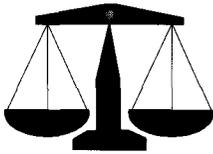


**MINUTES
KOOTENAI COUNTY HEARING EXAMINER
PUBLIC HEARING**

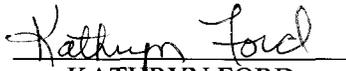
**NOVEMBER 5, 2015
KOOTENAI COUNTY ADMINISTRATION BLDG.
ROOM 1**

**HEARING EXAMINER
SHARON MOHR**

**STAFF PRESENT
MEL PALMER
VLAD FINKEL
MIKE ULRICH
DAVID CALLAHAN
KATHRYN FORD**



**MINUTES
PREPARED BY:**


KATHRYN FORD
Recording Secretary





**SHARON MOHR
Hearing Examiner**



**MINUTES
REVIEWED BY:**


MEL PALMER
Planner II

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 7:44 p.m.

HEARING EXAMINER MINUTES
NOVEMBER 5, 2015

CASE NO. CUP15-0003

Type: Conditional Use Permit, a request by Timothy Grise for a Commercial Resort to allow a paintball field/recreational park facility, in accordance with Title 9, Sections 9-6-11 and 9-24-5. The subject parcel consists of approximately 9.96 acres located in the Agricultural zone. The project will be developed in two phases. The Parcel Identification Number is 51N05W-01-2620 and is described as: GOVT LT 3 W OF RR RW, EX RW in Section 01, Township 51 North, Range 05 West. B. M. Kootenai County, ID. The subject parcel is located south of W. Highway 53, on the east side of Greensferry Road and north of Nagle Lane.

Staff Presentation: Mel Palmer, Planner II, introduced the application referencing an aerial map (S-8) and submitted into the record the sales agreement for the property (A-9) HE 1000 from the file. The site is within the Rathdrum Area of City Impact (ACI), however, the city did not submit a comment. The Comprehensive Plan designation is Border, and the project is proposing to be phased. The site was posted and based on the signed affidavits in the file, the public notice requirements have been met.

Applicant Presentation: Timothy Grise, Applicant, stated this proposed facility would be a family business for them to work and live in the area. They have been involved in various paintball parks in different areas. Mr. Grise added the player base of this type of recreational facility has changed to a much more family friendly destination and fund raising event. The first phase would be to begin work in March preparing brush, tree and trash removal and build the buffer zone for a July opening date. The trees would be taken out for the parking area, port-o-potties and a registration shack. In the second phase, if the business shows interest, the plan would expand to new playing fields, well drilling for on-site water and septic system for restroom facilities. The facility would be open daytime hours only on Saturday and Sunday and possibly schedule for special events. There will be fencing as needed and they will work with the neighbors on containment. Mr. Grise concluded the insurance requirements need the area well marked and contained. He also read into the record support comments (HE 1001) regarding the proposal.

Exhibits: HE 1000 – Sales Agreement from file (A-9) submitted by Mel Palmer.
HE 1001 – Support comments submitted by Timothy Grise.

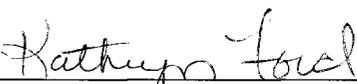
Public Testimony: Comment Sheets submitted: 9, Applicant/Representatives - 1; In Favor - 2, Neutral - 3, Opposed – 3. The names and address of the individuals speaking or submitting comments are part of the record. The Public Testimony referencing the application had comments regarding:

- Concerns on containment (fencing) for public so they do not trespass
- Noise level disturbing wildlife that pass through the area that may cause them to attack the public
- Neighbor has concerns with the noise level of CO2 balls, whistles and megaphones upsetting the livestock and veterans horseback riding for therapy
- More public coming and going in the area would deter the wildlife
- Conditions changing for the permit

Applicant Rebuttal: Timothy Grise, Applicant, reiterated that the fencing would contain the public on the location specified and the site is quite well buffered for the noise and pop of the paintball guns. He added there is wildlife in the area that rest and seem to feel safe even with the Burlington Northern train passing in the area.

There being no further comments from the public, testimony was closed on this item at 6:23 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

HEARING EXAMINER MINUTES
NOVEMBER 5, 2015

CASE NO. VAR15-0004

Type: Variance, a request by Keith Benca for a variance of 8'5" to the 25' front yard setback on a parcel of land approximately 0.286 acres in size in the Restricted Residential zone. The property is currently undeveloped with very steep slopes. The intent of the request is to construct a residence as close as possible to the existing road with minimal disturbance to the hillside. This would require a 16.5' setback from the right-of-way property line. Access to the property is off Lower Hayden Lake Road, a public road maintained by the Lakes Highway District. The property is located within the City of Hayden Area of City Impact. The parcel number is 0-3520-000-115-B and described as H L Honeysuckle Hills Building Sites, TAX # 13063 in Lot 115 Block 1 in Section 19, Township 51 North, Range 03 West, B.M., Kootenai County, Idaho.

Staff Presentation: Vlad Finkel, Planner II, introduced the application stating this is a variance of 8'5" to the 25' front yard setback on a parcel of land approximately 0.286 acres in size in the Restricted Residential zone. The intent of the request is to construct a residence as close as possible to the existing road with minimal disturbance to the hillside. He added at the time of the variance application submittal the house was under construction and staff held a meeting with the applicant's representative and the builder. Upon receipt of the application, Staff advised the Applicant that since the house was currently under construction the covered front porch could not be built as shown since it was in the setback and it would need variance approval. On a site visit conducted several weeks after the variance submittal, Staff observed not only had the covered front porch been constructed but also a third story balcony. These two features clearly encroach into the 25' front yard setback. Mr. Finkel stated it is evident that the steep slopes present a significant challenge to developing the property without the approval of a variance. All of the concerns raised by the public agencies can be mitigated with conditions of approval as recommended. The site was posted and based on the signed affidavits in the file, the public notice requirements have been met.

David Callahan, Director, clarified there has not been a Notice of Code Violation placed on this site since staff cannot guarantee that the Hearing Examiner or Board would approve this request. There cannot be any punitive action on Community Development's part until the request runs the normal course of the variance application.

Mike Ulrich, Planner II, provided testimony stating the exemptions to setbacks were discussed at a staff meeting with the applicant representative and builder and a covered porch was not even considered as an exemption, however, the eave projection was clarified.

Applicant Presentation: Jerry Sinclair, Applicant Representative, addressed the Hearing Examiner stating they are requesting an 8'5" variance from the front yard setback. The framing of the home was begun and the front porch and balcony were built for removal if the variance was not approved. The public hearing before the Hearing Examiner was delayed until November and they continued to build. The home is now complete and the CO cannot be given until the variance is approved or the balcony and porch removed. Mr. Sinclair added the minimum use of the property due to the steep slopes was anticipated until the entry of the home needed more space which placed it into the setback. He had met with Community Development and was told a porch was allowed but could not be covered.

Sharon Mohr, Hearing Examiner, questioned how this variance addresses consideration for a hardship since building within the setbacks without variance approval is clearly a self inflicted hardship.

Mike Gray, Applicant Builder, provided photographs of the finished home (HE 1000) showing neighboring homes closer to the road and within the setbacks. He stated after their meeting with Community Development they did modify the plans for the porch and believed they were good. Mr. Gray added it was not their intention to ignore any building setbacks. The home is now completed but they need a Certificate of Occupancy (CO) to close the loan and the CO cannot be given until the variance is approved or the balcony and porch removed. The interest rates on the loan may go up while the variance decision is being processed which is creating a financial hardship. They have requested the County to accept a \$5,000 bond for a temporary CO, which was not granted.

HEARING EXAMINER MINUTES
NOVEMBER 5, 2015

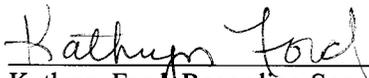
Exhibits: HE 1000 – Photographs of new constructed home submitted by Mike Gray.

Public Testimony: Comment Sheets submitted: 3, Applicant/Representatives - 3; 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: None.

There being no further comments from the public, testimony was closed on this item at 6:51 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

HEARING EXAMINER MINUTES
NOVEMBER 5, 2015

CASE NO. VAR15-0005

Type: Variance, a request by South Hayden Investment, Inc., for a variance of 10' to the 25' front yard setback on a parcel of land approximately 0.336 acres in size in the Restricted Residential zone. The property is currently undeveloped with very steep slopes. The intent of the request is to construct a residence as close as possible to the existing road with minimal disturbance to the hillside. This would require a 15' setback from the right-of-way property line. Access to the property is off Lower Hayden Lake Road, a public road maintained by the Lakes Highway District. The property is located within the City of Hayden Area of City Impact. The parcel number is 0-3520-000-118-0 and described as H L Honeysuckle Hills Building Sites, Lot 118 Block 1 in Section 19, Township 51 North, Range 03 West, B.M., Kootenai County, Idaho.

Staff Presentation: Vlad Finkel, Planner II, introduced the application a variance of 10' to the 25' front yard setback on a parcel of land approximately 0.336 acres in size in the Restricted Residential zone. It is evident, by a site visit, that the steep slopes present a significant challenge to developing the property without the approval of a variance. The public agency comments can be mitigated with conditions of approval. The site was posted and based on the signed affidavits in the file, the public notice requirements have been met.

Applicant Presentation: Jerry Sinclair, Applicant Representative, referenced his presentation (HE 1000) showing site elevation and the challenge for building on this parcel with the existing neighboring home easement and hillside. The site would need major excavation to stay within the setbacks. The change in elevation from the neighbors is the best way to deal with the slope conflict and this would require an approved variance.

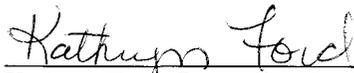
Exhibits: HE 1000 – Presentation submitted by Jerry Sinclair.

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

Applicant Rebuttal: None.

There being no further comments from the public, testimony was closed on this item at 7:04 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

HEARING EXAMINER MINUTES
NOVEMBER 5, 2015

CASE NO. CUP15-0005

Type: Conditional Use Permit, a request by Specialty Rock Products, LLC, a request for a Conditional Use Permit to renew a Restricted Surface Mine on 158.98 acres in the Rural zone. The Applicants received a Conditional Use Permit for this site in 2008 (CUP07-0009) which expired in January of 2013. Access to the property is off Chilco Road, a public road maintained by the Lakes Highway District. The parcel number is 52N04W-12-7500. The parcel is described as SE EX RW in Section 12, Township 52N, Range 04W, B. M. Kootenai County, Idaho.

Staff Presentation: Vlad Finkel, Planner II, introduced the application stating this request is similar to the prior Conditional Use Permit and it is unlikely that any additional impact would be created. The Idaho Department of Lands comment stated the Restricted Surface Mine is in a good standing as it relates to the Reclamation Plan. The Reclamation Plan was issued to the previous owner and will need to be changed to the current operator once the mine is active. There would be no additional landscaping or parking requirements since the site is naturally buffered from surrounding properties. The site was posted and based on the signed affidavits in the file, the public notice requirements have been met.

Applicant Presentation: Drew Dittman, Applicant Representative, stated this Restricted Surface Mine has nice basalt rock and was used for the Highway 95 construction which expired in 2013. The applicant wants to reactivate surface mining with the same conditions and requirements. The surrounding properties are not developed except for the Chilco Mill residing east of this site. He added they are good with the hours of operation cited within the conditions of approval and will change the responsible party for the IDL liability status once the Conditional Use Permit is approved.

Exhibits: None.

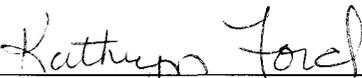
Public Testimony: Comment Sheets submitted: 2, Applicant/Representatives - 1; In Favor - 0, Neutral - 1, Opposed - 0. The names and address of the individuals speaking or submitting comments are part of the record. The Public Testimony referencing the application had comments regarding:

- Concerns on noise, hours of operation and blasting
- New projects for the mine

Applicant Rebuttal: Drew Dittman, Applicant Representative, addressed concerns stating the hours are daily Monday through Saturday with blasting 9:00 a.m. to 3:00 p.m. which would be a rare occurrence. The winter month operations would be dependent on the weather. The area is densely treed with large rock outcroppings which helps buffer the noise that registers around 70 to 80 decibels. Mr. Dittman added there are no new projects being scheduled for use of this rock.

There being no further comments from the public, testimony was closed on this item at 7:19 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

HEARING EXAMINER MINUTES
NOVEMBER 5, 2015

CASE NO. CUP15-0007

Type: Conditional Use Permit, a request by Atlas Tower Holdings, LLC a request for a Conditional Use Permit (CUP) to construct an unstaffed multi-carrier telecommunications facility with a 140' steel monopole within a leased 50' x 50' fenced utility compound area. The leased project area is centrally located on approximately 8.027-acre parcel in the Rural zone. As part of the proposal, the Applicant is requesting a variance to the two (2) mile radius separation requirement between existing cell towers in the area. The subject parcel is located at 17532 N. Atlas Road, Rathdrum, ID 83858. The parcel number is 0-5760-000-050-0. The site is described as Panhandle Village Tract 50 in Section 27, Township 52 North, Range 04 West. B. M. Kootenai County, ID.

Staff Presentation: Vlad Finkel, Planner II, introduced the application stating the unstaffed multi-carrier telecommunications facility is designed to accommodate a total of four antenna arrays and ground equipment space for collocation opportunities. Access to the property is off Atlas Road maintained by the Lakes Highway District. Part of the application includes a variance to waive the two-mile radius separation between existing cell towers in the area. There is an unregistered cell tower within a mile of the proposed site. Mr. Finkel added an extensive search by the applicant found there were no other existing facilities or suitable structures located within a four mile radius capable of meeting the required structural or network capacity needs of this application. The site was posted and based on the signed affidavits in the file, the public notice requirements have been met.

Applicant Presentation: Ken Brandke, Applicant Representative, provided a brief history on the background of searching and applying for this site. This is the second attempt to acquire approval. They have held community meetings, proposed the stealth high-density branch tree design and reduced the height. The FCC allocates a spectrum and the location is the number one reason along with a willing landlord and significant tree coverage for a site. There will be no noise generation, pollution, or traffic and maintenance checks are infrequent. Mr. Brandke added the intent of the two-mile radius separation between existing cell towers is to stop towers from being put up irresponsibly and this site would require variance approval for the radius. The tower closest is a working tower not registered and in violation since the details are not with the FCC.

Exhibits: None.

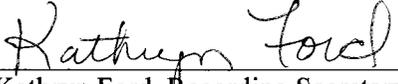
Public Testimony: Comment Sheets submitted: 2, Applicant/Representatives - 1; In Favor - 0, Neutral - 0, Opposed - 1. The names and address of the individuals speaking or submitting comments are part of the record. The Public Testimony referencing the application had comments regarding:

- Applicant's reapplying for permission once denied
- Visible everyday by his home
- Use the neighboring unregistered tower instead of developing a new location

Applicant Rebuttal: David Callahan, Director, stated there is no prohibition in the County code against re-applying on any case at any time. The Adjacent Property Owner mailing has a requirement of 300 feet which is the guideline for current notifications. Ken Brandke, Applicant Representative, added the term unregistered means the details are not with the FCC and it does not imply it is not in use. They have inquired to share the unregistered tower once they register but it did not work due to the location and height.

There being no further comments from the public, testimony was closed on this item at 7:44 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