

FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDATION

On December 7, 2009, the Hailey Planning and Zoning Commission considered an application submitted by Ed Uhrig for an amendment to the Hailey Zoning Map. The proposed amendment would change the zoning of Lots 4-10, Block 69, Hailey Townsite from General Residential (GR) to Limited Business (LB). 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 Recommendation.

FINDINGS OF FACT

Notice

Notice for the public hearing was published in the Idaho Mountain Express, mailed to property owners within 300 feet, and mailed to public agencies and area media on November 18, 2009; and notice was posted on all external boundaries of the property on November 30, 2009.

Application

The applicant has submitted a request for a zone change from GR to LB, but has not identified any intended change of use at this time.

The current uses of Lots 4-10 are storage of fence materials (Lots 4-7 and north ½ of Lot 8), which is a non-conforming use in the GR district as well as the LB district, and a single-family residence (Lots 9-10 and south ½ of Lot 8).

Uses adjacent to the subject property include:

South: Multi-family residences

North: Multi-family residences

West: Subway, Baskin Robins, and Sinclair Gas Station.

East: Single family residences

Analysis and Discussion

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.

When considering this rezone the differences between the two following districts are evaluated: Townsite Overlay bulk regulations with underlying zoning regulations and underlying zoning regulations without the Townsite Overlay District. In the event that the subject property is removed from the Townsite Overlay boundary the underlying district regulations would apply.

The substantial differences in use between GR and LB districts are listed below.

In addition to the permitted uses allowed in General Residential, Limited Business allows for the following additional permitted uses:

- lodging establishments
- professional offices, excluding veterinarians
- health care and social assistance
- real estate and property management companies
- catering services
- arts, entertainment and recreation uses (indoor and outdoor)
- Personal services where retail sales are clearly incidental to the principal use and no outside storage yard or facility is required
- semi public uses
- other educational services
- government offices and public administration, except correctional institutions
- PWSFs or WCFs, attached to street poles, upon the issuance of a wireless permit in accordance with the provisions of Article VIIA of the Hailey Zoning Ordinance.

Conditional uses allowed in LB and prohibited in GR district are as follows:

- Gasoline Stations and Automotive Repair and Maintenance
- Restaurants
- Wholesale distributors
- Convenience Stores
- Medical personal care stores
- Finance and insurance firms
- Construction contractors' offices with no exterior storage
- PWSF's and WCF's, mounted on any proposed freestanding tower (in GR it can be attached to street poles or mounted on existing buildings or structures, but not freestanding towers)

Accessory Uses allowed in LB, but prohibited in the GR district are as follows:

- Combustible liquid tanks.
- PWSF's and WCF's, mounted on existing buildings or structures.

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 have become standard with rezone approvals. The Commission considered a Development Agreement that prohibits all conditional uses listed in the LB district to help lessen impacts felt by neighboring residential areas and to help preserve the residential character.

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:

1. 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 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)	Residential and Storage
Proposed	No change is proposed	LB (Limited Business)	No change at this time
North of site	Transitional	GR (General Residential)	Residential
South of site	Transitional	GR (General Residential)	Residential
East of site	Transitional	GR (General Residential)	Residential
West of site	Business/Commercial/Mixed Use	B (Business)	Business

- 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 of 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 purpose of the LB District and analyzed whether the rezone is 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 Commission determined that the proposed amendment conforms to the Comprehensive Plan’s land use map, but did not support infill goals and would add to business uses sprawling into neighborhood areas. The area is shown as a Transitional area on the land use map, which would support a rezone to a mixed use zoning district. However, they determined that the uses allowed in the LB were not appropriate at this location at this time, as described in Section 14.6.1 and due to the numerous existing vacant buildings and properties zoned B within the Townsite Overlay District that would support the same uses as a LB district.

2. 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;

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.

FINDING: The Commission determined that 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.

3. The proposed uses are compatible with the surrounding area; and

If the rezone is approved, the GR zoned residences to the north of the subject property would be sandwiched between the B district to the North and West, and the LB district to the South. Depending on the future use of the subject property, this may burden the remaining GR lots on Block 69 (Lots 1-3).

The Commission considered the following options: 1) denying the rezone, 2) approving the rezone contingent on Lots 1-3 also being rezoned to LB, and/or 3) approving the rezone with a development agreement to mitigate any potential impacts to the residential areas adjacent to the subject property.

The applicant has stated that the uses directly west of the subject property impact the subject lots in such a manner that it would be difficult to sell the property or redevelop with strictly residential units, as the GR district requires. It is important to consider what the implications of the proposed rezone may be on residential properties adjacent to the subject property if a rezone is approved; adjacent residences could have the same concerns as the applicant.

FINDING: The Commission determined that the rezone would not be compatible with the surrounding area at this time because of potential impacts to existing residential uses to the north, south, and east of the property.

4. The proposed amendment will promote the public health, safety and general welfare.

It is difficult to determine the exact impacts, without knowing the future use of the subject property, however the list of uses permitted in the LB district gives an approximation of potential impacts.

FINDING: The Commission determined that the proposed amendment would not promote the general welfare because of potential impacts to existing residential uses to the north, south, and east of the property and because of existing vacant buildings and lots located near the proposed rezone, in the B district, which supports the same commercial uses as the LB district. The Commission determined that vacant buildings and lots within the B district should be occupied or developed prior to recommending a rezone which would create a larger LB district.

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).	Sweetwater - 22 residential units

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. 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 the vacant lots zoned LB is 24.92 acres. Of the 24.92 acres, approximately 6.5 acres is 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.

FINDING: The Commission considered the number of vacant buildings currently located in the B district. Although the analysis was not done on this district, there are numerous commercial building vacancies close to the Central Core Overlay District, such as the Village at Hailey Center and Meriwether Condos. All commercial uses allowed by the LB district are also allowed by the B district. Therefore, there are vacant buildings available in the B district that could support the same commercial uses that could potentially be developed on the subject property, if it were to be rezoned LB.

- 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.

FINDING: The Commission also considered the vacancy rates and the distance from the Central Core Overlay and determined that the high vacancy rates in the LB and the B districts did not favor a rezone. The Commission determined that there were numerous existing vacancies in the B district, within the downtown core, which supports the same commercial uses as the LB district. Due to a high number of existing vacancies, a rezone to LB would not support infill goals.

CONCLUSIONS OF LAW AND RECOMMENDATION

Based upon entire record and the above Findings of Fact, the Commission makes the following Conclusions of Law and Recommendation:

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 not in accordance with the Hailey Comprehensive Plan, Section 6.1.c.
3. The Zoning Map amendment would not promote the general welfare.
4. The Zoning Map amendment would not be compatible with surrounding uses.

Therefore, Commission recommends that the application to change the zoning of Lots 4-10, Block 69, Hailey Townsite from General Residential (GR) to Limited Business (LB) be denied.

Signed this _____ day of _____, 2009.

Owen Scanlon, Commission Chair, City of Hailey

Attest:

Becky Mead, Deputy Clerk