AGENDA ITEM SUMMARY

DATE: April 25, 2011   DEPARTMENT: Community Development   DEPT HEAD: [Signature]

SUBJECT: Findings of Fact, Conclusions of Law and Decision - final plat approval of Sweetwater PUD Townhouses, Block 4, Sublots 46-53

AUTHORITY: □ ID Code □ IAR □ City Ordinance/Code
          (IF APPLICABLE)

BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:

The Council held a public hearing on April 11, 2011 and approved the final plat.

FISCAL IMPACT / PROJECT FINANCIAL ANALYSIS: Casele #

Budget Line Item # YTD Line Item Balance $
Estimated Hours Spent to Date: Estimated Completion Date: Phone #
Staff Contact: Comments:

ACKNOWLEDGEMENT BY OTHER AFFECTED CITY DEPARTMENTS: (IF APPLICABLE)

☑ City Administrator ☐ Library ☐ Safety Committee
☑ City Attorney ☐ Mayor ☐ Streets
☑ City Clerk ☐ Planning ☐ Treasurer
☐ Building ☐ Police
☐ Engineer ☐ Public Works, Parks
☐ Fire Dept. ☐ P & Z Commission

RECOMMENDATION FROM APPLICABLE DEPARTMENT HEAD:

Review and make a motion on the draft Findings of Fact, Conclusions of Law and Decision.

ADMINISTRATIVE COMMENTS/APPROVAL:

City Administrator Depart. Head Attend Meeting (circle one) Yes No

ACTION OF THE CITY COUNCIL:

Date

City Clerk

FOLLOW-UP:

*Ord./Res./Agmt./Order Originals: Record *Additional/Exceptional Originals to: Copies (all info.):

Instrument # Copies (AIS only)
FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION

On April 11, 2011, the Hailey City Council held a public hearing to consider the application by Sweetwater, LLC for Final Plat approval of Sweetwater PUD Townhouses, Block 4, Sublots 46-53. The Council, having been presented with all information and testimony in favor and in opposition to the proposal, hereby makes the following Findings of Fact, Conclusions of Law and Decision.

FINDINGS OF FACT

Notice
Notice for the public hearing on March 28, 2011 was published in the Idaho Mountain Express on March 4, 2011; the notice was mailed to property owners within 300 feet on March 9, 2011. The public hearing was continued to April 11, 2011.

Application
Sweetwater LLC, represented by Benchmark Associates, has submitted an application for Final Plat approval for Sweetwater PUD Townhouses, Block 4, Sublots 46-53.

Procedural History
Staff requested the application be continued in order to review the plat notes and conditions of approval with the applicant and city attorney to ensure accuracy.

In accordance with the PUD Agreement, Phase I consists of 106 units (the entire Sweetwater PUD includes 421 units).

Preliminary Plat of sublots 1-45 and 54-71 (63 units) was approved April 20, 2007. Final Plat of the following sublots have been approved by the city:

- sub-lots 1-24 (24 units) were approved June 11, 2007.
- sub-lots 25-35 and 58-71 (25 units) were approved April 14, 2008.

The final plat application for the remaining 14 units included as part of the April 20, 2007 preliminary plat approval (sublots 36-45 and 54-57) were submitted by the applicant on February 18, 2011 and are also scheduled for public hearing and addressed in a separate staff report.

The Hailey Planning and Zoning Commission held a public hearing on the preliminary plat application for sublots 46-53 (8 units) on November 11, 2010 and approved with conditions. The final plat application for sublots 46-53 was submitted by the applicant on February 18, 2011.

Section 3.4.1 of the Subdivision Ordinance allows for applications for platting townhouse units in existing or approved structures to be reviewed through the short plat procedure. In this procedure, the Hearing Examiner or Commission reviews the preliminary plat only. Upon approval, the applicant submits a final plat for Council approval.
Conditions of Preliminary Plat Approval

a) The final plat shall include plat notes 1 through 12 as stated on the approved preliminary plat with the following amendments and additions:
   - Plat note #4 shall include the Noise and Aviation Easement and non-suit covenant and instrument number thereof.

The plat notes on the preliminary plat have been redrafted with the city attorney and the applicant’s attorney to be more clear and accurate. The final plat now has fewer plat notes which cover all of the applicable content of the notes on the preliminary plat. This condition has been met with the revised wording of plat notes.

b) All Fire Department and Building Department requirements shall be met.

This condition should be carried over to final plat approval because there are unfinished units associated with this plat.

c) All City infrastructure requirements shall be met as outlined in Section 5 of the Hailey Subdivision Ordinance. Detailed plans for all infrastructure to be installed or improved at or adjacent to the site shall be submitted for Department Head approval and shall meet City Standards where required.

This condition should be carried over to final plat approval; it is not necessary to carry over the second sentence of this condition.

d) Issuance of permits for the construction of buildings within the proposed subdivision shall be subject to Section 2.9 of the Subdivision Ordinance, requiring certain improvements.

It is not necessary to carry this condition over to final plat approval.

e) $8,000, plus CPI adjustment pursuant to the SGA Agreement, shall be paid to the City, prior to the City’s execution of a final plat, as required by Section 4.10 of the Subdivision Ordinance, and specified in the Development and the PUD Agreements.

This requirement was changed to $1,000 per unit at closing of the sale of units and no longer pertains to the recording of the plat based on the settlement agreement between the city and the applicant.

d) All improvements and other requirements shall be completed and accepted, or surety provided pursuant to Sections 3.3.7 and 5.9.1 of the Subdivision Ordinance, prior to recordation of the final plat.

It is not necessary to carry this condition over to final plat approval.

e) The final plat must be submitted within one (1) calendar year from the date of approval of the preliminary plat, unless otherwise allowed for within a phasing agreement.

This condition has been met; the preliminary plat was approved November 11, 2010.

f) The snow storage and circulation area calculations shall be submitted to the Planning Department prior to final plat submittal.

This condition has been met.

g) Any subdivision inspection fees due shall be paid prior to recording the final plat.

This condition has been met.

h) All development impact fees associated with the subdivision shall be paid prior to the issuance of a certificate of occupancy.

This condition should be carried over to final plat approval with some clarification in wording.
i) A revised preliminary plat shall be submitted showing the platting of sublots 46-53 only. The final plat shall also include only sublots 46-53.

The preliminary plat application for sublots 46-53 originally included sublots 36-45 and 54-57 which had already received preliminary plat approval on April 20, 2007 (sublots 1-45 and 54-71). In compliance with this condition the applicant submitted two final plats, one for sublots 46-53 and one for sublots 36-45 and 54-57.

**Standards of Evaluation**

For each of the following pertinent standards of the Subdivision Ordinance (shown in bold print), the Council makes the following Findings of Fact:

**Bulk requirements:**

**Minimum Lot Size - Townhouse sub-lots shall have an aggregate density of no more than ten lots per acre.**

**Maximum Multi-Family Density – 1 unit per 1/10 acre.**

The subject property comprises a Planned Unit Development (PUD). Certain bulk requirements were modified through the PUD process, as referenced in the PUD Agreement as waivers. These waivers include the following:

- Maximum building height increase: 35 feet to 37 feet for some townhouse structures as set forth in the approved plans.
- Minimum front yard setback reduction: 10 feet to 5 feet.
- Minimum side yard setback reduction: 10 feet to 5 feet.
- Minimum rear yard setback reduction: 10 feet to 3 feet along the PUE parcel B1 as set forth in the approved plans.
- Minimum parking space length reduction: 21 feet to 17 feet in length for 19% of the required spaces.
- Lots permitted to have frontage on private alley easements so long as fire and emergency vehicle access requirements are met, as set forth on the approved plans.

No density waiver was required by the PUD. Section 4.5.5(a)(1), Limited Business (LB) District, of the Zoning Ordinance allows 20 townhouse, multi-family, and mixed use residential units per acre. The density of this portion of the development is approximately 17 units per acre. The overall density of the development is slightly over 19 units per acre, which is less than the 20 units per acre allowed in the LB district.
SECTION 3 – PROCEDURE

3.3 The final plat, prepared by a Professional Land Surveyor, must be submitted within one (1) calendar year from the date of approval of the preliminary plat, unless otherwise allowed for within a phasing agreement or as otherwise provided herein. Plats not submitted for final approval within one (1) year or according to the phasing agreement, shall be considered expired and preliminary plat approval shall become null and void. The Council may extend the deadline for submitting the final plat upon holding a public hearing.

The preliminary plat was approved November 11, 2010. Section 3.4.1 of the Subdivision Ordinance allows for applications for platting townhouse units in existing or approved structures to be reviewed through the short plat procedure. In this procedure, the Hearing Examiner or Commission reviews the preliminary plat only. Upon approval, the applicant submits a final plat for Council approval. The final plat, prepared by Benchmark Associates was submitted on February 18, 2011.

3.3.2 The administrator shall review the final plat application to ensure that the application submitted is consistent with the approved preliminary plat. The conditions imposed on the preliminary plat approval must be either completed or shown on plans or the plat prior to any public notice for final plat approval.

The final plat is consistent with the preliminary plat approved by the Commission. Conditions of preliminary plat approval have been met or are carried over.

SECTION 4 – DEVELOPMENT STANDARDS
Development standards were reviewed in detail during the preliminary plat approval process. Please refer to the preliminary plat Findings of Fact and Decision. No changes have been made to the plat since preliminary plat approval.

SECTION 8 - TOWNHOUSES

8.1 Plat Procedure. The Developer of the townhouse development shall submit with the preliminary plat application and all other information required herein a copy of the proposed party wall agreement and the proposed document(s) creating an association of owners of the proposed townhouse sub-lots, which shall adequately provide for the control (including billing where applicable) and maintenance of all common utilities, commonly held facilities, garages, parking and/or Green Spaces. Prior to final plat approval, the Developer shall submit to the City a final copy of the party wall agreement and any other such documents and shall record the documents prior to or at the same time of the recordation of the plat, which plat shall reflect the recording instrument numbers thereupon.

Townhouse Declarations and CCRs have been submitted and address easements, party walls, and maintenance. The City has not and will not in the future determine the enforceability or validity of townhouse declarations, party wall agreements, or other private agreements.
8.2 Garage. All garages shall be designated on the preliminary and final plats and on all deeds as part of the particular townhouse units. Detached garages may be platted on separate sub-lots, provided that the ownership of detached garages is appurtenant to specific townhouse units on the townhouse plats and that the detached garage(s) may not be sold and/or owned separate from any dwelling unit(s) within the townhouse development.

Garages are within the units.

8.3 Storage/Parking Areas. Residential townhouse developments shall provide parking spaces according to the requirements of Article IX of the Zoning Ordinance.

A total of 631 spaces are required for the entire project; 1053 are proposed. Of these, 776 spaces are in basement levels (74% of all on-site parking).

8.4 Construction standards. All townhouse development construction shall be in accordance with the IBC, IRC and IFC. Each townhouse unit must have separate water, sewer and utility services, which do not pass through another building or unit.

All townhouse units have separate utility services.

8.5 General Applicability. All other provisions of this Ordinance and all applicable ordinances, rules and regulations of the City and all other governmental entities having jurisdiction shall be complied with by townhouse developments.

Upon meeting proposed conditions of approval, the proposed application does not appear to conflict with other provisions.

8.6 Expiration. Townhouse developments which have received final plat approval shall have a period of three calendar years from the date of final plat approval by the Council to obtain a building permit. Developments which have not received a building permit shall be null and void and the plats associated therewith shall be vacated by the Council. If a development is to be phased, construction of the second and succeeding phases shall be contingent upon completion of the preceding phase unless the requirement is waived by the Council. Further, if construction on any townhouse development or phase of any development ceases or is not diligently pursued for a period of three years without the prior consent of the Council, that portion of the plat pertinent to the undeveloped portion of the development shall be vacated.

Building permits have been issued for all units within the subdivision. Sweetwater has not begun construction on any subsequent phases.

8.7 Conversion. The conversion by subdivision of existing units into Townhouses shall not be subject to Section 4.10 of this Ordinance.

NA

8.8 The maximum number of Cottage Townhouse Units on any parcel shall be twelve (12), and not more than two (2) Cottage Townhouse Developments shall be constructed adjacent to each other.

NA
CONCLUSIONS OF LAW AND DECISION

Based upon the above Findings of Fact, the Council makes the following Conclusions of Law and Decision:

1. Adequate notice, pursuant to Section 3 of the Hailey Subdivision Ordinance, was given for the public hearing.
2. Upon compliance with the conditions noted below, the application substantially meets the standards of approval set forth in the Hailey Subdivision Ordinance.
3. The application for Final Plat, dated April 2011, is approved by the Hailey City Council, with the following conditions:
   a) All Fire Department and Building Department requirements shall be met.
   b) All City infrastructure requirements shall be met as outlined in Section 5 of the Hailey Subdivision Ordinance
   c) Development impact fees associated with each unit, if any, shall be paid prior to the issuance of a certificate of occupancy.
   d) The final plat shall be recorded within one year of the date of final plat approval (unless otherwise provided for within a phasing agreement.) The final plat submitted for signature shall conform to the requirements found in Article 50-1301 (et. seq.) of the Idaho Code (as amended) and to the requirements set forth by Blaine County for digital plat submittals. The applicant shall provide the City with a letter-size or ledger-size photocopy of the recorded plat showing the instrument number and date of recordation.

Approved this ______ day of __________, 2011.

________________________________________
Richard L. Davis, Mayor, City of Hailey

Attest:

_____________________________________
Mary Cone, City Clerk
SWEETWATER P.U.D. TOWNHOUSES: BLOCK 4: SUBLOTS 46-53
LOCATED WITHIN TOWNSHIP 2 NORTH, RANGE 18 EAST, SECTIONS 14 & 15, B&M, CITY OF HALEY, BLAINE COUNTY, IDAHO
APRIL 2011

NOTES:

1. THE PROPERTY SHOWN HERON IS SUBJECT TO


3. THE MASTER DECLARATION OF CC&Rs FOR THE ORIGINAL PLAT OF SWEETWATER P.U.D. SUBDIVISION RECORDED AS INSTRUMENT NO. 2537198, RECORDS OF BLAINE COUNTY, IDAHO.

4. THE SWEETWATER P.U.D. AGREEMENT, FIRST AMENDMENT AND SECOND AMENDMENT RECORDED AS INSTRUMENT NO. 594553, 553717 AND 552671, RECORDS OF BLAINE COUNTY, IDAHO.


8. Flood insurance is based on the flood insurance study for the City of Hailey, Blaine County, Community Number 11050, FEMA H051580 8 & 9 is dated MARCH 17, 1997.

9. LOT OWNERS, THEIR TENANTS, AND GUESTS ARE ADVISED THAT THE PROPERTY IS LOCATED IN THE FRED AERIAL BOUNDARY AREA. FRED AND FUTURE IMPACTS MAY BE ANNOYING AND INTERFERE WITH THE UNRESTRICTED USE AND ENJOYMENT OF THE PROPERTY. THESE NOISE IMPACTS COULD CHANGE OVER TIME, BY VARIETY OF GROWTH OF THE REDSBURG AERIAL BOUNDARY, SEASONAL VARIATIONS, AND THE-OF-DAY VARIATIONS, THAT CHANGE TO AIRPORT, AIRCRAFT, AND AIR TRAFFIC COUNTER OPERATING PROCEDURES OR IN AIRPORT LAYOUT COULD RESULT IN an INCREASED NOISE IMPACTS, AND THAT THE USER'S OWN PERSONAL PERCEPTIONS OF THE NOISE EXPOSURE COULD CHANGE, AND THAT HIS OR HER SENSITIVITY TO AIRPORT NOISE COULD INCREASE.

10. THE WMN TOWNHOUSE SUBDIVISION IS SUBJECT TO THE TOWNHOUSE DECLARATION RECORDED AS INSTRUMENT NO. ____________, RECORDS OF BLAINE COUNTY, IDAHO.


12. A MUTUAL RECIPROCAL EASEMENT FOR UTILITIES EXISTS IN THE SUBDIVISION TO BENEFIT THE SWEETWATER P.U.D. HOMEOWNERS.

13. A 5 FOOT WIDE PUBLIC PEDESTRIAN EASEMENT CENTERED ON THE EXISTING DRIVEWAY IN A PORTION OF SUBLOT 48 IS GRANTED AS SHOWN HEREIN.

PREPARED BY: BENCHMARK ASSOCIATES P.A.
AGENDA ITEM SUMMARY

DATE: April 25, 2011   DEPARTMENT: Community Development   DEPT HEAD:

SUBJECT: Findings of Fact, Conclusions of Law and Decision - final plat approval of Sweetwater PUD Townhouses, Block 4, Sublots 36-45 and 54-57

AUTHORITY: □ ID Code □ IAR □ City Ordinance/Code (IF APPLICABLE)

BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:

The Council held a public hearing on April 11, 2011 and approved the final plat.

FISCAL IMPACT / PROJECT FINANCIAL ANALYSIS: Casele #

Budget Line Item #  YTD Line Item Balance $  Estimated Completion Date:

Estimated Hours Spent to Date:  Phone #

Staff Contact:  Comments:

ACKNOWLEDGEMENT BY OTHER AFFECTED CITY DEPARTMENTS: (IF APPLICABLE)

☐ City Administrator  ☐ Library  ☐ Safety Committee
☐ City Attorney  ☐ Mayor  ☐ Streets
☐ City Clerk  ☐ Planning  ☐ Treasurer
☐ Building  ☐ Police  ☐ Fire Dept.  ☐ Public Works, Parks  ☐ P & Z Commission
☐ Engineer

RECOMMENDATION FROM APPLICABLE DEPARTMENT HEAD:

Review and make a motion on the draft Findings of Fact, Conclusions of Law and Decision.

ADMINISTRATIVE COMMENTS/APPROVAL:

City Administrator  Dept. Head Attend Meeting (circle one) Yes  No

ACTION OF THE CITY COUNCIL:

Date

City Clerk

FOLLOW-UP:

*Ord./Res./Agmt./Order Originals: Record  *Additional/Exceptional Originals to:

Copies (all info.):  Copies (AIS only)

Instrument #
FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION

On April 11, 2011, the Hailey City Council held a public hearing to consider the application by Sweetwater, LLC for Final Plat approval of Final Plat - Sweetwater PUD Townhouses, Block 4, Sublots 36-45 and 54-57. The Council, having been presented with all information and testimony in favor and in opposition to the proposal, hereby makes the following Findings of Fact, Conclusions of Law and Decision.

FINDINGS OF FACT

Notice
Notice for the public hearing on March 28, 2011 was published in the Idaho Mountain Express on March 4, 2011; the notice was mailed to property owners within 300 feet on March 9, 2011. The public hearing was continued to April 11, 2011.

Application
Sweetwater LLC, represented by Benchmark Associates, has submitted an application for Final Plat approval for Sweetwater PUD Townhouses, Block 4, Sublots 36-45 and 54-57.

Procedural History
In accordance with the PUD Agreement, Phase I consists of 106 units (the entire Sweetwater PUD includes 421 units).

Preliminary Plat of sublots 1-45 and 54-71 (63 units) was approved April 20, 2007. Final Plat of the following sublots have been approved by the city:
- sub-lots 1-24 (24 units) were approved June 11, 2007.
- sub-lots 25-35 and 58-71 (25 units) were approved April 14, 2008.

The final plat application for sublots 36-45 and 54-57 (14 units) was submitted by the applicant on February 18, 2011. This final plat and its recordation will complete the platting of the Preliminary Plat approval of sublots 1-45 and 54-71.

Section 3.4.1 of the Subdivision Ordinance allows for applications for platting townhouse units in existing or approved structures to be reviewed through the short plat procedure. In this procedure, the Hearing Examiner or Commission reviews the preliminary plat only. Upon approval, the applicant submits a final plat for Council approval.

-168-
Conditions of Preliminary Plat Approval

a) The final plat shall include a note stating that the subdivision is subject to the recorded Party Wall Agreement and CC&R’s, along with the instrument numbers thereof. This condition is addressed in plat note #5. A condition of final plat approval should be included ensuring this plat note is recorded.

b) All Fire Department and Building Department requirements shall be met. Items to be completed at the applicant’s sole expense include, but will not be limited to, the following requirements and improvements:
   - Silo Way, Grange Way, and Heartland Way shall be posted as a fire lane according to the Fire Chief’s instructions.
Signage for fire lanes has been installed. The first sentence of this condition should be carried over to ensure compliance prior to recordation.

c) All City infrastructure requirements shall be met as outlined in Section 5 of the Hailey Subdivision Ordinance.
This condition should be carried over to ensure compliance prior to recordation.

d) All improvements and other requirements shall be completed and accepted, or surety provided pursuant to Sections 3.3.7 and 5.9.1 of the Subdivision Ordinance, prior to recordation of the final plat.
It is not necessary to carry this condition over to final plat approval.

e) A plat note shall be added referencing Sublots 4, 10, 21, 26, 33, 39 and 44, Block 4, as Community Housing Units and subject to a deed restriction.
In an agreement between the city and the applicant made on December 27, 2010, the city agreed to release the deed restrictions on the units originally stipulated in the PUD approval.

f) The final plat must be submitted within one (1) calendar year from the date of approval of the preliminary plat, unless otherwise allowed for within a phasing agreement.
An approved phasing agreement is in effect.
Standards of Evaluation

For each of the following pertinent standards of the Subdivision Ordinance (shown in bold print), the Council makes the following Findings of Fact:

Bulk requirements:
Minimum Lot Size - Townhouse sub-lots shall have an aggregate density of no more than ten lots per acre.
Maximum Multi-Family Density – 1 unit per 1/10 acre.
The subject property comprises a Planned Unit Development (PUD). Certain bulk requirements were modified through the PUD process, as referenced in the PUD Agreement as waivers. Those waivers include the following:
- Maximum building height increase: 35 feet to 37 feet for some townhouse structures as set forth in the approved plans.
- Minimum front yard setback reduction: 10 feet to 5 feet.
- Minimum side yard setback reduction: 10 feet to 5 feet.
- Minimum rear yard setback reduction: 10 feet to 3 feet along the PUE parcel B1 as set forth in the approved plans.
- Minimum parking space length reduction: 21 feet to 17 feet in length for 19% of the required spaces.
- Lots permitted to have frontage on private alley easements so long as fire and emergency vehicle access requirements are met, as set forth on the approved plans.

No density waiver was required by the PUD. Section 4.5.5(a)(1), Limited Business (LB) District, of the Zoning Ordinance allows 20 townhouse, multi-family, and mixed use residential units per acre. The density of this portion of the development is approximately 17 units per acre. The overall density of the development is slightly over 19 units per acre, which is less than the 20 units per acre allowed in the LB district.
SECTION 3 – PROCEDURE

3.3 The final plat, prepared by a Professional Land Surveyor, must be submitted within one (1) calendar year from the date of approval of the preliminary plat, unless otherwise allowed for within a phasing agreement or as otherwise provided herein. Plats not submitted for final approval within one (1) year or according to the phasing agreement, shall be considered expired and preliminary plat approval shall become null and void. The Council may extend the deadline for submitting the final plat upon holding a public hearing.

The preliminary plat for sublots 1-45 and 54-71 was approved April 20, 2007. Section 3.4.1 of the Subdivision Ordinance allows for applications for platting townhouse units in existing or approved structures to be reviewed through the short plat procedure. In this procedure, the Hearing Examiner or Commission reviews the preliminary plat only. Upon approval, the applicant submits a final plat for Council approval. The final plat of sublots 36-45 and 54-57, prepared by Benchmark Associates was submitted on February 18, 2011.

3.3.2 The administrator shall review the final plat application to ensure that the application submitted is consistent with the approved preliminary plat. The conditions imposed on the preliminary plat approval must be either completed or shown on plans or the plat prior to any public notice for final plat approval.

The final plat is consistent with the preliminary plat approved by the Commission. Conditions of preliminary plat approval have been met or are carried over.

SECTION 4 – DEVELOPMENT STANDARDS

Development standards were reviewed in detail during the preliminary plat approval process. Please refer to the preliminary plat Findings of Fact and Decision. No changes have been made to the plat since preliminary plat approval.

SECTION 8 - TOWNHOUSES

8.1 Plat Procedure. The Developer of the townhouse development shall submit with the preliminary plat application and all other information required herein a copy of the proposed party wall agreement and the proposed document(s) creating an association of owners of the proposed townhouse sub-lots, which shall adequately provide for the control (including billing where applicable) and maintenance of all common utilities, commonly held facilities, garages, parking and/or Green Spaces. Prior to final plat approval, the Developer shall submit to the City a final copy of the party wall agreement and any other such documents and shall record the documents prior to or at the same time of the recordation of the plat, which plat shall reflect the recording instrument numbers thereupon.

Townhouse Declarations and CCRs have been submitted and address easements, party walls, and maintenance. The City has not and will not in the future determine the enforceability or validity of townhouse declarations, party wall agreements, or other private agreements.
8.2 Garage. All garages shall be designated on the preliminary and final plats and on all deeds as part of the particular townhouse units. Detached garages may be platted on separate sub-lots, provided that the ownership of detached garages is appurtenant to specific townhouse units on the townhouse plat and that the detached garage(s) may not be sold and/or owned separate from any dwelling unit(s) within the townhouse development.

Garages are within the units.

8.3 Storage/Parking Areas. Residential townhouse developments shall provide parking spaces according to the requirements of Article IX of the Zoning Ordinance.

A total of 631 spaces are required for the entire project; 1053 are proposed. Of these, 776 spaces are in basement levels (74% of all on-site parking).

8.4 Construction standards. All townhouse development construction shall be in accordance with the IBC, IRC and IFC. Each townhouse unit must have separate water, sewer and utility services, which do not pass through another building or unit.

All townhouse units have separate utility services.

8.5 General Applicability. All other provisions of this Ordinance and all applicable ordinances, rules and regulations of the City and all other governmental entities having jurisdiction shall be complied with by townhouse developments.

Upon meeting proposed conditions of approval, the proposed application does not appear to conflict with other provisions.

8.6 Expiration. Townhouse developments which have received final plat approval shall have a period of three calendar years from the date of final plat approval by the Council to obtain a building permit. Developments which have not received a building permit shall be null and void and the plats associated therewith shall be vacated by the Council. If a development is to be phased, construction of the second and succeeding phases shall be contingent upon completion of the preceding phase unless the requirement is waived by the Council. Further, if construction on any townhouse development or phase of any development ceases or is not diligently pursued for a period of three years without the prior consent of the Council, that portion of the plat pertinent to the undeveloped portion of the development shall be vacated.

Building permits have been issued for all units within the subdivision. Sweetwater has not begun construction on any subsequent phases.

8.7 Conversion. The conversion by subdivision of existing units into Townhouses shall not be subject to Section 4.10 of this Ordinance.

NA

8.8 The maximum number of Cottage Townhouse Units on any parcel shall be twelve (12), and not more than two (2) Cottage Townhouse Developments shall be constructed adjacent to each other.

NA
CONCLUSIONS OF LAW AND DECISION

Based upon the above Findings of Fact, the Council makes the following Conclusions of Law and Decision:

1. Adequate notice, pursuant to Section 3 of the Hailey Subdivision Ordinance, was given for the public hearing.
2. Upon compliance with the conditions noted below, the application substantially meets the standards of approval set forth in the Hailey Subdivision Ordinance.
3. The application for Final Plat, dated April 2011, is approved by the Hailey City Council, with the following conditions:
   a) All Fire Department and Building Department requirements shall be met.
   b) All City infrastructure requirements shall be met as outlined in Section 5 of the Hailey Subdivision Ordinance.
   c) Development impact fees associated with each unit, if any, shall be paid prior to the issuance of a certificate of occupancy.
   d) The final plat shall be recorded within one year of the date of final plat approval (unless otherwise provided for within a phasing agreement.) The final plat submitted for signature shall conform to the requirements found in Article 50-1301 (et. seq.) of the Idaho Code (as amended) and to the requirements set forth by Blaine County for digital plat submittals. The applicant shall provide the City with a letter-size or ledger-size photocopy of the recorded plat showing the instrument number and date of recordation.

Approved this ______ day of _________, 2011.

________________________________________
Richard L. Davis, Mayor, City of Hailey

Attest:

________________________________________
Mary Cone, City Clerk
NOTES:

1. THE PROPERTY SHOWN HEREIN IS SUBJECT TO


b. THE MASTER DEED ACCORDING TO THE ORIGINAL PLAT OF SWEETWATER P.U.D. SUBDIVISION RECORDED AS INSTRUMENT NO. 35891, RECORDS OF BLANK COUNTY, IOWA.

c. THE SWEETWATER P.U.D. AGREEMENT, FIRST AMENDMENT AND SECOND AMENDMENT RECORDED AS INSTRUMENT NO. 54353, 55370 AND 55371, RECORDS OF BLANK COUNTY, IOWA.

2. A SUBDIVISION PLAT OF SWEETWATER P.U.D. TOWNHOMES BLOCK 4, SUBLOTS 36-45 & 54-57 LOCATED IN TOWNSHIP 2 NORTH, RANGE 16 EAST, SEC. 14 & 15, B.M., CITY OF HAYLE, BLANK COUNTY, IOWA


4. THE 90-IN FLOOD PLAIN AREA DESIGNATED ON THE MAP IS CONSIDERED REASONABLE FOR REGULATORY PURPOSES. HOWEVER, BENCHMARK ASSOCIATES NEITHER REPRESENTS, GUARANTEES OR WARRANTS THAT THE AREAS OUTSIDE THE DESIGNATED FLOOD PLAIN AREA ARE SAFE AND FREE FROM FLOOD OR FLOOD DAMAGE.

5. THE EXISTING PHYSICAL BOUNDARIES OF THE COMMON UNIT WALL AS ORIGINALLY CONSTRUCTED OR AS RECONSTRUCTED IN LUX THEORETICAL SHALL BE CONCLUSIVELY PRESUMED TO BE ITS BOUNDARIES. PARTLY THE MEASURES AND BOUNDARIES EXPRESSED OR DEPICTED IN THE DECLARATION PLATS OR DEEDS, REGARDLESS OF SETTING OR LATERAL MOVEMENT OF BOUNDARIES OR ANY REFERENCES WITHIN THE INITIAL LOCATION AND BOUNDARIES DETERMINED.

6. A GENERAL FIGURATIVE EXHIBIT FOR VARIATIONS WITHIN SUBLOTS 36-45 & 54-57 TO BENEFIT THE SWEETWATER P.U.D. HOMEOWNERS.


8. SHOW STORAGE EASEMENTS WITHIN SUBLOTS 36-45, 46, & 54-57, TO BENEFIT THE SWEETWATER P.U.D. HOMEOWNERS.

9. A 5 FOOT WIDE PEDESTRIAN ACCESS EASEMENT CENTERED ON THE EASTING BOUNDARY IN A PORTION OF SUBLOT 57 IS GRANTED AS SHOWN HEREIN.

PREPARED BY BENCHMARK ASSOCIATES P.A.
AGENDA ITEM SUMMARY

DATE: 4/11/2011 DEPARTMENT: Legal DEPT. HEAD SIGNATURE:

SUBJECT:

Summary of Hailey Ordinance No. 1081 (Hailey Urban Renewal Agency)

AUTHORITY: □ ID Code □ IAR □ City Ordinance/Code

(IF APPLICABLE)

BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:

I am enclosing a summary of Hailey Ordinance No. 1081 which added a new chapter to the Hailey Municipal Code.

Ned

FISCAL IMPACT / PROJECT FINANCIAL ANALYSIS:

Casele #

Budget Line Item # YTD Line Item Balance $

Estimated Hours Spent to Date: Estimated Completion Date:

Staff Contact: Phone #

Comments:

ACKNOWLEDGEMENT BY OTHER AFFECTED CITY DEPARTMENTS: (IF APPLICABLE)

□ City Attorney □ Clerk / Finance Director □ Engineer □ Building

□ Library □ Planning □ Fire Dept. □

□ Safety Committee □ P & Z Commission □ Police □

□ Streets □ Public Works, Parks □ Mayor □

RECOMMENDATION FROM APPLICABLE DEPARTMENT HEAD:

Make a motion to approve the summary of Hailey Ordinance No. 1081.

FOLLOW-UP REMARKS:
SUMMARY OF HAILEY ORDINANCE NO. 1081

The following is a summary of the principal provisions of Ordinance No. 1081 of the City of Hailey, Idaho, duly passed and adopted April 11, 2011, by the City Council and Mayor of the City of Hailey:

AN ORDINANCE OF THE CITY OF HAILEY, IDAHO, AMENDING HAILEY’S MUNICIPAL CODE TO ADD A NEW CHAPTER 2.40 ESTABLISHING A PURPOSE SECTION AND PROVISIONS FOR THE ESTABLISHMENT OF A BOARD OF COMMISSIONERS, THE APPOINTMENT, REMOVAL AND COMPENSATION OF THE BOARD OF COMMISSIONERS, QUORUM AND VOTING, EMPLOYMENT OF AGENTS, FINANCIAL REPORTING, AUDIT REQUIREMENTS, BUDGET AND FISCAL YEAR, COMPLIANCE WITH PUBLIC RECORDS, OPEN MEETING, ETHICS AND BIDDING LAWS, AND CONFLICT OF INTEREST; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A REPEALER CLAUSE; AND PROVIDING FOR THE EFFECTIVE DATE OF THIS ORDINANCE UPON PASSAGE, APPROVAL AND PUBLICATION ACCORDING TO LAW.

Hailey Ordinance No. 1081 amends Hailey Municipal Code, as follows:

Section 1 amends the Hailey Municipal Code by adding a new Chapter 2.40, entitled Hailey Urban Renewal Agency, to 1) create a purpose section, 2) provide for the establishment of a three to nine member board of commissioners for the Hailey Urban Renewal Agency, 3) provide procedures for the appointment, removal and compensation of the members on the Hailey Urban Renewal Agency, 4) establish rules for a quorum and voting of the board of commissioners for the Hailey Urban Renewal Agency, 5) authorize the employment of agents for the Hailey Urban Renewal Agency, 6) establish the financial reporting, audit requirements, budget and fiscal year of the Hailey Urban Renewal Agency, 7) require compliance with the public records, open meeting, ethics and bidding laws for the state of Idaho, and 8) prohibit a conflict of interest for a public official or employee of the City of Hailey or for a commissioner or employee of the Hailey Urban Renewal Agency in any urban renewal project, or in any property included or planned to be included in any urban renewal project in the City of Hailey or in any contract or proposed contract in connection with such urban renewal project and to establish procedures in the event of such a conflict of interest.

Section 2 provides for a severability clause.

Section 3 provides for a repealer clause.

Section 6 provides for an effective date of the ordinance.

The full text of Ordinance No. 1081 is available at Hailey City Hall at 115 South Main Street, Suite H, Hailey, Idaho 83333 and will be provided to any citizen upon request during regular business hours.
CERTIFICATION OF CITY ATTORNEY

I, the undersigned Attorney at Law, as attorney for the City of Hailey, Idaho, hereby certify that I have read the foregoing summary of Ordinance No. 1081 of the City of Hailey, that I have compared it to the full text of Ordinance No. 1081, and that in my opinion, the above summary is true and complete and provides adequate notice to the public of the contents of said Ordinance.

Dated this 11th day of April, 2011.

Ned Williamson, Hailey City Attorney

Publish: Idaho Mountain Express ___________, 2011