

**MINUTES OF THE  
HAILEY PLANNING AND ZONING COMMISSION  
September 4, 2007**

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

**PUBLIC HEARINGS:**

**HAILEY/BLAINE COUNTY AREA OF CITY IMPACT (ACI) ORDINANCE  
(PROPOSED DRAFT)**

Proposed draft Hailey/Blaine County Area of City Impact (ACI) Ordinance, establishing four ACI zones, addressing annexations, Transfer of Development Rights, governing plans, notice and meetings between City and County.

**PLANNED UNIT DEVELOPMENT (PUD) ORDINANCES (PROPOSED DRAFT)**

Proposed draft Planned Unit Development (PUD) Ordinances, as amendments to Article X, Planned Unit Development, of the Hailey Zoning Ordinance. The draft PUD ordinances would set forth purposes, requirements and standards for development proposals upon land lying within the proposed ACI zones.

Robrahn presented a map of the proposed outlined areas of the ACI to the Commission. She stated that she and the City Attorney thought the PUDs were complicated and they would rather incorporate them into the ACI Ordinance. She asked for general feedback on concepts of both the zones, as well as if Transfer Development Rights (TDR's) should be incorporated. The original ACI draft was prepared by Kathy Grotto, former Hailey Planning Director and Carol Brown, Hailey City Council Member, in coordination with Jeff Adams, Blaine County Planner. Robrahn noted the main change with the current ACI ordinance is the adoption of the four different zones that would distinguish areas of the ACI and inclusion of different standards that would apply to the development within those zones. Zone "N" is the Near Proximity Zone, located in the direction of Quigley; each zone is separated into sending and receiving areas. Zone "NR" would be for additional development; Zone W is the west zone, with "WS" for sending; Zone "WR" for receiving; Zone "H" Heritage Zone and essentially the area between Hailey & Bellevue; Zone "A" Advisory Zone, the remaining area of ACI which would be unlikely to be annexed by the City and includes hillside areas that would not be intended to be developed.

Robrahn stated that these different zones are the first element that she wanted to hear discussion on. The second element would be the inclusion of the Transfer of Development Rights language. She stated presently the ordinance has some general language about the TDR program. It sets out some general sending and receiving areas. The main points of discussion are the language under Section 2.3.1 which states: "All annexations into the City of Hailey over five acres in size shall purchase Transfer of Development Rights, at one unit per five acres, in proportion to the

acreage being displaced from lands in Unincorporated Blaine County.” She stated the idea of requiring the purchase of TDR’s upon annexation is something that she would like to hear some discussion on.

Linscott stated, for clarification, the principal purpose right now is to develop a program that is compatible with the County’s TDR program, that we providing receiving areas and the County would provide the sending areas. Jeff Adams, Blaine County Planning & Zoning stated mainly the County is a separate program; the City would use their ordinance to foster the idea. To set up a program like the County’s, to get the frame work going and if the City wanted to have their own TDR program then they could tie in together. Linscott asked why it is being mapped out so far and asked if there is going to be an enforcement of the TDR program. Robrahn stated that was the general idea in mind when Grotto was working on this. She stated the concept was for the City to have a say in how the areas in the County are developed and have input on sending and receiving areas. The City wants the development that happens within the County to be closer to City services.

Zellers asked if some of the other cities have done this. Adams stated that he has worked with Bellevue and they have decided not to put this with their ACI Ordinance but they are discussing them with the current annexations. Adams explained that Bellevue’s TDRs would be different because they would be taking from the County the Silver Creek area into their ACIs. Zellers asked why this was being tied in with the PUD ordinances. Adams replied the County currently has ACI agreements with Hailey, Ketchum, and Sun Valley. They have come to an agreement that if it is not going to be annexed, then it would be done according to the County’s PUD ordinances. When the line was drawn between Hailey and Bellevue it was decided to draft additional PUD ordinances and if there is no annexation a PUD will be done automatically. These will take over as the guiding principles.

Scanlon referred to Section 2.3.1 and asked why it is being required to purchase TDRs and what does it mean in proportion to adverse relationship or what the perimeters are for that. Adams stated the reason it was put in as a requirement was because as the cities and the County have discussions on this there were TDR studies done in the 90s, and what was heard through Blaine 2025 was that no one wanted to see receiving areas actually where they are now (the County’s TDR receiving areas) and people wanted to see that density transferred into the cities. This is achieved through an ACI agreement. ACI agreements are negotiations between the cities and the County. The only way this can be done, by Idaho code, is to ask cities through the ACI agreements to take some of the burden from outside the County. Scanlon wondered if this would be a financial burden to the developer if he’s forced to buy TDRs. Adams concluded by stating that he felt that the density should go to the City; preserving land by bringing it into the City. Scanlon stated he understood the principle but he wondered if it was necessary to make this a requirement rather than an opportunity for a developer. Adams stated it is the best way to be done by Idaho code.

Scanlon referred to Section 3.3 of the draft ACI ordinance that shall not in any way prohibit the creation of Water and/or Sewer Districts, whereby property owners outside Hailey City Limits may enter into a contractual agreement with the City of Hailey to provide water and or wastewater services, should such districts be found to be in the best interest of the public health,

safety and welfare. Scanlon referred to a previous annexation that couldn't be annexed and they couldn't get City services and asked if this would address this Catch 22. Adams stated that a transfer would be signed off by both the City and the County. Adams stated that these would again be reviewed by the City Attorney and the County Attorney, Tim Graves. Adams stated that they would have more discussion on this and said that he thought this would be a step in the right direction.

Pogue asked who would be eligible to send; would it just be people annexing land. Adams pointed out on the map the private and public properties. He explained how many units could be potentially sent. Pogue asked if that transfer would be bought by an annexation. Adams stated if they had a PUD and they wanted to increase density 20% they could buy TDRs. If they were annexing they would be required to purchase TDRs. Pogue asked how the boundaries were established. Adams stated they took an old topo map and followed that line. They took a 3 mile buffer and used ridge lines that Grotto and Brown mapped out. There were calculations done on TDR credits and how they would balance out. Pogue asked how far out Quigley would they go. Adams stated maybe 2 ½ or 3 miles. Pogue was concerned that it might be a patchwork. Adams mentioned that Grotto had mapped out the Heritage zone. He said that this is how they set up the sending and receiving areas. Adams said he and Grotto also discussed protecting the river core, so people could send from the flood plain. Adams concurred with Linscott that this is the frame work to get this up and running.

Shay stated when she worked for the City of Bellevue in 1996 they were in discussion to separate the area drawn between Hailey and Bellevue. She stated it is important to both cities to keep a visual corridor between the two cities. These ACI discussions have been going on for a long time. There is essentially an informal agreement between the two cities that they want to preserve the open space from Woodside Industrial to Bellevue to have a visual separation. Adams stated he met with the Board of Commissioners regarding Bellevue's ACI agreement last week and stated that Bellevue has a Heritage Area there too. He said the Heritage Zone is to have guiding principles and PUDs; a first step towards regional planning.

Marvel commented on TDRs. She questioned if the TDR approach would give the developer the choice of how much density they wanted. In Section 2.3.1 all annexations require a TDR purchase. Marvel felt the developer would come in stating they want to deduct the cost of TDRs from the annexation fee and then infrastructure would suffer. She felt there needed to be an agreement with the County, and stated that she wasn't in favor of the TDRs.

Linscott stated that density is created by the zoning. She asked how does this affect that and what benefit is a TDR; aren't they bound by the zoning. Robrahn stated that she should have provided the PUD standards in their packets to better understand this. The PUD ordinances outline how much density can be added. In all TDR programs the City determines how much density can be transferred. Adams stated that this is also under the County zoning.

Adams stated this is a recommendation. Robrahn stated the City Attorney was having a problem with the individual PUD ordinances and Robrahn suggested incorporating the PUDs into the ACI Ordinance and the City Attorney concurred. She stated that she would incorporate the PUD standards into one document for the next meeting.

## **Public Hearing Opened**

Kate Giese, Wood River Land Trust, 119 Bullion St. East stated she was happy to hear about the TDR program. She felt the problems facing our valley can't be solved without regional planning; sprawl being one of them. The WRLT has been advocating for a TDR program as a fair and effective way to transfer density from places where it is inappropriate. There are areas that are inappropriate for development; the property out Quigley and Croy for example. She encouraged the Commission to do research on the TDR program. She stated that she lives in Bellevue but considers herself a citizen of the valley. She said she likes to look at things as to what is right for the valley, not necessarily just for the City.

Marissa Nelson, 501 S. Main, Ketchum, commented on behalf of the Sawtooth Board of Realtors stating that they are in favor of TDRs and regional planning. She said if the City would get involved into the TDR program she thinks there should be a market created. She suggested to the Commission to have a better understanding with the public on how the TDR program really works. She addressed Marvel's comment of a developer wanting to annex into the City and complaining of what he has already bought and she believes that this is unsafe on uncharted ground. She urged the Commission to take time to better understand how the TDRs work. She believes that everyone in the valley needs to have a better understanding of these fine details.

Elizabeth Jeffery, 415 Second Ave South stated she loves the idea of the wildlife areas not being developed. The people who own the lands in the sending areas are sitting on land that they could sell but now cannot sell. It feels uncomfortable with setting density but not really meaning it. She feels this is too shaky.

Peter Lobb, 403 E. Carbonate, said he followed Blaine County 2025 closely. He stated Blaine County 2025 took a long time and included the public. He urged the Commission to go very slow with this and bring the public into the meetings and get the public to understand. He sees annexations happening and making the City larger. He said this valley hasn't really ever been together on anything; that's why the YMCA and St. Luke's are not in Hailey. His suspicion is this will infill the City too much, in 50 or 60 years where is the land going to be, it will be in the County. He doesn't want to see this happening. He stated there are rules that are being set that will last a long time. He thought the Commission needed guidance from the people in the City not from special interest groups.

## **Public Hearing Closed**

Robrahn stated the PUD does address the issues of the Commission.  
Marvel stated she is here to be concerned about the City of Hailey.

Linscott asked if there could be some research on this with other cities. She would like to evaluate and look at other programs. Maybe a presentation on TDRs would be helpful. What were the other cities downfalls and to get an idea. Robrahn stated she could put together something for them to read that would help them understand.

Marvel stated she doesn't understand the benefit for the receiving areas. Adams stated he would be happy to go into this further for the Commission. He lives at 231 Cottonwood St. in Hailey and believed this was important to him as a resident of Hailey. Marvel asked about the citizens paying for the TDRs.

Zellers asked if there are values tied to TDRs in the County. Adams stated no. Idaho wouldn't allow that. Zellers asked how the TDRs are tracked. Adams stated the TDRs are recorded; it places an easement on the property. Linscott asked if it takes it away from the sellable property. Adams replied yes it does.

Marvel suggested looking at other planning tools to help us go in the same direction. Adams stated , in his opinion, a TDR program is the only planning tool that Idaho Code allows.

Zellers stated the Commission needed additional info related to TDRs. Pogue asked when they are legally required to notify the residences of what zone they are in (receiving and sending). The City Attorney stated the focus of this discussion should be on the ACIs not the TDRs. There is an ACI agreement on three sides of the City. He stated there is a use of TDRs and annexations. There needs to be baby steps. Keep in mind the discussion is on the ACI context primarily.

Linscott stated that there needs to be an understanding of sending and receiving before they can discuss TDRs.

Marvel would like to eliminate the TDRs from the discussion and focus on the ACI areas. She would like to leave out the sending and receiving areas and discuss how far they want to go. City Attorney stated they can go any way they want. Marvel suggested maybe two different discussions.

Robrahn stated these zones are tied to the sending and receiving concepts. Adams stated he would bring a map or a PDF of the existing ACI zones. Robrahn would like to work on something to present to them in a more clear way.

**Linscott moved to continue to date certain of Oct. 1, 2007.** Scanlon seconded, the motion carried.

### **NEW BUSINESS:**

### **ENVIRONMENTAL SECTION OF HAILEY COMPREHENSIVE PLAN**

Shay stated she has had some discussion with the City Attorney and Planning Director as to what is trying to be accomplished with this section and whether it could live within the Comprehensive Plan. It speaks about green building practices and building code issues which are issues addressed in the Municipal Code, and not necessarily the Zoning and Subdivision Ordinances. The Land Use Act lists required elements for Comprehensive Plans, such as transportation, natural resources, public services, land use, and growth management. It also gives the latitude for other components, thus the proposed Environment Section. This is another

document that could open people's eyes to be more responsible on how we live and what we build and what could encourage people to build. The City has a Climate Protection Committee and wanted Elizabeth Jeffery from the Committee to speak more about this. Shay commented about other communities that are looking at our City as a leader as far as putting this Committee together. The City wants to educate the community about green buildings and a cleaner environment.

Jeffery stated that the Committee is now moving into looking at the building code. She stated that each member of the Committee has brought something to the table each meeting from their departments as far as what they are doing and what they will be doing to increase efficiencies and decrease the City's carbon footprint. Jeffery stated there has been a lighting audit done in each of the City buildings. She stated that a grant was given to pay for part of the cost for window tinting. The ERC has suggested implementing something on electronic recycling. The Committee has joined ICLEI who will help to measure the base carbon footprint. They have a computer program set up where the City can enter the carbon footprint and see exactly what is being used. The City is also using a personal maintenance filter for their fleet of cars. Jeffery stated that this winter they will be focusing a lot on the building code. She said they are excited for this to be in the Comprehensive Plan.

Shay stated if this was to be included there should be supporting language in the zoning and subdivision ordinances. Currently, the design review standards in the zoning ordinance address xeriscaping and outdoor lighting.

Zellers agreed with Marvel that it should be included into the Comprehensive Plan.

Shay stated the Comprehensive Plan is a planning tool and this section would support revisions to the municipal code.

Linscott stated the Comprehensive Plan is looked at by other people and by having an environmental section, the City is sending a message. From a planning perspective trees, streets, mass transit and water quality, these provide a framework for proposed development. She is in favor of having an environment section in the Plan and suggested adding more language supporting mass transit strategies in the air quality section.

Pogue stated this sends the right message and is a proper policy to move toward. He doesn't see any problem with including this in the Comprehensive Plan because it is encouraging language. The hard part is implementation. He suggested under an implementation item in water quality to say "seek to reduce" rather than "eliminate". He suggested to "encourage" tree coverage rather than the "no net loss" language as that raises issues relative to private property rights, taking, etc. There was lengthy discussion about tree coverage.

Pogue suggested removing mandatory language as that could cause potential lawsuits for the City.

Linscott asked if CC&R's are unique to property owners or if they're something that could be put in development or PUD agreements. Shay stated they are a private agreement between the property owner and the developer. The City references them but doesn't enforce them.

Scanlon suggested an edit under water quality, 2. Policy, Implementation: a. to add language referencing water and sewer districts.

Public Hearing Opened.

Elizabeth Jeffery commented that it was hard to look at environmental policies without any language referencing recycling and environmental building practices.

Geoffrey Moore is concerned that some language regarding green building practices could drive the cost of construction up so much that it will be impossible for people to build here any longer.

Public Hearing Closed

Shay addressed the comment from Moore. The Building Official had the same concern but suggested that the 2006 building code to be adopted in January may have new, greener building practices.

This will be addressed as a public hearing at the Commission level for it to go to City Council. Shay stated she will make the edits and it will be heard as a public hearing on October 1, 2007.

**Approval of Findings of Fact:**

There were none.

**Approval of Minutes:**

August 6, 2007 - Zellers moved to approve as written, Pogue seconded and the motion carried.

**Staff Reports:**

There will be no meeting on Sept. 17<sup>th</sup>.

Mariel Platt will be taking Tara's position starting September 24<sup>th</sup>.

**Adjourn:**

Pogue moved to adjourn, Zellers seconded, motion carried.