

**MINUTES OF THE PLANNING AND ZONING COMMISSION
CITY OF HAYDEN, KOOTENAI COUNTY, IDAHO**

September 16, 2019

**Regular Meeting: 5:00 PM
Council Chambers**

Hayden City Hall, 8930 N. Government Way, Hayden, ID 83835

CALL TO ORDER

Chair Petersen called the meeting to order at 5:00 p.m.

ROLL CALL OF COMMISSION MEMBERS

| | |
|----------------------------|-------------|
| Brian Petersen, Chair | Present |
| Michael Cramer, Vice-Chair | Present |
| Corey Andersen | Present |
| Alan Davis | Not-Present |
| Gavin Moberaten | Present |
| Benjamin Prickett | Present |
| Shawn Taylor | Present |

STAFF PRESENT

Melissa Cleveland, Community Development Director
John Cafferty, Legal Counsel
Donna Phillips, Senior Planner
Elizabeth Allen, Planner
Heather McNulty, Commission Clerk

FLAG SALUTE

Heather McNulty led the meeting in the Pledge of Allegiance.

CALL FOR CONFLICTS OF INTEREST

Brian Petersen recused himself from the Kootenai Humane Society (KHS) special use permit public hearing due to a conflict of interest. He has been contacted by the KHS to provide an easement across his property for a sewer extension to connect this project to public sewer.

CONSENT CALENDAR

The consent calendar included the approval of the meeting minutes for August 26, 2019. Vice- Chair Cramer moved to approve the consent calendar and the motion was seconded by Commissioner Taylor. All members present were in favor, none opposed. The motion passed.

Vice-Chair Cramer opened the public hearing.

PUBLIC HEARING

Case No. PZE-19-0136, a request by Kootenai Humane Society

Staff Presentation:

Donna Phillips, Senior Planner, presented the application for a special use permit to locate an animal shelter (commercial kennel) on a 10-acre site located west of North Atlas Road approximately 650 feet north of West Dakota Avenue on property zoned as light industrial.

Applicants Presentation:

Corey Trapp, Longwell + Trapp Architects, Inc. 8382 N Wayne Drive, Hayden, stated the current shelter located on North Ramsey Road are celebrating 40 years this year in October. He then continued by stating the facility is a “no kill facility” and the only time Kootenai Humane Society (KHS) euthanizes animals is when they are too ill or injured, or when they are too dangerous to find forever homes. He reviewed the site plan of the proposed new ten-acre site on Atlas Road. They will be placing a dirt berm, trees, and landscaping as a screen on the back [west boundary] of the property to border the Carrington Meadows future development. He described the landscape plan including a dog park that would include the ability for local citizens to use the park, and a walking path around the perimeter of the property. There is space to house large animals in need of a short stay (i.e. rescue animals), or that need a shelter until adoption. In many cases, this happens due to hoarders, or a death of the owner of a large animal owner. As noted earlier by Chair Petersen, the KHS is looking for a sewer easement to bring sewer to the site; however, should this not become a solution, there is room for a sewer drain field in the back of the property. Mr. Trapp then reviewed the standards for approval; he stated that in general animal shelters are in the industrial zone or near an airport. The character of the general area is industrial buildings. The project is an existing use; the KHS is just moving locations from one side of the airport to another, and wanting the ability to give short-term shelter to large animals. Currently they only are able to rehome small animals, anything that is available for sale from Petco.

- Commissioner Cramer asked if it is feasible to have the project finished in two years. Will the septic system be able to handle the needs of the shelter?

Mr. Trapp replied that fundraising is a factor related to the time line of the project. The septic system will meet all the standards with Panhandle Health, and the City.

- Commissioner Mobraten asked, how the criteria is set for what constitutes as a large animal.

Mr. Trapp replied that the City’s ordinances [Hayden City Code 4-3] define large and small animals.

- Commissioner Andersen asked about the noise issue and asked if the dirt barrier will be enough with the residential growth around the site.

Mr. Trapp replied that the chain link fences used now for kennels are part of the problem now; with the new design, the dogs will not see each other. He continued by stating that KHS is hoping for tree donations to add to the barrier to help screen noise.

Staff Presentation:

Ms. Phillips, Senior Planner, presented a summary of the staff review of the Applicant’s narrative and application as it relates to the eight standards for approval as follows:

1. Commercial Kennels, are permitted if authorized by approval of a special use permit.
2. Zoning definitions were reviewed 11-1-3: Kennel Commercial: boarding, breeding , buying, letting for hire ,or training, on which cats and/or dogs are maintained, harbored possessed fostered boarded, bred or cared for and which may have commercial grooming and similar accessory uses. 11-1-3 Hospital, Animal: designated or used for the care or treatment of cats, dogs, or other animals. May include commercial grooming and boarding services.
3. The site plans require the dedication of easements and a Trip Gen Letter to determine if additional studies are required. Avondale Irrigation District, will review potable-water at the time of application submittal. Stormwater will be within the project boundaries by using roadside swales. The project is within the H-7 North sewer basin; possible drain field system per Panhandle Health District requirements.

4. Lighting requirements shall consist of interior parking lot lighting for the complex. Landscaping requirements shall be Atlas Road street frontage, a parking perimeter, buffer landscape between the site and Residential (R-1) to the west. The Applicant proposes natural landscaping, berms, and grey water irrigation.
5. All on-site and off-site improvements shall be required of the developer.
6. The applicant's narrative evaluated these items and did not identify any routine activities that would cause any issues related to these items.
7. Ingress/egress access points identified (page 10 staff review) meet spacing requirements as identified by the City Engineer. Any changes to these points shall require approval at the time of site plan application.
8. The project area is primarily vacant farmland and there are no known natural or historical features of major importance on this site.

Ms. Phillips reviewed agency and public comments (Page 10 in the Staff Review). Agency comments included Northern Lakes Fire Protection District requirements at the time of development and Idaho Department Environmental Quality have requirements for construction plan submittals. Kootenai County Sheriff's Office, Kootenai County Community Development, Avondale Irrigation District and the Coeur d'Alene Airport had no concerns, comments or objections and one Public comment was received by e-mail in favor of the project. Ms. Phillips continued with the staff recommended conditions of approval as follows:

1. The approval of this Special Use Permit is based upon the application, narrative, and conceptual site plan. Major changes to the building type, location, or the site plan shall require an application for an amendment to this Special Use Permit. Major changes to the land uses proposed, building types or locations, the site plan and the like shall require an application for an amendment to this Special Use Permit. The determination of what is a major change shall be made by staff, and shall be appealable to the Planning and Zoning Commission.
2. All permits from outside agencies Panhandle Health District, Idaho Department Environmental Quality, Idaho Department of Water Resources, and Northern Lakes Fire Protection District shall be obtained prior to construction of any future development or building permit issuance.
3. All future development, building permits, and uses shall comply with Hayden City Code 11-13-3 (A) General Standards Applicable to all Special Uses to include the allowed uses.
4. Required site improvements per Hayden City Code 11-20, will be evaluated at time of building evaluation and required prior to Certificate of Occupancy issuance.
5. If complaints are received by the City regarding overflow parking at the City regarding overflow parking at the subject site onto areas not designated for parking, i.e. parking on the adjacent property, parking in areas that are not paved, or parking along Atlas Road, then an additional parking area or cross parking agreement shall be required. This shall be built in accordance with the City of Hayden Code, design standards and policies that are in effect at the time.
6. Any expansions or changes of use to the development site shall require a review of the required parking requirements.
7. Dedication of road right-of-way and granting of utility easements along road frontage shall be required prior to certificate of occupancy.
8. Should the project site be phased the phased plans shall be included in the permit submittal.
9. An aviation easement shall be recorded. This requirement shall be noted as a condition on the building permit and recorded prior to temporary or final occupancy.
10. The approval of this Special Use Permit shall expire ____ years after the date of the signed written decision. The development that this Special Use Permit authorized must complete construction and be fully operational prior to the expiration of this ____ year period. If any of the conditions to this use or development are not maintained, if the nature of the use changes, or if the use for which the special use permit has been issued is discontinued or abandoned for one year then the special use permit shall be considered null and void.

Continued operation of a use requiring a special use permit after such special use permit expires or is in noncompliance with any condition of a special use permit, shall constitute a violation of the zoning ordinance.

Any construction or modifications to the Kootenai Humane Society site after operation shall require an application for an amendment to this Special Use Permit.

11. This approval shall run with the land for the term approved herein regardless of whether the property ownership; applicant and/or design professionals noted herein remain the same, whether collectively or individually.

Public Test

No public testimony given.

Rebuttal:

Mr. Trapp wanted to state that the building plans consist of fire sprinklers, as the tenants [animals] cannot get out on their own if there is a fire. The requested timeline for the completion of both phases would be 4-5 years; this all depends on the fundraising timeline.

Deliberation

- Commission Mobraten stated that the new property location of the KHS, would meet all eight standards of approval.
- Commissioner Anderson stated that it fits in a light industrial zone and it fits the direction of the Comprehensive Plan, and the public facility is a big gain for the community. The new park would be beneficial for residents, and it will work with the housing development next to the property. Commissioner Anderson identified concerns related to the availability of sewer. The special use permit needs to be a little longer, as the fundraising can be a hold up and he would like to see 5-7 years as an expiration date of the special use permit.
- Commissioner Prickett stated that the length of the special use permit needs to be extended to a 5-7 year time line for completion, and the project would be a benefit for the community. Mr. Prickett continued, by stating the proposal meets the standard of approval, and commented that the design is beautiful.
- Commissioner Taylor stated that the proposal meets all standards of approval; he would approve the permit along with all staff recommendations of approval with a 5 year, completion date for the permit.
- Vice-Chair Cramer agreed that the proposal meets all standards of approval.

Motion:

Commissioner Andersen moved to approve Case No. 19-0136, Kootenai Humane Society Special Use Permit with all staff recommendations with a 5 year, expiration date. Commissioner Prickett seconded the motion.

Commission Discussion:

| | |
|------------------------|-----|
| Commissioner Andersen: | Yes |
| Commissioner Mobraten: | Yes |
| Commissioner Prickett: | Yes |
| Commissioner Taylor: | Yes |
| Vice-Chair Cramer: | Yes |

All were in favor. The motion passed.

Chair Petersen opened the next public hearing.

Case No. PZE-19-0055, a request by Lake City Engineering Inc. on behalf of Daugharty Investments

Staff Presentation:

Donna Phillips, Senior Planner, presented the application for the zone map amendment from Light – Industrial (L-I) to residential Multi-family (R-MF) for a portion (30.9) of the 48.7 acre lot located west of the northwest corner of North Atlas Road and West Hayden Avenue, that is currently vacant farmland.

Applicants Presentation:

Drew Dittman, Lake City Engineering, Inc. 126 East Poplar Avenue, Coeur d'Alene, ID, representing the owners of the property, Daugharty Investments, LLC, for the zone map amendment proposal. Mr. Dittman stated that the rezone will only affect a portion of the property about 29 acres; whereas, the rest of the 48 acres will remain Light-Industrial. He then reviewed the narrative and application to answer whether the proposal meets the standards for approval as follows:

1. The narrative submitted touched on the comprehensive plan as well as the adopted plans Mr. Dittman stated the current comp plan [comprehensive plan] is out of date and with the City reviewing the comp plan the applicant would like to see the zone amendment, added into the new comp plan at this time.
2. There is a huge demand for multi-family housing in Kootenai County, and this could help with the housing needs of the City proposal will be adjacent to residential use property and would be a good buffer to the Light-Industrial.
3. The sewer infrastructure has been completed within the Carrington Meadows to the west of this project and runs along Hayden Avenue. The transportation plan shows that the arterial road, Hayden Avenue, can with stand the traffic and the stormwater will remain on site through City approved swales.
4. The proposal would be a buffer from the residential developments to the west and this proposal would be a good fit.
5. The mixed-use proposal would act as a buffer for the residential zone and the portion of the property that is in the critical zone of the airport, will not consist of any residential buildings, it will be used as open space or parking.
 - Chair Petersen stated he would like to know how the applicant plans to address the adjacent wastewater treatment plant.

Mr. Dittman replied that the treatment plant will produce odors and they are aware of the letter in the packet, however multi-family housing should be, used as a buffer to the residential zone. He continued by stating, that there are residential developments throughout Kootenai County, next to sewer treatment plants and there will be hot days that the odors will be present. Mr. Dittman continued by stating he believes it is not that bad of an issue.

6. He reviewed the future residential densities map provided in the staff review (Page 7) which discussed the future residential densities map. Mr. Dittman stated that he feels the proposal will have less intense use then the industrial use. He continued by stating that the intersections are considered an arterial road and are designed to with stand the higher traffic volume.
7. The owner is asking to change the zone as a standalone proposal so that development can proceed on a section of multi-family they feel would be a great buffer to other surrounding properties in the area.
 - Commissioner Taylor asked what the size of the airport critical zone is on the property.

Mr. Dittman, stated it is about half of the property or about 7-8 acres inside the residential zone are in the airport critical zone triangle. The landowner could use that property for open-space, parking, or stormwater retention.

- Commissioner Taylor then asked for the maximum amount of units you could build on thirty acres.

Mr. Dittman replied that the Comprehensive plan states a maximum of twelve residential units per acre.

- Commissioner Andersen asked Mr. Dittman to clarify his view of the Comprehensive plan.

Mr. Dittman replied that the plan needs updated, there is residential development adjacent to the property, and an updated plan would show that.

- Commissioner Prickett asked where the access would be to the project.

Mr. Dittman stated that there will be one access after Carrington Meadows goes through off of Dakota and he would assume that there would be at least one access off of Hayden Avenue.

- Chair Petersen asked if Mr. Dittman's testimony is that multi-family residential would produce less traffic than light industrial.

Mr. Dittman stated that he could not say zoning versus zoning; he believes it is a less intense use. That it would depend on the type of light industrial use had been developed on the remaining portion of the property.

Staff Presentation

Ms. Phillips, Senior Planner, presented a summary of the staff review of the Applicant's narrative and application as it relates to the seven standards for approval as follows:

1. The comprehensive plan and the residential land use density map (pages 6-7 in the staff review) were reviewed, pages 8-11 of the staff review were lengthy show the vision, land use, public services, emergency services, housing, economic development, airport, and comp plan for both the existing and proposed zone map amendment.
2. Per the applicant's narrative, the zoning classification will allow for subdivision & development of the property into multi-family residential, and will match the character of and be compatible with the adjacent residential, commercial and industrial uses.
3. The sewer is within the H-7 North Sewer Basin. Stormwater will be contained in roadside swales, or within the project boundaries. Potable Water is currently served by Avondale Irrigation District. Fire-flow is within the Northern Lakes Fire Prevention District. The streets, pedestrian paths, and utilities shall be addressed as part of any development of the site.
4. Due to site constraints, the following points are noted: two transportation corridors are near the property, future intersection improvements are needed, the site is adjacent to residential (R-1), and a portion of the property is located within the inner critical zone of the airport.
5. The property is close to the airport, the wastewater treatment plant and is next to nearby roadways services and residential zoning.
6. Definitions to the zoning are R-MF: to provide higher density residential housing served by collector and arterial streets. The L-I: to provide a district suitable for manufacturing, processing, fabrication, assemblage, freight handling, or similar operations of a non-nuisance character.
7. Future development would have to be consistent with the zoning regulations.

- Chair Petersen asked what the Hayden Avenue round-a-bout timeline was, will it constructed within two years.

Ms. Cleveland, Community Development Director, stated the round-a-bout on Hayden Avenue will not happen within two years. The project is not even in the budget for design for this year's budget. The Hayden Avenue corridor improvements will not happen within two years as well.

Ms. Phillips continued with the agencies comments: the Coeur d'Alene airport opposed to the project, Hayden Lake Irrigation District had questions about access points for driveways, and Avondale Irrigation District had no concerns. There were two adjacent property owners that are opposed to the application. She continued by explaining a Zoning Development Agreement (ZDA) explaining that if the Commission finds that the requested amendment to the zoning designation of the project has a substantial impact on the public infrastructure or will require buffering between the subject parcel and adjacent neighborhood if the request were to be granted? If yes then a development agreement is allowed, if not then a development agreement is not allowed. Does the Commission find that the requested amendment to the zoning designation of the project have a substantial impact on the public infrastructure or will require buffering between the subject parcel and adjacent neighborhood if the request were to be granted. If yes then a development agreement is allowed, if not then a development agreement is not allowed.

- Chair Petersen asked if the Commission could restrict a use on part of the parcel inside the airport restrictions.

Mr. Cafferty, Legal Counsel, replied that the Commission could do that. The Applicant has stated that they did not plan to build structures on the affected area.

- Commissioner Taylor asked if staff had discussed a boundary line adjustment in order to create two separate parcels.

Ms. Phillips stated that this is the first step to figure out if they are able to move forward with the next step. Should the zone map amendment be approved, then a lot shall be created for the zone designation either by way of a boundary line adjustment or a subdivision.

Testimony:

Steven Kjergaard, Coeur d'Alene Airport Manager, 10375 North Sensor Avenue Hayden, Idaho. Against the project due to more proximity, the turning surface is also a concern. The congregation of people is what we as an airport try to avoid for public safety.

- Commissioner Cramer asked where the guidelines come from for the critical approach area.

Mr. Kjergaard stated this is the Idaho Department of Transportation guidelines and is a well-written document that helps with a development guideline for building next to an airport.

- Commissioner Andersen asked if they would be opposed to five homes constructed in the area instead of the multi-family that the applicant has proposed.

Mr. Kjergaard stated that if it was one dwelling per five-acre parcel development then the airport, would not be as concerned with the density.

Ken Windram, Hayden Area Regional Sewer Board, 10789 N Atlas Road, Hayden, Idaho. Against, read a statement into the record (Exhibit PZ-1) from the Hayden Area Regional Sewer Board. The opposition of

the incompatibility of residential multifamily zoning with the types of uses surrounding the treatment plant. In addition HARSB has requested an odor easement over the entire project area should the request be granted.

Rebuttal:

Drew Dittman wanted to point out that the proposal is an allowed use in the Commercial zone through a special use permit. He continued by stating he agrees with the airport and the developer is willing to have a condition put in place stating they could not build in the critical approach triangle. Lastly he wanted to recognize that the Carrington Meadows development is within half a mile of HARSB and their will be residential uses there that were already approved, he then stated that, they would not be opposed to an odor easement placed on the property.

Commission Discussion:

- Commissioner Taylor asked about what conditions could be placed, in the zone development agreement. Mr. Cafferty pointed him to 11-1-4 (C) on page 5 of the staff review. He then stated that the application is too early, the infrastructure is not available to put three hundred units and therefore does not meet the justification for a zone change.
- Commissioner Pricket stated that he has concerns with the testimony given by the Airport and HARSB, I have concerns that the owner of the property will not be able to develop the light industrial portion of the property with multi-family adjacent to it. He continued by stating he has concerns with the traffic impact at peak times and until the City gets a hold of the transportation infrastructure, I cannot agree to this proposal.
- Commissioner Andersen stated that although this is consistent with the Carrington Meadows development, having a portion of development with commercial zoning in the front of the property, he believes the infrastructure is not there and it does not sound like it will be available within two years; no funding is available for the round-a-bout. Mr. Andersen continued stating that the area is not ready for this zone change, he has real concerns with the neighborhood context and with the airport flight paths.
- Chair Petersen stated that he feels some standards have been met for the Comprehensive Plan; however the issues he is having is with three standards as it pertains to the zoning map, the high density is a long way out. He continued that the zone change does not further public health, safety and welfare based on the airport testimony. Based on Ms. Cleveland's testimony the round-a-bout on Hayden Avenue or improvements to Hayden Avenue will not be completed in the next two years.
- Vice-Chair Cramer stated that his project does not meet the standards of approval and he believes the Carrington Meadows zone change was a mistake, he will not continue with another mistake. The proximity with the airport warrants denial and the property zoning should remain light industrial/commercial.
- Commissioner Moberaten stated that it is too early to really identify his concerns without a plan being proposed.

Chairman Petersen noted that should the Commission deny the proposed zone map amendment, that the motion should identify ways (if any) where the request may be approved.

- Commissioner Moberaten stated that he would like to see a plan come forward from the Applicant.
- Commissioner Cramer stated that the property is currently zoned correctly and should not change.
- Chair Petersen stated that the applicant needed to demonstrate how the infrastructure, transportation, can be met.
- Commissioner Andersen suggested the applicant and the airport work out an agreement that would address both of their concerns and then possibly continuing the meeting for the decision.
- Commissioner Prickett had concerns with minimizing damage should a plane accident occur, he suggested residential and not multi-family residential. The road infrastructure must be ready at the time of development, the current system cannot handle what already exists.
- Commissioner Taylor stated that the airports designated inner critical zone and the proposed residential multi-family zone should be exempted out of any open space calculation or density calculation. He has another concern with the number of students and their impact on the already overcrowded schools.

Motion:

Chair Cramer motioned to deny the application as there is no way to modify the application to meet at least 3 of the standards of approval. He continued by stating that the following standards had not been met:

Standard #1. It is not consistent with the Comprehensive Plan, the Hayden Future Land Use Map, the Residential Densities Map, or the Airport Master Plan for the inner critical zone.

Standard #2. It doesn't further them, but increases them per testimony received by agencies and at the public hearing related to HARSB Treatment Plant, Coeur D'Alene Airport, and transportation corridors.

Standard #4. The residential (R-1) to the west is not a justification for the rezoning.

Standard #5. The neighborhood content includes light industrial to the north, the airport, the wastewater treatment plant, and commercial and light industrial to the east; not just residential to the west and south.

Standard #6. The City needs to finish the comprehensive plan and transportation plan updates at a minimum. It is also important to work with the airport to determine an appropriate use for this area and density of people.

Commissioner Moberaten seconded the motion.

Roll Call:

| | |
|-------------------------|-----|
| Commissioner Andersen: | No |
| Commissioner Moberaten: | Yes |
| Commissioner Prickett: | Yes |
| Commissioner Taylor: | No |
| Vice-Chair Cramer: | Yes |
| Chair Petersen: | Yes |

Four voted to deny the request. Two voted to approve. The motion passed.

CONTINUING BUSINESS

Workshop

Comprehensive Plan Framework

Ms. Cleveland asked that if the Commission had any items they would like to send her regarding the materials in their binders to please contact her.

REVIEW OF UP COMING MEETING CALENDAR, AND REPORT ON COUNCIL ACTION

Director's Review

Planning and Zoning Commission

October 7, 2019

- Consent Calendar
- Public Hearing
- Workshop Code Amendments

ADJOURNMENT

The meeting adjourned at 7:18 p.m.


Heather McNulty, Commission Clerk