

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION

On March 30, 2009, the Hailey Hearing Examiner considered the application by Mogli Cooper for Preliminary Plat approval of Tanglewood Condominiums. 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 was published in the Idaho Mountain Express and mailed to property owners within 300 feet on March 11, 2009.

Application

Mogli Cooper has submitted an application for preliminary plat approval of a 24-unit residential condominium project, located in three (3) existing buildings. The project is located at Block 22, Lots 2, 3, 4, and the southern 30 feet of Lot 5, Woodside Subdivision No. 6 (2781 Winterhaven Drive), between Woodside Blvd. and Shenandoah Drive. The total land area of the project is 2.41 acres. As the application submitted is for a condominium project, the ground under and around the units would be owned and maintained by the condominium association.

Section 3.4.1 of the Subdivision Ordinance allows for applications for platting condominium units in existing or approved structures 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.

Standards

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

Bulk requirements:

4.3.5 Bulk Requirements. For other supplementary location and bulk regulations, see Article VII.

- a. **Minimum Lot size - six thousand (6,000) square feet except as follows:**
 1. **Townhouse sub-lots shall have an aggregate density of no more than ten lots per acre.**

The proposed lot size is 2.41 acres. The project is not a townhouse subdivision, creating sub-lots.

- b. **Maximum Multi-Family Residential Density - One (1) dwelling unit for each one-tenth (1/10) of an acre.**

become hazardous to any street, alley or other public right-of-way or public utility, or because the removal of a tree would substantially improve the health of other trees on the property. Pruning of trees and planting of riparian trees, shrubs and ground cover within the Riparian Setback are allowed, provided however, that all plantings conform to the criteria for evaluation in Section 4.10.7.2(k) of this Ordinance. Where the application of the one hundred foot (100') Riparian Setback and other applicable setbacks will result in a building site of one thousand (1000) square feet or less, the Riparian Setback may be reduced to such an extent that the building site is one thousand (1000) square feet; provided however, the Riparian Setback shall not be less than fifty feet (50').

Not applicable, this subdivision is not within the vicinity of the Big Wood River or other riparian setback.

SECTION 4 – DEVELOPMENT STANDARDS

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 or Hearing Examiner. 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 or Hearing Examiner. 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 or Hearing Examiner, and shall be in accordance with established City standards and sidewalk master plan, if available.

The subject property is adjacent to Winterhaven Drive, Woodside Boulevard, and Shenandoah Drive. All three of these streets are public right-of-ways. The applicant does not own property and is not developing property on adjacent parcels, across the mentioned public streets. Installing sidewalks on both sides of the public street is only required when the applicant is developing a larger area that encompasses properties on both sides of the street. Therefore, it is a condition of approval that the applicant install 6 foot-wide sidewalks, to City Standards, adjacent to each of the three public streets listed above, but on one side only (the side of the public street the applicant's property resides on).

submitted a revised preliminary plat showing the snow storage dimension in an amount of 6,340 square feet.

4.4 Blocks, 4.5 Lots, 4.6 Orderly Development, 4.7 Perimeter Walls, Gates and Berms, 4.8 Cuts, Fills, Grading and Drainage, 4.9 Overlay Districts

These sections are not applicable to condominium subdivisions of existing structures.

4.10 Parks, Pathways and Other Green Spaces.

Pursuant to Section 7.6, Section 4.10 does not apply to existing units being converted to condominium units.

4.11 Inclusionary Community Housing.

These standards apply to subdivisions resulting in five (5) or more lots or units, which are not existing structures being converted to condominiums. This application proposes 24 units; however, the units are existing apartments, proposed for conversion into condominiums; therefore, no Community Housing is required.

SECTION 7 - CONDOMINIUMS.

The purpose of this section is to set forth special provisions for property created or converted pursuant to the Condominium Property Act, Idaho Code §§55-1501 *et seq.*, as amended.

7.1 Plat Procedure. The Developer of a condominium project shall submit with the preliminary plat application as required by this Ordinance a copy of the proposed by-laws and condominium declarations of the proposed condominium development. The documents shall adequately provide for the control (including billing where applicable) and maintenance of all common utilities, common area, recreational facilities, and Green Space. The Developer may submit a final plat application following inspection and approval by the Building Inspector of the footings and setbacks of the condominium building. Prior to final plat approval, the Developer shall submit to the City a copy of the final by-laws and condominium declarations to be recorded with the County Recorder, including the instruments number(s) under which each document was recorded.

Draft CC&Rs have been submitted and address the billing and payment of utilities. The City has not and will not in the future determine the enforceability or validity of the Declaration of Covenants, Conditions, and Restrictions or other private agreements.

7.2 Garages. All garages shall be designated on the preliminary and final plats and on all deeds as part of the particular condominium units. Detached garages may be platted on separate sub-lots, provided that the ownership of detached garages is appurtenant to specific condominium units on the condominium plat and that the detached garage(s) may not be sold and/or owned separate from any dwelling unit(s) within the condominium project.

There are no garages shown on the plat.

- a. **Single family residences: 2 per residence minimum, 6 per residence maximum. The City will allow the use of 100' right-of-ways within the Hailey Original Townsite for licensed passenger vehicle parking for single family dwellings. Parking for accessory dwelling units must be provided on site.**
- b. **All residences less than 1,000 square feet, including accessory dwelling units: a minimum of 1 space per unit.**
- c. **Multiple family dwellings: A minimum of 1.5 spaces per unit.**

24 units are proposed. $24 \times 1.5 = 36$ parking spaces are required. 39 parking spaces are provided as follows:

Building # 1 = 15 spaces

Building # 2 and # 3 = 24 spaces

7.4 Construction Standards. All condominium project construction shall be in accordance with the IBC, IRC and IFC.

The structures are existing. Any improvements or changes shall be in accordance with this standard. The applicant has stated that she does not anticipate any future construction, only landscape changes.

7.5 General Applicability. All other provisions of this Ordinance and all applicable ordinances, rules and regulations of the City and all other governmental entities having jurisdiction shall be complied with by Condominium developments.

Upon meeting proposed conditions of approval, the proposed application does not appear to conflict with other provisions.

7.6 Conversion. The conversion by subdivision of existing units into Condominiums shall not be subject to Section 4.10 of this Ordinance.

This application is a conversion by subdivision of existing units; therefore, it is not subject to Section 4.10.

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 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 Preliminary Plat, dated February 11, 2009 and the revised preliminary plat dated March 30, 2009, is approved by the Hailey Hearing Examiner, with the following conditions:
 - a) The final plat shall include plat notes 1 through 3 as stated on the approved preliminary plat with the following amendments and additions:

Findings approved this 8 day of April, 2009.

Jay Webb
Jay Webb, Hailey Hearing Examiner

Attest:

Becky Mead
Becky Mead, Deputy Clerk

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 13th 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	Mogli Cooper
<input type="checkbox"/>	Via Facsimile	PO Box 310
<input type="checkbox"/>	Hand Delivered	Hotchkiss, CO 81419
<input checked="" type="checkbox"/>	Via Electronic Mail	moglic@mac.com

CITY OF HAILEY

By Becky Mead
Becky Mead, Deputy Clerk