

Meeting Minutes
HAILEY PLANNING & ZONING COMMISSION
Monday, July 15, 2019
Hailey City Hall
5:30 p.m.

Present

Board: Owen Scanlon, Sam Linnet, Janet Fugate, Dan Smith

Staff: Robyn Davis, Lisa Horowitz, Chris Simms, Jessica Parker

Absent: Richard Pogue

5:30:49 PM Chair Fugate called to order.

5:31:01 PM Public Comment for items not on the agenda. No Comment

Consent Agenda

CA 1 *Adoption of the Findings of Fact, Conclusions of Law and Decision of a Design Review Application by Scott Miley and Jane Rosen, represented by Marc Corney of Red Canoe Architecture, P.A., for a 1,260 square foot garage/shop with an 896 square foot, two (2) bedroom accessory dwelling unit above. The project is located at 110 South 4th Ave (Lots 17-20, Block 97, Hailey Townsite), in the Limited Residential 1 (LR-1) and Townsite Overlay (TO) Zoning District. **ACTION ITEM***

CA 2 *Adoption of the Findings of Fact, Conclusions of Law and Decision of Design Review Application by Blaine County Recreation District, for improvements to the B.C.R.D. Aquatic Center including the reconstruction of the existing lap pool, the addition of a new leisure pool and whirl pool, and the associated reconfiguration of pool deck and landscaped open space. The project includes removal of the Pump Park. The project is located at 1020 Fox Acres Rd (Parcel BB1, Block 79, Woodside Subdivision #21), in the Limited Residential (LR-1) Zoning District. **ACTION ITEM***

CA 3 *Adoption of the Meeting Minutes of June 17, 2019. **ACTION ITEM***

5:31:43 PM Chair Fugate and Scanlon recused himself from CA 3. CA 3 will be continued to August 5, 2019 meeting. Scanlon requested to pull CA 1.

5:31:56 PM Linnet motioned to approve CA2. Smith seconded. All in Favor.

5:32:31 PM Scanlon explained did not see the word *approved* listed on the Findings.

5:32:54 PM Scanlon motioned to approve CA 1 with condition of the word approved being added. Smith seconded. All in favor.

Public Hearing

PH 1 Consideration of a Design Review Application by West Croy, LLC, represented by Daniel Moran, for two (2) new single-family residences. Unit A is 1,008 square feet and Unit B is 681 square feet. The project is located at 217 West Croy (Lots 17 and 18, Block 3, S. 10' of Alley adjacent to Lot 17 and 18, Croy Addition), in the General Residential (GR) and Townsite Overlay (TO) Zoning Districts. **ITEM TO BE CONTINUED TO AUGUST 5, 2019.**
ACTION ITEM

Chair Fugate confirmed this item will not be heard tonight and will be continued to August 5, 2019.

5:33:37 PM Smith motioned to continue the public hearing to August 5, 2019. Linnet seconded. All in Favor.

PH 2 **5:34:30 PM** Consideration of an amendment to a Conditional Use Permit for Blaine County School District (BCSD) Bus Barn Facility, approved on July 10, 2003. The amendment is to review the Condition of Approval, Condition (o):

Condition (o): The School District shall implement its pre-trip inspection list for the bus drivers to reduce noise as follows:

ONLY IN BUS PARKING AREA: Use Interrupt Switch (Push and Hold) while backing up from parking area.

The project is located at 1250 Fox Acres Rd (Lot 1A, Block 3, Wood River High School Campus PUD Subdivision), in the General Residential (GR) Zoning District. **ACTION ITEM**

5:34:35 PM Linnet recused himself from PH 2.

5:34:56 PM Davis introduced project, explaining it is a large file so the City Staff created a timeline of events. Davis went through the PowerPoint presentation of the facility, explaining the timeline. Horowitz pointed out the old location of the bus barn facility and explained the new layout from their understanding of the record. **5:37:50 PM** Davis provided image of current location of the bus facility. **5:38:42 PM** David discussed the dates and how the current Conditional Use Permit was approved. **5:40:48 PM** Davis explained reason behind the meeting is due to a letter received from a resident, Becky Keefer on Green Valley Drive, noting she felt impacted by the Bus Facility specifically the backup beepers while hiking the Toe of the Trail. Subsequently the City received a letter from the School District explaining backup beepers are mandatory. This led to the consideration of the amendment to Condition O. Davis explained the School District would like to rescind or augment the condition to be able to use the backup beepers. **5:42:17 PM** Simms explained this is an unusual situation and why. Simms discussed how the School District had volunteered this condition at the time of approval. Simms then discussed what he reviewed of the State Law, explaining that it leads him to conclude that they cannot order the School District to shut off backup beepers. Simms explained

that does not mean this is an approvable amendment, still believes procedurally the commission will need to conclude that all the criteria for conditional use permits can be met. [5:43:16 PM](#) Simms stated in this instance they are looking at the criteria C. [5:43:26 PM](#) Simms stated still think there is a robust discussion about noise and disturbance to the neighbors to be had that is not a condition of shutting off backup beepers which he finds mandatory by state law. [5:43:56 PM](#) Davis turned floor over to Lance Doby, Transportation Supervisor for Blaine County School District and Bryan Fletcher, Finance Manager for the School District. Doby supplied a PowerPoint, showing what the bus barn looks like now pointing out the 12 ft wall to assist in mitigating the noise. Scanlon asked if it runs the full length of the Bus Barn. Doby confirmed it did on both sides. Smith asked where the Toe of the Hill Trail is located, Doby pointed out the trail location. Doby discussed the required standard and safety points of the backup alarms. Doby explained goal is to never back up busses but sometimes it is necessary. [5:46:46 PM](#) Doby explained situation that led to them here is because a driver turned off the backup beeper out of habit while on a public road during a situation where they had to backup. Doby explained it is a very rare occurrence to back up and that the habit is ingrained for them to turn off the backup beepers while reversing. Doby stated another concern is that have to use one hand to push the button and the other to put in reverse so have no hands on the steering wheel and then only have one to use to maneuver while backing up. Doby stated this is a really big safety concern to him and that is why all of this is happening. [5:47:48 PM](#) Doby stated there are 16 routes that come out of that yard, leaving between 6:30 am – 7:15 am in the morning with no more than 3 buses leaving at the same time and start leaving again between 1:30 pm -2:15 pm in the afternoon with no more than 4 buses leaving at same time then. Doby summarized primary concern is that want to be safe and that silencing these reduces how safe they actually are. Doby stated the other concern is possibly liability risks to the School District and the City that may not be mitigated by insurance. Doby asked to remove the condition. [5:49:41 PM](#) Fletcher explained since 2017 have been under review by their insurance company and during this review it was brought to their attention that the insurance may not provide coverage. [5:50:54 PM](#) Fletcher stated also asked their attorney, who stipulated the federal requirements and that there are no exceptions. [5:51:34 PM](#) Davis asked Fletcher and Doby to speak about the wall and the decibel level of the backup beepers and why they cannot back up the buses at night. Simms asked if they will also talk about mitigating measures regarding sound to reduce the impact on the neighbors. [5:52:11 PM](#) Doby explained the wall is between 1 – 1.5 ft thick, runs the whole length and put there for sound mitigation. Doby explained the backup alarms are required to be 112 decibels at the back of the bus. [5:53:09 PM](#) Doby explained buses pulled in forward to protect the front windshield from ice and snow and is also where they the plug the vehicles in to keep them warm. Doby explained does not have any other ideas to assist in mitigating noise. Horowitz added that the sound wall lowered the decibels by about 10. Horowitz clarified the avalanche wall on east side and sound barrier wall on west side. [5:54:28 PM](#) Smith ask Doby when they stopped using the alarms without notifying the City. Doby stated it was April 2019

when stopped and was about a month before a complaint was received. Smith asked if there was anything on the wall to absorb the sound. Doby stated it is just concrete. Smith clarified that even if the walls look identical, they are for two different purposes. Horowitz explained she may be wrong but typically avalanche walls go along the Toe of the Hill Trail. [5:55:42 PM](#) Chair Fugate asked what the close calls had were. Doby explained the close calls were two busses backing out at the same time. Chair Fugate asked who installed the button to override the beeper. Doby confirmed they did because of the conditions of approval. Chair Fugate asked about the time stagger in the morning between when the first bus leaves and the last. Doby explained it is between 6:30 am-7:15 am. Chair Fugate confirmed approximately 45-minute time frame. Chair Fugate stated she realizes backing up is to avoided but that some instances it needs to be done. Chair Fugate asked if could train people that it is only used in this instance. [5:58:24 PM](#) Doby agreed with Chair Fugate and further explained that the bus drivers could be having to pay attention to 65 students, traffic, surroundings and remember not to push the button. Doby explained it has become an ingrained habit for the bus drivers.

[5:59:43 PM](#) Chair Fugate opened to public comment.

[5:59:53 PM](#) Steve Keefer, 1221 Green Valley Dr, he lives about 150 yards from this facility. Keefer stated 16 years ago, the school district proposed this facility, thanking staff and applicant for the history and timeline of this project. Keefer explained almost every neighbor was against this proposal, the result to that was a conditional use permit that attempted to mitigate some of the impacts from this facility. One of those conditions was Condition O, that the backup beepers would be silenced while they're backing in the facility. He does remember the school district did in fact propose this condition. He was also here when the super intendant asked the school district transportation manager if this was a condition that they could live with. The answer was yes, they could live with this condition. Fast forward 16 years, the current Director of Transportation and the new management at the school district decide they no longer want to comply with this condition so they stop doing it. It wasn't until they were notified by a neighbor that they were in violation of this condition and the neighbors notified the city that they were in violation that the School District submitted an application to relieve them of this obligation to turn off these silencers. If no one had ever said anything or no one paid any attention or knew this was there, this would still be ongoing and they would be in violation of this condition. In their application, they cited a couple of documents that refer to the requirements of backup bells. The first one is NCST, the National Congress State Transportation Authorities, a national association that makes recommendations to governing bodies and legislatures proposing and stating what the rules for operating buses should be. There is in that guideline a requirement for back up bells with 112 decibel levels. The NCST, is a recommending body, they have no authority and even in their document they say these rules must be adopted by an authority that has the authority to adopt these. In Idaho, that is the Idaho School Board, the state school board.

The other document they reference is the Idaho Standards of School Bus Operations. This is a document that was adopted by the Idaho School Board and it also includes the requirement that the backup bells. The Idaho Standards of School Bus Operations also includes a condition for a waiver. [6:04:05 PM](#) Keefer read the waiver section aloud and discussed the citations referenced. Keefer stated it also references IDPA. Keefer discussed how none of the references mention a requirement for backup bells and how he discovered the federal government does not specifically regulate school buses, that the federal government regulates vehicles not their uses. It refers you to the federal motor vehicle safety standards and that document list many requirements for the manufacturer and operations of school buses but that there is not one reference about backup bells. Keefer stated he researched the regulations at the state level and found many regulations for the school buses but no mention of backup bells at federal or state level. His take on this is that the school district knew this 16 years ago when they proposed this condition and that they could apply for the waiver. Keefer believes they had a reasonable expectation that the waiver would be granted. Keefer summarized the backups requirement comes from Idaho Standards of School Bus Operations and that it also includes the waiver. Keefer believes the waiver exist as a way to mitigate this situation as it is a special circumstance, a conditional use. Keefer addressed the school districts concerns for safety referencing his experience with safety while in construction. Keefer stated he believes in safety for everyone involved. Keefer discussed what OSHA states about backup bells within jobsites and how it relates to this facility. [6:10:33 PM](#) Keefer stated he thinks a safety protocol could be enacted. [6:10:50 PM](#) Keefer recapped what he discussed and found during his research. Keefer stated his examination is that there are no state laws that require back up bells on school buses specifically, he can only find an OSHA requirement. Keefer recommends the commission to find there is no change needed to this condition of approval, that there is a clear path to proceed and ask that they deny this amendment.

[6:13:20 PM](#) Ron Nelson, 1240 Green Valley Drive, asked to have picture of bus barn brought up. Nelson stated that what he finds bothersome is that someone is going through back gate and dumping snow at 1 am. That they are moving stuff back there with a back up beeper that is extremely loud, stating this happened all last winter.

[6:14:40 PM](#) Christie Turco, 1220 Green Valley Dr, just east of this facility. Thanked staffs for history, confirming those in her row know the history very well. Turco explained there were a series of meetings between the BCSD, residents and other community members who were opposed to this. Turco stated this is clearly a light industrial use and that BCSD had an opportunity to place it in a light industrial area during that time but wanted it there. Turco stated another condition guaranteed verbally was that the field between the facility and residences would remain a green space and that is no longer the case. Turco stated the retaining wall was actually meant to camouflage the buses there, were not necessarily for the noise. Turco discussed how the concrete walls amplify the beepers not

block them. Turco stated the buses start at about 6 am and take a good 45 minutes to an hour before all have left. The facility was also designed initially for a single row of buses, so that backing up and possibly running into other buses would be an issue. Turco stated the school district has grown since 2003 and believes that is why they started parking the buses differently. Turco stated the buses are restricted to 30 buses parking there and the aerial view shows 34 parked. Turco referenced Chair Fugate questions about the close calls, stating she does not believe there have been any incidents of a child or adult being behind a bus as it was backing up. Turco asked about having a spotter behind the buses to assist in backing up and if have if a spotter if the backup beepers are necessary in addition. Turco stated she does not believe this particular facility poses any threats to the students or people. Turco stated she wants to go on record that because they worked so hard with the school district to get this in place in 2003 and that would hope that this particular thing would not be brought up again and again, throwing out the conditions. That these conditions were put in place to protect the residences and the integrity of the neighborhood.

[6:20:38 PM](#) Lyn Rigger, 1230 Green Valley, don't know all of this background from what he said about the waivers being most enlightening and also agree with Christie and Mr. Nelson. Rigger discussed effects and changes in her life she had to make due to the noise and all-night snow removal. Rigger's stated there are no children in the bus area. Rigger's stated she understands the school districts and City's point of view.

[6:22:23 PM](#) Becky Keefer, 1221 Green Valley Dr, have to say because she is getting hard of hearing and her neighbors' home across the street get the full brunt of the noise. Keefer discussed the how she and the kids who run the trail along Toe of the Hill hear the backup beepers. Keefer stated this is an avalanche facility in an avalanche zone. Keefer stated the buses are underneath the avalanche shelter and pointed out where the sound wall is located and what it is made of. [6:25:17 PM](#) Keefer went on to state that one of the conditions placed on the operation of buses in this facility should have any affect on their children, that she has complete confidence in the bus drivers and their ability to keep the children safe. Keefer stated they are here tonight because School District can't live with yet another condition. Keefer referenced the school districts application for Bio diesel. Keefer stated that after 16 yrs. of compliance with no backup beepers because as she was originally told that neighbor has moved. Keefer stated she and her neighbors are still there and that it appears the city has no authority to cease and desist because otherwise trusted that the city to enforce the conditions until the hearing took place. Keefer stated the beepers are so loud that school district personnel who watches the buses back up wears ear protection and bright a bright vest. She does not know when these beepers come on, but it is multiple buses beeping at the same time. Keefer stated that the school district just wants to operate their facility and she can understand that. Keefer asked what other mitigation and conditions are the School District is going to decide they can't live with. Keefer discussed the number of buses in the facility compared to the number

permitted to be there. [6:29:33 PM](#) Keefer explained that the Planning and Zoning Commission has 3 choices – 1) outright denial, 2) table this for more information and/or action 3) just approve it. Keefer asks two things, to go out there go stand on the toe of the hill or stand where the rec district after school program is and will see what the neighbors have to hear. Her second request is to please remember this Conditional Use Permit when have future Conditional Use permits in front of them. Keefer discussed how she felt this Conditional Use permit has proven to be worthless.

[6:32:29 PM](#) Chair Fugate closed public comment.

[6:32:37 PM](#) Horowitz stated staff can address some of the questions asked prior to the commission starting their deliberation. Horowitz explained they had measured the distance from where the facility is to where the start of the back of the houses and that it was between 275 feet to 335 feet. Horowitz discussed what she read in the 2002 acoustical report. [6:33:36 PM](#) Horowitz explained what they had interpreted to be federal standards and that page 33 Back Up Warning Alarm is what they had read to be a federal regulation. Simms referenced the comments made by Mr. and Mrs. Keefer and what he found in his review is that the backup beepers are required. Simms stated doesn't mean cannot direct the applicant to seek out the waiver application and there could be possibly be something could be done with the decibel levels. Simms stated disappointed that the applicant hasn't made some type of attempt to offer mitigation.

[6:36:28 PM](#) Horowitz explained if there are more than 30 buses being stored on site that does need to be remedied immediately. [6:36:55 PM](#) Chair Fugate stated with everything she read, that there is no doubt that every school bus must have this equipment installed. Chair Fugate asked where it states it is mandated to be used at all times. Simms replied saying his recollection is for it to be consistently used. Board and staff continued to discuss use of back up beepers. [6:40:14 PM](#) Horowitz stated she spoke with the Street and Fire Departments and both departments confirmed all vehicles other than the command vehicles and pick-up trucks have backup beepers installed. [6:40:55 PM](#) Doby apologized to residents and council about turning off backup beepers, stating it is his inexperience with dealing with these issues and that he made the call to stop using them. Doby confirmed there are less than 30 buses there and will stay at this amount for the foreseeable future. Doby stated he does not know who the person with the headphones is and does not employ them. Doby stated Clearwater does use this area as storage during the winter. Doby stated he is aware that snow removal happens all over the city during snow season. [6:43:21 PM](#) Doby reiterated two reasons did this was one was safety and if something were to happen, truly believes Blaine County School District and City of Hailey would be at risk. [6:44:29 PM](#) Doby played the recordings of backup alarm behind the bus and from the east side of the fence. Chair Fugate stated cannot believe the recording is at 112 db. Doby explained it is just a reference showing noise difference from back and front of the bus. Doby explained felt noise was similar to plane taking off.

[6:46:02 PM](#) Chair Fugate called for 5-minute break.

[6:51:18 PM](#) Chair Fugate called meeting back to order. Chair Fugate stated she thinks everyone in the room agrees about safety and also thinks it is important that people live up to their agreement and if not a reality than the spirit of it. [6:52:12 PM](#) Smith stated disappointed that the School District took a unilateral decision without talking to the city and also sounds like they allowed themselves to park additional vehicles onsite over and above the limit agreed upon. As far as parking of other equipment, it is a moot point as not part of the conditions. Smith does wander if possible, for the district to utilize some of their bus drivers for spotters to improve their safety. Smith stated from the comments received sounds like that is already taking place in some cases, though concerned that the applicant does not know about it. Smith stated he has experience in heavy industrial equipment and that backup beepers are a requirement in the industry. Smith stated there could be some operations and facility changes that could be done.

[6:55:28 PM](#) Smith referenced his experience and discussed the benefits backing up vehicles when parking them. Smith discussed sound mitigation within the concrete walls. Smith stated if backed the vehicles in and placed some type of sound absorbent materials on the concrete walls, that would lower the effects to the residents. Smith stated there are more things they could do in a good neighbor approach, such as not having their snow removal team shine lights into the neighbor's windows. Smith stated he is still of the opinion that most of the noise comes from a complaint of someone on the Toe of the Hill trail. Smith asked if any complaints received about the noise from people in their home. Staff said no. Smith continued on, referencing complaints in public comment tonight. Smith stated he has to assume some are tolerating the noise and that there are some things the School District could do that alleviate the noise. Smith stated the training issue will never go away. Smith stated it is a good thing and appreciates that the School District has been able to comply with the other conditions of the Conditional Use Permit. [7:00:01 PM](#) Scanlon agrees with Smith, could have done a better job of being a good neighbor. Scanlon understands where the concrete walls could cause reverberation but goes back to the sound report. Scanlon discussed the sound report from 17 years ago. [7:01:22 PM](#) Scanlon stated he needs more information if backup bells are really required and if they are, can they get a waiver? Scanlon asked why buses do not have back up cameras? If so, does that get rid of the bell requirement? Would like to see that investigated. [7:03:30 PM](#) Chair Fugate thanked applicant for their apology and stated she understands his priority is safety. As she sees it, one of their highest charges is safety and the other one is the disruption of the neighborhood. Also, really big on people honoring their agreements, she understands it may not be able to be honored in the same fashion but thinks it is important to find a different way to mitigate it. Whether it continued for safety reasons or not, there haven't been any complaints or problems about noise for 15 years. It's been a problem when it hasn't been followed through. Chair Fugate discussed the waiver and that they have discussed other ways to mitigate the noise. Chair Fugate suggested adding materials to walls. Still think there are options to mitigate this, that their job to ensure the condition is honored is someday. [7:08:35 PM](#) Scanlon asked if would be fair to have the school district come back with suggestions. Smith would prefer to get more information on the waiver and if it is a possibility. Chair Fugate stated would be interested to hear the applicant's response to what has been discussed. Doby agreed with the commission points and said could look into materials to absorb sound. Doby stated when this was originally done, believe the department

did go to the state and asked them about the silencer and the state came back that they could but the risk would become theirs. [7:12:25 PM](#) Fletcher added that idea of backup camera may be a little too early at this time, at least the guidelines do not allow for it at this time. [7:13:24 PM](#) Smith asked how many buses are in the facility. Doby confirmed less than 30. Fletcher apologized about having more than 30 buses and that was not aware of that condition previously. Smith stated that the conditions were part of an agreement in perpetuity regardless of who sits in what chair. [7:14:58 PM](#) Chair Fugate added that she believes it is a bad precedent to remove conditions down the road, that people need to count on what is approved. [7:15:39 PM](#) Horowitz explained August 5th meeting is full, but could move it to August 19th or the 1st meeting of September. [7:16:20 PM](#) Simms asked commission to clarify their expectations. [7:16:58 PM](#) Chair Fugate said to either pursue the waiver or another mitigation option. Smith confirmed in the interim need to comply with the current conditions. Doby confirmed will provide the information on the waiver and suggestions for sound mitigation at the next meeting. Doby confirmed will comply with the current conditions at this time. Horowitz clarified commissioners are not requesting a professional sound study? Scanlon stated would need someone who can document it. Doby said it could take some additional time and research but can do that.

[7:19:53 PM](#) Becky Keefer suggested a consideration of an onsite visit. Smith stated school would need to be in session. [7:20:40 PM](#) Chair Fugate asked if 3 vehicles sounding at the same decibel, if it multiplies? Smith confirmed it does. Horowitz stated September 16th is the first meeting in September. Board and staff discussed information needed for next meeting. [7:22:25 PM](#) Keefer asked about suggestion Smith made about backing in, Smith confirmed it would be an operational change. [7:23:07 PM](#) Scanlon asked if heaters in the buses heat oil or circulate the water. Lance explained the heating set up on the buses. Scanlon pointed out that helps the window. Lance disagreed, explaining windshields freeze up.

[7:24:43 PM](#) Scanlon motioned to continue the public hearing to September 16, Smith seconded. All in Favor.

Staff Reports and Discussion

SR 1 Discussion of current building activity, upcoming projects, and zoning code changes. (*no documents*)

SR 2 Discussion of the next Planning and Zoning meeting (*no documents*):

[7:25:32 PM](#) Horowitz provided summary of items to be heard at next meeting.

Monday, August 5, 2019:

- DR: West Croy Cottages
- 3E Airport West
- DR: Marriott (River Street Condos)
- SCI-SO Text Amendment

[7:28:31 PM](#) Smith motioned to adjourn. Scanlon seconded. All in favor.