

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION

On June 15, 2009 the Hailey Hearing Examiner considered an application submitted by Magic Valley Investors, LLC for a Conditional Use Permit for a physical fitness facility at Lot 8A, Block 1, Hailey Business Park (810 Main Street South). The property is within the Technological Industry (TI) District and Section 4.9.3 of the Hailey Zoning Ordinance #532 lists Physical Fitness Facilities 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 June 15, 2009 was published in the Idaho Mountain Express and mailed to property owners within 300 feet on, May 27, 2009, and notice was posted on the property on June 8, 2008.

Application

Magic Valley Investors, LLC, has submitted a Conditional Use Permit application for a gym and fitness facility, located on Lot 8A, Block 1, Hailey Business Park (810 Main St. South, Suite 8). The property is located in the Technological Industry (TI) zoning district, which allows physical fitness facilities with an approved Conditional Use Permit.

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:

Standards of Evaluation

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:

- 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.**

The fitness facility's usable studio space measures 3,333 square feet, which is calculated at one parking space per 250 square feet of useable studio space. There is 1,163 square feet of office space, which is calculated at 1 space for every 500 square feet. The total number of parking spaces required for the subject property is 17 spaces. Building 7A, adjacent to the subject property, is owned by the same owner as the subject property. Its use requires 6 parking spaces. There are 24 parking spaces provided in the front and back of both buildings and 23 parking spaces are required for both buildings. The CC&Rs for the subdivision indicate that there are no reserved parking spaces; therefore, sharing parking in this manner would not be a problem.

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 4.9.3, Conditional Uses in the Technological Industry District are as follows:

4.9.3 *Conditional Uses:*

Conditional uses of the TI District are limited to the following:

- a. *PWSF's and WCF's, mounted on any proposed freestanding tower, upon the issuance of a Wireless Permit in accordance with the provisions of Article VIII A of this Ordinance. (Lattice towers are prohibited.)*
- b. *Above ground flammable liquid tanks utilized by a public use.*
- c. *Temporary Structures.*
- d. *Physical 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 Hearing Examiner considered how the proposed use relates to the various policies and implementation items of the Comprehensive Plan, particularly the following:

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

Implementation: Allow accessory uses within service, office and industrial areas which are useful to employees of that area. Examples include cafeterias, day care facilities, accessory residences, and offices.

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.

Section 4.1

Goal: To create and maintain an interconnected system of parks, recreational facilities, trails, green spaces and natural lands for the community of Hailey in order to provide diverse recreation opportunities for Hailey residents.

Section 4.1

Policy: Promote recreation opportunities within walking distance of the greatest number of residents.

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 and is currently vacant. The surrounding uses include construction wholesalers, office, and warehouse. It is not anticipated that the proposed use will be inharmonious with the existing uses in the general vicinity. The existing uses are already diverse and the proposed use will have little external impact. All activity will occur

within the building. The business would provide fitness instruction, training facilities, and fitness equipment, as well as associated office and business activity needs.

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

The building does not have any common or party walls, shared by other units or buildings. In addition there is 10 feet of separation between this facility and adjacent facilities to the east and west. The Hearing Examiner considered the increase in traffic that may occur from the associated use and did not have traffic concerns. It was determined that the subdivision parking and circulation areas can accommodate an increase in traffic due to this use.

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 not anticipated that the proposed use will change the adequacy of service for public services and facilities.

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

It is not anticipated that the proposed use will impact the 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;

It is not anticipated that the proposed use would be detrimental in anyway, aside from the possibility of increased traffic.

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 road to access all uses in the Hailey Business Park Subdivision is private. The nearest public thoroughfare is Main Street. The Hailey Business Park Subdivision is accessed by the same road, which is used to access the eastern end of the Post Office. There is ample parking established for each business in the Hailey Business Park Subdivision and the road widths appear to be wide enough to support traffic sufficiently. It is not anticipated that this use will generate enough traffic to interfere with Main Street.

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

No natural, scenic, or historic features are within the vicinity of the proposed use or would be damaged by the proposed use.

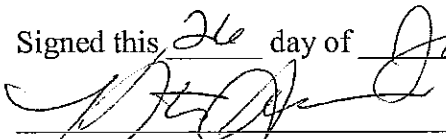
CONCLUSIONS OF LAW AND DECISION

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 6.2 and 4.1.
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.
 - 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.
 - c) All exterior lighting shall comply with Section 8B.4. Outdoor Lighting Standards.

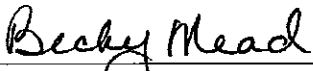
All Conditional Use Permits are subject to review and revocation pursuant to Section 11.9 of the Hailey Zoning Ordinance.

Signed this 26 day of June, 2009.



Kristin Anderson
Hailey Hearing Examiner

Attest:



Becky Mead, Deputy Clerk

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 19th day of June, 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 Facsimile
- Hand Delivered
- ELECTRONIC MAIL

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CITY OF HAILEY

By Becky Mead
Becky Mead, Deputy Clerk