

**MINUTES
KOOTENAI COUNTY HEARING EXAMINER
PUBLIC HEARING**

**APRIL 2, 2015
KOOTENAI COUNTY ADMINISTRATION BLDG.
ROOM 1**

**HEARING EXAMINER
SHARON MOHR**

**STAFF PRESENT
MEL PALMER
BEN TARBUTTON
DAVID CALLAHAN
KATHRYN FORD**



MINUTES
PREPARED BY:

KATHRYN FORD
Recording Secretary



MINUTES
REVIEWED BY:

MEL PALMER
Planner II



SHARON MOHR
Hearing Examiner

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

Sharon Mohr called the meeting to order at 6:00 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 6:45 p.m.

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CASE NO. VAR14-0006

Type: Variance, a request by Cedar Tree Point, LLC, Spurwing Greens, LLC and Sundance Investments, LLLP for a variance to Kootenai County Site Disturbance Ordinance No. 445 as amended by No. 453, Sections 11-2-8 (C) 5. c and 11-2-8 (C) 6. An approved variance will allow the Applicant to retain an existing walkway, parallel to the shoreline of Coeur d'Alene Lake. The project is located on three parcels in the Restricted Residential zone, on the west side of Coeur d'Alene Lake, near Black Rock Bay. The Parcel Numbers are: Parcel 48N04W-03-6980 - described as: Tax #23618 [SW-SW & GL 7] and Parcel Number 48N04W-03-6970 - described as: Tax #23619 [GL 7] and Parcel Number 48N04W-03-6990 - described as: TAX #23670 [GL 7]. All Parcels are located in Section 03, Township 48N Range 04W, B. M., Kootenai County, Idaho. (*Planner-Mel Palmer*)

Staff Presentation: Mel Palmer, Planner II, introduced the application stating the two variances will allow an existing walkway crossing three parcels parallel to the shoreline of Lake Coeur d'Alene. The site is not located with an Area of City Impact (ACI) and located within the 25 foot undisturbed lake buffer. For the record, a correction to Condition 7.05 was submitted (HE 1000). Ms. Palmer added a site inspection showed a concrete cap that exceeded the scope of work and not permitted on the two parcels to the south. The site was posted and based on the signed affidavits in the file, the public notice requirements have been met.

Applicant Presentation: Rand Wichman, Applicant Representative, provided a brief ordinance history stating the Stormwater Management Ordinance No. 185 was in effect about 1991 which had no restriction on what could be done on the waterfront area. The Site Disturbance Ordinance No. 445 replaced Ordinance No. 185 in the mid 1990's and included the 25 foot no disturbance buffer. Mr. Wichman referenced the packet he submitted with ordinance references and photographs (HE 1001). The purpose of the Site Disturbance Ordinance is to protect water quality. The Applicant has a lawfully permitted cabana and docks which they are entitled to access through the shoreline buffer. In this case there is an existing retaining wall under the walkway which minimizes the disturbance. Mr. Wichman added he worked with engineers and they agreed the baskets will need to be cut and would compromise the gabion wall if the walkway needs to be removed. If the walkway gets removed the water gets impounded and it works like a grassy swale and out it runs toward the lake. If access to the docks is by a new walkway out of the 25 foot setback the construction affects the water quality. Mr. Wichman stated there is no impact where the walkway sits today and he hopes this walkway issue of site disturbance is not just the government enforcing its power of the ordinance. He concluded that Kootenai County is currently at a crossroad to repeal the shoreline protection buffers and part of the reasons are that strict interpretation runs with no common sense.

Ben Tarbutton, Planner II, added for the setback to be considered it was demonstrated to staff in the Site Disturbance permit that this was not to be a walkway but a concrete cap.

David Callahan, Director, stated he wants to assure Rand Wichman and Sharon Mohr, Hearing Examiner, that the County concern is the public trust which staff is to uphold by the Ordinances in place today. Staff's concern is that we do not have the authority to grant unpermissible construction. A variance is not the proper solution when a code amendment may be needed.

Exhibits: HE 1000 – Staff Report language correction for Condition 7.05 submitted by Mel Palmer.
HE 1001 – Applicant packet presentation reference submitted by Rand Wichman.

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

Applicant Rebuttal: Rand Wichman, Applicant Representative, rebutted by stating that he would amend his application retracting the walkway statement and call it a sidewalk to clear the issues and get away from the zoning ordinance setback.

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There being no further comments from the public, testimony was closed on this item at 6:45 p.m. The Hearing Examiner, Sharon Mohr will review this case and submit her written report to the Board of County Commissioners within two weeks.

Submitted by,

Kathryn Ford, Recording Secretary