

## **FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION**

On July 13, 2009 the Hailey Hearing Examiner considered an application submitted by Gary Carr for an amendment to a Conditional Use Permit for an Auto Dealership at Lots 15, 16, 17, and north 25 feet of 18, Block 28, Hailey Townsite (210 Main St. South) within the Business (B), Townsite Overlay (TO), and Central Core (CC) districts. 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 June 24, 2009 was published in the Idaho Mountain Express and mailed to property owners within 300 feet.

#### **Application**

Gary Carr has applied for an amendment to the Conditional Use Permit for vehicle sales, located on Lots 15, 16, 17, and north 25 feet of 18, Block 28, Hailey Townsite (210 Main St. South) within the Business (B), Townsite Overlay (TO), and Central Core (CC) districts. An Auto Dealerships is a permitted conditional use within the Business (B) zone with approval of a Conditional Use Permit.

The original CUP was granted to Elbie's Tire and Automotive, located at 210 Main St. South, on April 22, 1994. Section 11.10.2 of the Hailey Zoning Ordinance states; "A conditional use permit is not transferable from one (1) parcel of land to another. The conditional use permit may be transferred from one owner to another for the same use, but if there is a change in use on the property, a new conditional use permit must be obtained."

In spring of 2009 the applicant relocated his business, Hailey Auto Exchange, to the subject property, 210 Main St. South. Because both businesses involve an auto dealership component, the CUP was transferred to the new owner for the same use.

One of the conditions of approval of the original CUP is that a maximum of twelve (12) cars be displayed. The applicant is requesting to be allowed to display 26 vehicles on site and 2 vehicles on Lot 14 directly to the north.

#### **Department Comments**

**Life/Safety:** none

**Building:** none

**Water/Sewer:**none

## **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 existing lighting shall comply with Hailey's Outdoor Lighting Ordinance.

### **9.3 Off-street Parking Dimension.**

#### **9.3.1 For the purposes of this Ordinance, the dimensions of all parking areas within the City shall be in accordance with the City Standards.**

The minimum dimensions of a 90 degree parking space are 10 ft x 21 ft; this standard is applied to the four (4) required on-site spaces for the given use. The spaces used for display are not required meet this minimum dimension.

### **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:**

- c. **Automobile service garages: 2 for each service bay. Service bays are not counted as parking spaces.**
- e. **Automobile Sales: 1 customer space per 5,000 square feet of developed lot area used for display.**

The business has two (2) service bays; requiring four (4) spaces.

The proposed display area is 3,360 square feet; no spaces are required for the automobile sales portion of the business.

A total of four (4) spaces are required to accommodate the activity in the service bays. These four spaces are located at the rear of the lot, perpendicular to the alley.

## 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 should make 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;**  
The proposed display of automobile for sale constitutes an established conditional use within the Business zoning district.

**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:

*6.1 Central Business District.*

*6.1.2 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.*

*Implementation:*

- a. Review and expand, where appropriate, those uses which are permitted under the Conditional Use Permit process in the Business, Limited Business and Transitional Districts.*
- b. Apply design standards and the Conditional Use Permit process to ensure both a dynamic environment and a level of compatibility between existing and proposed developments.*

*6.5 Marketplace Standards*

*6.5.1 Policy: Maintain the quality and character of the City.*

*Implementation:*

- a. Apply design standards and the Conditional Use Permit process to ensure both a dynamic environment and a level of compatibility between existing and proposed developments.*

The proposed amendment was found to be in accordance with the general objectives and the specific policies 6.1.2 and 6.5.1.

- 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 existing character of the block would improve with a more organized site layout and more attention to how automobiles are displayed on site. The location of the property in the center of the Business District causes the use of the property to potentially have a greater affect on the character of downtown Hailey. The Hearing Examiner found increasing the number of vehicles that can be displayed will not negatively affect the character of the area.

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

It is not anticipated the requested amendment will be hazardous or disturbing to existing or future neighboring uses. While the use was originally restricted to twelve (12) vehicles, allowing a greater number is considered to be appropriate and is not anticipated to be disruptive to existing or future neighboring uses.

- 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 requested amendment would not affect the provision of services to the property.

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

The requested amendment is not anticipated to create excessive additional requirements at public cost for public facilities and services.

- 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 display of additional vehicles in not anticipated to 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.

- 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 display of additional vehicles would not affect the vehicular approach to the property.

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

The display of additional vehicles would not in the destruction, loss, or damage of a natural, scenic, or historic feature.

**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.**

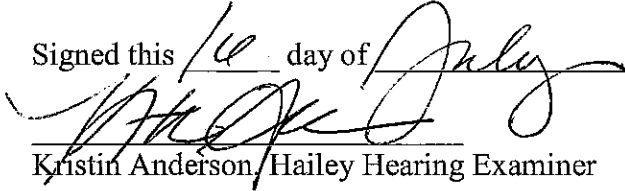
The Hearing Examiner considered these conditions of approval.

## 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, Sections 6.1.2 and 6.5.1.
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.
  - 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 to be completed at the applicant's sole expense.
  - c) All existing lighting shall comply with Hailey's Outdoor Lighting Ordinance.
  - d) The amended Conditional Use Permit allows 26 vehicles for sale to be displayed on Lots 15, 16, 17, and north 25 feet of 18, Block 28, Hailey Townsite (210 Main St. South) and includes two (2) display spaces located on the property to the north, Lot 14, Block 28, Hailey Townsite.
  - e) A final site plan designating the location and dimensions of circulation, the four (4) required on-site parking spaces and the approved 26 display parking spaces (on site) and the two (2) display spaces located on the property to the north shall be submitted to the Administrator for approval. Conformity to the approved plan is required for the duration of the use.
  - f) The applicant shall submit documentation from the property owner of Lot 14, Block 28, Hailey Townsite indicating that the business, Hailey Auto Exchange, has permission to park two vehicles on Lot 14, Block 28, Hailey Townsite.
  - g) Approval of the Conditional Use Permit which includes the two spaces on Lot 14, Block 28, Hailey Townsite does not imply that the business will have permission to display vehicles on Lot 14 should the ownership of Lot 14 change.

Signed this 14 day of July, 2009.

  
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Kristin Anderson, Hailey Hearing Examiner

Attest:

  
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Becky Mead, Deputy Clerk

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 17<sup>th</sup> day of July, 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:  
Gary Carr  
carrman@svskylan.net

CITY OF HAILEY

By Becky Mead  
Becky Mead, Deputy Clerk