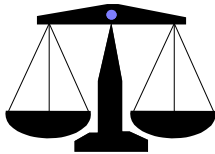


**MINUTES
KOOTENAI COUNTY HEARING EXAMINER
PUBLIC HEARING**

**APRIL 21, 2011
KOOTENAI COUNTY ADMINISTRATION BLDG.
ROOM 1**

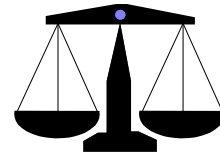
**HEARING EXAMINER
LISA KEY**

**STAFF PRESENT
JAY LOCKHART
MEL PALMER
SCOTT CLARK
KATHRYN FORD**



**MINUTES
PREPARED BY:**

KATHRYN FORD
Recording Secretary



**MINUTES
REVIEWED BY:**

JAY LOCKHART
Planner II



LISA KEY
Hearing Examiner

The Official Record of Public Hearing is on a CD recording available at the Kootenai County-Department of Community Development.

Lisa Key called the meeting to order at 6:01 p.m.

The Hearing Examiner explained that the purpose of the public hearing is to take testimony on the items that appear on the agenda.

The Hearing Examiner will review the testimony presented and make written recommendations to the Board of County Commissioners, who will make the final decision.

The hearing was adjourned at 7:50 p.m.

HEARING EXAMINER MINUTES

APRIL 21, 2011

CASE NO. CUP10-0009

Type: Conditional Use Permit, a request for Big Rock Timber Development, LLC, by Doug Anderson for a Conditional Use Permit to allow a Private Resort consisting of a parking lot, a crosswalk across State Highway 97, and access from State Highway 97 to an eleven (11) double-slip community dock on Coeur d'Alene Lake. The site is on approximately 3.4 acres in the Restricted Residential zone. The Parcel Identification Number is 49N03W-18-2900 and the serial number is 109519. The subject property is located on the east and west side of State Highway 97, north of Gotham Bay Road. The site is described as Tax #s 21103 & 21104 [IN GOVT LT 1] of Section 18, Township 49 North, Range 03 West, B. M., Kootenai County, Idaho.

Staff Presentation: Jay Lockhart, Planner II, introduced the case stating the applicant is requesting a Conditional Use Permit for a non-profit resort on approximately 3.4 acres in the Restricted Residential zone. The parking area proposed is to compliment and support the eleven (11) double slip community dock that lies north of the site. The parking lot will consist of sixteen (16) parking spaces with eleven (11) dedicated to the twenty-two (22) moorages at the dock and the other five (5) spaces will provide parking for the use of Gotham Bay Estates homeowners. There would be one portable restroom facility located on site during the April/October season. The operating hours are anticipated to be the daylight hours from April 1st through October 1st each year. The Applicant has Idaho Transportation Department approval for a crosswalk across Highway 97 from the proposed parking lot to the community dock. At this time all Code Violations have been lifted. The site was posted and based on the signed affidavit, the public notice requirements have been met.

Applicant Presentation: Rand Wichman, applicant representative, stated as an individual he had submitted a public comment to the file prior to being retained by the applicant. His client submitted a Conditional Use Permit application for a 3.4 acre site just south of the Boy Scout Camp and north of Gotham Bay. They want to be able to use the existing community dock with parking. The site will probably only be used less than 80 days a year. The ramp access had a different access for pedestrian safety which resulted in a previous application denial. The applicant takes the safety of the users and the public very seriously. A brief summary of the changes to compare applications (HE 1000) and collisions statistics in the area for the past 5 years (HE 1001) was submitted. The necessary permits are in place for the new safety design. This small seasonal parking area has less impact than a single family residence which is an outright permitted use for this area. In review of the conditions they would like to request that Item 7.06 which references paved parking be left unpaved since it would produce less stormwater runoff and would be out of character with the area. Mr. Wichman contacted Sandra Raskell of the Coeur d'Alene Tribe and resolved their issues. The Panhandle Health District had no issues with the portable toilets at the site. Idaho Transportation Department stated the safety concerns have been adequately addressed. A denial will not result in the dock going away but it will result in unsafe parking and crossing practices. An approval will result in a much safer situation for users finding parking. Jim Magnuson, applicant representative, added this application relates to a small parking area and not a resort. Since the last application a number of events has happened and the safety issues have been addressed.

Exhibits: HE 1000 – Summary of changes submitted by Rand Wichman.
HE 1001 – Crash data submitted by Rand Wichman.
HE 1002 – Letter 04-05-11 from D. Stone submitted by Bev Twillmann.
HE 1003 – Testimony submitted by Bev Twillmann.
HE 1004 – Testimony submitted by Thomas Little.
HE 1005 – Photographs submitted by Thomas Little.
HE 1006 – Testimony submitted by Sylvia Lampard.

Public Testimony: Comment Sheets submitted: 20, Applicant/Representatives – 3; In Favor-4, Neutral-0, Opposed-13. The names and address of the individuals speaking or submitting comments are part of the record. The Public Testimony had comments regarding:

- Vehicles will park somewhere else if there is no designation for parking

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- Everything is in place and done correctly to be sensible and safe
- Dangerous curve is still at this location and will not change
- Crosswalks are on the ground and cars driving fast are blind to this
- Multiple code violations
- Located in a flood area
- Intrudes into the 25 foot no disturbance area
- Location is by a Class I stream
- Residents are impacted by the party element
- Areas is the road are ready to collapse
- Poor site line while driving has not changed in the area

Applicant's Rebuttal: Rand Wichman, applicant representative, added the history of code violation issues are not relevant and not part of this application since they have been resolved. The primary concerns being expressed are with pedestrian safety and the road intersection. The crosswalk location is at the eastern most extent of the applicant's property and aligns with the new ramp. The applicant does not want to see dock users disturbing residents or drivers by parking on the highway or on Gotham Bay Road and using unsafe crossing practices.

There being no further comments from the public, testimony was closed on this item at 6:51 p.m. The Hearing Examiner, Lisa Key, will review this case and submit her written report to the Board of County Commissioners within two weeks.

Submitted by,

Kathryn Ford
Recording Secretary

HEARING EXAMINER MINUTES

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CASE NO. CUP10-0011

Type: Conditional Use Permit, a request for American Tower Corporation by ProLand, LLC for a Conditional Use Permit to construct a wireless communication facility. The project will consist of a 150' steel monopole; a compound utility rack and an emergency generator within a 50' x 50' fenced, leased area, located in the northwest corner of a 27.18 acre parcel in the Agriculture zone. The parcel is addressed as 12961 W. Mountain Lion Road; approximately 15 miles south of Coeur d'Alene via Hwy 95. The parcel number is 48N05W-10-2250 and described as E2 –Lot 8 Section 10, Township 48 North, Range 05 West. B. M. Kootenai County, Idaho.

CASE NO. VAR10-0011

Type: Variance, a request for American Tower Corporation, by ProLand, LLC for a variance to standards as required in a concurrent application for a Conditional Use Permit (Case No. CUP10-0011), to allow a Wireless Communication Facility located in the northwest corner of an approximately 27 acre parcel in the Agriculture zone. The specific standards are: Kootenai County Ordinance No. 401, Design Standards, for parking and paving development requirements as outlined in Section 9-17-6 and for variance from the landscape requirements as outlined in Section 9-17-4 and Section 9-24-34 (G). The parcel number is 48N05W-10-2250 and described as E2 –Lot 8 Section 10, Township 48 North, Range 05 West. B. M. Kootenai County, Idaho.

Staff Presentation: Mel Palmer, Planner I, introduced the Conditional Use Permit and requested that both applications CUP10-0011 and VAR10-0011 be addressed at the same time since they support each other.

Hearing Examiner, Lisa Key, stated the Conditional Use Permit and the Variance can have testimony and public comment presented together, however, the recommendations will be individual for each application.

Ms. Palmer stated the location area is designated as Country within the 2010 Comprehensive Plan. The landowners are Edward and Dixie Schneider and have provided authorization for the site. The variance request is from the paved parking and landscape requirements. A public comment (P-5) received after the deadline was submitted (HE 1000). An Alternative Method of Compliance for landscaping may meet the Design Standards for landscaping. Staff requested clarification from the Hearing Examiner for the parking and paving requirements for cell tower sites. They applied for both applications to be cautious. There is no parking required for a tower site so no square footage was provided. The sites were posted and based on the signed affidavit, the public notice requirements have been met.

Applicant Presentation: Julie Cope, applicant representative, introduced the applications by stating the site was previously leased and approved by another company but was not built. They have met all the requirements and submitted a copy of the Lease Agreement (HE 1001) and Title Report (HE 1002). The access to the parcel is in the title report. The property owners can use the land as they see fit but the tower site will be gated and not accessible. The utility easement may be timbered for access. The only noise would be the generator at daily intervals. The tower height has been approved for above the tree line. Wildlife studies have been done and there has been no determination of significance. The applicant is fine if a variance is not required to remove landscaping and provide a parking pad. The use will not affect any rural value of the land or neighboring properties. There is a need for signals along Highway 95 for cellular telephones and home or office internet service. Edward Schneider, landowner, added the site location is the same as what was approved in 2006. The agricultural zone allows towers and this building is much smaller than the previous application that was approved. The site is not visible by the existing residents in the area since they are on the extreme downhill angle. The benefits of approval would be an improved existing roadway and conformity to fire and emergency service as well as cell phone and internet service coverage. There are no logging plans and they are under the Forest Practices Act. Mr. Schneider stated he is unaware of any hunting on his land and he does not provide access to hunters. There is no need for parking pad or landscaping and is in-favor of the variance request since landscaping is a negative impact to a forest. This is a good site.

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Exhibits: HE 1000 – Public Comment (P-5) submitted by Mel Palmer.
HE 1001 – Lease Agreement submitted by Julie Cope.
HE 1002 – Title Report submitted by Julie Cope.

Public Testimony: Comment Sheets submitted: 7, Applicant/Representatives – 3; In Favor-0, Neutral-0, Opposed-4. The names and address of the individuals speaking or submitting comments are part of the record. The Public Testimony had comments regarding:

- Tower will not enhance the area
- Site will be seen by neighbors who are stewards of the land
- Wild and beautiful places do have value without technology

Applicant's Rebuttal: Julie Cope, applicant representative, added that safety concerns are addressed for people in need of emergency services along the lake and highway. Edward Schneider stated he is also a steward of the land and continues to plant trees. The cell phone usage is legal and provides a lot more than just telephone service.

There being no further comments from the public, testimony was closed on this item at 7:29 p.m. The Hearing Examiner, Lisa Key, will review this case and submit her written report to the Board of County Commissioners within two weeks.

Submitted by,

Kathryn Ford
Recording Secretary

HEARING EXAMINER MINUTES
APRIL 21, 2011

CASE NO. CUP10-0010

Type: Conditional Use Permit, Black Rock Development Inc., a request by Kyle Capps for a Conditional Use Permit for an extension to an existing Restricted Surface Mine. The applicant states that excavation and crushing activities will resume only after development construction resumes at the Black Rock North subdivision. The site is on approximately 32.6 acres in the Rural zone. The Parcel Identification Numbers are 0-0774-004-001-0 & 0-7191-001-002-0 and the serial numbers are 236213 & 229132. The subject property is located east of Loff's Bay Road and north of Rockford Bay Road at 23342 S. Loff's Bay Road. The site is described as SCHORZMAN-ATKINS, LT 2, Blk 1 & Black Rock 3rd Add, LT 1, Blk 4 of Section 09, Township 48 North, Range 04 West, B. M., Kootenai County, Idaho.

Staff Presentation: Jay Lockhart, Planner II, introduced the case stating the applicant is requesting a Conditional Use Permit for a Restricted Surface Mine. This would be an extension to the existing permit C-1124-05. The applicant states that there are no plans at this time to resume excavation or crushing activities until development construction resumes and the existing stockpiles on site have been removed or reduced to provide adequate space for more materials. The applicant has also requested, if approved, that the 5 year time deadline be extended to match the Black Rock North subdivision phasing schedule which is required to be completed no later than March 1, 2017. For the record, a correction to Section 3.03 should read 1994 Kootenai County Comprehensive Plan, as amended. This site is not within an Area of City Impact (ACI). The site was posted and based on the signed affidavit, the public notice requirements have been met.

Applicant Presentation: Kyle Capps, applicant representative, introduced the application stating the property owners had a Conditional Use Permit approved in 2001 for the Restricted Surface Mine. Since that time the majority of the stock pile was not used. There are no plans to resume crushing or excavating at this time since they can use the stock pile. This approval will run with the land even as future ownership changes. This pit location has been a huge benefit to developers and the Rockford Bay area for road improvements. The residents will have paved road for about 5 miles once the development is completed. For the record, a request to consider changing Condition 7.02 from 5 years to a deadline of March 2017 if approved. There are no other concerns regarding the conditions of approval and if approved they will continue to operate the surface mine to those requirements. Janet Robnett, applicant attorney, added she was speaking on behalf of potential ownerships since the property is in the state of foreclosure. There would be no product or material offered for sale. A recommendation for the language to be change in Condition 7.12 was read into the record and submitted (HE 1000).

Exhibits: HE 1000 – Condition 7.12 proposed language submitted by Janet Robnett.

Public Testimony: Comment Sheets submitted: 3, Applicant/Representatives – 1; In Favor-2, Neutral-0, Opposed-0. The names and address of the individuals speaking or submitting comments are part of the record. The Public Testimony had comments regarding:

- Fidelity National Timber Resources intends to proceed with the development once the foreclosure process in complete
- 80% of the material needed for the project has already been crushed
- Key component for investors to keep the project moving forward is the gravel pit

Applicant's Rebuttal: None.

There being no further comments from the public, testimony was closed on this item at 7:50 p.m. The Hearing Examiner, Lisa Key, will review this case and submit her written report to the Board of County Commissioners within two weeks.

Submitted by,

Kathryn Ford, Recording Secretary