated this is a safety precaution for the City; in the case the river was to move substantially they would have a mechanism to address it. Nelson asked if he could have it written

that the 2500 foot building footprint will be accommodated in some fashion. Keller asked how often the river was measured. Robrahn said if the mean high water mark were to change it would change the flood plain and would be measured by FEMA. Keller asked if the surrounding homes were built under the older ordinance as far as the setback. Robrahn assumed so.

Commissioner Pogue said it seems there is this problem because the home has not been built yet. He said the variance was granted in 2004, and it was not built in those three years; then a three year extension was granted in 2007, and now the applicant is asking for a ten year extension. He said it seemed to him that the City has an interest in protecting the safety of its residences and it is reasonable to say that this will be revisited if there is a change in the river course in the future. He said he is comfortable with the way it reads now.

Director Robrahn said that could be another option to use the language that Pogue just stated; if the river changed, this would be revisited again.

Commissioner Scanlon said the issue here is if the river shifted ten feet then the applicant will need to come back and ask for a 57 foot setback, regardless of whatever we decide tonight. He asked Robrahn if that is what she said.

Director Robrahn said yes it made it clearer, because the way the condition is written now it may not be clear.

Commissioner Pogue thought this was a reasonable compromise, especially if they are granting a ten year extension.

Nelson said he is trying to understand what that language change is going to be. He said it is obvious to him, as the owner of this property, that he spent a lot of money for this lot with a river view, and then the City pushed it back, and made it to where it could not be developed at all. He said that was the beginning of the problem; then the City recognized it and said oh we made a mistake on this lot. So the City said they would put together a variance to provide for it. Nelson said that he appreciates that the Commission is willing to go the ten years. He said the City took away his rights to his land and the City should give him the chance to build that house. He said he needs those ten years. He asked the Commission to give him the chance to build and wanted some kind of language that said he would be assured that the 2500 footprint would not change or have some kind of intent to preserve the building footprint. He said he wants to be able to build the home he thought he could build and not have it taken away.

Public Hearing Opened

Peter Lobb 403 E Carbonate did not think it was appropriate for the city to guarantee a lot size. He said he has seen a whole lot get washed away and the City cannot guarantee a lot size on the river. He said if it were three year extension maybe a guarantee would be okay but not ten years. Lobb felt that it was not fair to say whatever happens on that lot that you can build a 2500 square foot house.

Public Hearing Closed

Commissioner Moore said as far as the ordinance reads, no variance shall be valid for more than one year. It also says a variance shall not be given for convenience and he sees this ten year period for convenience. He said he could not guarantee anything because the river is unpredictable. He is comfortable with the change to condition (a).

Commissioner Pogue asked Nelson when Hailey Investors purchased the property. Nelson said 2004. Pogue said this property was purchased knowing this variance and this setback. He thought the hardship argument was diminished by the fact that the owner was aware of this restriction. Pogue said he was okay with the 10 year extension and the proposed modification to subsection (a) is appropriate.

Commissioner Lloyd agreed that it is not an undo hardship but they need to look out for the people and wildlife.

Commissioner Scanlon said he is okay with the 10 year extension. He said there is a safety issue here and said that if the river shifted that Nelson and his family would be at risk. Scanlon said that ordinances are in place to protect us from ourselves and what we want to do. He asked Nelson if he would consider a second floor with this house. Nelson said he did not know because he has not gotten that far yet. Scanlon said he agreed with everyone and understood how he felt and said they will make every effort to see that Nelson could build the house that he wants.

Commissioner Moore moved to approve the request for the extension of the variance to the riparian setback granted on the property located on Lot 1, Block 8, Della View Subdivision (921 War Eagle Drive), finding that the general provisions of the Hailey Zoning Ordinance Section 12.1.1 and criteria a-e of Section 12.4 have been met; subject to conditions (a) through (e) with the amendment of condition (a). Commissioner Lloyd seconded, the motion passed unanimously.

Hailey Zoning Ord. No. 532 City Initiated Text Amend. Article 8B

Public Hearing upon a city initiated text amendment to the Hailey Zoning Ordinance No. 532, Article 8B, Outdoor Lighting Ordinance. Amendments include, but are not limited to, updates to reflect changes in technology since the requirements were originally adopted in 2002.

Planner Platt said this ordinance that has not been updated since 2002 and there are quite a few sections that needed to be updated to reflect current dates and procedures. This will also accommodate new lighting that is coming on board. She said some other things that are addressed are playing field lights and the exemptions that were given to them in the original ordinance. Platt met with Idaho Power to discuss a schedule for lighting retrofits for the street lights. This would also allow for the City Engineer the ability to determine whether the street lights could exceed 20 feet and this requirement would go before the City Council. She said some of the street light poles are higher than 20 feet.

Commissioner Scanlon wanted to clarify that the lighting in the playing fields are in violation only when they are in use. Platt said this ordinance will allow for that to continue without being in violation. Scanlon asked about the Idaho Power Master Plan and wanted to know if this is something that is already in place. Platt said they are currently working on it. Scanlon asked if this would include the commercial areas in Hailey. Platt said it will include all of Idaho Power's lights but primarily in the commercial and residential area throughout Hailey. She said the only lights the city owns are in the Woodside Light Industrial areas and on Main Street, but only north of the Post Office.

Director Robrahn suggested calling the Idaho Power Master Plan the Idaho Power Master Lighting Plan. Planner Platt concurred.

Public Hearing Opened

Peter Lobb asked if there were lights that could be put on the football field that would conform, and if so is it too expensive for the School District to do such a thing. He said has anyone considered just turning the lights off. Scanlon asked if he was talking about the street lights. Lobb said yes, his street light has been out for a long time and he does not mind.

Nichole Lichtenberg, 980 Foxmoor Drive asked for clarification if the amendment just concerns the street lights and the playing field lights.

Commissioner Scanlon said the City lights are owned by Idaho Power and the City is trying to bring all the light sources in the City of Hailey into conformance with the Dark Sky Ordinance. He said the playing field lights throws a lot of light into the atmosphere and the compromise is that they are turned off when the playing field is not in use. He said he did not know about turning off the street lights off at a certain time of night and did not know what kind of safety hazard that would create.

Planner Platt said as far as the playing field lights go, the ordinance currently says that they have to be downcast and fully shielded and they are not. They are amending the ordinance now to allow for the playing field lighting because they are on temporary lights. She said there are downcast playing field lights that are available, but there is only one dealer and they are very expensive. She said some of the lights can be removed in the Idaho Power Master Lighting Plan.

Public Hearing Closed

The Commissioners had no comments.

Commissioner Lloyd moved to recommend to the City Council approval of the proposed amendments to Article 8B, finding 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 Moore seconded, the motion passed unanimously.

Hailey Zoning Ord. No. 532 City Initiated Text Amend. Article 8.1 Fences

Public Hearing upon a city initiated text amendment to the Hailey Zoning Ordinance No. 532, Article 8.1 Fences. Amendments include, but are not limited to, allowing fences 8 feet in height and chain link fences for Public Uses and Public Utility Facilities.

Director Robrahn said these amendments addressed some issues brought forward by the recent Idaho Power Substation design review project. Public Uses and Public Utility Facilities warrant the taller height and this amendment would enable fences that exist to be compliant.

Commissioner Pogue said he sees the need for the taller height. He said it looks like they are allowing Public Uses to use include chain link material and asked if there was a reason for that.

Director Robrahn stated yes it was determined previously, when the Commission approved chain linked fences for those two uses in the Design Review amendments, that those uses have different needs, such as security, that warrant the use of chain link fences.

Commissioner Scanlon asked if the barbed wire was included in the fence height.

Director Robrahn said the barbed wire is allowed with the determination by the Commission. She said it would not be included in the fence height.

Public Hearing Opened

Peter Lobb asked if a utility or someone wanted to put up a chain link fence would they have to get a Conditional Use Permit for that. He would prefer that just so the Commission would have some discretion.

Director Robrahn said this would make it a permitted use.

Public Hearing Closed

Commissioner Pogue asked what the definition of Public Use was. Director Robrahn said, “use by a public purpose by a city, school district, county, state, or any other public agency or a public utility”. Pogue liked the idea of making it a conditional use. He said in some cases they are necessary, but in all cases probably not.

Commissioner Moore agreed to that and thought it would address the issue from the neighbors near the transfer station.

Commissioner Lloyd said chain link fences are offensive. He thought they could even be more offensive when people try and dress them up. He also agreed to have it be a conditional use.

Commissioner Scanlon asked Director Robrahn how hard that would be. Director Robrahn said all of the zones would have to be changed adding chain link fences to the Conditional Uses.

Director Robrahn said the Commission approved this with the design review section and did not see this being a problem then.

Commission Pogue asked if she could just make that change in this ordinance rather than having to make the change in all of the zoning districts.

Director Robrahn gave an example of some of the facilities that use chain link fences. She asked the Commission what zoning districts they felt it might be an issue in. She said she could do more research on this question.

Commissioner Pogue asked if she could say chain-link material shall be a conditional use for public use and public utility facilities. Robrahn said probably. She said she could update the other sections later.

Commissioner Pogue moved to recommend to the City Council approval of the proposed amendments to Article 8.1, finding 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, with the modification to Section 8.1.2, Subsection (f) to read chain-link material is allowable or may be permitted upon receipt of a Conditional Use Permit for Public Uses and Public Utility Facilities. Commissioner Lloyd seconded, the motion passed unanimously.

Hailey Zoning Ord. No. 532 City Initiated Text Amend. Sec. 10, 11, & 12

Public hearing upon a city initiated text amendment to the Hailey Zoning Ordinance No. 532, Sections 10.5.4(c), 11.4.1, and 12.4 to delete any standard of evaluation or criteria for review relating to the Hailey Comprehensive Plan.

Director Robrahn said the process of adopting standards requires verification that the standards are in compliance with the Comprehensive Plan. This amendment would eliminate Comprehensive Plan compliance as evaluation criteria for Planned Unit Developments, Conditional Use Permit, and Variances.

Commissioner Scanlon asked if they could discuss this amendment with the similar amendment to the Subdivision Ordinance (Tab 6; Public Hearing upon a city initiated text amendment to the Hailey Subdivision Ordinance No. 821, Section 4.0 to delete any standard of evaluation or criteria for review relating to the Hailey Comprehensive Plan). Director Robrahn said yes.

Commissioner Pogue said he did not follow the issue of redundancy with the Comprehensive Plan with the PUD standards. Robrahn said the PUD standards are adopted by ordinance. When standards are adopted by ordinance they are required to verify Comprehensive Plan compliance. She said if the standards comply with the Comprehensive Plan then anything that meets the standards will meet the Comprehensive Plan, so the Comprehensive Plan standards do not have to be addressed again. Pogue said the down side of that would be the additional work involved. Robrahn said yes. Pogue said in his mind the Planned Unit Development is a pretty significant development tool that drastically increase density and can significantly alter characteristics of a neighborhood. He thought going back and reviewing the Comprehensive Plan criteria and objectives is really the blueprint of what the City sees itself and where it wants to be in the coming years. He thought this could be a useful tool and does not really see any down side. He said he has the same thoughts regarding subdivisions. He thought it would be a good exercise to go back and look at the benchmarks and where we are with density and congestion and other issues.

Commissioner Moore had no comments.

Commissioner Scanlon understands the intent of overdoing but thought the Subdivisions might not be weighed against the Comprehensive Plan again. He thought that Pogue made a good point and said he was not so concerned with PUDs but the Subdivisions might need to be weighed against the Comprehensive Plan again.

Public Hearing Opened on the proposed amendment to both the Zoning and Subdivision Ordinance.

Peter Lobb thought that PUDs and subdivisions were big deals in the city and thought to look at them twice on how they conform to the Comprehensive Plan is a good idea. He said he would vote for not doing what you are talking about doing.

Public Hearing Closed

To address the Commissions comments, Director Robrahn recommended for subdivisions distinguishing between lot line adjustments and short plats so they would not have to be verified against Comprehensive Plan compliance. She said it would be the larger subdivisions, so subdivisions with more than 4 lots or 4 units would be subject to Comprehensive Plan compliance. She said for the Zoning Ordinance she would agree that Planned Unit Developments should be subject to Comprehensive Plan compliance, but recommends that Conditional Use Permits and Variances would not have to submit to that.

The Commission agreed to staff's recommendations.

Commissioner Pogue moved to recommend to the City Council approval of the proposed amendments to Section 10, 11, and 12, finding 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, with the amendment that Planned Unit Developments shall be in conformance with the Comprehensive Plan. Commissioner Lloyd seconded, the motion passed unanimously.

Commissioner Pogue moved to recommend to the City Council approval of the proposed amendments to Section 4, of Subdivision Ordinance No. 821, finding that the amendments are in accordance with the Comprehensive Plan, with proposed modifications would only apply to lot line adjustments and short plats. Commissioner Moore seconded, the motion passed unanimously.

Unfinished Business

Hailey Comprehensive Plan Update

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 before there can be a recommendation of amendments to the City Council the amendments must be renoticed for a new public hearing. She said the next meeting available would be June 21st.

Director Robrahn said the section she has been struggling with recently that she has come up with goals and indicators is the section now titled Cultural Vitality and Social Diversity and Well Being. She gave the Commissions updates to that section. She said the goals are the same as the last two drafts. The first goal is to encourage a variety of projects and programs that meet the needs generated by various segments of population, especially the needs of those who risk suffering effects of discrimination or are socially or economically disadvantaged. She said the second goal is to encourage projects and programs that seek to provide opportunity for cultural and educational enrichment. She filled out the indicators based on the research she did. Director Robrahn gave information on where she found her sources and data for indicators for the different goals.

Commissioner Lloyd said these are benchmarks where you could really give hard numbers to. He said that is good because we have been searching for something that is this concrete with the other desired trends and benchmarks. He asked if we can put actual numbers in.

Director Robrahn said yes, and she has already compiled all the indicators into one place. She said each year they can be updated and over time the trend will be seen.

Commissioner Pogue said the introduction of the plan states, reporting of the indicators will be distributed to the planning department, the staff and the officials, and said that is a huge undertaking to provide the data and distribute it on a yearly basis. He asked if the staff has the

resources to do this. Robrahn said once the system is set up she does not think it will take a lot of time to input the numbers. She thinks it is the planning department's professional obligation to start tracking this information. She said this is necessary and it will not be a huge drain on staff resources. Pogue thinks it is great to track these trends.

Commissioner Pogue made comment on the indicators for encouraging a variety of projects and programs that meet the needs generated by various segments of the population under goal 7.1 by meeting the income of households by racial and cultural background increase and said the way this is worded, the household income of everyone would increase. He said it just strikes him the way this is worded.

Director Robrahn said there is a correlation between income and these social well-being indicators and that is explained on the first page, the third paragraph down, she read this aloud to the Commission, and explained further.

Commissioner Moore pointed out an error.

Director Robrahn said if the Commission is okay with all of these sections and the general direction, she needs to renote the amendments; she will have a more complete draft on June 21st.

Director Robrahn noted there was a suggested change by Commissioner Moore in Section 9, Public Facilities and Services regarding solid waste disposal and the amount of clean wood and garden waste brought to the transfer station from a demolition site and salvaged construction material and demo waste. Commissioner Moore referred to Planner Platt's Green Building presentation and commented there should be an indicator that reflects changes in construction practices. There was discussion about Commissioner Moore's suggestion. Director Robrahn said they would have to find out from the transfer station what kind of information they actually track.

Public Hearing Opened

Lobb had a comment about increasing diversity in the city and the most non-diverse part of the city is unable to see itself; staff, planning and zoning, council. He suggested encouraging Hispanics to come to meetings. Lobb said they are not represented at all in this city.

Director Robrahn said she tried to focus on land use related items although there is a crossover between the Comp Plan and the Capital Improvement Plan. The city needs separate but coordinated set of goals and indicators for things like government and the cities operations which is what Lobb is referring to.

Public Hearing Closed

The Commissioners agreed to notice the proposed amendments to all sections of the Hailey Comprehensive Plan, as drafted over the course of eight public hearings conducted since January 19, 2010, for public hearing on June 21, 2010.

Staff Reports and Discussion

Director Robrahn reported that Council conducted the third reading of the ordinances amendments regarding urban agriculture (chickens) and signs. Amendments to Subdivision Section 4.2 and Zoning Sections 6A and 2, and the rezone of Lots 1-3, Block 69 are scheduled for the Council on May 24, 2010.

Planner Platt said the Council approved allowing 3 chickens and predator proofing the coop. She said the Council did not make any significant changes to the sign recommended regulations except allowing balloons.

Director Robrahn announced on Monday, June 7th there will be a presentation to the Commission on the Downtown Hailey Vitality Plan that a citizen committee has been working on and on Friday, June 11th from 6-8 at the Liberty Theatre the City will be sponsoring the 1st Annual State of the Downtown, and the main speaker will be the Mayor of Boise, the last half hour there will be a no host reception at the Liberty.

Adjourn

Commissioner Pogue moved to adjourn at 8:19 pm. Commissioner Moore seconded, the motion passed unanimously.