

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION

On September 21, 2009 the Hailey Hearing Examiner considered an application submitted by Jennifer Jackson for a Conditional Use Permit for Baby Steps Day Care at 1451 Aviation Drive. The property is within the Service Commercial Industrial/Sales Office(SCI-SO) District, and Section 4.12.2.2 of the Hailey Zoning Ordinance #532 lists Day Care Businesses as a conditional use within that district. The Hearing Examiner, 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 September 21, 2009 was published in the Idaho Mountain Express and mailed to property owners within 300 feet on September 2, 2009.

Application

Jennifer Jackson, has submitted a Conditional Use Permit application for a daycare, located on Lot 2, Block 4, Airport West Subdivision Phase II (1451 Aviation Drive). The property is located in the Service Commercial Industrial/Sales Office(SCI-SO) zoning district and Daycare Businesses may be allowed under the Conditional Use Permit process.

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 Hearing Examiner 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.**

All new and 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

The gross building area is 10,581 square feet, requiring 10 parking spaces. There are 32 existing parking spaces on-site.

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. The Hearing Examiner made findings related to each of the items (a) through (i).

- a) **Will, in fact, constitute a conditional use as established for the zoning district involved;**

In accordance with Section 4.12.2.2 of the Hailey Zoning Ordinance, conditional uses for the SCI - SO sub-district include Day care businesses.

- 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 Hearing Examiner considered how the proposed use relates to the various policies and implementation items of the Comprehensive Plan, particularly the following:

Land Use, Section 5

Policy 6. Provide adequate areas for institutional and public facilities, such as schools, senior care, medical, judicial, and other community facilities, integrated within the community.

Economic Development, Section 6

Policy 2. 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.

Land Use, Section 5

Policy 1. Encourage integration of compatible land uses in order to retain a compact City comprised of a central downtown with surrounding diverse neighborhoods, thereby reducing sprawl and traffic, increasing efficiency, and creating neighborhood and community character.

Land Use, Section 5

Support uses within light industrial areas, which provide services for employees of that area. Examples include on-site cafeterias, day care facilities and employee housing.

Land Use, Section 5

Policy 1, Implementation j). Direct conflicting or incompatible land uses away from each other.

In addition, the Hearing Examiner referred to the applicant's analysis of how the proposed use relates to the Comprehensive Plan.

- 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;**

The building exists; it was previously the Hailey Nursery. Baby Steps would provide child care for 38-40 children, ranging from one to six year's of age, with hours of operation between 7:30am and 5:30pm, Monday through Friday. The applicant proposes interior alterations only, to improve the building for its intended use. No exterior changes will be made to the building, except for the addition of a fenced playground area to the north of the existing building. The applicant proposes a set schedule of times for playground activities.

Baby Steps is currently located in Bellevue; however, the applicant has stated that 85% of its attendees are residents of Hailey. The applicant hopes that the new location will be more convenient for Baby Steps' clients, will reduce traffic to and from Bellevue, and will be a benefit to the Blaine County Jail employees, future St. Luke's medical facility employees, and others who work in the SCI districts.

The general vicinity surrounding the proposed use is primarily comprised of undeveloped, vacant properties, and low to medium intensity industrial uses, such as landscaping and construction related businesses. There are residential uses within the vicinity; however, they are on the opposite side of Broadford Road. These residential uses are primarily large lots and have horse corals directly adjacent to the Broadford Road, which may provide a buffer between the proposed use and the residents' homes. The existing uses adjacent to the subject property are as follows:

South – Vacant lot

North – Vacant lot

West – Broadford Road and residential areas

East – St. Luke’s medical facility

With numerous vacant lots within the vicinity of the subject property, it is difficult to predict the future uses of these lots. However, given that the properties are located within the SCI-I and SCI-SO districts, it is presumed that they will be more light industrial compared to the proposed day care facility. As previously mentioned, the existing building was previously Hailey Nursery. Excluding the playground, the building’s exterior will not change, which will help minimize any changes to the vicinity’s character. The use itself may not be a typical use in the SCI districts, but it may be provide a valuable service to employees in the area.

d) Will not be hazardous or disturbing to existing or future neighboring uses;

The uses in the SCI districts are more light industrial than many of the City’s other zoning districts. A daycare facility is typically a nonhazardous use, and would most likely generate little disturbance given that the site is in the SCI-SO district and directly adjacent to the SCI-I district.

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;

It is anticipated that the proposed use 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 excessive additional requirements 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 is not anticipated to be detrimental to any persons, property, or general welfare. The only known increase in noise would be from children during playground activities. Traffic to the subject property may increase, considering the property is currently vacant. However, all parking is located to the side and rear of the building and therefore, this increase in vehicular activity should not impact traffic along Aviation Drive.

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;

Vehicular approaches are from both the north and south of the subject property via private streets. It is not anticipated that the proposed use will create traffic problems along Aviation Drive.

i) Will not result in the destruction, loss, or damage of a natural, scenic, or historic feature.

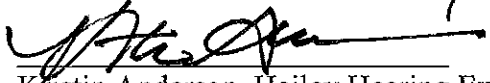
It is not anticipated that the proposed use will affect natural, scenic, or historic features in anyway.

CONCLUSIONS OF LAW AND DECISION

Based upon the above Findings of Fact, the Hearing Examiner 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 and shall be completed at the applicant's sole expense.
 - b) 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. Infrastructure, if required, shall be completed at the applicant's sole expense.
 - c) All existing and future exterior lighting shall comply with the Hailey Outdoor Lighting Ordinance.
 - d) An Idaho State and City of Hailey issued day care license is required prior to the issuance of a Certificate of Occupancy or opening the day care facility for business.
 - e) All Conditional Use Permits are subject to review and revocation pursuant to Section 11.9 of the Hailey Zoning Ordinance.

Signed this 21 day of September, 2009.



Kristin Anderson, Hailey Hearing Examiner

Attest:


Becky Mead, Deputy Clerk

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 21st day of Sept., 2009, I served a true and correct filed copy of the within and foregoing document upon the parties named below, in the manner noted:

- U.S. Mail
- Via Electronic Mail
- Via Facsimile
- Hand Delivered

Applicant:

Jennifer Jackson
PO Box 1199
Bellevue, ID 83313
katiepayden@yahoo.com

CITY OF HAILEY

By Becky Mead
Becky Mead, Deputy Clerk