

## FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION

On September 13, 2010, the Hailey City Council considered the application by Scott Miley for Final Plat approval of CSM Condominium (1760 Lear Lane). The Council, having been presented with all information and testimony in favor and in opposition to the proposal, hereby makes the following Findings of Fact, Conclusions of Law and Decision.

### FINDINGS OF FACT

#### Notice

Notice for the public hearing was published in the Idaho Mountain Express and mailed to property owners within 300 feet on August 25, 2010.

#### Application

Scott Miley, has submitted an application for final plat approval of a 3-unit commercial condominium project located at Lot 1A, Block 3, Airport West Subdivision, Phase II (1760 Lear Lane). 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 preliminary plat approval, the applicant submits a final plat for Council approval.

#### Procedural History

The application was heard by the Hailey Hearing Examiner on May 3, 2010 and approved with the following conditions:

- a) **The final plat shall include plat notes 1 through 7 as stated on the approved preliminary plat [with the following amendments and additions: if applicable]**
  - **The final plat shall include a note stating that the subdivision is subject to the recorded CC&Rs, along with the instrument numbers thereof.**

This condition is met with Plat Note #5

- **A five foot (5')wide sidewalk with painted stripes connecting the pedestrian area at the front of the building (south elevation adjacent to Lear Lane), extending east to provide a future connection to Lot 1B shall be shown as a public pedestrian easement on the final condominium plat.**

The Plat indicates a "5' Wide Sidewalk Easement"; this will be required to be changed to a "5' Wide Public Pedestrian Easement".

- **The private street snow storage area totaling the same square footage recorded on the plat of Lot 1A, Block 3 Airport West Subdivision, Phase II shall be indicated on the final condominium plat.**

1,125 square feet of snow storage for snow removed from the private street (Lear Ln) is required to be shown on the plat; a total of 1,238 square feet is indicated and noted by Plat Note #4 as being dedicated snow storage easements for the benefit of Lear Lane.

- b) **The association shall execute an agreement with the city for the delivery of water and sewer services and shall be responsible for payment of utilities, unless individual meters are installed for each unit.**

Individual utility meters were not installed; therefore an agreement with the city for the delivery of water and sewer services stating that the owner's association shall be responsible for payment of utilities is required and is carried over as a condition of approval.

- c) **Landscaping, similar to what is found along Merlin Loop, be provided along Aviation Drive and planters be provided along the front elevation, between the two overhead garage doors (adjacent to Lear Lane) shall be installed.**

Landscaping is installed according to the approved Design Review plans on file with the City.

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

This condition will be carried over.

- e) **All provisions of the Zoning Ordinance #532, including but not limited to use regulations and parking requirements shall continue to be met. 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.**

All applicable Zoning Ordinance requirements have been met or as subject to compliance prior to a Certificate of Occupancy being approved.

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

Findings of Fact of Preliminary Plat approval were signed by the Hailey Hearing Examiner on May 3, 2010. Final Plat application was submitted on August 2, 2010

- g) **Any applicable subdivision inspection fees due shall be paid prior to recording the final plat.**

No inspection of improvements by City personnel were required in excess of those covered by hook-up fees.

**Department Comments:**

The City Engineer confirmed the status of conditions b) and g)

**Standards of Evaluation:**

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

**Bulk requirements:**

**Maximum Multi-Family Density – 1 unit per 1/10 acre.**

**SECTION 3 – PROCEDURE**

**3.3 Final Plat Approval.**

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

The Council's approval of the preliminary plat was on May 3, 2010.

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

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

**SECTION 4 – DEVELOPMENT STANDARDS**

Development standards were reviewed in detail during the preliminary plat approval process. Please refer to the preliminary plat Findings of Fact and Decision. No changes have been made to the plat since preliminary plat approval.

**CONDOMINIUMS (Section 7 of the Subdivision Ordinance)**

**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 Declaration of Covenants, Conditions, and Restrictions have been submitted. 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.**

The garages are designated as part of each unit.

**7.3 Storage/Parking Areas. Condominium projects shall provide parking spaces according to the requirements of Article IX of the Zoning Ordinance.**

The on-site parking requirements are met.

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

Compliance with all applicable construction standards is required by the Building Official prior to issuance of a certificate of occupancy.

**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 subdivision is not subject to Section 4.10 of the Subdivision Ordinance.

## CONCLUSIONS OF LAW

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

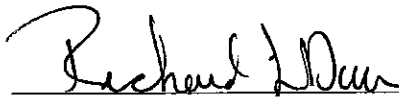
1. Adequate notice, pursuant to Section 3 of the Hailey Subdivision Ordinance, was given for the public hearing.
2. Upon compliance with the conditions noted below, the application substantially meets the standards of approval set forth in the Hailey Subdivision Ordinance.

## DECISION


The application for Final Plat of CSM Condominium, dated June 2010, is approved by the Hailey City Council with the following conditions:

- a) The final plat shall include a note stating that the subdivision is subject to the recorded CC&Rs, with the instrument numbers thereof.
- b) The final plat submitted for signature shall include plat notes 1 through 7 as stated on the approved final plat.
- c) The association shall be responsible for payment of utilities. Billing and utility payment information shall be addressed in the Condominium Declarations. An agreement with the city for the delivery of water and sewer services stating that the owner's association shall be responsible for payment of utilities is still required and is carried over as a condition of approval.
- d) All improvements and other requirements shall be completed and accepted, or surety provided pursuant to Sections 3.3.7 and 5.9.1 of the Subdivision Ordinance, prior to recordation of the final plat.
- e) All provisions of the Zoning Ordinance #532, including but not limited to use regulations and parking requirements shall continue to be met. 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.
- f) The final plat shall be recorded within one year of the date of final plat approval (unless otherwise provided for within a phasing agreement.) The final plat submitted for signature shall conform to the requirements found in Article 50-1301 (et. seq.) of the Idaho Code (as amended) and to the requirements set forth by Blaine County for digital plat submittals. The applicant shall provide the City with a letter-size or ledger-size photocopy of the recorded plat showing the instrument number and date of recordation.

Approved this 27<sup>th</sup> day of September, 2010.

  
Richard L. Davis, Mayor, City of Hailey

Attest:

  
Mary Cone, City Clerk



### CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 5<sup>th</sup> day of October, 2010, 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

- U.S. Mail
- Via Electronic Mail
- Via Facsimile
- Hand Delivered

Applicant:  
Scott Miley  
scottmileyroofing@gmail.com

Applicant's Representative:  
Bruce Smith, PLS  
bsmith@alpineenterprisesinc.com

CITY OF HAILEY

By Becky Mead  
Becky Mead, Deputy Clerk