

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION

On April 12, 2010 the Hailey Hearing Examiner considered an application submitted by Blaine County Recreation District for an amendment to the Aquatic Center's Pump Park Conditional Use Permit from 2009 for a Kiddy Pump Track and Volleyball Courts, an extension of the existing park at Lot BB, Woodside Subdivision No. 79 (1020 Fox Acres Road). The property is within the Limited Residential-1 (LR-1) District, and Section 4.2.3.a. of the Hailey Zoning Ordinance #532 lists Public Uses as a conditional use within that district. The Hearing Examiner, having been presented with all information and testimony in favor and in opposition to the proposal, hereby makes the following Findings of Fact, Conclusions of Law and Decision.

FINDINGS OF FACT

Notice

Notice for the public hearing on April 12, 2010 was published in the Idaho Mountain Express and mailed to property owners within 300 feet on March 24, 2010.

Application

Blaine County Recreation District has submitted an application for an amendment to the Aquatic Center's Pump Park Conditional Use Permit from 2009 for a Kiddy Pump Track and Volleyball Courts, an extension of the existing park, located on Lot BB, Woodside Subdivision No. 79 (1020 Fox Acres Road) within the Limited Residential (LR-1) district. This use is considered a Public Use, which is a conditional use within this zone with approval of a Conditional Use Permit.

Procedural History

The Blaine County Recreation District received a CUP for the Aquatic Center 1984, for the construction and operation of a swimming pool. On August 24, 2009 (date the findings were signed), the CUP was amended to add the use of a pump track (the original pump track). This application proposes to further amend the CUP to add another pump track (a "kiddy" pump track) and two (2) volleyball courts.

Standard of Evaluation

Section 11.4 of the Hailey Zoning Ordinance establishes the standards for proposed conditional uses. Below are the original pump track CUP Findings of Fact signed by the Hearing Examiner on August 24, 2009. None of the conditions of approval listed in the 1984 findings of fact are in conflict with or affected by this application (see the attached 1984 findings of fact). For each applicable standard (in bold print), the Hearing Examiner makes the following Findings of Fact:

8.2 Signs.

ORIGINAL FINDING: No signs have been submitted for review at this time; however, the applicant has stated that they would install a sign(s) listing the rules of the track and

hours of operation. The applicant is hereby advised that a sign permit is required for any signage exceeding four square feet in sign area.

AMENDMENT: The applicant is hereby advised that a sign permit is required for any signage displayed by a non-governmental entity that exceeds four square feet in sign area. The BCRD is a governmental entity so it is anticipated that no sign permit will be needed for any signs related to this application.

8B.4. Outdoor Lighting Standards.

8B.4.1 General Standards

- a. **All exterior lighting shall be designed, located and lamped in order to prevent:**
 1. **Overlighting;**
 2. **Energy waste;**
 3. **Glare;**
 4. **Light Trespass;**
 5. **Skyglow.**
- b. **All non-essential exterior commercial and residential lighting is encouraged to be turned off after business hours and/or when not in use. Lights on a timer are encouraged. Sensor activated lights are encouraged to replace existing lighting that is desired for security purposes.**
- c. **Canopy lights, such as service station lighting shall be fully recessed or fully shielded so as to ensure that no light source is visible from or causes glare on public rights of way or adjacent properties.**
- d. **Area lights. All area lights are encouraged to be eighty-five (85) degree full cut-off type luminaires.**
- e. **Idaho Power shall not install any luminaires after the effective date of this Article that lights the public right of way without first receiving approval for any such application by the Lighting Administrator.**

ORIGINAL FINDING: The subject property is currently vacant and no lighting exists. The applicant does not propose any new lighting. It is a condition of approval that no lighting associated with this use be permitted now or in the future, to ensure that the times of operation remain sunrise to sunset and to mitigate any complaints from neighboring residences.

AMENDMENT: No new lighting is proposed. The CUP for the original pump track stated that no lighting associated with the original pump track use shall be permitted now or in the future, to ensure that the times of operation remain sunrise to sunset and to mitigate any complaints from neighboring residences. It is a condition of approval that all existing lighting shall comply with Hailey's Outdoor Lighting Ordinance and the above condition from the original CUP regarding lighting shall be carried over with the amended application.

9.2 Parking Standards.

9.2.4 Maintenance. The owner of property used for parking and/or loading shall maintain such area in good condition without holes and free of all dust, trash, other debris and snow.

ORIGINAL FINDING: This standard has been incorporated as a condition of approval.

9.2.5 Surfacing and Construction. All required parking and loading spaces, together with driveways, aisles, and other circulation areas, shall be constructed in accordance with the City Standards.

- a. **Parking areas and driveways for single family and duplex residences may be improved with compacted gravel or other dustless material.**

ORIGINAL FINDING: The proposed use is not a residential use; therefore, if on-site parking is provided, the parking area must conform to City Standards.

9.2.6 Drainage. All parking, loading, or other non-permeable surface areas shall provide for on-site drainage of surface water to prevent the drainage of such water onto adjacent properties, walkways, or into the public right-of-way. Drainage provided shall be in accordance with City Standards.

ORIGINAL FINDING: If applicable, compliance with this standard is a condition of approval.

9.4 Parking Space Requirements.

9.4.2 Commercial, Professional, Service, Recreation and Entertainment. All commercial, professional, service, recreation and entertainment uses shall provide improved parking in the amount of one parking space for every 1000 square feet of gross building area; except as follows:

- a. **Athletic fields and other outdoor sports facilities: 1 space per 5000 square feet of gross land area.**

ORIGINAL FINDING: The proposed track is approximately 11,800 square feet, which requires three (3) parking spaces. There is no on-site parking provided or proposed at this location. It is a condition of approval that all three (3) spaces shall be provided on-site and in accordance with the City Standards or a parking agreement shall be approved by the Planning and Zoning Commission, whereby the BCRD can utilize the Community Campus's parking area for the three (3) required spaces. If no parking agreement is executed, it is a condition of approval that parking be accessed by the existing gravel driveway located north of the Aquatic Center, adjacent to the Community Campus parking lot.

AMENDMENT: The two (2) volleyball courts are 3,600 square feet and the kiddy pump track is 2,400 square feet, for a total of 6,000 square feet, which requires two (2) additional parking spaces. The shared parking plan for the original approval was approved by the Planning and Zoning Commission, but no agreement was ever executed. It is a condition of approval that the parking agreement be amended to include the additional two (2) parking spaces and be signed prior to constructing the volleyball courts and the kiddy pump track.

11. Conditional Use Permits

11.4.1 The Commission or Hearing Examiner shall review the particular facts and circumstances of each proposed conditional use in terms of the following standards and, if approved, shall find adequate evidence showing that such use at the proposed location:

Section 11.4 of the Hailey Zoning Ordinance establishes the standards for proposed conditional uses. The Hearing Examiner should make findings related to each of the items (a) through (i).

a) Will, in fact, constitute a conditional use as established for the zoning district involved;

ORIGINAL FINDING: Section 4.2.3.a. of the Hailey Zoning Ordinance states that Public Service, Public Use, and Public Utility facilities as a conditional use within the LR District. A Public Use is defined as, “Use for a public purpose by a city, school district, county, state, or any other public agency or public utility.” The Blaine County Recreation District is a public agency and the track is proposed as a public recreational use.

AMENDMENT: Because the proposed amendment to the CUP application affects the same property, zoned LR-1, and it is for a similar public use as the original pump track, a CUP amendment is needed.

b) Will be harmonious with and in accordance with the general objectives or any specific objective of the Comprehensive Plan and requirements of this Ordinance;

ORIGINAL FINDING: The Hearing Examiner considered how the proposed use relates to the various policies and implementation items of the Comprehensive Plan, particularly the following:

Section 5.4 Encourage integration of compatible land uses in order to retain a compact City comprised of a central downtown with surrounding diverse neighborhoods.

Section 4.1 “To create and maintain an interconnected system of parks, recreational facilities, trails, green spaces, and natural lands for the community of Hailey in order to provide diverse recreation opportunities for Hailey residents.”

Section 4.1 “Promote recreation opportunities within walking distance of the greatest number of residents.

Section 4.1 “Work with the Blaine County Recreation District to provide community recreation assets that support and enable the District’s Recreation Programs.”

AMENDMENT: Given the similar use and location, the same policies and implementation items of the Comprehensive Plan, listed above, pertain to the amendment.

- c) **Will be designed, constructed, operated, and maintained to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity, and that such use will not change the essential character of the same area;**

ORIGINAL FINDING: The track is proposed to be located on an 11,800 square foot portion of Parcel BB; Parcel BB is 3.9 acres. The following uses currently exist on Parcel BB: the Blaine County Aquatic Center, the City of Hailey's Woodside Well, and the Fox Barn. Currently, the location of the proposed track is undeveloped and is covered by tall grasses. The track will be designed in a manner that is consistent with the attached site plan. It will include one loop with two connections within the loop. The track will be resurfaced with smooth dirt following excavation. All surrounding existing grasses and vegetation will be retained. The track will operate during snow free months and will have sunrise to sunset as the posted times of operation. BCRD will create and post a sign with guidelines for the use of the track. It is a condition of approval that the proposed sign be submitted to and approved by the Planning Administrator prior to installation of the sign to ensure the track's rules of use are consistent with a CUP approval. Pursuant to Section 8.2 of the Hailey Zoning Ordinance, the applicant will also need to submit for a sign permit. The applicant has stated that the proposed track will be inspected and maintained by the BCRD staff on a weekly basis and is anticipated to be a low maintenance operation. No park furniture is proposed. It is a condition of approval that a trash receptacle be provided in an accessible location and adequately maintained by the BCRD.

The existing character of the general vicinity is a mix of residential with recreational and school related uses. The proposed track is located 165 feet from the nearest adjacent residential property. The existing Aquatic Center is located 105 feet from nearest adjacent residential property. The proposed track would be located nearest to the Aquatic Center with vehicular access at the Community Campus's parking lot. There are existing informal pathways throughout the vacant portions of the property. It is anticipated that these will continue to be used to access the site by non-vehicular traffic. It is a condition of approval that the existing pedestrian pathways not be altered in anyway. It is a condition of approval that vehicular access to the site be limited to the gravel driveway directly north of the Aquatic Center; all other access ways shall prohibit vehicular traffic with signs stating, "No unauthorized vehicles." This may help mitigate the potential impacts felt by adjacent residences.

AMENDMENT: The applicant proposes to install two (2) volleyball courts to the southeast of the existing Aquatic Center building. This area is currently vacant. Both the volleyball courts and the kiddy pump track would have hours of operation consistent with that of the existing pump track (dawn to dusk). The volleyball courts would be fenced on the south, east, and west sides with a post and beam fence approximately four (4) feet high with pig wire on the bottom. The courts will be filled with sand and a two foot high and three to four feet high grass berm will be installed. Three trees will be installed outside of the south fence (two (2) black hills spruce and one (1) lilac are proposed). Signage is proposed at the entrance to the courts with rules and guidelines for usage. The courts would be open from late spring to early fall, as snow cover permits. BCRD

proposes to maintain the courts and will have trash receptacles available. The native grasses surrounding the proposed court area will remain.

The kiddy pump track would be installed to the north of the existing Aquatic Center building, adjacent to Fox Acres Road. In general, the construction, maintenance, and operation will be consistent with the existing pump track; however, the kiddy pump track is proposed to be constructed with smaller features, which is more appropriate for smaller users with developing skills.

The volleyball courts and kiddy pump track are anticipated to be harmonious and appropriate in appearance and use for the subject property given that the existing Aquatic Center and pump track are in operation on the subject property. The addition of these recreational amenities is not anticipated to change the general character of the area.

d) Will not be hazardous or disturbing to existing or future neighboring uses;
ORIGINAL FINDING: The proposed use is adjacent to residential uses to the west, north, and south; however, the proposed track is located on a 3.9 acre parcel, and is placed in a location that allows for the greatest distance from the track to the nearest residential property. Noise and dust from the use of the track and its patrons may be disturbing to neighboring residential uses. Maintaining the existing tall grasses as a buffer, employing dust abatement techniques, and strictly enforcing the times of operation may help minimize impacts to neighboring properties.

AMENDMENT: It is not anticipated that the proposed volleyball courts and kiddy pump track will create a hazard or be disturbing to existing or future neighboring uses, with appropriate conditions of approval. The kiddy pump track is located between the existing Aquatic Center building and Fox Acres Road. It is not adjacent to any private property owners and is smaller in size (40 feet by 60 feet), compared to the existing pump track.

It is a condition of approval that the fence shall surround the courts on the east, west, and south sides, shall be post and pole and covered in wire as proposed, and 4 feet in height. The south and west perimeter of the volleyball area shall include a berm. As stated, the fence on the west and south shall be 4 feet high; however, the fence shall measure 6 feet from record grade to the top of the fence along the west and south perimeter; it shall be located on top of the berm in a manner that ensures the 6 foot measurement from the top of the fence to record grade.

It is a condition of approval that the operation of the kiddy pump track and the volleyball courts be sunrise to sunset. In addition, the following organized competition limitations shall apply:

1. Organized competitions at the volleyball courts shall only be permitted between sunrise to sunset on Saturdays and Sundays and shall prohibit music from being played and referee whistles from being used.
2. Organized competitions at the kiddy pump track shall be limited to two (2) a year and shall prohibit music from being played.

In addition, it is a condition of approval that a sign shall be posted near or at the entrance of the volleyball courts. The sign shall include the following statements:

1. Request players to be courteous of neighboring properties by keeping noise levels at a range that will not disturb nearby residents.
2. Hours of play are sunrise to sunset
3. No music or referee whistles
4. No organized competitions Monday-Friday.

It is a condition of approval that a revised landscape plan be submitted showing two (2) additional trees, for a total of five (5), and three (3) shrubs along the south side of the volleyball courts as well as the final berm and fence plan. The plan shall be reviewed and approved by the Planning Administrator prior to installment of the vegetation and fence and before operation of the courts.

It is a condition of approval that the volleyball courts shall be kept as close to the Aquatic Center's south driveway as possible. A minimum setback of 50 feet shall be maintained between the courts to the south property line, measured from the southern most portion of either volleyball court.

- e) Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, and drainage structure. Agencies responsible for the establishment of the proposed use shall be able to provide adequately any such service;**

ORIGINAL FINDING: The use requires minimal infrastructure and utilities. All other public services are provided and are anticipated to be able to service the property adequately.

AMENDMENT: The use requires minimal infrastructure and utilities. All other public services are provided and are anticipated to be able to service the property adequately.

- f) Will not create excessive additional requirements at public cost for public facilities and services;**

ORIGINAL FINDING: It is not anticipated that the proposed use will create additional requirements or cost for public facilities or services.

AMENDMENT: It is not anticipated that the proposed uses will create additional requirements or cost for public facilities or services.

- g) Will not involve uses, activities, processes, materials, equipment, or conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, dust, odors, vibration, water or air pollution, or safety hazards;**

ORIGINAL FINDING: The proposed track could potentially generate excessive noise and dust by patrons of the track. It is a condition of approval dust abatement techniques be employed as often as needed. Organized competitions shall only be permitted between

sunrise to sunset, shall be limited to two (2) a year, and shall prohibit music from being played.

AMENDMENT: Although the kiddy pump track is not directly adjacent to residential use and it is smaller in size, the proposed track could potentially generate excessive noise and dust by patrons of the track. It is a condition of approval that dust abatement techniques be employed as often as needed. Even with screening, the volleyball courts are closer to residential uses. Dust is not a concern, but noise may be an issue. To address potential impacts, it is a condition of approval that organized competitions at the volleyball courts shall only be permitted between sunrise to sunset and shall prohibit music from being played.

h) Will have vehicular approaches to the property, which shall be designed so as not to create an interference with traffic on surrounding public thoroughfares;

ORIGINAL FINDING: Vehicular approaches to the property will be from the gravel driveway adjacent to the north side of the Aquatic Center. This driveway is accessed off of Fox Acres Road and is the same access for the Community Campus property. Interferences with surrounding traffic are not anticipated.

AMENDMENT: By sharing the Community Campus parking lot, no vehicular approaches to the Aquatic Center property is needed. This driveway is accessed off of Fox Acres Road and is the same access for the Community Campus property. Interferences with surrounding traffic are not anticipated.

i) Will not result in the destruction, loss, or damage of a natural, scenic, or historic feature.

ORIGINAL FINDING: It is not anticipated that the proposed use will impact any natural or scenic feature. The Fox Barn is located on the same property and is adjacent to the proposed use; it is a historic structure built in 1935. The following are conditions of approval: 1) the rules of use sign shall include language regarding the implications for defacing or damaging the barn in anyway; 2) the track shall maintain at least 20 feet of distance from the barn, to be measured any place along the barn; and 3) the existing vegetation between the track and barn shall be retained.

AMENDMENT: Neither the kiddy pump track nor the volleyball courts will result in destruction, loss, or damage, or a natural, scenic, or historic feature. The Fox Barn is not adjacent to the either proposed uses.

CONCLUSIONS OF LAW

Based upon the above Findings of Fact, the Hearing Examiner makes the following Conclusions of Law:

1. Adequate notice, pursuant to Section 11.3 of the Hailey Zoning Ordinance and Idaho Code Section 67-6512, was given for the public hearing.
2. The application is in accordance with the Hailey Comprehensive Plan.

3. Upon compliance with the conditions stated below, the application substantially meets the standards of evaluation (a) through (i) set forth in Section 11.4 of Zoning Ordinance No. 532.
4. All Conditional Use Permits are subject to review and revocation pursuant to Section 11.9 of the Hailey Zoning Ordinance.

DECISION

The amendment to the Conditional Use Permit for the Aquatic Center and Pump Track, is hereby approved, subject to the following terms and conditions:

- a) The original conditions of approval stated in the 1984 Conditional Use Permit and the 2009 amended CUP Findings of Fact shall remain and where applicable, shall apply to this application.
- b) Dust abatement techniques shall be employed as often as needed at the kiddy pump track.
- c) The fence shall surround the courts on the east, west, and south sides, shall be post and pole and covered in wire as proposed, and 4 feet in height. The south and west perimeter of the volleyball area shall include a berm. As stated, the fence on the west and south shall be 4 feet high; however, the fence shall measure 6 feet from record grade to the top of the fence along the west and south perimeter; it shall be located on top of the berm in a manner that ensures the 6 foot measurement from the top of the fence to record grade.
- d) The operation of the kiddy pump track and the volleyball courts shall be sunrise to sunset. In addition, the following organized competition limitations shall apply:
 1. Organized competitions at the volleyball courts shall only be permitted between sunrise to sunset on Saturdays and Sundays and shall prohibit music from being played and referee whistles from being used.
 2. Organized competitions at the kiddy pump track shall be limited to two (2) a year and shall prohibit music from being played.
- e) A revised landscape plan be submitted showing two (2) additional trees, for a total of five (5), and three (3) shrubs along the south side of the volleyball courts as well as the final berm and fence plan. The plan shall be reviewed and approved by the Planning Administrator prior to installment of the vegetation and fence and before operation of the courts.
- f) A sign shall be installed and posted near or at the entrance of the volleyball courts. The sign shall include the following statements:
 1. Request players to be courteous of neighboring properties by keeping

noise levels at a range that will not disturb nearby residents.

2. Hours of play are sunrise to sunset
 3. No music or referee whistles
 4. No organized competitions Monday-Friday.
- g) The kiddy pump track shall be used by non-motorized bicycles only.
- h) The volleyball courts shall be kept as close to the Aquatic Center's south driveway as possible. A minimum setback of 50 feet shall be maintained between the courts to the south property line, measured from the southern most portion of either volleyball court.
- i) The original parking agreement shall include the additional two (2) parking spaces and shall be signed prior to constructing the volleyball courts and the kiddy pump track.
- j) No lighting associated with the volleyball courts or kiddy pump track shall be permitted now or in the future. All existing lights shall comply with Hailey's Outdoor Lighting Ordinance.
- k) All Fire Department and Building Department requirements shall be met. Items to be completed at the applicant's sole expense include, but will not be limited to, the following requirements and improvements:
- The required fence shall receive a fence permit from the Building Department, prior to installation.

Signed this 3 day of May, 2010.



Jay Webb
Hailey Hearing Examiner

Attest:


Becky Mead, Deputy Clerk

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the _____ day of _____, 2010, I served a true and correct filed copy of the within and foregoing document upon the parties named below, in the manner noted:

- U.S. Mail
- Via Electronic Mail
- Via Facsimile
- Hand Delivered

Applicant:
B.C. Recreation District
Eric Rector
erector@bcrd.org

CITY OF HAILEY

By Becky Mead
Becky Mead, Deputy Clerk