



AGENDA
HAYDEN PLANNING COMMISSION
THURSDAY, APRIL 13, 2023
6:00 P.M.

Join Zoom Meeting

<https://us02web.zoom.us/j/89548614591>

Meeting ID: 895 4861 4591

HAYDEN TOWN HALL – 178 WEST JEFFERSON AVENUE, HAYDEN

REGULAR MEETING

1. CALL TO ORDER, MOMENT OF SILENCE & PLEDGE OF ALLEGIANCE
2. ROLL CALL
3. CONSIDERATION OF MINUTES
Review and Consider Approval of March 23, 2023 Planning Commission Minutes.
5. Code Text Amendment to the Hayden Development Code at Section 10.16.080 SUBSIVISIONS
 - i. Public Hearing: Consideration of a Code Text Amendment at Section 10.16.080 to include language stating "Town Council may waive all or a portion of the sketch plan, preliminary plan, and final plat requirements. Waiver of any technical or process requirements is at the sole discretion of the Town Council."
 - ii. Consideration to recommend approval of the Code Text Amendment at Section 10.16.080 to include language stating "Town Council may waive all or a portion of the sketch plan, preliminary plan, and final plat requirements. Waiver of any technical or process requirements is at the sole discretion of the Town Council."
7. STAFF REPORT
8. ADJOURNMENT

NOTICE: Agenda is subject to change up to 24 hours before scheduled meeting. If you require special assistance in order to attend any of the Town's public meetings or events, please notify the Town of Hayden at (970) 276-3741 at least 48 hours in advance of the scheduled event so the necessary arrangements can be made.

The regular meeting of the Hayden Planning Commission was called to order by Chair Amy Williams at 7:04 p.m. Other members present were Commissioner Tim Frentress and Commissioner Carly Kelly, Commissioner Melinda Dudley attended virtually. Community Development Director Tegan Ebbert, Town Manager Mathew Mendisco, and Public Works Director Bryan Richards and Applicant, Joe Armstrong, Main Street Apartments, LLC, were also present.

Pledge of Allegiance

Chair Williams led the Pledge of Allegiance.

Consideration of Minutes

Commissioner Frentress moved to approve the Planning Commission minutes for the meeting held on February 23, 2023 as written. Commissioner Kelly seconded the motion. Motion approved unanimously.

**Main Street Apartments Site
Plan Application**

Ms. Ebbert indicated that this meeting is a continuation of the public hearing from February 23, 2023 when the application was tabled to solely allow for more research into alternative traffic access plans. Ms. Ebbert discussed the efforts that were made in the prior month that included Town staff working with their contract engineer, CDOT, the applicant, and holding a community open house.

Town staff were able to eliminate several alternative access points as a result of CDOT declining access or roadway connections that wouldn't significantly reduce traffic due to their lesser desired traveled pathways. Of the available options, staff are recommending an amended access plan that combines primary access from W Washington Avenue, by way of S 3rd Street, and an exit only, right turn only access point from the subject property onto US Highway 40. This access onto US Highway 40 that CDOT has indicated that they will consider approving to date. This proposal is depicted in Exhibit A of the staff packet.

Alternatively, if access becomes available via an easement through the private property located directly to the east, Lot 1, Campus Subdivision, prior to installation of road improvements, staff prefer this option over the proposal depicted in Exhibit A. Specifically, this access proposal is to connect the subject parcel east to W Washington Avenue to intersect with S Poplar Street, in combination with access off of W Washington Avenue, by way of S 3rd Street. This requires permission from the private property owner of Lot 1, Campus Subdivision, that to date has declined an easement allowing access. The applicant has a renewed request into the private property owner of Lot 1, Campus Subdivision currently. This proposal is depicted in Exhibit B. A condition of approval is recommended below indicating that this is the preference if the private owner of Lot 1, Campus Subdivision grants an access easement.

Mr. Armstrong reiterated that this is a phased project therefore all five buildings will not be constructed immediately. It will likely be several years before buildings 4 and 5 begin construction.

Public Comment

JJ Pike commented that she views the access plan depicted in exhibit A as only half of a fix and she prefers to see a one way in access point going from S Poplar to W Jackson through to W Washington. Further she questioned whether this development will leave this town better than we found it like the Hayden Manifesto desires due to the density of the project.

Charlie Cook commented that it is likely that everyone in this town knows someone who is interested in growing this town and starting a small business. When it comes to leaving the town better than we found it, he has witnessed businesses open up but also seen businesses shut down. To provide opportunities for local businesses to succeed, we need to have the population to support them.

Trevor Gann commented that he is a member of the Hayden Town Council and he is here representing himself as an individual Council member. He has been asked what would it take for this town to no longer feel like the place he grew up in and this development might just be that. The decision made to night is subject to appeal by either the applicant or a member of the Town Council, therefore he imagines that regardless of the decision that Planning Commission makes it will be appealed.

Roundtable

Commissioner Frentress indicated that he continues to see the traffic as a safety issue due to the amount of kids that travel up and down the street and people trying to get in and out of their driveways. He thinks that this is a little too big and would like it to be cut down to about 75 units. We need places for people to live and get a start in this community. He also has concerns about this traffic in combination with rerouted I-70 traffic from each time the Glenwood Canyon closes. Even the plan depicted in Exhibit B creates concerns.

Commissioner Dudley asked how the right turn only lane would be built at US Highway 40 depicted in Exhibit A. Ms. Ebbert responded that it would likely be directional concrete.

Motion to Approve

Commissioner Kelly moved to approve the Main Street Apartments, LLC Site Plan application with the following findings of fact:

1. The proposal meets the standards of the Town of Hayden's Development Code, is in general conformance with the intent and purpose of the Hayden Forward Master Plan and preserves the health, safety and welfare of the citizens of the Town of Hayden.

Conditions of approval:

1. Vehicular access will be primarily off of West Washington Avenue by way of S 3rd Street in conjunction with secondary traffic flow exiting the subject property onto US Highway 40 in a exit only, right turn only traffic lane as depicted in Exhibit A of the staff packet.
2. If access becomes available from the subject property to W Washington Avenue through Lot 1, Campus Subdivision prior to the installation of US Highway 40 exit only, right turn only traffic lane, said access shall become the preferred access location in conjunction with access from W Washington Avenue by way of S 3rd Street as depicted in Exhibit B of the staff packet.
3. Town staff shall be authorized to finalize the traffic access plan details and permitting in conjunction with Colorado Department of Transportation and the applicant.
4. The effective date of this approval is the date upon which the Planning Commission approves the application. The approval shall expire two (2) years from its effective date, unless application for renewal of the Site Plan approval is approved pursuant to Section 7.16.020, Hayden Development Code.
5. Two of the proposed apartment buildings must vary in architectural appearance in compliance with Section 7.24.190, Hayden Development Code.
6. All exterior lighting must be downcast and opaquely shielded and comply with the standards in Section 7.26.210, Hayden Development Code.
7. A fee-in-lieu for public school site equivalent to the standards of Section 7.24.140, Hayden Development Code, shall be paid prior to the issuance of a Certificate of Occupancy.
8. The developer shall enter into an Improvements Agreement with the Town of Hayden in compliance with 7.24.280, Hayden Development Code, for any road restriping and intersection modifications required by the Town of Hayden and CDOT, any off-site improvements, the installation of sidewalks, fire hydrants, landscaping, and any other necessary improvements connected to this develop or as a result of the impacts associated with this development as defined in the Town's land use code.
9. Compliance with the Community Housing Standards, Section 7.24.300, Hayden Development Code, must be established and approved by Town Council prior to the issuance of a full building permit.
10. The approved amended traffic access plan shall comply with emergency responder access to the subject property.
11. Snow Storage Easements must be secured from the owners of Lot 1, Campus Subdivision prior to issuance of a building permit.
12. A utility easement must be secured from the owner of Lot 3, Campus Subdivision prior to issuance of a building permit.

13. Compliance with Parking Lot Landscaping Standards, 7.24.1690(C)(6), is required. An updated landscape plan shall be provided to staff that demonstrates compliance prior to the issuance of a building permit.

Commissioner Williams seconded the motion; the motion failed with Commissioners Williams and Kelly voting aye and Commissioners Frentress and Dudley voting nay.

Motion to Continue

Commissioner Frentress moved to continue (table) the vote to a future meeting so a full board of five Planning Commission members can be present.

For clarification, Town contract Attorney, Gerald Dahl commented that if the absent Planning Commission member can participate at a future meeting if they establish a record that the beginning of the meeting that they reviewed all the packet materials, listen to the prior meetings that they missed, and feel confident that they are fully informed to be capable of voting. The subsequent meeting would be for action only, because the public hearing has been closed.

Commissioner Dudley indicated that she voted nay because of the traffic concerns. She recognizes that options are limited largely in part due to what CDOT is willing to authorize but even the language of recommended condition of approval #2 being pursued IF it becomes available does not alleviate her concerns. She does not have a problem with the overall density of the project and recognizes that it meets the Development Code and intent of the Master Plan however the lack of options with regards to US Highway 40 access is the concern.

Commissioner Williams commented that from her perspective this project does meet the Development Code and the Master Plan and from her view it is very dangerous to take away rights that have been set out in zoning. The community willingly and with thought zoned this parcel to have these uses by right. Maintaining property rights such as zoning are extraordinarily important from her standpoint.

Commissioner Kelly commented that she acknowledges that change is a scary thing however growth and change come hand in hand. This community needs housing inventory as is indicated in the Housing Needs Assessment and this community needs growth to succeed. She also cannot support not ignoring uses by right and private property rights.

Commissioner Dudley seconded the motion; the motion failed the motion failed with Commissioners Williams and Kelly voting nay and Commissioners Frentress and Dudley voting aye.

Motion to Deny

Chair Williams moved to deny the application for the purpose of allowing the applicant to appeal the decision to Town Council and move forward with the application because the Planning Commission is incapable of rendering a decision.

Commissioner Frentress seconded; the motion passed unanimously.

Staff Report

Ms. Ebbert noted that there are no additional active applications on the schedule at this moment however there is a minor regulation amendment being proposed and that is scheduled for April 13th. The Commission indicated that they would like to meet at 6 pm.

Adjournment

The meeting was adjourned at 8:05 p.m.

Recorded by:

Tegan Ebbert

APPROVED THIS _____ DAY OF _____, 2023

Amy J. Williams, Chair



Town of Hayden

Planning Commission Agenda Item

MEETING DATE: April 13, 2023

AGENDA ITEM TITLE: Code Text Amendment to the Hayden Development Code at section 10.16.080

PRESENTED BY: Tegan Ebbert, Community Development Director.

CAN THIS ITEM BE RESCHEDULED: Yes, but not recommended.

BACKGROUND REVIEW:

Prior versions of the Hayden Development Code contained a statement allowing the Hayden Town Council to waive all or a portion of the sketch plan, preliminary plan, and final plat requirements for subdivisions. Recent versions of the Hayden Development Code do not contain a statement to this effect however it appears as though it has been occurring without clarity in the code. Staff are requesting that this statement be brought back into the Hayden Development Code to clarify this allowance. Examples of when waiver of requirements might be appropriate are instances of divisions of land for public purposes, purchasing/creation of rights-of-way, and large parcels of land splitting with no imminent or planned development being proposed.

For subdivision projects that lack complexity but are still subject the major subdivision process, concurrent reviews of sketch plan, preliminary plan, and/or final plat occasionally occur.

Staff specifically are requesting that the following language be added under the Applicability criteria - "Town Council may waive all or a portion of the sketch plan, preliminary plan, and final plat requirements. Waiver of any technical or process requirements is at the sole discretion of the Town Council."

Code Text Amendments are subject to the following standards:

10.16.040 Code Text Amendment.

The Council may amend the text of the Development Code, including the adoption, modification or replacement of appendices to the Development Code, pursuant to this Section. The purpose of a code text amendment is to address changed conditions, unintended consequences or changes in public policy, and to advance the general welfare of the Town.

(a) Review Procedures. Applications to amend the text of the Development Code shall follow the general review procedures set forth in Section 7.16.020, General Procedures and Requirements, and Table 7.16-1, Review Process Chart. Applications to amend the text of the Development Code may be initiated by the Council, Town staff, Planning Commission, or any property owner or resident within the Town.

(b) Review Criteria. The Planning Commission and Council shall use the following review criteria as the basis for recommendations and decisions on applications to amend the text of the Development Code:

- (1) The text amendment promotes the health, safety and general welfare of the Hayden community;
- (2) The text amendment promotes or implements the goals and policies of the Master Plan;
- (3) The text amendment promotes or implements the purposes stated in this Development Code; or
- (4) The text amendment is necessary or desirable to respond to changed conditions, new planning concepts or other social or economic conditions.

RECOMMENDATION:

Move to approve recommend approval the Code Text Amendment at Section 10.16.080 Hayden Development Code to include the language "Town Council may waive all or a portion of the sketch plan, preliminary plan, and final plat requirements. Waiver of any technical or process requirements is at the sole discretion of the Town Council" under the Applicability section with the following findings of fact:

1. The text amendment promotes the health, safety and general welfare of the Hayden community;
2. The text amendment promotes or implements the goals and policies of the Master Plan;
3. The text amendment promotes or implements the purposes stated in this Development Code;
4. The text amendment is necessary or desirable to respond to changed conditions, new planning concepts or other social or economic conditions.

Conditions of approval:

1. The amendment to section 10.16.080 shall be finalized with the approval and signing of an ordinance by the Hayden Town Council.

MANAGER RECOMMENDATION/COMMENTS: *I concur with the recommendation.*

- (x) The PUD will not comply with the standards and specifications for design and construction of public improvements in force at the time of the public hearing; or
- (xi) The owner or applicant has not met all dates established in the PUD plan for the commencement of construction of the PUD or for a phase of the PUD plan; or
- (xii) The revocation is in conformance with the provisions contained in applicable sections of this Code, and consistency with the adopted Master Plan for the Town, applicable specific plans, and relevant Town policies.

10.16.080 Subdivisions.

The purpose of the subdivision review procedures is to ensure compliance with all the standards and requirements in this Development Code and encourage quality development consistent with the goals, policies and objectives in the Master Plan and purposes of this Development Code.

(a) **Applicability.** The procedures of this Section and the standards in Chapter 7.24, Development Standards, shall apply to all subdivisions or re-subdivisions that result in the portioning, dividing, combining or altering of any lot, parcel or tract of land, including land used for condominiums, apartments or any other multiple dwelling units or creation of an estate in airspace, except any subdivisions that are specifically excluded by state law. If a tract of land that has been created or subdivided in the past is later described as a single tract in deeds, recorded documents, or plat by the legal or equitable owners, any later subdivisions of that tract, even if along the lines of the earlier subdivision, shall be subject to the requirements of these regulations. If any tract of land or airspace has been subdivided as one (1) type of subdivision and thereafter is subdivided so as to create a different type of subdivision (for example, conversion of a condominium subdivision to a timesharing subdivision), the conversion shall be subject to the requirements of this Development Code. Unless the method of disposition is adopted for the purpose of evading the requirements of the Development Code, this procedure shall not apply to any division of land that:

- (1) Is created by a lien, mortgage, deed of trust or any other security instrument;
- (2) Is created by any interest in an investment entity;
- (3) Creates cemetery lots;
- (4) Creates an interest or interests in oil, gas, minerals or water that are severed from the surface ownership of real property;
- (5) Is created by the acquisition of an interest in land in the name of a husband and wife or other persons in joint tenancy or as tenants in common of such interest. For the purpose of this Paragraph, any interest in common or owned in joint tenancy shall be considered a single interest;
- (6) Creates a leasehold interest with a term of less than twenty (20) years and involves no change in use or degree of use of the leasehold estate; or
- (7) Is created by a contract concerning the sale of land which is contingent upon the purchaser's obtaining approval to subdivide, pursuant to this Section and any applicable Town regulations, the land to be acquired pursuant to the contract.
- (8) *Town Council may waive all or a portion of the sketch plan, preliminary plan, and final plat requirements. Waiver of any technical or process requirements is at the sole discretion of the Town Council.*

(b) **Subdivision Categories.** Categories of subdivisions are established and defined as follows for the purpose of determining the appropriate subdivision review procedure:

(1) **Administrative Subdivisions.** Administrative subdivisions are subdivisions that include

- (i) subdividing a parcel of land for a duplex,
- (ii) replatting for the purpose of correcting survey, typographical, or similar errors ("Plat Corrections"),
- (iii) replatting which adjust lot lines between buildable Lots, do not change the number of lots, and do not decrease the size of any non-conforming Lot ("Lot Line Adjustments"), and
- (iv) replatting to merge contiguous, platted lots into one or more lots and that involves no rezoning or vacation of rights-of-way or easements ("Consolidation Plat").

The Manager has the authority to determine that an Administrative Subdivision application shall be processed as a Minor Subdivision where the character of the subdivision application or multiple applications presents issues which, in the opinion of the Manager, warrant review as a Minor Subdivision.

(2) **Minor Subdivisions.** Minor subdivisions include all subdivisions which would create less than six (6) separate parcels of land, which subdivide a parcel six (6) acres or less size; and, which do not require or propose public right-of-way dedications or public improvements; but shall not include subdivisions which are administrative subdivisions.

(3) **Major Subdivision.** Major subdivisions include all subdivisions which:

- (i) create six (6) or more separate parcels of land;
- (ii) subdivide a parcel greater than six (6) acres; or,
- (iii) involve the dedication of public rights-of-way or construction of public improvements.

(c) **Review Procedures.** Applications for a subdivision shall follow the general review procedures set forth in Section 7.16.020, General Procedures and Requirements, and Table 7.16-1, Review Process Chart. The Manager may combine Sketch Plan, Preliminary Plan and/or Final Plat reviews where the subdivision applications can be reviewed efficiently and effectively with a combined process.

(d) **Sketch Plan Review Criteria.** The reviewing authority will use the following review criteria as the basis for recommendations and decisions on applications for Sketch Plan subdivision applications:

- (1) The land use mix within the project conforms to Official Zoning Map and Master Plan Future Land Use Map and furthers the goals and policies of the Master Plan;
- (2) The Sketch Plan represents a functional system of land use and is consistent with the rationale and criteria set forth in this Development Code and the Master Plan;
- (3) The utility and transportation designs are adequate given existing and planned capacities of those systems;
- (4) Negative impacts on adjacent land uses have been identified and proposed mitigation is adequate; and
- (5) There is a need or desirability within the community for the applicant's development and the development will help achieve a balance of land use and/or housing types according to the Master Plan and goals and purposes of this Development Code.

- (e) **Preliminary Plan Review Criteria.** The reviewing authority will use the following review criteria as the basis for recommendations and decisions on applications for Preliminary Plan subdivision applications:
- (1) The Preliminary Plan is consistent with the approved Sketch Plan and incorporates the Planning Commission recommendations and conditions of approval;
 - (2) The proposed subdivision shall comply with all applicable use, density, development and design standards set forth in this Development Code that have not otherwise been modified or waived pursuant to this Chapter and that would affect or influence the layout of lots, blocks and streets, and the proposed subdivision does not create lots or patterns of lots that will render compliance with such development and design standards difficult or infeasible;
 - (3) The subdivision application complies with the purposes of this Development Code;
 - (4) The subdivision application and proposed land use mix is consistent with Official Zoning Map, the Master Plan and other community planning documents;
 - (5) The land is physically suitable for the proposed development or subdivision;
 - (6) The proposed subdivision is compatible with surrounding land uses;
 - (7) There are adequate public facilities for potable water supply, sewage disposal, solid waste disposal, electrical supply, fire protection and roads and will be conveniently located in relation to schools, police, fire protection and emergency medical services;
 - (8) The proposed utility and road extensions are consistent with the utility's service plan and are consistent with the Master Plan;
 - (9) The utility lines are sized to serve the ultimate population of the service area to avoid future land disruption to upgrade under-sized lines;
 - (10) The subdivision is compatible with the character of existing land uses in the area and shall not adversely affect the future development of the surrounding area;
 - (11) Any proposed subdivision for an existing PUD shall be consistent with the relevant PUD Master Plan as reflected in the approval of that PUD;
 - (12) Appropriate utilities, including water, sewer, electric, gas and telephone utilities, has provided a "conditional capacity to serve" letter for the proposed subdivision;
 - (13) That the general layout of lots, roads, driveways, utilities, drainage facilities and other services within the proposed subdivision are designed in a way that minimizes the amount of land disturbance, minimize inefficiencies in the development of services, maximizes the amount of open space in the development, preserves existing trees/vegetation and riparian areas, protects critical wildlife habitat and otherwise accomplishes the purposes of this Development Code;
 - (14) Evidence that all areas of the proposed subdivision that may involve soil or topographical conditions presenting hazards or requiring special precautions have been identified by the applicant and that the proposed use of these areas are compatible with such conditions or that adequate mitigation is proposed;
 - (15) The subdivision application addresses the responsibility for maintaining all roads, open spaces and other public and common facilities in the subdivision and that the Town can afford any proposed responsibilities to be assumed by the Town;

- (16) Adverse impacts on adjacent or nearby land uses have been identified and appropriate and effective mitigation is proposed;
 - (17) If applicable, the declarations and owners' association are established in accordance with the law and are structured to provide adequate assurance that any site design standards required by this Development Code or conditions of approval for the proposed subdivision will be maintained or performed in a manner which is enforceable by the Town; and
 - (18) As applicable, the proposed phasing for development of the subdivision is rational in terms of available infrastructure capacity and financing.
- (f) **Final Plat Review Criteria.** After approval of a Preliminary Plan, the applicant may submit an application for a Final Plat. The following criteria shall apply to review of a Final Plat subdivision application:
- (1) The Town shall confirm the legal description of the subject property to determine that:
 - (i) The property described contains all contiguous single ownership and does not create a new or remaining unrecognized parcel of less than thirty-five (35) acres in size;
 - (ii) The lots and parcels have descriptions that both close and contain the area indicated; and
 - (iii) The plat is correct in accordance with surveying and platting standards of the State.
 - (2) The Final Plat conforms to the approved Preliminary Plan and incorporates all recommended changes, modifications and conditions attached to the approval of the Preliminary Plan;
 - (3) The Final Plat conforms to all Preliminary Plan criteria;
 - (4) The development will substantially comply with all sections of the Development Code;
 - (5) The Final Plat complies with all applicable technical standards adopted by the Town; and
 - (6) Appropriate utilities have provided an ability to serve letters, including but not limited to water, sewer, electric, gas and telecommunication facilities.
- (g) **Acknowledgement of Merger of Title.** A recordable document entitled "Acknowledgement of Merger of Title" executed by the owner may be filed in lieu of a Lot Line Adjustments or Consolidation Plats as required herein, provided all of the following are met:
- (1) All parcels are Contiguous;
 - (2) The merger will not result in a lot or lots violating any provisions of this Development Code or the creation of additional lots; and
 - (3) The Acknowledgement of Merger of Title clearly identifies, by legal description, the parcels to be merged and the resulting lot.
- (h) **Public Improvements Guarantee.** Guarantees for public improvements shall comply with Subsection 7.24.280 Public Improvements Agreements.
- (i) **Revocation.** An approval of a Final Plat is revoked pursuant to this Section.
- (1) **Recording.** The applicant shall cause the Final Plat and restrictive covenants, if any, to be recorded within ninety (90) days from the date of approval and acceptance of the Council. In the event that the plat is not recorded, the approval of the Council shall be deemed to be void and