

## **FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION**

On March 16, the Hailey Planning and Zoning Commission considered an application submitted by the Idaho Army National Guard for an amendment to the Hailey Zoning Map. The proposed amendment would change the zoning for Block 125, Lots 8-12, Lots 20-24, and Vacated Cedar Street, Hailey Townsite from General Residential (GR) to Limited Business (LB). The subject property is located at 311 Cedar Street East. The Commission, having been presented with all information and testimony in favor and in opposition to the proposal, hereby makes the following recommendation.

### **FINDINGS OF FACT**

#### **Notice**

Notice for the public hearing was published in the Idaho Mountain Express on February 25, 2009; the notice was mailed to property owners within 300 feet and to public agencies and area media on February 25, 2009; and notice was posted on all external boundaries of the property on March 9, 2009.

#### **Application**

The Idaho Army National Guard has submitted an application for an amendment to the zone district map for the City of Hailey. The application would change the zoning of Lots 8-12 and 20-24, Block 125, Hailey Townsite (311 Cedar St. East) from General Residential (GR) to Limited Business (LB). The rezone would allow for a freestanding wireless tower upon approval of a Conditional Use Permit.

Uses adjacent to the subject property include: an inn/bed-and-breakfast to the immediate north; Roberta McKercher Park to the immediate south; the Blaine County Senior Center and a school to the immediate west; and multi-family residences to the east. Several limited business establishments are in close proximity to the east and west, although none are directly adjacent to or directly across the street from the subject property.

The substantial difference between the GR and LB districts are listed below. The purpose of the 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 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 LB District are set forth in Section 4.5 of the Hailey Zoning Ordinance (attached).

## **Procedural History**

Currently, the property is owned jointly by the State of Idaho and the City of Hailey and is zoned GR. The Idaho Army National Guard has concurrently applied for a Wireless Permit and Conditional Use Permit and Design Review of the proposed wireless tower. Approval of the rezone and Conditional Use Permit is required in order to issue a Wireless Permit for a freestanding tower at this location.

The current use for the property is the Hailey Readiness Center (Armory), which is the primary drill facility for the Idaho Army National Guard, and has been used continuously as such since 1973. The current use is considered a Public Use. The subject use is currently non-conforming within the GR district and would continue to be non-conforming in the LB district, without a Conditional Use Permit.

Pursuant to Section 13.3 of the Hailey Zoning Ordinance, non-conforming uses may be continued, as long the use isn't enlarged or extended in a manner that would be considered to increase the degree of non-conformity. Such changes, which would be considered to increase the degree of non-conformity, are as follows: increase in square footage of the building, hours of operation, traffic generated, and volume of goods handled.

Section 13.5, Expansion of Use, states, "A non-conforming use shall not be used as justification for adding other structures or uses prohibited in the same district." Because the applicant has concurrently applied for a Conditional Use Permit for the freestanding wireless facility, the use of the building as a Public Use is not considered to be expanded – the structure (i.e. wireless tower) is allowed in the LB with a Condition Use Permit.

## **Analysis and Discussion**

The Townsite Overlay District is an overlay district, setting forth bulk regulations and design standards. 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 Commission evaluated the differences between the two districts; 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 ever 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 also 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
- 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 differences in bulk requirements can be evaluated separately, with and without regard to the Townsite Overlay District.

The difference in bulk requirements without regard to the Townsite Overlay are as follows:

<b>Bulk Regulations</b>	<b>LB</b>	<b>GR</b>
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, set forth in the Townsite Overlay District, Section 4.13.6 of the Hailey Zoning Ordinance:

<b>Bulk Requirements</b>	<b>LB in Townsite Overlay</b>	<b>GR in Townsite Overlay</b>
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

The purpose of the 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.

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. The Commission considered whether limiting the use of the property is deemed appropriate given that the property is jointly owned by the City. Regardless, it may be beneficial to enter into a development agreement that would, as an example, rezone the property to LB, but limit all conditional uses, excluding public uses and freestanding wireless towers, which are the two conditional uses that would pertain to this property. A Development Agreement could also specify that no other Conditional Uses can be permitted at the subject property and that in the event that the current use(s) cease to exist, the property would revert back to GR. These types of conditions may help lessen any impacts felt by neighboring residential areas and may help preserve the residential character, if in the future the property's use were to change.

The Commission determined that a development agreement should be recommended to the Council and should require that the property revert back to General Residential if and when the current use of the property as the Hailey Readiness Center (Armory) ceases to occupy the property.

### **Standards of Evaluation**

Section 14.6 of the Hailey Zoning Ordinance sets forth the following standards of evaluation.

The Commission shall, at a minimum, consider the following criteria in making its recommendation:

- 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 of the proposed rezone as “Transitional – Mixed use, including residential, providing a buffer between residential neighborhoods and intense business use.” The nature of the Hailey Armory, although a public use, is neither commercial nor residential and has existed on this site since 1973.

	<b>COMP PLAN DESIGNATION (LAND USE MAP)</b>	<b>ZONING DESIGNATION</b>	<b>LAND USE</b>
<b>Existing</b>	Transitional	GR (General Residential)	Hailey Readiness Center (Hailey Armory)
<b>Proposed</b>	No Change	LB (Limited Business)	No change
<b>North of site</b>	Residential	GR (General Residential)	Residential
<b>South of site</b>	Transitional	RGB (Recreation)	Park/Recreation
<b>East of site</b>	Residential	LB (Limited Business)	Residential/mixed
<b>West of site</b>	Transitional	GR (General Residential)	Institutional/mixed

- 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.”
- Land Use Districts, Section 5.6 states, “Provide adequate areas for institutional and public facilities, such as schools, senior care, medical, judicial and other community facilities, integrated within the community.”

The Hailey Armory has been operating on this site since 1973. While the intended use of the Armory is what is now called a “Readiness Center”, the public has often used this building for many other community events and functions. The Commission determined that the use of the building is integrated into Hailey’s community.

- 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 determined that 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 the existing and continued use.

- Public Facilities, Utilities and Services, Section 9.2 states, “Review and support of services by other entities at appropriate locations.” The Commission determined if this service is at an appropriate location.

FINDING: The Commission referred to the purpose of the LB District to determine whether rezoning this area to LB is consistent with the Land Use Map. It was determined that the it is consistent and that the rezone was in accordance with the Comprehensive Plan.

**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;**

The Armory is located close to the southern entrance to downtown Hailey and at the very corner of the Townsite Overlay District. Except for sidewalks, which were required by the December 5, 2008, Design Review approval for the remodel of the Armory’s exterior building, but have yet to be installed, all city services to this property currently exist. The Hailey emergency services are within a few blocks and all utilities exist at the site.

FINDING: The Commission determined that essential public services and facilities are available and the proposed use will not create excessive additional requirements.

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

The surrounding uses are a mix of residential, limited businesses, a park, the airport, public and semi-public uses. While the properties to the north are zoned GR (General Residential), the subject property is at the southern edge of the GR-zoned properties and is located within an area that transitions from residential to Main Street properties and uses. Properties located diagonally from this property are zoned LB. Furthermore, the applicant is not proposing any changes in the use of the property, aside from the proposal for the wireless towers.

FINDING: The Commission determined that the use is compatible with the surrounding area.

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

The intent of the Hailey Readiness Center is to provide a facility in which the National Guard may train for missions in defense of the public. The Army National Guard by its very nature embodies the promotion of public safety.

FINDING: The Commission determined that the public health, safety and welfare of the citizens of Hailey will be promoted by the rezone request.

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:

### **CONCLUSIONS OF LAW AND DECISION**

Based upon the above Findings of Fact, the Commission makes the following 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 in accordance with the Hailey Comprehensive Plan.
3. The Zoning Map amendment shall be amended pursuant to a Development Agreement, which shall require the subject property to revert back to General Residential, if the property's use ever changes from its current use as the Hailey Readiness Center (Armory).

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
Owen Scanlon, Commission Chair, City of Hailey

Attest:

\_\_\_\_\_  
Becky Mead, Deputy Clerk

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the \_\_\_\_\_ day of \_\_\_\_\_, 2009, I served a true and correct filed copy of the within and foregoing document upon the parties named below, in the manner noted:

Via Electronic Mail:	Eugene Gussenhoven	<a href="mailto:eugene.gussenhoven@id.ngb.army.mil">eugene.gussenhoven@id.ngb.army.mil</a>
	Dean Hagerman	<a href="mailto:dean.hagerman@us.army.mil">dean.hagerman@us.army.mil</a>
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	Martin Powell	<a href="mailto:martin@zga.com">martin@zga.com</a>

CITY OF HAILEY

By \_\_\_\_\_  
Becky Mead, Deputy Clerk