

STAFF REPORT

TO: Hailey Planning and Zoning Commission

FROM: Mariel Platt, Planner

RE: Zoning Ordinance Amendment – Article 2, Definitions and Article 4.13, Townsite Overlay

HEARING: May 4, 2009

Notice

Notice for the public hearing was published in the Idaho Mountain Express and mailed to public agencies and area media on April 1, 2009 and continued on the record to May 4, 2009.

Proposal

Attached are amendments to Section 2.2 and 4.13.8 of the Zoning Ordinance proposed by the City. These amendments would create a definition for the term “New Building” and capitalize the newly defined term to indicate that the term has a definition provided for it in Section 2.2.

Procedural History

On April 20, 2009, the Commission reviewed the proposed ordinance amendment to add the definition of “New Building” to the definition section of Hailey’s Zoning Ordinance. After discussing the proposed amendment the Commission requested further investigation by staff to determine the impetus and reasoning for Section 4.13.8 (listed below), before an appropriate definition could be recommended to the City Council.

The Townsite Overlay District requires the following:

4.13.8 Lot Line Vacations.

If a parcel in single ownership consists of two (2) or more Original Townsite lots, or a combination of lot(s) and portions of lot(s), the internal Original Townsite lot lines underneath or located within a required setback of proposed and existing buildings shall be vacated prior to the issuance of a Building Permit for any new building.

The minutes and staff reports from the following meetings, which created Section 4.13.8., were reviewed: August 6th, September 3rd, and October 28th, 2002. It was determined that the intent was to codify the City’s policy of removing lot lines when a new structure was built for all proposed buildings. It appears that the language regarding “existing buildings” was intended to refer to buildings that currently exist, but were planned for reconstruction, following their demolition.

After discussing this matter with the Building Official, there are no building codes, which require lot lines to be removed prior to a building permit being issued. The requirement for lot lines to be vacated appears to be derived from the fact that the majority of homes within the

Hailey Townsite are built over multiple lots and the intended objective was to create conforming lots and reduce existing and future non-conformities, particularly related to setbacks.

A minor addition to a house built over one or more original Hailey Townsite lots would technically increase the degree of non-conformity which is prohibited by the zoning code. While, it is recognized that the cost to eliminate underlying lot lines may be overly burdensome to those that wish to build only minor additions to their existing non-conforming residence, it is important to eliminate non-conforming buildings created by homes historically being built over one or more original Hailey Townsite lots in order to uphold the zoning code. Therefore, it is recommended that the original definition, presented at the April 20, 2009 meeting, be reviewed by the Commission.

Discussion

Over the years, the term “new building” has been applied inconsistently to construction projects within the Townsite Overlay. In the past this section has been interpreted to mean any new construction, which adds to the building footprint, such as an addition, as well as to 100% new construction of a building, which no part was existing prior to the proposed construction. It has also been interpreted to mean only 100% new construction, such as a new detached garage or a new home, which was not existing prior the proposed construction and excluded additions and exterior remodels. Creating an incorporated definition for the term “new building” will allow the City to more uniformly interpret and apply Section 4.13.8.

The new definition would specify that lot lines only have to be vacated when new construction of a Building occurs or when construction adds floor area greater than or equal to 50% of the original structure. Defining New Building this way would exclude minor exterior remodels and minor additions to existing structures from being required to vacate lot lines even though the minor addition may in fact be increasing the degree of non-conformity, such as building set back.

The intent of developing this definition is to encourage homeowners to add onto existing structures, or demolish and rebuild only minor portions of a building, as long as the addition or new construction was not significant, in hopes of retaining more Old Hailey buildings and character, while also continuing to eliminate non-conforming lots and buildings by requiring removal of underlying lot lines for larger projects.

Standards of Evaluation

14.6 Criteria for Review. When evaluating any proposed amendment under this Article, the Hearing Examiner or Commission and Council shall make findings of fact on the following criteria:

1. The proposed amendment is in accordance with the Comprehensive Plan;

The Commission should consider how the proposed amendments relate to the various policies and implementation items of the Comprehensive Plan, particularly the following:

5.8 Due Process and Public Input

Goal: *To develop clear land use and development procedures that protect the public welfare for all development.*

3. Policy: Develop and maintain land use regulatory procedures that are efficient, consistent and predictable, but that provide flexibility to deal with unique situations.

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 proposed amendment is not expected to create excessive additional requirements at public cost for public facilities and services.

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

Not applicable.

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

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

Summary

The Commission shall hold a public hearing and determine whether the proposed amendments are in accordance with the four applicable standards of evaluation, listed above.

The Commission shall recommend, with reasons therefore, to the Council that the proposed amendment be granted or denied, or that a modified amendment be granted.

Motion Language

Motion to recommend the City Council approve the proposed amendments to Section 2.2, finding that the amendments are in accordance with the Comprehensive Plan; 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 proposed uses are compatible with the surrounding area; and the proposed amendment will promote the public health, safety and general welfare.