

DECISION

On December 1, 2008, the Hailey Planning and Zoning Commission considered an appeal submitted by the appellant, Leargulf, LLC. The Commission, having been presented with the argument of the appellant, hereby makes the following Decision.

The applicant, Leargulf, LLC is appealing an administrative approval of minor modifications to design review approval for the CSM Building given by the Commission on June 16, 2008.

Section 3.6 of the Zoning Ordinance establishes the procedure for appeals as follows;

“A party aggrieved by a final decision of the Administrator, Hearing Examiner or Commission may appeal in writing any final decision by filing a Notice of Appeal with the Hailey City Clerk within fifteen (15) days from the date of the decision. An appeal of a final decision by the Administrator or the Hearing Examiner shall be heard by the Commission. An appeal of a final decision by the Commission or an appeal of a decision heard on appeal by the Commission shall be heard by the Council. Any appeal shall not be a de novo hearing and shall be based solely on the record before the Administrator, Hearing Examiner or Commission, as the case may be. The record shall consist of all the documents presented to Administrator, Hearing Examiner or Commission (such as the application, supporting documents, letters and studies), the minutes of any meeting and the findings of fact and conclusions of law. The Appellant may also have a verbatim transcript of the hearing before the Hearing Examiner or Commission prepared to be submitted on appeal. The cost of the preparation of the record and transcript shall be paid by the Appellant. The appeal shall specifically state the decision appealed, the issues to be raised on appeal and reasons for the appeal. If no appeal is filed within the fifteen (15) day period, the decision shall be deemed final.

At the time of the filing of the Notice of Appeal, the Appellant shall pay the costs of preparing the transcript and record estimated by the Administrator and the fee for filing an appeal, as established by ordinance. The Administrator will prepare one original transcript (if applicable) and record and 8 copies of the transcript (if applicable) and record. If the costs of preparing the transcript and record exceed the estimated costs paid by the Appellant, the Appellant shall pay the difference before a hearing on the appeal is heard.

Once the transcript and record have been prepared, the Administrator shall schedule a hearing on appeal with the Commission or Council for the next available hearing date. If the Appellant desires to file a brief in support of the appeal, the Appellant shall file an original brief and 8 copies of the brief with the Administrator five business days before the scheduled appeal hearing. If the brief is not timely filed, the Commission and the Council may elect not to consider the brief. The Appellant and Appellant’s representative and a City representative shall only be entitled to present argument before the Commission or Council.”

Procedural History

On June 16, 2008 the Hailey Planning and Zoning Commission considered an application submitted by Leargulf LLC for Design Review approval of a new 6,474 square foot, 3-unit commercial building, located at Lot 1A, Block 3, Airport West Subdivision, Phase II (1760 Lear Lane). The Commission conditionally approved the design review application. Condition (m) stated, “the Planning & Zoning Administrator has the authority to approve minor modifications to this project prior to, and for the duration of a valid Building Permit”.

The Planning Department received plans on September 9, 2008 with modifications to the CSM Building design review approval. The modifications were approved administratively as allowed for in the conditions of approval. The administrator found identified the following modifications

to the CSM Building:

- The addition of a second story deck on the east and west elevations, approximately 175 square feet each
- Change of windows to doors leading out to the deck on the east and west elevations
- Removal of the lower roof standing seam on the east and west elevations
- The addition of a trellis on the south elevation

The Administrator determined the modifications to be minor and approved them administratively.

Based upon the foregoing, the Commission affirms the Administrator's decision with regard to approval of minor modifications and concludes that:

1. The Administrator has the authority to approve minor modifications to design review approval.
2. The changes submitted by the applicant are minor.

Signed this _____ day of _____, 2008.

Stefanie Marvel, Chair

Attest:

Becky Mead, Deputy Clerk

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the ____ day of _____, 2008, 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 Facsimile
- Hand Delivered

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

CITY OF HAILEY

By _____
Becky Mead, Deputy Clerk