


AGENDA ITEM SUMMARY

DATE: 10/27/08 DEPARTMENT: Planning DEPT. HEAD SIGNATURE: 

SUBJECT: Findings of Fact, Conclusions of Law, and Decision – Life Church Annexation.

BACKGROUND:

See attached draft findings.

FISCAL IMPACT / PROJECT FINANCIAL ANALYSIS: Case # _____
Budget Line Item # _____ YTD Line Item Balance \$ _____
Estimated Hours Spent to Date: _____ Estimated Completion Date: _____
Staff Contact: _____ Phone # _____
Comments:

ACKNOWLEDGEMENT BY OTHER AFFECTED CITY DEPARTMENTS: (IF APPLICABLE)

____ City Attorney ____ Clerk / Finance Director ____ Engineer ____ Building
____ Library ____ Planning ____ Fire Dept. _____
____ Safety Committee ____ P & Z Commission ____ Police _____
____ Streets ____ Public Works, Parks ____ Mayor _____

RECOMMENDATION FROM APPLICABLE DEPARTMENT HEAD:

Approve findings as written or as may be amended.

ACTION OF THE CITY COUNCIL:

Date _____
*10/27 - amended by Haemmerle & approved as such
Haemmerle voted to approve this application -*

City Clerk _____

FOLLOW-UP:

*Ord./Res./Agmt./Order Originals: Record *Additional/Exceptional Originals to: _____
Copies (all info.): _____
Copies (AIS only) _____
Instrument # _____

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION

On March 10, 2008, April 14, 2008, August 25, 2008, and October 6, 2008, the Hailey City Council considered an application by Life Church for annexation of Tax Lots 7734, 6879 and 6880 (northwest corner of McKercher Boulevard and Highway 75) called Life Springs annexation application. 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 Wood River Journal and mailed to property owners within 300 feet, to public agencies, and to area media on September 17, 2008. Notice was posted on all boundaries of the subject property on September 29, 2008. The mailing list of property owners within 300 feet was updated on August 25, 2008 using the Blaine County GIS Internet Map Services.

Application

Life Church, represented by John Gaeddert of the Corporation for Land Planning and Engineering, has submitted an application for annexation of 10.68 acres comprising of Tax Lots 7734, 6879 and 6880.

A portion of the site is intended be used by the applicant for the construction of a church, approximately 6,000 square feet in size. The church may wish to expand an additional 6,000 square feet in the future.

The property is currently located in the County, within the Area of City Impact and is zoned R-1 (one residential lot per acre). The annexation application originally requested that the property be zoned as Transitional (TN) and Recreational Green Belt (RGB) upon annexation.

Procedural History

At the October 6, 2008 workshop the Council discussed what the potential benefits the city could be realized through this annexation and denied the application for annexation. Council members Brown, Burke and Keirn voted in favor of denial, Council member Haemmerle opposed the denial.

August 25, 2008 – City Council’s third public hearing

- The Council reviewed the applicant’s revisions to the schematic plans as described in the next section of this staff report.
- Councilmember Burke stated that she did not support TN zoning of Block 3, that Block 1 could be residential and open space, that Hailey should have control of the entrance to Hailey and that she cannot discuss appropriate mitigation without knowing what is proposed.
- Councilmember Haemmerle stated that Block 3 should have zoning similar to the County’s R-1 zoning, that Block 2 is the appropriate location of the church but wants assurance of maximum square footage of the building(s) and that Block 2 cannot be subdivided in the future and that he did not feel higher residential density for Block 1 is appropriate.

- Councilmember Brown stated that Block 1 should have a park like appearance, that the city should look like the city, that the size of the church should be limited, that the use of the forest service buildings should be directly tied to the church use, that residential zoning is appropriate for Block 3, that Block 4 can be used for snow storage and that an easement should be obtained to allow for the possibility of future connection to the BLM property.
- Mayor Davis stated that Block 1 should allow for business use, that Block 2 is appropriate for the church site, that Block 3 should have zoning similar to the County's R1 zoning, that Block 4 should be zoned RGB and that an easement should be obtained to allow for the possibility of future connection to the BLM property.

The consensus of the Council was that they are willing to continue to work with the applicant on an agreement and decided to schedule a workshop to continue discussions with the applicant.

April 14, 2008 – City Council's second public hearing

- The Council reviewed a schematic master plan submitted by the applicant which depicted the applicant's proposal to designate the property as Transitional (TN) zoning.
- Councilmember Burke stated that she would consider GR zoning only, that a horse property on the portion of the site at the corner of McKercher and Hwy 75, that the site is not the right location for an ice rink, that the site could be a good residential area given proximity to grocery, middle school, etc, with open space, and that the city should contain density.
- Councilmember Haemmerle stated that he preferred residential use over commercial or office use, that it is a mistake to push business uses farther north, that he would be willing to look at TN in annexation agreement, and that he does not agree with density outside of the city center.
- Councilmember Brown stated that she would not consider commercial or business use on the property, that she wants to protect downtown, that she is fine with residential uses (city should have density), that she wants snow storage included, an easement to the river, and a donation of the portion of the site at the corner of McKercher and Hwy 75 to the city and leaving a portion as open space, that she questioned the impact on water supply, but that she is willing to consider annexation.

March 10, 2008 – City Council's first public hearing

- There was an error in the notice for the public hearing scheduled for March 10, 2008. The Council moved to correct the noticing error.
- The application was noticed for the next possible Council meeting: April 14, 2008.

January 24, 2008

- The applicant submitted a schematic master plan for the 10.68 acres owned by the church to attempt to address the Commission's reasons for recommending denial of the application.
- This action initiated the process of scheduling the application for the Council's review.
- According to the Hailey Annexation Ordinance upon receipt of the Commission's findings of fact and conclusions of law a public hearing can be scheduled for the Council to review an application for annexation. The Commission's findings of fact and conclusions of law were emailed to the Council on Friday February 22, 2007 and were included in the Council's packet for the scheduled March 10, 2008 public hearing.

March 19, 2007 – Commission’s fourth public hearing

- Additional plans were presented by the applicant showing scenarios with variations on parcel size and zoning (Transitional (TN) zoning and General Residential (GR) zoning and limited uses within the annexation agreement).
- The applicant’s scenarios did not include proposed uses, approximate number and size of lots, length and location of proposed water and sewer mains, length and location of proposed streets, alleys and sidewalks, easements or size and location of parks and open spaces.
- The Commission determined that the scenarios represented by the applicant failed to demonstrate to their satisfaction what plans the church had for the portions of the property that would not be developed as a church.
- The main concern of the Commission was the potential for office development outside of the established Business District.
- The Commission recommended denial of the application.

February 20, 2007 – Commission’s third public hearing

- Additional public comment was taken. The hearing was continued on the record to March 19, 2007.

February 5, 2007 – Commission’s second public hearing

- The applicant submitted a revised site plan showing lot lines removed, parking for the church being shifted to the west to mitigate impact on the church site of future extension of River Street, and Recreational Green Belt (RGB) and Transitional (TN) zoning. A draft Annexation Agreement was also submitted. The hearing was continued on the record to February 20, 2007.

November 6, 2006 – Commission’s first public hearing

- The Commission requested additional information from the applicant regarding the site and possibly some conceptual design of the building.

April 27, 2004 – Applicant files an annexation application.

October 27, 2003

- Prior to submitting an annexation application, representatives of the applicant requested that the City extend services to the property to enable construction of a church. According to the minutes of that meeting the church had been denied a septic permit from South Central Health District to develop in the County because the property is within 200 feet of a sewer system.
- The City denied the sewer extension request and suggested the applicant explore other options with the County (e.g., appeal the decision by the Health District on septic permit and then apply for a conditional use permit through the County) or to apply for annexation to the city.

Applicant's Master Plan

Initially the applicant offered 1.7 acres for the location of an ice rink to be operated by Hailey Ice. The Hailey Ice board members sent a letter to the applicant dated April 23, 2008 stating due to the Council's discussion on April 14 and neighbor issues, the board was pursuing other options for located the ice rink.

On July 2, 2008, the applicant submitted revisions to the schematic plan which shows the approximate number and size of lots and potential building footprints, length and location of proposed streets and sidewalks, easements and size and location of parks and open spaces. The revised plan had the following components:

- Block 1 – approximately 1.6 acres located at the corner of McKercher and Highway 75, General Residential (GR) zoning
- Block 2 – approximately 4.15 acres located east of Block 1 and south of the River Grove Ranch Subdivision, the proposed location of the church, General Residential (GR) zoning
- Block 3 - approximately 3.5 acres located east of River Street, Transitional (TN) zoning
- Block 4 – approximately 1.5 acres located east of River Street and south of Block 3 and designated as being deeded to the City of Hailey, no zoning designation proposed by the applicant
- A 22 foot landscape easement adjacent to Mountain View Subdivision, from Saddle Trail to Angela Drive.
- Relocation of three (3) of the historic forest service buildings to Block 2, pending acquiring the buildings from the current owner.
- A ten foot (10') pedestrian access easement between a portion of Block 2 and Block 3.

The applicant still proposed a portion of the site be zoned Transitional (Block 3). The land use associated with Transitional Zoning was the main issue the Commission had regarding the application's compliance with the Comprehensive plan, specifically Section 12.1, which reads as follows:

To manage and accommodate growth due to infill development and to control and/or limit expansive development within the City of Hailey, through flexible, responsive, and consistent controls, in order to provide for a community that is well-defined in terms of distinct boundaries, compact in terms of human scale elements and distances between structures and uses, and surrounded by and integrated with green space. To provide for alternative modes of transportation, sustainable economic development, a balanced mix of housing, serviceable annexations and adequate infrastructure.

The general list of uses that have been discussed by the Council as appropriate for the site include:

- Church
- Residential – single family and/or multifamily
- Park Space
- Open Space

The land use issues that have to be addressed in considering this application include:

- Appropriate buffers between Hailey and adjacent residential and equestrian uses to the west and north of the site.
- Appropriateness of allowing Professional Office uses outside of the areas currently zoned Business District and Limited Business Districts at the north end of Hailey.
- Intent of the Transitional District.

Department Head Comments

Department Comments were received by the Council on March 10, 2008 and April 14, 2008.

Water and Sewer:

Previous staff comments indicated there are adequate water and sewer services available to accommodate the proposed development of this property, whether developed with office or residential uses in addition to the church use.

Procedure and Standards for Council Review

Pursuant to Section 14.01.090, Council Review, of Hailey Ordinance No. 889, the Council's review shall include the following:

Conduct and Notice of Council Hearing. Upon receipt of the Commission's findings of fact and conclusions of law, the Council shall schedule a public hearing to review the application for annexation. Notice of the public hearing shall be conducted in the same manner as the notice for a Commission hearing pursuant to Section 14.01.070 of this Chapter. The Council shall have the right to request further information deemed necessary by the Council at any time during the proceedings.

Fiscal Impact. To assist the Council in the determination whether an annexation will have any negative fiscal impact, the Council may, in its sole and absolute discretion, require the applicant for annexation, at the applicant's sole expense, to submit a fiscal analysis or an updated fiscal analysis by a qualified and independent person or firm acceptable by the Council and in a format acceptable by the Council, to determine the proposed annexation's impact and to recommend the base amount of annexation fees. The Council retains the right to require further monetary or non-monetary contributions for any annexation. The applicant has the right to seek the City's approval of such a fiscal impact study at any point in the annexation process.

The Council discussed a fiscal impact study, but for reasons stated herein, elected to deny the application without the benefit of a study. The Council did not want the applicant to have to pay for a study when the city was going to deny the application for non-fiscal reasons.

Findings. During the public hearing process of the application for annexation, the Council shall make its own findings of fact and conclusions of law to determine:

1. Whether the proposed application will be harmonious and in accordance with specific goals and policies of applicable components of the Hailey Comprehensive Plan, and The proposed Transitional Zoning of Block 3 was discussed by the Council.

The Commission had issues with the proposed TN zoning; the Commission was concerned with continuing to allow business related uses outside of the Business District and wanted to limit the uses allowed in the TN zoning district for this property.

The Council discussed General Residential (GR) zoning as a more appropriate zoning designation in order to accommodate a church use while also providing a buffer between the county use to the north, the residential use west and the business use to the south and east.

In addition the portion of the property designated as Block 3 was discussed by the Council as being appropriate for residential use due to the proximity to the Wood River Middle School, Albertsons and other Business District uses.

Several sections of the Comprehensive Plan have goals and policies applicable to annexation, including Section 5, Land Use, Section 6, Economic Development, Section 8 Housing, Section 9, Public Facilities, Utilities, and Services and Section 12, Growth Management. Specific goals and policies from Section 12, Growth Management that address annexations include the following:

12.1 Goal: To manage and accommodate growth due to infill development and to control and/or limit expansive development within the City of Hailey, through flexible, responsive, and consistent controls, in order to provide for a community that is well-defined in terms of distinct boundaries, compact in terms of human scale elements and distances between structures and uses, and surrounded by and integrated with green space. To provide for alternative modes of transportation, sustainable economic development, a balanced mix of housing, serviceable annexations and adequate infrastructure.

A primary concern of the Commission was related to “control and/or limit expansive development”. The Commission felt that the application was not well defined.

Residential, church, open space, parks and recreational uses were discussed by the Council as the most appropriate mix of uses which are compatible with the uses on adjacent properties and which would control the creep of office and other commercial uses north of the established Business zoning district.

The current Hailey zoning map shows TN zoning only within the Townsite Overlay (TO) between the Business (B) and General Residential (GR) zones. The subject area is not in keeping with this pattern of zoning. Properties currently located within the City of Hailey at the north and south ends of Main Street and adjacent to the Business zone are zoned Limited Business (LB), General Residential (GR) or Limited Residential (LR-1); this pattern of zoning is more applicable to the subject area. The following policies from the Land Use and Economic Development sections of the Comprehensive Plan also address this issue:

5.4.2. Enhance the Central Business District as defined in this plan, maintaining it as Hailey's primary retail center. Consider ordinance amendments that will support a dynamic and vital downtown core. Expand the Business and like districts in accordance with the established Land Use Map.

d. Encourage the infill of existing Central Business District property, for example along River Street, with business and accessory residential uses prior to expanding the Business district. Discourage any further lengthening of the Central Business District.

5.4.5. Promote land use policies that protect and enhance new and existing neighborhoods in residential zoning districts. Encourage a diversity and mix of residential housing throughout the city in order to create a fully integrated community.

i. Consider additional (annexed) residential land uses to be most appropriate to the east and north of the existing city limits, to the west with consideration of floodplain and wetland areas, and least appropriate to the south (while the airport is in its current location).

6.1.1. The City of Hailey should have a Central Business District, as defined in this Plan, which should be the primary commercial center of the community. All regional commercial activity, with the exception of industry, should be concentrated in the Central Business District. The Central Business District of the City of Hailey should be the Business and Limited Business districts on or adjacent to Main Street, River Street, and First Avenue in the Hailey Original Townsite and should not extend east or west of those streets. Additionally, the Central Business District, until properly in filled, should not extend further south than the intersection of Third Avenue and Main Street or further north than McKercher Boulevard.

Because commercial creep north is a concern, a residential zoning district that identifies churches as a permitted use was determined to be the more appropriate zoning choice for the subject area.

12.1.1 Policy: Ensure that growth does not outpace infrastructure, services or capacity of resources. The following implementation items are considered high priority for the City.

Implementation:

- e. When considering annexations, evaluate the merits on which the property would benefit the City if annexed. For example, property with existing ground or surface water rights or other similar resources would be a greater benefit to the City than property without.**

The subject property does not have any water rights. A benefit to the City may be the ability to extend sewer services to the subject property, thereby eliminating the possibility of groundwater contamination or contamination of the Big Wood River from a septic system.

Other benefits proposed by the applicant include:

- Approximately one and a half (1.5) acres for use by the City.
- A 22 foot landscape easement adjacent to Mountain View Subdivision.
- Relocation of three (3) of the historic forest service buildings to the site, pending acquiring the buildings from the current owner.

Over the course of the Commission's deliberation on the application, conservation easements were discussed. The landscape easement proposed by the applicant extends along the western boundary of the property from Empty Saddle Road to the northern boundary of the Mountain View Subdivision. A 10 foot pedestrian access easement is shown between a portion of Block 2 and Block 3. This easement stops at the boundary with Tax Lot 4563 and would not provide a connection to access to adjacent BLM land. Therefore, for the easement to be beneficial, it would need to extend north, along the property line with Tax Lot 4563, to the northwest point of the property.

The Council determined the proposed benefits were not adequate. The Council sought land from the applicant as additional benefit, but was not convinced that the proposed land offer would be benefit enough. The applicant was unwilling to give any additional land beyond what had been already offered.

- f. Ensure that existing infrastructure and proposed infrastructure provided by an applicant can accommodate any proposal for annexation.**

There are no major concerns from City Departments regarding infrastructure capacity and the ability to accommodate the proposed development if all extensions of service and other mitigation measures are paid for by the applicant.

- g. Continue to evaluate the adequacy of the City water supply to meet current and future demands. Where available, require sufficient water rights be provided by applicants for the uses proposed within lands considered for annexation.**

The subject property does not have any water rights.

12.1.3. Policy: Support infill development, generally the preferred method of growth, while recognizing that expansion of city boundaries will also be required to accommodate various uses compatible with this Plan.

Implementation:

- a. Carefully analyze for general compliance with this Comprehensive Plan all applications for the expansion of city boundaries. Annexations and extension of full city infrastructure should occur only as infrastructure and city services can be feasibly provided.**

The Commission could not find that the application was in compliance with this policy of the Plan without more detail regarding the uses proposed for the subject property. The Commission had issues with the proposed TN zoning; the Commission was concerned with continuing to allow business related uses outside of the Business District and wanted to limit the uses allowed in the TN zoning district for this property. Whether the use should be further restricted on this portion of the site in order to support infill development within the existing Business district, was the main concern of the Commission. The Council concurred with the Commission.

General Residential (GR) zoning was discussed by the Council as possibly being a more appropriate zoning designation in order to accommodate a church use while also providing a buffer between residential uses to the north and west.

The applicant submitted a master plan of the site in an effort to provide more detail regarding the uses proposed for the subject property. 4.15 acres of the property is now proposed to be zoned GR and 1.5 acres to the city; however the applicant still proposes 3.5 acres as Transitional. The proposed Transitional zoning was unacceptable to the Council.

- 12.1.5. Policy: Ensure that development, both within current city limits and in future annexation areas, pays all cost associated with additional services required. Future growth should pay for itself.**

Implementation:

- a. Based on information gained through the examination of levels and costs of services, maintain an appropriate method of calculating basic annexation fees, which may be augmented by site specific exactions or dedications.**
- b. Consider site specific needs related to each annexation application and ensure the collection of fees, development of infrastructure, or other exactions appropriate to those needs.**

The Council determined that there would not be enough potential benefit derived from this annexation to warrant proceeding with a fiscal impact study.

- 12.1.6. Policy: Ensure that community and neighborhood character is provided for future development through the use of innovative design, diversity of housing, and individuality of homes.**

Implementation:

- a. Consider development standards that will promote and ensure compatibility between different types of residences in new subdivisions and annexations.**

The Commission had issues with the proposed TN zoning; the Commission was concerned with continuing to allow business related uses outside of the Business District and wanted to limit the uses permitted on this property. The Council concurred with the Commission.

General Residential (GR) zoning was discussed by the Council as possibly being a more appropriate zoning designation in order to accommodate a church use while also providing a buffer between residential uses to the north and west.

The applicant submitted a master plan of the site in an effort to provide more detail regarding the uses proposed for the subject property. The majority of the property was proposed to be zoned GR or RGB, however the applicant still proposed 3.5 acres as Transitional.

2. Whether the proposed annexation generally complies with the Hailey Comprehensive Plan, and

The Council determined there is adequate evidence on specific goals and policies of the Comprehensive Plan to make findings that the proposal does not generally comply with the Comprehensive Plan.

3. To the extent possible, whether the proposed annexation will have a negative fiscal impact upon the existing citizens of Hailey at the time of an annexation and in the future.

The Council determined that there would not be enough potential benefit derived from this annexation to warrant proceeding with a fiscal impact study.

Zoning Classification. If the Council finds general compliance with the Hailey Comprehensive Plan, the Council shall then consider the application for a zoning classification and consider any and all factors it deems, in its sole and absolute discretion, important to determine whether an application for annexation shall be granted or denied.

The applicant's revised plan proposed zoning designations of General Residential (GR) and Transitional (TN). The Commission recommended denial of the application mainly due to concern over Professional Offices and Mixed Use Buildings being permitted uses in the TN zone and whether those permitted uses, if located on this site would conflict with the Comprehensive Plan policy of supporting infill development in the existing Business district. The Council concurred with the Commission and further determined there was insufficient benefit to move forward with annexation of this property.

If the Commission made negative findings related to the Comprehensive Plan under Section 14.01.080 and therefore did not make a recommendation on zoning classification for the property sought to be annexed, but the Council subsequently made favorable findings related to the Comprehensive Plan and wishes to proceed with the annexation, the Council shall remand the proceedings to the Commission for its recommendation on zoning classification.

The Commission recommended denial of the application. The Council did not make favorable findings related to the Comprehensive Plan and will not proceed with approval of the annexation.

Decision. The Council has the sole and absolute discretionary right to approve, approve with conditions or deny an application for annexation. In addition, the Council is authorized to require, as a condition of approval, that the applicant and the City enter into

an annexation agreement providing for the terms and conditions of an approved annexation. In the event a subsequent development proposal materially differs from the development shown in approved annexation, the annexation agreement shall provide that the proposed development may be denied, that the applicant shall be responsible for any increased annexation fees and/or that the property may be deannexed. There shall be no right of an appeal by an applicant or by an affected party from an adverse recommendation by the Commission or from an adverse decision of the Council on an annexation application. If the Council elects to approve the application for annexation with or without conditions, the Council shall also establish the appropriate zoning district(s) for the annexed property in accordance with the procedures set forth in Article XIV of the Hailey Zoning Ordinance.

CONCLUSIONS OF LAW AND DECISION

Based on the entire record and the above Findings of Fact, the Council in a three to one vote (Brown, Burke and Keirn in favor and Haemmerle opposed) makes the following Conclusions of Law and Decision:

- 1) Adequate notice, pursuant to Ordinance No. 889, Section 14.01.070, was given,
- 2) The proposed application is not harmonious and is not in accordance with specific goals and policies of applicable components of the Hailey Comprehensive Plan,
- 3) The proposed annexation does not generally comply with the Hailey Comprehensive Plan,
- 4) The Council determined that there would not be enough potential benefit derived from this annexation to warrant proceeding with a fiscal impact study,
- 5) The application for Annexation is hereby denied.

Signed this 27th day of October, 2008.

Rick Davis
Rick Davis, Mayor, City of Hailey

Attest:

Mary Cone
Mary Cone, City Clerk



CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 30th day of October, 2008,
I served a true and correct filed copy of the within and foregoing document upon the parties
named below, in the manner noted:

<input checked="" type="checkbox"/>	U.S. Mail	Pastor Mike Hendricks
<input type="checkbox"/>	Via Electronic Mail	Life Church
<input type="checkbox"/>	Via Facsimile	P.O. Box 3490
<input type="checkbox"/>	Hand Delivered	Hailey, ID 83333
<input type="checkbox"/>	U.S. Mail	John Gaeddert, CLPE
<input checked="" type="checkbox"/>	Via Electronic Mail	P.O. Box 2368
<input type="checkbox"/>	Via Facsimile	Hailey, ID 83333
<input type="checkbox"/>	Hand Delivered	clpe2@aol.com

CITY OF HAILEY

By Becky Mead
Becky Mead, Deputy Clerk