

**MINUTES
KOOTENAI COUNTY HEARING EXAMINER
PUBLIC HEARING**

**APRIL 7, 2016
KOOTENAI COUNTY ADMINISTRATION BLDG.
ROOM 1**

**HEARING EXAMINER
SHARON MOHR**

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



**MINUTES
PREPARED BY:**

KATHRYN FORD
Recording Secretary



**MINUTES
REVIEWED BY:**

MEL PALMER
Planner



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 7:29 p.m.

HEARING EXAMINER MINUTES
APRIL 7, 2016

CASE NO. CUP15-0010

Type: Conditional Use Permit, a request by Douglas Landwehr for a Conditional Use Permit to allow the continued operation of a Restricted Surface Mine on approximately 8.2 acres in the Rural zone. The Parcel Identification Number is 53N02W-17-5600 and described as Tax #15087 (IN NW-SW) of Section 17, Township 53 North, Range 02 West, B. M., Kootenai County, Idaho. The subject site is located on the northeast corner of the intersection of Good Hope Road and Twete Road, Athol, ID. (*Mel Palmer-Planner*)

Staff Presentation: Mel Palmer, Planner, introduced the application providing a brief history of the previously approved Conditional Use Permits. This request is a new application that includes an increase to a 50 foot mining depth. There will be no blasting and the site has reclamation and dust mitigation plans in place. Public agencies commented with no concerns. The site was posted and based on the signed affidavits in the file, the public notice requirements have been met.

Applicant Presentation: Douglas Landwehr, Applicant, stated he is a local resident and works well with the public agencies and neighbors. The pit is a small site with good material used for local rock. The 25 foot production is almost all mined and to keep mining a 50 foot depth has been requested. The berms at the edges of the pit are stabilized with no well on the site. Mr. Landwehr understood if his mining depth is increased the reclamation plan would need to be revised. He added his mining manager will continue to work the pit as he has in the past.

Exhibit: None.

Public Testimony: Comment Sheets submitted: 2, Applicant/Representatives - 1; In Favor - 0, Neutral - 0, Opposed - 1 (in error-wrong application). 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 6:14 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

APRIL 7, 2016

CASE NO. CUP16-0001

Type: Conditional Use Permit, a request by Kyle Capps for Rock Creek Idaho Holdings, LLC, for a Conditional Use Permit to allow the continued operation of an existing Restricted Surface Mine. The project site is located on a portion of three parcels in the Rural zone. The Parcel Identification Numbers are 0-0774-004-001-0; 0-7191-001-002-0 and 0-K115-000-00A-A. Parcel No. 0-0774-004-001-0, is described as: Black Rock 3rd Add, LT 1, BLK 4; Parcel No. 0-7191-001-002-0, is described as: Schorzman-Atkins, LT 2, BLK 1 and Parcel No. 0-K115-000-00A-A, is described as: Estates At Black Rock Bay, TR A EX TAX #S. All parcels are located in a portion of Sec. 9, Township 48N, Range 04W, B. M., Kootenai County, ID. The project site is located east of Loff's Bay Road and north of Rockford Bay Road. (*Mel Palmer-Planner*)

Staff Presentation: Mel Palmer, Planner, introduced the application stating this is a new application with a good history of previous permitting. The material is used for development of Rock Creek Idaho Holdings only and the source material is not sold for off-site development. They are not required to submit an IDL Reclamation Plan but need to use Best Management Practices and Surface Mining Standards. Public agencies had no issues and public opposition was concerned about blasting, noise and dust which have been reflected in the Conditions of Approval. Ms. Palmer added there was an error in the staff report and submitted a revised statement (HE 1000). The site was posted and based on the signed affidavits in the file, the public notice requirements have been met.

Applicant Presentation: Kyle Capps, Applicant Representative, stated their original application was in 2001 and the material was used to produce all the roads and off-site improvements at the Club at Black Rock. The crushing of material began in 2006 and completed in 2007 with the crush stockpiled on site. The golf course subdivision community of Club at Black Rock had defaulted and the new owner is Rock Creek Idaho Holdings. Mr. Capps added the blasting concerns are legitimate and under his current supervision they notify the community and work with the closest homes for safe blasting and mining standards.

Exhibit: None.

Public Testimony: Comment Sheets submitted: 5, Applicant/Representatives - 1; In Favor - 0, Neutral - 2, Opposed - 2. The names and address of the individuals speaking or submitting comments are part of the record.

- Blasting frightens horses
- During one blast in early development a neighboring well went dry
- Black Rock responded favorably to the well concern and repairing an entry gate
- Neighboring homes have been shaken by blasting
- Concerns on when the mining operations would be complete

Applicant Rebuttal: Kyle Capps, Applicant Representative, stated the blasting incident referenced with the horse and dry well happened as part of the blasting for the golf course construction and prior to him being with the company. Mr. Capps added did not know when the mining would be completed since a complete build out may be anticipated to take 15 to 20 years. There are no current plans for additional excavation until they use the stockpiled materials first.

There being no further comments from the public, testimony was closed on this item at 6:38 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

APRIL 7, 2016

CASE NO. MSP15-0002

Type: CDS/Subdivision, a request by Aspen Homes and Development, LLC for Cedar Creek preliminary approval of a Conservation Design Subdivision consisting of 11 residential lots and one (1) green space lot on approximately 97.57 acres in the Rural Zone and 2.95 acres in the Agricultural Suburban zone. The proposed subdivision will be gated. Domestic water to proposed lots 1-10 will be provided via Greensferry Water and Sewer District. Proposed lot 11 will be served by an existing shared well system. Each lot will be serviced by an individual septic drainfield system. Access to the subdivision is east of Greensferry Road via a private road. The parcels numbers are: 50N05W133200 and 01538001001A. The site is described as Parcel # 1: NW-NW EX R/W EX TX#19521, S2-NE-NW, SE-NW of Section 13, Township 50 North, Range 05 West, B.M., Kootenai County, Idaho. Parcel # 2: COYOTE CANYON ESTATES, LT. 1 BLK. 1 EX PLATTED PT. in Section 12, Township 50 North, Range 05 West, B.M., Kootenai County, Idaho. (*Vlad Finkel-Planner*)

Staff Presentation: Vlad Finkel, Planner, introduced the application providing the history of the previous subdivision which had defaulted and the current status of the Cedar Creek-Conservation Design Subdivision. He added the owner resides on the largest parcel of the subdivision and the stream/wetland buffer would be included in the conservation easement. Cedar Creek would be a gated subdivision with a private road and HOA. Mr. Finkel stated the majority of public comment concerns did not have issues with the subdivision proposal but the personal use of the owners motocross track and helicopter pad creating a noise nuisance. 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, stated the current owner did not feel the last design was right for the area and redesigned what is being proposed. The Conservation Design is to preserve a greater portion of the site. He added conservation easements are complex and will be detailed after preliminary approval of this design. The site is compatible with the area with smaller lots to the north and 2 and 3 acre lots southwest, placing this subdivision in between both densities with ¾ to 2 acre lots. The public agencies have been satisfied and they are comfortable with all of the regulating requirements.

Exhibits: HE 1000 – Letters providing legal responses on the noise concerns submitted by Rand Wichman.

HE 1001 – Information packet containing noise complaint letters, ownership of conservation design submitted by Dennis Cooke.

Public Testimony: Comment Sheets submitted: 20, Applicant/Representatives - 1; In Favor - 6, Neutral - 0, Opposed – 13. The names and address of the individuals speaking or submitting comments are part of the record.

- New design is better for minimal use and pleasing for the view corridor
- If subdividing is going to happen a conservation design is good land practice
- New owner of Cedar Creek has started a nightmare for the neighbors up and down the valley with motocross bike racing noise
- Even one racing bike is still extremely loud
- Quality of life, sleep and outdoor enjoyment of the area has been disrupted by the motocross noise
- Conservation easement is important but wildlife has begun to leave due to the extreme noise
- Concerns that the conservation group is governed by the owner and should be independent
- New adjacent owners purchased due to the beauty and tranquility which is now disrupted
- Not only noise concerns but pollution, dust, environment and wildlife habitat disturbance
- New subdivision owners may be interested in the motocross and add to the nuisance
- Owner of subdivision has been cited during a high fire danger season due to the motocross bikes
- No respect for the neighbors with the noise

Applicant Rebuttal: Rand Wichman, Applicant Representative, provided rebuttal stating the motocross bike and helicopter noise is unfortunate but at what point can you not use your personal property. Not all of the concerns addressed in public comment relate to the subdivision application. Mr. Wichman added the conservation area may be used for trails and is under consideration however, there would be no use of the

HEARING EXAMINER MINUTES
APRIL 7, 2016

private race track. In conclusion, Mr. Wichman stated that Three Lakes Conservation Group is one of the very few choices in the area and they are considering acceptance that would involve ensuring the green space is encumbered by a conservation easement.

There being no further comments from the public, testimony was closed on this item at 7:29 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