

## FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION

On November 1, 2010, the Hailey Planning and Zoning Commission considered the recommendation by the Administrator to exempt from design review an alteration of the exterior of existing above ground storage tanks, located on Lots 1-8, Block 97, Hailey Townsite (418 5<sup>th</sup> Avenue South) within the Limited Residential and Townsite Overlay zoning districts. The Commission, having been presented with all information regarding the proposal, hereby makes the following Findings of Fact, Conclusions of Law and Decision.

### FINDINGS OF FACT

#### **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 Commission makes the following Findings of Fact:

**6A.3.f. the Administrator has the authority to recommend exemption of certain projects from the design review requirements, upon finding; the project is minor, will not conflict with the design review standards of this Chapter and will not adversely impact any adjacent properties. Examples include, but are not limited to minor deck additions, changes to siding materials, changes to an existing window or door, an addition of a window or door, and minor landscape changes. Such recommendation for exemption shall be drafted in the form of Findings of Fact and Conclusions of Law, subject to final decision by the Commission on its consent agenda prior to issuance of a building permit. Should the Commission deny the Administrator's recommendation or should the Administrator determine that the proposal does not meet all of the above evaluation criteria, the project shall be subject to the provisions of this chapter prior to issuance of a building permit.**

The Administrator reviewed a request submitted by United Oil for an alteration of the exterior of existing above ground storage tanks, located on Lots 1-8, Block 97, Hailey Townsite within the Limited Residential and Townsite Overlay zoning districts. The proposal consists of painting the white tanks a cream color. A sample of the proposed color is attached.

The Administrator finds the proposed alteration constitutes a minor project, will not conflict with the design review standards of this Chapter and will not adversely impact any adjacent properties because there are no changes proposed beyond painting the existing tanks and it is not anticipated that the proposed color will be offensive in anyway.

United Oil's location on Lots 1-8, Block 97, Hailey Townsite (418 5<sup>th</sup> Avenue South) is considered a nonconforming use due to its location in a residential zoning district. The following standards, taken from Article 13 of the Hailey Zoning Ordinance, address nonconforming uses and standards:

**13.3 Continuation of Use. A non-conforming use may be continued, subject to the provisions of this Article.**

**13.4 Change in Use. A non-conforming use may be changed only to a conforming use.**  
The proposal does not include a change in use.

**13.5 Expansion of Use. A non-conforming use may not be enlarged or extended including without limitation any increase in the total amount of space devoted to the non-conforming use, thereby increasing the degree of non-conformity. Criteria used to determine enlargement or extension shall include, but not be limited to, areas of land covered, square**

**footage of building or use space, number of dwelling units, hours of operation, traffic generated, and volume of goods handled. A non-conforming use shall not be used as justification for adding other structures or uses prohibited in the same district. A non-conforming use may not be extended to additional buildings or to land outside the original building.**

The proposal does not involve an expansion of use. The proposal only requests to repaint the existing storage tanks.

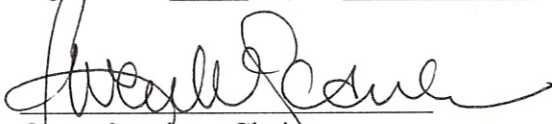
The Administrator recommends exemption of United Oil's proposal to paint their above ground tanks from the design review requirements.

### CONCLUSIONS OF LAW AND DECISION

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

1. The proposed alteration to the existing tanks located on Lots 1-8, Block 97, Hailey Townsite constitutes a minor project, will not conflict with the design review standards of this Chapter and will not adversely impact any adjacent properties.
2. The proposed alteration to the above ground tanks are approved and are documented in the project file.
3. This approval exempts this project from the design review requirements and standards of Article VIA.

Signed this 1<sup>st</sup> day of NOV., 2010.

  
Owen Scanlon, Chair  
Hailey Planning and Zoning Commission

Attest:

  
Becky Mead, Deputy Clerk

### CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 2nd day of November, 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:

Carl Browning

[carlbrowning@unitedoil.net](mailto:carlbrowning@unitedoil.net)

CITY OF HAILEY

By Becky Mead  
Becky Mead, Deputy Clerk