

**MINUTES OF THE
HAILEY PLANNING AND ZONING COMMISSION
Monday, December 17, 2007**

The regular meeting of the Hailey Planning and Zoning Commission was called to order at 6:30 p.m. by Commission Chair, Stefanie Marvel. Commissioners Owen Scanlon, Michael Pogue, Nancy Linscott, and Elizabeth Zellers were present. Staff present included Planning Director Beth Robrahn, Planning Technician Mariel Platt, and Planning Assistant Becky Mead.

Robrahn presented to Commissioners Linscott and Zellers, on behalf of the Mayor, a certificate of appreciation for their three years of service. The Mayor also wanted to thank them for all their time.

Proposed amendments to the Hailey Subdivision Ordinance 821

The amendments would revise sections of the ordinance, including but not limited to: Section 1 – Definitions and Section 4 – Development Standards. Revisions include, but are not limited to: adding a definition of “public street”, amending definition of “right-of-way”, “Private Street” and “street” and clarifying sidewalk requirements and requirements for short plats.

Proposed text amendment to the Hailey Zoning Ordinance 532

The amendments would revise several sections of the ordinance including, but not limited to: Article 2 – Definitions and Article 6A – Design Review. Revisions include, but are not limited to: adding a definition of “right-of-way”, “Private Street”, “Public Street” and amending definition of “street”, clarifying sidewalk and landscape requirements.

Robrahn stated the current ordinances were unclear on sidewalks and public/private streets. She stated she has reorganized the standards that were already there. She made reference to the zoning ordinance and stated the changes were similar to the changes made in the subdivision ordinance. Robrahn summarized the proposed amendments to the Commission.

She asked the Commission if there were any questions regarding these changes.

Linscott asked if the sidewalks would be addressed during the Design Review or Subdivision process. She referred to the standards of sidewalk requirements for a primary residence or an addition over \$20,000 is when a sidewalk is required in the Design Review guidelines.

Robrahn replied stating if a subdivision application is submitted subdivision requirements have to be met, which includes sidewalk requirements.

Linscott stated there wasn't anything that listed the Townsite Overlay. She referred to the Subdivision Ordinance under Section 4.2 Sidewalks and Pathways, sidewalks adjacent to public streets shall be constructed on both sides of the public street and also referenced to sidewalks with curb and gutter shall be provided in Business, Limited Business, Technology Industry, Commercial Service Industry and Light Industrial Districts. She pointed out that it doesn't mention Residential or Townsite Overlay districts. She also pointed out these requirements aren't mentioned for Residential or Townsite Overlay until Design Review requirements.

Robrahn replied by stating if a property is being subdivided in a zoning district where sidewalks are not required, and then sidewalks are not required. She stated if it is a Design Review application then the Design Review requirements would apply.

Linscott stated that is much clearer to her now.

Marvel asked City Attorney Ned Williamson if there were any way to prohibit private streets in future subdivisions.

Williamson asked if Commissioner Marvel meant prohibiting private streets in or around public streets. Commissioner Marvel replied yes. Williamson stated that would be a big change compared to how some subdivisions were done in the past. Williamson explained private streets are added so all the lots have access but the City doesn't have to maintain. . He said if the Commission wanted to go in that direction they could look at that and make a recommendation to Council. He urged the Commission to treat this as separate from what was being discussed.

Commissioner Pogue questioned Section 8, on the landscape plans of the Zoning Ordinance and wanted to know where the percentages came from on the trees.

Robrahn replied by stating that was something that was currently in the code and stated that was determined by previous staff and Commissioners.

Commissioner Pogue asked if the underlined language was being added. Robrahn replied it was being reorganized. Robrahn referred to Section 6, number 2 were the identical language was being deleted.

Commissioner Scanlon asked what was the philosophy of the in lieu fees to sidewalks. He asked if that was for situations where there were not sidewalks contiguous to the property. Robrahn replied yes; there are stipulations for how the in lieu fee can be applied. If there is development within Business and SCI zones the in lieu of fee can not be used sidewalks are required to be constructed.

Robrahn explained the Subdivision amendments and asked the Commission if there were any questions.

Public Hearing Opened

There were no public comments.

Public Hearing Closed

Commissioner Zellers moved to recommend to the City Council approval of the changes made to the Subdivision Ordinance, finding that it meets the three standards of evaluation as it relates to the Hailey Comprehensive Plan, finding also that these changes would not create excessive additional requirements at the public's cost, and it is also in accordance with the general welfare of the general public. Commissioner Linscott seconded, the motion passed unanimously.

Commissioner Zellers moved to recommend to the City Council approval of the various changes to the Hailey Zoning Ordinance, finding that it meets the three standards of evaluation as it relates to the Hailey Comprehensive Plan, finding also that these changes would not create excessive additional requirements at the public's cost, and it is also in accordance with the general welfare of the general public. Commissioner Scanlon seconded, the motion passed unanimously.

Proposed Draft Hailey/Blaine County Area of City Impact (ACI) Ordinance

Establishing an Area of City Impact, providing for an application of plans and ordinances for the area, delineating four areas within the Area of City Impact, each with general requirements, and addressing annexation, Transfer of Development Rights, governing plans, notification and meetings between the City and County (Continued from December 3, 2007).

Proposed Draft Ordinance Adopting a Map Identifying the Area of City Impact

Adopting a map within the unincorporated area of Blaine County delineating four areas within the Area of City Impact (Continued from December 3, 2007).

Commissioner Marvel stated the two draft ordinances will be discussed.

Commissioner Pogue stated he had a conflict of interest with this discussion and recused himself.

Robrahn referred to the staff report and pointed out that she had outlined the different scenarios for how the Commission might want to address whether or not to include the Transfer of Development Rights with the Area of City Impact Ordinance. She asked the Commission to discuss what their individual choices were.

Commissioner Zellers thought, in a perfect world, TDRs were a good idea and participating with the County was the first step to regional planning but she didn't see how this program could move forward as part of the ACI ordinance. Commissioner Zellers stated her choice would be to Separate the TDR component from the ACI Ordinance, forward the ordinance without the TDR component and continue work on the TDR component as a potential future amendment to the ACI Ordinance.

Commissioner Scanlon agreed with Commissioner Zellers.

Commissioner Linscott agreed also with Commissioner Zellers and Commissioner.

Commissioner Marvel stated that it seemed that they all agreed that the TDR needed to be a separate discussion. She suggested they separate the TDR language out and continue on with the ACI boundaries and their definitions.

Robrahn said there seemed to be a consensus from the Commission that the TDR component be separated from the ACI Ordinance and the Commission would continue to explore TDRs in another form. Commissioner Marvel concurred. Robrahn suggested when the Commission was ready to make a motion on the ACI ordinance that they would include in the motion excluding the TDR component from the ordinance and mention that it would be addressed separately.

Robrahn stated there were some legal questions at the last meeting and Williamson was here to clarify them. Williamson stated each question and his response.

1. Will there be an agreement with the county in addition to the ordinance ensuring the ordinance is followed?

Idaho law does not require a separate agreement. The law contemplates that the city and county negotiate an ACI map and decide what ordinances apply in the ACI. Then the negotiated agreement is adopted in the form of ordinances. If the parties felt it was advisable, they could, however, enter into an agreement (much like a letter of intent) and then convert that agreement into ordinances.

2. Are ACI property owners required to have representation? Will expanding the ACI change the composition of the Commission?

Idaho Code § 67-2526 (g) provides that if the city and county reach a negotiated ACI, then the residents within the ACI shall have representation that is proportional to the number of residents with the City. If the ACI is changed, the city will have to compare the number of residents in the ACI and in the City to determine if any changes in the composition of the Planning and Zoning would be necessary.

3. What is the relationship between the ACI and annexations? The County's interpretation of the current ACI agreement was that the land within the ACI is the only area that can be annexed?

Idaho Code § 67-6526 (a) states "[s]ubject to the provisions of Idaho Code § 50-222, an area of city impact must be established before a city may annex adjacent territory." In pertinent part, Idaho Code § 50-222 (l) provides: "An owner of land of any size may request that the tract of land be annexed by the city whether the land is or is not contained in the city's area of impact by submitting such request, in writing, to the City Council." Another way it is stated; if an ACI is established, an involuntary annexation can only occur in the ACI, but a voluntary annexation can occur within the ACI. Section 14.02.050.02 allows the owner requested annexations to occur except in one case (the Bellevue scenario). That same provision states that an owner requested annexation cannot occur within another city's ACI without the consent of that city.

4. If there are discrepancies between the County PUD standards, Hailey infrastructure standards and the ACI requirements, which standards would be defaulted to?

The answer would depend on the discrepancy and if there was an ambiguity between the provisions and the legislative intent. But assuming there was an irreconcilable ambiguity, he thought the county standards would apply.

5. What does Idaho code require for ACI ordinances?

Idaho law only mandates minimal requirements. First, the ACI ordinance would have to establish the ACI boundary. Second, the ACI ordinance would have to provide that the City's zoning and subdivision ordinances applied, or the County zoning and subdivision ordinances applied, or mutually agreed upon the zoning and subdivision ordinances applied.

Commissioner Scanlon asked Williamson if the current Hailey ACI satisfied the state law or is this ACI a new concept and bigger than what already exists. Williamson replied that the current ACI does satisfy state law. .

Public Hearing Opened

Jeff Adams, Blaine County Regional Planner, projected a map of the ACI to facilitate discussion.

John Gaeddert, 1 Quigley Road, Hailey, pointed out the area on the far right that crosses Deercreek Road and stated the owner of the Deercreek Ranch would like that area removed from the Hailey ACI. Gaeddert stated it is not an area that the city would be proposing for annexation and he didn't think that the city would ever try to service that area.

Adams pointed out that area was in the Advisory Zone and being in the Advisory zone gives the property owners more notice of future land actions and the ability to have a say.

Commissioner Marvel asked if that was mostly a steep hillside area. Adams showed the area was in mountain overlay district.

Commissioner Linscott was focused on delineating areas that are of impact of the city. If there would be development there in the future then that would impact the city with traffic, extension of services such as if there were a fire.

Commissioner Linscott stated redevelopment in the Advisory Zone is unlikely to occur, there are previously established neighborhoods and hillside areas are areas that Hailey doesn't have intentions on annexing. Commissioner Linscott suggested for Adams to go through the Advisory Zone showing where it begins and ends, and approach each zone the same way.

There was discussion of the demarcation between the Near and Advisory Zones located north of Albertson's and whether it should go further north.

David Cropper, Indian Creek, stated Buttercup subdivision has substandard lots according to the County and City standards for sewage disposal. He said maybe that was a reason to consider it in the Near Proximity Zone. He continued with stating when Dale Donnelly platted the River Grove subdivision that there were plat notes stating that it could not be further subdivided.

Jenna Logerman, 215 Myrtle Street East, Hailey, pointed out the southern most area of the purple (Advisory Zone) between Mountain View and McKercher and asked if that was part of River Grove. Cropper stated that was part of River Grove subdivision and pointed out where Pat Wheeler's property was. Commissioner Scanlon asked if these areas could evolve over time. Commissioner Marvel asked if River Grove should be in the Near Proximity area. Commissioner Zellers didn't think that should be because they are already a private subdivision. Adams wanted to emphasize that the areas being looked at for the Near Zone that are not Advisory but areas where annexation is thought could take place.

Logerman requested discussion of Democrat Gulch. She asked if the entrance to the Gulch

would be a receiving area because she was concerned about density at the entrance to Democrat Gulch. Logerman stated there is incredible wild life in that area and should be addressed seriously as one of the recreational areas. Commissioner Marvel stated that would be a separate discussion and those TDRs are not being discussed tonight. Logerman suggested making the West Zone smaller.

Adams suggested this area could be changed to Advisory Zone where there could be more protection over the area.

Commissioner Zellers, Commissioner Linscott and Commissioner Scanlon agreed.

There was further discussion of the Advisory zone. Robrahn wanted to clarify what the changes would be. The Commission discussed the area of Democrat Gulch to be included into the Advisory zone and enlarging the Advisory zone to the east out Quigley.

Commissioner Linscott clarified that the Heritage zone was to keep the area between Hailey and Bellevue non developable.

Cropper raised concerns about flooding in the Hiawatha Canal and suggested that some of the water sheds needed to be included in the ACI.

Robrahn asked the Commission if they were was comfortable with the changes made to the boundaries. The Commission concurred. She stated the section on TDRs will be deleted and any other place that TDRs are mentioned that will be deleted also. Robrahn then reviewed the changes to the ordinance that reflected the Commission's discussion at the last meeting and noted in the staff report and draft ordinance dated December 17, 2007.

Commissioner Marvel asked if there were any public comments on these changes.

John Gaeddert, 1 Quigley Road, Hailey, referenced to page 3 and asked if the TDR section will be taken out of this draft. Gaeddert referenced page 4 under Subdivisions where it reads "All proposed subdivisions within the Hailey ACI are required to be developed as Planned Unit Developments" and asked the Commission if that really mattered to them. He gave an example of Marvin's Garden with 7 lots and someone wanted to replat one of them, Gaeddert stated he wasn't sure why they should do a PUD.

Adams stated they wanted to see everything come in through a PUD in these areas because development would be held to a higher standard. Adams said there could be a limit of acreage like anything over 20 acres must come in as a PUD.

Public Hearing Closed

Robrahn stated she received written comment from Ed Lawson who made comments on the language of the ordinance. This letter was submitted into the record and is on file.

Commissioner Zellers referred to page 4 under 14.02.060.03 Subdivisions and suggested to amend by adding all proposed subdivisions within the "N, W, & H zones" of the Hailey ACI are

required to be developed as Planned Unit Developments.

Commissioner Linscott stated she was comfortable with the changes they have made previously to the ordinance and map and with the changes that are proposed.

Commissioner Marvel agreed with the changes and reiterated to remove the TDR language out of the ordinance until a later date.

Robrahn referred to the map ordinance, the Near Proximity zone was referenced with a **P** and now has been changed to an **N**.

Commissioner Scanlon stated he hasn't heard anyone from the public say that they want this ACI ordinance and map. He is reluctant and uncomfortable moving ahead with this at this time.

Commissioner Linscott stated the city has had an existing ACI and this is just refining it. She said she isn't going to be guided on the fears of the public. She said there aren't any radical changes and there isn't a lot of public present and only one written comment was received.

Robrahn suggested for the motion, she referenced page 6, item 3 of the staff report, it states "The proposed amendments are intended to ensure that development of land surrounding Hailey does not directly or indirectly negatively impact Hailey City services, infrastructure or quality of life in accordance with the Hailey Comprehensive Plan", and suggested in the motion to include a the Commission's findings regarding how the amendments are in accordance with the Comprehensive Plan.

Commissioner Zellers moved to recommend to the City Council an ordinance of the City of Hailey Idaho, adopting a new chapter 14.02 of the Hailey Municipal Code that establishes a Hailey/Blaine County Area of City Impact, removing the Transfer of Development Right (TDR) language from the draft, noting that the Transfer of Development Rights do have merit as it relates to working with the County, however the Commission feels this needs to be addressed in a different format, and amending Section 14.02.060.03 Subdivisions changing the applicability to add the zones H, N, & W, finding that this ordinance is in accordance with the Hailey Comprehensive Plan as it relates to the future physical development of the City of Hailey, that this ordinance protects the public's health, safety and general welfare by ensuring future growth is contained in close proximity to existing city services and avoids disproportionate expansion in the areas surrounding Hailey resulting in less negative impacts, along with this recommendation a recommendation to adopt the map identifying the Areas of City Impact, with the changes discussed tonight.

Commissioner Linscott seconded; Commissioners Marvel, Linscott and Zellers in favor and Commissioner Scanlon opposed, the motion passes.

Approval of Minutes:

November 19, 2007

Commissioner Scanlon moved to approve as written. Commissioner Linscott seconded, the motion passed unanimously.

Commission Reports:

Commissioner Marvel and Commissioner Scanlon stated they would miss Commissioner Linscott and Commissioner Zellers and appreciated their work.

Staff Reports:

None

Adjourn:

Commissioner Zellers moved to adjourn at 8:45 p.m. Commissioner Linscott seconded, the motion passed unanimously.