AGENDA ITEM SUMMARY

DATE: 07/28/2008  DEPARTMENT: City Clerk  DEPT. HEAD SIGNATURE: MC

SUBJECT: Old Cutters, Inc. / Subdivision proposed First Amendment to the Annexation Fee Payment Schedule

AUTHORITY: ☐ ID Code 50-1017  ☐ IAR ___________  ☐ City Ordinance/Code _________
(IF APPLICABLE)

BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:

----- Original Message ----- 
From: Ned Williamson
Sent: Monday, July 21, 2008 9:57 AM
To: Mary Cone
Cc: Beth Robrahn; Dawson, Heather
Subject: Fw: Old Cutters, Inc./Subdivision - Annexation Fee Payment Schedule

I am forwarding to you a proposed First Amendment to the Cutters' annexation agreement. Cutters is proposing to eliminate the specific deadlines in the agreement for installments of annexation fees. The agreement presently provides that the installments due when 35%, 55%, 70% and 85% of the lots are sold shall be paid no later than one, two, three and four years, respectively, from the date of the recordation of the plat, whichever is sooner. I believe the plat was recorded in late November, 2007.

I would ask that you put this on the agenda for either 7-28-08 or 8-11-08.

Ned

Ned C. Williamson, Esq.
Williamson Law Office, PLLC
115 Second Avenue South
Hailey, Idaho 83333

FISCAL IMPACT / PROJECT FINANCIAL ANALYSIS
Payments are for expenses incurred during the previous month, per an accrual accounting system.
Estimated Hours Spent every 2 weeks: 8
Staff Contact: Heather Dawson
Estimated Completion Date:
Phone # 788-4221-X 18

ACKNOWLEDGEMENT BY OTHER AFFECTED CITY DEPARTMENTS: (IF APPLICABLE)

___ City Attorney  ___ Clerk / Finance Director  ___ Engineer  ___ Building
___ Library  ___ Planning  ___ Fire Dept.  ___
___ Safety Committee  ___ P & Z Commission  ___ Police  ___
___ Streets  ___ Public Works, Parks  ___ Mayor

RECOMMENDATION FROM APPLICABLE DEPARTMENT HEAD:

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 # __________________________
FIRST AMENDMENT TO ANNEXATION, SERVICES
AND DEVELOPMENT AGREEMENT

THIS FIRST AMENDMENT ("First Amendment") is dated this ___ day of __________, 2007
by and between the CITY OF HAILEY, IDAHO, a municipal corporation (the "City") and OLD
CUTTERS, INC., an Idaho corporation ("OCI," and together with the City, the "Parties")

RECITALS

A. The City and OCI entered into that certain Annexation, Services and Development
   Agreement Old Cutters Planned Unit Development (the "Agreement") dated April 10, 2006 and recorded
   April 27, 2006 as Instrument No. 534733, records of Blaine County, Idaho.

B. OCI is required by the terms of paragraph 4 of Agreement to pay to the City certain
   annexation fees in installments.

C. The fixed deadlines for the annexation fee installment payments set forth in paragraphs
   4.b, 4.c, 4.d and 4.e of the Agreement were originally set to be well after the then projected dates for
   completing the percentages of lot sales designated therein. The demand for residential real estate within
   the City has dropped significantly since then such that it is extremely unlikely the percentages of lot sales
   will be met by those deadlines.

D. The annexation fee installment payments are to be adjusted pursuant to paragraph 4.f of
   the Agreement to protect the City against inflation reducing the present value of the future payments, so
   eliminating the fixed payment deadlines will not result in financial harm to the City.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants, promises, agreements, terms and
conditions set forth herein, the parties covenant and agree as follows:

1. The Recitals set forth above are an integral part of this Agreement and are fully
   incorporated herein by this reference.

2. Paragraph 4.b of the Agreement shall be amended to read as follows:

   The sum of Eight Hundred Seventy-five Thousand One Hundred
   Twenty-five Dollars ($875,125) shall be due when thirty-five percent
   (35%) of the Market Rate Lots are sold. The term "Market Rate Lots"
for the purposes of the installment payments in this paragraph and paragraphs 4.c, 4.d and 4.e, below, shall mean only the one hundred eight (108) market rate single family and duplex lots. The four (4) townhouse lots, three (3) community housing duplex lots and Lot 73 are not included in this calculation.

3. Paragraph 4.c of the Agreement shall be amended to read as follows:

The sum of Eight Hundred Seventy-five Thousand One Hundred Twenty-five Dollars ($875,125) shall be due when fifty-five percent (55%) of the Market Rate Lots are sold.

4. Paragraph 4.d of the Agreement shall be amended to read as follows:

The sum of Eight Hundred Seventy-five Thousand One Hundred Twenty-five Dollars ($875,125) shall be due when seventy percent (70%) of the Market Rate Lots are sold.

5. Paragraph 4.e of the Agreement shall be amended to read as follows:

The sum of Eight Hundred Seventy-five Thousand One Hundred Twenty-five Dollars ($875,125) shall be due when eighty-five percent (85%) of the Market Rate Lots are sold.

6. Each of the persons executing this First Amendment represents and warrants that he has the lawful authority and authorization to execute this First Amendment, as well as all deeds, easements, liens and other documents required hereunder, for and on behalf of the entity executing this First Amendment.

7. All other terms and conditions of the Agreement shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the Parties have executed this First Amendment the day and year written herein.

DATED this _____ day of ______________________, 2008.

CITY OF HAILEY

By: ________________________________
   Richard Davis, Mayor

ATTEST:

______________________________

FIRST AMENDMENT TO ANNEXATION AGREEMENT - 2
Hailey City Clerk

OLD CUTTERS, INC.

By: ____________________________
    John Campbell, President

STATE OF IDAHO    )
    : ss.
County of Blaine    )

    On this _____ day of ____________, 2008, before me the undersigned Notary Public in and for said State, personally appeared RICHARD DAVIS, known or identified to me to be the Mayor of Hailey and the person whose name is subscribed to the within instrument, and acknowledged that he executed the same on behalf of the City of Hailey.

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

Notary Public for Idaho
Residing at: ____________________________
Comm. Expires: ____________________________

STATE OF IDAHO    )
    : ss.
County of Blaine    )

    On this _____ day of ____________, 2008 before me the undersigned Notary Public in and for said State, personally appeared JOHN CAMPBELL, known or identified to me to be the president of Old Cutters, Inc., and the person who executed the foregoing instrument on behalf of said company and acknowledged to me he executed the same on behalf of said company.

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

Notary Public for Idaho
Residing at: ____________________________
Comm. Expires: ____________________________

FIRST AMENDMENT TO ANNEXATION AGREEMENT - 3
AGENDA ITEM SUMMARY

DATE: 7/28/08 DEPARTMENT: Engr DEPT. HEAD SIGNATURE:

SUBJECT: Authorize the expenditure of Capital Funds to provide curb, gutter, sidewalk and paving on 2nd Ave between Croy St and Bullion St.

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

BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:

The Hailey Eye Center approval included providing additional parking spaces within 1200' of their new building. The location selected is on 2nd Ave between Croy & Bullion. With the plans in place it is an opportune time to complete this block and provide better drainage and improved parking spaces on the entire block. Estimates have been received from the contractors currently on location totaling ~ $42,400. The work performed by the Hailey Eye Center is estimated at $12,500.

Another example of where this combination of public and private funds has been used is the Judicial Building improvements along Croy St. Funds there are from Fresshies and Tom Dabney as well as the City of Hailey and Blaine County. The estimated cost for that work is $32,000 including engineering costs. The private funds will contribute approximately 33% of the total.

FISCAL IMPACT / PROJECT FINANCIAL ANALYSIS:

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<tr>
<th>Budget Line Item #</th>
<th>YTD Line Item Balance $</th>
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Estimated Hours Spent to Date: __________
Staff Contact: Tom Hollen
Comments: __________

ACKNOWLEDGEMENT BY OTHER AFFECTED CITY DEPARTMENTS: (IF APPLICABLE)

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<thead>
<tr>
<th>City Attorney</th>
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<td>Safety Committee</td>
<td>P &amp; Z Commission</td>
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<tr>
<td>Streets</td>
<td>Public Works, Parks</td>
<td>Mayor</td>
<td></td>
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</tbody>
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RECOMMENDATION FROM APPLICABLE DEPARTMENT HEAD:

ADMINISTRATIVE COMMENTS/APPROVAL:

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

ACTION OF THE CITY COUNCIL:
Date ___________________