

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION

On January 4, 2010 the Hailey Planning Zoning Commission considered an application submitted by 21 Comet Lane, Unit A, LLC for a Conditional Use Permit for a fitness and personal training studio, located at 21 Comet Condominiums, Unit 1A (21 Comet Lane Unit 1A) within the Service Commercial Industrial-Sales Office (SCI-SO) district. Fitness facilities are a conditional use within the SCI-SO zone with approval of a Conditional Use Permit. The Commission, having been presented with all information and testimony in favor and in opposition to the proposal, hereby makes the following Findings of Fact, Conclusions of Law and Decision.

FINDINGS OF FACT

Notice

Notice for the public hearing on January 4, 2010 was published in the Idaho Mountain Express and mailed to property owners within 300 feet on December 16, 2009.

Standard of Evaluation

Section 11.4 of the Hailey Zoning Ordinance establishes the standards for proposed conditional uses. For each applicable standard (in bold print), the Commission makes the following Findings of Fact:

8.2 Signs.

The applicant is hereby advised that a sign permit is required for any signage exceeding four square feet in sign area. Approval of signage areas or signage plan in Design Review does not constitute approval of a sign permit.

8B.4. Outdoor Lighting Standards.

8B.4.1 General Standards

- a. **All exterior lighting shall be designed, located and lamped in order to prevent:**
 1. **Overlighting;**
 2. **Energy waste;**
 3. **Glare;**
 4. **Light Trespass;**
 5. **Skyglow.**
- b. **All non-essential exterior commercial and residential lighting is encouraged to be turned off after business hours and/or when not in use. Lights on a timer are encouraged. Sensor activated lights are encouraged to replace existing lighting that is desired for security purposes.**
- c. **Canopy lights, such as service station lighting shall be fully recessed or fully shielded so as to ensure that no light source is visible from or causes glare on public rights of way or adjacent properties.**
- d. **Area lights. All area lights are encouraged to be eighty-five (85) degree full cut-off type luminaires.**
- e. **Idaho Power shall not install any luminaires after the effective date of this Article that lights the public right of way without first receiving approval for**

any such application by the Lighting Administrator.

No new lighting is proposed. All existing lighting shall comply with Hailey's Outdoor Lighting Ordinance.

9.4 Parking Space Requirements.

9.4.2 Commercial, Professional, Service, Recreation and Entertainment. All commercial, professional, service, recreation and entertainment uses shall provide improved parking in the amount of one parking space for every 1000 square feet of gross building area; except as follows:

- a. **Athletic fields and other outdoor sports facilities: 1 space per 5000 square feet of gross land area.**
- b. **Auditoriums, theaters, sports arenas, and other assembly areas not otherwise regulated herein: 1 for each 4.5 persons at the rated maximum occupancy of the building.**
- c. **Automobile service garages: 2 for each service bay. Service bays are not counted as parking spaces.**
- d. **Auto Rental: 1 space per 500 square feet of office space.**
- e. **Automobile Sales: 1 customer space per 5000 square feet of developed lot area used for display.**
- f. **Cartage, express and parcel delivery, trucking companies: 1 space per 1000 square feet floor area, plus 1 space for each 250 square feet of net floor area within customer service areas.**
- g. **Car Wash: 2 spaces per bay/stall to be used as stacking space, and 1 space per bay/stall to be provided for drying/vacuuming.**
- h. **Convenience Stores: 1 space for each 100 square feet of net area. Spaces adjacent to gasoline pumps shall be included as on-site parking.**
- i. **Golf Course; 2 spaces per hole, 2 per driving range, and 2 per putting green, plus space as required for any clubhouse.**
- j. **Hotels, motels, other lodging: 1 per sleeping room. No parking space required under this sub-section shall be located in any right-of-way or public thoroughfare.**
- k. **Tennis Courts: 1 space per court.**
- l. **Offices: 1 space for every 500 square feet of gross building area.**
- m. **Restaurants and Bars: 1 space for every 500 square feet of gross building area.**
- n. **Fitness centers, health clubs, exercise/aerobics studios: 1 space for every 250 square feet of usable studio space, plus 1 space per racquetball/squash/handball court.**
- o. **Banks: 1 space for every 500 square feet of gross building area.**

Unit 2 is 1,435 square in total. However, 5B Fitness proposes to use the two (2) garage spaces reserved for Lot 3A as studio space, which equals 1,854 square feet. Of this total, 1,200 square feet would be used for studio space, which requires five (5) on-site parking spaces, based on the parking calculation of 1 space per every 250 sq. ft. of usable studio space. There are 4 garage spaces and 5 exterior on-site parking spaces; however, Unit 3A's two (2) garage spaces will be used for studio space, therefore only seven (7) on-site spaces remain usable for parking. The following table details the amount of square feet associated with the use and unit:

Unit	Use	Square Feet	Parking Calculation
Unit 3A(upper level)	Vacant	1,230	1 space per 1,000 sq. ft.
Unit 3A garage	Studio Space	410	1 space per 250 sq. ft.
Unit 1A (lower level)	Studio Space	790	1 space per 250 sq. ft.
Unit 2 (lower level)	Industrial	1,435	1 space per 1,000 sq. ft.
Unit 4 (upper level)	Industrial	1,225	1 space per 1,000 sq. ft.

The building has a total of 1,200 sq. ft. of usable studio space (410 sq. ft. from Unit 3A’s garage space and 790 from Unit 1A), which requires five (5) spaces and 4,535 square feet of general industrial space, which requires five (5) spaces, for a total of 10 spaces.

The applicant requested that the Commission consider a shared parking agreement to meet the parking requirements established under this standard. The Commission reviewed Section 9.4.8 below for more details regarding the proposed shared parking plan.

9.4.8 Shared Parking

- a. Notwithstanding any other parking requirements set forth in this Ordinance, a mixed-use shared parking program (“shared parking program”) may be applied where mixed uses are proposed or existing, and the mix of uses creates staggered peak periods of parking demand. A shared parking program allows the property developer to use parking spaces more efficiently by allowing the same spaces to be “shared” by various land uses, thus reducing the total amount of required parking. A shared parking program may include parking on the same site or different sites subject to the provisions herein. Shared parking is not intended to be used by two or more residential uses or other uses which have the same peak demand.**

There are seven (7) on-site spaces in total. The applicant proposes sharing five (5) on-site spaces (two on-site spaces are located within Unit 2 and therefore, cannot be shared by other uses occupying other units). The owner of Unit 1A owns a nearby vacant lot (Lot 2F), on the corner of Skymaster and Comet Lane, two lots away from 21 Comet Condos. The owner of Lot 2F proposes to plow the lot at all times and will install road grade gravel, used solely for the businesses occupying 21 Comet Condos.

- b. The Commission may approve a shared parking program provided that: 1) pedestrian access is provided to and from the parking area and the building; and 2) all other requirements set forth herein are met.**

The five (5) on-site spaces are located in front of the building’s entrances and provide pedestrian access from the shared parking area to the building. The applicant proposes to use the vacant Lot 2F, located two (2) lots east of 21 Comet Condos, on the corner of Comet and Skymaster Lanes for additional shared parking.

Both Comet and Skymaster Lanes are private streets within the Airport West Subdivision, which were not developed with sidewalks adjacent to private streets. When the properties between 21 Comet Condos and the proposed shared parking area are developed and go through the design review process, on-site pathways will be required in accordance with Hailey's Zoning Ordinance. This will help ensure future pedestrian safety from the main entrance of 21 Comet Condos to Lot 2F. In the meantime, the private street will be used for pedestrian access, as it is throughout most of Airport West Subdivision.

- c. Parking spaces that are reserved for a specific business purpose (e.g., reserved for doctors only) shall not be counted toward meeting the shared parking requirements. Handicap accessible spaces may be shared if they meet the requirements of the IBC and ANSI A117.1.**

Two (2) on-site spaces are located within Unit 2 and therefore, cannot be shared by other uses occupying other units.

- d. Those wishing to apply for a shared parking program must demonstrate to the Commission the feasibility of shared parking in accordance with this Section. The maximum reduction in the number of parking spaces required for all uses sharing the parking area shall be twenty percent (20%), unless otherwise provided by subsection (f) herein.**

The parking requirement for the building is 10 spaces; however, two of the spaces are provided inside Unit 2 and cannot be shared. Therefore, these two spaces were deducted from the total number of parking spaces required. The shared parking program reduces the parking spaces from 8 additional required spaces (beyond the two (2) garage spaces provided) to 6.5 spaces, which is an 18.75% reduction.

- e. Shared parking spaces may be located on a different lot than the use, which it serves only where the following conditions are met:**
 - 1. The parking is located no more than 300 feet from the use that it serves. The distance between the use and the parking lot shall be measured following a reasonable and safe walking route from the main entrance of the use to the nearest parking lot;**

Five (5) of the required parking spaces are located adjacent to the building on the subject property. The remaining 2 spaces are located on a vacant property (Lot 2F, Block 5, Airport West Subdivision Phase II), which is approximately 200 feet from the proposed use, two (2) lots to the east of 21 Comet Condos, on Skymaster Lane. The 200 foot distance was measured from 21 Comet Condo's building entrance to Comet Lane and eastward along Comet Lane to Lot 2F. Refer to subparagraph (g) for the calculation of the number of spaces required.

Both Comet and Skymaster Lane are private streets within the Airport West Subdivision, which were not developed with sidewalks adjacent to private streets. When the properties between 21 Comet Condos and the proposed shared parking area go through the design review process and are developed, on-site pathways will be required in accordance with Hailey's Zoning Ordinance. This will help ensure future pedestrian safety from the main entrance of 21 Comet Condos to Lot 2F. In the meantime, the private street will be used for pedestrian access, as it is throughout most of Airport West Subdivision.

2. **The applicant(s) for a building permit or certificate of occupancy for the use which is to be served by a shared parking program shall submit a copy of a written agreement pursuant to subparagraph (h) of this Section along with his or her application for such permit or certificate.**

The applicant has not applied for a building permit at this time. The applicant(s) of the shared parking program are hereby notified that in the event that a building permit or certificate of occupancy is applied for, a copy of the written agreement pursuant to subparagraph (h) shall be included in the application for such a permit or certificate.

- f. **Shared Parking Study: Determination of the shared parking requirements may be determined by the applicant using the parking calculation methods set forth in subparagraph (g) below, or the Commission, in its sole and absolute discretion may allow shared parking arrangements based upon a more detailed study which clearly establishes which uses will utilize the shared spaces at different times of the day, week, month or year. A more detailed study may:**
 1. **Be based on the Urban Land Institute's or another accredited methodology;**
 2. **Address the size and type of activities, the composition of tenants, the rate of turnover for proposed shared spaces and the anticipated peak parking and traffic loads.**

Not applicable. The applicant has proposed to use the parking credit schedule discussed in subsection (g) below.

- g. **Parking Credit Schedule Chart for Mixed Use Shared Parking Calculation: The minimum number of parking spaces required for a shared parking plan may be determined by multiplying the minimum parking requirements for each individual use by appropriate percentage, as set forth in Table 1, for each of the five designated time periods and then add the resulting sums from each vertical column. The column total having the highest total value is the minimum shared parking space requirement for that combination of land uses.**

Table 1: Parking Credit Schedule Chart for Shared Parking

Use	Weekday			Weekend	
	Mid. - 7 a.m.	7 a.m.- 5 p.m.	5 p.m. - Mid.	6 a.m. - 6 p.m.	6 p.m. - 6 a.m.
Residential	100%	40%	90%	70%	100%
Office/Industrial	50%	100%	50%	50%	50%
Commercial/Retail	50%	90%	50%	100%	70%
Hotel	100%	70%	100%	70%	100%
Restaurant	10%	50%	100%	50%	100%
Ent./Aud./Theater	80%	40%	100%	50%	100%
Recreation Facility	30%	40%	100%	100%	100%
Day Care Facility	50%	100%	100%	20%	50%

Use	Weekday			Weekend	
	12 am – 7 am	7 am – 5 pm	5 pm – 12 am.	6 am – 6 pm	6 pm – 6 am
Office/Industrial	50% 3 x .5 = 1.5	100% 3 x 1 = 3	50% 3 x .5 = 1.5	50%	50%
Recreation Facility	30% 5 x .3 = 1.5	40% 5 x .4 = 2	100% 5 x 1 = 5	100%	100%
Total	3	5	6.5		

The minimum shared parking space requirement is 6.5, which is rounded up to seven (7). The five (5) spaces on-site and two (2) spaces on Lot 2F meet this requirement.

h. Agreement For Shared Parking Plan: The developer(s) applying for a shared parking program in accordance with this Section shall submit a written agreement approved by the City Attorney requiring that the parking spaces shall be maintained as long as the uses requiring the parking exist or unless the required parking is provided elsewhere in accordance with the provisions of this Section. Such written agreement shall be recorded by the developer(s) with the Blaine County Recorder prior to the issuance of a building permit or business license if no building permit is necessary, and a copy filed in the project review file. The agreement shall, at a minimum:

1. List the names and ownership interest of all parties to the agreement and contain the signatures of those parties;
2. Provide a legal description of the land upon which the parking area(s) and building(s) appurtenant to the parking areas are located;
3. Include a site plan showing the area of the parking parcel and open space reserved area which would provide for future parking;
4. Agree and expressly declare the intent for the covenant to run with

the land and bind all parties and all successors in interest to the covenant;

5. **Assure the continued availability of the spaces for joint use and provide assurance that all spaces will be usable to all participating uses;**
6. **Describe the obligations of each party, including the maintenance responsibility to retain and develop reserved open space for additional parking spaces if the need arises;**
7. **Describe the method by which the covenant may be revised, if necessary.**

To It is a condition of approval that a written agreement for the shared parking program be submitted in accordance with this Section and approved by the City Attorney requiring that the parking spaces be maintained as long as the uses requiring the parking exist or unless the required parking is provided elsewhere in accordance with the provisions of this Section. Such written agreement shall be recorded with the Blaine County Recorder prior to the issuance of a building permit or business license, in the case no building permit is necessary, and a recorded copy submitted to the Planning Department, to be filed in the project file. The agreement shall address items 1-7 listed under subparagraph (h), at a minimum.

- i. **In the event a use is changed, the application for the new business license related to the changed use must be accompanied by evidence that the parking necessary for the new uses does not exceed the amount that was required by the previous uses, or that the applicant can satisfy the parking requirements existing at that time.**

The applicant is hereby notified of this requirement.

11. Conditional Use Permits

11.4.1 The Commission or Hearing Examiner shall review the particular facts and circumstances of each proposed conditional use in terms of the following standards and, if approved, shall find adequate evidence showing that such use at the proposed location:

Section 11.4 of the Hailey Zoning Ordinance establishes the standards for proposed conditional uses.

- a) **Will, in fact, constitute a conditional use as established for the zoning district involved;** Section 4.12.2.2 establishes fitness facilities as a conditional use in the SCI-SO.

The following is taken from Section 4.12.2.2:

Conditionally Permitted uses for the SCI - SO sub-district include the following:

- a. Dance and martial art studios, fitness facilities.

- b) **Will be harmonious with and in accordance with the general objectives or any specific objective of the Comprehensive Plan and requirements of this Ordinance;**

The Commission considered how the proposed use relates to the various policies and implementation items of the Comprehensive Plan, particularly Sections 6.1 and 6.2 and determined the application is in accordance.

Section 6.1

Policy: Identify business areas and types of uses which can be mixed in order to create a more dynamic and useable marketplace. Promote the use of Conditional Use Permits to provide for appropriately mixed uses in all commercial districts.

Section 6.2

Goal: Provide for sufficient area, appropriately located, to accommodate the demand for services, offices and industries which, due to their nature, do not readily fit the fabric of either the Central Business District or neighborhood location. Encourage a balanced mix of appropriate uses on that property.

- c) Will be designed, constructed, operated, and maintained to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity, and that such use will not change the essential character of the same area;**

21 Comet Condos is an existing 4 unit condo. Blue Heron Workshop (a picture framing business) is the only other use currently occupying the building. Adjacent properties to the south, east, and west are currently vacant lots. Hailey Business Park South Condos are located to the north of the subject property.

Blue Heron Workshop's hours are 9:30am to 5pm. The applicant proposes 5B Crossfit's peak hours of operation to occur during the morning hours, from 7am to 9 am and the evening hours, from 5pm to 7 pm, when group class sessions will be held. Class sizes during the peak hours will be between 8 to 10 individuals, taught by two instructors, and will average approximately 45 minutes each. During the off peak hours, individual coaching and training will take place.

The majority of the adjacent property is undeveloped. It is not anticipated that the use will change the essential character of the area, given the nature of the use. No outside storage or exterior changes are proposed that would affect the appearance of the existing or intended character of the general vicinity.

- d) Will not be hazardous or disturbing to existing or future neighboring uses;**
There are no hazards to neighboring uses associated with the proposed use.

It is unlikely that existing neighboring uses will be affected, considering much of the surrounding properties are vacant. However, once these properties are developed future disturbances may be caused by vehicular traffic.

- e) Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, and drainage structure. Agencies responsible for the establishment of the proposed use shall be able to provide adequately any such service;**

The Hailey Fire and Police Department have been notified and no comments were received. It is anticipated that the proposed use and property will be served adequately by public facilities and services.

- f) Will not create excessive additional requirements at public cost for public facilities and services;**

It is not anticipated that additional requirements or costs will be created by the proposed use.

- g) Will not involve uses, activities, processes, materials, equipment, or conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, dust, odors, vibration, water or air pollution, or safety hazards;**

The proposed use may generate noise and traffic to a degree that could potentially be bothersome to neighboring uses. The applicant has stated in the attached narrative that Blue Heron Workshop has stated that they do not have any concerns with music or any noise associated with the proposed use and occupants of surrounding buildings would not be affected because the noise will be contained within the building.

- h) Will have vehicular approaches to the property, which shall be designed so as not to create an interference with traffic on surrounding public thoroughfares;**

The property is accessed off of a private dead-end street (Comet Lane). Currently little traffic is generated on or near Comet Lane because of so few developed lots. However, if this area were completely developed noise and congestion from traffic could become an issue, especially due to the limited road width of private streets (26 feet), which accommodate less traffic compared to other streets. Because the property is located on a dead-end street, little inference with traffic on surrounding thoroughfares, such as Aviation Drive, is anticipated.

- i) Will not result in the destruction, loss, or damage of a natural, scenic, or historic feature.** There are no scenic, historic, or natural features affected by the proposed use.

11.6 Conditions.

The Commission or Hearing Examiner may impose any conditions which it deems necessary to secure the purpose of City regulations and give effect to the Comprehensive Plan. Conditions which may be attached include, but are not limited to those which will:

- 11.6.1 Require conformity to approved plans and specifications.**
- 11.6.2 Require or restrict open spaces, buffer strips, walls, fences, signs, concealing hedges, landscaping and lighting.**
- 11.6.3 Restrict volume of traffic generated, require off-street parking, and restrict vehicular movements within the site and points of vehicular ingress and egress or other conditions related to traffic.**
- 11.6.4 Require performance characteristics related to the emission of noise, vibration and other potentially dangerous or objectionable elements.**
- 11.6.5 Limit time of day for the conduct of specified activities.**
- 11.6.6 Require guarantees such as performance bonds or other security for compliance with the terms of the approval.**
- 11.6.7 Require dedications and public improvements on property frontages.**
- 11.6.8 Require irrigation ditches, laterals, and canals to be covered or fenced.**
- 11.6.9 Minimize adverse impact on other development.**
- 11.6.10 Control the sequence, timing and duration of development.**
- 11.6.11 Assure that development is maintained properly.**
- 11.6.12 Designate the exact location and nature of development.**
- 11.6.13 Require the provision for on-site or off-site public services.**

- 11.6.14 Require more restrictive standards than those generally found in this Ordinance.**
- 11.6.15 Mitigate foreseeable social, economic, fiscal and environmental effects.**
- 11.6.16 Set a limit on the duration of the permit when deemed necessary.**
- 11.6.17 Allow for subsequent periodic review.**

The Commission may impose any conditions that are deemed necessary to secure the purpose of City ordinances and give effect to the Comprehensive Plan. Conditions including but not limited to those set forth in Section 11.6 may be placed on any approval.

11.8 Expiration.

11.8.1 A conditional use permit which is not used within the time specified in the permit, or if no time is specified, within one (1) year after the permit is granted, shall be void.

11.8.2 A conditional use permit is void six (6) months after the use for which it is issued is discontinued.

The applicant is hereby notified of these restrictions.

11.9 Revocation.

11.9.1 The Commission or Hearing Examiner, upon request by the Council, an individual, or itself, may consider and revoke a conditional use permit for any of the following grounds:

- a. **Violation of this Ordinance.**
- b. **Violation of the conditions of the permit after notice of the violation.**
- c. **Causing or allowing a nuisance in connection with the premises.**

The applicant is hereby notified of this provision.

CONCLUSIONS OF LAW AND DECISION

Based upon the above Findings of Fact, the Commission makes the following Conclusions of Law and Decision:

1. Adequate notice, pursuant to Section 11.3 of the Hailey Zoning Ordinance and Idaho Code Section 67-6512, was given for the public hearing.
2. The application is in accordance with the Comprehensive Plan.
3. Upon compliance with the conditions stated below, the application substantially meets all criteria (a) through (i) set forth in Section 11.4 of Zoning Ordinance No. 532.
4. The applicant shall receive a Conditional Use Permit, subject to the following conditions:
 - a) 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:
 1. The occupancy of this unit cannot exceed 15 people, including both employees and customers unless a second compliant restroom is constructed.
 2. Mats must be laid over the entire floor with a maximum ½ inch opening to maintain an accessible route from the front door to the restrooms and to the stairs to meet ANSI Standards regarding changes in elevation.

- b) Detailed plans for all infrastructure to be installed or improved at or adjacent to the site shall be submitted for Department Head approval and shall meet City Standards where required.
- c) All Conditional Use Permits are subject to review and revocation pursuant to Section 11.9 of the Hailey Zoning Ordinance.
- d) A written shared parking agreement shall be submitted for approval by the City Attorney. Such agreement shall comply with the following requirements:
 - 1. The agreement shall specify that the parking spaces shall be maintained as long as the uses requiring the parking exist or unless the required parking is provided elsewhere in accordance with the provisions of this Section.
 - 2. The agreement shall be recorded by the property owner with the Blaine County Recorder prior to the issuance of a building permit or business license if no building permit is necessary, and a recorded copy submitted to the Planning Department, to be filed in the project review file.
 - 3. The agreement shall address items 1-7 listed under 9.4.8 subparagraph (h), at a minimum.
 - 4. In the event a use is changed, the application for the new business license related to the changed use must be accompanied by evidence that the parking necessary for the new uses does not exceed the amount that was required by the previous uses, or that the applicant can satisfy the parking requirements existing at that time.
 - 5. In the event that a building permit or certificate of occupancy is applied for, for any unit involved in the shared parking agreement, a copy of the written agreement shall be included in the application for such a permit or certificate.
 - 6. In the event Lot 2F, Block 5, Airport West Subdivision Phase II (1181 Skymaster Lane) is developed the owner of 5B Crossfit shall apply to amend the Conditional Use Permit to address the fulfillment of on-site parking requirements of the use.
- e) A bike rack that meets City Standards shall be provided on site.

Signed this _____ day of _____, 2010.

Owen Scanlon, Chair
Hailey Planning & Zoning Commission

Attest:

Becky Mead, Deputy Clerk