

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION

On April 5, 2010, the Hailey Planning and Zoning Commission considered an application initiated by the City of Hailey for an amendment to the Hailey Zoning Map. The proposed amendment would change the zoning for from General Residential (GR) to Limited Business (LB). The subject property is located on Lots 1-3, Block 69, Hailey Townsite (620 First Avenue North). 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 was published in the Idaho Mountain Express on and mailed to owners within 300 feet and to public agencies and area media on March 17, 2010; and notice was posted on all external boundaries of the property on March 29, 2010.

Application

The City has initiated a zone change of Lots 1-3, Block 69, Hailey Townsite (620 First Avenue North), from General Residential (GR) to Limited Business (LB) to address a recent rezone approval, which resulted in Lots 1-3 becoming an isolated parcel of GR surrounded by LB and B districts. The Council directed staff to initiate the rezone of Lots 1-3 to ensure that the area's zoning is uniform and responds to future potential for development and uses in this area.

Procedural History

On February 8, 2010, the Council approved an application by Ed Uhrig for a rezone from GR to LB of Lots 4-10, Block 69 (the property directly south of Lots 1-3). Lots 1-3 are now sandwiched between the B district to the North and West, and the LB district to the South. The rezone of Lots 4-10 may burden the remaining GR lots on Block 69 (Lots 1-3); therefore the Council directed a city initiated rezone of Lots 1-3, Block 69.

Analysis and Discussion

The current use of Lots 1-3 is a multi-unit apartment complex (Mountain View Apartments). Uses adjacent to the subject property include:
South: Storage and fencing materials.
North: Single family residence.
West: Car wash.
East: Single family residences.

The purpose of the current GR District is to provide areas for a variety of residential uses, and a limited number of other uses compatible with this type of residential development. The intent is to preserve the favorable amenities associated with a residential neighborhood.

The purpose of the proposed 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.

Currently permitted, conditional and accessory uses and bulk regulations in the GR and LB Districts are set forth in Sections 4.3 and 4.5 of the Hailey Zoning Ordinance.

Comparison of permitted, conditional and accessory uses:

Permitted Uses	GR	LB
Single Family Dwellings	X	X
Multiple-Family Dwellings	X	X
Dwelling Units within Mixed Use Buildings		X
Home Occupations	X	X
Lodging Establishments		X
Professional Offices, excluding veterinarians		X
Churches	X	X
Schools and other education services	X	X
Health care and social assistance.		X
Real estate and property management companies		X
Catering Services		X
Arts, entertainment and recreation uses (indoor and outdoor)		X
Personal services where retail sales are clearly incidental to the principal use and no outside storage yard or facility is required.		X
Day care homes	X	X
Day Care Facilities	X	X
Day Care Center		X
Manufactured homes	X	X
Semi-public uses		X
PWSF's and WCF's attached to street poles, upon the issuance of a wireless permit		X
Government offices and public administration, except		X

correctional institutions		
Parks	X	X
Conditional Uses		
Gasoline Stations and Automotive Repair and Maintenance		X
Restaurants		X
Wholesale distributors		X
Convenience Stores		X
Public Services, Public Sue, and Public Utility facilities	X	X
Medical and personal care stores		X
Finance and insurance firms		X
Construction contractor's offices with no exterior storage.		X
PWSF's and WCF's mounted on any proposed freestanding tower, upon the issuance of a wireless permit.		X
Above ground flammable liquid tanks utilized by a public use	X	X
Temporary Structures	X	X
Bed and breakfast inns	X	
Boarding and Rooming Houses	X	
Day care center	X	
Semi-public uses	X	
PWSF's and WCF's attached to street poles, upon the issuance of a wireless permit	X	
Horses	X	
Accessory Uses		
Greenhouses/private	X	X
Garages	X	X
Storage Buildings	X	X
Accessory dwelling unit	X	X
All PWSF's or WCF's mounted on existing buildings or structures upon the issuance of a wireless permit.		X
Above ground combustibile liquid tanks.		X

Swimming pools	X	
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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 difference in bulk requirements **without** considering the Townsite Overlay are as follows:

Bulk Regulations	LB	GR
Maximum townhouse sub-lots per acre	20	10
Maximum multi-family residential aggregate density	One (1) dwelling unit per 1/20 of an acre	One (1) dwelling unit per 1/10 of an acre
Maximum aggregate gross floor area for individual retail/wholesale trade or grouped retail/wholesale trade	36,000 square feet	N/A (Not a permitted use)
Riparian setback	N/A (No riparian setback)	Required
Maximum Lot Coverage	N/A (No maximum)	40%
Size of Detached Accessory Dwelling Unit	N/A (No minimum or maximum)	Minimum gross floor area of 300 square feet and a maximum of 950 square feet

The following are the bulk regulation differences between GR and LB **with** consideration of the Townsite Overlay District, Section 4.13.6 of the Hailey Zoning Ordinance:

Bulk Requirements	LB in Townsite Overlay	GR in Townsite Overlay
Maximum Building Height	35 feet	30 feet
Maximum Lot Coverage	70%	25-40% depending on building height and whether a garage is on-site
Maximum Lot Size	No maximum	18,000 square feet

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. Development Agreements should only be used if there are unique issues specific to bulk regulations. If there are issues with specific permitted uses allowed in the zoning district being considered that should be addressed relative to the entire zoning district, not just a single parcel.

The recent Uhrig rezone was approved by the Council without a Development Agreement.

To be consistent and considering that this is a city initiated rezone, the Commission determined that a Development Agreement was not appropriate for this application.

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:

a. 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 “Transitional – Mixed use, including residential, providing a buffer between residential neighborhoods and intense business use.”

	COMP PLAN DESIGNATION	ZONING DESIGNATION	LAND USE
Existing	Transitional	GR (General Residential)	Multi-family dwelling (Mountain View Apartments).
Proposed	No change is proposed	LB (Limited Business)	No change at this time.
North of site	Business/Commercial/Mixed Use	B (Business)	Single family dwelling, mobile home, vacant commercial building, and Sutton and Son’s Auto Dealership.
South of site	Transitional	LB (Limited Business)	Material Storage/Residential.
East of site	Transitional	GR (General Residential)	Single family residence.
West of site	Business/Commercial/Mixed Use	B (Business)	Car wash bays.

- 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.”
- Economic Development, Section 6.1 states, “Encourage the infill of the Central Business

District...prior to expanding business-zoned areas for commercial development.”

- 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.”

The Commission referred to the goals of the Comprehensive Plan as well as the purpose of the LB District and considered if the rezone was compatible with the Land Use Map given that the property is shown as a “Transitional” area on the Land Use Map and the nature of uses allowed in the LB District.

FINDING: The review of this city initiated application for a rezone of Lots 1-3, is a result of the Council’s rezone approval of Lots 4-10. Although the Commission had recommended denial of the rezone of Lots 4-10, due to the Council’s decision to approve the rezone, the Commission determined that it was appropriate to rezone Lots 1-3, to create a more uniform and consistent zoning or land use pattern. The Commission determined that eliminating a pocket of GR that would otherwise be almost completely surrounded by B and LB district zoning, as a result of the Council’s decision, would allow for more appropriate uses at this location and if that the rezone is in accordance with the goals of the Comprehensive Plan.

- b. 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;**

FINDING: Due to the close proximity to the B district, it is anticipated that public facilities and services are available to support the full range uses permitted by the LB district.

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

FINDING: Lots 1-3 are currently sandwiched between the B district to the North and West, and as a result of a recent rezone decision by the Council, the LB district to the South. Depending on the future use of the property to the south (Lots 4-10), the future uses may burden the remaining GR lots on Block 69 (Lots 1-3).

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

FINDING: The proposed rezone would create a more uniform and consistent zoning or land use pattern. It would eliminate a pocket of GR that would otherwise be almost completely surrounded by B and LB district zoning. The rezone would help create a buffer or transition between the B district to the north and west and the GR district to the east. No adverse impacts are anticipated.

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.

Vicinity of LB District	Vacant Lots	Vacant Buildings
South end of Main Street	Lots 1-3 Rick Davis Business Center Subdivision (0.99 acres in total)	Block 128 St. Luke’s Family Practice
Intersection of Woodside Blvd. and Winterhaven Dr.	Lots 1A and 2A, Block 61, Woodside Subdivision No. 15 (3.44 acres)	
Intersection of Shenandoah Dr. and Countryside Blvd.	Lot 1 and 2, Block 21, Woodside Subdivision No. 6 (1.2 acres)	
Sweetwater	Sweetwater was approved for development; however, the current status of the undeveloped lots is unknown (13.08 acres currently undeveloped).	Residential units constructed in phase 1
Copper Ranch	Parcel A5, Copper Ranch (1.65 acres)	
	Block 85 Woodside Subdivision No. 24 (2.7 acres)	
	Lot 1, Block 67, Woodside Subdivision No. 18 (1.56 acres)	

Approximately half of the undeveloped land owned by Sweetwater is zoned with a Development Agreement. These portions restrict uses to residential only. Therefore, the undeveloped lots south of Countryside Blvd. and east of Shenandoah Dr. are zoned LB, but can only be developed with residential uses. The lots west of Shenandoah Dr. are not restricted and are undeveloped.

The size of all of the vacant lots’ zoned LB in Hailey is 24.92 acres. Of the 24.92 acres, approximately 6.5 acres are zoned with a Development Agreement that allows only residential uses, 23.93 of the vacant acres are located in Woodside, with 0.99 acres located just south of the Townsite Overlay. The location of the LB vacant lots is important to consider because of the inherent differences between the Woodside area and the Townsite area, near the commercial core.

- 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 subject property is approximately 1,710 feet or 0.32 miles from the Central Core Overlay District.

The Council directed staff to initiate the rezone of Lots 1-3, following their decision to approve the rezone of Lots 1-4. The Council’s interpretation was that the vacancies outlined by staff for the B district should not be included in the evaluation of the rezone of Lots 4-10 because the

property is proposed for a rezone to LB, not B. The Commission's original interpretation considered the LB and B vacancies. Although the Commission had recommended denial of the rezone of Lots 4-10, due to the Council's decision to approve the rezone, the Commission determined that it was appropriate to rezone Lots 1-3. In their evaluation of Section 14.6.1, the Commission applied the same interpretation of Section 14.6.1 to the rezone of Lots 1-3 as the Council did to the rezone of Lots 4-10. The Commission did not evaluate B district vacancies.

FINDING: The applicable vacancy rates in the LB district and distance of the Lots 1-3 from the Central Core Overlay District favor the rezone.

RECOMMENDATION

Based upon the above Findings of Fact, the Commission makes the following recommendation: The Zoning Map amendment to change the zoning for Lots 1-3, Block 69, Hailey Townsite (620 First Avenue North) from General Residential (GR) within the Townsite Overlay Limited Business (LB) within the Townsite Overlay is hereby recommended for approval, finding that the following has been met:

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 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 proposed uses are compatible with the surrounding area; and the proposed amendment will promote the public health, safety and general welfare; and the vacancy rates in the LB district and distance from the Central Core Overlay favor a rezone.

Signed this 19th day of APRIL, 2010.


Owen Scanlon, Commission Chair, City of Hailey

Attest:


Becky Mead, Deputy Clerk