

AGENDA ITEM SUMMARY

DATE: April 11, 2011 DEPARTMENT: Community Development

DEPT HEAD: 

SUBJECT: Amendments to Municipal Code Chapter 12.14 - Special Events

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

BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:

Amendments to Chapter 12.14 - Special Events have been drafted to refine the discussion brought to the Council on March 14. The amendments have been drafted with extensive input from the staff that administers the special event and park use permits, as well as input from the police, fire, streets and the parks and lands board.

The proposed ordinance repeals the current Chapter 12.14 in its entirety. The amendments focus on events the either close streets or attract 250 or greater participants and attempt to reduce overlap with the park use polices and make administration more clear. The amendments also incorporate Resolution 2009-05 (Banner Placement Policy).

The amendments to Chapter 12.14 pair with amendments to Chapter 12.12 – Park Use which incorporate the content of Resolution 2009-08 (Park Use Fees) and Resolution 2009-07 (Guidelines for Park Use and Reservations) and addresses events with fewer than 250 people at city parks. The amendments to Chapter 12.12 will be brought to you at your next meeting.

Amplified sound will be addressed in a separate amendment to Title 9.

FISCAL IMPACT / PROJECT FINANCIAL ANALYSIS: Case # \_\_\_\_\_  
Budget Line Item # \_\_\_\_\_ YTD Line Item Balance \$ \_\_\_\_\_  
Estimated Hours Spent to Date: \_\_\_\_\_ Estimated Completion Date: \_\_\_\_\_  
Staff Contact: \_\_\_\_\_ Phone # \_\_\_\_\_  
Comments: \_\_\_\_\_

ACKNOWLEDGEMENT BY OTHER AFFECTED CITY DEPARTMENTS: (IF APPLICABLE)

- |  |   |   |
|--|---|---|
| <input checked="" type="checkbox"/> City Administrator | <input type="checkbox"/> Library                        | <input type="checkbox"/> Safety Committee   |
| <input checked="" type="checkbox"/> City Attorney      | <input type="checkbox"/> Mayor                          | <input checked="" type="checkbox"/> Streets |
| <input checked="" type="checkbox"/> City Clerk         | <input type="checkbox"/> Planning                       | <input type="checkbox"/> Treasurer          |
| <input type="checkbox"/> Building                      | <input checked="" type="checkbox"/> Police              | _____                                       |
| <input type="checkbox"/> Engineer                      | <input checked="" type="checkbox"/> Public Works, Parks | _____                                       |
| <input checked="" type="checkbox"/> Fire Dept.         | <input type="checkbox"/> P & Z Commission               | _____                                       |

RECOMMENDATION FROM APPLICABLE DEPARTMENT HEAD:

ADMINISTRATIVE COMMENTS/APPROVAL:

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

ACTION OF THE CITY COUNCIL:

Date \_\_\_\_\_

City Clerk \_\_\_\_\_

FOLLOW-UP:

\*Ord./Res./Agmt./Order Originals: Record  
Copies (all info.):  
Instrument # \_\_\_\_\_

\*Additional/Exceptional Originals to: \_\_\_\_\_  
Copies (AIS only)

HAILEY ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF HAILEY, IDAHO, REPEALING CHAPTER 12.14, SPECIAL EVENTS, OF THE HAILEY MUNICIPAL CODE IN ITS ENTIRETY AND REPLACING IT WITH A NEW CHAPTER 12.14; BY PROVIDING FOR A SEVERABILITY CLAUSE; BY PROVIDING FOR A REPEALER CLAUSE; AND BY PROVIDING FOR THE EFFECTIVE DATE OF THIS ORDINANCE UPON PASSAGE, APPROVAL AND PUBLICATION ACCORDING TO LAW.

WHEREAS, the Mayor and the City Council of the City of Hailey wish to amend the special events permit process to make the City of Hailey an event friendly place while maintaining public safety and reducing costs and time associated with permitting incurred by the city and the applicant; and

WHEREAS, the Mayor and City Council find that such an amendment will further 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. Chapter 12.14 of the Hailey Municipal Code is repealed in its entirety and replaced by the addition of the following language:

12.14.010 Purpose. The purpose of the Special Event permit process is to make the City of Hailey an event friendly place while maintaining public safety and reducing costs and time associated with permitting incurred by the City of Hailey and the Applicant.

12.14.020 Definitions.

"Applicant" means a single person or legal entity, who is the organizer and who is responsible for conduct of the Special Event.

"Administrator" means the department head, or his/her designee, as assigned by the mayor or city administrator to oversee the administration of this chapter or sections thereof.

"City Parks" shall mean those parcels of land that are owned or managed by the City of Hailey and are held for public use or as open or green space, including, but not limited to City Parks and hillside parcels.

"Government Event" means an event produced by a government on its property and administrated under its sole authority.

"Special Event" means any event that is described in section 12.14.030(B) of this ordinance.

“Street Closure” means the deliberate or incidental temporary blockage of all, or a portion of, a public or private street, alley, highway, public right-of-way, parking lot or other thoroughfare used for pedestrian or vehicular circulation.

12.14.030 Applicability.

A. It shall be unlawful for any person to conduct a Special Event without first applying for and being granted a Special Event permit or for an owner of the real property where the Special Event is conducted to allow a Special Event without the issuance of a Special Event permit by the City. All permits issued pursuant to this chapter are nontransferable and expire at the completion of the Special Event.

B. The following categories of events require a Special Event permit

1. Those involving a Street Closure within any zoning district.
2. Those attracting an anticipated 250 or more people at any one time in any zoning district.

C. The following types of events are exempt from obtaining a Special Event permit:

1. Events fully contained on private property within the Business (B) zoning district.
2. A school or recreational district sporting event held on a school or recreational district property.
3. A Government Event

12.14.040 Administration

A. The Administrator of this Chapter is responsible for the receipt, coordination of departmental review and issuance of a Special Event permit.

B. Authority of Administrator.

1. For Special Events that are reasonably expected to attract less than 250 participants and involves a Street Closure, the Administrator has the authority to issue a Special Event permit after making positive findings pursuant to §12.14.050.

2. For Special Events that are reasonably expected to attract 250 or more people, the Administrator shall recommend approval or denial of a permit after making findings pursuant to §12.14.050 for final decision by the Hailey City Council.

C. Application Procedure.

1. An application for a Special Event shall be signed by the Applicant on a form provided by the Administrator and shall be filed with the Administrator according to the following schedule:

a. An application for a Special Event involving a whole or partial Street Closure shall be filed at least fourteen (14) calendar days prior to the Special Event.

b. An application for a Special Event with an anticipated 250 to 1,499 people at any one time shall be filed at least thirty (30) calendar days prior to the Special Event.

b. An application for a Special Event with an anticipated 1,500 or more people at any one time shall be filed at least sixty (60) calendar days prior to the Special Event.

2. At a minimum, the Applicant shall provide, on a form provided by the Administrator, sufficient information to address the requirements set forth in the requirements section (§12.14.050), including but not limited to:

- a. The projected hours of set up and removal of facilities needed for the Special Event;
- b. The projected hours of the Special Event;
- c. The projected number of people who will attend the Special Event during one hour intervals of the Special Event, and if applicable, the actual number of people who attended the Special Event for the prior three years;
- d. If applicable, description of temporary structures, such as tents and stages;
- e. If applicable, description of flame producing devices;
- f. If applicable, description of food service;
- g. The proposed number of trash receptacles and/or dumpsters and portable toilets;
- h. A statement declaring notice was provided to businesses or owners occupying units located on any street proposed to be closed including the location, time, date, duration and nature of the Special Event and Street Closure;
- i. If applicable, the dates requested for display of a banner across Main Street, the dimensions, construction and wording of the banner;
- j. If applicable, description of amplified sound, including estimated decibel levels;
- k. For Special Events of 250 or more participants and/or serving beer, wine or alcohol, shall submit the following:
  - i) a security plan for review and approval by the Chief of Police and shall include the number of staff people dedicated to security and their qualifications.
  - ii) an emergency medical care and ambulance support plan for review and approval by the Fire Chief and shall include the number of dedicated state licensed EMT with basic medical supplies and communications with an EMS Agency assigned to no other duties at the event.

4. Events that have been held for three (3) or more consecutive years may be administratively approved provided no changes to the event location, time, or Street Closure have been made, no violation of prior permits has occurred and a copy of current insurance is provided. Events involving Street Closures will be required to meet any changes to applicable traffic control standards.

5. An applicant may apply for their next year's event upon completion of the current year's event and upon completion of a post event review with the Administrator.

12.14.050 Requirements. A Special Event shall meet all of the following requirements determined to be applicable by the Administrator.

A. Except as otherwise provided herein, a Special Event shall not substantially interrupt the safe and orderly movement of traffic contiguous and near its venue.

1. The Applicant may apply for a Street Closure and will be required to submit a closure and traffic control plan; such a plan shall accommodate access by emergency response vehicles.

a. To facilitate Special Events, especially those located in downtown, the city may issue to the Applicant a closure and traffic control plan, including the type of equipment and number required to implement the closure and traffic control plan, for certain blocks, including but not limited to:

i) Croy Street from River Street to Main Street, Main Street to First Avenue and First Avenue to Second Avenue

ii) First Avenue from Carbonate Street to Bullion Street and Croy Street to Walnut Street

iii) Carbonate Street from Main Street to First Avenue and Main Street to River Street

2. The Applicant shall be required to implement an approved closure and traffic control plan in exact accordance with the approved closure and traffic control plan. A closure and traffic control plan may be modified at anytime before or during the event with the documented approval of the Public Works Director or Police Chief of the City of Hailey, except any changes that affect emergency access or designated safety clear zones shall be approved by the Police Chief or Fire Chief.

3. The number of days a street is closed may be limited by the city.

B. The Special Event shall not cause a public safety hazard to the remainder of the city by interrupting emergency response by city services, including but not limited to police, fire and ambulance.

C. The Special Event shall not be reasonably likely to cause injury to persons or property, to result in disorderly conduct or to create a disturbance.

D. For events with 500 or more participants the Applicant shall, at a minimum, provide one (1) six yard dumpster per 500 people,

E. For events with 100 or more participants the Applicant shall, at a minimum, provide one permanent or portable bathroom per 100 people and one (1) handicapped accessible bathroom if the number of people at the Special Event is projected to exceed 500 people.

E. No more than two events anticipating more than 250 participants per event per month per City Park shall be allowed unless the City Council makes a determination that the limitation set forth in this subsection should be waived for a given event. The start date of each event anticipating more than 250 participants shall be no less than ten (10) calendar days apart.

F. Liability Insurance. Proof of general liability insurance coverage in the minimum amount of one million dollars naming the city as an additional named insured.

G. Damages. If damage occurs to city property or if the city is responsible for the damage because of the event, the city may reimburse itself for the damages from any security deposit posted and require the Applicant to immediately pay the city for any unreimbursed cost of such repairs.

H. Indemnification. The Applicant shall agree to indemnify, defend and hold the city harmless and its officers and employees from any and all demands, claims or liability of any nature, caused by or arising out of, or connected with the Special Event. The agreement to indemnify, defend and hold the city harmless shall be a condition of

any Special Event permit.

I. The Applicant has made no false statements or misrepresentations upon any present or former application for the Special Event permit.

J. The Applicant has not substantially violated any provision of city, state or federal laws, including the provisions of this chapter, in conducting any previous Special Event.

K. The Special Event permit is subject to other applicable city, state, federal or other governmental rules, regulations or laws.

#### 12.14.060 Display of Banners

A. The City of Hailey will allow appropriate banners to be displayed across the public right-of-way of Main Street or be displayed from public light poles in the public right-of-way within or adjacent to the Business (B) zoning district provided the following requirements are met:

1. The banner advertises a special, date-specific event which is of general interest and benefit to the community, or be associated with a special event permit issued under this Chapter.

2. The banner advertises only the event name, date(s), and/or name(s) of the sponsor(s) and/or organizer(s). The name(s) of the sponsor(s) and/or organizer(s) shall be limited to a maximum of 25% of the space on each side of a banner.

3. The banner is constructed in accordance with the specifications set forth in **Exhibit "A."**

#### B. Installation.

1. Except as otherwise provided herein, a banner across Main Street shall be installed no earlier than thirty (30) calendar days prior to the event and shall be removed one week after it is hung. Banners shall not be installed after the event has concluded.

2. Banners on light poles shall be installed no earlier than thirty (30) calendar days prior to the event and shall be removed immediately thereafter. The banners shall be displayed for a maximum period of thirty (30) calendar days per event, per year, unless approved by the Administrator for an additional fourteen (14) calendar days.

3. No more than one banner across Main Street for any one event will be displayed at any one time.

4. The Applicant shall provide a minimum of six (6) banners per event for display on light poles.

5. The City Council of Hailey reserves the right to terminate use of public ways for banners at any time and without prior notice.

#### C. Application.

1. A request to display a banner across Main Street may be included by the Applicant in a Special Event permit application as set forth in section 12.14.040.

2. A request to display a banner across Main Street for an event outside of the City of Hailey may be submitted by an Applicant, at least fourteen (14) calendar days prior to the date first requested for display of the banner, on a form provided by the Administrator.

3. A request to display a banner on light poles shall be submitted by

the Applicant at least four (4) weeks prior to the date first requested for display of banners, on a form provided by the Administrator.

4. In the case of more than one application for the same period of time, the Administrator shall give preference to events held within the City of Hailey. In the case of more than one application for events held within the City of Hailey, the Administrator shall permit the first application filed to display for this period.

5. An application to display the same banner may be submitted immediately following the take down of a banner's display.

#### 12.14.070 Fees and Deposits

A. Application Fee. Except as otherwise provided herein, the Applicant shall pay the non-refundable application fee in addition to any applicable per diem or service fees for the proposed Special Event permit, as established by resolution, at the time of the filing of the Special Event application.

1. A per diem fee of two hundred dollars (\$200) shall be assessed for a Special Event within a City Park, including set-up and tear-down days. Events that meet the following criteria may be exempted from this per diem fee by resolution of the City Council.

a. Non-profit events that have been annual events within the City of Hailey for at least ten consecutive years and consistently draw large numbers of participants and spectators and are promoted locally and regionally within the state and the northwest.

B. City Staff and Equipment. The following services may be arranged with the City in advance of the Special Event; any such service provided by the city will be billed to the Applicant. The Applicant may be required to pay a deposit in advance for such charges and in the event the deposit exceeds the actual charges, the City Clerk shall refund the balance to the Applicant.

1. City Equipment – the Applicant shall be responsible for providing approved MUTCD standard traffic control devices, such as cones, barricades, flags, signs and ropes. If available, these devices may be borrowed from the City upon advance reservation with the Street Superintendent and payment of a security deposit for the devices borrowed.

2. Police Services – traffic control for Special Events involving the closure of Main Street or police coverage provided by the Hailey Police Department. Police coverage will be required as a minimum for the following events.

a. Events with 1,500 to 2,000 participants require coverage by at least 3 officers.

b. Events with over 2,000 but under 4,000 participants require coverage by at least 4 officers.

c. Events with over 4,000 participants require coverage by at least 5 officers.

3. Fire and EMS Services - additional safety precautions and personnel required to monitor the area for safety hazards and to facilitate evacuation as determined necessary by the Hailey Fire Chief. When EMS services are required, the Applicant may request the services be provided by the Hailey Fire Department.

4. Street Services - street sweeping, garbage collection from city

owned receptacles and traffic control may be required.

C. Banners

1. Except as otherwise provided herein, a fee of \$100.00 per installation over Main Street and a fee of \$25.00 per light pole installation shall be prepaid by the applicant to cover the costs of installation and removal by City personnel and equipment. Banners will be installed and removed by the Hailey Public Works Department.

a. The City of Hailey is exempt from the payment of fees and may hang a banner for general public purposes, including but not limited to promoting the economic vitality of the Hailey business community at large.

12.14.080 Standards.

A. A Special Event permit may be issued after the following findings are made by the Administrator.

1. The Special Event will in fact qualify as a Special Event.
2. The Special Event meets all of the applicable requirements set forth in §12.14.050.
3. All required fees and deposits have been paid.

B. Following an evaluation of the above requirements and standards, the application may be approved, conditionally approved or denied. Conditions may be imposed that are deemed to be reasonably related to the above standards and that will promote the public health, safety and general welfare.

12.14.090 Right of appeal.

An appeal from any decision of the Administrator made in the administration or enforcement of this chapter may be made to the city council by filing a written appeal and fee with the Administrator within fifteen calendar days following the date of the action or decision giving rise to the appeal. Upon hearing the appeal, the city council shall consider the record, the decision of the Administrator, and the written appeal together with oral presentation by the appellant, a city officer, and the Applicant. The city council may affirm, reverse, or modify the decision of the Administrator. The city council shall not substitute its judgment for that of the Administrator as to the weight of the evidence on questions of fact. The city council shall affirm the Administrator's decision unless the city council finds the decision is a) clearly erroneous, b) arbitrary, capricious or an abuse of discretion, or c) not supported by substantial evidence in the record as a whole. The Administrator shall transmit a copy of the city council's decision and findings to the appellant, the Applicant and any other person who has requested a copy in writing. The fee for processing the appeal shall be set by resolution of the city council.

2.14.100 Enforcement.

A. Criminal liability. Any person who shall violate any provision of this chapter shall be guilty of a misdemeanor and upon conviction, subject to a fine of not more than three hundred dollars (\$300.00) or imprisonment for a period not to exceed six months, or both such fine and imprisonment. Each day a violation continues shall be considered a separate offense, punishable as described in this section.



B. Civil liability. Appropriate actions and proceedings may be taken at law or in equity to prevent any violation of the provisions stated in this chapter, to prevent any violation of these regulations, to recover damages, to restrain, correct or abate a violation and to prevent illegal occupancy of public property. These remedies shall be in addition to the penalties described above.

Section 2. Severability Clause. If any section, paragraph, sentence or provision hereof or the application thereof to any particular circumstances shall ever be held invalid or unenforceable, such holding shall not affect the remainder hereof, which shall continue in full force and effect and applicable to all circumstances to which it may validly apply.

Section 3. Repealer Clause. All ordinances or parts thereof in conflict herewith are hereby repealed and rescinded.

Section 4. Effective Date. This Ordinance shall be in full force and effect after its passage, approval and publication according to law.

PASSED AND ADOPTED BY THE HAILEY CITY COUNCIL and approved by the Mayor this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Richard L. Davis, Mayor  
City of Hailey

ATTEST:

\_\_\_\_\_  
Mary Cone, City Clerk

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## STAFF REPORT

**TO:** Hailey City Council  
**FROM:** Beth Robrahn, Community Development Director   
**RE:** Final Plat - Sweetwater PUD Townhouses, Block 4, Sublots 46-53  
**HEARING:** April 11, 2011

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**Applicant:** Sweetwater, LLC

**Location:** Parcel B1 of Sweetwater PUD Townhouses Phase I, Block 4 (Woodside Blvd and Maple Leaf Drive)

**Zoning:** Limited Business (LB)

**Note:** Staff analysis is in lighter type.

### Notice

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

### Application

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

### Procedural History

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

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

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

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

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

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

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

**Conditions of Preliminary Plat Approval**

- a) **The final plat shall include plat notes 1 through 12 as stated on the approved preliminary plat with the following amendments and additions:**

- **Plat note #4 shall include the Noise and Avigation Easement and non-suit covenant and instrument number thereof.**

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

b) **All Fire Department and Building Department requirements shall be met.** This conditions should be carried over to final plat approval because there are unfinished units associated with this plat.

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

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

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

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

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

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

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

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

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

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

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

This condition has been met

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

This condition has been met

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

This condition should be carried over to final plat approval with some clarification in wording.

- i) **A revised preliminary plat shall be submitted showing the platting of sublots 46-53 only. The final plat shall also include only sublots 46-53.**

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

### Standards of Evaluation

#### **Bulk requirements:**

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

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

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

Those waivers include the following:

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

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

### **SECTION 3 – PROCEDURE**

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

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

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

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

### **SECTION 4 – DEVELOPMENT STANDARDS**

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

### **SECTION 8 - TOWNHOUSES**

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

Townhouse Declarations and CCRs have been submitted and address easements, party walls, and maintenance. The City has not and will not in the future determine the enforceability or validity of townhouse declarations, party wall agreements, or other private agreements.

- 8.2 Garage.** All garages shall be designated on the preliminary and final plats and on all deeds as part of the particular townhouse units. Detached garages may be platted on separate sub-lots, provided that the ownership of detached garages is appurtenant to specific townhouse units on the townhouse plat and that the detached garage(s) may not be sold and/or owned separate from any dwelling unit(s) within the townhouse development.

Garages are within the units.

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

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

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

All townhouse units have separate utility services.

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

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

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

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

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

NA

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

NA

**Summary And Suggested Conditions**

The City Council shall hold a public hearing and approve, conditionally approve, or deny the final plat application. 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**
- c) **Development impact fees associated with each unit, if any, shall be paid prior to the issuance of a certificate of occupancy.**
- d) **The final plat shall be recorded within one year of the date of final plat approval (unless otherwise provided for within a phasing agreement.) The final plat submitted for signature shall conform to the requirements found in Article 50-1301 (et. seq.) of the Idaho Code (as amended) and to the requirements set forth by Blaine County for digital plat submittals. The applicant shall provide the City with a letter-size or ledger-size photocopy of the recorded plat showing the instrument number and date of recordation.**



**Motion Language:**

Approval:

Motion to approve Final Plat of Sweetwater PUD Townhouses, Block 4, Sub-lots 46-53, finding that the applicable subdivision standards have been met upon compliance with the conditions of approval.


Denial:

Motion to deny Final Plat of Sweetwater PUD Townhouses, Block 4, Sub-lots 46-53, 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 Final Plat application of Sweetwater PUD Townhouses, Block 4, Sub-lots 46-53 to \_\_\_\_\_ [the Council should specify a date].

## STAFF REPORT

**TO:** Hailey City Council  
**FROM:** Beth Robrahn, Community Development Director   
**RE:** Final Plat - Sweetwater PUD Townhouses, Block 4, Sublots 36-45 and 54-57  
**HEARING:** April 11, 2011

---

**Applicant:** Sweetwater, LLC

**Location:** Parcel B1 of Sweetwater PUD Townhouses Phase I, Block 4 (Woodside Blvd and Maple Leaf Drive)

**Zoning:** Limited Business (LB)

**Note:** Staff analysis is in lighter type.

### Notice

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

### Application

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

### Procedural History

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

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

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

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

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

**Conditions of Preliminary Plat Approval**

- a) **The final plat shall include a note stating that the subdivision is subject to the recorded Party Wall Agreement and CC&R's, along with the instrument numbers thereof.**

This condition is addressed in plat note #5. A condition of final plat approval should be included ensuring this plat note is recorded.

- b) **All Fire Department and Building Department requirements shall be met. Items to be completed at the applicant's sole expense include, but will not be limited to, the following requirements and improvements:**
- **Silo Way, Grange Way, and Heartland Way shall be posted as a fire lane according to the Fire Chief's instructions.**

Signage for file lanes has been installed. The first sentence of this condition should be carried over to ensure compliance prior to recordation.

- c) **All City infrastructure requirements shall be met as outlined in Section 5 of the Hailey Subdivision Ordinance.**

This condition should be carried over to ensure compliance prior to recordation.

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

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

- e) **A plat note shall be added referencing Sublots 4, 10, 21, 26, 33, 39 and 44, Block 4, as Community Housing Units and subject to a deed restriction.**

In an agreement between the city and the applicant made on December 27, 2010, the city agreed to release the deed restrictions on the units originally stipulated in the PUD approval.

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

An approved phasing agreement is in effect.

## Standards of Evaluation

### **Bulk requirements:**

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

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

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

Those waivers include the following:

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

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

### SECTION 3 – PROCEDURE

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

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

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

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

### SECTION 4 – DEVELOPMENT STANDARDS

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

### SECTION 8 - TOWNHOUSES

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

Townhouse Declarations and CCRs have been submitted and address easements, party walls, and maintenance. The City has not and will not in the future determine the enforceability or validity of townhouse declarations, party wall agreements, or other private agreements.

**8.2 Garage.** All garages shall be designated on the preliminary and final plats and on all deeds as part of the particular townhouse units. Detached garages may be platted on separate sub-lots, provided that the ownership of detached garages is appurtenant to specific townhouse units on the townhouse plat and that the detached garage(s) may not be sold and/or owned separate from any dwelling unit(s) within the townhouse development.

Garages are within the units.

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

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

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

All townhouse units have separate utility services.

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

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

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

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

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

NA

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

NA

**Summary And Suggested Conditions**

The City Council shall hold a public hearing and approve, conditionally approve, or deny the final plat application. 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.**
- c) **Development impact fees associated with each unit, if any, shall be paid prior to the issuance of a certificate of occupancy.**
- d) **The final plat shall be recorded within one year of the date of final plat approval (unless otherwise provided for within a phasing agreement.) The final plat submitted for signature shall conform to the requirements found in Article 50-1301 (et. seq.) of the Idaho Code (as amended) and to the requirements set forth by Blaine County for digital plat submittals. The applicant shall provide the City with a letter-size or ledger-size photocopy of the recorded plat showing the instrument number and date of recordation.**

**Motion Language:**

**Approval:**

Motion to approve Final Plat of Sweetwater PUD Townhouses, Block 4, Sublots 36-45 and 54-57, finding that the applicable subdivision standards have been met upon compliance with the conditions of approval.

**Denial:**

Motion to deny Final Plat of Sweetwater PUD Townhouses, Block 4, Sublots 36-45 and 54-57, 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 Final Plat application of Sweetwater PUD Townhouses, Block 4, Sublots 36-45 and 54-57 to \_\_\_\_\_ [the Council should specify a date].



**AGENDA ITEM SUMMARY**

DATE: April 11, 2011 DEPARTMENT: Community Development

DEPT HEAD: BR

**SUBJECT:** Proposed Development Agreement with the County related to infrastructure improvements required as part of the Wertheimer Park Subdivision preliminary plat.

**AUTHORITY:**  ID Code \_\_\_\_\_  IAR \_\_\_\_\_  City Ordinance/Code: Sub Ord \$5.9  
(IF APPLICABLE)

**BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:**

The preliminary plat of Wertheimer Park Subdivision (rodeo grounds, Blaine Manor and Hailey Elementary) called for a development agreement between the city and the county related to sidewalk improvements along Maple Street, to the north of Lot 3 (Blaine Manor property). Council approved preliminary plat on July 26, 2010 and approved sending the draft agreement to the County Commissioners on February 14, 2011. The County requested on minor clarification; on page 2 of the agreement, under item 1, sidewalk improvements the following words were added to the second sentence, "...result in construction of a structure and...". The County Commissioners approved and signed the agreement with this change on March 28, 2011. With the Council's final approval, the mayor would sign the original already signed by the county and the agreement would be recorded. The next step is to have the final plat drafted and scheduled for a public hearing with the Planning and Zoning Commission.

**FISCAL IMPACT / PROJECT FINANCIAL ANALYSIS:** Case # \_\_\_\_\_  
Budget Line Item # \_\_\_\_\_ YTD Line Item Balance \$ \_\_\_\_\_  
Estimated Hours Spent to Date: \_\_\_\_\_ Estimated Completion Date: \_\_\_\_\_  
Staff Contact: \_\_\_\_\_ Phone # \_\_\_\_\_  
Comments: \_\_\_\_\_

**ACKNOWLEDGEMENT BY OTHER AFFECTED CITY DEPARTMENTS:** (IF APPLICABLE)

<input checked="" type="checkbox"/> City Administrator	<input type="checkbox"/> Library	<input type="checkbox"/> Safety Committee
<input checked="" type="checkbox"/> City Attorney	<input type="checkbox"/> Mayor	<input type="checkbox"/> Streets
<input type="checkbox"/> City Clerk	<input type="checkbox"/> Planning	<input type="checkbox"/> Treasurer
<input type="checkbox"/> Building	<input type="checkbox"/> Police	_____
<input type="checkbox"/> Engineer	<input type="checkbox"/> Public Works, Parks	_____
<input type="checkbox"/> Fire Dept.	<input type="checkbox"/> P & Z Commission	_____

**RECOMMENDATION FROM APPLICABLE DEPARTMENT HEAD:**

Approve and authorize the mayor to sign.

**ADMINISTRATIVE COMMENTS/APPROVAL:**

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

**ACTION OF THE CITY COUNCIL:**

Date \_\_\_\_\_

City Clerk \_\_\_\_\_

**FOLLOW-UP:**  
\*Ord./Res./Agmt./Order Originals: Record \*Additional/Exceptional Originals to: \_\_\_\_\_  
Copies (all info.): \_\_\_\_\_ Copies (AIS only)  
Instrument # \_\_\_\_\_

**DEVELOPMENT AGREEMENT**  
**(Blaine Manor—Lot 3, Wertheimer Subdivision)**

THIS DEVELOPMENT AGREEMENT ("Agreement") is made and entered into this 28 day of MARCH, 2011, by and between the **CITY OF HAILEY, IDAHO**, a municipal corporation (hereinafter referred to as "City") and **BLAINE COUNTY, IDAHO**, a political subdivision of the State of Idaho (hereinafter referred to as "County").

**RECITALS**

- A. City is a municipal corporation possessing all the powers granted to municipalities under the applicable provisions of the Idaho Code, including, without limitation, all powers under the Local Land Use Planning Act, as set forth in Idaho Code § 67-6501, et seq.
- B. The County is the owner of record of certain real estate more particularly described as Lot 3 of the Wertheimer Park Plat, according to the official plat thereof, recorded as Instrument No. \_\_\_\_\_, records of Blaine County, Idaho ("Lot 3").
- C. The City, County and the Blaine County School District No. 61 have submitted a preliminary plat, entitled the Wertheimer Park plat, which creates three lots. Lot 1 is owned by Blaine County School District No. 61 and is commonly known as the Hailey Elementary School. Lot 2 is owned by the City and is commonly known as the Rodeo Grounds. Lot 3 is owned by the County and is commonly known as Blaine Manor. Blaine Manor is an assisted senior citizen facility.
- D. The subdivision standards of the City of Hailey require sidewalks, curb and gutter constructed to city standards adjacent to public streets. Lot 3 is adjacent to Maple Street and there is presently only a partial sidewalk, curb or gutter adjacent to Maple Street.
- E. The County intends to sell Lot 3 and using the proceeds of the sale to partially fund the construction of another senior citizen facility. The parties recognize that the present building on Lot 3 will become obsolete and eventually Lot 3 will be redeveloped, at which time the sidewalk, curb and gutter adjacent to Maple Street can be constructed.
- F. The City approved of the application to create the Wertheimer Park subdivision plat subject, in part, to the execution of a development agreement allowing the construction of a sidewalk, curb and gutter adjacent to Maple Street at the time of future development of Lot 3.
- G. The County acknowledges that the Property will be developed pursuant to and in accordance with the City's Zoning Ordinance, and in accordance with the terms and conditions of this Agreement.
- H. All public hearings have been or will be conducted pursuant to notice as required by law, and all other action required to be held or taken prior to the adoption and execution of this Agreement has been or will be held or taken.

- I. The parties enter into this Agreement with mutual consideration as reflected in the covenants, duties and obligations herein set forth.

### AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. Sidewalk Improvements. A sidewalk, curb and gutter adjacent to Maple Street shall be constructed according to the city standards in effect at the time of "future development of Lot 3." For the purpose of this requirement, "future development of Lot 3" shall mean any development or construction which will result in construction of a structure and require design review or other permit under the City's zoning ordinance, in effect at the time of an application for development or construction.

2. Remedies. In the event of a breach of this Agreement, this Agreement shall be enforceable by specific performance by either party hereto, in addition to all other remedies at law or in equity. All remedies shall be cumulative.

3. Force Majeure. If either party hereto is delayed in the performance of any of its obligations hereunder because of inclement weather, labor dispute or strike, civil strife, reasons beyond such parties control, acts of God, actions by the State of Idaho or any of its agencies, or political subdivisions, the time for performance shall be extended for the same time as loss by the cause herein set forth.

4. Police Power. Nothing contained herein is intended to limit the police power of City or its discretion of review of subsequent applications regarding development of the Property. This Agreement shall not be construed to modify or waive any law, ordinance, rule, or regulation, including, without limitation, applicable building codes, fire codes, the City Zoning Ordinance, or the City Subdivision Ordinance.

5. Amendment. This Agreement may be revised, amended or canceled in whole or in part, only by means of a written instrument executed by both parties hereto. City and County agree to cooperate with each other in adopting any amendment which may reasonably be requested. Such cooperation shall be extended by City so long as the proposed amendment does not in the opinion of City, defeat the purposes of this Agreement.

6. Attorney's Fees. In the event either party hereto is required to retain counsel to enforce a provision of this Agreement, or to recover damages resulting from a breach thereof, the prevailing party shall be entitled to recover from the other party all reasonable costs and attorney's fees incurred therein, including costs and attorney's fees on appeal.

7. Notices. All notices required or provided for under this Agreement shall be in writing and deemed deliberate upon delivery in person, or upon mailing by certified mail, postage

pre-paid. Notices to City shall be addressed as follows:

City of Hailey  
115 Main Street So.  
Suite H  
Hailey, Idaho 83333

Notices given to County shall be addressed as follows:

Blaine County  
206 First Avenue So.  
Suite 300  
Hailey, Idaho 83333

A party may change the address to which further notices are to be sent by notice in writing to the other party, and thereafter notices shall be addressed and transmitted to the new address.

8. Relationship of Parties. It is understood that the contractual relationship between City and County is such that the County is not the agent, partner or joint venturer of City. County hereby guarantees actual development and performance in accordance with the terms and conditions set forth in this Agreement.

9. Successors and Assigns. This Agreement shall inure to the benefit of, and be binding upon, City and County and their respective heirs, successors and assigns. This Agreement, and all conditions set forth herein, shall be and are hereby declared to be a covenant running with the land with regard to the Property, or any portion thereof.

10. Recordation. This Agreement shall be recorded with the Blaine County Recorder by the City.

11. Partial Invalidity. In the event any portion of this Agreement, or portion thereof, shall be determined by any court of competent jurisdiction to be invalid, void or otherwise unenforceable, the remaining provisions of this Agreement, or parties thereof, shall remain in full force and effect and shall in no way shall be affected, impaired or invalidated as a result thereof. It is agreed and understood by the parties hereto 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 portion thereof.

12. Authority to Execute. Each of the entities executing this Agreement represent and warrant that such executing party has the lawful authority and authorization to execute this Agreement, as well as all deeds, easements, liens and other documents required hereunder, for and on behalf of the party executing this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written.

CITY OF HAILEY

By: \_\_\_\_\_  
Richard L. Davis, Mayor

ATTEST:

\_\_\_\_\_  
Mary Cone, City Clerk

BLAINE COUNTY

By: Ben Bowman  
Angenie McCleary, Chair  
Tom Bowman

STATE OF IDAHO )  
 ) ss.  
County of Blaine )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2011, before me, a Notary Public in and for said State, personally appeared Richard L. Davis, known or identified to me to be the Mayor of the City of Hailey, who executed the foregoing instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year first above written.

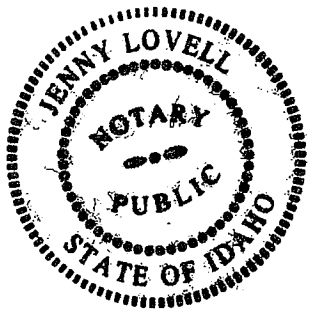
\_\_\_\_\_  
Notary Public for Idaho  
Residing at: \_\_\_\_\_  
My commission expires: \_\_\_\_\_

STATE OF IDAHO )  
 ) ss.  
County of Blaine )

On this 28 day of March, 2011, before me, a Notary Public in and for said State, personally appeared Angenie McCleary, known or identified to me to be the Chair of the Blaine County Board of County Commissioners, who executed the foregoing instrument, and acknowledged to me that she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year first above written.

Jenny Lovell  
\_\_\_\_\_  
Notary Public for Idaho  
Residing at: Blaine CO.  
My commission expires: 9-17-11



**AGENDA ITEM SUMMARY**

DATE: April 11, 2011

DEPARTMENT: Community Development

DEPT. HEAD SIGNATURE: \_\_\_\_\_

**SUBJECT:** Tanglewood Condominiums Preliminary Plat- Request to Extend Deadline to Submit Final Plat

**AUTHORITY:**  City Ordinance/Code Ordinance 821, Subdivision, Section 3.2.5  
(IF APPLICABLE)

**BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:**

The Preliminary Plat of the Tanglewood Condominium Subdivision was approved by the Hearing Examiner on April 8, 2009, with a condition that the final plat be recorded within one year (by 2010). On March 8, 2010, the City Council extended the final plat approval deadline another year (until 2011) because of the poor economic and real estate market circumstances. Now, because of continuing poor economic market circumstances, the applicant Mogli Cooper, requests another extension to record final plat for Tanglewood Condominiums project. The extension requested is for another 2 years (until April 8, 2013).

Applicant states that because of the current economic situation, only twenty-five percent (25%) of her lease units are occupied, despite her having lowered the rent prices by about fifty percent (50%). In addition, she states there would be inability to pay property taxes on individual units if the final plat is required presently.

In October 2008 the Council approved a 1 year extension for the Cedar Street Church Subdivision and followed that extension by approving a 2 year extension for the same plat in November 2009 (total extension 3 years). Typically, extensions are for one year, nevertheless, nothing precludes the Council from granting a longer extension.

**FISCAL IMPACT / PROJECT FINANCIAL ANALYSIS:** Casele # \_\_\_\_\_

Budget Line Item # \_\_\_\_\_ YTD Line Item Balance \$ \_\_\_\_\_

Estimated Hours Spent to Date: \_\_\_\_\_ Estimated Completion Date: \_\_\_\_\_

Staff Contact: \_\_\_\_\_ Phone # \_\_\_\_\_

Comments: \_\_\_\_\_

**ACKNOWLEDGEMENT BY OTHER AFFECTED CITY DEPARTMENTS:** (IF APPLICABLE)

- |   |  |   |
|---|--|---|
| <input type="checkbox"/> City Administrator       | <input type="checkbox"/> Library             | <input type="checkbox"/> Safety Committee |
| <input checked="" type="checkbox"/> City Attorney | <input type="checkbox"/> Mayor               | <input type="checkbox"/> Streets          |
| <input type="checkbox"/> City Clerk               | <input type="checkbox"/> Planning            | <input type="checkbox"/> Treasurer        |
| <input type="checkbox"/> Building                 | <input type="checkbox"/> Police              | _____                                     |
| <input type="checkbox"/> Engineer                 | <input type="checkbox"/> Public Works, Parks | _____                                     |
| <input type="checkbox"/> Fire Dept.               | <input type="checkbox"/> P & Z Commission    | _____                                     |

**RECOMMENDATION FROM APPLICABLE DEPARTMENT HEAD:**

Consider approval of a two (2) year extension of preliminary plat approval.

**ADMINISTRATIVE COMMENTS/APPROVAL:**

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

**ACTION OF THE CITY COUNCIL:**

Date: \_\_\_\_\_

City Clerk \_\_\_\_\_

**FOLLOW-UP:**

\*Ord./Res./Agmt./Order Originals: Record

\*Additional/Exceptional Originals to: \_\_\_\_\_

Copies (all info.):

Copies (AIS only)

Instrument # \_\_\_\_\_



Attachment #1 of 2 (Extension Request)

April 7, 2011

Members of Council  
City of Hailey  
Hailey, ID 83333

Hand delivered

Re: Final Plat Application for Tanglewood Condominiums

Dear Members of Council,

I have received a signed 'findings of fact' on a preliminary plat for the Tanglewood Condominiums on April 8, 2009 and the once extended deadline for filing of the final plat is near.

I would like to hereby ask for your understanding and approval to grant me a 2 year extension to file the final plat. The current economic situation has thrown me for a loop, I am at a 25% occupancy level despite having reduced the rents by just about 50% . I have been assured by local Real Estate Brokers that there is currently no market for residential units and can only hope that conditions will improve over the next two years. I could not afford to pay the property taxes on the individual units if I were to file the final plat now and am looking to you for leniency and understanding.

I can only hope that in two years' time the Real Estate Market will rebound and I am able to move forward with the Tanglewood Condominium Project.

Gratefully,

Mogli Cooper  
P.O.Box 310  
Hotchkiss, Co.81419  
970-433-5838

Wed 4/6/2011 4:08 PM, Mogli Cooper wrote:

Hello Bart,

Thank you for the reply. Unfortunately I can't make it as I have to work and don't really know anyone in Hailey that could represent me, short of hiring a lawyer who would at this point be completely unfamiliar with the property and the process. I trust that I can leave it in your hands to present my hardship this project would present were I to file the final plat. I have to borrow money just to pay the property taxes this year, which curiously enough have increased over the last year by almost \$4,000.00 and I am enjoying a steady vacancy rate and rental rates have dropped by almost 50% over this time in 2007. Given the current economic situation the Council will hopefully understand my need for another extension.

Please let me know if you would like me to formulate a "beg letter" to the Council to read in my absence.

Thank you very much!

Mogli

On Apr 5, 2011, at 9:34 AM, Bart Bingham wrote:

Mogli,

It would be good if you could be there, but it is not required, and is certainly understandable if you can't. If that is the case, you may choose to have someone else present for you.

Take care,

Bart

**From:** Mogli Cooper [<mailto:moglic@mac.com>]

**Sent:** Monday, April 04, 2011 4:31 PM

**To:** Bart Bingham

**Subject:** Re: Extension Request

Hi Bart,

thank you for e-mailing me. Do I need to be present for the hearing?

Mogli

**AGENDA ITEM SUMMARY**

DATE: 04/11/2011 DEPARTMENT: Public Works DEPT. HEAD SIGNATURE: \_\_\_\_\_

SUBJECT: Rodeo Grounds Improvements 2011 - change order

AUTHORITY:  ID Code \_\_\_\_\_  IAR \_\_\_\_\_  City Ordinance/Code  
(IFAPPLICABLE)

**BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:**

**Overview**

Architects Supplemental Instructions

ASI #26 - Change the framing and insulation requirements at the plumbing chases for better waterproofing effectiveness. Total Costs \$4,266.

ASI #27 - Revised bleacher foundations at the stairs, bridges, and cross aisles. This work has been administratively approved by the City. Total Cost \$1,558.00.

ASI #29 - Changes to the storm drain as requested by the City. This eliminates a dry well that was proposed in the skate park area, replumbs associated catch basins to an upsized drywell in the landscape median near the Snow Bunny. The drywell was eliminated because of future maintenance concerns due to the drywell being located under pavement in the Skate Park. This work has been administratively approved by the City. Total Cost \$500.00.

**FISCAL IMPACT / PROJECT FINANCIAL ANALYSIS:** Caselle# \_\_\_\_\_

Budget Line Item # \_\_\_\_\_ YTD Line Item Balance \$ \_\_\_\_\_

Estimated Hours Spent to Date: \_\_\_\_\_ Estimated Completion Date: \_\_\_\_\_

Staff Contact: Jim Zarubica Phone # 788-9830 ext. 17

Comments:

**ACKNOWLEDGEMENT BY OTHER AFFECTED CITY DEPARTMENTS:** (IFAPPLICABLE)

<input type="checkbox"/> City Attorney	<input type="checkbox"/> Clerk / Finance Director	<input type="checkbox"/> Engineer	<input type="checkbox"/> Building
<input type="checkbox"/> Library	<input type="checkbox"/> Planning	<input type="checkbox"/> Fire Dept.	
<input type="checkbox"/> Safety Committee	<input type="checkbox"/> P & Z Commission	<input type="checkbox"/> Police	<input type="checkbox"/> Streets
<input checked="" type="checkbox"/> Public Works	<input type="checkbox"/> Parks	<input type="checkbox"/> Mayor	

**RECOMMENDATION FROM APPLICABLE DEPARTMENT HEAD:** Approve

**ADMINISTRATIVE COMMENTS/APPROVAL:**

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

**ACTION OF THE CITY COUNCIL:**

Date \_\_\_\_\_

City Clerk \_\_\_\_\_



# Kreizenbeck Constructors

## ASI SUMMARY Hailey Rodeo Arena Multi-Use Facility

DESCRIPTION	
<b>ASI - 26</b>	<b>Revised plumbing chase metal stud and insulation assembly</b>
BP No. 1 - Extreme Excavation, Inc.	\$ -
BP No. 2 - Petra, Inc.	\$ -
BP No. 3 - Gallegos Corporation	\$ -
BP No. 4 - Mountain Steel	\$ -
BP No. 5 - CBS Constructors	\$ -
BP No. 6 - Modern Roofing	\$ 4,266.00
BP No. 7 - D & A Door Specialties, Inc.	\$ -
BP No. 8 - Crawford Door Sales	\$ -
BP No. 9 - Commercial Glass	\$ -
BP No. 10 - Color Craft Painting, Inc.	\$ -
BP No. 11 - SBI Contracting, Inc.	\$ -
BP No. 12 - Western States Geothermal	\$ -
BP No. 13 - Thornton Heating & Sheetmetal	\$ -
BP No. 14 - Wheeler Electric, Inc.	\$ -
BP No. 15 - Burks Excavation, LLC	\$ -
BP No. 16 - Allen Construction, Inc.	\$ -
<b>Total: \$ <u>4,266.00</u></b>	

- PM REVIEW
- ARCHITECT REVIEW
- OWNER REVIEW

**FACSIMILE TRANSMITTAL**

To: Kreisenbeck Constructors

FAX Number:

ATTN: Brandon

Date: 3/24/2011

From: Tom Doramus

Job: ASI#26

additional framing

Materials	Amount	Cost per Ft	Total	Man Hours
6" studs credit	1020	(\$1,428.00)		(40)
living expense credit	5	(\$350.00)		
3 5/8 stds 16 ga	1450	\$1,740.00		50
20 ga.	1020	\$510.00		40
additional insulation	410	\$413.50		5
deck flute insulation	1	\$200.00		5
<b>Total</b>		<b>\$1,085.50</b>		<b>60</b>

Material	<b>\$1,085.50</b>
Tax	\$65.13
sub total	\$1,150.63
living expence	\$525.00
Labor	\$2,100.00
	\$3,775.63
Mark-up 13%	\$490.83
<b>Total</b>	<b>\$4,266</b>

PLEASE CALL WITH ANY QUESTIONS

1

Total number of pages including cover sheet.

400-A E. Karcher Rd.  
Nampa, Idaho 83687  
208.467.9339  
Fax: 208.467.9901



QUOTATION TO: **Modern Roofing**

JOB NAME: **Hailey Rodeo Park**

Expires: **3-31-2011**

Signature: *Casey Stewart* Date: **3-2-2011**

This job quote applies to normal job site conditions with B.S.I. having proper access to all areas to be stocked. Fees for cranes, special equipment or extra labor (including traffic control) will be an additional charge. Prices are based on reasonable and safe access for BSI stocking crew (i.e. stocking stairways, elevators or hand-ups are an extra charge).

Product	Quantity	Price	Unit	Product	Quantity	Price	Unit
1 5/8" 20ga studs		0.50	lf				
3 5/8" 16ga studs		1.20	lf				

Notes: Job pricing is voidable if not committed within 30 days.

400-A E. Karcher Rd.  
Nampa, Idaho 83687  
208.467.9339  
Fax: 208.467.9901



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**QUOTATION TO: Modern Roofing**

**JOB NAME: Hailey Rodeo Park**

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Expires: **3-31-2011**

*Signature: Casey Stewart* Date: 11-12-2010

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This job quote applies to normal job site conditions with B.S.I. having proper access to all areas to be stocked. Fees for cranes, special equipment or extra labor (including traffic control) will be an additional charge. Prices are based on reasonable and safe access for BSI stocking crew (i.e. stocking stairways, elevators or hand-ups are an extra charge).

Product	Quantity	Price	Unit	Product	Quantity	Price	Unit
6" 18ga studs		1.40	lf				

Notes: Job pricing is voidable if not committed within 30 days.



**Kreizenbeck  
Constructors**

**ASI SUMMARY**

**Hailey Rodeo Arena Multi-Use Facility**

DESCRIPTION	
<b>ASI - 27 Revised bleacher foundations at stairs, bridges and cross aisles</b>	
BP No. 1 - Extreme Excavation, Inc.	\$ (1,720.00)
BP No. 2 - Petra, Inc.	\$ 3,278.00
BP No. 3 - Gallegos Corporation	\$ -
BP No. 4 - Mountain Steel	\$ -
BP No. 5 - CBS Constructors	\$ -
BP No. 6 - Modern Roofing	\$ -
BP No. 7 - D & A Door Specialties, Inc.	\$ -
BP No. 8 - Crawford Door Sales	\$ -
BP No. 9 - Commercial Glass	\$ -
BP No. 10 - Color Craft Painting, Inc.	\$ -
BP No. 11 - SBI Contracting, Inc.	\$ -
BP No. 12 - Western States Geothermal	\$ -
BP No. 13 - Thornton Heating & Sheetmetal	\$ -
BP No. 14 - Wheeler Electric, Inc.	\$ -
BP No. 15 - Burks Excavation, LLC	\$ -
BP No. 16 - Allen Construction, Inc.	\$ -

Total: \$ 1,558.00

- PM REVIEW
- ARCHITECT REVIEW
- OWNER REVIEW





Extreme Excavation Inc.  
 36 N. Hwy 75  
 P.O. Box 235  
 Shoshone, ID 83352  
 544-ROCK (7625)

# Estimate

Date	Estimate #
3/19/2011	395

Name / Address
Kreizenbeck Constructors 251 East Front Street Suite 110 Boise ID 83702

Project
ASI #27

Item	Description	Qty	Unit	Cost	Total
2500	Credit for ASI #27 of deleting piers	43	ca	-40.00	-1,720.00
<b>Total</b>					<b>-1,720.00</b>

Acceptance of Estimate. Extreme Excavation is authorized to do the work as specified.

Signature \_\_\_\_\_

Estimate valid for 30 days. Finance charges added for accounts over 30 days past due.



March 22, 2011

Kreizenbeck Constructors, Inc.  
251 E Front St. Suite 110  
Boise, ID 83702

RE: Hailey Rodeo Arena ASI #27 Dated 3/15/2011

- 1) Revised Bleacher Foundation plan and details per revised Sheet S2.0, S2.4 and D2.1.  
See Attached for detailed breakout.

Delete (55) F1.5 Footings  
Delete (8) F2.5 Footings  
Delete (3) 12" Piers

**Total Deduct: (\$ 5,552.00)**

Add (11) F2.5 Pad Footings w/ 8' x 18" Piers  
Add (8) F3.0 Pad Footings w/ 8' x 18" Piers  
Add (2) F3.5 Pad Footings w 14' x 18" Piers  
Add (5) 6" Thick Concrete Slabs w/ Thickened Edge.

**Total Add: \$ 8,830.00**

**Total for ASI #27: \$ 3,278.00**

Please let me know if you have any questions.

Thank you,

Chris Jackson  
Project Manager  
Petra Inc.  
860-5186



# Kreizenbeck Constructors

## ASI SUMMARY Hailey Rodeo Arena Multi-Use Facility

DESCRIPTION	
<b>ASI - 29</b>	<b>Revise storm drain structures and piping at main entrance</b>
BP No. 1 - Extreme Excavation, Inc.	\$ -
BP No. 2 - Petra, Inc.	\$ -
BP No. 3 - Gallegos Corporation	\$ -
BP No. 4 - Mountain Steel	\$ -
BP No. 5 - CBS Constructors	\$ -
BP No. 6 - Modern Roofing	\$ -
BP No. 7 - D & A Door Specialties, Inc.	\$ -
BP No. 8 - Crawford Door Sales	\$ -
BP No. 9 - Commercial Glass	\$ -
BP No. 10 - Color Craft Painting, Inc.	\$ -
BP No. 11 - SBI Contracting, Inc.	\$ -
BP No. 12 - Western States Geothermal	\$ -
BP No. 13 - Thornton Heating & Sheetmetal	\$ -
BP No. 14 - Wheeler Electric, Inc.	\$ -
BP No. 15 - Burks Excavation, LLC	\$ 500.00
BP No. 16 - Allen Construction, Inc.	\$ -
Total: <u>\$ 500.00</u>	
<input checked="" type="checkbox"/> PM REVIEW <input type="checkbox"/> ARCHITECT REVIEW <input type="checkbox"/> OWNER REVIEW	

BURKS EXCAVATION, L.L.C.

P.O. BOX 188  
HAILEY, ID 83333

# Change Order

Date	Estimate #
3/30/2011	2182

Name / Address
Kreizenbeck Constructors 251 East Front St. Boise, ID 83702

Project
ASI #29 Rodeo Park

Description	Qty	Rate	Unit	Total
asi #29. Install an additional 46 feet of 12" N-12 storm drain expand drywell B3b from 10' x15.7' to 15' x 21.4'	1	500.00	LS	500.00
<b>Total</b>				\$500.00