

**MINUTES OF THE SPECIAL MEETING  
OF THE HAILEY PLANNING AND ZONING COMMISSION  
HELD TUESDAY, OCTOBER 25, 2005  
IN THE UPSTAIRS MEETING ROOM WITHIN HAILEY CITY HALL**

The special 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, Stefanie Marvel, Elizabeth Zellers and Nancy Linscott were present. Staff present included Planning Director Kathy Grotto, City Attorney Ned Williamson and Deputy Clerk Tara Hyde.

**PUBLIC HEARINGS**

**AMENDMENTS TO HAILEY 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 of 5 or more lots or dwelling units. The amendments would provide definitions, procedure, and standards for the provision of 20% deed restricted community housing units. **(Continued from October 17, 2005)**

Grotto suggested Anderson open both agenda items because of their relativity to one another.

**AMENDMENTS TO HAILEY ZONING ORDINANCE #532 – INCLUSIONARY ZONING**

Consideration of proposed amendments to Hailey Zoning Ordinance No. 532 providing definitions for Community Housing; revising Zone Districts, to provide 20% density increase in developments including Community Housing; revising Planned Unit Developments to adjust subsections related to Community Housing and to allow additional amenities to qualify for a PUD or density bonus. **(Continued from October 17, 2005)**

Grotto advised that a display ad appeared in the October 19, 2005, Wood River Journal, noticing this special meeting.

**SUBDIVISION ORDINANCE**

Grotto gave an overview of revisions proposed for the Subdivision Ordinance. The “Whereas” findings at the beginning of the Ordinance have been modified/expanded. Definitions for “Community Housing Unit” and “Deed Restricted” have been clarified or expanded, and a definition for “Original Parcel” was added. The Blaine Ketchum Housing Authority (BKHA) guidelines were looked at and the new “Community Housing Unit” definition proposed is more similar to those guidelines. The “Deed Restricted” definition added language addressing capital improvement reimbursement. The “Original Parcel” definition includes language of notice to future buyers of a property that they may be responsible for CH.

Grotto advised of the addition of 4.11.3.A.8, requiring an analysis of the Standards of Section 4.11.4. She advised of the addition of language addressing type and design of development to Section 4.11.4.B. Section 4.11.5.f was added addressing reimbursement of unused in-lieu fees.

Williamson stated the “WHEREAS” language is the same in both the Subdivision Ordinance and Zoning Ordinance proposals; giving an overview of added language. Williamson stated the language in the 24<sup>th</sup> “WHEREAS” set out critical components needed in the Ordinance.

Williamson clarified in-lieu fee reimbursement, believing if the fees accumulate and are not spent within 7 years, they should be refunded. He advised of flexibility in the Ordinance allowing the Council to extend that time period to 10 years. He advised the addition of that language makes the Ordinance more defensible and user friendly.

Jones indicated he had listened to the tapes from the meeting he missed, and read the accompanying reports. He asked for clarification of 4.11.5.A.2.f, stating the City did not own the land, it was held by BKHA. He referenced the “Deed Restricted” definition, and wondered if the Commission would even need to look at the deed, as approval is based on guidelines of the local housing authority. Williamson stated the City would not get real involved in review; however with the goal to provide CH, it may be possible that bad language could be caught through Commission/staff review. Grotto added it was primarily up to BKHA to work with the deed and review, but as the City would be responsible for approving the lots/units, the City would want to see the deed. Marvel added she liked City oversight of the deed. Jones stated his belief that the City should use BKHA authority on the deed; he did not wish to set standards.

Zellers asked where the standard for occupation of a completed CH unit could be found. She had looked at the deed and did not find the language there. Williamson advised that would be an issue between the Council and BKHA through the Contract for Services.

Linscott asked about verbiage in the 14<sup>th</sup> “Whereas”, believing the verbiage “...throughout the nation and *in this community*” would be more clear if written as “...throughout the nation and *in the Wood River Valley*.”

Linscott suggested that a real life example of an original parcel piecemeal be included in 4.11.2. Williamson drew an example on the board and indicated that 1 piecemeal attempt of less than 5 units would be free. Additional subdivision by a subsequent owner, or additional subdivision of the original parcel, could then kick in the need for inclusionary zoning. He advised the City would need to prohibit future subdivision on any parcel that is subject to a recorded restriction.

Linscott asked for clarification of 4.11.6.B, with Grotto indicating the information is set out in the bulk requirements section of each zoning district.

## ZONING ORDINANCE

Grotto referenced Section 10.3.8.k of the proposed Ordinance addressing sustainable building practices. She advised she spoke with Marty Flannes; he indicated that “Built Green” has a checklist for sustainable buildings available. The LEED for homes certification is currently in a pilot stage, but should be fully certifiable by next summer. Grotto added that Section 10.4.1.e, f, & g, spoke to additional levels of LEED certification with additional density bonuses.

Marvel referenced Sections 4.2.5 and 4.3.5, asking if a developer who chose to put CH offsite would still get a density bonus onsite. She stated she understood the density bonus would put more units on one site. She believed if offsite CH was allowed, it would not get spread around the City. She believed developers may choose to put their offsite CH on properties of much lesser value.

Anderson did not think offsite CH units should be offered. Anderson then opened the public hearing.

Taylor Walker, 202 Fourth Ave S, stated his belief that offsite CH was an “offset” not a “bonus”. Whether CH is offsite or in-lieu, no extra units would be picked up. Walker stated he is all for LEED certification, however he believed it would be very difficult to give a density bonus up front for LEED because LEED certification is not achieved until a building/project is completed. He suggested an inclusion for take back or bonding of a project. Walker stated that these additional CH requirements, in addition to the parks requirements for subdivisions, might make it difficult for developers to deliver what the City wants with relation to CH. Anderson advised that anyone could bring forth a text amendment addressing parks requirements.

Michael David, director of BKHA, believed that the deed restricted language proposed was fine. He stated appreciation for City involvement in drafting the documents. He said he is looking at streamlining the deed; however he wanted all to know there were many agencies that must approve the finished document (Freddy Mac, Fannie Mae, etc). David said he envisions different types of deed restrictions are possible. David believed there should need to be a very compelling reason to allow offsite CH; he suggested more forceful language addressing offsite CH—perhaps 150% of the CH requirement should be met if a developer chooses to build offsite.

Discussion ensued about the inclusion of 150% offsite CH as a requirement. David gave clarification that a developer does not get paid for a CH unit if the house does not sell.

John Campbell, who resides in Blaine County, hoped the City and BKHA would include a qualifying process for buyers that did not involve an income element. He used examples of the need for affordable housing for city and county employees, school personnel and emergency personnel who may make too much to qualify for CH, but cannot afford to buy at the market rate.

Alex McPherson, 506 First Ave N, asked for clarification on lot splits with relation to the proposed amendments.

David asked if the Commission would look at setbacks, etc, if the density bonus allowed created space problems for a developer. Grotto stated that, when talking about the lot sizes involved, a developer would still have reasonable size lots. She stated that 5000 square foot lots would probably not give problems meeting setbacks. She reminded a developer could always apply for a PUD for setback waivers should there be a problem.

Jones expressed concern about ambiguity in language related to density bonuses. There was discussion about looking at bulk regulations in the Zoning Ordinance. Grotto stated it could be written so there is a density increase when there is approved CH onsite.

Anderson again expressed her belief that CH should be onsite. She believed if there was a compelling argument for no onsite CH, the developer would get hit double through a loss of a density bonus and perhaps a 150% offsite CH requirement. Williamson advised that would be one choice a developer would have, and added there are many choices proposed in the Ordinance.

McPherson asked what the City's preference would be, related to onsite versus offsite CH.

Linscott stated that while there are options available to the developers, it should be kept clear that on-site CH is preferable.

David suggested the City may wish to consider an exchange of land. There may be times a developer cannot accomplish on-site CH—the developer would need to have land available elsewhere to accomplish off-site CH—the City would have input into whether or not the off-site location was considered suitable. There was further discussion about the choices related to on-site versus off-site CH.

Marvel said that integration into a community is the incentive to put CH on-site; Linscott stated that off-site CH within the city limits is still mixing and integrating. Marvel preferred CH on-site to alleviate high end developments sticking their required CH in, for example, south Woodside.

Campbell strongly encouraged the requirement to keep CH on-site, stating he liked the mix of housing. He asked for clarification of the proposed density bonus; and suggested changes to the proposed amendments to allow for a developer to put the required CH onsite and get a density bonus that would allow additional units to be built at another location.

Paul Conrad, 1320 Heroic, suggested the City create incentives to back up the intentions of the Comprehensive Plan. He believed if there is actually no density bonus, but CH is required, it kills the incentives deal. He expressed concern that with the increased density, additional parks dedication would also be required.

Jason Roth, who resides up Indian Creek, stated that in the "real world" he has investors ready to come in with 400 units; 20% CH would kill the deal. He asked if waivers would be available. Anderson stated any member of the public was welcome to come forward with suggested changes to whatever is recommended to the Council.

Williamson advised this is a mandatory inclusionary ordinance to achieve something that had previously done by voluntary methods.

There was additional discussion of an increased density bonus to allow the ordinance to work. McPherson believed that with the cost of land and level of exactions, the increased density offset needed to go higher to make any projects pencil out.

David suggested the City consider looking at different deed restriction types related to CH to allow flexibility to a developer.

There was discussion about the inclusionary zoning component mirroring County and Sun Valley ordinances. Jones did not think the issue should be looked at in a vacuum, believing the issue would soon be seen county wide. David said the City is not going out on a limb with the requirement of inclusionary zoning. He believed it important county wide for ordinances to mirror one another.

McPherson referenced that “deed restricted” units in Sun Valley and the Valley Club are supported by luxury market rate units. He added that affordable housing is what is being built in Hailey, and affordable housing cannot support CH as proposed.

Campbell asked what a 3-bedroom house would sell for through BKHA. David gave examples of several different category prices. Campbell stated his belief that the proposed ordinance was so draconian, developers just would not develop; each CH unit would cost developers huge monies. He said to absorb the hit of CH, developers would need to create big lots/houses to offset the requirement. As a developer he was not in support of something that would kick him in the stomach.

Anderson suggested Campbell review the proposed ordinance and offer concrete suggestions for inclusion of language when the application is heard again. Anderson then closed the public hearing.

Anderson asked for discussion about the requirement of 150% CH if off-site and whether the Commission agreed that 20% was the right number.

Linscott heard compelling remarks by the public to take another look at what was being proposed. She expressed concern that the ordinance as written would force developers to create “McMansions” to offset their costs. She also had concerns of creating more of a long-term problem. She advised she had viewed HUD’s website, and referenced a list of communities who have received the “Robert Woodser” award, which recognizes local governments who have aggressively worked to reduce regulatory barriers to affordable housing. Linscott said, in looking at what those communities had done, there are other means to help control costs.

Zellers believed CH should be on-site. She was open to revisiting the 20% density offset to look at increasing the number.

Marvel supported the concept and believed 20% was the right number; she reminded all that many communities have inclusionary zoning and make it work. She expressed concern about the increased density that would come along with this change because people may not equate this CH requirement to the increased density that will come with it.

Marvel referenced the 28<sup>th</sup> “WHEREAS” related to “the amendments not creating excessive additional requirements at public cost for public facilities and services.” She commented that every little bit of density and infill makes more demand for public services, including parks. She wanted to see inclusionary zoning information from other communities to see how things pencil out in areas where there is not such a range of land prices as is found in the Wood River Valley.

Jones stated his reluctance to derail the proposed amendments because of time spent and work done to reach the verbiage proposed today. He agreed that there were some issues to evaluate, but believed the Council better to address those issues. Jones was unsure the 50-120% of AMI was a correct range. He suggested looking at a broader range to allow developers a larger margin. Jones stated he was generally comfortable with the way the ordinance was written, along with the principle and concept behind it.

Linscott suggested she would like to see number crunching reports to allow an informed decision.

Grotto believed the political acceptance for a density increase over 20% would not be there, following what transpired at the Council meeting the night before. She added that Sun Valley and Blaine County’s ordinances target higher income categories for CH; if the Commission felt comfortable they could increase targeted income categories from 2-5 to 2-6 (up to 140% of AMI) to help developers.

The Commission discussed bumping the density increase to 30%, allowing for additional market rate unit(s). There was also discussion about including additional income categories. Anderson asked if they should change the values or pass as is to the Council.

Grotto suggested the Commission add category 6 = 121-140% of AMI, and move to change verbiage to include categories 2-6. Anderson asked if needed flexibility would be accomplished with the inclusion of category 6. David stated the demand was there and it would help. There was discussion related to developers who only want to include high-end CH. Grotto said that Section 4.11.4.B of the Subdivision Ordinance amendments will state “...categories to be served shall accommodate the range of Income Categories 2-6...” The verbiage “...Unless otherwise approved...” maintains flexibility.

Jones asked what would be required to change to 30% density. Grotto said it would mean smaller lot sizes for single family. Ten units/acre would increase to 13 units/acre in multi-family. Business and Limited Business would increase from 20 units/acre to 26 units/acre. She advised it would be an easy change to the Zoning Ordinance.

Jones believed it important to have language expressed in the Zoning Ordinance that 30% density increase would equal 2 CH and 1 market rate unit. He was not worried about subdivisions penciling out because the Commission was not here to address developers making money. He believed the Commission was being responsive to concerns heard and suggested it may not be possible to draft the perfect ordinance that will make everyone happy. He suggested addressing the Commission's concerns and advancing the application to the Council.

Linscott expressed concern that if a result of the ordinance is that no new products come on line, the time and work done by staff and Commission has been wasted. She again suggested giving the more complex issues additional thought.

**Jones moved to recommend the proposed amendments to Subdivision Ordinance #821, subject to two changes; to include the expansion of the targeted income categories from 2-5 to 2-6; and increasing the 20% density increase to 30% while clarifying that the increase would allow a proportionate bonus for a market rate unit without increasing the 20% CH requirement, finding it in conformance with Sections 5.0-LAND USE and 8.0-HOUSING of the Comprehensive Plan and that it does not jeopardize the health, safety and welfare of the general public.**

Marvel seconded for discussion. She stated that while she generally supports recommendation to the Council, she does not support a 30% density increase because it has not been presented as an increase in density to the public. She believed additional discussion of density itself was needed before density was increased. **Marvel amended the motion back to a 20% density increase.** Jones seconded and the motion failed with Marvel in support. Jones, Linscott and Zellers opposed.

The vote was taken on the main motion and the motion carried with Marvel opposed.

**Jones then moved to recommend the amendments to Zoning Ordinance #532, subject to the changes discussed, finding them in conformance with Sections 5.0-LAND USE, and 8.0-HOUSING sections of the Comprehensive Plan, recognizing the potential for a density increase, and recognizing that sufficient public services are available to support the density increase and the full range of proposed uses, and that generally the passage of this ordinance would advance legitimate government interest and public purpose and the public welfare of the citizens of Hailey by providing affordable CH.**

Zellers seconded for discussion. **Linscott amended to include a recommendation to the Council that a socio-economic impact study be obtained,** Marvel seconded.

Grotto asked Linscott to clarify socio-economic impact study; Linscott said there are considerable socio and economic impacts that need to be looked at to reach the goals of these ordinances.

A vote was taken on the amendment with Linscott and Zellers in support and Jones and Marvel opposed. Anderson broke the tie in support and the amendment carried.

A vote was taken on main motion and it carried with Marvel opposed.

## **COMMISSION REPORTS**

Zellers advised she would be gone the December 19<sup>th</sup> and Jan 3<sup>rd</sup> meetings.

Linscott advised of the Townsite Overlay property research she is doing and that she would present it when complete.

Anderson spoke to the Transpo Group--asking if the Commission could have representation on the committee. Grotto advised of a November 3<sup>rd</sup> meeting, 3-5 p.m. at City Hall. Anderson and Marvel both indicated they planned to attend.

## **STAFF REPORTS**

Grotto reported on the October 24<sup>th</sup> Council meeting, advising that many Townsite residents are overwhelmingly against the adopted amendments and that the Commission would be revisiting the issue. The Council voted to city-initiate a text amendment to the Townsite Overlay district and has requested a joint workshop with the Commission on Thursday, November 10<sup>th</sup> at 5:30 p.m. to discuss the Townsite Overlay issues. She asked Commissioners to get back to her the following day with whether or not they can attend.

Grotto advised of a possible joint workshop for Sustainability Conference highlights. The tentative date is January 12, 2006.

Grotto handed out WRLT reports for the November 7<sup>th</sup> presentation.

**Linscott moved to adjourn.** Zellers seconded and the motion carried unanimously. The meeting adjourned at 9:20 p.m.