

## STAFF REPORT

**TO:** Hailey Planning and Zoning Commission  
**FROM:** Mariel Platt, Planner *MWP*  
**RE:** Zoning Ordinance Amendment – Article 4.13, Townsite Overlay  
**HEARING:** July 6, 2009

---

### Notice

Notice for the public hearing was published in the Idaho Mountain Express and mailed to public agencies and area media on June 17, 2009.

### Proposal

Attached are amendments to Section 4.13.8, Lot Line Vacations, of the Zoning Ordinance proposed by the City. These amendments would clarify when a lot line vacation is required.

### Procedural History

On June 1, 2009, Planning Staff recommended amending Section 4.13.8, Lot Line Vacations, instead of pursuing the creation of a definition for “new building,” to better make the connection to Section 13.6, Expansion of Nonconforming Buildings. The Commission discussed the direction of the proposed change and determined that it would help strengthen the zoning ordinance. The Commission requested staff to clarify the proposed language of Section 4.13.8. A new public hearing was scheduled for July 6, 2009 to amend Section 4.13.8.

### Discussion

Changes have been made to Section 4.13.8, which clarify when lot line vacations are to occur. The new language specifies that setbacks are to be measured from the nearest adjacent Original Townsite lot line, not from the parcel boundary of the multiple Original Townsite lot lines held in single ownership.

The language added to this section is consistent with the language used in Section 13.6, Expansion of Non-conforming Buildings. With the added language, Section 4.13.8 would clarify that a building could be added on to without the removal of internal lot lines, as long as the setbacks measured from the nearest underlying Original Townsite lot line, are met. An applicant proposing to build over any portion of a Original Townsite lot line, which is not already built over, would have to vacate the underlying lot lines, prior to receiving a building permit, regardless of whether this was an addition or 100% construction of a new building.

### 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**

Approval:

Motion to recommend the City Council approve the proposed amendments to Section 4.13.8, 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.

Denial:

Motion not to recommend the proposed amendments to Section 4.13.8, finding that the amendments are not 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.

Continuation:

Motion to continue the public hearing to \_\_\_\_\_.

HAILEY ORDINANCE NO. \_\_\_\_

AN ORDINANCE OF THE CITY OF HAILEY, IDAHO, AMENDING HAILEY'S ZONING ORDINANCE, ORDINANCE NO. 532, BY AMENDING SECTION 4.13.8, TO CLARIFY WHEN LOT LINE VACATIONS ARE REQUIRED; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A REPEALER CLAUSE; AND PROVIDING FOR THE EFFECTIVE DATE OF THIS ORDINANCE UPON PASSAGE, APPROVAL AND PUBLICATION ACCORDING TO LAW.

WHEREAS, the Hailey City Council has found that the following amendment to the Hailey Zoning Ordinance will generally conform to the Hailey Comprehensive Plan;

WHEREAS, the amendments will not create excessive additional requirements at public cost for public facilities and services; and

WHEREAS, the amendment will be in accordance with the safety and welfare of the general public.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF HAILEY, IDAHO, AS FOLLOWS:

Section 1. Section 4.13.8. Lot Line Vacations, of the Hailey Zoning Ordinance No. 532, is hereby amended by the deletion of the stricken language and the addition of the underlined language as follows:

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 each internal Original Townsite lot line(s) ~~underneath or located within a required setback of proposed and existing buildings~~ shall be vacated prior to the issuance of a ~~Building Permit~~ certificate of occupancy if either of the following criteria applies: 1) a proposed new building or addition increases the degree of nonconformity or creates a new nonconformity with regard to setbacks, measured from the nearest adjacent Original Townsite lot line, not from the parcel boundary of multiple Original Townsite lots held in single ownership or 2) lot lines, which a building is not currently built on, are located underneath a proposed new building or addition.

Section 3. Should any section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

Section 4. All City of Hailey ordinances or resolutions or parts thereof, which are in conflict herewith, are hereby repealed.

Section 5. This ordinance shall be in full force and effect from and after the required three (3) readings, approval, and publication according to law.

PASSED AND ADOPTED BY THE HAILEY CITY COUNCIL AND APPROVED BY  
THE MAYOR THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2009.

\_\_\_\_\_  
Richard L. Davis, Mayor, City of Hailey

Attest:

\_\_\_\_\_  
Mary Cone, City Clerk