

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION

On March 23, 2009, the Hailey City Council considered the application by Ralph Pearson for Final Plat approval of Lot 9A, Block 26, Hailey Townsite. The Council, 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 was published in the Idaho Mountain Express and mailed to property owners within 300 feet on March 4, 2009.

Application

Ralph Pearson has submitted an application for Final Plat approval for the replat of Lots 9, 10, 11, 12, Block 62, Hailey Townsite into two (2) lots. Lot 9A is 5,989 square feet and Lot 10A is 6,000 square feet.

The property is located on the corner of Spruce Street and 3rd Avenue. An existing house and detached garage are located on the subject property. The proposed lot line between the two new lots is positioned such that the required interior line setbacks in the Townsite Overlay district are met for both buildings.

Section 3.4.1 of the Subdivision Ordinance allows for applications for platting four or fewer residential building parcels to be reviewed through the short plat procedure. In this procedure, the Hearing Examiner or Commission reviews the preliminary plat only. Upon approval, the applicant submits a final plat for Council approval.

Procedural History

The applicant received preliminary plat approval from the Hearing Examiner for this replat on March 9, 2007 and final plat approval from Council on June 25, 2007. On June 23, 2008, the Hailey City Council granted a request by the applicant for a six month extension of final plat approval. The new expiration date for final plat approval was January 9, 2009. The applicant did not record the final plat by the final plat approval deadline. As a result, the preliminary plat has to be reviewed again by the Hearing Examiner and the final plat reviewed by the City Council. There have been no changes to the preliminary plat since the prior approval. A new application was not required to be submitted; the standards in place at the time of the initial application have been applied.

The Hailey Hearing Examiner held a public hearing and conditionally approved the preliminary plat on February 23, 2009. The conditions of preliminary plat approval are noted below.

Conditions of Preliminary Plat Approval

- a) **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 include, but will not be limited to, the following requirements and improvements:

1. New water and sewer services to Lot 10A must be installed to meet City Standards, including separation of 10 feet between service lines.

This condition has been met.

2. The applicant shall install a 6 foot sidewalk within both street rights-of-way adjacent to the subject property, or provide cash in-lieu contribution, prior to recordation of Final Plat.

This condition should be carried over.

b) Prior to submitting final plat, it shall be decided whether both water and sewer lines are to be placed within the 10-foot wide utility easement upon Lot 9A to benefit Lot 10A. If it is decided that both will be placed in the easement, the easement shall be widened to 20 feet.

This condition has been met.

c) The existing gas service line across Lot 9A to the house in Lot 10A shall be relocated to within the proposed utility easement or an easement shall be granted for it, prior to submitting the final plat.

This condition has been met.

d) The applicant shall determine the depth of the water main line and provide insulating material for every individual water service line between and including the subject property.

This condition should be carried over.

e) Issuance of permits for the construction of buildings within the proposed subdivision shall be subject to Section 2.9 of the Subdivision Ordinance.

This condition should be carried over.

f) All improvements and other requirements shall be completed and accepted, or surety provided pursuant to Sections 3.3.7 and 5.9.1 of the Subdivision Ordinance, prior to recordation of the final plat.

This condition should be carried over.

g) The final plat must be submitted within one (1) calendar year from the date of approval of the preliminary plat, unless otherwise allowed for within a phasing agreement.

This condition has been met.

Standards of Evaluation

For each of the following pertinent standards of the Subdivision Ordinance (shown in bold print), the Council makes the following Findings of Fact:

SECTION 3 – PROCEDURE

3.3 Final Plat Approval.

The final plat, prepared by a Professional Land Surveyor, must be submitted within one (1) calendar year from the date of approval of the preliminary plat, unless otherwise allowed for within a phasing agreement or as otherwise provided herein. Plats not submitted for final approval within one (1) year or according to the phasing agreement, shall be considered expired and preliminary plat approval shall become null and void. The Council may extend the deadline for submitting the final plat upon holding a public hearing.

The Hearing Examiner's approval of the preliminary plat was on February 23, 2009.

3.3.2 The administrator shall review the final plat application to ensure that the application submitted is consistent with the approved preliminary plat. The conditions imposed on the preliminary plat approval must be either completed or shown on plans or the plat prior to any public notice for final plat approval.

The final plat is consistent with the preliminary plat approved by the Hearing Examiner. Conditions of preliminary plat approval have been met or are carried over.

SECTION 4 – DEVELOPMENT STANDARDS

4.0 The configuration and development of proposed subdivisions shall be subject to and meet the provisions and standards found in this Ordinance, the Zoning Ordinance and any other applicable Ordinance or policy of the City of Hailey, and shall be in accordance with general provisions of the Comprehensive Plan. Applicable standards of the Subdivision Ordinance are reviewed below. Certain standards of the Zoning Ordinance are also referenced in various sections below.

4.1 Streets. Streets shall be provided in all subdivisions where necessary to provide access and shall meet all standards below.

N/A – Streets are existing.

4.2 Sidewalks and Pathways.

4.2.1 Sidewalks. Sidewalks adjacent to public streets shall be constructed on both sides of a public street, shall be a minimum of six feet (6') in width and shall be constructed of concrete installed to City Standards or of a superior material as approved by the Council, following a recommendation by the Commission. Sidewalks adjacent to private streets within and adjacent to all subdivisions in the Business, Limited Business, Service Commercial Industrial and Light Industrial districts shall be constructed on at least one side of the street, shall be a minimum of five (5') in width and shall be constructed of concrete installed to City

Standards or of a superior material as approved by the Council, following a recommendation by the Commission. Sidewalks with curb and gutter shall be provided in Business, Limited Business, Technological Industry, Service Commercial Industrial, and Light Industrial Districts. Sidewalks shall accommodate anticipated pedestrian traffic, and shall include street trees (with irrigation) and other pedestrian amenities where required by the Council upon recommendation by the Commission, and shall be in accordance with established City standards and sidewalk master plan, if available.

No sidewalk is shown. Six-foot sidewalks are required. Voluntary cash contributions in-lieu of actual sidewalk improvements may be considered pursuant to 4.2.4 below.

4.2.4 After receiving a recommendation by the Commission, the Council may in its discretion approve and accept voluntary cash contributions in-lieu of the improvements described in this Section 4.2, which contributions must be segregated by the City and not used for any purpose other than the provision of these improvements. The contribution amount shall be 150% of the estimated costs of concrete sidewalk and drainage improvements provided by a qualified contractor, plus associated engineering costs, as approved by the City Engineer. Any approved in-lieu contribution shall be paid before the City signs the final plat. In-lieu contributions for sidewalks shall not be accepted in Business, Limited Business, Neighborhood Business Technological Industry and Service Commercial Industrial districts.

The applicant's representative indicated that the applicant may request to provide an in-lieu contribution instead of actually constructing the sidewalk.

4.3 Alleys and Easements.

The subject property is adjacent to an existing alley.

4.3.4 All infrastructure to be installed underground shall, where possible, be installed in the alleys platted.

All existing utilities are shown within the existing alley.

4.3.8 Easements. Easements, defined as the use of land not having all the rights of ownership and limited to the purposes designated on the plat, shall be placed on the plat as appropriate. Plats shall show the entity to which the easement has been granted. Easements shall be provided for the following purposes:

4.3.8.1 To provide access through or to any property for the purpose of providing utilities, emergency services, public access, private access, recreation, deliveries, or such other purpose. Any subdivision that borders on the Big Wood River shall dedicate a 20-foot wide fisherman's access easement, measured from the mean high water mark, which shall provide for non-motorized public access. Additionally, in appropriate areas, an easement providing non-motorized public access through the subdivision to the river shall be required as a sportsman's access.

A 20 foot-wide utility easement is proposed upon Lot 9A to benefit Lot 10A. This easement has been widened from a 10 foot-wide easement to a 20 foot-wide easement to accommodate both water and sewer lines, which have been relocated to the easement.

An existing gas service line exists across Lot 9A, which benefits the house in proposed Lot 10A. A 10 foot-wide easement is shown on proposed Lot 9A, to benefit Lot 10A; however, the applicant wishes to relocate the gas line to the 20 foot-wide utility easement sometime this spring, when it is more feasible, prior to recording the final plat. If the gas line is relocated prior to recordation, the 10 foot-wide gas line easement currently shown on the final plat shall be eliminated on the recorded plat.

The City Engineer states that the gas line can be relocated to the water and sewer easement, as long as the gas line isn't placed on top of the water or sewer lines and adequate distance from these lines is ensured.

4.4 Blocks.

4.4.1. The length, width and shape of blocks shall be determined with due regard to adequate building sites suitable to the special needs of the type of use contemplated, the zoning requirements as to lot size and dimensions, the need for convenient access and safe circulation, and the limitations and opportunities of topography.

The subject property is part of existing Townsite Block 62.

4.5 Lots.

4.5.1 All lots shown on the subdivision plat must conform to the minimum standards for lots in the District in which the subdivision is planned. The City will generally not approve single-family residential lots larger than one-half acre (21,780 square feet). In the event a single-family residential lot greater than one-half acre is platted, irrigation shall be restricted to not more than one-half acre, pursuant to Idaho Code 42-111, and such restriction shall be included as a plat note. District regulations are found in the Zoning Ordinance.

Pursuant to Section 4.13.6.a the minimum lot size is as follows:

Limited Residential-1 district: 6,000 square feet.

Original Townsite Lots that are slightly less than 3,000 square feet (in blocks where lots are 25 feet wide) or 3,600 square feet (in blocks where lots are 30 feet wide) may be rounded up to 3,000 square feet or 3,600 square feet, as the case may be, provided that the original Townsite Lot meets the definition of a Lot of Record.

The subject property consists of four Townsite Lots of Record of slightly less than 3,000 square feet, so that the area of the subject property is rounded up to 12,000 square feet.

4.5.5 All lots shall have frontage on a public or private street. No frontage width shall be less than the required width of a driveway as provided under Sections 4.1.11.1 and 4.5.4 of this Ordinance.

Both proposed lots have frontage on Spruce Street and/or Spruce and 3rd Avenue.

4.5.6 In the Townsite Overlay District, original Townsite lots shall be subdivided such that the new platted lots are oriented the same as the original lots, i.e. lots shall be subdivided in such a way as to maintain frontage on both the street and alley. Exceptions may be made for corner properties with historic structures.

The Subdivision Ordinance defines Historic Structure: “Any building or structure that was originally constructed, in whole or in part, prior to 1941, regardless whether the building or structure was constructed or relocated within the Townsite Overlay District, unless the Hailey Historic Preservation Commission has recommended that the building or structure does not maintain the historic architectural qualities, historic associations or archeological values of other Historic Structures within the Townsite Overlay District.”

The subject property contains a building that was constructed in 1915. The Hailey Historic Preservation Commission previously noted the following:

“217 E. Spruce had its last major remodel in the 1980's. Although it appears the intent of the owners, at that time, was not to choose an historical architectural style for the remodel, I believe the structure is, none the less, congruous with Old Hailey. I believe they have retained sufficient height, mass, and bulk to be coherent with the setting and Townsite Overlay. Old Hailey's charm and character is due, in part, to the wide range of styles and forms reflecting at least 100 yrs. of building and remodeling.”

Based on the Historic Preservation Commission's findings that the structure is historic and congruous with Old Hailey, and the fact the property is on a corner lot, the Council finds that the exception to Section 4.5.6 above is appropriate for this application.

SECTION 5 - IMPROVEMENTS REQUIRED.

- 5.1 It shall be a requirement of the Developer to construct the minimum improvements set forth herein and any required improvements for the subdivision, all to City Standards.**
- 5.1.1 Six (6) copies of all improvement plans shall be filed with the City Engineer and made available to each department head. Upon final approval two (2) sets of revised plans shall be returned to the Developer at the pre-construction conference with the City Engineer's written approval thereon. One set of final plans shall be on-site at all times for inspection purposes and to note all field changes upon.**
- 5.1.2 Prior to the start of any construction, it shall be required that a pre-construction meeting be conducted with the Developer or his authorized representative/engineer, the contractor, the City Engineer and appropriate City departments. An approved set of plans shall be provided to the Developer and contractor at or shortly after this meeting.**

- 5.1.3** The Developer shall guarantee all improvements pursuant to this Section for no less than one year from the date of final acceptance by the City, except that parks shall be guaranteed and maintained by the Developer for a period of two years.
- 5.2** The Developer shall construct all streets, alleys, curb and gutter, lighting, sidewalks, street trees and landscaping, and irrigation systems to meet City Standards, the requirements of this ordinance, the approval of the Council, and to the finished grades which have been officially approved by the City Engineer as shown upon approved plans and profiles. The Developer shall pave all streets and alleys with an asphalt plant-mix, and shall chip-seal streets and alleys within one year of construction.
- 5.2.1** Street cuts made for the installation of services under any existing improved public street shall be repaired in a manner which shall satisfy the Street Superintendent, shall have been approved by the Hailey City Engineer or his authorized representative, and shall meet City Standards. Repair may include patching, skim coats of asphalt or, if the total area of asphalt removed exceeds 25% of the street area, the complete removal and replacement of all paving adjacent to the development. Street cut repairs shall also be guaranteed for no less than one year.
- 5.2.2** Street name signs and traffic control signs shall be erected by the Developer in accordance with City Standards, and the street name signs and traffic control signs shall thereafter be maintained by the City.
- 5.2.3** Street lights in the Recreational Green Belt, Limited Residential, General Residential, and Transitional zoning districts are not required improvements. Where proposed, street lighting in all zoning districts shall meet all requirements of Chapter VIII B of the Hailey Zoning Ordinance.
- 5.3** The Developer shall construct a municipal sanitary sewer connection for each and every developable lot within the development. The Developer shall provide sewer mains of adequate size and configuration in accordance with City Standards, and all federal, state, and local regulations. Such mains shall provide wastewater flow throughout the development. All sewer plans shall be submitted to the City Engineer for review and approval. At the City Engineer's discretion, plans may be required to be submitted to the Idaho Department of Environmental Quality (DEQ) for review and comments.

The City Engineer notes that DEQ standards now call for a 10-foot separation between water and sewer service lines.

- 5.4** The developer shall construct a municipal potable water connection, water meter and water meter vault in accordance with City Standards, or other equipment as may be approved by the City Engineer, for each and

every developable lot within the development. The Developer shall provide water mains and services of adequate size and configuration in accordance with City Standards, and all federal, state, and local regulations. Such water connection shall provide all necessary appurtenances for fire protection, including fire hydrants, which shall be located in accordance with the IFC and under the approval of the Hailey Fire Chief. All water plans shall be submitted to the City Engineer for review and approval. At the City Engineer's discretion, plans may be required to be submitted to the Idaho Department of Environmental Quality (DEQ) for review and comments.

The City Engineer notes that DEQ standards now call for a 10-foot separation between water and sewer service lines.

5.4.1 Within the Townsite Overlay District, where water main lines within the alley are less than six (6) feet deep, the developer shall install insulating material (blue board insulation or similar material) for each and every individual water service line and main line between and including the subject property and the nearest public street, as recommended by the City Engineer.

The applicant shall determine the depth of the water main line and provide insulating material for every individual water service line between and including the subject property if the depth is less than six feet. This is a condition of approval.

5.5 The Developer shall provide drainage areas of adequate size and number to meet the approval of the Street Superintendent and the City Engineer or his authorized representative.

5.6 The Developer shall construct each and every individual service connection and all necessary trunk lines, and/or conduits for those improvements, for natural gas, electricity, telephone, and cable television to the property line before placing base gravel for the street or alley.

5.7 The Developer shall improve all parks and Green Space areas as presented to and approved by the Commission and Council.

5.8 All improvements are to be installed under the specifications and inspection of the City Engineer or his authorized representative. The minimum construction requirements shall meet City Standards or the Department of Environmental Quality (DEQ) standards, whichever is the more stringent.

5.9 Installation of all infrastructure improvements must be completed by the Developer, and inspected and accepted by the City prior to signature of the plat by City representatives, or according to a phasing agreement. A post-construction conference shall be requested by the Developer and/or contractor and conducted with the developer and/or contractor, the City Engineer, and appropriate City departments to determine a punch list of

items for final acceptance.

- 5.9.1 The Developer may, in lieu of actual construction, provide to the City security pursuant to Section 3.3.7, for all infrastructure improvements to be completed by Developer after the final plat has been signed by City representatives.**
- 5.10 Prior to the acceptance by the City of any improvements installed by the Developer, three (3) sets of “as-built plans and specifications” certified by the Developer’s engineer shall be filed with the City Engineer.**

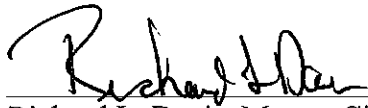
CONCLUSIONS OF LAW AND DECISION

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

1. Adequate notice, pursuant to Section 3 of the Hailey Subdivision Ordinance, was given for the public hearing.
2. Upon compliance with the conditions noted below, the application substantially meets the standards of approval set forth in the Hailey Subdivision Ordinance.
3. The application for Final Plat, dated March 2, 2009, is approved by the Hailey City Council, with the following conditions:
 - a) 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 include, but will not be limited to, the following requirements and improvements:
 1. The applicant shall install a 6 foot sidewalk within both street rights-of-way adjacent to the subject property, or provide cash in-lieu contribution, prior to recordation of Final Plat.
 - b) If the existing gas service line across Lot 9A to the house in Lot 10A is relocated within the water and sewer easement, a revised final plat shall be submitted showing the elimination of the gas line easement (the revised plat shall be recorded), prior to recordation of the final plat.
 - c) The applicant shall determine the depth of the water main line and provide insulating material for every individual water service line between and including the subject property if the depth is less than six feet.
 - d) Issuance of permits for the construction of buildings within the proposed subdivision shall be subject to Section 2.9 of the Subdivision Ordinance.

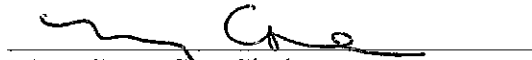
- e) All improvements and other requirements shall be completed and accepted, or surety provided pursuant to Sections 3.3.7 and 5.9.1 of the Subdivision Ordinance, prior to recordation of the final plat.
- f) Any subdivision inspection fees due shall be paid prior to recording the final plat.
- g) The final plat shall be recorded within one year of the date of final plat approval. The final plat submitted for signature shall conform to the requirements found in Article 50-1301 (et. seq.) of the Idaho Code (as amended) and to the requirements set forth by Blaine County for digital plat submittals. The applicant shall provide the City with a letter-size or ledger-size photocopy of the recorded plat showing the instrument number and date of recordation.

Approved this 13th day of April, 2009.

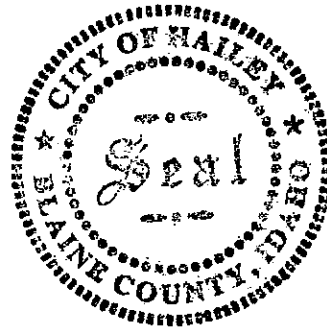


Richard L. Davis, Mayor, City of Hailey

Attest:



Mary Cone, City Clerk



CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 14th day of April, 2009, I served a true and correct filed copy of the within and foregoing document upon the parties named below, in the manner noted:

- | | | |
|-------------------------------------|---------------------|-------------------------|
| <input type="checkbox"/> | U.S. Mail | Ralph Pearson, Jr. |
| <input checked="" type="checkbox"/> | Via Electronic Mail | 15155 Becky Lane |
| <input type="checkbox"/> | Hand Delivered | Monte Sereno, CA 95030 |
| <input type="checkbox"/> | Via Facsimile | skip@pearson-realty.com |
| | | |
| <input checked="" type="checkbox"/> | U.S. Mail | Greg Harbeson |
| <input type="checkbox"/> | Via Electronic Mail | Galena Engineering |
| <input type="checkbox"/> | Hand Delivered | 317 River St. N. |
| <input type="checkbox"/> | Via Facsimile | Hailey, ID 83333 |

By Becky Mead
Becky Mead, Deputy Clerk
City of Hailey