

**MINUTES OF THE REGULAR MEETING  
OF THE HAILEY PLANNING AND ZONING COMMISSION  
HELD MONDAY, OCTOBER 3, 2005  
IN THE UPSTAIRS MEETING ROOM WITHIN HAILEY CITY HALL**

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

**PUBLIC HEARINGS**

**PROPOSED AMENDMENTS TO SUBDIVISION ORDINANCE #821--INCLUSIONARY ZONING**

Consideration of proposed amendments to Hailey Subdivision Ordinance No. 821 setting forth provisions for a mandatory “inclusionary zoning” program for all residential subdivisions. The amendments would provide definitions, procedure, and standards for the provision of 20% deed restricted community housing units.

Grotto recapped the reason and timeline for the moratorium. She stated she expected these items to be continued and advised the October 17th meeting had also already been noticed for the items on tonight’s agenda. She hoped the Commission would be able to work through the information and be able to make a recommendation to the Council by the end of October, to allow for noticing the item for the November 28th City Council meeting.

There was discussion about what would happen if the Commission was unable to complete the work in the timeline hoped for. Williamson advised he was not in favor of extending the moratorium; he believed an interim ordinance would then be needed.

Grotto gave an overview of changes made since the September 19th workshop. New definitions have been added related to Area Median Income (AMI), Community Housing Plan and Community Housing Unit. She advised of the addition of 4.11 as a new standard. She stated 4.11.5 set out alternatives/waivers to the process.

Grotto advised of 1999 statistics which showed that close to 50% of households in Hailey earn in the low to moderate income range. Jones asked for clarification of the 50%-120% AMI, asking who determined the percentage.

Grotto said that Michael David from Blaine Ketchum Housing Authority (BKHA) suggested using a range to allow flexibility to base target income prices on the pool of applicants. Developers responsible for many community housing units (CHU) should do a range of sizes allowing for meeting different percentages of AMI.

Jones asked if the City could deny a development if the developer was only going for the top end of AMI. Grotto indicated that could potentially happen.

There was discussion about the use of the term “community housing” versus “workforce housing” as there are many different segments of the community that require affordable housing, not just those in the workforce, and it was believed the language used should reflect that.

It was asked if the inclusion of 4.11.6-Developer Concessions, was to ensure defensibility. Williamson advised that, if challenged, it is useful to advise the court of concessions available to the developer. He believed it was wise to include the verbiage. Jones added his belief that the concessions could help give broad support for the ordinance.

There was discussion about not allowing a developer to choose what AMI percentage they are building for, with Zellers asking who oversaw the Community Housing fund. Grotto said that the city of Hailey has a contract for services with BKHA. Those fees are held by the Housing Authority with 10% going to BKHA operations and 90% to produce housing in Hailey.

Zellers asked for clarification that waivers needed to be provided to developers. Williamson indicated there did need to be an allowance for waivers but explained it could be addressed through the strict standard noted in 4.11.5.3.b.

Linscott, agreeing with Zellers, expressed concern with 4.11.4.b, stating that it could allow a developer to choose what AMI percentage they would choose to target. She asked, with relation to 4.11.4.c, what might otherwise be allowed by the Council. Grotto said it might allow some more specific occupancy criteria.

Linscott referenced the word “practical” as used in 4.11.5.A, asking “considered practical by whom?” Grotto said it would not be up to the developer, but instead be determined through a recommendation by P&Z and a finding by the Council.

Anderson opened the public hearing.

Martin Flannes, 531 Robin Hood Drive, stated support for inclusionary zoning at 20%, and writing the ordinance so it is enforceable. He stated support for the incentives for developers who do more than 20%. He did not think a density bonus was needed. Flannes did not think in-lieu land conveyance to the City was a good idea. He believed that if community housing was required to be built, the developer should have to build it. He asked the Commission not make it easy for a developer to not build.

Penfield Stroh, 117 Bullion St. W., asked about the 20% inclusionary zoning requirement related to a single parcel if it is split in half. Grotto said the subdivision could do an in-lieu fee comparable to a 20% housing unit.

Michael David, director of BKHA, explained that an in-lieu fee was the difference between the market price in the city of Hailey and what price was paid by income category 3 ½, which is approximately \$100 less per square foot than market rate.

Flannes suggested staff check if other municipalities count the original parcel or only the

additional new parcels created when requiring inclusionary zoning.

Taylor Walker, 202 4<sup>th</sup> Avenue South, stated the ordinance as written was close to a deal killer for allowing inclusion of any residences in the downtown core. He stated a developer's only choice would be to build more office buildings. He advised of multi-use projects to boost density in the core which could not be accomplished with the ordinance as it is written. He believed the 20% requirement should equal a 20% bonus. He stated he would be happy to share proformas for small mixed use projects.

Michael David said the targeted incomes for community housing fall between 50-120% of AMI for in-lieu fees. Developers will want to target the highest income but variety is needed within projects providing more units and flexibility written in would allow variety. David believed density bonuses were important. He added that inclusionary zoning was not a new idea but is used in many places.

Alex McPherson, 506 First Avenue N, stated his support for inclusionary zoning. He said this was a trial by error process and believed this ordinance would work against infill areas in the Townsite and small subdivisions.

Aaron Domini, 321 Elm Street W, stated he supports community housing but sees flaws with this ordinance, especially as it relates to Business and Limited Business zoning. He suggested the Commission look at the number of new lots/units created when addressing inclusionary zoning so as not to penalize those who already live and own property here. He stated concern that this ordinance would work against a vibrant downtown core. He suggested the Commission also might wish to look at different areas, with different standards for those different areas.

Stroh asked about the legality of a real estate transfer tax so that everybody across the board contributes an amount.

Jones asked about Hailey joining BKHA, and the structure of BKHA. David said that counties and cities can create housing authorities, advising the organization was previously known as Blaine County Housing Authority. In 2002 there was a joint powers agreement entered into by Ketchum and Blaine County; both Ketchum and the County have a representative on the BKHA board. He agreed with a comment made by Flannes about adding a couple of seats to allow representation across the board, as inclusionary zoning is a regional issue.

David advised that once a development is created with no community housing, the opportunity to require it is gone forever. He suggested tightening definitions related to community housing, and also setting parameters for developers.

There was further discussion about different standards for different areas. Flannes stated his belief that studios should also be considered for community housing.

Discussion ensued about how to address the 20% requirement in small subdivisions. Jones suggested adding to the list of incentives, including real estate transfer taxes and other ways to spread the cost around. He was comfortable with the 20% baseline.

Anderson believed it should be made clear in the ordinance who holds the funds, and that outlining building timelines for community housing should be addressed.

Flannes asked how this ordinance would tie in to a PUD. Grotto explained the PUD Ordinance used to require 10% community housing; 30% community housing will now be required to qualify for a PUD, along with additional amenities added. Flannes stated that if a developer is doing 30% community housing the bonus should be greater. Jones said there should be concessions only if the community housing requirement was exceeded.

Grotto advised of a 9/29 letter received from Jan Edelstein stating support for a community housing ordinance that can withstand legal challenge. Edelstein suggested a written opinion from the City Attorney addressing the following questions might be useful to the Commission:

1. Is Hailey authorized under LLUPA 67-6513 to exact land and density from a subdivision applicant for community housing for public service employees if Hailey does not generally provide community housing as a “service”?
2. Is Hailey authorized to exact land and density from a subdivision applicant in excess of the number of units needed to house any new public service employees needed to serve the residents of the new subdivision?
3. Is Hailey authorized to exact land and density from a subdivision applicant in excess of the number of units needed to house all new workers, including public service providers, needed to serve the residents of the new subdivision?

Williamson conceded the topic was complex. He said the percentage should be based on a rational basis. He advised the HUD figures correspond with the AMI deficit of community housing. He said the City cannot require new subdivisions to make up the deficit, but creation of a community housing ordinance would keep the deficit from growing.

Flannes believed the City should extend the moratorium and do things right rather than rush through the issue. Williamson disagreed, stating it was not wise to extend the moratorium, but that the work could be revisited at a later date if necessary.

Anderson closed the public hearing and asked the Commission to give guidance to staff to proceed.

Zellers wondered what the general consensus was about Hailey being a part of BKHA. Williamson advised that was a decision for the Council to make.

Zellers added she did not believe the City should be a land bank (referencing conveyance of land in-lieu). She said the land should be held by BKHA and the City should have a say in the land use. Anderson added an annual review may be a good idea.

Linscott agreed with comments made by Domini related to the downtown core. She said she had taken a step back, believing density in the Townsite Overlay should be given a chance to see how it develops. She believed there were components of the ordinance that warranted more consideration and suggested breaking into smaller workshop groups to address them. She said

there were some very good viewpoints at this meeting that should be further addressed. She believed it useless to work with an ordinance that is unusable right away and that time should be taken to do it right, looking at all the variables. She stated she had no problem with extra meetings to address the issue.

Anderson advised she could do some extra meetings, but that her time was spread thin.

Jones was concerned that should the Commission hold additional meetings to address this ordinance and the Council did not extend the moratorium, the City would see subdivision applications with no guidelines in place and no community housing provision. He believed the Commission should work within the time frame given by the moratorium, write the best ordinance they can and adjust later as necessary. He was not prepared to spend many extra meetings and workshops on the issue.

Anderson suggested the public could meet individually with P&Z and give their comments.

Grotto summarized that staff was to try to revise the draft ordinance to be somewhat more lenient with regards to small subdivisions, exempting the original parcel, more lenient standards in the Townsite Overlay and alleviating contradictions with other areas of the Zoning Ordinance and Comprehensive Plan. She clarified that what was written addressing multi-lot subdivisions was fairly good.

Linscott asked what happened to the Cottage PUD, with Grotto indicating it was put on the back burner due to the moratorium and Townsite Overlay discussions.

Zellers agreed with Grotto's summary and stated she could do only 1 or 2 special meetings if necessary.

Anderson suggested looking at listing "practical" examples in 4.11.5.A, and removing 4.11.6.C related to expedited permit processing as a developer concession.

Grotto asked that any ideas gathered by the Commission or any ideas the public wished to share with staff be submitted in writing or email.

**Zellers moved to continue the application to the October 17<sup>th</sup> meeting,** Jones seconded and the motion carried unanimously.

## **PROPOSED AMENDMENTS TO ZONING ORDINANCE #532--INCLUSIONARY ZONING**

Consideration of proposed amendments to Hailey Zoning Ordinance No. 532 revising Article II to provide a definition for Community Housing; revising Sections 4.2 through 4.7 and Section 4.12, to provide for approximately 10% density increase in developments including community housing; and revising Article X, Planned Unit Developments, to adjust subsections related to community housing and to allow additional amenities to qualify for a PUD or density bonus.

**Jones moved to continue the application to the October 17<sup>th</sup> meeting, Zellers seconded and the motion carried unanimously.**

**PROPOSED AMENDMENTS TO SUBDIVISION ORDINANCE #821-- MISC**

Consideration of proposed amendments to Hailey Subdivision Ordinance No. 821 revising Section 1, definition of Lot Line Adjustment related to Townsite Overlay District; revising Section 4.5.4, clarifying flag lots; adding a new Section 4.5.5 requiring all lots to have street frontage; revising Section 12.1 to clarify appeals of a decision by the Hearing Examiner; adding a new Section 15, setting forth procedures for amendments to the Subdivision Ordinance.

Grotto gave an overview of proposed changes. The definition for Lot Line Adjustment has been amended. Section 4.5.4 was revised to allow that the “pole” of a flag lot would give frontage to a street, and that no flag lots, except possibly along the ITD right-of-way, should be allowed in the Townsite Overlay. There was an addition of 4.5.5 addressing that all lots shall have frontage on a public or private street.

Section 12.1 was amended to include “Hearing Examiner”.

Section 15-Amendments, is new and sets forth the process for amendments to the Subdivision Ordinance.

Grotto said all other changes deal with renumbering of sections in the Subdivision Ordinance.

Linscott believed flag lots helped with density and infill in the Townsite Overlay. Grotto advised that the Ordinance prepares for general lots and exceptions will need to find a creative way to accomplish. Jones said the practical issues of flag lots outweighed increased density issues.

Anderson opened the public hearing.

Peter Lobb, 403 East Carbonate, liked the amendment, stating that alley access only created disasters.

Anderson closed the public hearing.

**Jones moved to recommend the amendments to the Council based on general compliance with the Comprehensive Plan, Zellers seconded and the motion carried unanimously.**

**MINUTES**

September 19, 2005- **Zellers moved to approve as written**, Linscott seconded and the motion carried with Jones abstaining.

**COMMISSION REPORTS**

Anderson referenced the Sustainability Conference in Ketchum and there was discussion about possible inclusion into ordinances of ideas presented at the conference.

Jones advised he may not be back in town in time for the October 17<sup>th</sup> meeting.

## **STAFF REPORTS**

Grotto advised of a need for a special meeting to further address inclusionary zoning to recommend changes to the Council in a timely manner before the moratorium ends.

A special Commission meeting will be held Tuesday, October 25, 2005.

Council update –

Grotto advised the Council passed the parking ordinance amendments recommended by the Commission.

There was discussion about the applicant for Logan's Run requesting a publicly noticed workshop to get Commission feedback for his project. Jones stated he did not want to design the project for the applicant and would not participate in the workshop, believing a meeting of this type would set a precedent and open the door for other developers to request the same. He stated his belief it would create a conflict of interest; other Commissioners agreed.

Zellers moved to adjourn, Linscott seconded and the motion carried unanimously. The meeting adjourned at 9:30 p.m.