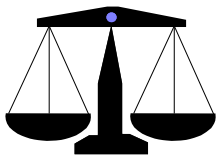


**MINUTES  
KOOTENAI COUNTY HEARING EXAMINER  
PUBLIC HEARING**

**OCTOBER 20, 2011  
KOOTENAI COUNTY ADMINISTRATION BLDG.  
ROOM 1**

**HEARING EXAMINER  
LISA KEY**

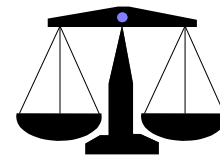
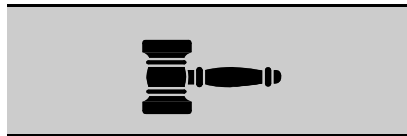
**STAFF PRESENT  
VLAD KRYUKOV  
KATHRYN FORD**



**MINUTES  
PREPARED BY:**

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**KATHRYN FORD**  
Recording Secretary



**MINUTES  
REVIEWED BY:**

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**VLAD KRYUKOV**  
Planner II

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**LISA KEY**  
Hearing Examiner

The Official Record of Public Hearing is on a CD recording available at the Kootenai County 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 6:26 p.m.**

HEARING EXAMINER MINUTES  
OCTOBER 20, 2011

**CASE NO. ZON11-0006**

**Type: Zone Change,** a request by Hayden North, LLC, to change the zoning classification from Rural to Light Industrial on approximately 28 acres. The proposed site is located north of Garwood Road and east of Highway 95, just south of Pegasus Auto Recycling. The parcel number is 52N04W-24-9090 and the property is described as S2-SE E OF HWY EX S 660' & EX TAX #13154 & EX R/W, S 66'-N2-SE E OF HWY EX R/W in Section 24, Township 52 North, Range 04 West, B.M., Kootenai County, Idaho.

**Staff Presentation:** Vlad Kryukov, Planner II, introduced the zone change application stating the request is to change the zone classification on approximately 28 acres from Rural to Light Industrial. The access to the site will be on the new frontage road off Highway 95 after construction is completed. There are additional issues to consider besides the access concerns considered in the 2006 denial. The timing of this application is questionable since the current county effort is progressing in rewriting the development regulations which should be completed within 15 months. When considering a speculative zone change that is absent a specifically identified use, the decision making body must consider all of the potential uses within the array of allowed uses in considering the proposed zone. Also, without establishing specific parameters of future development with the proposed zone change, it is unknown whether its use and intensity would be in concert with the new provisions of the Development Regulations or the adjacent residential lands. This application was submitted on July 26, 2011 and is vested under the Ordinance that is in effect today. The applicant did not provide a Conditional Zoning Development agreement, however, one is not required. If the zone change is approved the new zone classification will stand for up to four years from the date of being vested. It may be somewhat problematic in dealing with two different ordinances. The County has been advising applicants that it may be an issue and is not something that is being encouraged at this time. The agencies contacted for comment had no concerns regarding this proposal. The site was posted and based on the signed affidavit, the public notice requirements have been met.

**Applicant Presentation:** Rand Wichman, applicant representative, began his presentation by referencing Exhibit S-4 from the packet. They are requesting a zone change simply because the site is not suited for residential use. The Light Industrial zone change request is much more conducive to the excessive highway noise and train activity. In the Order of Decision by a previous owner that was denied in 2006 the Board did not take issue with the nature of the uses that would be allowed by the purposed zoning. The denial was based by the lack of access to the property. The frontage road is now in and the access is has now been resolved as shown by the photographs (HE 1000). Due to the excellent access that exists now the highway has visibility and the noise and the surrounding land uses in the highway corridor support that Light Industrial as the best choice for this property. There are no pressing development plans for this property. The proposed zone change is compatible with surrounding properties as shown on the aerial map (HE 1001) which does show businesses near the subject site that do have Light Industrial uses much more restrictive than the current Residential zoning. Historically in the past ten years there have been a number of approved zone changes to Light Industrial in this area. Looking at the parcel it is heavily vegetated with second growth trees and brush which provides good visual buffers for adjacent properties. Any use on the property would be required to comply with design standards. The applicant does not have any issues with the agency comments or requirements. There are a couple of issues from the staff analysis that should be addressed. First, is with regard to the timing of this request. This request was made at the earliest possible opportunity after the access issue was resolved by construction of the frontage road. They carefully timed this application so they could be before the Hearing Examiner just as the road construction was being completed. The owner is diligently pursuing this request as directed by the prior Order of Decision. The new development code is long overdue and is very much needed but the hearing process may take longer than anticipated. The second point stating the zone change was not consistent with the Comprehensive Plan or that compliance cannot be determined because no specific use was purposed. Basically, no specific concern or issues of non-compliance was given by staff and this proposal is consistent with the Comprehensive Plan analysis as stated in their narrative. The Comprehensive Plan finding for Light Industrial uses were contemplated for commercial uses and the highway corridor was designated suburban with numerous Light Industrial uses. These are uses that are supportive of the rural economy and environment not on municipal sewer. In regards with establishing a use on the property before the new code is completed, new uses are

HEARING EXAMINER MINUTES  
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being established throughout the County all the time. It is not appropriate to shutdown all land use requests just because recent land use code amendments have begun. They have waited patiently for five years since the last zone change application for the frontage road to be built so they could move forward on this property and waiting three more additional years for an unknown outcome is an inappropriate request to ask of the applicant. The final concern of vesting of four years is not unique and the County has recently granted other zone changes that they will have to monitor for that vesting assuming the new development code is eventually passed. Zone changes like this are very similar to every single Conditional Zoning Development agreement that they have adopted and they will need to be treated separately from the new code until the zoning contract expires. In closing, they believe staffs concerns are unfounded. It is in the public's best interest to have parcels zoned appropriately for conditions that exist on the parcel, consistent with the Comprehensive Plan and the neighborhood.

John Kearns, applicant, added the zoning is consistent with surrounding land use and light industrial is appropriate for the area. He has spoken with all of the neighbors and all but one are in support of the zone change.

**Exhibits:** HE 1000 – Photographs of access submitted by Rand Wichman.  
HE 1001 – Aerial photograph submitted by Rand Wichman.

**Public Testimony:** Comment Sheets submitted: 3, Applicant/Representatives – 2; In Favor-1, 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:

- Comprehensive Plan is not regulatory
- Application rights are vested under current ordinance
- Location is on a state highway with heavy traffic and good for this change
- Any aspect of holding applications for future regulations would be implementing a moratorium

**Applicant's Rebuttal:** None.

There being no further comments from the public, testimony was closed on this item at 6:26 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,

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Kathryn Ford  
Recording Secretary