

AGENDA
Hailey Planning and Zoning Commission
Monday, February 5, 2024
5:30 p.m.

Hailey Planning and Zoning Meetings are open to the public, in person, and by electronic means when available. The city strives to make the meeting available virtually but cannot guarantee access due to platform failure, internet interruptions or other potential technological malfunctions. Participants may join our meeting virtually by the following means:

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Present

Commission: Dan Smith, Sage Sauerbrey, Janet Fugate, Owen Scanlon, Jordan Fitzgerald

Staff: Robyn Davis, Emily Rodrigue, Ashley Dyer, Jessie Parker, Chris Simms, Christian Ervin

5:30:08 PM Call to Order

- [5:30:21 PM](#) Public Comment for items not on the Agenda. No comment.

5:31:05 PM Consent Agenda

- [CA 1](#) Motion to approve the Findings of Fact, Conclusions of Law, and Decision of a City-Initiated Text Amendment to amend the Hailey Municipal Code, Title 17: Zoning Regulations, Chapter 17.06, Design Review, to amend as stricken and underlined: All plant species shall be hardy to at least the Zone 6a environment. **ACTION ITEM**
- [CA 2](#) Motion to approve Meeting Minutes dated January 16, 2024. **ACTION ITEM**

5:31:15 PM Scanlon motion to approve CA 1 & CA 2. Sauerbrey seconded. All in favor.

Public Hearing

- [PH 1](#) [5:31:35 PM](#) Consideration of a Conditional Use Permit Application submitted by Anne and Ben Young for the approval of a Temporary Fence located at 202 S. 4th Avenue-Lots 13-18 Block 104, Hailey Townsite within the Limited Residential (LR-1) Zoning Districts. **ACTION ITEM**

[5:31:56 PM](#) Chair Fugate reminded commission to limit feedback and comments and opinions during presentation and save until deliberation.

[5:32:25 PM](#) Dyer summarized proposed fence by applicant and explained reasoning is to protect landscape from wildlife suggest as deer and elk. Dyer explained location of proposed fence, and materials used.

[5:33:28 PM](#) Ben Young, explained situation that occurred last year and that pre-emptively placed temporary fence and reasoning to protect plantings in the yard. Young explained fence location, and materials used.

[5:34:39 PM](#) Sauerbrey asked if there have been any issues and when put fence up. Young stated no issues so far and placed it up in early December.

[5:35:12 PM](#) Fitzgerald asked what the long term solution is. Young explained code placed by city to prevent wildlife feeding should help but that for next year or two believes should be allowed to put the proposed fence up to protect their property.

[5:36:30 PM](#) Scanlon asked what the cause of the deer and elk from last year. Young believes issue was caused by neighbor feeding wildlife. Young thinks without the feeding hopefully the wildlife does not return. Scanlon asked what the marker would look like on top of the fence recommended by Fish and Game and if the marker would be a distractor for drivers. Young will confirm with Fish and Game what kind of marker needs and does not think it would be a distraction.

[5:38:45 PM](#) Chair Fugate clarified reasoning for height. Young confirmed to prevent wildlife from jumping over it.

[5:39:12 PM](#) Sauerbrey asked about animals jumping. Young explained as long as fence is tall enough wild life will not jump over it. That he had to help wildlife last year who got hung up.

[5:39:44 PM](#) Scanlon and Chair Fugate asked about height. Young explained reasoning for current height and that it is above the recommended height by Fish and Game.

[5:40:25 PM](#) chair Fugate opened public comment.

[5:40:34 PM](#) Fritz Haemmerle, 4th Ave North, believes fence has been up far longer than December. Haemmerle request commission to focus on standards for approving conditional use permits. Haemmerle referred to case in Idaho and that provided it to Chris Simms, summarizing case says cannot use conditional use permits to amend zoning restrictions. Haemmerle quoted case, summarizing cannot use cups to vary zoning requirements. Haemmerle does not see why this applicant is different to the rest of them with respect to animals. Haemmerle compared animals to flooding, asking why should allow this applicant to build a huge fence around his property and if allowed should allow everyone to do the same thing. Haemmerle explained why he does not believe this application complies with the CUP standards.

[5:46:20 PM](#) Chair Fugate closed public comment.

[5:46:30 PM](#) Simms explained staff processes applications submitted and that believes all agrees case was caused by the feeding of wildlife. Simms explained how tonight's applications differs from the case example provided by Haemmerle and also noted that Haemmerle example is persuasive. Simms recommended commission to deliberate the criteria. Chair Fugate asked if it should go through the variance application if it would allow it to be permanent. Simms explained can limit a conditional use permits, and encourages commission if there is an approval to consider those time restrictions. Simms believes applicant has made clear it is a temporary solution. Chair Fugate asked if it would be within their purview to limit it.

[5:50:27 PM](#) Sauerbrey explained that what stuck out the most is that this is temporary. Sauerbrey believes that if discussing something until April would not set a precedent.

[5:51:52 PM](#) Smith explained his initial concerns of visual impairment at intersection, setting expectation and does not think a series of these would be something he would want to see around town. Smith is not sure a variance is totally applicable either. Smith summarized why he does not think this would be appropriate after hearing Haemmerle comments.

[5:54:21 PM](#) Fitzgerald echoed comments already mentioned, that not sure what happens next year, and that noted that may have a burden over other neighbors but not sure if this is something want to open.

[5:55:20 PM](#) Scanlon stated his experience with variances require applicant to provide hardship and not sure the applicant has a burden. Scanlon noted that he

[5:56:07 PM](#) Chair Fugate stated would not want to see these popping up, and that if it effects neighbors its not allowable by cup. Chair Fugate also noted applicant is coming to them after already putting the fence up. Chair Fugate noted again that if it is affecting the neighbors cannot allow.

[5:57:29 PM](#) Smith suggested putting a fence around particular plantings wanting to protect. Chair Fugate suggested maybe the mesh would serve to protect the landscaping around.

[5:58:22 PM](#) Sauerbrey asked if the neighbors were cited. Simms stated enforcement action was taken and an ordinance was adopted to make clear wild life feeding.

[5:59:23 PM](#) Young explained the primary issue was the congregation of animals in their yard with small children. Young apologized for putting fence up before as did not think it would be a problem. Young explained discussed with staff the application.

[6:00:41 PM](#) Scanlon noted that Young mentioned not liking deer in his yard and that he does not understand that attitude. Scanlon does not think if the neighbor is feeding them, believes the animals would move on.

[6:01:34 PM](#) Sauerbrey agreed, live in a community with wildlife. Sauerbrey suggested adopting a fence that is within the regulations.

[6:02:15 PM](#) Scanlon motioned to deny Conditional Use Permit Application submitted by Anne and Ben Young, for the use of a Temporary Fence, to be located at 202 S. 4th Avenue (Lots 13-18, Block 104, Hailey Townsite) within the Limited Residential (LR-1) and Townsite Overlay (TO) Zoning Districts, finding that the proposed fence does not fit in harmony of the neighborhood, violates the fence height restriction in section 17 of the code. Smith seconded. All in favor.

- **[PH 2 6:03:04 PM](#)** Consideration of a Design Review Pre-Application submitted by Holly McCloud, represented by Steven Perce with BLDG Collective Architecture, for the construction of a single-family residence located at 216 S. 4th Avenue (Lots 19 and 20, Block 104, Hailey Townsite), within the Limited Residential (LR-1) and Townsite Overlay (TO) Zoning Districts.

[6:03:27 PM](#) Dyer summarized proposed application and turned floor over to applicant.

[6:04:10 PM](#) Steve Purse, architect, introduced himself, understands that this project has been in front of them before. Purse stated there are two components he would like to speak too. Purse explained this is about mobility and independence. Purse explained applicant is moving to be adjacent to her family. Purse explained reasoning for having garage off street instead of alley way, noting alley is not maintained. Purse explained thinking about variance that not looking for a variance beyond this one thing – the location of the garage. Purse explained how this request does not change the nature or character of this neighborhood. Purse summarized goal of the project is to allow for long term mobility and independence while allowing the person to live next to family.

[6:08:23 PM](#) Scanlon drove up and down South 4th Ave and that there are 13 homes building between 1900 and 2003. Scanlon does not believe they are in same category as them. Scanlon does not know how old the people to the east who have garages off the alley but that they have done it for years. Scanlon suggested the applicant may need to improve the alley. Scanlon asked applicant how far she drives. McCloud estimated how frequently and how far she drives. McCloud stated there are two garages off the alley, and that she spoke to one of them and that owner stated neither of them use the garages in the winter. McCloud stated neither are interested in sharing expense of plowing the alley in the winter. Scanlon stated again come back to hardship, and that unfortunately age is not one of them. Scanlon confirmed with staff that no garages off the street has been enforced since 2016. Scanlon referenced house at 117 4th Ave garage design. Scanlon explained if allowed, he would only allow a garage door built like that one.

[6:13:26 PM](#) Smith asked if drawings are for three separate buildings. Purse summarized included drawings he submitted. Davis explained previous drawings were included for reference for commissioners. Davis confirmed current proposed site plan. Smith noted page 31 of packet does not match roof plan shown on site plan. Purse explained that this was not a formal application. Smith explained this was a predesign and he found it quite difficult to connect the plans.

[6:16:11 PM](#) Sauerbrey thanked Smith, stating that was one of his main questions. Sauerbrey explained that he is stuck on code where it states should not shall. Sauerbrey asked Simms where

they stand legally, if it would require a variance. Simms explained how the guidelines are applicable and instructed commission to deliberate on criteria for approval or denial.

[6:18:21 PM](#) Chair Fugate opened public comment.

[6:18:51 PM](#) Holly McCloud, her property discussing, knows have appeared before them twice before. McCloud explained why she is coming back again and how her ability to move around is limited at this point. McCloud explained why it is really important to her to be next to family and that does not want to ask for her daughters help any more then she has too. McCloud wants to make her house as easily maintained by her as she can. McCloud explained that thought this meeting would be addressing the garage and would come back later for the design. McCloud confirmed would follow all setbacks.

Sauerbrey asked how McCloud plans to clear the driveway if its allowed. McCloud stated would have to have it plowed but its different to plowing unpaved alley. McCloud noted would prefer not to have to deal with resident behind her. McCloud explained how it would be much easier for her to maintain a driveway. McCloud stated she spoke with Mike, owner of Clear Creek, who stated would prefer to pick up trash off 4th Ave.

[6:23:27 PM](#) Christian Ervin, explained his experience and how he found the alley unusable in the winter time based off his personal experience while leaving in that area. Ervin noted existing residents don't use the alley. Ervin explained how he feels this is a very difficult area in town for snow removal and parking even in the summer. Ervin explained that this his personal take on this. Ervin confirmed do have to put garbage out front on 4th. Ervin stated it is cleaner to have a paved driveway.

[6:27:23 PM](#) Sam Stahlnecker, if this house was not permitted with driveway form 4th street, curious how ems would actually access the house during winter months.

[6:28:09 PM](#) Chair Fugate closed public comment.

[6:28:19 PM](#) Davis spoke to the maintenance of alleys, explaining residential alleys are not plowed by the City. Davis stated the City has been known to go out and fill pot wholes and trim trees in summer for these alleys and can discuss internally. Davis explained since her time in 2016 have only approved two residences with garages off the street.

[6:30:09 PM](#) Scanlon believes he expressed his thoughts on the first go around, that it is important to enforce the code. Scanlon believes addressed safety issues in a previous meeting. Scanlon believes it is tough to say cannot enforce a code that has been enforced since 2016.

[6:31:11 PM](#) Fitzgerald asked staff what the situation of parking is on 4th. Davis explained parking is allowed in right of way. Fitzgerald explained that to her it seems the bigger concern is the alley and thinks permitting the bigger issue of the alley is silly. Fitzgerald thinks its important to note that garbage does not need to be in the garage, that something could be designed, and that the design review guidelines are important to follow.

[6:33:02 PM](#) Smith sympathizes with the applicants physical situation, but it does not seem its applicable to ignore the guidelines. Smith believes this is more of a personal preference. Smith

suggested the code enforcement could be discussed with the new Community Service Officer. Smith explained they need to take a long range view, and that this would set expectations. Smith does not believe he could support having a driveway off 4th Street. Smith suggested potential drainage issue that could be looked at by the City.

[6:35:36 PM](#) Sauerbrey agrees with a lot of what has been said. Sauerbrey asked staff about Stahlnecker question about EMS access. Ervin explained how EMS always access the houses from the main road, ideally they have some type of access such as a sidewalk, that every once in a while have to go around the back. Ervin stated they would not be using the alley. Sauerbrey feels for the applicant that understands design to what fits them the best, but unfortunately this does not comply with what the city has enforced. Sauerbrey agreed with Scanlon's comment on garage design referenced. Sauerbrey explained when guidelines were put in place, they were put in place for a reason. Sauerbrey agreed with Fitzgerald comment regarding safety, noting that 4th Ave has turned into a main access road. Sauerbrey expressed concern of safety of backing up onto 4th. Sauerbrey suggested may be safer to access from alley.

[6:41:18 PM](#) McCloud asked staff and commission what they think could be done to the alley to make it drivable.

[6:41:44 PM](#) Chair Fugate agrees with the commissioners. Chair Fugate explained how this is something that effects what trying to do in the Townsite Overlay and how they are bound to do what is best for the City in general. Chair Fugate stated she sympathizes with applicant but that they need to do what they are expected to do. Chair Fugate referenced Simms comments, that guidelines say should and that deliberations ask if they conform. Chair Fugate stated this home would be there for many generations. Chair Fugate believes can have the city follow through with enforcement and knows that staff will work with applicant regarding trimming city trees. Chair Fugate explained exceptions made in past were topographically or that there was no alley. Chair Fugate referred applicant to staff to discuss resources on what the City can do for the alley.

No Motion.

[6:46:07 PM](#) Chair Fugate called for a 5 minute break.

[6:53:11 PM](#) Chair Fugate called meeting back to order.

- **PH 3** [6:53:14 PM](#) Consideration of a Design Review Application submitted by Tanner Investments, LLC, for the construction of a twenty-four unit apartment building, consisting of eighteen (18) two-bedroom units and six (6) one-bedroom units, to be located at Block 1 of the Sweetwater PUD Subdivision within the Limited Business (LB) Zoning District. **ACTION ITEM**

[6:53:18 PM](#) Rodrigue introduced application, summarized proposed development. Rodrigue noted correction to staff report, stating per the PUD 24 units were approved.

[6:55:01 PM](#) Sauerbrey was confused on the bulk requirements. Davis explained if the project were to develop under the zoning district 21 units would allowed, however per the PUD 24 units are permitted. Rodrigue turned floor to applicant team.

[6:55:54 PM](#) Samantha Stahlnecker, confirmed the project was previously before the commission as a Design Review Pre-Application. Stahlnecker explained the changes since the commission last seen it. Stahlnecker confirmed applicant can work with Clear Creek to relocate the trash disclosure. Stahlnecker addressed the drainage concerns for the overhangs over the entrances to the buildings.

[6:57:32 PM](#) Scanlon asked to see the floor plans and elevation plans. Scanlon noted the plans do not have a stamp, Scanlon stated this seems like it is an incomplete application without the stamps. Stahlnecker confirmed can address. Scanlon stated that is his biggest question. Scanlon asked about accessible units, as does not see even one. Scanlon asked where the elevator equipment is going, and where the utility equipment will be located.

[6:59:54 PM](#) smith asked if received an updated landscape plan. Davis confirmed they have not. Smith asked about the drainage for the entrances. Stahlnecker apologized, that does not have the downspouts shown on the plan. Stahlnecker confirmed all drainage will go onsite to the drywell. Smith suggested type of material to use for down spouts. Smith suggested elevator being closer to ADA parking. Scanlon noted the eastern access is not ADA accessible based of the design and it would need to be reworked. Scanlon stated none of the units have accessible doors. Smith asked what their plans are for access for handicap. Smith asked if required to have ADA compliance units, just access. Scanlon stated it is always good to do, and should be addressed at some level. Smith suggested incorporating EV charging stations and to think about some xeriscaping/artificial turf. Smith complimented the building. Smith noted plans were done in 2007 and curious where else the building with colors were done.

[7:05:46 PM](#) Sauerbrey agreed with building design, creative and different. Sauerbrey also expressed concern of ADA access and agrees ADA spot closest to elevator. Sauerbrey asked about the HOA aspect. Sauerbrey agrees with staff recommendation to move the dumpster. Sauerbrey asked if would be require HOA and curious how the maintenance would be perform. Stahlnecker explained the applicants plan to create a HOA with that. Sauerbrey asked if there is any community housing planned for this project. Stahlnecker explained that it was studied, and it does not fit with the Performa of this project. Sauerbrey explained he would like to see.

[7:10:11 PM](#) Chair Fugate asked Simms, that if understands correctly the project has changed ownership and new owners are taking over ownership of PUD. Chair Fugate does not see any amenities proposed. Simms explained the PUD entered into was entered in with the prior owners, that the PUD is bound to the land. Simms explained it burdens the title of property. Simms explained how he reads the PUD. Simms explained that believes the City is not bound to the private agreement between previous and new owner. Simms summarized how he believes the applicant is bound to the PUD as the PUD is bound to the land. Chair Fugate asked if she is correct that as the PUD requires access to a club house. Simms and Chair Fugate continued to discuss PUD requirements and applicable to application. Simms stated procedurally, would suggest to push the item due to missing items and heavy recommendations made.

[7:17:31 PM](#) Fitzgerald asked if could look through the floor plans and suggestions. Fitzgerald explained she didn't have questions previously is because she felt it was missing a lot of information. Fitzgerald asked for information on the plans to be able to really contribute.

[7:18:39 PM](#) Smith suggested including directionals. Chair Fugate recommended complying with the PUD or reducing number of units. Chair Fugate requested for clarification on PUD. Simms stated this project must be compliant with the PUD unless the PUD is amended. Sauerbrey expressed concern of PUD amendments. Simms explained how PUDs can and have been amended multiples throughout the development process.

[7:21:32 PM](#) Gary Slette, represents the applicant, he proposes to submit a written follow up after this meeting explaining this situation. Slette explained his understanding of the amenities required by the developer originally, that there is nothing in paragraph 7 that obligates anyone to use those amenities. Chair Fugate asked for clarification. Slette stated PUD agreement required the developer to build those amenities, and that there is nothing that prevents the owner from choosing to use those or pay for them. Slette explained there is nothing that obligates the members to use the amenities, and that they don't want to use it.

[7:24:30 PM](#) Sauerbrey stated he has a hard time believing intent was to build an amenity building not to be used. Sauerbrey asked Simms his rebuttal to Slette statement. Simms explained his understanding PUD. Commission and Simms continued to discuss PUD requirements.

[7:27:13 PM](#) Chair Fugate open public comment.

[7:27:18 PM](#) Unknown, resident of Sweetwater, has read the PUD and CCRs, that if the applicant has to adhere to the PUD they also have to adhere to the Sweetwater design standards. They would need to change the design or amend the PUD. Its all or nothing.

[7:28:52 PM](#) Chair Fugate closed public comment.

[7:28:59 PM](#) Chair Fugate asked if there are design standards in the PUD. Staff confirmed it is their understanding the Sweetwater HOA as a design standards. Chair Fugate requested this to be addressed when hear again. Simms explained details of HOA design review are generally outside of our purview. Davis confirmed all design standards are based in the CCRs, that the applicant would need to seek approval from the Sweetwater Design Review Board.

[7:31:13 PM](#) Tanner stated he does not understand why Bradshaw got his own HOA and he does not get his own. Davis summarized how Block 2 received their own HOA and if she recalls correctly, that owner still went through the original Sweetwater Design Review. Smith noted there was another amenity building created for that building. Tanner expressed concern on how that would not allow for affordable housing.

[7:34:17 PM](#) Chair Fugate asked if they will see this again before it goes to City Council. Sauerbrey asked how this works procedurally based on issue with noncompliance of original PUD Agreement. Simms explained how it believes it would have gone. Smith confirmed this would be continued until after this is ironed out. Simms suggested tabling tonight for these items to be addressed. Chair Fugate suggested

[7:36:56 PM](#) **Smith motioned to table this until have a corrected submittal package and until have some direction on the PUD and what this applicant should be providing for this residence. Sauerbrey seconded. Scanlon amended the motion, that the code is clear that whoever stamps the drawings has to supervise the preparation of the drawings, no rubber stamping allowed,**

the fact that whoever stamps the drawings was the person in charge in that office. Smith stated so amended. Fitzgerald seconded. All in favor.

Staff Reports and Discussion

- **SR 1** Discussion of building activity, upcoming projects, and zoning code changes.
- **SR 2** Discussion: Next Planning and Zoning Meeting:
 - February 20, 2024: CUP Two Rivers, DR Rivian
 - March 4, 2024: Sunbeam Phase 2

Davis summarized upcoming meetings. Davis confirmed staff is underway on Comp Plan amendment.

[7:39:50 PM](#) **Fitzgerald motion to adjourn. Smith seconded. All in Favor.**