

Meeting Minutes
HAILEY PLANNING & ZONING COMMISSION
Monday, September 20, 2021
In-Person and Virtual Meeting
5:30 p.m.

From your computer, tablet or smartphone: <https://www.gotomeet.me/CityofHaileyPZ>

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Present

Commission: Janet Fugate, Owen Scanlon, Dan Smith, Richard Pogue

Staff: Lisa Horowitz, Robyn Davis, Chris Simms, Jessica Parker

Absent: Dustin Stone

[5:30:13 PM](#) Chair Fugate called to order.

[5:30:25 PM](#) Horowitz stated need to speak very clearly and close to the microphones to ensure those in attendance virtually can hear.

[5:31:12 PM](#) Public Comment for items not on the agenda. No Comment.

[5:32:02 PM](#) Chair Fugate requested a motion to add action item to PH 1 and PH 2.

[5:32:16 PM](#) Scanlon motioned to add action item to PH 1 and PH 2. Smith seconded. All in Favor.

Consent Agenda

CA 1 Adoption of Findings of Fact, Conclusions of Law and Decision of a Design Review Application by Jason Szabo and Christian Wrede represented by Mountain Wood Construction, for a detached garaged to be located at 303 North 4th Avenue (Lot 911, Block 49, Hailey Townsite) within the Limited Residential 1 (LR 1) and Hailey Townsite Zoning Districts. **ACTION ITEM.**

CA 2 Adoption of Findings of Fact, Conclusions of Law and Decision of a Design Review Application by Jason Szabo and Christian Wrede represented by Mountain Wood Construction, for a detached garaged to be located at 305 North 4th Avenue (Lot 9A, Block 49, Hailey Townsite) within the Limited Residential 1 (LR 1) and Hailey Townsite Zoning Districts. **ACTION ITEM.**

[5:32:36 PM](#) Scanlon and Pogue recused themselves.

[5:32:48 PM](#) Smith motioned to approve CA 1 and CA 2. Chair Fugate seconded. All in Favor.

Public Hearing

PH 1 [5:33:01 PM](#) Consideration of a Conditional Use Permit Application submitted by Broadford Beverage LLC, represented by Lawson and Laski, for a brewery (Hybrid Production Facility) to be located next to Powerhouse, an existing restaurant. This project is located at Lots 17-20, Block 64, Townsite (502 N. Main Street), within the Business (B) and Townsite Overlay (TO) Zoning Districts. **Action Item.**

[5:33:22 PM](#) Davis turned floor to applicant team. [5:34:01 PM](#) Jim Laski, representing Broadford Beverage and here with Billy Olson owner of Powerhouse. Laski explained Olson is wanting to start brewing of various craft beers and ciders, it will be a really small operation that will fit within the garage area. Laski confirmed applicant will clean refuse area, and dumpsters will be dumped twice a week now.

[5:35:39 PM](#) Scanlon asked what anticipates for additional traffic. Billy Olson stated there will be little or no traffic. Laski stated the most they could make would 2 kegs a day and will not make that much based off the length of aging needed. Scanlon asked where will be store raw materials. Laski confirmed all will be self-contained within the building. Scanlon asked if will have delivery trucks bucking up to garage door. Olson and Laski explained this will be very minimal setup, with bags that can be walked to the garage. Scanlon asked about the amount of dumpsters. Olson stated one dumpster is for garbage other for cardboard. Scanlon believes there should be a dumpster enclosure should become part of this project.

[5:38:48 PM](#) Horowitz stated staff did look back at that when application was submitted, and under plan that was approved that there is not space to include a dumpster enclosure on private property and public works does not want those in the right of way. Scanlon suggested possibly relocation dumpsters to the north.

[5:40:21 PM](#) Laski explained if relocate would block garage door access, and referred to staff condition about staff approval of area looking cleaner.

[5:40:47 PM](#) Pogue asked if really successful project and start needing 10 barrels a day if they would need to come back for a revised CUP. Laski explained if became successful would have to redesign building or move to different location as current design does not have enough space to expand. Pogue stated does need to clean up dumpster area.

[5:42:05 PM](#) Olson offered to build enclosure for dumpsters with where they are at now. Davis confirmed Public Works Director stated would be in favor of enclosure as long as ROW Application was submitted and approved. Davis stated enclosure would need to face the alley. Davis explained has not collaborated with Clear Creek at this time.

[5:44:00 PM](#) No further comments from Smith.

[5:44:13 PM](#) Chair Fugate confirmed exclusively to sell at Powerhouse. Olson confirmed. Chair Fugate confirmed could not expand in this space. Commission and staff continued to discuss dumpster enclosures.

[5:46:52 PM](#) Chair Fugate asked if odors come from brewery. Laski stated would be very minimal. No further comments from Chair Fugate.

[5:47:20 PM](#) **Chair Fugate opened public comment.**

[5:47:55 PM](#) **Chair Fugate closed public comment.**

[5:48:10 PM](#) Chair Fugate stated seems to her issue is the dumpster enclosures. Commission confirmed no other issues.

[5:48:45 PM](#) Scanlon asked how long Olson has been brewing beer, expressing concerns about bottles and beers exploding. Olson stated will only in kegs.

[5:49:44 PM](#) Davis modified condition e to cover the trash enclosure and encroachment application and added additional condition requiring letter from Clear Creek.

[5:50:57 PM](#) Commission suggested modification to condition e that would allow for decision to be made between applicant and staff. [5:51:25 PM](#) Davis read the revised condition allowed. Applicant is in agreement with revised conditions.

[5:52:50 PM](#) Smith motioned to approve the Conditional Use Permit Application request by Broadford Beverage, LLC, represented by Lawson and Laski, for a brewery (Hybrid Production Facility) to be located next to the Powerhouse, an existing restaurant. This project is located at Lots 17A, Block 64, Townsite (502 North Main Street), within the Business (B) and Townsite Overlay (TO) Zoning Districts, finding that the application meets each of the Criteria for Review, (a) through (h) cited in the Hailey Municipal Code, that the Conditional Use Permit complies with the Comprehensive Plan, and that conditions (a) through (g) are met. [5:54:08 PM](#) Pogue seconded. All in Favor.

[5:54:00 PM](#) Chair Fugate noted discrepancy of legal description, Davis confirmed correct legal description is Lot 17A, Block 64.

PH 2 [5:54:41 PM](#) *Consideration of a Planned Unit Development Application by 410 North River Street, LLC, represented by CK Property Group, LLC, for twelve (12), three-story single-family townhomes with a request for waivers and proposed benefits. This project is located at Lots 14-17, Block 56, Townsite, (410 North River Street), within the Business (B), Downtown Residential Overlay (DRO) and Townsite Overlay (TO) Zoning Districts. The following waivers are requested:*

- *Waiver to minimum lots size for PUDs of 18,0000 gross square feet to 14,404 square feet*
- *Waiver of DRO 10% useable open space requirements*
- *Waiver of subdivision park dedication*
- *In exchange for these waivers, the applicant is proposing two (2) deed-restricted townhouse units to be restricted at 100% of Area Median Income.*

This hearing will also include a discussion of a Preapplication Design Review Application.

[5:55:54 PM](#) Horowitz turned floor over to applicant team after noting previous approval of 12 indieDwell units on this site. Horowitz stated has been working closely with applicant team on much needed deed restricted housing.

[5:57:24 PM](#) John King, Architect, here with Kevin Cablik – developer, Sam Stahlnecker and Ben Semple. King stated this is a challenging site and has been working very closely with staff. King stated will be using DRO as guidelines. King explained proposing to offer deed restricted housing in place of open place, continuing on to summarize proposed design of the project. King provided a presentation discussing design and how trying to meet all design criteria. King noted popular feature is the roof proposed roof deck and provides each unit some privacy. King continued to discuss project design and materials to be used. King explained benefits of flat roof with snow and each unit will have their own drain.

[6:07:01 PM](#) Smith stated drain spots will freeze up if not heated. Smith suggested providing scuffer. King confirmed will have scuffers and will provide heating, though will consider bringing drains interior.

[6:08:32 PM](#) Scanlon asked if will have internal roof drains. King stated does not at moment but has not taken this project all the way while they determine how many units permitted. King stated recognizes need for these. Scanlon asked about drains stopping at 2nd floor. King stated that would not happen. Horowitz summarized options staff had reviewed regarding deed restricted units. Horowitz stated developer has also offered City of Hailey rights to units.

[6:09:46 PM](#) Chair Fugate recommended discussing the waivers. Horowitz stated project next door is an apartment complex for rent, that this project is different and staff felt each unit had outdoor space with the roof decks.

[6:12:51 PM](#) Sam Stahlnecker clarified waivers requesting. Horowitz explained she was grouping together, and went on to discuss the in-lieu fees and tradeoff for deed restricted housing. [6:13:39 PM](#) Kevin Cablik, thanked Horowitz for her help and guiding them through the affordable housing process.

[6:14:52 PM](#) Chair Fugate asked if will have an HOA. Cablik confirmed there will be an HOA, and how that is covered with the deed restricted properties. Cablik stated HOA will maintain all exterior maintenance. Chair Fugate confirmed there is a restriction on the deed restricted homes that restrict HOA fee increases. Cablik confirmed. Horowitz explained want to guard against large jump but does want to allow for maintenance that will be needed such as a roof. Staff and applicant confirmed lawyers working on this.

[6:17:46 PM](#) Scanlon stated this is a well-designed project. Scanlon suggested staff does text amendment changing maximum density per square feet. That Cablik has shown them can have a nice project with all needs such as parking. Horowitz agrees with Scanlon point on lot size but confirmed staff can review his request. Cablik agrees with Scanlon's comments on removal of minimal lot size, that getting out of subdivision development allowed for them to have further conversations which lead to the proposed design. Scanlon is agreeable to all waivers.

[6:22:21 PM](#) Pogue asked what the safety elements are on the roof deck. Cablik confirmed have standard railing per code and no gates. Pogue asked how they will determine the deed restricted units- which of the 12. Cablik stated has not determined that yet. Pogue is comfortable with the waivers and complimented the design.

[6:25:54 PM](#) Smith stated in his opinion they should help support the parks they intend to use and should pay the in-lieu fees. Smith expressed concern of housing crisis being used to circumvent ordinances and codes that have been put in place. Smith stated supports affordable housing idea and thinks some of these units should be more affordable. Smith discussed how community housing reads 50% and he is at 100%. [6:27:58 PM](#) Smith thinks in order to provide opportunity to various demographics - should look at paying in lieu payment for parks as applicant intends to have residents use city parks. [6:29:10 PM](#) Smith has no issues with 18,000 square feet.

[6:30:35 PM](#) Cablik understands Smiths concern, explaining goal behind project that he did not start on this path to redesign the definition of community housing. Staff, applicant and commission continued to discuss concerns expressed by Smith about waivers. [6:39:57 PM](#) Smith asked if Nathan discussed having 2 deed restricted units at 100% and 1 at 120%. Horowitz stated they had not, providing summary of what they had discussed. Smith suggested expanding conversation before making a decision. Chair Fugate suggested waiting and hearing from Housing Authority. Chair Fugate is comfortable with waivers but thinks would be helpful if could hear from housing authority. [6:43:16 PM](#) Pogue stated that it is interesting that there hasn't been a PUD in 15 years. Pogue thinks it can live with it, lucky to get this project. Pogue does think need to look at ordinance. [6:44:53 PM](#) Scanlon asked what the greatest housing need is – rent or purchase. Horowitz stated have rental options coming up, but not many available for purchase. Scanlon agrees with Pogue but also agrees with Smith that need to follow ordinance.

[6:47:05 PM](#) Simms stated use of the term precedent is bothersome to him, he does not believe recommendation made by this board is a precedent setting. Simms stated understands Smiths concern but beeves it is a fully discretionary decision to be made under the code before the Commission.

[6:48:21 PM](#) Chair Fugate asked Pogue and Scanlon if need to hear from housing authority prior to making a decision. [6:48:42 PM](#) Cablik stated he has learned that time kills deal, and explained that can meet outdoor space requirement but would reduce number of homes to 11. Cablik explained looking at discussing park in lieu. Cablik explained has a price point of 375,000 for the two units, and expressed concern of project lingering. Cablik explained this was not a number they created but was guided to.

[6:54:59 PM](#) Commission continued to discuss whether to approve or continue the project.

[6:58:56 PM](#) Chair Fugate stated she would like to see more color in the building.

[6:59:17 PM](#) Chair Fugate opened public comment.

[6:59:36 PM](#) Alexis Palmer, neighbor to the property, really impressed with the project. She is in the age group of about 30-year-olds, she was lucky enough to have purchased years ago but many she knows cannot afford to buy her. She worked for a developer in Utah for a long time, and this is the exact project they developed there. That project did very well. Her only concern is parking, she does worry about only a 1 car garage and not enough guest parking. She thinks with a town with snow removal in winter can cause issue. She is curious where people currently parking on this vacant site will be parking later one. She has seen enough places and homes where people store their junk on the porch. Otherwise she really likes the project.

[7:03:00 PM](#) Elizabeth Jeffery, just paid almost 3000 to upgrade her electricity in her house, would like to ask that there is 220 in the garage that would allow homeowner to plug in electric vehicle in their garage.

[7:04:08 PM](#) Chair Fugate closed public comment.

[7:04:39 PM](#) Horowitz noted correction to condition 3, second line, not to include as modified. Chair Fugate asked where it says City has 1st. Staff confirmed condition 4. Horowitz noted that with Parcel O project, many city employees were not able to qualify for those homes.

[7:06:52 PM](#) Cablik confirmed car chargers will be included and CC&Rs will regulate exterior storage.

[7:08:20 PM](#) Scanlon asked King about unit sizing. King confirmed will address that, and construction documents will make more sense.

[7:09:40 PM](#) Scanlon motioned to approve the Planned Unit Development (PUD) Application for the River Street Townhomes, represented by CK Property Group, LLC, for twelve (12), three-story single-family townhomes, located at Lots 14-17, Block 56, Townsite, (410 North River Street), within the Business (B), Downtown Residential Overlay (DRO), and Townsite Overlay (TO) Zoning Districts, finding that the project meets the standards under Section 17.10 of the Hailey Municipal Code, subject to Conditions 1-8 as amended above. Pogue seconded. Scanlon – Yes, Pogue – Yes, Smith – abstained (Please see Roberts Rule regarding Abstention votes below) , Chair Fugate- Yes.

6.

Do abstention votes count?

The phrase “abstention votes” is an oxymoron, an abstention being a refusal to vote. To abstain means to refrain from voting, and, as a consequence, there can be no such thing as an “abstention vote.”

In the usual situation, where the rules require either a “majority vote” or a “two-thirds vote,” abstentions have absolutely no effect on the outcome of the vote since what is required is either a majority or two thirds of the votes cast. On the other hand, if the rules explicitly require a majority or two thirds of the members present, or a majority or two thirds of the entire membership, an abstention will have the same effect as a “no” vote. Even in such a case, however, an abstention is not a vote and is not counted as a vote. [RONR (12th ed.) 44:1, 44:3, 44:9(a); see also p. 66 of RONR In Brief.]

Staff Reports and Discussion

SR 1 Discussion of current building activity, upcoming projects, and zoning code changes.

SR 2 Discussion of the next Planning and Zoning meeting: **October 4, 2021.**

- PP: Sweetwater Block 2 Phase 1
- DR Pre App: Copper Ranch North
- New URA District: Airport Way Plan conformity with Comp Plan

Horowitz summarized upcoming project for next hearing.

[7:21:21 PM](#) Smith motioned to adjourn. Scanlon seconded. All in Favor.