

GOODING COUNTY PLANNING & ZONING COMMISSION



REGARDING APPLICATION FOR)	
)	
Houston Shaw)	FINDINGS OF FACT,
)	
Special Use Permit)	CONCLUSIONS and
)	DECISION

REQUESTED ACTION: SPECIAL USE PERMIT *application made by:* Houston Shaw for an additional shooting range just east of the current shooting range. The site of the proposed special use is located in Section 15, Township 7 South, Range 13 EBM in both the Recreational and Agricultural Zoning Districts. The address is approximately 823 E. 2700 S., Hagerman, ID 83332.



The Gooding County Planning and Zoning Commission held a public hearing regarding the application for a special use permit on October 24, 2016, with the following Commission members present: Judy Stockham, Chairman; Terry Ruby, Hearing Officer; Kathleen Goicoechea, Curtis Merrill and Miles Hall. Brendan Ash, Deputy Prosecuting Attorney, was also in attendance to provide legal counsel to the commission. The Commission disclosed no conflicts of interest. The Gooding County Planning and Zoning Commission's regular meeting followed, during which a site visit was scheduled for October 27, 2016; and deliberations on the application were set for November 7, 2016.

FINDINGS OF FACT

Having given due consideration to the documentation and testimony presented at the hearing, the terrain and location-specific information obtained during the site visit, and the pertinent state and federal guidelines incorporated herein by reference as though included in full, the Gooding County Planning and Zoning Commission hereby makes the following findings:

- A. The proper legal requirements for advertisement of the public hearing have been fulfilled as required by Gooding County Zoning Ordinance No. 104 and by the laws of the State of Idaho: notice of the public hearing was published in the *Times-News*, the official newspaper, on October 4, 2016; posted on property October 17, 2016; mailed on October 4, 2016, to applicant and adjacent property owners within one (1) mile of affected property.
- B. A public hearing on the special use permit application was held before the Planning and Zoning Commission on October 24, 2016.
- C. The notice, agenda and minutes of the public hearing are hereby incorporated into the record.
- D. Written comments in opposition to or support of the application were accepted until 5:30 p.m. on October 24, 2016. A list of names of written comments received after issuance of the staff report to the Planning & Zoning Commission on October, 19, 2016 was read at the public hearing, and those comments are hereby incorporated into the record.

- E. The proper legal requirements for notice of a special meeting were fulfilled as required by Gooding County Resolution 11-09-26 and Idaho's Open Meeting Law; a site visit was conducted on October 27, 2016. Notice and agenda of the special meeting were posted October 25, 2016 and mailed to adjacent property owners within one (1) mile. The minutes of the special meeting were made available to the public upon approval by the Commission.
- F. Notice of the Commission's deliberations on the application, scheduled for November 7, 2016, was given at the public hearing October 24, 2016, posted October 25, 2016 and mailed to adjacent property owners within one (1) mile.
- G. The Commission, following deliberations on November 7, 2016, reached a unanimous decision to grant the special use permit for an additional shooting range just east of the current shooting range.
- H. The surrounding properties include the following: North – Snake River, Twin Falls County, Recreational Zoning District; South – agriculture and recreation, Hagerman Wings Hunt Club (Shaw), Agricultural Zoning District; East – Snake River, Twin Falls County, Recreational Zoning District; West – agriculture and recreation, Hagerman Wings Hunt Club; Agricultural Zoning District.

1. Written comments in support of the application were submitted by the following:

Bashista, Frank; Bear, John; Blass, Zack; Brown, M.D, Daniel; Bullers, Tom & Sara; Carter, Tom; Coats, Todd; Dali, Paul; Davis, T.K.; Doyle, Michael; Dumke, Ed; Frick, David; Gerhardt, Clark; Goolsby, Julie; Gossi, Drew; Hall, Mat; Halper, Lee and Monica Brown; Hansen, Steve; Henslee, Michael J. and Mark W.; Hills, K.C.; Hope, Doyle & Robyn; Holt, Rich; Howald, Jason; Howard, Sagen; Keegan, Joe; Keegan, Pat & Terry; Kiger, David; King, Nelson; Landon, Clay; Maras, Tommy T.; McCarthy, Billy and Stormi; McCrae, Ronald; McDaniel, Randy; McIntyre, Ted; McStay, Mari & Gary; Miller, Liz; Mulliner, Michael; Olsen, Alan; Peterson, Marshall; Player, Gordon; Risch, James, Roades, Benjamin H.; Scott, Randy; Shepard, Louis, Sturdivant, Peter; Stutzman, Ken; Turner, Mark; Thorne-Roth, Tamra; Turner, Dale & Penny; White, Ed; Wenk, Pamela

2. Written comments in opposition to the application were submitted by the following:

Bonning, Robert G.; Crist, Kenny; DeCarufel, Kim and Bob; Faraday, Brenda; Gertschen, Robert and Christine; Gould, Robert; Hagerman Planning and Zoning Commission, letter and accompanying map, signed by Chairperson Almer Huntley; Martin, Katherine; Mayer, Tony and Jeanie; Pica, Donald and Bonnie; Shokal, R.C.; Wickham, Beverly J.

3. Oral testimony was given by the applicant.

Houston Shaw began his 30 minute presentation on his shooting range. He explained it is not an ATV shooting school; it is only a shooting range. He presented a video from the Outdoor Sportsman channel to show what he does and who he is. The video gave a tutorial of what it is they do and a layout of the land and shooting range. He talked about his personal background; schooling, degrees and gun training. He said the range is only open from March through October, seven days a week from 9-4, occasionally until 5:30 p.m. He submitted to the P&Z Commission letters of support, which had also been submitted to the office. He said he teaches people to shoot, and that is it. He said he trains the military, law enforcement, and citizens. He submitted a map with both the area for expansion outlined as well as the current range footprint. He submitted another map that had some of the supporters' and opponents' addresses pinpointed to show proximity to the facility. Both maps have been photographed and marked as HEARING EXHIBITS G1 AND G2. He submitted photos of the facility, which have been labeled as HEARING EXHIBITS A1-A5. He went on to give a background of his father, John Shaw, who owns a duck hunting club on property adjacent to the shooting range and brings a lot of hunters to the Hagerman Valley. Houston also commented that realtors are making money and real estate should go up because

of Shaw Shooting. Houston explained the frangible ammunition used at the facility; he explained that frangible ammunition is made with material that when it hits steel the bullet disintegrates into a powder that is environmentally friendly and that there is no ricochet. He also explained that targets can be shot at a very close range – at a range of only a few feet – and there is no danger of ricochets to the shooter.

Hearing officer Ruby directed Houston to speak about noise levels. Houston stated that the allowable noise level according to state ordinance is 64 decibels (“dB”). He said that at the muzzle of the AR-15 firearm, the decibel level is 162 dB, and at 100 yards away from the muzzle, the decibel level is 100 dB. He said that a sound pressure level test was done by Canby Rod & Gun club in 2007 that concluded at 300 yards from the muzzle of an AR-15, the decibel level was 66 dB. He said the nearest residence to the shooting range, owned by Monica Brown who supports both the existing shooting range as well as the proposed expansion, is roughly 840 yards away. Houston explained that they have used a sound device certified by the military to test sound levels from the shooting range at Ms. Brown’s residence. He said this device did not detect a measurable decibel level at Ms. Brown’s residence for gun shots being fired at the shooting range.

Houston said he is willing to cut back on Sundays with his military classes. He said he wants to change how everyone feels about the range. Additionally, he said he wants to have a community appreciation day where the public can come onsite to utilize the facility.

4. The staff report from the Planning and Zoning Administrator, Ami Bennett, dated October 19, 2016, was submitted as filed and is hereby incorporated.
5. The list of comment letters received after the issuance of the staff report was read and incorporated into the record.
6. Oral testimony was given by those in support of the application.

Marshall Peterson testified that he is a United States Veteran who served in Vietnam at a time when no training with firearms was common. He spoke about the high degree of expertise being taught by Houston Shaw and how valuable that is for those serving in the military. He said he wishes Houston had been around sooner.

Clark Gerhardt testified that he is a Hailey resident who had visited Hagerman for the Fossil Beds initially but then experienced Houston’s training and has since been to Hagerman dozens of times a year and spends thousands of dollars in Hagerman per year. He said he and his wife will continue to visit Hagerman because of the Shaws.

Elaine Elizabeth Endsley testified that she is a Hagerman resident who moved to Hagerman because of the country sounds. She said she finds Hagerman peaceful and does faintly hear gunshots where she lives on Hagerman Avenue. She said the noise does not bother her and she would encourage them to expand.

Pamela Wenk testified that she retired in Hagerman. She started coming to the area to ride her horse and fell in love in with Hagerman. She said she is very happy to have chosen Hagerman. She said she is surprised that people complain about noise, and all she hears from where she lives is a pop, pop. She said she tells her daughter that if anything bad happens in the world, get yourself to Hagerman – it is the safest town.

Dale Turner testified that he believes he lives closest to the hunting range. He said he has about 1,000 feet that borders the range and does not hear much in the way of noise. He said he irrigates and farms

next to it, feeds his cows, horses and llamas and doesn't notice the gun shots. He said he has never had better neighbors than the Shaws.

Tom Bullers testified that he lives in the impact zone next to Turners and does not have a problem with the Shaw Shooting Range. He said he stepped outside to use the phone tonight and the road was actually noisier than the range.

Natalie Firth testified that she is a senior at Hagerman High School. She said she has many activities outside at the high school and never once has she heard anyone complain about the noise or exhibit fear of stray bullets. She said that if anything, it is considered a comfort to her to know that our military men and women are getting the training they need to protect our country.

Shaun Gough, Gooding County Sherriff, testified that the Sheriff's office uses the range and supports this. He said that without the range, the County would have to build its own and cannot afford it. He said this range and Houston are an asset to the Magic Valley.

John Shaw, Houston's dad, testified that he moved to Hagerman 19 years ago. He said he loved to hunt ducks along the river and wanted a place of his own. He said they have 600 acres and built ranges 6 years ago for private use. He said he is very proud of Houston for following in his footsteps and the responsibility he has taken on to train. He talked about the Chad Bellows film saying that 200,000 people across the country will be watching the duck hunting episode. He said he is very proud of the Hagerman community and has invested in additional property in the last 12 months, fixing it up and spending his money locally. He said he wants the community of Hagerman to be happy with them and the shooting range, as they are there to stay. He said if they need to put up berms or trees or whatever, he is willing to do what it takes. He said the military has cut back on the training they provide and the need the shooting range serves is significant.

Rick Shaffer testified that he is a Hagerman resident and says the gunshots heard are the sound of freedom.

Justin Youngblood testified that he drove out today to do some sound testing in Hagerman with the B&K 2209 Precision Impulse Sound Meter, which, he said, is one of only two meters recognized to test the peak and rise time of firearms. He said he did some testing around the property on which the application has been made and found that they are compliant with noise ordinances without even having to leave the property. He showed the property line on the map and stated that the law requires no more than 64 decibels at the occupied dwelling. He said they found that they were compliant within nine decibels inside of that (55 decibels) without leaving the property.

Larry Wangberg, of Hailey, testified that he moved here [Idaho] about 15 years ago. He said John Shaw is one of the most interesting people he knows. He said John has hosted fundraisers for the families of our warriors. He said he is proud to know the Shaw family and to know about Hagerman. He said he comes here often, dines, stays and spends money here. He said he talks with friends from other states about what a special thing this is. He said as residents he would think others would possess this pride of their community. He said John has invested his money after a lifetime of work. He said John has put down his roots here and hopes that the Commission will support John and Houston.

Lee Halper testified that he and Monica Brown live in the property closest to the Shaw Shooting club. He said can hear Houston, but he is glad to hear him. He said the Shaws are the best neighbors anyone could want. He said he does not see any reason anyone can complain about noise as a reason for this not to be approved. He said he shoots also, an AR-15, and is louder than Houston. He said he believes restricting a business that is devoted to training the police and military in gun safety and self-defense

would be unpatriotic and also dangerous. He went on to say that the only way second amendment rights will be taken away is if we do not have guns, and if people do not know how to shoot guns, then we will have the problems we see every day on the news with crazies who go shooting. He said hunting season starts September 1st and goes through the end of February so whether it is Shaw Shooting or hunting or private property owners shooting on farms, there will be shooting. He said this is Idaho, this is what happens with guns in Idaho. He said the Idaho constitution says it is a constitutional right to hunt, fish and trap. He said if one are going to hunt, they had better know how to shoot a gun. He said people should be taking Houston's course to avoid accidents in gun handling. He said he is proud to say he has concealed weapons license number 0001 in the state of Idaho. He said he originally lived back east where if one had a firearm they are subject to get thrown in jail just for having it, even just in a car. He said in Idaho we have open carry, concealed carry and enhanced weapons licenses and reciprocity with other states. He said he is surprised that the only complaint about this fantastic operation, these good neighbors, these good citizens is noise. He said when the wind really blows and Shaw Shooting is shooting, it is louder than when the wind does not blow, but it is not loud enough to bother him. He said in terms of other noises, the ducks from Shaw's property are louder than the guns at the range. He said the only complaint about the hunt club is they do not send ducks onto his property after they shoot at them. He said he is astounded there is any kind of complaint filed on this.

Monica Brown testified that she is a Hagerman resident who believes that the Shaw Shooting range is good for the local economy, environment, wildlife and community. She said it is a first-class operation run by first-class individuals. She said those who know the Shaws as neighbors know one could not ask for better neighbors or better people. She said she is the nearest resident to the existing Shaw Shooting facility. She said she can attest to the fact that the business is in no way a visual or auditory nuisance. She said in her opinion, the improvements undertaken by the Shaws have increased the scenic attraction of the area. She said the sound of gunfire can be heard most every day at her residence, from all directions. She said on many days, it is from her own shooting. She said Hagerman has long been well-known for its world-class waterfowl hunting, so for many, the sound of gunfire is not only common; it is a sign of economic and environmental health. She said if people do not like the sound of gunfire; Hagerman Valley probably is not the place for them. She said she fully supports the Shaw Shooting business, it is a true asset to the community and urges Gooding County to approve the special use permit.

Dakota Mcmillian testified that he is Monica Brown's son so also lives closest to the Shaw Shooting facility. He said by his perspective, 60 decibels is equivalent to restaurant conversation, 50 decibels would be comparable to home conversation, and the facility is measuring a 55 decibel level. He said the noise from the facility is less significant than dinnertime conversation. He said it is quieter than anything else one would be doing at home. He said he and his family notice neighborhood barbeques as being noisier than the shooting range.

Tom Carter, Twin Falls County Sheriff, testified that being from Twin Falls, he does not have a dog in this fight, however he knows Houston and John and is interested in these proceedings because he is fortunate enough to use Shaw Shooting to train his deputies. He said any improvements at the facility will only serve to improve the training Houston offers. He said Houston is a remarkable instructor and his facility is a world-class facility. Hearing Officer Ruby asked about the number of deputies trained, and Sheriff Carter responded that between 12 and 20 deputies per year are trained there. He explained that the cops are very confident prior to attending Houston's course and always come back having learned exceptional skills.

Kirt Martin, owner of Snake River Grill, testified that he has had tough times in the winter keeping his restaurant going but Shaw Shooting has had an impact on the restaurant's survival. He said he is former Navy and a Vietnam Veteran and has been honored to have met the guys who train there. He said if they

had had this kind of training in 1969, many of his friends would not be on the wall. He said he took a class from Houston and is extremely impressed by Houston. He said our country needs this school.

Benjamin Rhodes, Lt. Colonel, testified that he landed this afternoon after spending 3 months overseas working with the guys flying A-10's and the ones who have gone through training at the Mid-South Institute. He said they just lost their first Navy Seal last week in the fight in Mosul. He said what is imperative is not who they kill, it is the guys who come back. He said what Houston and John do is saving lives. He said the guys who come back know how to use their weapon. He said right across the river is the bombing range at Saylor Creek, so the location makes it easy for a team to come and spend a week training. He said the military is shrinking and getting its butt kicked daily with what is going on over there. He said it is not who they take out down range, it is who they bring home. He thanked Houston and explained that despite Houston being much younger than him, he taught him a great degree of skill, and he is a world-class instructor.

John Shaw spoke about Colonel Rhoades stating that spending 3 months in Iraq and spending 40 hours on an A-10 by himself flying back here today to land here at one o'clock. He said there are seventeen A-10's over there and they shot over 150,000 rounds of 30 mm over the last 3 months. He said none of those planes came back to the bases with any armament on them, as that is how these guys shoot. He stated we have a real hero in this room.

Mark Lopshire testified he is a Twin Falls resident and a 3rd generation Idahoan and a retired active duty Army officer after 20 years. He said he has served with some of the key leaders heard about over the last decades. He said he has served some of the best with men of character. He said John and Houston are men of character. He said They have that passion, they have that heart. He said men of character are bringing in tourism dollars to Hagerman, which is crazy since no one beside the ones who live here even know where Hagerman is. He said if the addition is approved, how much additional tax assessment will be added to the county's rolls? He said many of the men and women heard from today have been taught by the greatest generation, which is dwindling. He said we have to look at better ways to continue to train our men and women and this is a solution. He said Shaw Shooting is capable of training our youth as well as women completing concealed weapons courses. He said we owe this to future generations, as the greatest generation has passed on. He said this is a constitutional right. He said John and Houston are on the front lines, supporting our U.S. Constitution and our Second Amendment rights.

Pat Keegan testified he is a Hagerman resident whose property borders the Shaw's to the south. He said that the noise issue is really the neighbor who fires a propane cannon which goes off every couple of minutes. He says Sundays, Fourth of July, when he is going to have a barbeque, the decibel of that cannon is much greater than any guns shooting at the Shaw facility. He said during the hunting season, he hears a lot of gunfire. He said if it is legal for the neighbor to shoot the canon off, a little more gunfire down there [Shaws] is no problem with him or his family. He said he thinks the Commission should approve the application.

7. Oral testimony was given as uncommitted.

Ken Perceval testified he is a Hagerman resident. He said at his property, looking out across and down to the facility looks like a tabernacle upside down which creates a sound channel. He said he is not being harmed by the noise, as the decibel levels are not that great. He said he did let his dog off the leash one day and after the gunfire at Shaw's started he ran away. He said he is a Veteran of the United States Army, Vietnam era, infantry. He said he would like to point out to anyone here who likes to shoot guns that he used to like to shoot guns too, but it lost its luster when he became responsible for the destruction

of another human being. He addressed Houston Shaw, asking if he had killed anyone yet, stating that he should not look forward to it. He said he is torn and came here uncommitted as he had only heard rumors but wanted to hear what Houston had to say and have a better understanding. He said he is a big supporter of the Second Amendment but does not want to blow some duck out of the sky because they happened to fly by. He said his property sits between the Buckeye Ditch and Bell Ditch. He said he can go in his own backyard and catch a trout without leaving his property. He said he does not need to go out and shoot a duck, he could go out and club them. He said they make a racket all the time. He described a conversation with Mr. Turner, who is the owner of 30 peacocks and said they are noisy as well. He said he is a person who appreciates those who sacrifice for our country. He said the current generation of people in law enforcement and in our military deserve all the credit we can give, but those from wars in years passed carry another thing. He said every time someone starts popping off down there, there are a lot of memories that come flooding back. He said he and his wife moved here in March of 2015 as political refugees from California. He described the Shaw facility as something similar to New Year's Eve or the Fourth of July fireworks, but on a more regular basis. He posed the question of it is possible, considering the free building materials all around the entire valley, that with a little ingenuity and a lot of mortar they could build an acoustic barrier? He said three other residents on his street asked him to come out and speak and none of them like it [Shaw Shooting]. He said the shape of the valley sends sound right at them. He asked can there be a solution? He said he supports everything Houston does and has wondered what invasion he was guarding against. He expressed concern about Hagerman becoming a target as a result of the training taking place there. He suggested reducing loads, using softer rounds.

Frank Erwin testified he is a Hagerman resident. He said he is "on the fence" as he neither opposes nor supports the application. He said if the P&Z Commission approves this application he hopes that they do their best to require any mitigation for anyone's issues with the sound of rifle fire, if possible. He referenced the Shaw's pictures of the other facility in the eastern part of the Country where there are many trees. He suggested planting shrubs to help the sound. He said he appreciates the sound level checks but in the valley the sound of gun shots does drift with the wind, toward town.

Ted Talbott testified he is a Hagerman resident. He said his main concern is with ordinances. He said moving the facility to the East is closer to town. He said he wonders what the noise factor would be toward the schools. He said he is also concerned with the depth of the pits and the berms. He said the place where they are going is mostly solid rock. He asked how will they be able to go that depth as far as the pits are concerned? He then said the main question is the noise. He also said His wife's family has been in Hagerman for 120 years.

Rudy Shokal testified he was opposed but, after listening tonight, is now uncommitted. He said he lives west of the Hagerman city limits. He said having listened to both Houston and Mr. Shaw, he thinks there is a sound problem at times. He said he is a Vietnam Veteran but he is a little bit deaf and wears hearing aids. He said inside his house on Sundays with the double-pane windows closed and his hearing aids removed, he can still hear the firing range. He said he is well over a mile away. He said it depends upon the wind and cloud cover. He said Mr. Shaw has indicated he is willing to put up higher berms and trees and a lot of it will be rectified by that, stuff that will absorb the sound. He said if Houston put up firing points, he can put waffle sound proofing in it as seen on indoor ranges which would also solve a lot of it. He said those cliffs bounce the sound back toward town and suggested Houston hire a sound engineer. He recommended the Board consider tabling this permit for a few months and have Shaws do some expert research to figure it out saying sound travels in weird patterns, and it is not simple. He said he did not want to belabor the point but when the federal government issues a contract to Shaw Shooting, there is no sales tax in it because it is specifically exempt, and it is the same with city, state and federal. He

said that limits the amount of tax revenue coming into the valley. He said he appreciates people that go to the Snake River Grill. He said there is some limit to the income through sales tax. He said if they fly into Twin Falls or Mountain Home Air Force Base, landing fees up there do not reflect any revenue here, nor do car rentals. He said the roads are getting used and worn out. He said there needs to be something but he does not know what the solution is. He suggested that the Shaws communicate with residents directly. He said he found out about this hearing a week and half ago. He said word does not get out. He suggested Houston send a bulk mailing to let residents know what they are doing and planning. He said he is relieved to hear they do not use lead ammunition as it could lead to potential contamination issues. He then expressed concern about the single porta potty and suggested they take action to protect our water supply.

8.Oral testimony was given in opposition to the application.

Sandra Huntley testified she is a Hagerman resident. She said the majority of the time she hears pop, pop, pop. She said she appreciates what Shaws are doing, but noise is her concern. She suggested baffles or planting something to mitigate the noise.

Ed Wickham, owner of the RV Park in Hagerman, testified he hears numerous complaints from the campers as to the shooting noise. He said it does get pretty loud at certain times. He said it seems to impact their business somewhat.

Beverly Wickham, owner of the RV Park in Hagerman, testified she is concerned about the property they have for sale which is close to the gun range. She said it has been platted into a subdivision and as soon as the sewer system goes in that property is up for sale. She said most people who find out there is a training school nearby will not want to buy the property. She said this application is getting even closer to city limits and she is wondering what will happen when they get ready to sell their property which is within the city limits. She said John and Houston have stayed in the RV Park and she has nothing against this gun training but wishes they would have bought Bell Rapids property, as it joins the Mountain Home bombing area.

Diana Bray testified she is a Hagerman resident. She said when she moved to Hagerman 24 years ago, she thought she lived in paradise. She said they wanted to raise their kids and retire in the community and Hagerman offered quiet, good schools, and it was beautiful. She said the shooting range is west of her home. She said they built a large deck 15 years ago which they use daily. She said the shooting is very annoying when they are trying to enjoy the fresh air, relaxing after work, having a barbeque with friends or family or even working in the yard. She said sometimes it is continuous and sounds like machine guns that will not stop. She said on Monday, October 17th she decided to have dinner on the front deck and had just sat down when bang, bang, bang started. She said even going into her house, she could still hear it. She said if she and her family moved here after the gun range, they would never have shown up, but she and her family were here first. She said the new gun range will come closer to her house and will only be a mile away. She said she objects to the range getting larger and coming closer to her house. She said her son and his family live up Lake Street and they can hear it. She said the City along with the Chamber is working on a possible bike trail through town along with camping at Billingsley Creek State Park. She asked if these families camping in the park or going on a nice bike ride want to hear constant shooting. She asked when some of the businesses uptown put up outdoor tables for seating, will people want to hear that shooting while they are relaxing. She said please do not ruin the beauty and quiet of Hagerman by letting them make even more noise. She said the next thing we will all have to buy ear protection just to go outside and please vote no.

Robert Messner testified he is a resident of Hagerman. He said he has nothing against teaching military and police officers. He said the only thing he wishes is that they would have bought into the North, the Bell Rapids area where it is wide open and nobody lives. He said where he lives whether or not the wind is blowing he hears every day that they shoot. He said he does not know what the decibel level is, but it is annoying.

Jay Hauser testified he and his wife discovered Hagerman many years ago. He said they raised their kids in Jerome but always came to Hagerman to play. He said they live on the western edge of Hagerman, just above the duck clubs and so on in that area. He said he was saved by the City of Hagerman where he has found people he loved and people who loved him. He said his home was a mess when they first came here. He said he spent 25 years putting in an orchard, grapes, a yard and fire pit and a place they could relax and enjoy. He said after they bought their house and moved in they started to hear gunfire. He said he is not against shooting. He said this proposed move will put the gunfire and the sounds louder and closer. He said if this is allowed, he would hope there would be some kind of sound mitigation put in place. He said he knows how important it is to have a strong military that has to be maintained. He said he is grateful that our police and military are being trained by the Shaws. He said he does not know how often the large calibers are shot but sometimes it sounds like a fifty caliber gun going off. He said yesterday was a beautiful day in Hagerman but the sound of gunfire was still present. He said he is grateful for this little valley; it is Eden. He said he hopes we can protect it and keep it that way.

Jeanne Mayer testified she is a Hagerman property owner. She said she purchased a year and a half ago, and prior to that she was a resident for 16 years. She said both of her sons graduated from Hagerman High School. She said the recent purchase was a return to Hagerman, but had they known beforehand about the shooting range, they would not have purchased their 6 acres. She said her and her husband are children of World War II Veterans and feel very fortunate their dads survived World War II. She said they appreciate the contributions of our Veterans and our men in service and see there is a need for that. She said she knows because her husband and sons have concealed carry permits and AR-15's, the range of these guns. She stated she is familiar with where the schools are located in relationship to the proposed gun range is and especially that sniper tower. She said her husband attended a Rotary presentation in Twin Falls last week that was put on by Shaw Shooting and that was a totally different spiel than what the Commission heard, as it was a sales pitch. She said she appreciates the contributions Shaw Shooting has made to the valley and she sees there is a need for that, however, as many residents have indicated there is a problem with the noise, and she would hope the Commission would not vote to allow an escalation of that.

Tony Mayer testified he recently purchased property in Hagerman. He said he wanted his comments to pick up where his wife ended (Jeanne Mayer). He said they bought Hagerman property a year and a half ago but had they known the shooting range was there they would not have bought it. He said their intention was to enjoy the peaceful tranquility and not listen to the constant pop, pop, bang, bang. He stated that this may be a benefit to parts of Hagerman but it is a detriment to land values as once the attributes of a property is gone it is hard to sell a property. He said his concern goes beyond just the noise. He said he thinks the other issue that needs to be addressed is one that borders on legal liability on behalf of the County and the Commissioners and the Government, and that is life safety. He stated the calibers are 9MM 223 or 556, and 9MM has a range of about a mile, and 556 has a range of almost 2 miles. He said he supports what Shaws are doing, and he is an avid hunter, but there is a place for this and it is not in the backdoor of Hagerman, Idaho. He submitted a Google Earth map, labeled HEARING EXHIBIT B1 pinpointing the sniper tower which his wife talked about. He explained that part of the shooting on the range includes a sniper tower, which is a building on stilts. He said he learned in the video that there is a 360 degree shooting area from the tower and they are shooting the 556, having a range of 2 miles which puts the entire town of Hagerman in jeopardy of long-range fire. He submitted a

copy of the land use schedule HEARING EXHIBIT D1 specifying the zones of the proposed area; he said he was advised by legal counsel to look at this: a shooting range within the Agricultural and Recreational Zoning District shows this use not allowed within the recreational zone. He said he knows that may contradict what Ami stated, but it is right out of the ordinance. He said he has talked to other zoning administrators in other counties who have criteria that they go by on this kind of thing. He said the only criteria he saw from the initial one was a condition of no use of tracer bullets. He said he mentioned that to Bill Crafton, the Twin Falls County Administrator, and Bill was astounded that was the only criteria. He submitted the range criteria HEARING EXHIBIT E1-E4 as standards being used by a lot of municipalities around. He said it lists safe zones. He submitted a recent news article about a concert venue, HEARING EXHIBIT C1-C3, which was turned down by Twin Falls County Zoning for noise. He said they applied for a special use permit but were turned down.

Mayer's five minute time limit ran out before additional explanation was made.

Ione Iund testified she is a resident of Hagerman. She said she is on the Hagerman library board and has two primary concerns; a Billingsley Creek State Park development with 62 RV sites, tent camping areas are proposed, as well as a bike and walking path. She said outdoor activities which the area is known for and which people come to enjoy are going to be disrupted by the background of gunfire and the relaxation uses and the hunting and gun range uses do not go together. She said she cannot see anyone wanting to buy her home, and she would have to disclose this nearby use to any potential buyer. She said she has lived in cities, which have a constant level of noise from honking, etc., which has a negative effect on her. She said she never thought she would experience that here.

Jim Stephenson testified he is a Hagerman resident. He asked if this gun club would be firing automatic weapons. Houston confirmed he only uses semi-automatic. Mr. Stephenson discussed the concept of recoil and that bullets would go over any berm. He stated if the range goes in, it should face West not East. He said he is a retired Vietnam Veteran and retired law enforcement for 30 years.

Kathy McKenzie testified she is a Hagerman resident. She said she wants to make a point that most of the people here are correlating with the comprehensive policies of the P&Z Commission, they just have not attached them to certain policy numbers. She said she hopes the Commission is aware and can take their concerns and attach them to the proper policy, such as the events that are happening in Hagerman with the park, bike path that would be under Policy 12.1-6. She said she lives a little bit out of town and does hear gunfire. She said there are times when she loves the sound of freedom, but her concern is with the expansion the gunfire will be increasing. She discussed Shaw's first permit in 2014, quoting the Commission as stating that the noise was comparable to that produced by the water fowl hunting clubs. She explained that the hunting gunshots from all around the valley are intermittent whereas with a shooting range there are large volumes of constant gunfire and that is completely different. She said comparing the gun range to duck hunting is ludicrous because duck hunters do not discharge 3,000 rounds of ammunition per day. She said she has a concern that there has been a precedent established for this special use permit between the permit approved in 2014 and this present one, and her concern is with various statements made by the Commission and by the Shaw application. She said the statements the Commission asked for regarding operation times are open ended statements saying, "Nine to four but with this or that exception." She said she would like to see some stricter rules and restrictions and that under the supplementary conditions and safeguards clause, she believes that this permit requires, "more restrictive standards than those generally required by an ordinance." She said she believes it requires more restrictive standards than were used when the first special use permit was approved. She also said she is concerned about Policy 5.8-3 which takes into consideration the proximity of commercial businesses to schools and since this permit would be moving the firing range 1500 feet closer to city limits it would also be moving 1500 feet closer to the schools. She stated she knows the decibels are

within legal limits, but it is still a problem. She said the mitigation established in the first special use permit cannot be the same mitigation for noise control in this second special use permit. She said she believes the noise mitigation has to change and be approved before this second special use permit is approved. She concluded by requesting that the Commission deny the special use permit.

Lawrence Larue testified he is a Hagerman resident. He said he lives pretty close to the shooting range and does not like the noise. He said does not mind the duck hunting as it is seasonal. He said he likes to enjoy the quietness on the West side of his house and it is now a pop, pop, pop. He said he thought the Shaws had a nail gun and were really building and constructing things, but then he realized it was guns shooting. He said the shooting range for the military and the officers would be better off away from town.

Cathy Brown testified she is a Hagerman resident. She said she is adjacent and Southwest of the Shaw residence and training facility. She said she has no issues with what John and Houston are doing, but her problem is the location where they are doing it. She said the facility is far too close to the community and the Snake River to guarantee the safety of everyone. She said she feels compelled to share a conversation she had last week with a woman who was boating on the river June 22, 2014 whose daughter was hit with a bullet. She said this bullet ricocheted off a rock and grazed the daughter's breast. The daughter did not have to be medically treated. She said two officers were patrolling at the time, and the family completed a police report. She said the authorities in the Sheriff's boat went back to the area where the girl was hit and told the mother they observed additional bullets ricocheting off the rocks. She said the Sheriff then contacted our local law enforcement officer who is living near the launch site and gave him the bullet and the police report. She said the mother called the Gooding Police Department three weeks later to get the bullet to make a necklace for her daughter and found out that the police report was never filed and the bullet was gone. She said the special use permit that Shaw Shooting is currently operating under was applied for 20 days prior to this incident and the permit was approved eight days after this incident. She asked what the outcome would have been if that incident had been handled properly. She asked if the girl had died who would the parents have sued, and what is the potential liability to the County if someone is injured or killed and does P&Z want to put the entire County at risk financially for a possible lawsuit due to an accident? She said this would put the County funds at risk which would most likely financially affect anyone paying taxes in Gooding County. She said last fall a bullet went across her front yard and driveway and hit her picture window, and she thanks God her kids were not out in the yard or driveway at the time. She said the bullet came from the East and the only property East of her home is Hagerman Wings Farm. She said this past summer late one evening she, her son and her neighbors witnessed tracer ammunition being shot across the river from John Shaw's property. She said it is her understanding the Navy Seals were there at the time, and this was a direct violation of the 2014 permit. She said there was only one condition when that permit was issued, and that was no tracer ammunition to be used in the operation. She said this incident was videoed by her next door neighbor and has been posted on YouTube titled, "Tracer" posted by Teresa Moore. She said what the applicant is asking for goes far beyond a hunting club or a recreational shooting range where a handful of people are out hunting ducks. She said she thinks John and his son Houston are doing a great service to the public and our Country but feels strongly this is not the proper place for a commercial firearms training facility.

Dr. Donald Pica, a retired physician, testified he served in the United States Airforce during the Vietnam War as a flight surgeon at Mountain Home Airforce Base. He said he has nothing against what the Shaws are doing, but it is location, location, location. He said he owns property in Hagerman but resides in Twin Falls. He explained that all of us are blessed with five senses. He said sound and aroma travel through the air and where it will be most prominent is dependent upon the prevailing winds. He said in this situation the only way to block the noise is either to eliminate the source completely or to dampen it

with the things that have been talked about here tonight. He said the constant exposure of gunfire becomes a very emotional and psychological issue to the people who are exposed to it as they have no control of it entering their homes while it is occurring. He said it is not because of potential damage to hearing, it is the emotional impact and the psychological impact it can have on them. He said the second concern is the impact potentially on veterans who might have post-traumatic stress disorder and we do not know if that exists in Hagerman. He said there are obviously a number of veterans here from the Vietnam War and we do not know if they are troubled by that or not. He discussed that with the expansion of the shooting range further to the East it will have a negative impact on development of properties to the West of Hagerman property. He said his property is located just below the Wickams, which is platted into the City. He said he has talked to the mayor about platting the property into the City when they expand the sewer and there is concern as to the property values at that time. He said the gun range had already been in existence for approximately eight years when was approved at the meeting June 2, 2014. He said the ordinance states that pistol and rifle ranges be designed to avoid a line of fire directed against any existing home, business or roadway within one (1) mile. He submitted a Google Earth map HEARING EXHIBIT F1 showing a one-mile radius relative to the City of Hagerman and the closer gun range relative to the city park. He again said the issue is location. He said what they are doing down there is wonderful and he supports it. He said he owned the gun club adjacent to the Shaws for a number of years until John bought them out a couple years ago. He said at the initial hearing in 2014, there were two people who spoke against it. He said he was one and there was another gentleman who spoke about the noise of gunfire. He said Mr. Shaw had read into the minutes a letter from Buck Gardner who had hunted on his club regarding an incident with Mr. Gardner while Dr. Pica was hunting along the property line in which Mr. Shaw tried to disparage Dr. Pica's character. Dr. Pica alluded to it in his written statement, previously submitted. Dr. Pica said he spoke with Kitty Martin, a realtor in Hagerman and asked what the situation is with property values and the citizens of Hagerman and how everything is going. He said she answered that people are afraid of Mr. Shaw, and when he wants something he gets in their face and they feel bullied. Dr. Pica said he has had numerous incidents with Mr. Shaw over the years as an owner of the gun club adjacent to his and some of those have been pleasant and some have not. He then said he does not feel it would be appropriate to further elaborate.

Dr. Pica's five minute time limit expired, and then he stated that he does not think Planning & Zoning has done their fiduciary responsibility or their due diligence and went against the ordinance on the books. He thinks there is a potential legal liability because of that.

Daniel Tellez testified he has been a Hagerman resident for 15 years and has been a pastor for the Hagerman Christian Center for those 15 years. Mr. Tellez said he is not only speaking on behalf of his family but also on behalf of his congregation. Mr. Tellez said he worries about PTSD and the handicap kids, and that noise can trigger something and affect them. He said in the course of these hearings, he has been looking at who is for and against this and the perception is "us against them." He said he appreciates a country that allows people the freedom to carry a gun. Mr. Tellez said he comes from a country where if one has one bullet, they will spend ten years in jail. He said his Dad was persecuted and killed for preaching the gospel and there was no justice made. Mr. Tellez said whoever had the money had the power and he has witnessed the injustice of how influential people with the right connections and the right money can affect a decision. He said this is not an issue of them against us, this is an issue of safety and location. He said what Mr. Shaw and Houston do for the military is awesome. Mr. Tellez said he is surprised that most of the people who spoke on their behalf are not from Hagerman but from out of town. He said he has been at his church on Sunday morning when a noise or something triggers a reaction in Veterans or in handicap children, that is why they do not have special lights. He said his own nerve system is different because of illness. He said he will never go against people for what they do, he wants to contribute, but he worries about the safety of the community. He said the location of the range

is too close to town Mr. Tellez said the town should not be a divided town and look for solutions and do it together. He said this Country is the greatest country in the world and gives fair treatment and a fair decision no matter status, money or influence.

John McCracken testified he is a resident of Hagerman. He used the map to show his proximity to the facility. He pointed out the large rock wall of the canyon. Mr. McCracken said he is not against the training and he is almost 3 miles away. He said on any summer day between 9 a.m. and 5 a.m., one hears a constant bang, bang, bang, bang, etc. He said the facility is already here and people have to live with what they have got, but expanding it would be a mistake. He said he is not for it, and it is a poor location right next to town, but he is patriotic and God bless America.

9. Houston Shaw gave his rebuttal in which he stated he is not digging his heels in, he wants to build baffles. He said expansion will be completely to the North and used the map to indicate direction of fire, showing the range with 80% direction of fire to the West. He said as far as noise mitigation he would shoot away from town completely. He discussed the timing of the first permit in regard to those who have bought property since then. In response to the question about how they would build the berms, given an assumption of rock, he explained the process they have employed to elevate the berms while utilizing the natural rock. He said they are willing to position the ranges so the gunfire points West. He discussed putting up walls to mitigate noise. He said he wants to appease all by having barricades around the particular shooting platforms to mitigate some noise. He said he applied for this permit a few weeks ago, not six months ago as someone had claimed during their testimony. He said regarding communication he is not opposed to a newsletter. He said every client who provides an email address gets a newsletter once every three months. He said if anyone would like to be included in the newsletter, please provide their email. He said the addition to the range is only a few hundred yards closer, and in decibels he is not sure how that will affect what is already in place. Houston said as far as the nice peaceful day someone said he was enjoying yesterday and then the gunfire started up and disturbed that, he was not even shooting yesterday as he was working on this presentation the whole time. He said he gets blamed for other gunfire around the valley. He responded to the sniper tower allegations and said he does not use it in his business. Houston said it is used by his father John with his long-range rifles, but Houston does not offer that in any of his courses, which can be viewed online. Houston said he had heard about a girl on the river getting hit by a bullet, but all of the main targets headed to the North and to the West have barricades on top of all targets. He said as one looks at the rocks, it would not have been possible for a ricochet off those rocks to have come from the shooting range. He said it might have been a rock chuck hunter. Houston said it caught him off guard to hear a bullet had gone through the window, but nothing had ever been said to him, the teacher on the range. He said logically it would have been a rifle for a bullet to have gone that far and they do not have a rifle range oriented to that position, so it is very unlikely given where the ranges are and the fact there is no rifle range in that direction that the bullet came from the range. Houston stated that as for taking Sundays off from shooting, he is not opposed to eliminating Sundays from his class schedule.

10. The Commission asked questions of the Applicant.

Commission Chairman Stockham asked for clarification regarding Houston's shooting range versus John's duck hunting club. She asked John if he shoots privately on his land. John confirmed that he does shoot privately on his land and he has members who shoot on his land with shotguns. She asked about the noise and whether or not some of the gunshots heard can be attributed to the hunt club. John stated that he uses the property for shooting at all times of year. John also explained the tower as being his and not related to Houston's training facility. John has 30 members in his duck club.

Commission Member Merrill asked about hours of operation and what restrictions would be reasonable. Houston responded that he would be totally happy with a 9 a.m. to 5:30 p.m. deal. He said at least 6 hours of operation Monday through Friday would work, although he would like to include Saturdays so the public could be accommodated.

Commission Member Ruby asked if more shooters would be brought in or if this expansion would merely provide variety to his existing facility. Houston responded that he alone is the instructor and can only train twelve clients per day, and he is not going to go any further than that at this time. Houston said the amount of shooters will not increase, but the variety of the ranges will. He said he is averaging five days a week.

Commission Chairman Stockham clarified that they shoot only during daylight hours. Houston explained that night shooting is possible with suppressers only, and is a military high-elite squad possibility only. They have never done night shooting.

Commission Chairman Stockham asked how much ammunition is used for the military events. Houston explained that 500-600 rounds a day per person are used on the existing training facility, but the additional course is different from a firing line where they are learning a technique by repetition. He said the main firing line, where the main noise is, is where they are learning a technique, "tightening nuts and bolts" by learning fluidity with mechanics and manipulating their firearms. Houston said the new area has a much lower volume of gunfire, approximately 45 rounds in ten minutes. John explained that the new ranges were the size of the courtroom with berms twice as high and all gunfire directed towards the river.

Dr. Pica asked the Commission Chairman Stockham if he could ask a question of the board to ask Mr. Shaw. Commission Chairman Stockham clarified that the public's opportunity for questions and comments regarding the application was now expired.

Commission Member Hall asked if the multiple ranges would be operating simultaneously. Houston responded no because only he is instructing.

Commission Chairman Stockham asked if they had already started ground work on the additional ranges. Houston showed on the map there were two of the ranges on which they had started the ground work, the area where guys had been shooting and the area yet to be completed.

Commission Chairman Stockham asked how high the berms will be. Houston stated the berms will be roughly 15 feet tall.

Commission Chairman Stockham asked about the ammunition used on the proposed addition. Houston clarified that it will also be frangible ammunition only. She asked if Sundays will be part of his class schedule. Houston explained that he is willing to cut back on Sundays.

Commission Chairman Stockham asked for clarification regarding if the military and law enforcement classes are held during the week, with concealed weapons classes for the public offered on Saturdays and Houston confirmed this is the schedule. Houston also said that no tracer ammunition has been fired on the range.

Commission Member Merrill asked about the zoning for the property on which the expansion has been proposed. Administrator Bennett explained that the Recreational Zoning District is defined from the high water mark of the Snake River to a distance of 600 feet, with the Agricultural Zoning District comprising the remainder. Commission Member Merrill discussed the testimony referencing a shooting range not being allowed within the recreational zoning district.

Commission Chairman Stockham clarified that Mr. Mayer had been looking at the wrong column, (R-1), which is residential not recreational and, in fact, a shooting range is allowed within the recreational zoning district with a special use permit.

11. The Commission requested additional information from legal counsel.

12. LIST OF HEARING EXHIBITS:

A1-A5	Photos submitted by Houston Shaw
B1	Google Map submitted by Tony Mayer
C1-C3	Article by Heather Kennison hkennison@magicvalley.com, entitled, "Neighbors complain of noise from outdoor concerts," dated August 12, 2016 submitted by Tony Mayer
D1	p.23 of Gooding County Zoning Ordinance No. 104, submitted by Tony Mayer
E1-E4	Range Design Criteria, U.S. Department of Energy Office of Health, Safety and Security – tabbed pages cover,4,5 & 7 submitted by Tony Mayer
F1	Aerial map showing portion of 1-mile radius from property on which shooting range is located submitted by Donald Pica
G1,G2	Photos of Maps of current facility, proposed expansion and showing supporters' and opponents' proximities to both – used in Applicant's narrative

VIDEO CLIPS:

Shaw Shooting Introduction

<https://vimeo.com/189184415>

Shaw Shooting Colosseum

<https://vimeo.com/189184746>

episode intro

<https://vimeo.com/189184416>

episode end

<https://vimeo.com/189184414>

Password for all is: dontmiss

12. The Commission met for a site visit at the property of Shaw Shooting on October 27, 2016 with the following members present: Judy Stockham, Terry Ruby, Kathleen Goicoechea, Curtis Merrill, Miles Hall. Brendan Ash, Deputy Prosecuting Attorney, was also in attendance to provide legal counsel to the commission. Also in attendance were Ami Bennett and Missy Shurtz. Houston and John Shaw directed a tour of the Shaw Shooting Range.

Chairman, Judy Stockham called the meeting to order at 2:26 p.m. on October 27, 2016. The site visit was for a Special Use Permit application made by Houston Shaw for operating an additional shooting range East of the outdoor firearms training school. The site of the proposed special use is located in Section 15, Township 7 South, Range 13 EBM in both the Recreational and Agricultural Zoning Districts. The address is approximately 823 E 2700 S, Hagerman, ID 83332.

Within the Shaw Shooting Range office, Houston gave a safety presentation, outlined the rules that are enforced on the range and handed out safety glasses and ear plugs to everyone. Houston explained that

the office also houses the retail pro shop for firearms, ammunition and accessories sales, on which he pays Idaho state sales tax.

Houston said the main firing range, permitted by Special Use Permit No. 180, contains some paper targets backed by berms, but for steel targets frangible ammunition is required. Houston said that the majority of the noise comes from the main range, used for both military and law enforcement classes as well as those which are open to the public. Houston suggested he could spray in some Styrofoam in the ceiling of the range and adding a tin wall filled with gravel to the side to help alleviate the noise. Discussion about suppressors arose; Houston explained suppressors are specific to each firearm, very expensive and make training with the use of holsters very difficult. Safety is also a compromise with the introduction of another piece of equipment to be cleaned, maintained and checked.

Justin Youngblood explained the sound pressure testing he had done onsite. He said the state decibel level is 64. He said measurements taken just to the left of the muzzle register 165 decibels. He said on the other side of the berm, with a rifle, registered 49 decibels. Reflecting the sound off of a tin and gravel wall was discussed. Justin said from the reference point they tested every 15 yards and the volume was below the 64 decibels before leaving the Shaw property.

Houston said Shaw's provide their students with the frangible ammunition used onsite. Houston showed where there are ricochet shields on the targets even though they use frangible ammo. (Video 7) The sound of gunfire could be heard while Houston was presenting. Ami asked what that was and Houston said gun shots. Houston confirmed that no one was utilizing the shooting range at that time, since he was giving the tour. Discussion about duck hunting clubs in proximity to the shooting range ensued: there are 4 or 5 duck clubs within a 3 mile radius. John said none of John's duck club members were hunting at that time.

Houston explained the range is typically closed from November 1st to March 1st, and the duck club members are treated just like any other shooting range client, with no access to the shooting range unless it is open. Houston and John explained the shooting range and the hunt club are two separate businesses and the club members do not get special treatment. Houston said he still does concealed carry permit classes the 4th weekend of the month, but he usually uses the range inside the town of Hagerman [located behind Snake River Grill; city sewer lagoon shooting range typically used by Gooding County law enforcement and for some concealed carry permit classes] between November and March.

Houston showed those present the Tombstone Range which he said is a more advanced range focusing on depth of targets. He explained there are two shooters and one spotter and emphasis is on drawing the weapon and accuracy at a certain distance. He said it is a pistol range which is quieter. He explained the range has decent sound mitigation with a downward slope, and it faces South. He explained the targets are air targets with double berms to prevent ricochet and a pistol bullet would not make it to town. Houston explained that when an M16 bullet is fired, it will drop 32 feet at the point where it has gone 1000 yards. He said 556 or a 223 are used on this range, which drops somewhere around 40 feet at 1000 yards.

Commission Member Merrill asked about the wave pattern in which sound travels. Justin Youngblood explained the nature of testing that scenario, concluding it depends on that which the sound bounces off, and requires very advanced equipment, which he does not have or use, to test. Houston discussed the possibility of adding a barrier to come down the back of the firing shed.

Commission Member Hall asked about the 12 gauge shotgun used by duck hunters and how those decibel levels register. Justin Youngblood elaborated on the studies and equipment he has used for peak

and rise time in military firearms. He said he has not specifically measured shotguns. He asked about the angle ducks are shot at, and John responded about barrel length, etc. John said a pistol is 155 decibels, rifle 165. Justin Youngblood added that the other consideration with rifle shots from hunting is the additional sound of a projectile hitting the sound barrier, whereas at the range, it is a short range and the shot does not get the chance to break the sound barrier, so all that is heard is the gunshot itself.

Houston said everyday he teaches classes he parks his truck immediately over the berms and has never had a broken window, a flat tire, or a paint chip.

Houston explained the barricade on top of the targets is designed so if a shooter hits the top of the plate it hits the barricade and goes into the berm, if a target is missed the bullet goes into the berm.

Houston next took those present to the Barrel Range. He explained four shooters on the line can be shooting at once on the Barrel Range. John and Houston demonstrated (minus firearms) the moving target and noted the berms with shields above the targets. Houston said that range is primarily a pistol range but is not included in the class until shooters have mastered the first two days of skills.

Houston stated that they have never had an accident at the shooting range.

At the next range over, Houston explained that it was a typically pistol range. He said if rifles are used it is only for a 50-yard sight-in. Houston explained the range layout is such that students hone skills for very controlled shooting on the move; walking while sights stay on target. He said this particular range is not utilized much with the 5-day military classes, as Houston simply does not have time.

The next shooting range Houston showed those present was located on the additional property and pertains to the current application for special use permit. It is a bermed, graveled area, with a shed from where shots are fired at targets behind cars. Houston said they have employed much heavy equipment in the forming of terrain. Houston explained that the shooting area from this range is one of the main culprits of the noise. He said although the range is heavily bermed, those prevent stray bullets but do not do much for noise mitigation. Houston explained the range is setup specifically for shooting from different positions, with the shed area having certain "windows" through which students shoot, and emphasis is placed on knowing where the site picture is in regard to the muzzle. He said it is an extensive course of fire containing 45 targets from the start to the end. Houston said it is a non-stop course of fire with a spotter calling out and the shooter going through.

Houston explained that a barrier on the east side of this range would be significant to mitigate noise.

Commission Chairman Stockham asked if this range was on the parcel originally permitted by Special Use Permit 180. Houston confirmed that this was a new parcel built at the beginning of 2016. He said last November they bought 25 acres from Turners and then combined the existing 7 acres to create the 33-acre parcel on which the addition has been planned.

Houston explained that at the end of the shooting line, the percussion is going out unrestricted from this range, and it would be a logical area to put up posts with tin sheets, about 15-feet tall packed with gravel, making a bullet-proof, sound absorbing wall. He said this wall would likely run from the back of the berm to the front of the sagebrush (the beginning of the berm around the range). This method/construction has been used with success at the Mid-South Institute.

John added that another alternative would be to use dirt and berm the whole thing out. Commission Member Merrill asked about the residents on Quicksilver Drive. Discussion about the location and proximity ensued.

Justin Youngblood explained the safety issue of frangible ammunition being shot at a lesser velocity than that at which it is currently shot, as was suggested by Mr. Perceval at the Public Hearing. He explained that the frangible is a compressed particulate and needs to be going at a certain speed to break apart and do so safely. He said if frangible ammunition is downed, it will lead to hand loading which is dangerous and they do not make it like that for a reason, as it will not break apart properly and will actually cause ricochets.

Houston led a tour of a range he said he designed for more tactile real life training. He said this range provides training with the gun the students are going into combat with so they are able to manipulate and fix jams on the actual gun they will take into combat. He said once they learn that manipulation it is time to do it on the move, from a covered position, which needs to be second nature in combat situations. He said they work on problem solving which targets are down range. He explained these targets are not called out by a spotter but have to be identified on the move. He said it is a much more advanced training range than the previously seen ranges. He said it is used on day 4 or 5 of the military and law enforcement classes and not available to amateur shooters. He said most of the shooters on this range have been shooting for 15 years. He said the shooting at this range is a fraction of what is being shot at the other ranges, as it is only being used once a week. He said it takes approximately one hour to run six people through this range.

Houston then showed those present Coliseum 2 which he said is in the beginning stages of being built. No targets are yet in place. The berms on the newest parts of the range are extremely high and Houston said there is additional dirt to be added, pushing them another 4 or 5 feet higher. Houston explained this is another range that will be reserved for the advance shooters, only after instructor approval.

Houston took those present to Cathy Brown's house so the Commission could observe her broken window as she had discussed in her testimony at the public hearing. The Commission observed the window that is broken is facing the East and directly across from the Hagerman Wings Farm corn fields where Hagerman Wings Farm members shoot at ducks. It was also noted that the Shaw Shooting Range is North of Brown's residence approximately 1400 yards away.

Commission Chairman Stockham thanked John for showing the Commission the window, as she felt its orientation clarified some things.

Justin Youngblood pointed out that he noticed on the drive out that Coliseum 2 has numerous trees acting as a barrier between the range and town. He asked John if those would remain there as the excavation and berm construction continues. John responded that those trees would remain part of the facility and he would be willing to plant more trees if that would help provide some sound barrier. John concluded the tour by reiterating that they want to maintain the facility at below the required decibel levels and continue to be good for the County. He said they employ four full-time employees, they bring in income with both the range and the hunting club and would ask that the permit be approved. He said they want to do what is necessary to keep the sound levels down.

13. Site Visit Exhibits

SITE VISIT EXHIBIT 1 - Firearms Training Range Rules

SITE VISIT EXHIBIT 2 - Concealed Firearm Permit Training Class Participant Release Agreement

CONCLUSIONS

The Commission conducted the following analysis of the application, according to Gooding County Zoning Ordinance No. 104 Chapter 7, Section 3B: General Standards Applicable to All Special Uses, which directs it to find adequate evidence of the following standards. The testimony and evidence supporting the Findings of Fact were weighed and examined by the Planning & Zoning Commission, which concludes as follows:

1. **104.7.3B.1 STANDARD: Proposed special use “constitutes a special use and would not be better served in an urban area.”**

The area proposed for this special use is zoned recreational and agricultural. The Land Use and Zone Schedule, Recreational Use #13, Shooting Range/Trap Club, which requires a special use permit in a Recreational and Agricultural Zoning District, and Idaho Code § 65-6512 Special Use Permits, Conditions and Procedures were considered in this standard's evaluation.

An urban setting would not offer the benefit of compatibility with the existing uses in this area. The Commission, by unanimous vote, determined the standard is met.

2. **104.7.3B.2 STANDARD: Proposed special use is “harmonious with and in accordance with the general objectives, or with any specific objective of the Comprehensive Plan and/or the Zoning Ordinance.”**

The proposed special use was evaluated according to the general goals and policies in the Comprehensive Plan, including Goal 4.1: Increase the economic diversity, employment base and tax base of the County to improve employment opportunities for its residents. Policy 4.1-1: Facilitate the expansion and diversification of existing and new businesses and industries that:

- a. Will maintain and/or improve the County's fiscal stability.
- b. Increase the County's tax base and employment.

This area is designated for recreational use on both the Comprehensive Plan and Zoning Maps. The Commission, by unanimous vote, determined the standard is met.

3. **104.7.3B.3 STANDARD: Proposed special use “[s]hall not adversely affect surrounding properties to a materially greater extent than would a permitted use in the district.”**

Current usage within the area proposed for the addition to the shooting range includes outdoor shooting ranges (both Shaw Shooting and the shooting range within city limits used for teaching concealed carry permits by Gooding County law enforcement and Houston Shaw), hunt clubs and agriculture.

Permitted uses include agriculture, single-family dwelling, hunt club, public parks and state parks. The majority of the land surrounding the parcel at issue is owned by Shaws, however, public written comments and oral testimony emphasized concerns over the sounds of gunfire and questioned the safety of the facility, given its proximity to residential uses. During the Commission's site visit to the Shaw Shooting Range, the sound of gunfire that was unrelated to Shaw Shooting emphasized that the sound of gunfire is ubiquitous to the Hagerman area, especially considering the area has long been a destination for waterfowl hunting. The Commission observed the ranges deemed by Houston Shaw as the most problematic as to noise levels. The fixed firing ranges can be improved as to sound levels by both adding more insulating material to the sheds from which the firing is done and by erecting barriers designed for the muffling of noise. Shaws agreed, and Sound Engineer Justin Youngblood confirmed, that the addition of tin, gravel-filled panels and/or tree and vegetation laden berms, if designed appropriately, would significantly reduce the noise of gunfire emanating from both the fixed firing ranges and those where students walk through a shooting course. The topography has, thus far, been used in the excavation of materials to greatly reduce

the likelihood of stray bullets, as the courses under development contain berms of fifteen feet or higher.

Multiple factors were deemed by the Commission to satisfy the supplemental provisions of Ordinance No. 104 Ch. 6 Sec. 2 provisions for Rifle and Pistol Ranges which states that such ranges:

"Shall be designed with a backstop;"

"Shall be designed to avoid a line of fire that is directed toward any existing residence, business or roadway within one (1) mile;"

"Shall incorporate landscaping that is compatible with the surrounding landscaping;"

"Shall provide supervisions and security measures during periods of use"

The Commission finds the backstop requirement is fulfilled by metal plates behind each target and dirt berms behind each metal plate and in some areas, the range is double-bermed.

The Commission finds one (1) mile line of fire limitation is satisfied by the range's 140 degree area of fire rule, as provided in "Site Visit Exhibit 2." All ranges at the Shaw Shooting facility are oriented so that the line of fire is consistently North and West only. The first two lines of the Shaw Shooting Firearms Training Range Rules state, "The handling of firearms is only permitted on the firing lines. Loaded or unloaded firearms are permitted only on the firing line using the 140 degree area of fire." Occupied structures within the one (1) mile vicinity are Northeast, East, South and Southwest of the firing lines.

The landscape surrounding the range is a combination of sagebrush, grasses and Russian olive trees. For the area where gullies and berms are being constructed as a variable shooting course, the addition of native vegetation to the berms would satisfy this provision, as well as helping to muffle gunshot sound. As Houston and John Shaw have stated they will plant such vegetation when construction is finished, the Commission finds this requirement will be met once construction is finished. The Commission notes that in the selection of vegetative species, applicant should eliminate those plants deemed as noxious for the area.

The Commission finds that the supervision and security measures requirement is satisfied at the Shaw Shooting Range by the following: entrance to the property is by keypad-locked gate, participants are subjected to a safety briefing conducted by the instructor prior to admittance to any of the ranges, and firearm training rules are posted and provided to participants, see "Site Visit Exhibit 2." The Hagerman Wings Farm property is also used by hunt club members during the waterfowl hunting season, however, club members are not allowed shooting range privileges without enrollment in a training session and subject to identical safety briefings as any other firearms training class.

The Commission, by unanimous vote, finds this standard would be met with the satisfaction of two conditions, erecting sound barriers on the fixed firing lines and planting vegetation as outlined above.

4. 104.7.3B.4 STANDARD: Proposed special use "[s]hall not be hazardous or disturbing to existing uses."

Comments from the public hearing emphasized that the noise of gunfire is disturbing. Concern was also raised about potential contamination from the lead in ammunition.

At the October 27, 2016 site visit to the Shaw Shooting range, gunfire noise was observed by the Commission as a reality in the Hagerman Valley, even when the shooting range was not in use. Gunfire noise resulting from the Shaw Shooting range must be mitigated by the conditions imposed herein, including sound barrier construction and the addition of vegetation on berms.

The frangible ammunition used onsite does not contain lead.

The Commission, by unanimous vote and considering the safety precautions discussed relative to Standard 104.7.3B.3 above, finds this standard would be met with the satisfaction of two conditions, erecting sound barriers on the fixed firing lines and planting vegetation as outlined above.

5. **104.7.3B.5 STANDARD: Proposed special use “[s]hall be served adequately by essential public facilities and services. . .”**

Access to the proposed addition is by way of the private lane into the Shaw Shooting Range. No public facilities or services are anticipated with the proposed addition.

The Commission, by unanimous vote, finds the standard is met.

6. **104.7.3B.6 STANDARD: Proposed special use “[s]hall not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.”**

Finding there has been a local economic boost provided both directly and indirectly by Shaw Shooting's firearms training classes, the Commission, by unanimous vote, finds this standard is met.

7. **104.7.3B.7 STANDARD: Proposed special use “[s]hall not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property or the general welfare by reasons of excessive production of traffic, noise, smoke, fumes, glare, or odors.”**

Ordinance No. 104, Ch. 6, Sec. 1 provides that “Objectionable noise, which is due to volume, frequency, or beat shall be muffled or otherwise controlled.” Given the topography of the site, the Commission finds the standard from Ch. 6 would be met with conditions of sound barrier construction and berm vegetation.

In reaching this conclusion, the Commission considered the oral comments from sound engineer, Justin Youngblood, made at both the public hearing on October 24, 2016 and the site visit on October 27, 2016 regarding decibel measurements. The Commission also reviewed Idaho Code 55-26, and for informative purposes, Idaho Code 67-91 and 29 CFR 1910.95 (OSHA Standards for noise) for information relating to decibel levels and standards.

Gooding County does not have a noise ordinance.

The Commission, by unanimous vote, finds this standard is met.

8. **104.7.3B.8 STANDARD: Proposed special use “[s]hall have vehicular approaches to the property, which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares.” (at issue: Visibility, Parking, Ingress, Egress and Adequate Turnaround).**

The Commission, by unanimous vote, finds this standard is not applicable.

9. **104.7.3B.9 STANDARD: Proposed special use “[s]hall not result in the undue destruction, loss, or damage of natural, scenic, or historic features.”**

Although the facility is located in proximity to the Snake River, this proposed use does not jeopardize the scenic value of the natural features. The Commission observed, during the site visit, that the facility is constructed on ground otherwise unusable for agricultural purposes.

The Commission, by unanimous vote, finds this standard is met.

10. **104.7.3B.10 STANDARD: Proposed special use “[s]hall be designed to be as compatible in terms of building height, bulk, scale, setbacks, open spaces and landscaping with adjacent uses as is practical.**

There are no buildings being proposed. The Commission, by unanimous vote, finds this standard is not applicable.

CONDITIONS

Gooding County Zoning Ordinance No. 104, Chapter 7 Section 3.C.4 and Idaho Code §67-6512 allow the Commission, upon granting of a special use permit, to attach conditions to a special use permit including but not limited to:

- a. Minimizing adverse impact on other development;
- b. Controlling the sequence and timing of development;
- c. Controlling the duration of development;
- d. Assuring that development is maintained properly;
- e. Designating the exact location and nature of development;
- f. Requiring the provision for on-site or off-site public facilities or services;
- g. Requiring more restrictive standards than those generally required in an ordinance.

The Gooding County Planning and Zoning Commission, finding need for such conditions in this case as outlined above, do attach the following conditions to this Special Use Permit:

1. Applicant must add sound reduction barriers to the areas where fixed firing ranges are present.
2. Applicant must increase the vegetation on berms surrounding the gulley-type ranges.

DECISION

The Gooding County Planning and Zoning Commission evaluated the application for a Special Use Permit based upon the goals and objectives of Gooding County Comprehensive Plan, Gooding County Zoning Ordinance No. 104, particularly the standards enumerated in Chapter 7 Section 3, the documents submitted with the application and the information gathered at the public hearing, and the site visit. The application was approved by unanimous vote since all of the standards set forth in Chapter 7, Section 3 of the Zoning Ordinance were met with the conditions listed above. Roll call vote: Judy Stockham, Chairman; Terry Ruby, aye; Kathleen Goicoechea, aye; Curtis Merrill, aye; Miles Hall, aye. Since adverse testimony was given, the 15-day appeal process time will be required. Property owner is responsible for complying with all county, state and federal requirements.

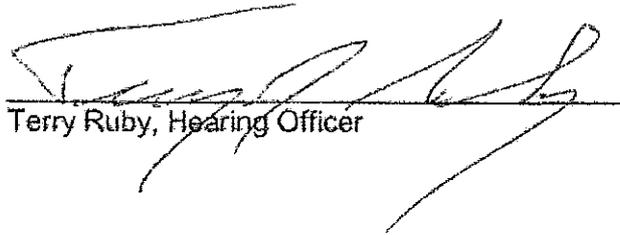
Due to changes in Idaho Code effective March 31, 2010, every final decision rendered concerning a site-specific land use request shall provide or be accompanied by notice to the applicant, regarding the applicant's right to request a regulatory taking analysis pursuant to section 67-8003, Idaho Code.

The applicant or any affected person (one who has an interest in real property which may be adversely affected) who appeared in person or in writing before the Commission may appeal the decision of the Commission to the Board provided the notice of appeal is submitted to the Board within fifteen (15) days from the Commission's action. Any applicant or affected person seeking judicial review of compliance with the provisions of 67-6535, Idaho Code, must first seek reconsideration of the final decision within fourteen (14) days. An applicant denied an application, or a person affected by a final decision concerning matters identified in section 67-6521 (1) (a), Idaho Code, may, within twenty-eight (28) days after all remedies have been exhausted under local ordinance, seek judicial review under the procedures

provided by chapter 52, title 67, Idaho Code. An appeal shall be from the final decision and not limited to issues raised in the request for reconsideration.

Signed this 14 day of December, 2016.


Judy Stockham, Chairman


Terry Ruby, Hearing Officer

Kathleen Goicoechea

Curtis Merrill

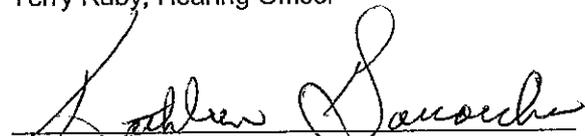
Miles Hall

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