

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

On January 25 and March 22, 2010, the Hailey City Council considered an application by Hartland Development Company, LLC for annexation of Lot 1, Block 1, Stevens Family Ranch, LLC Subdivision (70 Broadford Road), approximately 21.81 acres. The property is now within a Blaine County, zoned Residential - 1 (R-1) and Flood Plain (FP) and is largely undeveloped. The subject property lies generally west of Airport West Subdivision and south of Della View/Broadford Estates Subdivision. 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 on January 25, 2010 was published in the Idaho Mountain Express on January 6, 2010. The notice was mailed to property owners within 300 feet, to public agencies, and to area media, on January 6, 2010. Notice was posted on site on January 15, 2010. On January 25 the public hearing was continued in the record to February 22, 2010, continued on February 22 to March 8, 2010 without any discussion and continued on March 8 to March 22, 2010 without any discussion.

#### **Application**

Hartland Development Company LLC has submitted an application for annexation of 21.81 acres of the Colorado Gulch Preserve located within Lot 1, Block 1, Stevens Family Ranch, LLC Subdivision (70 Broadford Road). The parcel is located west of Airport West Subdivision and south of Della View/Broadford Estates Subdivision.

The property is currently located in the County and is zoned Residential - 1 (R-1), which allows a minimum of 1 acre lots, and Flood Plain (FP). The applicant proposes development of 94 residential units on 21.81 acres (4 units per acre). The units are a mix of single family on lots ranging between 4,159 and 6,370 square feet, lots for larger custom single family homes ranging between 11,429 and 19,445 square feet and 12 triplex unit buildings intended to look like larger homes.

A park, approximately 0.47 acres, is proposed to be developed within the center of the subdivision for the benefit of the homeowners. Trail access to the portion of the property to the west, below the bench and within the floodplain, is conceptually shown on the site plan submitted by the applicant to connect Heagle Park to Colorado Gulch Road. This trail is proposed to replace the existing unauthorized trail running through private property near the river.

The property owner owns an additional 160 acres to the west of the 21.81 acres proposed for annexation. This other portion includes floodplain, wetland, mountain overlay and avalanche areas under County zoning and would remain in the County under the applicant's proposal. The applicant is negotiating a conservation easement on this portion of the property with two home sites to be developed within the County. During the Planning and Zoning Commission public hearing process the applicant did propose a conservation easement on 17 acres between the

bench and the east side of the river. According to the Wood River Land Trust, these 17 acres are already subject to a conservation easement.

Refer to the applicant's project description for additional information on the proposal.

Pursuant to Idaho Code Section 50-222, (3) (a), the subject application represents a Category A annexation, because it involves "residential enclaved lands of less than one hundred (100) privately-owned parcels... which are bounded on all sides by lands within a city and by the boundary of the city's area of city impact." The subject property is within the Area of City Impact. Category "A" annexations do not require the consent of the property owners, however in this instance the property owner has given consent to the applicant.

The subject property is directly adjacent to Della View Subdivision for approximately 12,200 feet to the north. Airport West Subdivision lies across Broadford Road to the east. Two small parcels of property (Tax Lots 3913 and 7505) also lie to the east, and are located outside City Limits. County land lies to the south, and the Bigwood River and Della View Mountain are to the west.

The proposed annexation, if approved, would leave Tax Lots 7196, 3913 and 7505, and Broadford Road as small islands of county land, surrounded on four sides by City Land. The Council has considered whether a city-initiated annexation of those tax lots and Broadford Road is appropriate. No indication of agreement to annexation has been received from the owners of the tax lots.

### **Procedural History**

The application for annexation was received December 6, 2007 and certified complete as of the date of receipt of the draft annexation agreement on January 29, 2008.

The application raises the issue of the potential forced annexation of four (4) parcels currently located in the County between the property to be annexed and Airport West Subdivision and between the property to be annexed and Della View/Broadford Estates Subdivision. The applicant requested a discussion with the Council on the issue of forced annexation prior to proceeding with the application. The Council discussed the issue on May 11, 2009. The minutes from that meeting reflect the following:

- Haemmerle believes that there are cases around the city which are good candidates for forced annexation
- Brown believes that these situations should be considered on a case by case basis and that like Haemmerle, there are times where forced annexation is appropriate.
- Burke is concerned with the potential of a forced annexation where it would potentially create "islands" of city property and where the developer benefits from the annexation and individuals forced to annex into the city receive liabilities (e.g. water hook up fees).

The Planning and Zoning Commission held public hearings on August 3, 2009, September 8, 2009, October 5, 2009, November 2, 2009 and November 16, 2009 and recommended denial of the application. On January 25, 2010 the Council held a public hearing; the applicant presented

the proposal and public comment was heard. The public hearing was continued to February 22 and then to March 8 at the request of the applicant. No discussion or public comment occurred on February 22. On March 8 the Council continued to the application to March 22 in order to review a Comprehensive Plan analysis provided by the applicant's representative.

### **Studies**

Pursuant to Section 14.01.050, Submittal Requirements, "unless the Administrator determines, in the Administrator's sole and absolute discretion, one or more of the following studies are not warranted based on the size, scope and impact of a proposed annexation, the following studies are required to be submitted":

**a) Traffic study showing impact on adjacent streets and streets that would serve the proposed project.**

A traffic study has been submitted and updated to address the City Engineer's comments.

**b) Floodplain study (if applicable).**

The established Flood Plain boundary is shown on the plans; a study was not required at the time of application submittal.

**c) Avalanche study (if applicable).**

The Red and Blue Avalanche zones are depicted on the existing constraints map. The portion of the property requested for annexation is not located within close proximity of these avalanche zones, therefore a avalanche study was determined to not be warranted.

**d) Wetland study (if applicable).**

Determined to not be warranted at time of application submittal. See letter from Steve Fisher dated August 23, 2009.

**e) Wildlife study.**

Determined to not be warranted at time of application submittal. A study was requested by the Commission and was presented by the applicant on October 5, 2009.

**f) A Level I environmental study showing the presence of any hazardous waste.**

Determined to not be warranted at time of application submittal and was not requested by the Commission.

**g) Contour map depicting 15% and 25% slope lines measured at two foot (2') intervals.**

The property is not within the County Mountain Overlay District. Therefore, a contour map was determined to not be warranted at time of application submittal and was not requested by the Commission.

Additional studies were not requested by the Council.

### **General Staff Analysis**

The Comprehensive Plan includes approximately over 100 goals and policies that may be considered applicable to this application. For convenience staff initially categorized them into general topics; Growth and Land Use, Transportation, Recreation, Environment and Natural Resources and summarized the general themes within the Comprehensive Plan policies related to each topic. These common themes are what staff analyzed for the Council's consideration.

#### *Growth and Land Use*

Land Use Efficiency - Efficient land use practices reduce the excessive consumption of land (commonly referred to as sprawl) while accommodating projected growth. Comp Plan Policy 5.4 encourages highest densities at the city center with generally decreasing densities toward the edges of the city. This principle should be applied using land use calculations appropriate for towns and cities, which are not the same as land use calculations appropriate for rural areas of the County. If density increases are applied to a baseline density in the city center and edges that is already lower, or as low, as densities typical for outlying County land, the result would be inefficient land use practices within the city that mimic the land use pattern typically found, and more appropriate in unincorporated parts of the County. This leads to the policy question of whether the existing densities within the city are at the appropriate levels to support population growth projections through infill.

Policy 5.7.1 states; promote the highest housing density within the Community Core (within a ½ mile of the Business District) and discourage sprawling residential development. The wording of Policy 5.7.1 is more consistent with the underlying principles of efficient land use.

Units per Acre and Residential Units per Acre are units used to measure land use efficiency. Units per Acre (U/A) is the number of households (residential lots, sub-lots or units) divided by the underlying acreage, including public right-of-way.

Residential Units per Residential Acre (RU/RA) is the number of households (residential lots, sub-lots or units) divided by the underlying acreage, excluding all land in non-residential use, easements and public right-of-way.

The differences in what is included when calculating each of the above measures can result in confusion when attempting to make comparisons. As the size of the area of land being considered increases, there are typically more non residential uses included in the calculation which results in a lower number of units per acre. The units per acre measure is a more inclusive measure and provides a better overall sense of the relative walkability (uses within ¼ to ½ mile) of a site. However, measuring only the units per acre can make compact or clustered development on a large area of land with a significant amount of open space or commercial uses appear to be an inefficient use of land. Therefore, both units per acre and residential units per acre will be discussed in this analysis.

Hailey Development Trends - The Hailey Townsite was originally platted with a land use efficiency of approximately 5 U/A. Using this historic context, Hailey's "small town character" can be translated into a land use pattern of 4 to 5 units per acre. As the city grew beyond the

Townsite, the units per acre reduced to 2.15<sup>1</sup> U/A. Hailey's current land use efficiency is equivalent to that which is typically associated with sprawling single family developments. If Hailey continues to develop in the same trend as the last 50 years, the city should expect to consume 19 acres per year.

If the City of Hailey determined its overall aim was to maintain land use efficiency of 4 to 5 U/A for the city as a whole, this would be approximately equivalent to 7 to 10 RU/RA and an *average* lot size of 6,000 square feet. It should be noted that the residential units per acre calculation for specific sites would be higher (e.g. Sweetwater at approximately 15 U/A).

Hailey Growth Projections – It is the responsibility of the city to plan for the projected growth in a manner that is consistent with the adopted goals and policies of the Comprehensive Plan. Several facility master plans adopted by the City Council have used growth projections ranging from 4.5% to 6%. The growth projections in the most recent facility plan, the Hailey Wastewater Facility Plan (WFP), uses 4.5% average annual growth and estimates that Hailey may have a population of approximately 19,000 by 2025; an increase of approximately 10,000 people. This is equivalent to 3,906 households assuming an average of 2.56 people per household.

To plan this 4.5% average annual rate of growth *without* expanding the current city boundaries (infill only), the number of units per acre would have to change from 2.15 U/A to 9 U/A. Current zoning would have to adapt to allow for this change in overall land use efficiency. Otherwise the city boundaries would have to be expanded by approximately 1,520 acres if developed at the same land use efficiency trend of 2.15 U/A.

The Colorado Gulch proposal would accommodate approximately 2% of the projected 2025 growth within 22 acres (4.27 U/A). For comparison, the proposed Quigley Canyon development, also being considered by the city for annexation, would accommodate approximately 9% of the projected 2025 growth within 720 acres (0.49 U/A).

#### Transportation and Infrastructure

The distance for “walkability” is generally defined as a quarter to a half mile. The midpoint of the proposed development along Broadford Road is over a mile (approximately 6,200 feet) to the center of downtown (Main and Bullion Street) and over a half-mile (approximately 3,400 feet) to the post office. The nearest bus stop (Main and Maple) is just over three-quarters of a mile (approximately 4,000 feet) from the midpoint of the proposed development along Broadford Road.

The proposed development is within walking distance of Airport West and the airport site which may have more neighborhood commercial uses in the future. Pedestrian and bicycle connections from Broadford Road, through Parcel A of Airport West, to connect to Gulf Stream and Domier Way, should be required to accommodate non-motorized connectivity to existing and future land uses within Airport West and the airport site.

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<sup>1</sup> updated in February 2010 as part of Comprehensive Plan update process using City and County data.

The property has direct access to Broadford Road, however Broadford Road is sub-standard and improvements will be necessary in order to meet City Standards. The applicant has indicated a willingness to pay for these improvements. If the annexation of Broadford Road occurs, the City would be responsible for the maintenance of that portion of Broadford Road located within the city boundary.

City services have been extended east of this area into Airport West Subdivision. Concerns exist regarding irrigation of green spaces within the proposed development and increased water demand on the City system.

#### Environment and Natural Resources

The annexation request does not include the portion of the property below the bench which is sensitive floodplain and wetland area. A portion of the lots proposed at the edge of the bench include floodplain area. It is suggested that the city prohibit any development within the floodplain or restrict development on the portion of the property within the floodplain with a conservation easement should the property be annexed. During the Planning and Zoning Commission public hearing process the applicant did propose a conservation easement on 17 acres between the bench and the east side of the river to maintain that area as open space. According to the Wood River Land Trust, these 17 acres are already subject to a conservation easement.

#### Recreation

In a November 16, 2009 memo to the Planning Department, the Parks & Lands Board reasserted that the goal for any recreational trail is to connect assets to neighborhoods, and in the case of new development, connect the residents of the new development to existing and new recreational assets. The Board had several concerns with the proposal:

1. The property along both sides of the river at the Colorado Gulch bridge that is currently being managed by Wood River Land Trust has no guarantee for continued or future public access. Any recreational value that these properties may present, which are outside of the property considered for annexation and not a part of the application, are contingent on guaranteed public access. Although the WRLT has a proven track record with managing sensitive areas, sometimes that management restricts or prohibits public access. The P&L Board feels that public access to the river is important at Colorado Gulch, and recommends that any conservation easements on these properties include guaranteed public access where appropriate.
2. The current trail that runs from Heagle Park along the river to Colorado Gulch is on private property; the property owner is under no obligation to provide public access. The P&L Board finds that public expectation to continue to trespass is unreasonable; one Board member noted that a Fun Run was scheduled for this past weekend, and the Board felt strongly that an organized event that takes place on private property without that property owner's permission is simply wrong.

3. Angler access along the Big Wood River is guaranteed by state code. The P&L Board discussed that some places should be available to just anglers, and not to everyone and their dogs. The Board supports Idaho Fish & Game in its concerns with general public access to the sensitive areas that run along the river and the potential for wildlife conflicts.

4. The Board was not comfortable with making a recommendation of what properties should or should not be included in the annexation application. However, the Board recommended that the trail connecting Heagle Park to Colorado Gulch Road as depicted in the application would have public benefit, not only to current residents of Hailey, but for the residents of the proposed development, as well. The trail should have two or three connections back into the proposed development in order to increase connectivity. If all trail corridors were designated at thirty-five feet wide and dedicated to the City of Hailey, the applicant could meet the parks dedication requirement of 2.60 acres, regardless of whether those corridors were on property annexed into the city or not (Lions Park is owned and managed by the city, but remains in Blaine County).

5. The Board discussed the maintenance costs of a developed park dedicated to the city of Hailey, as opposed to the maintenance costs of a trail or for restoration and management of several acres restored to its natural state. While weed control can be expensive, it is still less than the cost of weekly mowing and irrigation for a typical neighborhood park. The Board was reluctant to recommend that the city acquire another 2.60 acres of park space that will need to be maintained, especially in view of the proximity of Heagle Park and the public's current enjoyment of undeveloped property along the river. Any trail system will also need to be maintained, and should be constructed in a sustainable manner to minimize future maintenance needs.

#### Planning and Zoning Recommendation

While the Planning and Zoning Commission recommended denial of this annexation application, the following conditions were discussed and agreeable to the applicant should the annexation be considered favorably by the Council:

- a) Any annexation shall be subject to an acceptable annexation agreement which will, at a minimum, address dedication and contributions.
- b) The applicant shall make dedications and contributions, as determined by the City Council, to ensure no negative fiscal impact to the City and its existing residents.
- c) Any development within the floodplain shall be prohibited.
- d) All building lots be located entirely out of the flood plain area and not include the steep slope of the bench.
- e) A Wildland/Urban Interface (W/UI) fire plan as described in the W/UI fire code adopted by the City of Hailey shall be completed. The plan should address the impacts that the upper bench subdivision may have on the lower bench area may include, but is not limited to, the maintenance of as "defendable space" for wild fires and adequate fire apparatus access roads to the lower bench for fire suppression.
- f) The proposed fire hydrant plan shown on the proposed subdivision plan does not meet fire department requirements. It is assumed that these hydrants will be supplied by Hailey's municipal water system. The layout of the fire hydrants will need to be approved by the

Hailey Fire Department prior to installation, however the actual layout is not needed for annexation consideration.

- g) Improvements to Broadford Road to mitigate the impact associated with development are required to be paid for by the developer and shall meet City Standards and Fire Code. An improvement plan shall be presented by the applicant to the City Engineer for recommendation to the Mayor and City Council for final approval.
- h) Pedestrian and bicycle connections from Broadford Road, through Parcel A of Airport West, to connect to Gulf Stream and Domier Way are required to accommodate non-motorized connectivity to existing and future land uses within Airport West and the airport site:
- i) The feasibility of connecting sewer lines from the property to the Airport West lift station or existing Airport West collection system shall be presented to the City Engineer for review and comment. If a lift station is the only feasible solution for proper wastewater management, it shall be to city standards and reviewed by a city hired engineer.

#### **Standards of Evaluation - Council Review**

Pursuant to Section 14.01.090, Council Review, of Hailey Ordinance No. 889, the Council's review shall include:

**A. Conduct and Notice of Council Hearing. Upon receipt of the Commission's findings of fact and conclusions of law, the Council shall schedule a public hearing to review the application for annexation. Notice of the public hearing shall be conducted in the same manner as the notice for a Commission hearing pursuant to Section 14.01.070 of this Chapter. The Council shall have the right to request further information deemed necessary by the Council at any time during the proceedings.**

The Council received the Commission's Finding of Fact on December 28, 2009 and directed staff to notice a public hearing for January 25, 2010.

**B. Fiscal Impact. To assist the Council in the determination whether an annexation will have any negative fiscal impact, the Council may, in its sole and absolute discretion, require the applicant for annexation, at the applicant's sole expense, to submit a fiscal analysis or an updated fiscal analysis by a qualified and independent person or firm acceptable by the Council and in a format acceptable by the Council, to determine the proposed annexation's impact and to recommend the base amount of annexation fees. The Council retains the right to require further monetary or non-monetary contributions for any annexation. The applicant has the right to seek the City's approval of such a fiscal impact study at any point in the annexation process.**

The Council did not request a fiscal impact analysis.

**C. Findings. During the public hearing process of the application for annexation, the Council shall make its own findings of fact and conclusions of law to determine:**

- 1) whether the proposed application will be harmonious and in accordance with specific goals and policies of applicable components of the Hailey Comprehensive Plan, and
- 2) whether the proposed annexation generally complies with the Hailey Comprehensive Plan, and

3) to the extent possible, whether the proposed annexation will have a negative fiscal impact upon the existing citizens of Hailey at the time of an annexation and in the future.

If the Council finds general compliance with the Hailey Comprehensive Plan, the Council shall then consider the application for a zoning classification and consider any and all factors it deems, in its sole and absolute discretion, important to determine whether an application for annexation shall be granted or denied. If the Commission made negative findings related to the Comprehensive Plan under Section 14.01.080 and therefore did not make a recommendation on zoning classification for the property sought to be annexed, but the Council subsequently made favorable findings related to the Comprehensive Plan and wishes to proceed with the annexation, the Council shall remand the proceedings to the Commission for its recommendation on zoning classification.

The Council reviewed the Comprehensive Plan and found the application did not comply with the following goals and polices:

5.4	To provide for a balanced mix of land uses suitably related to each other and their natural setting. Include sufficient space in all types of districts to accommodate future growth. Direct density of development towards the community core, with increasing green space and generally decreasing density toward the edges of the community and within the Area of City Impact.
5.4.1	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.
5.6.2	Establish land use policies that ensure orderly residential development relative to public facilities and services.
5.6.2.c	Promote higher density developments adjacent to commercial areas, collector roads, or other services or infrastructure that can efficiently serve those developments.
5.7	To increase opportunities for alternative transportation, reduction of vehicle traffic, creation of safe and walkable neighborhoods, creation and preservation of public spaces and green space, and efficiency of services by promoting appropriate housing densities.
5.7.1	Promote density near city core, discourage sprawl.
8.1	Establish community and neighborhood character.
9.0.1	Maintain/improve level of service of city utilities and facilities
10.1.3	Ensure an interconnected community that provides multi-modal access from and to all neighborhoods.
10.1.5	Promote land development that discourages sprawl and connects the community.

12.1	To manage and accommodate growth due to infill development and to control and/or limit expansive development within the City of Hailey, through flexible, responsive, and consistent controls, in order to provide for a community that is well-defined in terms of distinct boundaries, compact in terms of human scale elements and distances between structures and uses, and surrounded by and integrated with green space. To provide for alternative modes of transportation, sustainable economic development, a balanced mix of housing, serviceable annexations and adequate infrastructure.
12.1.1	Ensure that growth does not outpace infrastructure, services or capacity of resources. The following implementation items are considered high priority for the City.
12.1.2	Promote infill within community core.
12.1.3	Support infill development, generally the preferred method of growth, while recognizing that expansion of city boundaries will also be required to accommodate various uses compatible with this Plan.
12.1.6	Ensure neighborhood character in future development
13.1	Maintain a City that emphasizes the human being and places less emphasis on the automobile.

In addition to the above goals and policies, the following portion of the narrative of the Growth Management section was cited, “The undeveloped area between the cities of Hailey and Bellevue deserves special planning; both cities desire to retain their own unique and separate community character. Clear and distinct separation between the cities helps to support this goal.”

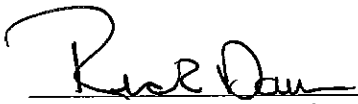
In summary, the Council saw the need to direct development within the existing city boundaries before annexing and recognized the importance of keeping the rural character of Broadford Road.

**D. Decision. The Council has the sole and absolute discretionary right to approve, approve with conditions or deny an application for annexation. In addition, the Council is authorized to require, as a condition of approval, that the applicant and the City enter into an annexation agreement providing for the terms and conditions of an approved annexation. In the event a subsequent development proposal materially differs from the development shown in approved annexation, the annexation agreement shall provide that the proposed development may be denied, that the applicant shall be responsible for any increased annexation fees and/or that the property may be deannexed. There shall be no right of an appeal by an applicant or by an affected party from an adverse recommendation by the Commission or from an adverse decision of the Council on an annexation application. If the Council elects to approve the application for annexation with or without conditions, the Council shall also establish the appropriate zoning district(s) for the annexed property in accordance with the procedures set forth in Article XIV of the Hailey Zoning Ordinance.**

### CONCLUSIONS OF LAW AND DECISION

Based on the entire record and the above Findings of Fact, the Council concludes that the proposed application for annexation of Lot 1, Block 1, Stevens Family Ranch, LLC Subdivision is not harmonious and is not in accordance with specific goals and policies of applicable components of the Hailey Comprehensive Plan, and does not generally comply with the Hailey Comprehensive Plan. Therefore, the application is denied.

Signed this 12<sup>th</sup> day of April, 2010.

  
Rick Davis, Mayor, City of Hailey

Attest:

  
Mary Cone, City Clerk

