

BLAINE COUNTY PLANNING & ZONING COMMISSION
August 28, 2008 PUBLIC HEARING

REGARDING THE APPLICATION OF:

Blaine County to Revise Title 8 of the Blaine County Code with an Ordinance amending Chapter 2 (Areas of City Impact)

DRAFT

Findings of Fact, Conclusion of Law & Recommendation

**I. REGARDING TEXT & MAP AMENDMENTS TO BLAINE COUNTY
COMPREHENSIVE PLAN
INITIATED BY BLAINE COUNTY:**

Blaine County/City of Bellevue Area of City Impact Agreement: An ordinance of Blaine County, Idaho, amending the Bellevue/Blaine County Area of City Impact, providing for a short title, a purpose section, definitions, annexation, governing plans and ordinances, standards, notice and renegotiation; providing for a severability clause; providing for a repealer clause; and providing for an effective date.

Blaine County/City of Bellevue Area of City Map Adoption Ordinance: An ordinance of Blaine County, Idaho, adopting the Bellevue Area of City Impact Map; providing for a severability clause; providing for a repealer clause; and providing for an effective date upon passage, approval, and publication according to law.

Blaine County/City of Hailey Area of City Impact Agreement: An ordinance of Blaine County, Idaho, amending the Hailey/Blaine County Area of City Impact, providing for a short title, a purpose section, definitions, annexation, governing plans and ordinances, standards, notice and renegotiation; providing for a severability clause; providing for a repealer clause; and providing for an effective date.

Blaine County/City of Hailey Area of City Map Adoption Ordinance: An ordinance of Blaine County, Idaho, adopting the Hailey Area of City Impact Map; providing for a severability clause; providing for a repealer clause; and providing for an effective date upon passage, approval, and publication according to law.

Initiated by the Blaine County Board of County Commissioners, pursuant to Zoning Regulations Section 9-31-3(A).

II. APPLICABLE REGULATIONS:

(attached hereto and made a part hereof by reference)

- Idaho Code, Title 67, Chapter 65, Local Land Use Planning, Section 67-6526, Areas of City Impact
- Blaine County Code, Title 8, Chapter 1 & 2, Comprehensive Plan, and

Comprehensive Plan Land Use Map.

III. GENERAL INFORMATION:

1. Notice of the August 28, 2008, hearing was provided as follows:
 - A. published in the Idaho Mountain Express on August 13, 2008;
 - B. public service announcement request to area media sent August 11, 2008;
 - C. sent to all Blaine County political subdivisions on August 11, 2008;
 - D. posted in at least five (5) public places including area City Halls and area Post Offices before August 21, 2008, as evidenced by affidavit in file;
 - E. mailed to incorporated cities in County pursuant to Area of City Impact Agreements on August 11, 2008; and,
 - F. The drafts of the Ordinance amendments to be considered were posted on the Blaine County web site.

Finding on Adequacy of Notice: With a motion by Commissioner Bonner and a second by Commissioner Simpson, the Planning & Zoning Commission unanimously found notice (5-0) to be adequate.

2. Materials attached to this report include:
 - A. Current Blaine County/City of Hailey ACI agreement, 94-11 & 12;
 - B. Blaine County/ City of Bellevue Area of City Impact Ordinance, June 26, 2008;
 - C. Blaine County/City of Bellevue ACI Map Ordinance, June 26, 2008;
 - D. Blaine County/City of Hailey Area of City Impact Ordinance, June 26, 2008;
 - E. Blaine County/City of Hailey ACI Map Ordinance, June 26, 2008;
 - F. Exhibit A: Bellevue and Hailey ACI Map, June 26, 2008;
 - G. *City of Bellevue P&Z Recommended Ordinance, with attached Exhibit A;*
 - H. *City of Hailey P&Z Recommended Ordinance, with attached Exhibit A;*
 - I. Hailey P&Z Staff Report, December 17, 2007;
 - J. Hailey P&Z Frequently Asked Questions, November 27, 2007;
 - K. Staff ACI PowerPoint Presentation, June 26, 2008;

67-6526. AREAS OF CITY IMPACT -- NEGOTIATION PROCEDURE.

(a) The governing board of each county and each city therein shall adopt by ordinance following the notice and hearing procedures provided in section 67-6509, Idaho Code, a map identifying an area of city impact within the unincorporated area of the county. A separate ordinance providing for application of plans and ordinances for the area of city impact shall be adopted. (staff emphasis)

Subject to the provisions of section 50-222, Idaho Code, an area of city impact must be established before

a city may annex adjacent territory. This separate ordinance shall provide for one (1) of the following:

- (1) Application of the city plan and ordinances adopted under this chapter to the area of city impact; or
- (2) Application of the county plan and ordinances adopted under this chapter to the area of city impact; or
- (3) Application of any mutually agreed upon plan and ordinances adopted under this chapter to the area of city impact.

Areas of city impact, together with plan and ordinance requirements, may cross county boundaries by agreement of the city and county concerned if the city is within three (3) miles of the adjoining county.

(b) If the requirements of section 67-6526(a), Idaho Code, have not been met, either the city or the county may demand compliance with this section by providing written notice to the other of said demand for compliance. Once a demand has been made, the city shall select its representative as hereinafter provided, within thirty (30) days of said demand, and the process set forth in this subsection shall commence. The county commissioners for the county concerned, together with three (3) elected city officials designated by the mayor of the city and confirmed by the council, shall, within thirty (30) days after the city officials have been confirmed by the council, select three (3) city or county residents. These nine (9) persons shall, by majority vote, recommend to the city and county governing boards an area of city impact together with plan and ordinance requirements. The recommendations shall be submitted to the governing boards within one hundred eighty (180) days after the selection of the three (3) members at large and shall be acted upon by the governing boards within sixty (60) days of receipt. If the city or county fails to enact ordinances providing for an area of city impact, plan, and ordinance requirements, either the city or county may seek a declaratory judgment from the district court identifying the area of city impact, and plan and ordinance requirements. In defining an area of city impact, the following factors shall be considered: (1) trade area; (2) geographic factors; and (3) areas that can reasonably be expected to be annexed to the city in the future.

(c) If areas of city impact overlap, the cities involved shall negotiate boundary adjustments to be recommended to the respective city councils. If the cities cannot reach agreement, the board of county commissioners shall, upon a request from either city, within thirty (30) days, recommend adjustments to the areas of city impact which shall be adopted by ordinance by the cities following the notice and hearing procedures provided in section 67-6509, Idaho Code. If any city objects to the recommendation of the board of county commissioners, the county shall conduct an election, subject to the provisions of section 34-106, Idaho Code, and establish polling places for the purpose of submitting to the qualified electors residing in the overlapping impact area, the question of which area of city impact the electors wish to reside. The results of the election shall be conclusive and binding, and no further proceedings shall be entertained by the board of county commissioners, and the decision shall not be appealable by either city involved. The clerk of the board of county commissioners shall by abstract of the results of the election, certify that fact, record the same and transmit copies of the original abstract of the result of the election to the clerk of the involved cities.

(d) Areas of city impact, plan, and ordinance requirements shall remain fixed until both governing boards agree to renegotiate. In the event the city and county cannot agree, the judicial review process of subsection (b) of this section shall apply. Renegotiations shall begin within thirty (30) days after written request by the city or county and shall follow the procedures for original negotiation provided in this section.

(e) Prior to negotiation or renegotiation of areas of city impact, plan, and ordinance requirements, the governing boards shall submit the questions to the planning, zoning, or planning and zoning commission for recommendation. Each commission shall have a reasonable time fixed by the governing board to make its recommendations to the governing board. The governing boards shall undertake a review at least every ten (10) years of the city impact plan and ordinance requirements to determine whether renegotiations are in the best interests of the citizenry.

(f) This section shall not preclude growth and development in areas of any county within the state of Idaho which are not within the areas of city impact provided for herein.

(g) If the area of impact has been delimited pursuant to the provisions of subsection (a)(1) of this section, persons living within the delimited area of impact shall be entitled to representation on the planning, zoning, or the planning and zoning commission of the city of impact. Such representation shall as nearly as possible reflect the proportion of population living within the city as opposed to the population living within the areas of impact for that city. To achieve such proportional representation, membership of the planning, zoning or planning and zoning commission, may exceed twelve (12) persons, notwithstanding the provisions of subsection (a) of section 67-6504, Idaho Code. In instances where a city has combined either or both of its planning and zoning functions with the county, representation on the resulting joint planning, zoning or planning and zoning commission shall as nearly as possible reflect the proportion of population living within the impacted city, the area of city impact outside the city, and the remaining unincorporated area of the county. Membership on such a joint planning, zoning or planning and zoning commission may exceed twelve (12) persons, notwithstanding the provisions of subsection (a) of section 67-6504, Idaho Code.

Commission Finding:

Title 8, Chapter 2, Areas of City Impact:

The Planning & Zoning Commission first turned their attention to the mapped boundaries of the Areas of City Impact. Commissioner Simpson discussed the eastern boundary of the Hailey ACI, preferring a line that ended at the current ACI line, not proceeding up Deadman's Gulch and east of the pond. Commissioner Werth led the majority that felt the boundaries were acceptable as proposed. However, the Commissioners unanimously agreed that the Advisory Area of Bellevue, although acceptable as an area for commenting powers, extended too far for City Initiated Annexations. The Commission recommended Bellevue annexations be limited, as in Hailey's, to those areas in the ACI outside the Advisory area.

The Commissioner's discussed the role the other jurisdiction should play in a request for annexation. Hailey's language provides that a land owner with lands in

both Bellevue and Hailey ACI areas would seek the consent of the other jurisdiction prior to annexation. Bellevue's language no longer has this provision. The Commission found (4-1) in favor of Hailey's language, where the land owner shall seek consent of the other jurisdiction prior to annexation. The Commission recommended approval of the Planned Unit Development sub-areas as described approving of the flexibility it offers in protecting the various resources of the region. Commissioner Simpson suggested the Wildlife protection language that is found in other areas of the ACI language be incorporated in the Hailey West language. Her fellow Commissioners agreed unanimously.

Commissioner Werth discussed that requiring 50% open space in Planned Unit Developments on the edge of cities might work at cross-purposes with increasing the density of cities and areas that are likely to be annexed in the future. The Commission discussed the alternative, straight-lot subdivisions and didn't find such development patterns any better. Commissioner Bailey stated that all non-short-plat subdivisions should be required to do PUDs, but he didn't see the logic for making a two-lot split or any other short-plat do a PUD. The Commission unanimously agreed that PUDs should be mandatory within the ACI areas for subdivisions larger than short-plats and not just encouraged. Commissioners Werth and Bonner both added their interest in the County down-zoning the immediate areas around cities, encouraging development to annex into cities.

Commissioner Bailey urged that some form of density statement should accompany the Area of City Impact agreements, especially if TDRs are to be re-incorporated in the agreements. Commissioners Werth countered, adding that his interest lies in seeing the County down-zone the immediate areas surrounding cities, thereby encouraging annexation into cities. Commissioner Werth stated that forcing a density statement upon cities would limit the leverage cities have in annexation negotiations and he didn't believe that was the County's role. Commissioner Murphy agreed and the consensus of the Commission found a recommendation of no density statements, down-zoning around the cities and re-incorporating TDRs in the ACI agreements.

V. Commission Recommendation:

Motion: Upon motion by Commissioner Murphy, second by Commissioner Bonner, and by a unanimous vote of 5 in favor and 0 against, with two absent, the Commission hereby recommends approval of Title 8, Chapter 2, Area of City Impact agreements with the Cities of Bellevue and Hailey, conditioned on incorporation of suggested revisions found herein.

IT IS SO ORDERED.

DATED this ____ day of September, 2008.

Doug Werth, Chairman

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