



BOISE COUNTY

BOISE COUNTY RESOLUTION# 2007-12

A RESOLUTION AUTHORIZING A POLICY FOR PROCEDURES FOR MITIGATION OF SUBDIVISION IMPACT

WHEREAS, Idaho Code Section 67-6513 authorizes governing boards to adopt ordinances establishing standards for the processing of subdivision permits that may provide for mitigation of the effects of subdivision development upon the ability of school districts to deliver services without compromising service delivery or imposing substantial additional costs upon current residents to accommodate proposed subdivision development, and

WHEREAS, Boise County has adopted Subdivision Ordinance 2006-02 establishing standards for the processing of subdivision permits that provide the determination of such mitigation,

NOW THEREFORE BE IT RESOLVED by the Board of Commissioners of Boise County that the Policy Regarding Evaluation and Mitigation of Impacts of Development on School Districts, attached hereto as App. A, be adopted and incorporated herein as the official policy of the Board of Commissioners of Boise County.

APPROVED AND ADOPTED by the Boise County Board of County Commissioners in open session of the 12th day of March, 2007; with an effective date of passage.

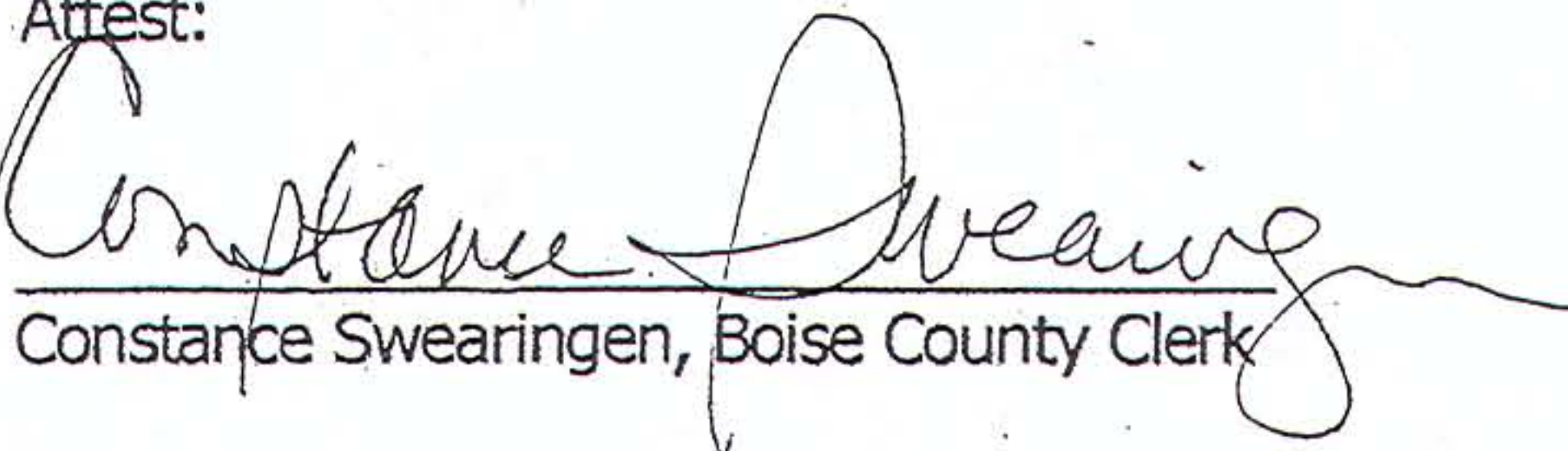
BOISE COUNTY BOARD OF COMMISSIONERS


Fred Lawson, Chairman


Terry Day, Commissioner


Linda Zimmer, Commissioner

Attest:


Constance Swearingen, Boise County Clerk

Policy Regarding Evaluation and Mitigation of Impacts of Development on School Districts

Developers shall, as part of the subdivision application process, meet with the school district wherein the development lies to discuss impacts the proposed development will have on the school district and ways to mitigate those impacts.

The developer will submit to the Planning and Zoning Administrator a report detailing the results of its meeting with the school district. That report shall include a letter from the school district summarizing the meeting.

The school district may use the attached document, prepared jointly by Planning and Zoning Commission officials and School District officials, and the method described therein for determining impacts when the school district meets with the developer. The school district and developer may agree upon methods the developer will use to mitigate the impacts of the development. The agreed upon mitigation could be a fee or some other arrangement. Agreement or lack thereof will be noted in the report from the school district and developer.

The application will not proceed to hearing until the report is received by the Administrator.

Once at hearing, the Planning and Zoning Commission will review the report. If there is an agreement between the developer and the school district, the Commission should make compliance with the agreement a condition of approval.

If there is no agreement, the school district should testify about the estimated impacts of the development or submit a report on such impacts for the record. The report should also include a recommendation for methods of mitigation. The developer will be given an opportunity to testify or report on the impacts and any proposed mitigation.

If the school district does not testify or submit a report on the impacts and make a recommendation for mitigation, the Commission may, as a general practice, evaluate the impacts using the methods set forth in the attached document. The developer will be given an opportunity to testify or report on the impacts and any proposed mitigation. The Commission will then decide what mitigation is appropriate. The Commission may accept a fee in lieu of actual mitigation when a developer is in agreement.

Once appropriate mitigation is determined by the Commission, that mitigation will become a condition of approval.

Development Agreements to Mitigate the Effect on Public Schools of New Developments in Boise County

December 10, 2006

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Executive Summary

Chapter Eight of the Boise County Subdivision Ordinance requires the County Commissioners to determine whether proposed subdivisions will lead to a reduction in the quality of government services, including schools, and, if so, to obtain mitigation for these effects prior to granting applications for subdivision permits. Costs for teacher salaries, supplies and equipment, and other resources needed by schools, except buildings, are provided by general taxes and should increase proportionally to changes in the tax-paying population base in the County. Thus income for these expenditures should increase as new residents enter the County. Capital costs, however, are paid for by bonds or levies, thus current residents would have to pay these costs unless they are obtained as part of approving applications for subdivision permits. The Subdivision Ordinance requires that mitigation for these costs be obtained prior to granting new subdivision permits. In this study, we estimated the costs to schools of new residents due to increasing student density. More specifically, we estimated the dollar amount that should be obtained from developers to insure that, over the long term, new developments neither increase crowding in our schools nor impose financial burdens on existing residents.

We estimated the average costs to the schools of new households by calculating pupils per household, square feet of school space per pupil, construction costs per square foot of school space, and fraction of the life of new school space utilized per household. The product of these four quantities has been used in other studies to estimate the financial effect per household. In our study, results varied among the districts, largely because the estimated number of pupils per household varied. We suspect that pupils per household, among new developments, will be similar across the County so we suggest using the county-wide average effect figure for all three School Districts. This number was \$1927 per household. We therefore suggest that \$2000 be used as a reasonable default, estimated effect per household for new developments. If this value

is viewed as reasonable, for a given development, by the developer and School District, then mitigation with a value of \$2,000 should be obtained for each proposed household as part of a development agreement with the schools. We emphasize, however, that the figures in this report are averages, so a given development may have either more or less effect, and that several means exist to provide mitigation for the effects.

Introduction

This document presents an analysis of the effect on public schools of developments in Boise County and suggests an approach for mitigating these effects as required by the Subdivision Ordinance recently adopted by the Boise County Commissioners. We begin by reviewing relevant State and County regulations, then present an analysis of developments' effect on schools using accepted methods, and finally suggest a process by which mitigation for these effects might be obtained. We hope that this report will help Boise County officials, school leaders, and citizens interested in maintaining the quality of our public schools understand the Subdivision Ordinance requirements for obtaining mitigation of effects caused by development. We also hope the report will help developers understand their obligations under the Subdivision Ordinance and how they can obtain swift and fair actions on their applications for subdivision permits.

Title 67, Chapter 65, of the Idaho Statutes directs Counties and other "governing boards" to adopt ordinances establishing standards for processing applications for subdivision permits. This Chapter further states that the ordinances may provide for mitigation. The relevant passage, from 67-6513, is:

Each governing board shall provide ... for standards and for the processing of applications for subdivision permits under sections 50-1301 through 50-1329, Idaho Code. Each such ordinance may provide for mitigation of the effects of subdivision development on the ability of political subdivisions of the state, including school districts, to deliver services without compromising quality of service delivery to current residents or imposing substantial additional costs upon current residents to accommodate the proposed subdivision.

The principle that leads to requiring mitigation for effects of new residents on schools is that *people should pay for problems they create*. If people move into a County and thereby cause problems in the form of crowding or other reduction in the quality of services provided by government, including schools, then they – rather than current residents – should provide mitigation. On the other hand, it is not reasonable to require that new resident pay to improve the quality of existing schools. This would require that they pay to solve problems they did not create. These points have been made several times in recent legal discussions. For example,

Constitutional principals protect developers against overreaching municipalities that attempt to exact economic contributions or other public benefits unrelated to development impacts. State court judicial formulations of the degree of protection have required a "reasonable relationship," or "rational nexus," between the exaction and project impacts, or that the exaction be "specifically and uniquely attributable" to development impacts. Likewise,

the U.S. Supreme Court has required a “rational nexus” and a “rough proportionality” of the permit condition to the impacts of the regulated activity for the permit exaction to pass constitutional muster. Dolan v. City of Tigard, 512 U.S. 687 (1994); Nollan v. Cal. Coastal Comm’n, 483 U.S. 845 (1987) .(M.R. Healy and E.E. Buzuvus, 2002. Development agreements must navigate a changing legal landscape. Environmental Law Advisory.)

The Idaho statute above, and various other legal documents including decisions of the U.S. Supreme Court, thus lay the basis for requiring mitigation to insure that new residents do not cause a *reduction* in the quality of government services, but the same body of literature makes clear that the statute above cannot be used to make new residents pay to *improve* the quality of services.

In accordance with the provision from Title 67, Chapter 65, quoted above, on December 6, 2005, Boise County adopted a Subdivision Ordinance (Ordinance 2006-02) which included the following provisions:

Chapter 8, Mitigation of Effects of Subdivision Development on Political subdivisions and School Districts

Section I. General

A. Prior to the granting and/or approval of a permit to subdivide land within Boise County, the Board shall determine if the proposed subdivision is likely to affect the ability of political subdivisions of the State, as well as School Districts, to deliver services without compromising the quality of service delivery to current residents or imposing substantial additional costs upon current residents to accommodate the proposed subdivision.

B. If the Board determines that the proposed subdivision is likely to compromise the quality of service delivery to current residents or is likely to impose substantial additional costs upon current residents, the Board, prior to granting the permit, must require the applicant to provide mitigation for such effects as authorized by the provisions of Section 67-6513, Idaho code.

Section A directs the Commissioners to assess the effect of implementing proposed subdivisions. Section B directs them to require mitigation, prior to granting the permit, if it is determined that the subdivision will “compromise the quality of service delivery to current residents.” This document was prepared to assist the Commissioners in carrying out the requirements of both Section A and B above.

Estimating the adverse effects

Our goal was to examine the effect of new developments on the public schools of Boise County. Specifically, we sought to answer the question: "How much do costs to current residents, of maintaining the current public school system, change as a result of constructing new households in the County?" In studies such as this one, it is customary to divide school costs into capital costs for constructing new facilities and all other costs and to focus only on capital construction costs. The rationale for this approach is that maintenance costs are provided from general appropriations from tax payers from throughout the State (for State appropriations) or country (for federal appropriations). There is no reason to believe that state or federal taxes paid by current residents of Boise County would increase because new residents move into the County. In contrast, new school facilities are paid for by levies and bonds. To the extent that new residents require new facilities, current residents do bear the costs unless they are mitigated through contributions made by the developers and/or the new residents. It might be argued that new facilities wear out and will eventually have to be replaced and that future replacement costs should also be considered in calculating total costs, however this has not been done to our knowledge and would be difficult. We have therefore defined "new costs" as being restricted to the cost of providing initial, new facilities for the new students.

In some States, some of the cost of capital construction comes from sources other than bonds or levies. For example, the State may contribute a fixed percentage of the capital costs. This is not true in Idaho; all costs of new facilities are borne by residents of the school district. Our central question was thus "What is the cost of providing school facilities, at the current level of quality, for new residents?" Details of the procedure we used are explained in "Methods". First, however, we present a description of the existing school facilities in Boise County.

Description of the Boise County public school system

Boise County has three school districts. The Garden Valley School District (71) has elementary schools in Garden Valley and Lowman and a junior-senior high school in Garden Valley. The Basin School District (72) has an elementary school and a high school, both in Idaho City. The Horseshoe Bend School district (73) has elementary, middle, and high schools, all in Horseshoe Bend. At the start of the 2006-2007 year, more than 1000 students were enrolled in the county public schools. Additional information about the three districts is available at <http://www.epodunk.com/cgi-bin/genInfo.php?locIndex=6851>.

Methods

We used a common approach for calculating costs of new school facilities and expressing them on a per household basis. We used the US Census Bureau's definition of household: "all the people who occupy a household as their usual place of residence". Costs per household for new school construction were calculated as

$$\left(\frac{\text{Pupils per}}{\text{household}} \right) \left(\frac{\text{Square feet}}{\text{per pupil}} \right) \left(\frac{\text{Construction}}{\text{cost per ft}^2} \right) \left(\frac{\text{Years / pupil}}{\text{Years / building}} \right) = \left(\frac{\text{Cost per}}{\text{household}} \right) \quad (1)$$

where

pupils/household = is the estimated average number of children, that will be enrolled in the Boise County public schools, per new household,

Square feet/pupil = current number of pupils divided by the current area (in ft²) of all school buildings,

Construction cost/ft² = the estimated average cost to produce a square foot of school building, averaged across different types of facility,

Years/pupil = average number of years that children moving into new dwellings will attend the Boise County public schools, and

Years/building = Number of years that new building space can be utilized by students before replacement or major renovation is needed.

The last term, (years/pupil)/(years/building) is included because once new space is constructed for entering pupils it will be available for several “generations” of pupils so no one household should pay all of the construction cost. Some analysts express this term by discounting the future value of the constructed space. We prefer the approach above because it is easier to understand and makes the assumptions clear yet yields similar results to the approach using discounted future values. We evaluated expression (1) for elementary schools and middle or senior high schools in each of the three school districts. In expression (1), number of pupils and area of school buildings appear in the numerator and denominator so it might seem that they would cancel and simplify the expression. But expression (1) is calculated for each level of school (elementary vs. middle and high school) and has sometimes been calculated for different types of household (e.g., single family, townhouse, apartment). For these purposes, the full expression as defined above is needed.

We used the numbers of pupils enrolled at the start of the 2006-2007 academic year for number of pupils. The State Tax Commission provided us with the number of households in each School District not including the cities. We obtained estimated population sizes (as of July 2005) for each of the four cities from a web site (http://www.city-data.com/county/Boise_County-ID.html) and divided these numbers by the estimated people per household obtained from the web site. The results were added to the figures from the Tax Commission to obtain the estimated total number of households in each School District. Areas of each school building, and replacement costs for them, were obtained from School District records. We do not have any data on ages of pupils who move into the County. The range in possible values is 1, for incoming families with children ready to enter their last year of high school, to 12, for families with pre-school age children. We suspect most children in new subdivisions enter the

school system at a fairly young age so we used a figure of 8 years as the mean time/pupil in the system. We used 30 years as the average life of a school building before major renovations are needed. We therefore used a fraction of $8/30 = 0.27$

Results

In Boise County in 2006 the pupils per household varied from 0.07, for elementary pupils in Garden Valley, to 0.24 for high school pupils in Horseshoe Bend (Table 1). Square feet per pupil varied from 66, for elementary pupils in Garden Valley to 263 for high school students in Horseshoe Bend (Table 2). Construction costs varied from \$136 to \$190.

Table 1. Pupils per household

District	Number of pupils		Number of households	Pupils per household	
	Elementary	Middle/High		Elementary	Middle/High
Garden Valley	131	144	1768	0.07	0.08
Basin	218	213	1753	0.12	0.12
Horseshoe Bend	160	182	676	0.24	0.27
All	509	539	4197	0.12	0.13

Table 2. Square feet per pupil

District	Area		Sq-ft/pupil	
	Elementary	Middle/High	Elementary	Middle/High
Garden Valley	8624	28167	66	196
Basin	16617	59301	76	278
Horseshoe Bend	13500	47800	84	263
All	38741	135268	76	251

Table 3. Construction costs per square foot¹

District	Elementary	Middle/High
Garden Valley	136	169
Basin	190	190
Horseshoe Bend	190	144
All	178	169

¹ See Appendix One

Inserting the figures from Tables 1-3 into expression 1 yielded the estimated, average cost per household to maintain school quality despite adding new students (Table 4). Separate figures were obtained for elementary and middle or high schools. These two figures were then summed to obtain the estimate per household. Results varied from \$885 in the Basin School District to \$3488 in the Horseshoe Bend District.

Table 4. Average effect per household

District	Level	Pupils/household	Feet/pupil	Cost/foot	Fraction	Effect
Garden Valley	Elementary	0.07	66	136	0.27	170
	Middle/High	0.08	196	169	0.27	715
	Total					885
Basin	Elementary	0.12	76	190	0.27	468
	Middle/High	0.12	278	190	0.27	1711
	Total					2179
Horseshoe Bend	Elementary	0.24	84	190	0.27	1034
	Middle/High	0.24	263	144	0.27	2454
	Total					3488
All districts	Elementary	0.12	76	178	0.27	438
	Middle/High	0.13	251	169	0.27	1489
	Total					1927

The main reason for the difference in estimates for the three Districts was the large difference in estimated pupils per household. This figure was about 0.07 for the Garden Valley and about 0.25 for the Horseshoe Bend District. The ratio of these figures, $0.25/0.07 = 3.7$, was close to the ratio of estimated effects for the two Districts $3488/885 = 3.9$.

Discussion

The estimated costs of maintaining school facilities despite additional houses and students in the County provide average values for the County. The differences between Districts, as noted above are due mainly to differences in the current number of pupils per household. It seems likely, however, that the numbers of pupils per new household may be rather similar across the County. If so, then using the County wide average of \$1927, or about \$2,000, would be preferable to using the District-specific figures.

It is worth noting that Garden Valley is becoming the same kind of “bedroom community” to the Treasure Valley as are Horseshoe Bend and Idaho City, so the number of pupils per household may increase in coming years. If so, then the mitigation per household should be adjusted periodically to reflect this change.

If interest in this report warrants, the analysis could be refined by obtaining more accurate figures for replacement costs of school buildings, for the average number of years spent in schools per new pupil, and the expected life of new buildings.

Obtaining mitigation to offset adverse effects

Under Chapter 5, Section IVD, of the Subdivision Ordinance the P&Z Administrator notifies the School District, in which a proposed development occurs, of the application and provides all relevant materials for their review. As noted above, the Ordinance requires that mitigation be obtained for adverse effects of new households on public schools prior to approval of the subdivision application. We recommend that the P&Z Administrator provide a copy of Chapter 8 to the Developer and the School and request that they meet and (1) assess the adverse effects, if any, of the development on the schools, pursuant to section 8-1A of the Subdivision Ordinance,

and (2) negotiate an agreement specifying how mitigation for any adverse effects will be obtained, as required by section 8-1B of the Subdivision Ordinance. The estimates of adverse effects in this report may be helpful but other methods for estimating the adverse effects, if any, may be preferable and should be agreed on by the developer and the School District. Once agreement is reached on any needed mitigation measures, the developer should incorporate the agreement into the signed developer agreement, so that it becomes binding, and the School District should submit a letter stating that they have no objection to the development, conditional on the delivery of the mitigation measures as promised. If the developer and the school district cannot reach agreement, then the Commission should attempt to resolve the issue. If the Commission is also unsuccessful in reaching agreement between the developer and the School District, then the Commission will make its recommendation on how mitigation should be achieved and the Board will make a decision on how the requirements of Chapter 8 will be satisfied.

The developer and school district should both understand that the County is not assigning a pre-set fee for development but rather is encouraging the developer and School District to work together to make a fair appraisal of the adverse effects, if any, that will occur for the school system due to the development and to negotiate an agreement for obtaining mitigation for any such effects. The letter from the Administrator to the developer and the School district could make this distinction clear.

Appendix. Area and replacement costs for school buildings in Boise County

District	Level	Building	Address	Area	Cost/sq-ft	Total Cost	Ave. cost/sq-ft
Garden Valley	Elementary	Elementary Modular #1	Garden Valley Road	1,056	80	84,480	
		Elementary Modular #2	Garden Valley Road	1,056	80	84,480	
		Elementary Modular #3	Highway 17	1,056	80	84,480	
		Elementary Module #4	Garden Valley Road	1,056	80	84,480	
		Garden Valley Elem School	Garden Valley Road	4,400	190	836,000	
	Totals			8,624		1,173,920	136
Garden Valley	Middle/High	Garden Valley High School	Garden Valley Road	14,782	190	2,808,580	
		Garden Valley Middle Building	Garden Valley Road	2,520	190	478,800	
		Industrial Arts Building	Garden Valley Road	4,600	190	874,000	
		Lowman Elementary School	Highway 21	760	190	144,400	
		Middle Modular # 1 & 2	Garden Valley Road	1,680	80	134,400	
		Middle Modular # 3 & 4	Garden Valley Road	1,960	80	156,800	
		Middle School Modular 5 & 6	Garden Valley Road	1,865	80	149,200	
	Totals			28,167		4,746,180	169
Basin	Elementary	Basin Elementary School	611 Main Street	16,617	190	3,157,230	190
	Middle/High	Basin Middle School	100 Centerville Road	1,714	190	325,660	
		Classroom #11/12	611 Main Street	1,838	190	349,220	
		Classroom #13 & 14	611 Main	1,799	190	341,810	
		Classroom Bldg #9/10	611 Main Street	1,848	190	351,120	
		Classroom Building #15	611 Main Street	966	190	183,540	
		Idaho City Jr. & Sr. High School	Placer Street	46,161	190	8,770,590	
		Pre-School Education Complex	611 Main Street	2,550	190	484,500	
		Vo-Ag Building	103 Placer Street	2,425	190	460,750	
	Totals			59,301		11,267,190	190
Horseshoe Bend	Elementary	Horseshoe Bend Elem School	School Drive	13,500	190	2,565,000	190
	Middle/High	Community Hall	School Drive	3,600	190	684,000	
		Horseshoe Bend High School	School Drive	16,700	190	3,173,000	
		Horseshoe Bend Middle School	School Drive	7,500	190	1,425,000	
		Horseshoe Bend School Gym	School Drive	20,000	80	1,600,000	
	Totals			47,800		6,882,000	144
All	Elementary			38,741		6,896,150	178
	Middle/High			135,268		22,895,370	169