

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION

On September 20, 2010 the Hailey Planning Zoning Commission considered an application submitted by Nelson Auto for a Conditional Use Permit for an Automotive Repair and Maintenance business located at Lots 8 & 9, Block 31, Hailey Townsite (115 River St S) within the Business (B) District. Section 4.7 of the Hailey Zoning Ordinance #532 lists Automotive Repair and Maintenance as a conditional use within that district. 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 Decision.

FINDINGS OF FACT

Notice

Notice for the public hearing on September 1, 2010 was published in the Idaho Mountain Express and mailed to property owners within 300 feet on September 1, 2010.

Application

An application by Harold & Betty Nelson for a Conditional Use Permit for an existing non-conforming Automotive Repair business, located on Lots 8 & 9, Block 31, Hailey Townsite (115 River St S) within the Business (B) District. Automotive Repair and Maintenance is a permitted conditional use within this zone with approval of a Conditional Use Permit.

The business has been operating as an existing non-conforming use. The first business license in the city file shows the business was established in 1988, at that time auto repair was a permitted use. At some point after 1988 the Automotive Repair and Maintenance use was changed to a conditional use within the Business District; at that time Nelson's would have become an existing non-conforming use.

The Municipal Code allows for the continuation of existing non-conforming uses, however one cannot be expanded. The owner would like to add a third service bay at the rear of the existing building. The addition would expand the use by providing more space for the operation of the business. In order for the addition to be permitted a Conditional Use Permit is required.

Given the impacts of the addition relate more to the operation of the business and less on the design of the existing building, it is recommended the addition be exempted from Design Review pursuant to 6A.2.A.3.

Department Comments

Life/Safety: none

Building: Comments received from the Building Official were forward to the applicant

Water/Sewer: none

Standards of Evaluation

Section 11.4 of the Hailey Zoning Ordinance establishes the standards for proposed conditional uses. For each applicable standard (in bold print), the Commission makes the following Findings of Fact:

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.

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.**

All new and existing lighting shall comply with Hailey's Outdoor Lighting Ordinance.

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:

- c. **Automobile service garages: 2 for each service bay. Service bays are not counted as parking spaces.**

With the proposed third service bay, the on-site parking requirement is 6; the site plan indicates 15 including an ADA parking space with 60 ft wide access aisle.

11. Conditional Use Permits

11.4.1 The Commission or Hearing Examiner shall review the particular facts and circumstances of each proposed conditional use in terms of the following standards and, if approved, shall find adequate evidence showing that such use at the proposed location:

Section 11.4 of the Hailey Zoning Ordinance establishes the standards for proposed conditional uses. The Commission should make findings related to each of the items (a) through (i).

a) Will, in fact, constitute a conditional use as established for the zoning district involved;

The existing business is an auto maintenance business which is a conditional use listed in the Business zoning district.

b) Will be harmonious with and in accordance with the general objectives or any specific objective of the Comprehensive Plan and requirements of this Ordinance;

The Commission considered how the proposed use relates to the various policies and implementation items of the Comprehensive Plan, particularly the following:

5.4.1. Policy: 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.

6.1.2. Policy: Identify business areas and types of uses which can be mixed in order to create a more dynamic and useable marketplace. Promote the use of Conditional Use Permits to provide for appropriately mixed uses in all commercial districts.

The location of this business provides customers with convenient proximity to other Downtown businesses and services which helps to reduce vehicle trips.

6.1.4. Policy: Expedite, to the extent possible, the public review process for commercial development.

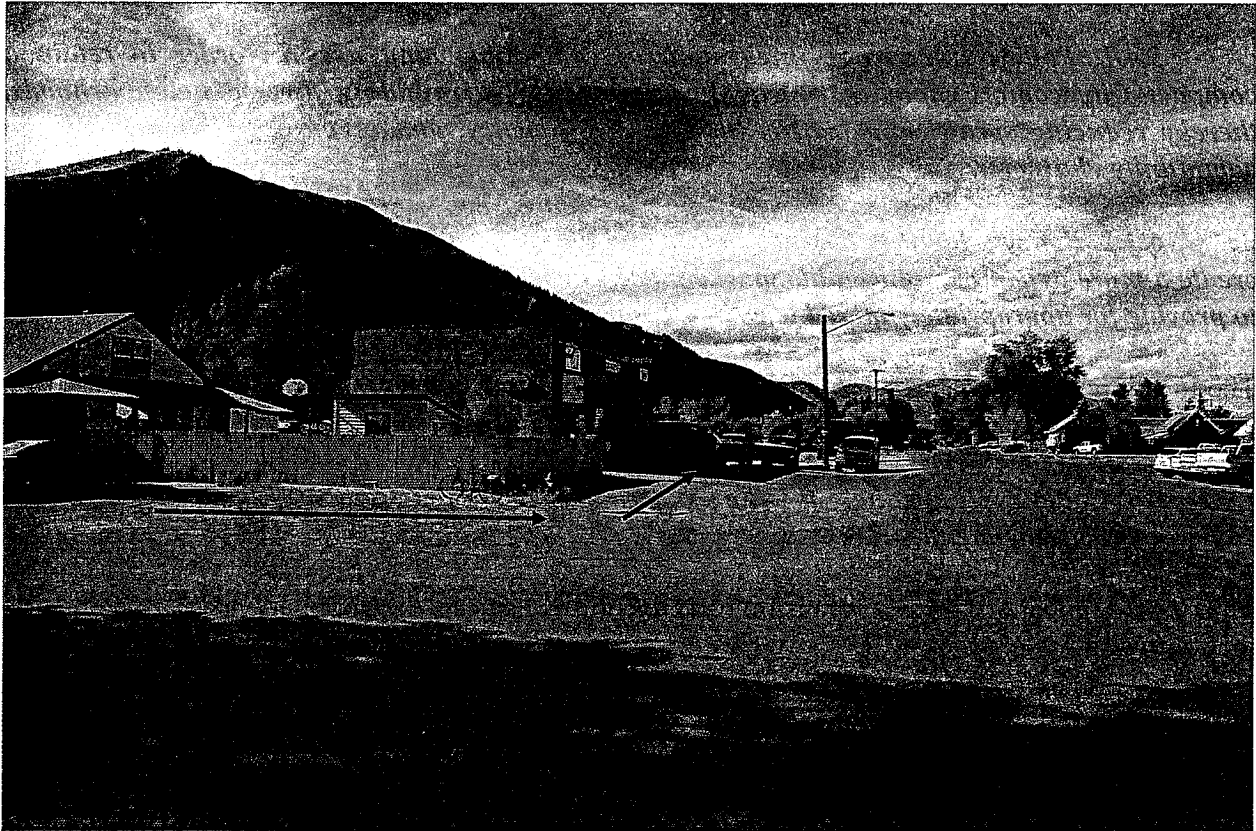
This is an application for the expansion of an existing business; the application was expedited in the following ways:

- Application was submitted on August 25, 2010; the application submittal deadline for the September 20 meeting date was August 13. Staff expedited its review to accommodate the application on September 20.
- The Administer is recommending Design Review Exemption of the addition at the rear of the property based on the determination that all of the significant impacts of the application will be addressed in the CUP process.
- The business owner was offered, and declined, several opportunities to discuss the issue of its impact on the River Street right-of-way prior to the public hearing as a means of further expediting the public hearing process.

6.6.I. Goal: Ensure that all commercial development adequately addresses infrastructure needs associated with the development.

6.6.1. Policy: Encourage orderly and efficient development thereby allowing public services to keep pace.

The business is located within the Downtown business area. Improvements to the public right-of-way are generally prioritized in the Downtown area. The city is applying for grant funding to improve portions of River Street within the Downtown (between Carbonate and Croy). Presently the direction of vehicular access the service bays is from River Street. At times, vehicles waiting for service are lined up heading north along the west side of River Street (in the opposite direction of traffic using River Street) and around the north west corner of Croy Street (described in the picture below). Staff identified this as an impact to the public right-of-way; the Commission determined this was not an issue related to orderly and efficient development.



c) Will be designed, constructed, operated, and maintained to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity, and that such use will not change the essential character of the same area;

The location of this business is on the western boundary of the Business Zoning District within the Downtown area as defined in the recently adopted Hailey Downtown Strategy. The area to the west is zoned General Residential. The area to the north, east and south are zoned Business. River Street has been identified in the Hailey Comprehensive Plan, Transportation Master Plan and Downtown Strategy as a primary connection between Downtown and the community activity areas to the north (near Empty Saddle and McKercher Blvd) and south (near the intersection of Airport Way). Staff noted the businesses current operational configuration was not harmonious with the intended character of River Street due to cars waiting for service being lined up within the right-of-way in the opposite direction of traffic using River Street.

The Commission considered whether changing the access to the service bays would be desirable in order to be consistent with the anticipated future improvements to River Street. Access from the alley (from Bullion St) was discussed as an alternative and the Commission determined this would create more significant impact on the use of the alley and the vehicular access from the alley to the residence directly west of the business. It was further determined by the Commission that any future improvement of River Street would remedy the current use of the public right-of-way.

d) Will not be hazardous or disturbing to existing or future neighboring uses;

The business currently services 30 cars per day for oil changes and 4-6 cars per day for mechanical services. The new bay is going to be set up for mechanical services, mufflers, and tires. The new bay is estimated to increase the number of vehicles for mechanical services to 8-12 cars per day. There is likely to be minimal additional impact to the distribution center to the north and the office and retail uses to the east. The closest existing residential neighbor is to the south. A new residence is being constructed to the west across the alley. The front entrance to the new residence is approximately 22 feet from the alley and faces Croy Street. The existing residence on that same property is located to the north of the new residence being constructed and faces the alley. There is an existing office use on the northwest side of the alley. The two residences to the south and west would likely experience some additional impact should the number of vehicles serviced increase with the addition of a third service bay, however the Commission determined this would not be significant. The owner and resident to the property to the south is related to the applicant and did not submit comment to the city. The owner and resident of the property to the west testified before the Commission in support of the application. It was further determined by the Commission that any future improvement of River Street would remedy any issues related to the current use of the public right-of-way by the business. The Commission encouraged the applicant to inform customers of where to park should the River Street right-of-way be improved.

- e) **Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, and drainage structure. Agencies responsible for the establishment of the proposed use shall be able to provide adequately any such service;**

The Commission determined the business would continue to be served adequately by essential public facilities and services.

- f) **Will not create excessive additional requirements at public cost for public facilities and services;**

The Commission determined the business will not create excessive additional requirements at public cost for public facilities and services.

- g) **Will not involve uses, activities, processes, materials, equipment, or conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, dust, odors, vibration, water or air pollution, or safety hazards;**

Some additional impact could be experienced should the number of vehicles serviced increase with the addition of a third service bay, however, the Commission determined any increase will not be excessive or detrimental. In addition, the impact of the current business operation (the direction the service bays are accessed) on the River Street and Croy Street right-of-way was considered and determined to not be detrimental to any persons, property or the general welfare.

- h) **Will have vehicular approaches to the property, which shall be designed so as not to create an interference with traffic on surrounding public thoroughfares;**

Presently vehicular access to the service bays is from River Street. At times, vehicles waiting for service are lined up (heading north) along the west side of River Street and around the northwest corner of Croy Street. River Street has been identified in the Hailey Comprehensive Plan, Transportation Master Plan and Downtown Strategy as a primary connection between Downtown and the community activity areas to the north (near Empty Saddle and McKercher Blvd) and south (near the intersection of Airport Way). The city is applying for grant funding to improve portions of River Street within the Downtown (between Carbonate and Croy). The Commission acknowledged it would be advantageous to both the applicant and the city to allow the orderly development of River Street as well as the continued successful operation of the business. The Commission determined that any future improvement of River Street would remedy any issues related to the current use of the public right-of-way by the business.

- i) **Will not result in the destruction, loss, or damage of a natural, scenic, or historic feature.**
This criteria is not applicable.

CONCLUSIONS OF LAW

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

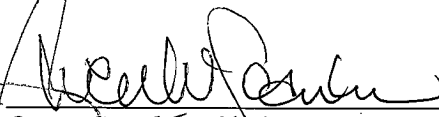
1. Adequate notice, pursuant to Section 11.3 of the Hailey Zoning Ordinance and Idaho Code Section 67-6512, was given for the public hearing.
2. The application is in accordance with the Hailey Comprehensive Plan.
3. Upon compliance with the conditions stated below, the application substantially meets the standards of evaluation (a) through (i) set forth in Section 11.4 of Zoning Ordinance No. 532.
4. All Conditional Use Permits are subject to review and revocation pursuant to Section 11.9 of the Hailey Zoning Ordinance.

DECISION

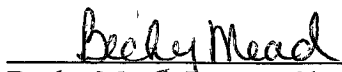
The Conditional Use Permit for Nelson Auto, an Automotive Repair and Maintenance business located at Lots 8 & 9, Block 31, Hailey Townsite (115 River St S) within the Business (B) District, is hereby approved, subject to the following terms and conditions:

- a) All Fire Department and Building Department requirements shall be met and completed at the applicant's sole expense.
- b) If there is any improvement to the River Street right-of-way, vehicles waiting for service the location shall not block the right-of-way.
- c) All new and existing lighting shall comply with Hailey's Outdoor Lighting Ordinance.

Signed this 4th day of OCTOBER, 2010.


Owen Scanlon, Chair
Hailey Planning & Zoning Commission

Attest:


Becky Mead, Deputy Clerk

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 5th 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

Applicant:
Harold & Betty Nelson
PO Box 879
Hailey, ID 83333

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

Applicant's Representative:
Bernie Johnson, Johnson Architectural
Group
PO Box 136
Hailey, ID 83333

CITY OF HAILEY

By Becky Mead
Becky Mead, Deputy Clerk

