

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION

On May 4, 2009 the Hailey Hearing Examiner considered an application submitted by Larsen and Sons LLC, for Design Review approval for an addition to the Valley Maintenance building, located at 1041 Mountain Drive within the Light Industrial (LI) zoning 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 was published in the Idaho Mountain Express and mailed to property owners within 300 feet on April 15, 2009.

Application

Larsen and Sons LLC, represented by Jay Cone, submitted a Design Review application for an addition to the Valley Maintenance building, located at 1041 Mountain Drive. The applicant proposes adding 680 square feet of new construction, to enclose a portion of the current structure that is open on two sides, to be used as storage and warehouse and an addition to the mezzanine, adding 340 square feet, to be used as offices. Warehouse and storage facilities are permitted uses in the Light Industrial (LI) district.

Standards of Evaluation

Articles IV and VIA of the Hailey Zoning Ordinance establish the criteria for applications for Zoning and Design Review. For each applicable standard (in bold print), the Hearing Examiner makes the following Findings of Fact:

4.8 Light Industrial District

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

a. Minimum Lot Size - six thousand (6,000) square feet.

Lot size is 6,008 square feet.

b. Minimum Lot Width - sixty (60) feet.

Lot width is 52.78. Lot 6 is non-conforming; the plat was approved in 1973, prior to the adoption of the Ordinance requiring a minimum lot width of sixty (60) feet.

c. Maximum Lot Coverage - not more than seventy five percent (75%) of the lot shall be covered by buildings.

Lot coverage is 67%.

d. Maximum Height of Buildings or Structures - thirty five (35) feet.

Proposed height is 20 feet and 6 inches from grade.

Height of Building is defined as: The greatest vertical distance measured from the lowest point of record grade within any portion of the building footprint to the highest point of the roof surface thereof, exclusive of cupolas, chimneys up to ten (10) feet above the highest point of the roof surface, steeples, and spires.

The applicant is hereby advised that height of building is from record (natural) grade, not from finished grade or finished floor.

e. **Minimum Front Yard Setback - ten (10) feet.**

Twenty (20) feet from the front lot line.

f. **Minimum Side and Rear Yard Setback - ten (10) feet except where the subject property is located adjacent to the following districts; RGB, GR, LR, or TN in which case the side and rear yard setback shall be twenty five (25) feet.**

Proposed setbacks are one (1) foot from both side lot lines and the rear. The lot and building are non-conforming. See discussion related to Article 13, Non-Conforming Uses and Buildings, below.

g. **Maximum Floor Area - Buildings or structures containing an Individual Retail/Wholesale Trade or a Grouped Retail/Wholesale Trade shall be limited to an aggregate gross floor area of 25,000 square feet.**

No retail is proposed.

4.8.6 Additional Regulations.

a. **No land or building in the LI District shall be used or occupied in any manner creating dangerous, injurious, noxious, or any other objectionable conditions which could adversely affect the surrounding areas or adjoining premises. Appropriate measures shall be taken to reduce dangerous and objectionable conditions to acceptable limits as established by the following requirements:**

1. **Fire Hazards - Any activity involving the use or storage of flammable or explosive materials shall be protected by adequate fire fighting and fire prevention equipment and by such safety devices as are normally used in the handling of any such material. Such hazards shall be kept removed from adjacent activities to a distance which is compatible with the potential danger involved as specified in the IFC.**
2. **Radioactivity or Electrical Disturbances - No activity shall emit harmful radioactivity or electrical disturbances.**
3. **Noise - Objectionable noise as determined by the Commission which is due to volume or frequency, shall be muffled or otherwise controlled. Air raid sirens and related apparatus**

- used solely for public purposes are exempt from this requirement.**
- 4. Vibration - Vibration which can be detected without instruments on any adjoining lot or property shall be prohibited.**
 - 5. Air and Water Pollution - Air and water pollution shall be subject to the requirements and regulations established by the State of Idaho.**
 - 6. Glare - No direct or reflected glare shall be permitted which is visible from any property outside the LI District or from any street.**
 - 7. Erosion - No erosion by man, wind, or water shall be permitted which will carry objectionable substances onto neighboring properties.**

The building is currently used primarily as a warehouse and storage facility for a maintenance company. In the past, the use has not created hazardous or objectionable conditions. It is not anticipated that the use will change with the proposed addition.

- b. All materials, with the exception of trees and plant materials stored on the premises, and all machinery and vehicles other than those for sale or display, or parked temporarily shall be stored within a building or within a wall or fence not less than five (5) nor more than six (6) feet in height. Subject to approval of the Administrator earth berms and landscaping with sufficient height and density may be substituted for a wall or fence.**

Five (5) parking spaces are proposed on-site, and outside of the building. It is not anticipated that these vehicles will be stored in the parking area. At this time, no materials are proposed for storage outside of the building. It is a condition of approval that all materials, excluding the exceptions listed in this standard, be located within the building or within a wall or fence.

- c. Landscaping shall be provided and maintained on all lots.**

Currently, there is no landscaping on the property. The existing building's size and configuration on the lot limits the amount of space available for landscaping. Planter boxes located outside each of the four (4) windows on the building's primary façade are proposed to meet the landscaping requirement. The Hearing Examiner determined that requiring additional landscaping, beyond the proposed planters, was not appropriate given the small scope of the project.

- d. Landscape screening shall be provided and maintained in the required yards adjacent to the RGB, GR, LR, and TN zoning districts to protect these areas from undue intrusion of noise, light, odors and other influences. Such landscaping shall, at a minimum, consist of:**
 - 1. A hedge, berm, solid wall or solid fence not less than five (5) nor more than six (6) feet in height ; and**

2. **One (1) row of evergreen trees placed no further apart than twenty (20) feet; and,**
3. **Lawn, low growing evergreen shrub, evergreen or ground cover on the balance of the yard.**

This standard does not apply; the subject property is not located adjacent to RGB, GR, LR, or TN zoning districts.

13.2 Non-Conforming Lots of Record.

13.2.2 In all zoning districts, a building on an undersized lot of record at the effective date of adoption of this Ordinance shall not be considered a non-conforming building provided the building meets all other bulk and setback requirements in that district.

The building is on a non-conforming lot of record at the effective date of adoption of this Ordinance. According to this standard, the building should not be considered non-conforming if it meets the setback requirements for the LI district, which it does not. Therefore, the building shall be considered non-conforming.

13.6 Expansion of Non-Conforming Buildings.

A non-conforming building may not be enlarged, extended, reconstructed, moved, or structurally altered so as to increase the degree of non-conformity. A non-conforming building may be enlarged so long as the enlargement does not create new non-conformities with respect to such matters as setbacks and parking requirements. Minor repair, as defined in Section 13.8 of this Ordinance, of non-conforming buildings is allowed.

The existing building received a building permit for new construction on April 19, 1995. The building is now non-conforming with respect to setbacks at the rear and sides of the lot. At the time the building permit was issued setback requirements were zero (0) feet at the side and rear in the LI district. The proposed addition continues the non-conformity at the west –side of the Lot 6, but it does not increase the degree of non-conformity nor create a new non-conformity, with respect to setbacks. According to this standard, the proposed addition is allowable.

6A.7.1 Improvements Required.

6A.7.1.1 Sidewalk, Curb, and Gutter.

Sidewalks, curb and gutter shall be required improvements for projects requiring Design Review approval in the B, LB, TI, A and SCI zoning districts. At a minimum, sidewalks and curb and gutter, where required, shall comply with the City Standards. Sidewalks shall be at least six feet (6') wide or as wide as adjacent sidewalks on the same block, whichever is greater. Sidewalks shall be constructed along the entire length of a property adjacent to any public or private street in all zones, as well as in locations that provide safe pedestrian access to and around a building. New sidewalks shall be planned to provide pedestrian connections to any existing sidewalks adjacent to the site. Sites located adjacent to public or private streets that

are not currently thru-streets, regardless whether the street may provide a connection to future streets, shall provide sidewalks to facilitate future pedestrian connections. Sidewalks and drainage improvements shall also be required in other districts, except as otherwise provided herein. The requirement for sidewalk may be waived if the cost of the proposed project construction is less than twenty thousand dollars (\$20,000). For Single Family Dwelling and Duplex projects in the Townsite Overlay District, the requirement for sidewalk shall be waived for any remodel or addition; sidewalks shall be required for new primary dwellings.

The City may approve and accept voluntary cash contributions in-lieu of the above described improvements, 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 a minimum of 110% 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 issues a certificate of occupancy. In-lieu contributions for sidewalks shall not be accepted in B, LB, TI and SCI districts.

Sidewalks and curb and gutter are not required in the LI zoning district; however sidewalks and drainage improvements are required. The intent of the standard is to provide safe pedestrian access to and around a building and provide pedestrian connections to adjacent properties. Sidewalks are interpreted to mean a continuous unobstructed path that provides the means for persons traveling by foot to safely reach a destination. The applicant proposes to stripe a 6 foot-wide area adjacent to the subject property, within the right-of-way, to provide pedestrian access to the building.

6A.7.1.2 Water Line Improvements.

In the Townsite Overlay District, any proposal for new construction or addition of a garage accessing from the alley, 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 proposed project is not within the Townsite Overlay District.

6A.8 Area Development Plan. When the owner of Contiguous Parcels is required to obtain Design Review approval for any portion of the Contiguous Parcels, an Area Development Plan shall be submitted and approved. The Commission shall evaluate the following basic site criteria and make appropriate findings of fact:

- b. Streets, whether public or private, provide an interconnected system and shall be adequate to accommodate anticipated vehicular and pedestrian traffic.

All streets and pedestrian pathways currently exist. No circulation routes will be altered, excluding the addition of a pedestrian pathway proposed from the accessible parking space to the building and a 6 foot-wide striped pedestrian access area, located in the right-of-way adjacent to the property.

- c. **Non-vehicular circulation routes provide safe pedestrian and bicycle ways and provide an interconnected system to streets, parks and green space, public lands, or other destinations.**

There are currently no circulation routes dedicated to non-vehicular transportation, within the entire subdivision.

- d. **Water main lines and sewer main lines are designed in the most effective layout feasible.**

The infrastructure has already been established in this area and is connected to the existing building.

- e. **Other utilities including power, telephone, cable, and gas are designed in the most effective layout feasible.**

The infrastructure has already been established in this area and is connected to the existing building.

- f. **Park land is most appropriately located on the Contiguous Parcels.**

There are no existing park lands and none are proposed.

- g. **Grading and drainage are appropriate to the Contiguous Parcels.**

Existing grading and draining will not be altered.

- h. **Development avoids easements and hazardous or sensitive natural resource areas.**

There is a ten (10) foot wide public utility and drainage easement located along the rear of the subject property and a ten (10) foot wide snow easement located along the from the subject property (adjacent to Mountain Drive). Within the 10 foot-wide snow storage easement there is a 5 foot-wide power easement.

Upon any approval of the Design Review application, the Owner shall be required as a condition of approval to record the Area Development Plan or a development agreement depicting and/or detailing the approved Area Development Plan with a statement that the Area Development Plan shall bind the Owner and Owner's successors.

This standard is meant to apply to properties which have undergone little to no development. It is not applicable to the subject property because Lots 6 and 7 have already been developed.

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.

9.2.8 Access. Except as otherwise provided herein, any parking area on private property, shall be designed in such a manner that any vehicle leaving or entering the parking area from or onto a public street shall be traveling in a forward motion. Access driveways for all parking areas or loading spaces shall

be located in such a way that any vehicle entering or leaving such area shall be clearly visible by a pedestrian or motorist approaching the access or driveway from a public or private street. Access for subdivisions shall be provided in accordance with standards set forth in Section 4 of the Subdivision Ordinance.

The proposed sidewalk is directly adjacent to the back of the five (5) proposed parking spaces, requiring all vehicles entering and exiting the parking area to cross the sidewalk.

- a. **Parking areas containing no more than two (2) parking spaces and parking areas within the LR, GR, TN, TI and LI Districts may be designed to allow a vehicle to back from the parking area into the public right-of-way.**

Five (5) on-site parking spaces require vehicles to exit in a backwards motion onto Mountain Drive, which is a public right-of-way. This is an existing non-conforming site configuration typical in the LI district. The degree of non-conformity is not being increased and is therefore permissible.

- b. **Parking areas for residential uses only may be designed to allow required parking spaces for one vehicle to deny access to another vehicle, thus “stacking” the parking area. For non-residential uses, stacked parking may be allowed only for additional spaces that may be provided in excess of the required number of parking spaces.**

No “stacking” of the parking area is proposed.

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:

- i. **Offices: 1 space for every 500 square feet of gross building area.**
500 square feet of office is proposed, requiring 1 parking space.

9.4.5 Industrial.

- e. **All other industrial uses: One space for every 1000 square feet.**
3720 square feet of industrial space is proposed, requiring 4 spaces.

Five (5) parking spaces are required; five (5) are proposed.

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.**

Two different types of fixtures are proposed; a wall mounted fixture and a ceiling mounted recessed can. The wall fixture will be mounted at eight (8) feet above grade, which allows for 600 to 1,600 lumens. The fixture allows for a maximum 120 watt incandescent bulb, which produces 1,500 lumens. The proposed wall fixture is downcast and fully shielded. The proposed ceiling mounted recessed will be mounted at sixteen feet and six inches above grade (16'-6"), which allows for 2,400-6,000 lumens. The proposed ceiling fixtures will be downcast and fully shielded and would use a 150 watt incandescent bulb, rated at 2,000 lumens. Both luminaries, as proposed, meet these standards.

6A.7.2.2. DESIGN REVIEW GUIDELINES FOR NON-RESIDENTIAL USES IN LIGHT INDUSTRIAL (LI), SERVICE COMMERCIAL INDUSTRIAL (SCI), TECHNOLOGICAL INDUSTRY (TI), AIRPORT (A)

A. Site Planning.

1. **Site planning shall include consideration of adjoining parcels in terms of building configuration, vehicular circulation and parking, drainage and access. Reciprocal ingress and egress, circulation, and parking arrangements shall be encouraged to facilitate the ease of vehicular movement between adjoining properties. Access points to adjoining lots shall be shared wherever feasible.**

When planning new construction, consider how the new building will be situated in relation to adjacent properties. Encourage the use of common or shared streets and circulation patterns. Delivery trucks should be able to operate without blocking pedestrian rights-of-way. Consideration with respect to building site and proximity to streets and alleys should be given when buildings are constructed to insure that life/safety issues do not become problematic.

The site is accessed by Mountain Drive. The existing building, as well as the existing buildings, adjacent to the subject property, is developed. Circulation and parking are already established.

2. Conflicts between different circulation needs and uses should be minimized.

Circulation patterns between customers/pedestrians and service/delivery vehicles should be conflict free. Delivery trucks should not interfere with public rights-of-way or obstruct required parking spaces. Where alleys are provided, they should be utilized for loading, deliveries, trash pick-up, etc. Pedestrians should be able to have safe access to the site without being forced to walk within any traffic lane. When developing more than one building on a site, it is important to provide pedestrian paths through the site.

A covered walkway located on the western portion of the building's front provides access to the building from parking space number 4 and those exiting the driver's side of the vehicle in parking space number 3. All other parking spaces would require drivers and passengers to exit the vehicle and walk into the right-of-way, which is proposed as a sidewalk and enter the building via the ADA accessible aisle. The parking space numbers 1, 2, and 3 consume all available space between the right-of-way and the building. Therefore, due to existing lot constraints, no additional walkways could be incorporated into the design, without reducing the number of on-site parking spaces.

3. Snow storage areas not less than 25% of the improved parking and circulation areas shall be sited in a manner that is accessible and usable. In no case shall a designated snow storage area have any dimension less than 10 feet. Snow storage shall not encumber required parking spaces or encroach into sidewalk or pedestrian pathways.

Snow storage areas for required parking areas, driveways and sidewalks shall be provided on-site. These areas should be situated so that they are accessible to all types of snow removal vehicles, of a size that can accommodate moderate areas of snow, and located in areas that will not hinder access to trash collection areas, utility meters, etc. These sites are encouraged to be landscaped with vegetation that is salt-tolerant and resilient to heavy snow.

No snow storage is provided. The applicant proposes to haul all snow off-site.

4. The visual impact of off-street parking and loading areas, service areas, and auxiliary structures shall be minimized. Off street parking areas should be screened from public streets to the extent possible.

Utility meters and service functions should not be visible on primary facades of the building. Parking areas, trash storage and service areas should be screened with landscaping, fencing or by the primary building.

The applicant proposes five (5) on-site parking spaces, which are not screened from Mountain Drive (a public street). There is limited opportunity for screening the parking area because the parking spaces consume all available area between the building's primary façade and Mountain Drive and the building's footprint occupies almost all of the remaining area of the lot.

B. Building Design.

- 1. Visual relief shall be provided for linear buildings. For elevations oriented to the street, design features such as windows, pedestrian entrances, building off-sets, projections, detailing, and change in materials or similar features shall be used to create human scale and break up and articulate large building surfaces and volumes.**

All elevations of any building should have human scale. Linear elevations should incorporate design features that create interest and avoid boxy, bland appearance. Extensive repetition of similar forms on large monolithic surfaces that would lead to the perception of a large building mass is inappropriate. Consider varying the setbacks of walls facing the street on large projects that occupy several parcels.

The proposed addition will enhance the appearance of the existing building by providing additional windows and detail in areas that are currently bland and boxy in appearance.

- 2. The proportion, size, and shape of new buildings shall be compatible with existing structures in the same area. Rooflines should be designed in a manner that is compatible with surrounding structures.**

When planning new construction, consider the adjoining properties to avoid repeating design elements such as colors, window shapes and building materials. Consider the relationship of the new construction with other structures in the area. Creative architectural elements are encouraged providing they are compatible with existing structures. Roof lines that project the image of “false western” storefronts are not appropriate in Hailey.

The proposed project is not a “new building.” The proposed addition and existing structure are compatible with surrounding structures, which all have an industrial appearance. The project and surrounding structures’ rooflines are primarily flat, with little architectural detail. The area does incorporate variation in building color and materials. The addition proposes no change in the rooflines and the proposed building materials would be consistent with the existing structure.

- 3. Any addition onto or renovation of an existing building shall be appropriately designed to create a cohesive whole.**

The aluminum siding used on the addition would match the siding used on the existing portions of the building. The clad wood windows and door proposed match the existing. The trim will also match the existing.

- 4. All buildings are encouraged to minimize energy consumption, utilize alternative energy sources, and consider passive solar techniques.**

The use of the following techniques can lead to energy cost savings and provide a more comfortable and healthy workplace:

- a. Solar access*
- b. South facing windows with eave coverage*
- c. Double glazed windows*
- d. Deciduous shade trees*
- e. Earth berming against exterior walls*
- f. Good ventilation*

- g. *Efficient lighting*
- h. *Day lighting*

New windows would be added to the second floor of the south elevation, which would increase solar access. However, no eave coverage is proposed.

5. Exterior buildings colors should be integrated appropriately into the architecture of the building, and should be harmonious within the project and with surrounding buildings.

When selecting colors, consider the natural and built surroundings. Colors should be integrated appropriately into the architecture of the building, and should be harmonious within the project and with surrounding buildings.

The light tan color of the existing building will be continued on the addition. The neutral color is considered compatible with the natural and built surroundings.

6. Entries and pedestrian areas should include consideration with respect to snow shedding and drip lines.

Building entries should provide protection from adverse weather conditions. Entrances into buildings should be designed with the pedestrian in mind in order to prevent snow from falling directly onto adjacent sidewalks. Entries, walkways, decks or landscaping should not be located where they will be damaged by falling snow. Consideration should be given whether the roofing material and pitch will hold or release snow. Gabled coverings, appropriate roof pitch, or snow clips and/or gutters and downspouts should be provided over all walkways and entries. Downspouts and drains should be located within landscape areas or other appropriate locations where freezing will not create pedestrian hazards.

The existing roof utilizes internal drains and has no drip lines. No changes to the roof are proposed.

7. Signage areas shall be appropriate to the building's scale and design.

A basic plan for signage, especially for multi-tenanted buildings, should be considered to ensure compatible and uniform signs. A uniform color scheme for all signs in multi-tenanted buildings should be considered.

Currently, the property has a sign permit for its signage. If a change in sign type, location, size, or design occurs, or additional signage is desired, the applicant will need to apply for a sign permit with the City, prior to making any sign changes or displaying additional signage.

C. Accessory Structures, Fences, and Equipment/Utilities.

1. Accessory structures such as storage buildings and dumpster enclosures should generally not be located in front of or on the street side of the main building.

Accessory structures should be located at the rear of the property and not visible from the street. They should be designed to be compatible with the primary building(s).

Trash receptacles are proposed to be located inside the building. There are no accessory structures proposed. It is a condition of approval that the trash receptacle(s) is stored inside the building at all times and only taken outside when the trash is scheduled for pick-up.

2. Fences shall be constructed of materials compatible with the site. The use of chain link is prohibited.

Walls and fencing may be required elements in a site design for privacy, property line delineations, or screening. Fencing should not dominate the buildings or the landscape. Planting may often be integrated with a fencing scheme in order to soften the visual impact. A variety of fencing materials compatible with the site and surrounding properties are encouraged but in no case will chain link be permitted. Where topography varies, the tops of fences should generally be maintained horizontal, as opposed to angling up or down a slope.

No fences are proposed.

3. All roof projections including, but not limited to air conditioning units, all mechanical equipment and solar panels shall be shielded and architecturally screened from view from on-site parking areas, adjacent public streets and adjacent properties.

The use of alternative energy sources is encouraged, however, the hardware associated with these features should be incorporated as an integral part of the building's design rather than as an add-on which detracts from the building and its surroundings. Special consideration should be given to communications facilities to insure that the number and design of them not conflict with each other.

All mechanical equipment is located within the building.

4. All ground-mounted mechanical equipment, including heating and air conditioning units and trash receptacle areas shall be adequately screened from surrounding properties by the use of a wall, fence, or landscaping, or shall be enclosed within a building.

These types of structures, to the greatest extent possible, should be enclosed within a building. If necessary, when located outside, they should be primarily screened from public streets and adjacent properties.

All mechanical equipment is located within the building.

5. Utilities, cables, phone lines and electrical lines must be considered in site design.

Location of above ground utility boxes shall be shown on site plans and should not interfere with other uses such as snow storage, parking and trash collection. All service lines into the subject property shall be installed underground. In no instance should additional appurtenances be located on existing utility poles.

No new service connections are proposed. The addition will utilize the existing connections.

D. Landscaping.

- 1. At least 50% of the landscaped area shall utilize drought tolerant and/or xeriscape specific plant materials. Drought tolerance and hardiness shall be considered when selecting plant species.**

Drought tolerant plant species shall be used wherever possible to reduce water consumption. High water demand plant materials shall be kept to a minimum. Elements for the xeriscape plan should include but are not limited to: plant materials proposed to be used, timeline for establishment of the plantings, maintenance of the planting beds and the type of irrigation proposed. All species shall be hardy to the Zone 4 environment.

Planter boxes are proposed under each of the four (4) windows, with either annual or perennials plantings. No other landscaping is proposed.

- 2. The urban environment should be considered in planning landscaped areas. A combination trees, shrubs vines, ground covers and ornamental grasses should be selected that enhance and soften the hardscape. Landscape plans having more than 10 trees, a minimum of 10% of the trees shall be at least 4-inch caliper, 20% shall be at least 3-inch caliper, and 20% shall be at least 2½ inch caliper. A maximum of 20% of any single species may be used in any landscape plan having more than 10 trees (excluding street trees).**

A landscape plan should provide or create a pleasing site or landscape character for an area. A harmony and balance of all the various elements of a landscape must be retained or developed. Landscaped areas should be planned as an integral part of the site and not simply located in leftover space on site. New planting areas must be designed to accommodate typical trees at maturity.

Planter boxes below the four (4) windows on the south elevation are proposed as landscaping. Regardless of the proposed addition, the existing site offers little room for landscaping. The Hearing Examiner determined that more substantial plantings are not necessary, given the industrial-urban environment of the area and the limited space available on-site to accommodate additional landscaping.

- 3. All landscaped areas shall be watered by an automatic irrigation system and regularly maintained in healthy and thriving condition free of weeds, trash, and debris.**

Irrigation systems are required for all landscaped areas. They are encouraged to include features that will minimize water use, such as moisture sensors. Wherever possible, overhead spraying systems should be avoided to prevent water loss through evaporation. In particular, island areas and sidewalk borders are susceptible to overspray and water waste.

The planter boxes would utilize a drip irrigation system on a timer.

Storm water runoff shall be retained on the site wherever possible and used to irrigate plant materials. Even native, drought tolerant plant materials need water to become established. Projects which use all native, drought tolerant plant materials must provide, at a minimum, a temporary irrigation system which must

fully operate for at least two complete growing seasons. All native plant materials are not drought tolerant and those that are not will require irrigation on a permanent basis.

The existing building has an internal roof drain, making it difficult to retain storm water runoff for irrigation purposes.

A plan for maintenance of the landscaping areas should be in place to ensure that the project appears in a well maintained condition (i.e., all weeds and trash removed, dead plant materials removed and replaced).

There is a note on the south elevation that states all flower boxes are to be professionally maintained.

4. Retaining walls must be designed to minimize their impact on the site.

Retaining walls, where visible to the public and/or to residents or employees of the project, should be no higher than four feet or terraced with a three foot horizontal separation of walls. They should be constructed of materials that are utilized elsewhere on the site, or of natural or decorative materials, rather than solid or flat surface. Landscaping should be provided within or in front of extensive retaining walls. Retaining walls should add rather than detract to the appearance of the site. Retaining walls over 24" high may require railings or planting buffers for safety. Low retaining walls may be used for seating if capped with a surface of at least 12 to 16 inches wide.

Not applicable.

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 Zoning Ordinance No. 532, Section 6A.5, was given.
2. The project is in general conformance with the Hailey Comprehensive Plan.
3. The project does not jeopardize the health, safety, or welfare of the public.
4. Upon compliance with the conditions set forth, the project conforms to the applicable specifications outlined in the Design Review Guidelines, as set forth herein, applicable requirements of the Zoning Ordinance and City Standards.
5. This Design Review approval is for plans dated March 13, 2009
6. This Design Review approval shall expire one (1) year from the approval of these Findings of Fact, unless a building permit application has been submitted to the Building Department.
7. The project shall receive Design Review approval subject to the following conditions:
 - a) All Fire Department and Building Department requirements shall be met.
 - b) Any change in use or occupancy type from the approval at the time of issuance of a Building Permit may require additional improvements and/or approvals.

Additional parking may also be required upon subsequent change in use, in conformance with Hailey's Zoning Ordinance at the time of the new use.

- c) All City infrastructure requirements shall be met. 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.
- d) All exterior lighting shall comply with the Outdoor Lighting Ordinance. Any existing lighting on the subject property shall also be brought into compliance prior to issuance of certificate of occupancy.
- e) The project shall be constructed in accordance with the application or as modified by these Findings of Fact, Conclusions of Law and Decision.
- f) All stored materials, excluding the exceptions listed in Section 4.8.6, (b), shall be located within the building or within a wall or fence.
- g) Except as otherwise provided, all the required improvements shall be constructed and completed, or sufficient security provided as approved by the City Attorney, before a Certificate of Occupancy can be issued.
- h) The Planning & Zoning Administrator has the authority to approve minor modifications to this project prior to, and for the duration of a valid Building Permit.
- i) This project is subject to Development Impact Fees pursuant to Municipal Code Chapter 15.16. Check with Building Department staff for estimated fee amount.
- j) The trash receptacle(s) shall be stored inside the building at all times, with the exception of when the trash is scheduled for pick-up.

Signed this 8 day of May, 2009.


Kristin Anderson, Hearing Examiner

Attest:


Becky Mead, Deputy Clerk

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 8th day of May, 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

JCONE@JAYCONEARCHITETURE.COM

CITY OF HAILEY

By Becky Mead
Becky Mead, Deputy Clerk