STAFF REPORT

TO: Hailey City Council

FROM: Mariel Platt, Planner

RE: Planned Unit Development – River Street Senior Housing

HEARING: October 11, 2010

Applicant: ARCH Community Housing Trust

Location: Lot 2A, Block 1, Sutton Subdivision (731 River Street North)

Zoning: Business (B)

Note: Staff analysis is in lighter type

Notice
Notice for the September 13, 2010 public hearing was published in the Idaho Mountain Express and mailed to property owners within 300 feet on August 25, 2010; and notice was posted on the property on September 3, 2010. The application was continued to October 11, 2010 at the September 13, 2010 meeting.

Application
ARCH Community Housing Trust has submitted an application for a Planned Unit Development (PUD) of 24 new residential units, located on Lot 2A, Block 1, Sutton Subdivision (731 River St. N.) within the Business (B) zoning district. An application for Design Review was concurrently submitted and approved with conditions by the Planning and Zoning Commission on July 19, 2010.

The PUD is requested for waivers to:
1. Increase allowed density and
2. Decrease the number of required parking spaces.

The applicant has provided a waiver analysis (see attached analysis). Staff analysis is included in the Standards of Evaluation.

Procedural History
On July 19, 2010, the Commission recommended approval of the PUD application 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. 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.

c) A PUD agreement shall be drafted by the applicant and submitted prior to
review of the PUD by the Council. The PUD agreement between the City and ARCH Community Housing Trust shall be executed prior to final PUD application approval by the Council.

A draft PUD agreement has been submitted to the City for review.

d) A lease agreement between the City and ARCH Community Housing Trust shall be executed prior to the issuance of a building permit. The building permit plans may be submitted for review, prior to the execution of said lease.

e) Approval is contingent on the approval of the concurrently submitted Design Review application.

The Design Review application was approved by the Commission on July 19, 2010 and the findings were signed on August 3, 2010.

Department Comments:
Life/safety issues: No issues.
Water and Sewer issues: No issues.
Engineering issues: No issues.

Standards of Evaluation:
Section 10.3 sets forth General Requirements.

10.3.1 The minimum gross size for properties that may be developed as a PUD is one (1) acre, except in the Business and Limited Business zoning districts within the Central Business District, the minimum gross size shall be 18,000 square feet. All land within the development shall be contiguous except for intervening streets and waterways.

The lot size is 26,615 square feet or 0.587 acres. The property is zoned Business. All land proposed for development is contiguous.

10.3.2 A tract or parcel of land proposed for PUD development must be in one (1) ownership or the subject of an application filed jointly by the owners of all property included.

ARCH Community Housing Trust intends on having a real property interest in the property by signing a 99 year lease with the property owner – the City of Hailey. On February 8, 2010, ARCH and the City entered into a memorandum of understanding, which established some of the lease and development terms of 731 River Street North, thereby providing consent for ARCH to file an application for a Planned Unit Development.

10.3.2.1 When the owner of Contiguous Parcels is required to obtain PUD approval for any portion of the Contiguous Parcels; an Area Development Plan shall be submitted and approved. The Commission and Council shall evaluate the following basic site criteria and make appropriate findings of fact:

a) Streets, whether public or private, shall provide an interconnected system and be adequate to accommodate anticipated vehicular and pedestrian traffic.
b) Non-vehicular circulation routes shall provide safe pedestrian and bicycle ways and provide an interconnected system to streets, parks and green space, public lands, or other destinations.

c) Water main lines and sewer main lines shall be designed in the most effective layout feasible.

d) Other utilities including power, telephone, cable, and gas shall be designed in the most effective layout feasible.

e) Park land shall be most appropriately located on the Contiguous Parcels.

f) Grading and drainage shall be appropriate to the Contiguous Parcels.

g) Development shall avoid easements and hazardous or sensitive natural resource areas.

Upon any approval of the PUD application, the Owner shall be required as a condition of approval to record the Area Development Plan or a PUD agreement depicting and/or detailing the approved Area Development Plan. The Area Development Plan shall bind the Owner and Owner’s successors.

This standard is not applicable. The owner does not have a real interest in property contiguous to Lot 2A.

10.3.3 Street and lot orientation, landscaping, and placement of structures shall provide for solar access to all south roofs and walls to the maximum extent feasible in order to promote energy efficiency.

The existing street and lot configuration are not conducive to maximizing solar access on the south side of the building. The south elevation of the building is a shorter elevation compared to the east and west elevations. This building configuration conforms to the orientation of the lot. All trees proposed adjacent to the south elevation are deciduous and will therefore maximize solar access during the winter months. The proposed roof design is a flat roof.

10.3.4 Access shall be provided in accordance with standards set forth in Section 4, Development Standards, of the Subdivision Ordinance. Buildings may not be so arranged that any structure is inaccessible to emergency vehicles.

Access exists and is provided in accordance with Section 4, Development Standards, of the Subdivision Ordinance. The building and 22 foot wide asphalt driveway, which leads to the underground parking area, is accessed off of River Street.

10.3.5 Underground utilities, including telephone and electrical systems, shall be required within the limits of all PUDs.

It is a recommended condition of approval that all utility lines from the property line to the building be installed underground.

10.3.6 In each case where a PUD project is located adjacent to public lands, a public easement to those lands shall be provided. All existing public accesses to public lands must be preserved.

The subject property is not adjacent to any public lands.

10.3.7 In each case where a PUD project encompasses a non-vehicular pathway as depicted on the Master Plan, a pathway constructed to City standards shall be provided.

No pathways are depicted on the Master Plan within or adjacent to the subject property.
10.3.8 Each PUD shall provide one (1) or more of the following amenities, commensurate with the size and density of the development, and commensurate with the modifications requested by the applicant, to ensure a public benefit:
The applicant proposes 3 of the 11 amenities listed, plus additional Community Housing.

a. **Green Space.** All Green Space shall be granted in perpetuity and the PUD agreement shall contain restrictions against any encroachment into the Green Space. Where a subdivision is involved as part of the PUD approval process, Green Space shall be identified as such on the plat. A long-term maintenance plan shall be provided. Unless otherwise agreed to by the City, the PUD agreement shall contain provisions requiring that property owners within the PUD shall be responsible for maintaining the Green Space for the benefit of the residents or employees of the PUD and/or by the public.

Green space shall be set aside in accordance with the following formulas:
- For residential PUDs, a minimum of .05 acres per residential unit.
- For non-residential PUDs: a minimum of 15% of the gross area of the proposed PUD.

The applicant has not proposed to provide this amenity.

b. **Active recreational facilities.** Active recreational facilities include amenities such as a swimming pool, tennis courts or playing fields, of a size appropriate to the needs of the development. The PUD agreement shall contain provisions requiring that such facilities be maintained in perpetuity, or replaced with another similar recreation facility.

The applicant has not proposed to provide this amenity.

c. **Public transit facilities.** Public transit facilities include a weather-protected transit stop or transit station, and must be located on a designated transit route.

The applicant proposes to construct a weather protected transit stop in front of the development, along River Street. The transit stop would be located along Mountain Rides’ designated Hailey circulator route.

d. **Preservation of Vegetation.** Preservation of significant existing vegetation on the site must include the preservation of at least 75% of mature trees greater than 6-inch caliper on the site.

The applicant has not proposed to provide this amenity.

e. **Wetlands.** Protection of significant wetlands area must constitute at least 10% of the gross area of the proposed PUD.

The applicant has not proposed to provide this amenity.

f. **River Enhancement.** Enhancement of the Big Wood River and its tributaries, must include stream bank restoration and public access to or along the waterway.

The applicant has not proposed to provide this amenity.

g. **Community Housing.** For residential PUDs, the provision of at least thirty percent (30%) of the approved number of dwelling units or lots as Community Housing Units affordable to households earning between 50% and 120% of the Area Median Income (the 30% would include the 20% community housing required for a subdivision established by Section 4.11 of the Subdivision Ordinance), or the provision of at least twenty percent (20%)
as Community Housing Units affordable to households earning less than 50% of the Area Median Income.
The applicant proposes to build 24 units. All 24 units would be affordable to households earning less than 60% of the area median income. Half of the units (12) would be affordable and restricted to households earning less than 60% of the area median income. The other half (12 units) would be affordable and restricted to households earning less than 50% of the area median income.

h. Real Property. Dedication or conveyance of real property or an interest in real property to the City.

i. Sidewalks. Off-site sidewalk improvements shall be constructed according to City Standard Improvement Drawings and provided (in addition to sidewalk improvements that are required by ordinance adjacent to the subject property) in accordance with the following formulas:
   For residential PUDs, a minimum of 100 linear feet per residential unit.
   For non-residential or mixed-use PUDs: a minimum of 100 linear feet per 1000 square feet of gross floor area.

j. Underground Parking. Underground parking must be provided for at least 50% of the required number of parking spaces in the PUD.
The parking requirement is 36 spaces (1.5 spaces for every unit in a multi-family dwelling). The applicant is requesting a parking waiver, to provide 26 spaces. Twenty-four (24) of these spaces would be covered and enclosed, located beneath the living areas of the building.

k. Energy Consumption. All principal buildings within the PUD must comply with sustainable building practices, as follows:
   For residential PUDs: buildings comply with local “Built Green” standards for certification, federal EPA “Energy Star” program, or Leadership in Energy and Environmental Design - Homes (LEED-H) standards for basic certification.
   For non-residential or mixed-use PUDs: buildings comply with Leadership in Energy and Environmental Design (LEED) standards for basic certification.

Although the applicant has stated there will be numerous energy saving and sustainable building practices incorporated into the building (please refer to Section 10.3.8 (k) of the analysis), the applicant does not propose to pursue all of the Built Green, Energy Star, or LEED-H standards which are required for basic certification.

l. Other Amenities. Other project amenities and/or benefits to the community that are found, by recommendation of the Commission and approval of the Council, to promote the purpose of this Article and the goals and objectives of the Comprehensive Plan.

In addition to the 30% Community Housing Units, provided to satisfy 10.3.8 (g), the applicant proposes to provide the remaining 70% of the units as Community Housing Units, affordable to persons with an area median income of 60% or less. No other amenities are mentioned by the applicant.
Section 10.4 sets forth Developer Benefits and relevant standards.

The Council may grant modifications or waivers of certain zoning and/or subdivision requirements to carry out the intent of this Article and Ordinance and the land use policies of the City.

10.4.1 Density Bonus. The following maximum increases in density may be granted only if one of the following conditions are met, and if no other density increase has been granted (e.g. for Community Housing Units under Section 4.11 of the Subdivision Ordinance):

a. Ten percent (10%): Solar, wind, geothermal, or other alternative renewable energy source will provide at least fifty percent (50%) of the total energy needs of the PUD.

b. Ten percent (10%): At least twenty five percent (25%) of the property included in the PUD is located in the floodplain and no development occurs within the floodplain.

c. Ten percent (10%): The developer of the PUD provides or contributes to significant off-site infrastructure benefiting the City, (e.g. water tank, fire station).

d. Twenty percent (20%): The developer of the PUD provides or contributes to significant multi-modal infrastructure providing both vehicular and non-vehicular amenities benefiting the City and Wood River Valley.

e. Ten percent (10%): The non-residential or mixed-use PUD complies with Leadership in Energy and Environmental Design (LEED) standards for Silver certification. The bonus unit(s) shall not be constructed until a later phase, after actual certification for prior phase(s) is achieved.

f. Fifteen percent (15%): The non-residential or mixed-use PUD complies with Leadership in Energy and Environmental Design (LEED) standards for Gold certification. The bonus unit(s) shall not be constructed until a later phase, after actual certification for prior phase(s) is achieved.

g. Twenty percent (20%): The non-residential or mixed-use PUD complies with Leadership in Energy and Environmental Design (LEED) standards for Platinum certification. The bonus unit(s) shall not be constructed until a later phase, after actual certification for prior phase(s) is achieved.

The applicant requests a density bonus increase in excess of those increases stated in (a) through (g) above. No additional amenities or benefits have been proposed that (a) through (g) above would be applied to, other than what has previously been described under Section 10.3.8.

Density bonuses for project amenities and benefits to the community other than those listed here may be granted by unanimous vote of the Council, following a recommendation by the Commission, in order to carry out the purpose and intent of this Article and the land use policies of the City.

The applicant has requested 24 units. The maximum allowed density without a waiver is 20 units per acre in the Business District. The lot size is 0.587, which allows for 11.74 units, without a waiver. This is approximately a 100 percent increase in the number of units allowed and the applicant proposes 100 percent of the units as Community Housing.

No other density increases have been requested or granted to meet Section 4.11 of the
Subdivision Ordinance. This project is not subject to Section 4.11 of the Subdivision Ordinance because the units will not be platted for individual ownership, but will be leased as apartment units.

The Commission recommended the proposed density bonus based on the following factors:
• the 99 year lease with the City, which the PUD approval is contingent on, will require that the property be used for affordable senior housing.
• the potential impacts created by density from senior housing are less than traditional housing developments at the same density and
• the applicant demonstrated a specific need for affordable, senior rental units, through a market analysis, which helped the Commission determine that the project is a benefit to the community.

10.4.4 Off-street Parking Modification. The number of off-street parking spaces required by this Ordinance may be increased or decreased in consideration of the following factors:
  a. Proximity to Central Business District or other employment center.
The project is within the north end of Central Business District and is within a half mile of Downtown.
  b. The actual parking needs of any non-residential uses as clearly shown by the applicant.
Not applicable. The parking needs are for residential uses.
  c. The varying time periods of use, whenever joint use of shared parking is proposed; provided shared parking is approved in accordance with Section 9.4.8 of this Ordinance.
Not applicable. Shared parking is not proposed.
  d. Available public transit.
There is a transit stop adjacent to the proposed project along River Street that serves the Mountain Rides Hailey Circulator. In addition, the applicant proposes to construct a transit shelter.

Section 10.5.4.c sets forth Standards of Evaluation required by the Commission to consider and make findings on in the Commission's recommendation to the City Council.

1. The proposed development can be completed within one (1) year of the date of approval or phased according to a development schedule as submitted in accordance with Section 10.4.5 of this Ordinance and approved by the City;
A phasing schedule has not been proposed by the applicant.

2. The streets and thoroughfares proposed are suitable and adequate to carry anticipated traffic;
It is anticipated that River Street is suitable to support traffic associated with the River Street Senior Housing project.

3. The PUD will not create excessive additional requirements at public cost for public facilities and services;
It is not anticipated that the PUD will create additional public costs.
4. The PUD is in general conformance with the Comprehensive Plan;
The applicant has submitted a Comprehensive Plan analysis, which was reviewed by the Commission. Additional Comprehensive Plan goals, policies, and implementation items have been identified by staff and are listed below.

Section 5.4, Land Use Districts
Policy 1. "Encourage integration of compatible land uses in order to retain a compact City comprised of a central downtown with surrounding diverse neighborhoods, thereby reducing sprawl and traffic, increasing efficiency, and creating neighborhood community character."

Section 5.7, Density, Policy 1.
Implementation (a). "Consider density bonuses for the provision of recreation space, public areas, and amenities, deed restricted affordable housing, or other identified goals."

Implementation (d). "Allow residential densities greater than twenty units per acre within the Central Business District or generally along and between River Street and First Avenue. Community amenities should accompany developments with increased density."

Section 7.2, Population Diversity
Goal 1. "Maintain and improve the quality of Hailey's social fabric."

Policy 1. "Encourage diversity within Hailey's population."

Implementation (d). "Encourage proposals that help meet the needs of those who risk suffering effects of discrimination or are economically less advantaged."

5. The existing and proposed utility services are adequate for the population densities and non-residential uses proposed;
The Wastewater Superintendent and Public Works Director have reviewed the application and have no issues pertaining to the inability to provide adequate services to the proposed population density.

6. The development plan incorporates the site's significant natural features;
The land was previously developed with a single family dwelling; however, it has since been demolished and the lot is vacant. There are no significant natural features on the site except for existing trees that are proposed to be removed. There are six (6) existing and mature trees located on-site: three (3) chokecherries, one (1) elm, one (1) maple, and one (1) spruce. At this time, the health of the trees is not known. All trees, excluding the maple are located in either the proposed driveway or building footprint. The removal and relocation of trees and the determination of their health are addressed in the approved Design Review application. The applicant does propose to retain and utilize two large and mature elms, located in the right-of-way adjacent to the front of the property, by creating a walkway through the elms that provides pedestrian access from the building, across the sidewalk, to River Street. The building is positioned in a manner that places the elm trees directly adjacent to the front and center of the building's entrance, adding interest and character to the development.
7. Each phase of such development shall contain all the necessary elements and improvements to exist independently from proposed future phases in a stable manner; A phasing schedule has not been proposed by the applicant.

8. One or more amenities as set forth in Section 10.3.8 of this Ordinance shall be provided to ensure a public benefit;
The applicant proposes the following three benefits:
   1. Community housing
   2. Public transit facility
The Planning and Zoning Commission considered each amenity and determined that each does provide a public benefit.

9. All exterior lighting shall comply with the standards set forth in Article VIIIB of this Ordinance;
This requirement is addressed in the design review application concurrently submitted and reviewed by the Planning and Zoning Commission with the PUD application.

10. The proposed PUD Agreement is acceptable to the applicant and the City.
The draft PUD Agreement has been submitted to the City Attorney for review. It is attached and should be concurrently reviewed by the Council.

The developer is responsible for the payment of the fee of 2% of the unit’s sales price to the Blaine County Housing Authority when one of the provided amenities is community housing.
While this project is a rental project, the agreement should provide for this requirement should the units be subdivided and sold at some future date. It is a recommended condition of approval that language to addresses this shall be included in the PUD agreement.

Summary
After conducting a public hearing and reviewing of the application, all supporting documentation and plans, and the recommendation of the Commission, the Council shall either approve or disapprove the plan, or approve with supplementary conditions that relate directly to the Standards of Evaluation set forth in Section 10.5.4.c of this Article. These findings are required in order to approve the modification or waiver of any standard zoning regulation. If approved or conditionally approved, the Council shall find that the facts presented to them establish that these standards are met.
**Suggested Conditions**

The following conditions are suggested to be placed on any approval of this application:

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. 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.

c) The PUD agreement between the City and ARCH Community Housing Trust shall be executed prior to final PUD application approval by the Council. The agreement shall include, language stating that the developer is responsible for the payment of the fee of 2% of the unit’s sales price to the Blaine County Housing Authority should the units be subdivided and sold at some future date.

d) A lease agreement between the City and ARCH Community Housing Trust shall be executed prior to the issuance of a building permit. The building permit plans may be submitted for review, prior to the execution of said lease.

**Motion Language:**

Approval:
Motion to approve the PUD application for River Street Senior Housing located on Lot 2A, Block 1, Sutton Subdivision (731 River Street North), finding that the project is in conformance with Section 10.5.4.e., (1) through (10) of the Hailey Zoning Ordinance; with conditions (___) through (___).

Denial:
Motion to deny the PUD application for River Street Senior Housing located at Lot 2A, Block 1, Sutton Subdivision (731 River Street North), finding that [the Council should cite which standards are not met and provided the reason why each identified standard is not met].

Continuation:
Motion to continue the public hearing upon the PUD application for River Street Senior Housing to [the Council should specify a date].
PLANNED UNIT DEVELOPMENT AGREEMENT

RIVER STREET SENIOR HOUSING
(AFFORDABLE SENIOR HOUSING)

This PLANNED UNIT DEVELOPMENT AGREEMENT ("Agreement") is entered into this ___ day of ____________, 2010, by and between the CITY OF HAILEY ("City") and RIVER STREET APARTMENTS LIMITED PARTNERSHIP ("River Street") in contemplation of the following:

I. RECITALS

1. River Street is a limited partnership organized under the laws of the State of Idaho in the business of providing affordable housing to low and moderate individuals and households. River Street is desirous of implementing a Planned Unit Development (PUD) on property described below for the creation of a 24-unit senior housing community;

2. The property (the "Property") subject to this Agreement is described in Exhibit "A" and is also described in the PUD Application and is, presently zoned Business and is subject to City's Land Use Ordinances and Zoning Regulations;

3. The City's Planning and Zoning Commission and City Council have held the required public hearings, accompanied with proper notice, with respect to the PUD Application;

4. City approved River Street's PUD Application on ______________, 2010, and adopted Findings of Fact and Conclusions of Law on ______________, 2010;

5. In order to ensure that the housing community is constructed consistent with City's applicable ordinances and regulations, the City and River Street deem it in their mutual interest to enter into an agreement with regard to the manner and timing of construction, construction and landscaping of the Property and other factors affecting the general health, safety and welfare of the citizens of City and users of the Property;

6. The Property shall be developed substantially in accordance with City's Comprehensive Plan, Zoning Ordinances, City's Standards and other applicable City ordinances and the terms and conditions of this Agreement;

7. City and River Street desire that construction of the Improvements proceed as approved by City's City Council as set forth in the Findings of Fact and Conclusions of Law adopted by the City Council;

8. The River Street PUD Application is consistent with the housing and other sections of City's Comprehensive Plan

9. 

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PLANNED UNIT DEVELOPMENT AGREEMENT - 1

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NOW, THEREFORE, IN CONSIDERATION of the above recitals which are incorporated below, and of the mutual covenants and agreements herein contained and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties agree as follows:

II. AGREEMENT

A. **Description and Location of Property.** The total Property encompassed within the PUD Application is approximately 0.587 acres, zoned Business ("B") and has been approved by the City for the purposes of this Agreement as a Planned Unit Development, subject to certain conditions, in accordance with the Hailey Zoning Ordinance, Article 10.

B. **Construction of Improvements.** River Street agrees to construct the Improvements in accordance with this Agreement, City's approval of River Street's PUD Application and the drawings and site plans submitted with River Street's PUD Application. The Improvements, shall include a 24-unit three story apartment building, with at grade interior parking.

C. **Zoning Ordinance Modifications.** The city agrees to provide the following waivers to the City of Hailey Zoning Ordinance:

1. Total allowed density for this project is increased to 24 residential units.
2. Total on-site parking required for this property is reduced to 26 spaces.

These modifications are approved in consideration of the provision of the following community benefits within the PUD:

a. 100% of units will be community housing units affordable to senior (55 years of age and older) individuals and households earning less than 60% of the area median income.

b. A weather-protected transit stop on River Street.

c. Covered/enclosed parking for 24 of 26 parking spaces.

D. **PUD Approval.** The PUD approval is granted subject to the following conditions:

1. All Zoning Ordinance, City's Standards and other City ordinances not specifically modified by this Agreement shall remain in full force and effect;

2. All Fire Department and Building Department requirements are to be met;

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

PLANNED UNIT DEVELOPMENT AGREEMENT - 2

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4. The City and River Street shall execute a formal written lease agreement for the Property acceptable to both parties;

5. River Street shall obtain City of Hailey Design Review approval on all improvements as required under City Ordinance

III. GENERAL REQUIREMENTS

A. Property Maintenance. River Street shall be responsible, at its sole expense, so long as the Property continues to be used by the River Street for housing purposes, for all maintenance of the Property common area, including maintaining all landscaping, irrigation systems, parking and drainage systems.

B. Police Powers. Except as otherwise provided, nothing contained herein is intended to limit the police powers of City. Except as provided herein, this Agreement shall not be construed to modify or waive any law, ordinance, rule, or regulations, including, without limitation, applicable building codes, fire codes, City’s Zoning Ordinance, City’s Subdivision Ordinance, and Planned Unit Development requirements for the Property.

C. Specific Performance. In addition to all other remedies at law or in equity, this Agreement shall be enforceable by specific performance by either party hereto. All remedies shall be cumulative.

D. Dispute Resolution.

1. Mediation. Any controversy or claim arising out of or relating to this Agreement or breach thereof, shall first be submitted to mediation in accordance with the American Arbitration Association Commercial Mediation Rules. Mediation shall be held in Blaine County. This Agreement to mediate and any other agreement or consent to mediate entered into in accordance with this Agreement shall be specifically enforceable under the prevailing law of Idaho. Each party shall bear its own costs and the parties shall split equally the cost and expenses of the mediator.

2. Arbitration. In the event mediation proves unsuccessful, all controversies or claims arising out of, or relating to, this Agreement or the breach thereof shall be decided by arbitration. Such arbitration shall be final and binding, and conducted by one (1) neutral arbitrator, and shall proceed in accordance with the American Arbitration Association Construction Arbitration Rules unless the parties mutually agree otherwise. Judgment on the arbitrator’s award may be entered in any court having jurisdiction thereof. This agreement to arbitrate shall be specifically enforceable under the prevailing arbitration law of the State of Idaho. Arbitration shall take place in Blaine County, Idaho. The parties shall split equally the American Arbitration Association costs and the arbitrator’s costs and expenses. The arbitrator shall have no authority to consider in its decision, or to actually award, attorney fees or costs.
E. Relationship of Parties. It is understood that the contractual relationship between City and River Street is such that neither party is the agent, partner, or joint venture of the other party.

F. Successor and Assigns: Covenant Running With the Land. This Agreement shall inure to the benefit of City and River Street and their respective heirs, successors and assigns. This Agreement, including all covenants, terms, and conditions set forth herein, shall be and is hereby declared a covenant running with the land with regard to the Property or any portion thereof, and is binding on both parties to this Agreement as well as their respective heirs, successors and assigns.

G. No Waiver. In the event that City or River Street, or its successors or assigns, do not strictly comply with any of the obligations and duties set forth herein, thereby causing a default under this Agreement, any forbearance of any kind that may be granted or allowed by River Street, or its successors in interest, or City, to the other party under this Agreement shall not in any manner be deemed or construed as waiving or surrendering any of the conditions or covenants of this Agreement with regard to any subsequent default or breach.

H. Partial Invalidity. In the event any portion of this Agreement shall be determined by any court of competent jurisdiction to be invalid, void, or otherwise unenforceable, the remaining provisions of this Agreement, or parts hereof, shall remain in full force and effect and shall in no way be affected, impaired or invalidated, it being understood that such remaining provisions shall be construed in a manner most closely approximating the intention of the parties with respect to the invalid, void, or unenforceable provision or part hereof.

I. Entire Agreement. This Agreement constitutes the full and complete agreement and understanding between the parties hereto. No representations or covenants made by either party shall be binding unless contained in this Agreement or subsequent written amendments hereto.

J. No Third Party Beneficiaries. This Agreement is not intended, nor shall it be deemed or construed, to create or confer any rights upon third parties.

K. Authority. Each of the persons executing this Agreement represents that they have lawful authority and authorization to execute this Agreement, as well as any other documents required hereunder, for and on behalf of the entity executing this Agreement.

L. Default. In the event either City or River Street, its successors and assigns, fail to faithfully comply with all the terms and conditions included in this Agreement it shall be in breach of this Agreement.

M. Notices. Any and all notices, demands, requests, and other communications required to be given hereunder by either of the parties hereto shall be in writing and be deemed properly served or delivered, if delivered by hand to the party to whose attention it is directed, or when sent, two (2) days after deposit in the U.S. mail, postage prepaid, or
upon the sending of a facsimile, followed by a copy sent by U.S. mail as provided herein, addressed as follows:

To City:

The City of Hailey  
c/o Director, Planning Department  
115 Main Street South, Suite H  
Hailey, Idaho 83333  
208/788-4221 (telephone)  
208/788-2924 (facsimile)

To River Street:

River Street Apartments Limited Partnership  
c/o ARCH Community Housing Trust, Inc.  
Executive Director  
P. O. Box 1272  
Ketchum, Idaho 83340  
208/726-4411 (telephone)  
208/________ (facsimile)

or at such other address, or facsimile number, or to such other party which any party entitled to receive notice hereunder designates to the other in writing as provided above.

N. **Time is of the Essence.** The parties hereto acknowledge and agree that time is strictly of the essence with respect to each and every term, condition and provision hereof, and that the failure to timely perform any of the obligations hereunder shall constitute a breach of and a default under this Agreement by the party so failing to perform.

IN WITNESS WHEREOF, the parties, having been duly authorized, have hereunto caused this Agreement to be executed, on the day and year first above written, the same being done after public hearing, notice and statutory requirements having been fulfilled.

Dated this ___ day of ________________, 2010.

CITY OF HAILEY, an Idaho municipal corporation

ATTEST:

By: ___________________________  By: ___________________________

Heather Dawson, City Clerk  Rick Davis, Mayor

RIVER STREET APARTMENTS LIMITED PARTNERSHIP

PLANNED UNIT DEVELOPMENT AGREEMENT - 5

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an Idaho Limited Partnership

By: River Street Senior Housing, LLC, General Partner

By: ____________________________
    Michelle Griffith, Manager

By: ____________________________
    Gregory A. Urrutia, Manager
STATE OF IDAHO

) ss.

County of Blaine

On this ______ day of _____________, 2010, before me, ____________________, a Notary Public in and for said State, personally appeared Michelle Griffith, the Manager of River Street Senior Housing, LLC, known or identified to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same on behalf of the General Partner.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Notary Public for Idaho
Residing at _______________________
My commission expires _______________________

STATE OF IDAHO

) ss.

County of Blaine

On this ______ day of _____________, 2010, before me, ____________________, a Notary Public in and for said State, personally appeared Gregory A. Urrutia, the Manager of River Street Senior Housing, LLC, known or identified to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same on behalf of the General Partner.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Notary Public for Idaho
Residing at _______________________
My commission expires _______________________

PLANNED UNIT DEVELOPMENT AGREEMENT - 7

-161-
September 8, 2010

Mayor Davis and City Council
City of Hailey
415 South Main Street
Hailey, ID 83333

RE: ARCH application for River Street Senior Project

Dear Mayor Davis and City Council:

On behalf of the Blaine County Housing Authority (BCHA), I have reviewed the PUD application by ARCH Community Housing Trust for a senior housing project at 731 North River Street. The project would provide affordable housing for 24 senior individuals or households in a central location in Hailey. The BCHA Board has been kept apprised of and supports this proposal.

Seniors have been an overlooked segment of the population in terms of the provision of new affordable homes. With seniors being the fastest growing sector of the population, the need is and will continue to be very strong. The fact that the proposed housing is an approved Low Income Housing Tax Credit project means several things, including:

1. The entire project will serve seniors earning less than 60% of Area Median Income (less than $32,760 for a single person).
2. The units are guaranteed to remain affordable to seniors of lower incomes.
3. The need for these units has been verified by the funders through the market study.
4. The units will be professionally managed and maintained by a State-approved property management company.

The Housing Authority supports this project at the proposed density, finding that it qualifies as legitimate community housing for the retired and senior population of Blaine County and forwards BCHA’s mission.

Sincerely,

[Signature]

Kathy Grotto
Executive Administrator

cc: Michelle Griffith, ARCH

The Blaine County Housing Authority's mission is to advocate, promote, plan and preserve the long-term supply of desirable and affordable housing choices in all areas of Blaine County in order to maintain an economically diverse and vibrant community.
STAFF REPORT

TO: Hailey City Council
FROM: Beth Robrahn, Planning Director
RE: Subdivision Ordinance Amendment – Inclusionary Housing Repeal
HEARING: October 11, 2010

Note: Staff analysis is in lighter type.

Notice

Notice for the public hearing on October 11, 2010 was published in the Idaho Mountain Express and mailed to public agencies and area media on September 22, 2010.

Proposal

The following amendments to the Subdivision Ordinance are proposed:
• Section 1 to delete the definitions related to community housing
• Section 3.1.1.1 to delete the requirement of an inclusionary community housing plan as part of a preliminary plat application
• Repeal Section 4.11, Inclusionary Community Housing.

The actual amendments are attached as a draft Ordinance. There are also amendments to the Zoning Ordinance associated with these amendments to the Subdivision Ordinance; the Zoning Ordinance amendments are addressed in a separate staff report.

Procedural History

There have been several Idaho district court decisions ruling that inclusionary housing requirements of a subdivision ordinance are unconstitutional or illegal. The City Attorney has recommended that the city amend the Hailey Subdivision Ordinance to be consistent with the Idaho district court decisions. These amendments were intended to be brought forward for consideration this fall with presentations and discussion of alternatives to support the creation of Community Housing; however it has been requested that the repeal be expedited.

The Planning and Zoning Commission held a public hearing on September 7, 2010 and recommended approval of the amendments.

Department Comments

No comments from other city department were submitted.

ARCH Community Housing Trust and Blaine County Housing Authority (BCHA) were asked to give comments on other means the city could consider to support its Community Housing goals in light of the city attorney's recommendation to repeal the inclusionary housing section of the Hailey Subdivision Ordinance. Their comments are as follows:
ARCH Community Housing Trust

1. Incentives seem to be working when there is development and a need for concessions. BCHA and ARCH together can produce better / more needed housing than a developer (because of access to other funding and because our objective is to build what is most needed not what is going to sell for the highest price); the incentives could really encourage donation of land, funds or specific houses as designated by BCHA rather than having the developer build the CH.

2. The ability to defer fees (which the City has) helps, but lowering these fees for CH would be very supportive.

3. Developing a "Fast Track" for permits, hearings etc. when CH is being built either by a developer or a housing organization would be helpful.

Blaine County Housing Authority (BCHA)

1. Redefine community housing to include appropriate rental housing.

2. Broaden the scope of community housing that may qualify for PUDs (rentals, community land trust models, etc.).

3. Participate in and support county-wide housing plans and strategies so that what gets built is not left up to individual developers and the discretion of current P&Z and Council (similar to ARCH's first point).

4. Strengthen commitment to income restricted community housing required in all annexations. Even if land annexed is zoned for non-residential.

5. Jettison any allowance of Workforce Market Deed Restrictions ("alternative" deed restrictions that do not include provisions that ensure units will remain affordable).

6. Lower city fees or other true financial incentives to organizations developing affordable housing, e.g. ARCH and Habitat for Humanity, would be appropriate ways to actually support CH.

Discussion

Included with this staff report is an excerpt from the book A Better Way to Zone by Donald Elliot, an article by the same author, "The Housing Affordability Problem Has Not Gone Away" and articles from the Spring 2010 issue of the Planning Commissioners Journal related to housing. The take away from this information is that housing affordability is still a problem even in the current economic conditions.

The Planned Unit Development section of the Zoning Code is one tool currently in place that could continue to be used to encourage the provision of Community Housing. As suggested by ARCH, BCHA and the Planning Commissioners Journal, the City could also consider exempting Community Housing from certain requirements or fees to help keep the cost of Community Housing Units down. Another best practices tool discussed in A Better Way to Zone and the Planning Commissioners Journal is allowing accessory dwelling units throughout the city; on February 17, 2009 the Commission recommended allowing AUD in the LR Zoning Districts, but the Council has yet to decide on that recommendation.
Standards of Evaluation

Section 13.4.2 of the Subdivision Ordinance sets forth the standard of evaluation after receiving a recommendation by the Commission.

1. Will generally conform to the Comprehensive Plan.
The Council should consider how the proposed amendments relate to the various policies and implementation items of the Comprehensive Plan. The Comprehensive Plan has several goals and policies related to Community Housing; however this repeal is being recommended to be consistent with the Idaho district court decisions.

2. Will not create excessive additional requirements at public cost for public facilities and services.
The proposed amendments are not anticipated to create excessive additional requirements at public cost.

3. Will be in accordance with the welfare of the general public.
The proposed amendments are expected to be in accordance with the welfare of the general public.

Summary

The Council is required to hold a public hearing and determine whether the amendments meet the standards of evaluation.

If the proposed amendment is approved, the Council shall pass an ordinance making the amendment part of Hailey Subdivision Ordinance #821. The draft ordinance is attached.

Motion Language

Approval:
Motion to approve the proposed amendments to Section 1, 3 and 4 and repeal the Inclusionary Housing Section of the Subdivision Ordinance, finding that the amendments will generally conform to the Comprehensive Plan, will not create excessive additional requirements at public cost for public facilities and services and will be in accordance with the welfare of the general public and adopt Ordinance ____ and authorize the mayor to conduct the first reading by title only.

Denial:
Motion to deny the proposed amendments to Section 1, 3 and 4 and repeal the Inclusionary Housing Section of the Subdivision Ordinance, finding that __________________ [the Council should cite which standards are not met and provided the reason why each identified standard is not met].

Continuation:
Motion to continue the public hearing upon the proposed amendments to Subdivision Ordinance Section 1, 3 and 4 to __________________ [the Council should specify a date].
HAILEY ORDINANCE NO. __________

AN ORDINANCE OF THE CITY OF HAILEY, IDAHO, AMENDING HAILEY’S SUBDIVISION ORDINANCE, ORDINANCE NO. 821, BY AMENDING SECTION 1 TO DELETE THE DEFINITIONS RELATED TO COMMUNITY HOUSING; AMENDING SECTION 3.1.1.1 TO DELETE THE REQUIREMENT OF AN INCLUSIONARY COMMUNITY HOUSING PLAN AS PART OF A PRELIMINARY PLAT APPLICATION, BY REPEALING SECTION 4.11; 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.

WHEREAS, there have been several Idaho district court decisions ruling that inclusionary housing requirements of a subdivision ordinance are unconstitutional or illegal;

WHEREAS, the Hailey City Council intends to amend the Hailey Subdivision Ordinance to be consistent with the Idaho district court decisions;

WHEREAS, the amendments will generally conform with the Hailey Comprehensive Plan;

WHEREAS, the amendments will not create excessive additional requirements at public cost for public facilities and services; and

WHEREAS, the amendment will be in accordance with the public health, safety and general welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF HAILEY, IDAHO, AS FOLLOWS:

Section 1. Section 1, Definitions, of the Hailey Subdivision Ordinance No. 821, is hereby amended by deletion of the stricken language, as follows:

“Area Median Income (“AMI”).” The combined gross income for all persons living in a Dwelling Unit as calculated by the United States Department of Housing and Urban Development annually for Blaine County.

“Community Housing Fund.” An interest-bearing account held in trust by the City for the creation of community housing for the benefit of the City.

“Community Housing Plan.” The plan that specifically describes the Market Rate Units and the Community Housing Units to be constructed in any development, or alternatives to Community Housing Units, and that is approved by the City in accordance with the standards set forth in Section 4.11.4 of this ordinance.

“Community Housing Unit.” Through a Deed Restriction, a Dwelling Unit that is restricted by size, type and/or cost, and that is for sale exclusively to individual(s) meeting income, occupancy...
Subdivision Text Amendment – Inclusionary Housing Repeal
Hailey City Council – October 11, 2010

and/or other affordable community housing criteria established in a Community Housing Plan approved by the City of Hailey.

“Deed Restriction.” A method by which occupancy and resale of real property is controlled in a deed to create Community Housing Units.

“Income Category.” A grouping of household incomes based on a percentage of AMI:

- Category 2: 51-60% of AMI
- Category 3: 61-80% of AMI
- Category 4: 81-100% of AMI
- Category 5: 101-120% of AMI
- Category 6: 121-140% of AMI

“Local Housing Authority.” An independent public body corporate and politic created under the Housing Authorities and Cooperation Law, Idaho Code Section 50-1901, et. seq., including the Blaine-Ketchum Housing Authority or other entity created by the City of Hailey, providing oversight, review and general assistance in the provision of Community Housing Units to the City.

“Market Rate Unit.” A Dwelling Unit in a residential or mixed-use development that is not a Community Housing Unit.

Section 2. Section 3.1.1.1 of the Hailey Subdivision Ordinance No. 821, is hereby amended by the deletion of the stricken language, as follows:

2.1.1.1 The following items must also be submitted along with the preliminary plat before such application will be certified as complete:

- The names and mailing addresses of all property owners, along with the legal descriptions of all properties, within 300 feet of the outer boundaries of the parcel proposed for subdivision. The names and mailing addresses of all easement holders within the subject property. This information shall be provided in a format acceptable to the Administrator.

- A phasing plan if the developer intends to develop the project in phases. The Plan must include the numbers of lots in each phase, the infrastructure planned for completion with each phase, the amenities to be constructed with each phase, the deadline for completion of each phase, and all other information pertinent to the completion of the development.

- A draft of any private restrictions proposed to be recorded for the purpose of providing regulations governing the use, building lines, open spaces or any aspect of their development, use and maintenance.

- An Area Development Plan if applicable pursuant to Section 4.6.4.

- A Community Housing Plan, if applicable, pursuant to Section 4.11.
• Such other information as may be required by the Commission, Hearing Examiner, or Administrator.

• An application fee as established by City ordinance.

Section 3. Section 4, Development Standards, of the Hailey Subdivision Ordinance No. 821, is hereby amended by the repeal of Section 4.11 in its entirety.

Section 4. Should any section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

Section 5. Any and all portions of Hailey Ordinance No. 821 and any other ordinances, or parts thereof, conflicting with the revised regulations established herein are hereby repealed.

Section 6. This ordinance shall be in full force and effect from and after the required three (3) readings, approval, and publication according to law.

PASSED AND ADOPTED BY THE HAILEY CITY COUNCIL AND APPROVED BY THE MAYOR THIS ____ DAY OF ______________, 2010.

Richard L. Davis, Mayor, City of Hailey

Attest:

Mary Cone, City Clerk
The Housing Affordability Problem Has Not Gone Away

July 30th, 2008 • 2 Comments • Uncategorized

Over the past two years, news from the housing industry has not been good. Housing starts are down—way down. New home sales are way down. Resales are down (I don’t know how many friends have told me they cannot buy a new house until their old house sells). And of course prices are down. Builders tell me they have to suspend construction because the few buyers in the market can buy last year’s houses out of foreclosure for less than the cost of building this year’s house. And of course there is “jingle mail”—where homeowners simply mail the house keys back to the bank in hopes of minimizing the time and expense of foreclosure.

So with prices falling, the housing affordability crisis must now be behind us—right? Wrong. In A Better Way to Zone I describe the housing affordability crisis as a structural problem of the U.S. economy and that is still true. Business cycles come and go, and this recession will in time bottom out and the housing economy will rebound. The long term effects may be a slight lowering of average housing prices—but not much, and not over the long haul. The key problem remains—the U.S. economy is simply not creating jobs that pay (on average) what it costs to build new housing (on average) and that gap continues to widen.

In fact, that difficult fact is what fed the desire to create sub-prime mortgages—since we could not increase average wages and we could not lower the costs of building a house, the home finance industry found a way to bridge that gap by letting less money buy more house (temporarily). The recession may narrow that the gap by deflating home sale prices and bringing them a little closer to the buying power of some households, but it doesn’t change the basic mismatch between wages and housing construction costs. And the problem will get worse, because global economic pressures will continue to push wages down and the burgeoning demand (especially from the exploding middle classes in China, India, and elsewhere) will keep driving the price of housing inputs up.

I see the results of this pressure in my consulting practice, where cities are asking for broader and more powerful tools to address housing affordability. What can local government do? It cannot solve the macro-economic problem, but it can remove barriers that drive housing prices even higher than they need to be. Minimum lot size and minimum house size requirements are two of the main culprits. Artificially low multi-family densities are another, and narrow definitions of allowable housing types are a third. The simple fact is that economic pressures are going to force many American households into smaller single-family units and sometimes into multi-family housing even if they would prefer to buy something larger. Responsible cities will find ways and places where that can happen and will revise their zoning to allow it to happen in ways that strengthen the community. Local governments can also remove barriers to modern modular homes, co-housing, live-work products, cottage housing, and a variety of innovative smaller home options emerging to serve our aging population. Other innovative products are described in more detail in A Better Way to Zone. These are not just “quick fixes”—they can result in long-term changes in the American housing stock that responds to changing economic realities.
The long-term housing affordability crisis is not going away, and responsible local government will use this “breather” from development pressure to rethink their approach to the issue and to re-evaluate the housing barriers embedded in their zoning and subdivision controls.

Tags:

2 responses so far ↓

- 1 The Housing Affordability Problem Has Not Gone Away // Aug 11, 2008 at 7:18 pm

[...J Original The Mistresses Blog - themanchesterdungeon.com [...]

- 2 » The Sunday Diigo Links Post (weekly) Yule Heibel's Post Studio © 2003-2008 // Nov 16, 2008 at 5:32 pm

[...J The Housing Affordability Problem Has Not Gone Away [...]

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A Better Way to Zone

Affordable Housing

The need for affordable housing is a critical issue in any community. The need for increased affordable housing is often overlooked, but it is just as important as ensuring that all residents have access to quality education, healthcare, and other essential services. Affordable housing is not just a matter of social justice; it is also necessary for economic development and the overall health of a community. Without affordable housing, low-income families are forced to spend a disproportionate amount of their income on housing, leaving less for food, healthcare, and other basic needs. This, in turn, can lead to a range of negative outcomes, from poor health to limited educational opportunities. To address this issue, it is important to create policies and programs that promote affordable housing, while also ensuring that the housing is safe, secure, and accessible to all residents. This might include providing subsidies for rent, creating incentives for developers to build affordable units, or expanding access to homeownership programs. By prioritizing affordable housing, we can help ensure that all residents have the opportunity to live in a safe and supportive community.
A BETTER WAY TO ZONE

The city of Stamford's ability to attract and nurture a broad range of industries and innovations is critically important to our continued growth. Stamford's location, both within the state and relative to national and international markets, offers a unique set of advantages that make it a hub for business and technology. The city's proximity to major transportation hubs, such as the Port of New York and New Jersey, and its access to a highly skilled workforce, are key factors in its ability to attract new businesses and retain existing ones.

In order to support this growth, it is essential that the city's zoning regulations be flexible and responsive to changing market conditions. The current zoning code is often criticized for being too restrictive and for failing to accommodate the needs of new industries.

The updated plan proposes a more comprehensive approach to zoning, one that is designed to support a diverse range of economic activities. This includes the establishment of new zones that are specifically tailored to the needs of emerging industries, as well as the modification of existing zones to better align with changing market trends.

The updated plan also seeks to improve the city's ability to attract and retain talented workers. By providing a more flexible framework for zoning and development, the city can better support the growth of new businesses and the expansion of existing ones.

In conclusion, the updated zoning plan represents a significant step forward for Stamford's economic development. By adopting a more flexible and innovative approach to zoning, the city can better support the growth of emerging industries and the needs of its residents.

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A Better Way to Zone

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Magneticized Housing Terms

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A Better Way to Zone
The economic potential of modular housing is significant. By decreasing the cost of ownership, modular housing can help address the problem of affordability and provide a more efficient use of resources. The benefits of modular housing include:

1. **Cost Savings**: Modular housing can significantly reduce the cost of construction by prefabricating components off-site and assembling them on-site. This can lead to lower labor costs and material waste.
2. **Time Efficiency**: Modular construction allows for faster projects since components can be assembled quickly, reducing the overall construction time.
3. **Environmental Benefits**: Modular construction can minimize construction waste and reduce the impact on the environment.
4. **Customization**: Modular homes can be designed to meet specific needs, offering a high degree of customization.
5. **Durability**: Modular homes are built to withstand various environmental conditions, ensuring long-term durability.

In conclusion, modular housing offers a viable solution to the challenges faced by traditional construction methods. As technology advances, modular housing is likely to become an increasingly popular option in the housing market.
Early zoning focused primarily on uses and setbacks in relation to the city. This was to define the areas of the city where development would be allowed or not. The standards were not uniform across the city, and different neighborhoods had different rules.

### Make Areas Standards

The process in making or reviewing new development regulations is complex and requires careful consideration. While the current housing standards should be kept as close to realistic as possible, the process of making new standards needs to be followed in a systematic and comprehensive manner. The standards should be developed in consultation with stakeholders, including the business community, property owners, and community groups.

- **Development Standards:** The development standards should be established to ensure that new developments are compatible with the existing buildings and infrastructure. These standards should be reviewed regularly to ensure they remain relevant and effective.

- **Residential Zones:** Residential zones should be developed in consultation with the residents and stakeholders. The standards should be developed to ensure that new developments are compatible with the existing buildings and infrastructure.

- **Commercial Zones:** Commercial zones should be developed in consultation with the business community and stakeholders. The standards should be developed to ensure that new developments are compatible with the existing buildings and infrastructure.

- **Industrial Zones:** Industrial zones should be developed in consultation with the business community and stakeholders. The standards should be developed to ensure that new developments are compatible with the existing buildings and infrastructure.

- **Transportation Zones:** Transportation zones should be developed in consultation with the transportation community and stakeholders. The standards should be developed to ensure that new developments are compatible with the existing transportation systems.

### Conclusion

In conclusion, the process of making or reviewing new development regulations is complex and requires careful consideration. While the current housing standards should be kept as close to realistic as possible, the process of making new standards needs to be followed in a systematic and comprehensive manner. The standards should be developed in consultation with stakeholders, including the business community, property owners, and community groups.
How many times has your commission heard, “But there’s no market for that development.” “People want a big home on one acre,” or “It’s more affordable to buy a house out in the country?” In the past it was commonly accepted that suburban or fringe housing on large lots was where most of the housing market was focused. But the recent housing foreclosure crisis, coupled with high unemployment and rising energy costs, has challenged old assumptions and dramatically altered the picture.

Now planners in communities across the country are increasingly hearing demands for: more housing close to transit; walkable neighborhoods; and affordable, low-maintenance, energy-efficient homes. In this chaotic time, how do citizen and professional planners determine what people really want or need, and what to plan for?

It is essential that planners understand the market for housing in their community: what types (and price ranges) are needed, and in what locations. Planners must also consider economic trends and other factors that could impact future demand.

Today’s demographic and economic conditions, along with consumer preferences, are converging to create a major shift in housing demand.

Economic forecasts suggest that there will not be much action on homebuilding for about two years. Many communities currently have excess housing stock that very likely will be filled before much new construction begins. So there is time to examine residential markets and how they are changing to avoid housing shortages, meet community needs, and revitalize neighborhoods adversely affected by current economic conditions.

Large homes in outlying locations may no longer be affordable or practical for retired people. According to a report published by the Urban Land Institute, “Some baby boomers will choose to downsize to an apartment or condominium after their children leave the ‘nest’... Multifamily housing allows seniors to remain in their neighborhoods through the different stages of their lives without the hassle of maintaining single-family housing.”

Economic Conditions

In recent years the downturn in the economy has had the most far-reaching impact on the demand for housing. After a major expansion in the supply and demand for owner-occupied housing, bankruptcies and mortgage foreclosures have left lot after lot of empty houses in suburban tracts. In some parts of the country, empty new residential towers can be found downtown and in the suburbs. In hard hit cities with high unemployment, whole neighborhoods have been abandoned, leaving existing housing stock falling into disrepair. Moreover, new rental projects have stalled as access to financing has tightened up.

Today’s economic conditions hold several implications for future housing demand. For one, in many places new construction will be put on hold while demand absorbs the existing supply.

Much of the oversupply of housing lies in large lots in fringe locations. According to the American Institute of Architects, “These were the locations where large enough parcels of land could be assembled to generate the volume of construction required during the housing boom earlier this decade. However, when the housing market weakened, large inventories of unsold homes remained on the market in these locations.” These sites may be the last to fill up as builders and developers look elsewhere to meet demand.

In addition, with home ownership out of reach for a growing number of people, the demand for rental apartments should increase — especially once employment improves enough so that people can move out of housing where they have doubled up with parents or friends during tough times.

3 AIA Home Design Trends Survey (December 4, 2009).
CONSULTER PREFERENCES

Along with demographic shifts and economic conditions, consumer preferences for housing are changing. According to John Caulfield, writing in Builder magazine: “The downturn has given builders time to ponder whether the homes they build match the demographic and financial profiles of current and future customers. Some have adjusted their house plans and construction practices to produce smaller, greener, and less-expensive houses. Builders everywhere are rolling out smaller models to meet customers’ demands for efficiency and affordability.”

The American Institute of Architects (AIA) national survey of residential architects found that consumers want lower maintenance, durability, and sustainability. As AIA’s Chief Economist Kermit Baker notes in summarizing the survey results: “Rising home energy costs... have helped to generate interest in smaller, more energy efficient homes in locations that were accessible to transportation, commercial activities, and jobs. Infill development, with smaller parcels in more developed areas, has become very attractive.”

A poll by the National Association of Realtors and Smart Growth America taken in 2007 found: “Eight in 10 respondents prefer redeveloping older urban and suburban areas rather than build new housing and commercial development on the edge of existing suburbs. More than half of those surveyed believe that businesses and homes should be built closer together to shorten commutes, limit traffic congestion and allow residents to walk to stores and shops instead of using their cars.”

The demand for energy efficient housing is expected to increase not only due to federal tax incentives, but also to improve affordability and to do the “right thing” on climate change.

5 John Caulfield, “Jump Start: Ten ways to get ahead of the market’s recovery and put yourself in the competitive lead,” Builder (December 2009).
6 AIA Home Design Trends Survey.
7 Available at: www.smartgrowthatmerica.org/narsgareport2007.html.

WHAT DOES THIS MEAN FOR PLANNERS?

Given these trends, planners should consider the following steps:

1. **Focus on infill development.** Infill development can address trends for smaller lots and homes in already built up areas, access to services and public transportation, and walkability.

2. **Enable retrofitting.** Retrofitting of existing buildings, including conversion of empty single-family homes or vacant commercial buildings to apartments, can help to meet the demand for rental housing that is likely to dramatically increase as a result of the mortgage crisis. This may require reexamining your building code to make sure it doesn’t pose major impediments.

3. **Plan for transit-oriented development.** To meet the demands of households for access to public transportation, shorter commutes, proximity to services, and rental housing, transit-oriented development with higher densities and mixed uses should be planned at major transit hubs.

4. **Review opportunities for urbanization of suburb.** Many suburban areas already have access to transit and offer jobs and services. However, housing is often not mixed in with these amenities. To meet the shift in demand for smaller units, access to services, walkability, and greater affordability, planners should consider how to create more urban living in suburban environments.

5. **Raise densities.** To improve affordability and offer more housing types, communities should review their existing densities and look for opportunities to raising them where appropriate. See Beth Humstone, “Getting the Density You Want,” PCJ #74 (Spring 2009).

6. **Allow diverse housing types.** Aging baby boomers, twenty-somethings moving out of their parents’ houses, and former homeowners will all contribute to the demand to diversify the type of housing offered in a community. Multifamily housing can take the form of duplexes, accessory units, townhouses, and apartment structures offering both rental and ownership opportunities.

7. **Promote affordability.** Lower-priced housing can be created through inclusionary zoning provisions and increased densities. Support for developments with nonprofit housing developers, local housing authorities, and community land trusts will help build in long-term affordability to housing projects.

8. **Reconsider older, abandoned neighborhoods.** One of the most difficult issues facing a planning commissioner is what to do about neighborhoods experiencing abandonment and decay. Some are examining demolition in order to “shrink” the size of neighborhoods. Others are looking at the potential to rehabilitate housing for home ownership or rentals where neighborhoods are fully served by infrastructure and are near to jobs, transit, and services. Still others are land banking—buying and holding land with or without homes on it until such time as the market improves or new programs for revitalization can be put in place.

9. **Rethink plans for fringe areas.** As fringe housing locations become less desirable, planners must address how they will plan for these areas. There will always be some demand for lower-density single-family housing in most communities. However, that demand will weaken. Planners should focus more on the natural resource values, recreation potential, and open space priorities in fringe areas.

SUMMING UP

During this economic downturn, planners should take the time to rethink the housing plans for their communities. They need to challenge old assumptions about the market and develop strategies that address changing conditions in their communities and regions.

Over the past 35 years, Beth Humstone has worked as a planning consultant on a wide range of projects in rural communities and small towns. She is the author, with Julie Campoli and Alex MacLean, of Above and Beyond, Visualizing Change in Small Towns and Rural Areas (Planners Press, 2002).
Planning for Housing
by Wendy Grey, AICP

Historically, the purchase of a house has been the single largest investment most families make.

People select a new house based on criteria such as affordability, whether it is in a good school district, and whether they feel comfortable with the neighbors and neighborhood. In recent years another factor was also added to the mix: the

assumption that, almost regardless of the choice they made, the house purchased would increase in value. With the end of the housing bubble, this is no longer the case.

It is important to remember that there are also broad demographic patterns that influence the demand for housing, the most significant being migration, immigration, and age.

Migration. We have historically been a mobile society. We move to pursue better opportunities. The huge migration to the Sunbelt over the past 25 years is a recent example of this pattern.

Immigration. Much of our population growth is coming from immigration. Between 2000 and 2007, the immigrant population grew by 22 percent, to 38 million.1 While in the past the majority of immigrants lived in central cities, many immigrants now reside in suburbs and rural areas.

Age. The most significant age group in terms of numbers is the Baby Boomer generation – born between 1946 and 1964. Having been the driving force behind the expansion of suburban living, Boomers were expected to sell their homes and relocate to popular retirement areas.

Gen Xers, born between 1965 and 1980, are now the prime market for family-oriented homes. However, Gen Xers have had to deal with a higher cost of living over the past decade, and have often found themselves priced out of the housing market as they’ve tried to move up the property ladder – especially as more Boomers have stayed put.

The crash in the housing market and the recession have affected the anticipated trends in migration and immigration and people’s housing options in the short term. With unemployment and foreclosures up and mortgage lending restricted, people are not relocating, and the buying and selling of houses is down. Immigration has also slowed.

One key role for planners and planning commissioners is to consider strategies that will help recreate viable neighborhoods for current and future

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Housing: “One-Size-Fits-All” No Longer Works
by Edward T. McMahon


To gather data for this piece, the magazine commissioned American Lives, a California-based market research firm run by pollster Brooke Warrick, to conduct a nationwide study of prospective homebuyers’ attitudes toward the economy, home styles, product preferences, energy efficiency, and green features. It also examined changing attitudes in regard to

the role of the home and the impact of demographic changes on buyer preferences.

The results are surprising and they suggest that the types of new homes that were most prevalent before the recession will not satisfy the needs of tomorrow’s buyers. One reason for shifting buyer preferences is the fact that there are so many different buyer profiles. Tomorrow’s market is made for the foreseeable future.

So what do buyers want? Given that housing prices are down 30 percent from their peak – and even more in some markets – big, flashy houses are no longer priorities. Buyers are less likely to think of housing primarily as an investment and more likely to think about how the house will fit their lifestyle.

What is more, for many buyers the character of the neighborhood is more important than the size of the house. In fact, more than 50 percent of respondents in the survey said they were willing to accept a smaller house “in the neighborhood I want.”

This does not mean product is irrelevant, but it does mean that for many buyers the location of the home – the place – is now more important than the house itself – the product. …

According to Builder, one subset of buyers that homebuilders should learn more about is women. Women have always played a big role in homebuying decisions, but demographic data show that by 2010 households headed by a woman will number well over 30 million. Shymon Kannan, vice president and director of research at Robert Charles Lesser & Co. (RCLCO), says that their surveys have found that “female respondents have a strong preference for the city and are much more likely to choose what we call safe urbanism.” According to Kannan, RCLCO surveys have found that while “safety is very important” to female buyers, they also “want to be able to walk to shopping and dining.”

Besides safety, another feature of interest to most buyer segments including women buyers, baby boomers, and young
residents. This will involve reconsidering land use patterns, particularly in suburban areas, where the recovery in the housing market is expected to lag. Having looked at the most distressed areas in your community, consider what changes in land use may encourage revitalization.

1. Find areas that can be rezoned to a higher density. This can help reduce construction and energy costs for future development. If your code requires a minimum house size, perhaps that requirement can be eliminated or modified to provide more flexibility. Higher density can also help promote the use of transit.

2. Allow “grandma flats or accessory units.” These units can support extended families or create a rentable space for homeowners.

3. Make sure home occupations are allowed and appropriately regulated. While it is important to protect neighborhoods from the potentially intrusive impacts of businesses operated from a home, there are ways to adequately protect neighbors while allowing for home-based businesses.

4. See that community plans encourage the provision of services to support the neighborhood. If it is desirable to encourage older residents to retire and stay in place, evaluate whether your codes allow uses that will support that population. Are there plans to provide the necessary services and infrastructure (e.g., are there adequate street lighting and signage)? Do you allow for nursing homes and assisted living facilities? Does your transportation plan address the mobility needs of seniors?

Conversely, if younger families are likely to repopulate the area, are facilities available to meet their needs? Are there sufficient recreational areas and locations for day care centers?

5. Identify land that can be acquired or traded that will create greenways and usable open space. In many subdivisions, the only open spaces are “left over” pieces of land. The strategic acquisition of some lots can create connected open space that forms a greenway or neighborhood park to enhance the neighborhood’s quality of life.

6. Eliminate barriers to redevelopment. Consider adopting tools that will allow for reinvestment in existing properties. This might include more relaxed approaches to non-conforming uses or techniques to allow the redevelopment of properties that are constrained by current zoning standards.

While we don’t know exactly how and when the current economic crisis will end, we do know that those communities that have planned for the future will be in the best position to recover and provide their residents with the choices they want.

Wendy Grey, AICP, is principal of Wendy Grey Land Use Planning LLC. Prior to establishing her own firm in 2002, Grey spent 20 years in the public sector dealing with development and growth issues in Florida, including 10 years as Planning Director for Tallahassee and Leon County.

couples is energy efficiency. According to the Builder/American Lives study, any where from 80 to 95 percent of respondents now see energy-saving HVAC systems, windows, lighting, and water fixtures as “very important” or “essential” to their homes.

This makes one thing certain: the market for green energy-efficient homes is going to grow. What is more, a majority of those polled said they would be willing to pay between $2,000 and $5,000 more to include an energy-saving feature in their home, so long as they could recoup their investment in a few years.

The current recession is a time to rethink growth and to redesign housing to meet the diverse needs of America’s growing population. In the future, there is likely to be a greater variety of housing types designed for different buyer segments. Smaller, greener options are likely to grow in popularity as are infill housing options.

Even in the suburbs, walkability and a greater variety of housing products will likely become the norm. One thing all the surveys make clear: the old one-size-fits-all model no longer works.

Edward T. McMahon is a Senior Resident Fellow at the Urban Land Institute. He has also authored more than 20 articles for the Planning Commissioners Journal. The above is excerpted from McMahon’s “How Will Housing Evolve,” in the Nov/Dec. 2009 issue of Urban Land.

Taking a Closer Look Reprint Sets

Housing: Opening the Door

Many communities are struggling to provide the kinds of housing their residents need and can afford. How do we meet diverse housing needs? How can planners best deal with controversial housing developments? These articles will help you to better understand and plan for challenging housing-related issues. For the detailed contents and to order, go to: www.pcj.typepad.com (right hand sidebar).

This is just one of our attractively bound Taking a Closer Look reprint collections. Other sets include: Basic Planning Tools; Ethics; Planning Law; Transportation; Downtowns; Smart Growth; and Design & Aesthetics.
No Certification, No Money:
THE REVIVAL OF CIVIL RIGHTS OBLIGATIONS IN HUD FUNDING PROGRAMS

by Michael Allen, Esq.

Recipients of federal housing funds will be required to take a hard look at impediments to fair housing choice within their jurisdictions, and outline appropriate actions to overcome those impediments. HUD also requires recipients to maintain records supporting the analysis and the actions taken to overcome impediments.

HUD requires state and local governments to use their AIs to list impediments experienced by members of all seven protected classes, whether caused by intentional discrimination or by policies and practices that have a harsher effect on members of a protected class than on those not in a protected class.

Recipients, in their AI, must make an honest assessment of their own zoning, land use, building, and other ordinances that may decrease housing choice, and must design approaches that will counteract those negative effects. An AI is also required to look at impediments caused by private sector actors, including steering in the sales and rental markets, discriminatory lending practices, insurance redlining, and similar practices.

While recipients are encouraged to provide affordable housing, HUD makes clear that doing so does not fully satisfy the obligation to affirmatively further fair housing, where the focus is on eliminating discrimination on the basis of protected class and expanding housing opportunity regardless of income.

Westchester County Goes Astray

Westchester County ignored HUD regulations and guidance. County officials had Census and other data showing that cities, towns, and villages in Westchester were dramatically segregated, and

1 See, e.g., Michael Allen, "Why Not in Our Back Yard?" PCQ #45 (Winter 2002).
3 Because a significant portion of funds made available to communities through the American Recovery and Reinvestment Act of 2009 (ARRA) are programmed through the CDBG program, even "non-entitlement" jurisdictions and those that have never applied for funds from state CDBG or HOME pools will likely have to sign civil rights certifications prior to receiving ARRA funds.
4 These include, but are not limited to, Title VI of the Civil Rights Act of 1964; the Rehabilitation Act of 1973; the Age Discrimination Act of 1975; the Fair Housing Act; and Section 109 of the Housing and Community Development Act of 1974.
5 The Fair Housing Act prohibits discrimination on the basis of race, color, religion, national origin, sex, familial status, and disability. People protected by
Within a few weeks of the court's ruling, HUD Secretary Shaun Donovan and Deputy Secretary Ron Sims were personally engaged in settlement negotiations with the county. Those efforts, combined with a temporary cutoff of funds to the county, culminated in a $62.5 million settlement on August 10, 2009, requiring the county to develop 750 units of affordable housing in the whitest towns and villages in Westchester, and to affirmatively market them to people of color. In addition, the settlement requires the county to conduct a new AI and to consider all fair housing impediments.

Speaking not just to Westchester County, but also to the state and municipal recipients of HUD funds across the country, Sims noted that the agency would begin to "hold people's feet to the fire" on civil rights certifications. 8

Scattering the Seeds of Westchester

While HUD has announced it will publish a proposed regulation toughening AFFH substantive and procedural requirements later this year, the agency has already become active in reviewing recipients' certifications and performance. The most notable instances involve St. Bernard Parish, Louisiana; the State of Texas; and the City of Joliet, Illinois. All three involve litigation or administrative complaints by grassroots advocates, alleging discrimination on the basis of race or national origin, and the failure to identify and analyze impediments experienced by people in those protected classes.

- In Louisiana, HUD threatened to withhold hurricane recovery funds to rebuild a hospital because St. Bernard had adopted a series of racially discriminatory ordinances with respect to multifamily housing.
- In Texas, HUD rejected the state's plan to spend $1.7 billion in disaster recovery money, in part because its seven-year old AI did not comply with federal requirements.
- In Illinois, HUD has taken enforcement action against the City of Joliet because the city allegedly used its eminent domain power in a discriminatory fashion to shut down affordable housing inhabited almost exclusively by low-income, African-American single mothers.

What It All Means for Municipal Planning

Planning professionals and planning commissioners across the country will increasingly be called upon to inform and guide their communities through the HUD-required planning processes. Communities whose planning departments and commissions are already immersed in conversations about addressing local housing issues will have a head start in developing robust AIs. Those with little experience in assessing the civil rights impacts of zoning, land use, building, and funding functions may have to bring in outside consultants to help develop compliant AIs.

One AI worth taking a look at—especially for those in small or mid-sized municipalities—is that of the City of Naperville, Illinois (a Chicago suburb), winner of an Illinois APA 2009 Best Practices Award. 9

Planners would also do well—even before HUD's new regulations are in place—to dust off their copy of the HUD Fair Housing Planning Guide and review its roadmap on how to conduct an AI. 10 The Guide includes valuable suggestions on data sources and community involvement strategies.

Michael Allen, Esq. is a partner in the civil rights law firm, Reiman & Dane, PLLC, which engages in litigation and consulting throughout the country, principally in the areas of fair housing and fair lending. Allen was the firm's lead attorney in United States ex rel. Anti-Discrimination Center v. Westchester County and has a similar role in the State of Texas matter noted in this article.

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10 See footnote 7 for download location.
Coping with Economic Meltdown

by Gwendolyn Hallsmith

Companies that are locally owned are much more sensitive to community needs of the capital it needs to succeed.

5. An over-reliance on export-led development can undermine the long-term economic health of a community. More attention needs to be paid to local needs and markets. Similarly, communities that develop local exchange systems and reduce reliance on the national currency will also enhance long-term local wealth creation.

6. Companies that are locally owned are much more sensitive to community needs and environmental conditions, and can lessen a city or town's vulnerability to job losses when economic downturns occur.

If the solution to your economic problems can be solved through local action, then perhaps there is more of a role for planning commissioners than you have been taking. If the traditional strategy of attracting direct investment from outside the community leads to a dead end, mobilizing local resources for local economic renewal will test the ability of local leaders to create conditions where new local enterprises can take root and succeed. It requires tenacity, flexibility, open-mindedness, and a willingness to take risks and try new things. It also requires understanding some basic points about economics.

How do you build real wealth? How does the local economic system work? Are there policies and practices you can introduce as a leader that will either foster wealth creation or block it? The term "economic system" is used so frequently that we often lose sight of its meaning.

Systems have certain characteristics, and by understanding more about how they work we gain valuable insights into how to improve our local economy.

All local economies run on four main sources of energy — money, water, food, and energy itself — oil, gas, solar, wind, etc. If you consider the health of your local economy, you need to regularly take the vital signs of these critical flows.

- Do you take steps to prevent money from flowing out of your local economy?
- Do you have enough water for all your needs, or do you need to import it from other regions?
- Do you produce enough food and energy for people and the economy, or does most of what you consume come from distant places?

One way to start to build local wealth is to understand the outflows, and to try and start producing locally whatever you are buying from other places. Gathering the data, identifying the most promising strategies and alternatives, setting priorities, all of these activities are exactly what planning commissioners do best.

Gwendolyn Hallsmith is Director of Planning & Community Development for the City of Montpelier, Vermont. In our Summer issue, Hallsmith will continue with a look at steps communities can take to put together a local economic development plan.

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August 31, 2010

Planning and Zoning Commission
City of Hailey
415 South Main Street
Hailey, ID 83333

RE: Repeal of Inclusionary Community Housing ordinances

Dear Planning and Zoning Commission:

Thank you for the opportunity to comment on behalf of the Blaine County Housing Authority regarding the proposed repeal of the Inclusionary Community Housing ordinances.

While it is unfortunate that the City of Hailey may lose this valuable mechanism for the provision of new affordable housing units, the Blaine County Housing Authority will continue to explore other alternatives and opportunities with the City of Hailey to create community housing through annexations, Planned Unit Developments, or other discretionary or incentive based programs.

Sincerely,

[Signature]

Kathy Grotto
Executive Administrator

cc: BCHA Board of Commissioners
STAFF REPORT

TO: Hailey City Council
FROM: Beth Robrahn, Planning Director
RE: Zoning Ordinance Amendment – Community Housing
HEARING: October 11, 2010

Note: Staff analysis is in lighter type

Notice

Notice for the public hearing on October 11, 2010 was published in the Idaho Mountain Express and mailed to public agencies and area media on September 22, 2010.

Proposal

Amendments to Zoning Code are proposed by the City as follows:
• Article 2 to add definitions related to community housing
• Delete references to Subdivision Ordinance Section 4.11 throughout

The actual amendments are attached as a draft Ordinance. There amendments to the Zoning Ordinance are associated with the amendments to repeal the Inclusionary Housing section of the Subdivision Ordinance; the Subdivision Ordinance amendments are addressed in a separate staff report.

Procedural History

There have been several Idaho district court decisions ruling that inclusionary housing requirements of a subdivision ordinance are unconstitutional or illegal. The City Attorney has recommended that the city amend the Hailey Subdivision Ordinance to be consistent with the Idaho district court decisions. The changes to the Subdivision Ordinance trigger related amendments to the Zoning Ordinance.

The Planning and Zoning Commission held a public hearing on September 7, 2010 and recommended approval of the amendments.

Department Comments

No comments from other city department were submitted.

ARCH Community Housing Trust and Blaine County Housing Authority (BCHA) were asked to give comments on other means the city could consider to support its Community Housing goals in light of the city attorney's recommendation to repeal the inclusionary housing section of the Hailey Subdivision Ordinance. Their comments are as follows:
ARCH Community Housing Trust
1. Incentives seem to be working when there is development and a need for concessions. BCHA and ARCH together can produce better/more needed housing than a developer (because of access to other funding and because our objective is to build what is most needed, not what is going to sell for the highest price); the incentives could really encourage donation of land, funds or specific houses as designated by BCHA rather than having the developer build the CH.
2. The ability to defer fees (which the City has) helps, but lowering these fees for CH would be very supportive.
3. Developing a "Fast Track" for permits, hearings etc. when CH is being built either by a developer or a housing organization would be helpful.

Blaine County Housing Authority (BCHA)
1. Redefine community housing to include appropriate rental housing.
2. Broaden the scope of community housing that may qualify for PUDs (rentals, community land trust models, etc.).
3. Participate in and support county-wide housing plans and strategies so that what gets built is not left up to individual developers and the discretion of current P&Z and Council (similar to ARCH’s first point).
4. Strengthen commitment to income restricted community housing required in all annexations. Even if land annexed is zoned for non-residential.
5. Jettison any allowance of Workforce Market Deed Restrictions (“alternative” deed restrictions that do not include provisions that ensure units will remain affordable).
6. Lower city fees or other true financial incentives to organizations developing affordable housing, e.g. ARCH and Habitat for Humanity, would be appropriate ways to actually support CH.

Discussion

Included with the associated Subdivision amendment staff report is an excerpt from the book A Better Way to Zone by Donald Elliot, an article by the same author, “The Housing Affordability Problem Has Not Gone Away” and articles form the Spring 2010 issue of the Planning Commissioners Journal related to housing. The take away from this information is that housing affordability is still a problem even in the current economic conditions.

The Planned Unit Development section of the Zoning Code is one tool currently in place that could continue to be used to encourage the provision of Community Housing. As suggested by ARCH, BCHA and the Planning Commissioners Journal, the City could also consider exempting Community Housing from certain requirements or fees to help keep the cost of Community Housing Units down. Another best practices tool discussed in A Better Way to Zone and the Planning Commissioners Journal is allowing accessory dwelling units throughout the city; on February 17, 2009 the Commission recommended allowing AUD in the LR Zoning Districts, but the Council has yet to decide on that recommendation.

The definitions added are those deleted from the Subdivision Ordinance related to Community Housing; this is relevant because the Planned Unit Development section of the Zoning Ordinance still provides Community Housing as a desired amenity.
Standards of Evaluation

14.6 When evaluating any proposed amendment under this Article, the Hearing Examiner or Commission and Council shall make findings of fact on the following criteria:

a. The proposed amendment is in accordance with the Comprehensive Plan;
The Commission should consider how the proposed amendments relate to the various policies and implementation items of the Comprehensive Plan. The Comprehensive Plan has several goals and policies related to Community Housing; however, the repeal of the Inclusionary Housing section of the Subdivision Ordinance is being recommended to be consistent with the Idaho district court decisions. The definitions added to the Zoning Ordinance are those deleted from the Subdivision Ordinance related to Community Housing. This is relevant because the Planned Unit Development section of the Zoning Ordinance still provides Community Housing as a desired amenity. Permitting Accessory Dwelling Units in certain zoning districts is the other mechanism currently available in the Municipal Code to implement the Community Housing goals of the Comprehensive Plan.

b. Essential public facilities and services are available to support the full range of proposed uses without creating excessive additional requirements at public cost for the public facilities and services;
There is no anticipated impact to public facilities and services associated with the proposed amendments.

c. The proposed uses are compatible with the surrounding area; and
There is no change of use proposed by these amendments.

d. The proposed amendment will promote the public health, safety and general welfare.
The proposed amendments will add definitions of terms related to Community Housing referred to in the Planning Unit Development section.

Summary

The Council is required to hold a public hearing and determine whether the proposed amendments are in accordance with the applicable standards of evaluation and make a recommendation to the Council whether the proposed amendment be approved or denied, or that a modified amendment be approved.
Motion Language

Approval:
Motion to approve the proposed amendments to Articles 2 and 10 of the Hailey Zoning Ordinance, Ordinance 532, finding that the amendments are in accordance with the Comprehensive Plan, essential public facilities and services are available to support the full range of proposed uses without creating excessive additional requirements at public cost for the public facilities and services, the proposed uses are compatible with the surrounding area, and the proposed amendment will promote the public health, safety and general welfare.

Denial:
Motion to deny the proposed amendments to Articles 2 and 10 of the Hailey Zoning Ordinance, Ordinance 532, finding that ________________ [the Council should cite which standards are not met and provided the reason why each identified standard is not met].

Continuation:
Motion to continue the public hearing upon the proposed amendment to Articles 2 and 10 of the Hailey Zoning Ordinance, Ordinance 532, to ________________ [the Council should specify a date].
HAILEY ORDINANCE NO. ___

AN ORDINANCE OF THE CITY OF HAILEY, IDAHO, AMENDING HAILEY’S ZONING ORDINANCE, ORDINANCE NO. 532, BY AMENDING ARTICLE 2, DEFINITIONS, TO CHANGE AND ADD DEFINITIONS OF TERMS RELATED TO COMMUNITY HOUSING; BY AMENDING ARTICLE 10 TO DELETE ANY REFERENCE TO SUBDIVISION ORDINANCE SECTION 4.11; 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.

WHEREAS, the Hailey City Council has found that the following amendment to the Hailey Zoning Ordinance will generally conform to the Hailey Comprehensive Plan;

WHEREAS, the amendments will not create excessive additional requirements at public cost for public facilities and services;

WHEREAS, the proposed uses are compatible with the surrounding area; and

WHEREAS, the amendment will be in accordance with the safety and welfare of the general public.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF HAILEY, IDAHO, AS FOLLOWS:

Section 1. Article 2, Definitions, of the Hailey Zoning Ordinance No. 532, terms Community Housing Unit and Local Housing Authority are hereby amended by the deletion of the stricken language and the addition of the underlined language as follows:

Community Housing Unit. Through a Deed Restriction, a Dwelling Unit that is restricted by size, type and/or cost, and that is for sale or rent exclusively to individual(s) meeting income, occupancy and/or other affordable community housing criteria established in a Community Housing Plan approved by the City of Hailey.

Local Housing Authority. An independent public body corporate and politic created under the Housing Authorities and Cooperation Law, Idaho Code Section §§50-1901, et. seq., including the Blaine-Ketchum County Housing Authority or other entity created by the City of Hailey, providing oversight, review and general assistance in the provision of Community Housing Units to the City.

Section 2. Article 2, Definitions, of the Hailey Zoning Ordinance No. 532, is hereby amended by the addition of the terms as follows:

Community Housing Fund. An interest bearing account held in trust by the City for the creation of community housing for the benefit of the City.

Community Housing Plan. The plan that specifically describes the Market Rate Units and the Community Housing Units to be constructed in any development, or alternatives to Community
Housing Units, and that is approved by the City in accordance with standards and criteria adopted by the Local Housing Authority or as otherwise allowed by the Council.

Deed Restriction. A method by which occupancy and resale of real property is controlled in a deed to create Community Housing Units.

Income Category. A grouping of household incomes based on a percentage of AMI.
- Category 2: 51-60% of AMI
- Category 3: 61-80% of AMI
- Category 4: 81-100% of AMI
- Category 5: 101-120% of AMI
- Category 6: 121-140% of AMI

Market Rate Unit. A Dwelling Unit in a residential or mixed use development that is not a Community Housing Unit.

Section 3. Article 10, Planned Unit Development, Section 10.3.8 of the Hailey Zoning Ordinance No. 532, is hereby amended by the deletion of the stricken language:

10.3.8 Each PUD shall provide one (1) or more of the following amenities, commensurate with the size and density of the development, and commensurate with the modifications requested by the applicant, to ensure a public benefit:
   a. Green Space. All Green Space shall be granted in perpetuity and the PUD agreement shall contain restrictions against any encroachment into the Green Space. Where a subdivision is involved as part of the PUD approval process, Green Space shall be identified as such on the plat. A long-term maintenance plan shall be provided. Unless otherwise agreed to by the City, the PUD agreement shall contain provisions requiring that property owners within the PUD shall be responsible for maintaining the Green Space for the benefit of the residents or employees of the PUD and/or by the public. Green space shall be set aside in accordance with the following formulas:
      1. For residential PUD’s: a minimum of .05 acres per residential unit.
      2. For non-residential PUD’s: a minimum of 15% of the gross area of the proposed PUD.
   b. Active recreational facilities. Active recreational facilities include amenities such as a swimming pool, tennis courts or playing fields, of a size appropriate to the needs of the development. The PUD agreement shall contain provisions requiring that such facilities be maintained in perpetuity, or replaced with another similar recreation facility.
   c. Public transit facilities. Public transit facilities include a weather-protected transit stop or transit station, and must be located on a designated transit route.
   d. Preservation of Vegetation. Preservation of significant existing vegetation on the site must include the preservation of at least 75% of mature trees greater than 6-inch caliper on the site.
   e. Wetlands. Protection of significant wetlands area must constitute at least 10% of the gross area of the proposed PUD.
   f. River enhancement. Enhancement of the Big Wood River and its tributaries, must include stream bank restoration and public access to or along the waterway.
   g. Community Housing. For residential PUD’s, the provision of at least thirty percent (30%) of the approved number of dwelling units or lots as Community Housing Units affordable to
households earning between 50% and 120% of the Area Median Income (the 30% would include the
20% community housing required for a subdivision established by Section 4.11 of the Subdivision
Ordinance), or the provision of at least twenty percent (20%) as Community Housing Units affordable
to households earning less than 50% of the Area Median Income.
   h. Real Property. Dedication or conveyance of real property or an interest in real
property to the City.
   i. Sidewalks. Off-site sidewalk improvements shall be constructed according to City
Standard Improvement Drawings and provided (in addition to sidewalk improvements that are
required by ordinance adjacent to the subject property) in accordance with the following formulas:
      1. For residential PUD’s: a minimum of 100 linear feet per residential unit.
      2. For non-residential or mixed-use PUD’s: a minimum of 100 linear feet per 1000
square feet of gross floor area.
   j. Underground Parking. Underground parking must be provided for at least 50% of the
required number of parking spaces in the PUD.
   k. Energy Conservation. All principal buildings within the PUD must comply with
sustainable building practices, as follows:
      1. For residential PUD’s: buildings comply with local “Built Green” standards for
certification, federal EPA “Energy Star” program, or Leadership in Energy and Environmental Design
- Homes (LEED-H) standards for basic certification.
      2. For non-residential or mixed-use PUD’s: buildings comply with Leadership in
Energy and Environmental Design (LEED) standards for basic certification.
   l. Other Amenities. Other project amenities and/or benefits to the community that are
found, by recommendation of the Commission and approval of the Council, to promote the purpose of
this Article and the goals and objectives of the Comprehensive Plan.

Section 3. Article 10, Planned Unit Development, Section 10.4.1 of the Hailey Zoning Ordinance No.
532, is hereby amended by the deletion of the stricken language:

10.4.1 Density Bonus. The following maximum increases in density may be granted only if one of the
following conditions are met, and if no other density increase has been granted (e.g., for Community
Housing Units under Section 4.11 of the Subdivision Ordinance):
   a. Ten percent (10%): Solar, wind, geothermal, or other alternative renewable energy
source will provide at least fifty percent (50%) of the total energy needs of the PUD.
   b. Ten percent (10%): At least twenty five percent (25%) of the property included in the
PUD is located in the floodplain and no development occurs within the floodplain.
   c. Ten percent (10%): The developer of the PUD provides or contributes to significant
off-site infrastructure benefiting the City, (e.g., water tank, fire station).
   d. Twenty percent (20%): The developer of the PUD provides or contributes to significant
multi-modal infrastructure providing both vehicular and non-vehicular amenities benefiting the City
and Wood River Valley.
   e. Ten percent (10%): The non-residential or mixed-use PUD complies with Leadership
in Energy and Environmental Design (LEED) standards for Silver certification. The bonus unit(s)
shall not be constructed until a later phase, after actual certification for prior phase(s) is achieved.
   f. Fifteen percent (15%): The non-residential or mixed-use PUD complies with
Leadership in Energy and Environmental Design (LEED) standards for Gold certification. The bonus

Ordinance
Zoning Text Amendment – Community Housing
page 3 of 4
unit(s) shall not be constructed until a later phase, after actual certification for prior phase(s) is achieved.

g. Twenty percent (20%): The non-residential or mixed-use PUD complies with Leadership in Energy and Environmental Design (LEED) standards for Platinum certification. The bonus unit(s) shall not be constructed until a later phase, after actual certification for prior phase(s) is achieved.

h. Density bonuses for project amenities and benefits to the community other than those listed here may be granted by unanimous vote of the Council, following a recommendation by the Commission, in order to carry out the purpose and intent of this Article and the land use policies of the City.

Section 4. Should any section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

Section 5. All City of Hailey ordinances or resolutions or parts thereof, which are in conflict herewith, are hereby repealed.

Section 6. This ordinance shall be in full force and effect from and after the required three (3) readings, approval, and publication according to law.

PASSED AND ADOPTED BY THE HAILEY CITY COUNCIL AND APPROVED BY THE MAYOR THIS ___ DAY OF ________, 2010.

__________________________
Richard L. Davis, Mayor, City of Hailey

Attest:

__________________________
Mary Cone, City Clerk

Publish: Idaho Mountain Express ___________ , 2010