

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

On January 4, 2010, the Hailey Planning and Zoning Commission considered city initiated amendment to the Hailey Zoning Map. The proposed amendment would change the zoning of Blocks 128 and 133, Hailey Townsite (706 S Main St) from Limited Business (LB) within the Townsite Overlay (TO) to Business (B) within the Townsite Overlay (TO). The Commission 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 Recommendation.

### **FINDINGS OF FACT**

#### **Notice**

Notice for the public hearing on January 4, 2010 was published in the Idaho Mountain Express on December 16, 2009; the notice was mailed to property owners within 300 feet and to public agencies and area media on December 16, 2009; the notice was posted on all external boundaries of the property on December 28, 2009.

#### **Application**

The city has initiated a request for a zone change of Blocks 128 and 133, Hailey Townsite from Limited Business to Business to facilitate the sale of the property for the benefit of the Croy Canyon Foundation senior care and home facility to replace the Blaine Manor facility operated by the County.

#### **Procedural History**

This rezone is being initiated in association with the effort to establish clear property lines for the Blaine County School District owned Hailey Elementary property, City owned Rodeo Ground/Skate Park property and County owned Blaine Manor property. The City Council directed the initiation of the rezone process for the purpose of assisting the future sale of the property to facilitate the construction of a new senior care facility being planned in Croy Canyon.

This rezone request is primarily on the basis of increasing the allowed density and lot coverage and allowing the greatest flexibility for future possible uses.

#### **Analysis and Discussion**

##### **USES**

The subject property is currently the site of the Blaine Manor, a nursing home. A medical clinic was also located on the site until its relocation in November 2009. Uses adjacent to the subject property include:

South: Post Office

North: Office and retail

West: Church

East: School playing fields, rodeo grounds and skate park

The purpose of the current LB District is to provide areas for a wide range of residential uses, restricted business uses, and medical facilities. The LB District is intended to allow for commercial uses that would not detract from the established downtown retail businesses, hence general retail is not allowed.

The purpose of the proposed B District is to provide areas for general business and commercial activities and a limited number of residential uses.

Currently permitted, conditional and accessory uses and bulk regulations in the LB and B Districts are set forth in Section 4.5 and 4.7 of the Hailey Zoning Ordinance.

Comparison of permitted, conditional and accessory uses:

Use	Permitted		Conditional		Accessory	
	LB	B	LB	B	LB	B
Above ground combustible liquid tanks.					X	X
Above ground flammable liquid tanks utilized by a public use.			X	X		
<b>Administrative and support services.</b>		X				
All Day Care Businesses.	X	X				
<b>Arts, entertainment and recreation uses (indoor and outdoor).</b>	X					
<b>Arts, entertainment and recreation uses, except outdoor arenas and amusement parks.</b>		X				
<b>Auto dealerships.</b>				X		
Automotive Repair and Maintenance.			X	X		
<b>Bars</b>		X				
<b>Broadcasting firms, media offices, and related uses.</b>		X				
Catering Services.	X	X				
<b>Churches.</b>	X			X		
<b>Construction contractors' offices with no exterior storage.</b>			X			
<b>Convenience Stores.</b>			X			
Dwelling Units within Mixed Use Buildings	X	X				
<b>Finance and insurance firms.</b>		X	X			
Garages.					X	X
<b>Gasoline Stations.</b>		X	X			
Government offices and public administration, except correctional institutions.	X	X				
<b>Greenhouses/private.</b>					X	
Health care and social assistance.	X	X				
Home Occupations.	X	X				
<b>Hybrid Production Facilities.</b>				X		
<b>Laundromats and dry cleaners.</b>		X				
Lodging Establishments.	X	X				
<b>Manufactured Homes.</b>	X					
<b>Medical and personal care stores.</b>			X			
<b>Mercantile (wholesale and retail).</b>		X				
Multiple-Family Dwellings.	X	X				

Use	Permitted		Conditional		Accessory	
	LB	B	LB	B	LB	B
One Accessory Dwelling Unit on lots of 7,000 square feet or larger					X	X
<b>Outpatient Animal Services.</b>				X		
<b>Parking lots and parking garages not associated with a permitted use.</b>				X		
Parks.	X	X				
<b>Personal Services where retail sales are clearly incidental to the principal use and no outside storage yard or facility is required.</b>	X					
<b>Personal Services.</b>		X				
Professional Offices, excluding veterinarians.	X	X				
Public Service, Public Use and Public Utility Facilities.			X	X		
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 VIIIA of this Ordinance. (Lattice towers are prohibited.)			X	X		
PWSF's or WCF's, attached to street poles, upon the issuance of a Wireless Permit in accordance with the provisions of Article VIIIA of this Ordinance.	X	X				
PWSF's or WCF's, mounted on existing buildings or structures, upon the issuance of a Wireless Permit in accordance with the provisions of Article VIIIA of this Ordinance.					X	X
Real estate and property management companies.	X	X				
<b>Restaurants</b>		X	X			
Schools and other educational services.	X	X				
Semi-Public Uses.	X	X				
<b>Single Family Dwelling.</b>	X					
Storage buildings.					X	X
Temporary Structures.			X	X		
<b>Wholesale distributors.</b>			X			

**BULK REGULATIONS**

When considering this rezone the differences between the bulk regulations of the current and proposed zoning district, with and without the Townsite Overlay are evaluated:

The Townsite Overlay District sets forth bulk regulations and design standards that are layered on top of the regulations of the underlying zoning district. Where the regulations specified in the Townsite Overlay District differ from corresponding regulations specified for the underlying zoning district, the requirements of the Townsite Overlay District apply and control. The Townsite Overlay requirements do not affect the use regulations of the underlying zoning district. In the event that the subject property is removed from the Townsite Overlay boundary the underlying district regulations would apply.

The following are the differences in bulk regulations **without** considering the Townsite Overlay:

<b>Bulk Regulations</b>	<b>LB</b>	<b>B</b>
Minimum Lot Size	6,000 sq ft	No minimum
Maximum multi-family units per acre	20	20
Maximum aggregate gross floor area for individual retail/wholesale trade or grouped retail/wholesale trade	36,000 sq ft	36,000 sq ft or 50,000 sq ft
Maximum Lot Coverage	No maximum	No maximum
Size of Detached Accessory Dwelling Unit	No minimum or maximum	No minimum or maximum

The following are the differences in bulk regulation **with** consideration of the Townsite Overlay:

<b>Bulk Requirements</b>	<b>LB in Townsite Overlay</b>	<b>B in Townsite Overlay</b>
Minimum Lot Size	4,500 sq ft	No minimum
Minimum Lot Width	37.5 ft	No minimum
Maximum Building Height	35 feet	35 ft 40 ft w/ residential unit(s)
Minimum Setbacks	12 ft from street 6 ft from alley 6-10 ft from other private property	No minimum
Maximum Lot Coverage	70%	No maximum

Section 14.8 of the Hailey Zoning Ordinance allows for the rezone of certain parcels to be made conditional upon the owner or developer of the property making a commitment concerning the use or development of the subject parcel.

**Standards of Evaluation**

Section 14.6 of the Hailey Zoning Ordinance establishes the standards for proposed zoning ordinance map amendments. For each applicable standard (in bold print), the Commission makes the following Findings of Fact:

**1. The proposed amendment is in accordance with the Comprehensive Plan;**

- The Comprehensive Plan Land Use Map reflects suitable projected land uses for the City. It considers existing conditions, trends, and desirable future situations, the objective being a balanced mix of land uses for the community. The Map establishes a basis and direction for the expansion and/or location of business, residential, industrial, institutional and green space areas within and adjacent to the City. The Land Use Map depicts the area proposed for rezone as “Business/Commercial Mixed Use – Dynamic Central Business District; residences incorporated within commercial buildings; infill encouraged”.

	<b>COMP PLAN DESIGNATION</b>	<b>ZONING DESIGNATION</b>	<b>LAND USE</b>
<b>Existing</b>	Business/Commercial/Mixed Use	LB	Health Care and social assistance
<b>Proposed</b>	No change	B	unknown
<b>North of site</b>	Business/Commercial/Mixed Use	B	Medical services, office and retail
<b>South of site</b>	Transitional	LR	Vacant
<b>East of site</b>	Business/Commercial/Mixed Use	LB	Skate park and rodeo grounds
<b>West of site</b>	Business/Commercial/Mixed Use	B	Church

- Land Use Districts, Section 5.4 states,
  - “Encourage integration of compatible land uses in order to retain a compact City comprised of a central downtown, with surrounding diverse neighborhoods, thereby reducing sprawl and traffic, increasing efficiency, and creating neighborhood and community character.” and
  - “Enhance the Central Business District as defined in this plan, maintaining it as Hailey’s primary retail center. Consider ordinance amendments that will support a dynamic and vital downtown core. Expand the Business and like districts in accordance with the established Land Use Map.”
- Due Process and Public Input, Section 5.8 states,
  - “Proactively amend the Hailey Zone District map to resolve significant conflicts between the Land Use Map and the Zoning Map.”

Central Business District is defined as, “that area containing all properties lying within the Business and Limited Business districts on or adjacent to Main Street, River Street, and First Avenue and between the intersection of Third Avenue and Main Street and the intersection of McKercher Boulevard and Main Street.”

Each district regulates allowed uses, residential density, lot coverage, building bulk and height. In most cases, a rezone request is on the basis of increasing the allowed density and lot coverage, however the Comprehensive plan focuses on changes of use associated with rezones. A summary of the differences in land uses between the LB and B zoning districts is as follows:

### **Permitted Uses**

#### LB Only

- Outdoor arenas
- Churches (Conditional in B)
- Manufactured Homes.
- Personal Services where retail sales are clearly incidental to the principal use and no outside storage yard or facility is required.
- Single Family Dwelling.

### **Conditional Uses**

#### LB Only

- Construction contractors' offices with no exterior storage.
- Convenience Stores.
- Medical and personal care stores.
- Wholesale distributors.

#### Accessory in LB Only

- Greenhouses/private.

#### B Only

- Administrative and support services.
- Broadcasting firms, media offices, and related uses.
- Finance and insurance firms. (conditional in LB)
- Gasoline Stations. (conditional in LB)
- Laundromats and dry cleaners.
- Mercantile (wholesale and retail).
- Personal Services.
- Restaurants (conditional in LB)
- Bars

#### B Only

- Auto dealerships.
- Hybrid Production Facilities.
- Outpatient Animal Services.
- Parking lots and parking garages not associated with a permitted use.

Based on this analysis the Commission determined the rezone is compatible with the Land Use Map given that the property is shown as a “Business/Commercial Mixed Use” area on the Land Use Map and the nature of uses allowed in the B District compared to the LB District.

**2. Essential public facilities and services are available to support the full range of proposed uses without creating excessive additional requirements at public cost for the public facilities and services;**

Public facilities and services are available to support the full range uses permitted by the B district.

**3. The proposed uses are compatible with the surrounding area; and**

Uses adjacent to the subject property include:

South: Post Office  
North: Office and retail  
West: Church  
East: School playing fields, rodeo grounds and skate park

The similarities and differences in the permitted and conditional uses of the B and LB zoning districts are outlined in the analysis section and under Standard 1. The relative impacts of the uses allowed in each zone and whether there is a difference in the impacts associated with a use permitted in one zone and conditional or prohibited in the other was considered by the Commission. The Commission determined the uses permitted in the Business zoning district are compatible with the surrounding area.

**4. The proposed amendment will promote the public health, safety and general welfare.**

The rezone is intended to facilitate the future sale of the property to facilitate the construction of a new senior care facility being planned in Croy Canyon by the Croy Canyon Ranch Foundation to replace the Blaine Manor facility. The City Council, in initiating this rezone and in previously agreeing to extend service to the project, has deemed the Croy Canyon Ranch Foundation project as a project that would promote the public health, safety and general welfare.

**14.6.1 When evaluating any proposed Zoning Ordinance Map Amendment to rezone property to Business (B) Zoning District, Limited Business (LB) Zoning District or Transitional (T) Zoning District, the Hearing Examiner or Commission and Council shall consider the following:**

- a. Vacancy rates of existing buildings and land within the existing Business (B), Limited Business (LB) or Transitional (T) Zoning Districts. A lower vacancy rate will favor a rezone, while a higher vacancy rate will not favor a rezone.**
- b. The distance of the parcel proposed for rezone from the Central Core Overlay District boundary. A shorter distance from the Central Core Overlay District boundary will favor a rezone, while a longer distance from the Central Core Overlay District boundary will not favor a rezone.**

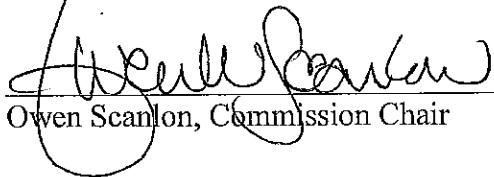
The intent of 14.6.1 was to address rezone requests from residential zones (GR and LR) to commercial zones (B, LB and T) in accordance with an implementation item under Section 5.4 of the Comprehensive Plan (“evaluate actual adjacent uses when considering any rezone from residential to transitional zoning”). This proposed rezone is from one commercial zoning district to another; LB to B on the basis of increasing the allowed density and lot coverage.

## CONCLUSIONS OF LAW AND RECOMMENDATION

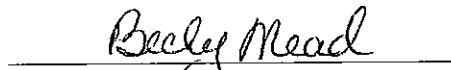
Based upon the above Findings of Fact, the Commission makes the following Conclusions of Law and Recommendation:

1. Adequate notice, pursuant to Section 14.4.1 of the Hailey Zoning Ordinance No. 532 and Idaho Code, Section 67-6511, was provided.
2. The Zoning Map amendment of Blocks 128 and 133, Hailey Townsite from Limited Business to Business is in accordance with the Hailey Comprehensive Plan; essential public facilities and services are available to support the full range of proposed uses without creating excessive additional requirements at public cost for the public facilities and services; the uses permitted in the Business District are compatible with the surrounding area; and the proposed amendment will promote the public health, safety and general welfare.
3. The Zoning Map amendment of Blocks 128 and 133, Hailey Townsite from Limited Business to Business should be granted by the Council.

Signed this 19<sup>th</sup> day of JANUARY, 2010.

  
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Owen Scanlon, Commission Chair

Attest:

  
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Becky Mead, Deputy Clerk