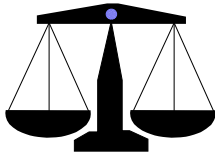


**MINUTES
KOOTENAI COUNTY HEARING EXAMINER
PUBLIC HEARING**

**JULY 6, 2017
KOOTENAI COUNTY ADMINISTRATION BLDG.
ROOM 1**

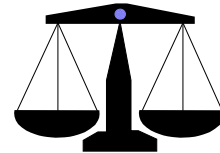
**HEARING EXAMINER
SHARON MOHR**

**STAFF PRESENT
MEL PALMER
MICHAEL ULRICH
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 8:00 p.m.

HEARING EXAMINER MINUTES
JULY 6, 2017

CASE NO. VAR16-0008

Type: Variance, a request by Mansour Faridnia, for variances to side yard setback requirements, to allow a zero setback on the south-west property line in order to retain the existing residential structure in the current location and a variance on the north-east property line to allow a common stairway to remain in the current location. The subject parcel is 0.391 acres in size and located in the Restricted Residential zone. Access to the property is by S. Four Echoes Road. The parcel number is 0-8640-000-004-A and described as: WESTSHORE TRACTS, TR 4 EX NE2 in Section 25NE, Township 48 North, Range 05 West, B. M., Kootenai County, Idaho.

Staff Presentation: Mel Palmer, Planner, addressed Hearing Examiner Mohr referencing the case file. The variance is asking for mitigation to be able to build and correct code violations. Ms. Palmer referenced the survey and site visit photographs and submitted the applicants response (HE 1000) to the staff report. The site was posted and based on the signed affidavits in the file, the public notice requirements have been met.

Applicant Presentation: Angela Faridnia-Brumm, Applicant Representative, read into the record Mansour Faridnia's response to the staff report which included exhibits (HE 1001). She stated they had no intension on violating any rules and the variance hardship is the limitation of the useful width of the parcel. Mansour Faridnia, Applicant, stated he has managed projects in his profession and in good faith you expect the contractor to acquire the proper permits. They thought all permits were in place with inspections.

Exhibits: HE 1000 – Applicant response received 7-3-17 submitted by Mel Palmer.
HE 1001 – Response to staff report with exhibits submitted by Angela Faridnia-Brumm.
HE 1002 – Testimony as a group representative in opposition submitted by Sandy Young.
HE 1003 – Photographs as a group representative in opposition submitted by Sandy Young.

Public Testimony: Comment Sheets submitted: 5, Applicant/Representatives - 4; In Favor - 0, Neutral - 0, Opposed – 1 (Group Representative). The names and address of the individuals speaking or submitting comments are part of the record.

- Variance request does not meet the conditions of a variance
- County code does not allow for expansion of a non-conforming structure
- Undue hardship is not proven since this is a cabin and not a main home
- Decades of past owners made reasonable use without building in setbacks
- The width of the lot was known when they purchased the parcel
- Cabin did not met setbacks when purchased
- Variances are supported by code but non-conformity has no code for compliance

Applicant Rebuttal: Mansour Faridnia, Applicant, responded the cabin had been used for more than 16 years and currently is their residence for 6 months of the year. They are caretakers for Mrs. Faridnia's parents and they needed to arrange a place for them that would be feasible and easy access for the aging parents. Mary Faridnia, Applicant, added the old cabin did not meet handicapped accessibility codes for her parents. They original foundation is non-conforming and she did not know why the inspectors did not catch it when they had remodeled to code for electrical and plumbing.

There being no further comments from the public, testimony was closed on this item at 6:36 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

JULY 6, 2017

CASE NO. PUD16-0001

Type: Planned Unit Development, The Club At Rock Creek, a request by Rock Creek Idaho Holdings, LLC, to amend an existing planned unit development (PUD) to allow for a 411-lot major subdivision on a portion of the property subject to the PUD. The PUD encompasses 49 existing parcels, as set forth below. This request is being processed concurrently with Case No. MSP16-0004, for preliminary approval of a major subdivision. The Parcel Numbers and descriptions are as follows:

All within **Section 4, Township 48 North, Range 04 West**, B. M., Kootenai County, Idaho for 48N04W-04-1400 – TAX #14356 [IN W2-NE]; 48N04W-04-2950 – TAX #20262 EX TX#21352 [IN GOVT LT 3]; 48N04W-04-3000 – NE-GOVT LT 4, TX#21032 EX TAX #'S 20031 & 20263; 48N04W-04-3150 – NW4-GOVT LT 4; 48N04W-04-3200 – S2-GOVT LT 4 EX TAX #20263; 48N04W-04-5000 – S2-NW EX PTN E OF RD, SW EX PTN E OF RD, S2-SE EX TAX #22152.

All within **Section 5, Township 48 North, Range 04 West**, B. M., Kootenai County, Idaho for 48N04W-05-1000 – LT 1,2, E2-SW-NE, SE-NE, LT 3, SE-NW, NE-SW; 48N04W-05-1600 – W2-SW-NE; 48N04W-05-6650 – NE-SE-SW; 48N04W-05-8200 – N2-SE, SW-SE; 48N04W-05-9400 – SE-SE.

All within **Section 8, Township 48 North, Range 04 West**, B. M., Kootenai County, Idaho for 48N04W-08-1600 – TAX #15719 [IN SW-NE]; 48N04W-08-1400 – TAX #16057 [IN NE-NE]; 48N04W-08-1950 – TAX #20032 [IN GOVT LT 8]; 48N04W-08-1800 – TAX #24237 [IN GOVT LT 8]; 48N04W-08-0400 – TAX #24239 [IN GOVT LT 1 & 2]; 48N04W-08-0100 – TAX #24240.

All within **Section 8, Township 48 North, Range 04 West**, B. M., Kootenai County, Idaho for 0-L025-000-00B-0 – CLUB AT ROCK CREEK, TR B; 0-L025-000-00C-0 – CLUB AT ROCK CREEK, TR C; 0-L025-000-00D-0 – CLUB AT ROCK CREEK, TR D; 0-L025-000-00E-0 – CLUB AT ROCK CREEK, TR E; 0-L025-001-001-0 – CLUB AT ROCK CREEK, LT 1 BLK 1; 0-L025-001-002-0 – CLUB AT ROCK CREEK, LT 2 BLK 1; 0-L025-001-003-0 – CLUB AT ROCK CREEK, LT 3 BLK 1; 0-L025-002-001-0 – CLUB AT ROCK CREEK, LT 1 BLK 2; 0-L025-002-002-0 – CLUB AT ROCK CREEK, LT 2 BLK 2; 0-L025-002-003-0 – CLUB AT ROCK CREEK, LT 3 BLK 2; 0-L025-003-001-0 – CLUB AT ROCK CREEK, LT 1 BLK 3; 0-L025-003-002-0 – CLUB AT ROCK CREEK, LT 2 BLK 3; 0-L025-004-001-0 – CLUB AT ROCK CREEK, LT 1 BLK 4; 0-L025-004-002-0 – CLUB AT ROCK CREEK, LT 2 BLK 4; 0-L025-004-003-0 – CLUB AT ROCK CREEK, LT 3 BLK 4; 0-L025-004-004-0 – CLUB AT ROCK CREEK, LT 4 BLK 4; 0-L040-000-00F-0 – CLUB AT ROCK CREEK FIRST ADD, TR F; 0-L040-000-00G-0 – CLUB AT ROCK CREEK FIRST ADD, TR G; 0-L040-000-00H-0 – CLUB AT ROCK CREEK FIRST ADD, TR H; 0-L040-005-001-0 – CLUB AT ROCK CREEK FIRST ADD, LT 1 BLK 5; 0-L040-005-002-0 – CLUB AT ROCK CREEK FIRST ADD, LT 2 BLK 5; 0-L040-005-003-0 – CLUB AT ROCK CREEK FIRST ADD, LT 3 BLK 5; 0-L040-005-004-0 – CLUB AT ROCK CREEK FIRST ADD, LT 4 BLK 5; 0-L040-005-005-0 – CLUB AT ROCK CREEK FIRST ADD, LT 5 BLK 5; 0-L040-005-006-0 – CLUB AT ROCK CREEK FIRST ADD, LT 6 BLK 5; 0-L040-006-001-0 – CLUB AT ROCK CREEK FIRST ADD, LT 1 BLK 6; 0-L040-006-002-0 – CLUB AT ROCK CREEK FIRST ADD, LT 2 BLK 6; 0-L040-006-003-0 – CLUB AT ROCK CREEK FIRST ADD, LT 3 BLK 6; 0-L040-006-004-0 – CLUB AT ROCK CREEK FIRST ADD, LT 4 BLK 6.

All within **Section 9, Township 48 North, Range 04 West**, B. M., Kootenai County, Idaho for 0-0770-005-001-0 – BLACK ROCK, LT 1 BLK 5; 0-0774-004-001-0 – BLACK ROCK 3RD ADD, LT BLK 4; 0-7191-001-002-0 – SCHORZMAN-ATKINS, LT 2 BLK 1.

CASE NO. MSP16-0004

Type: Subdivision, The Club At Rock Creek, a request by Rock Creek Idaho Holdings, LLC, for preliminary approval of a major subdivision which would create a total of 411 lots on approximately 899 acres in the Restricted Residential and Rural zones. The proposed major subdivision encompasses 20 existing parcels, as set forth below. This request is being processed concurrently with Case No. PUD16-0001 a request to amend the existing PUD to allow for this proposed major subdivision. The Parcel Numbers and descriptions are as follows:

All within **Section 4, Township 48 North, Range 04 West**, B. M., Kootenai County, Idaho for 48N04W-04-1400 – TAX #14356 [IN W2-NE]; 48N04W-04-2950 – TAX #20262 EX TX#21352 [IN GOVT LT 3]; 48N04W-04-3000 – NE-GOVT LT 4, TX#21032 EX TAX #'S 20031 & 20263; 48N04W-04-3150 – NW4-

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GOVT LT 4; 48N04W-04-3200 – S2-GOVT LT 4 EX TAX #20263; 48N04W-04-5000 – S2-NW EX PTN E OF RD, SW EX PTN E OF RD, S2-SE EX TAX #22152

All within **Section 5, Township 48 North, Range 04 West**, B. M., Kootenai County, Idaho for 48N04W-05-1000 – LT 1,2, E2-SW-NE, SE-NE, LT 3, SE-NW, NE-SW; 48N04W-05-1600 – W2-SW-NE; 48N04W-05-6650 – NE-SE-SW; 48N04W-05-8200 – N2-SE, SW-SE; 48N04W-05-9400 – SE-SE. (*Mel Palmer-Planner*)

All within **Section 8, Township 48 North, Range 04 West**, B. M., Kootenai County, Idaho for 48N04W-08-1600 – TAX #15719 [IN SW-NE]; 48N04W-08-1400 – TAX #16057 [IN NE-NE]; 48N04W-08-1950 – TAX #20032 [IN GOVT LT 8]; 48N04W-08-1800 – TAX #24237 [IN GOVT LT 8]; 48N04W-08-0400 – TAX #24239 [IN GOVT LT 1 & 2]; 48N04W-08-0100 – TAX #24240

All within **Section 9, Township 48 North, Range 04 West**, B. M., Kootenai County, Idaho for 0-0770-005-001-0 – BLACK ROCK, LT 1 BLK 5; 0-0774-004-001-0 – BLACK ROCK 3RD ADD, LT BLK 4; 0-7191-001-002-0 – SCHORZMAN-ATKINS, LT 2 BLK 1.

Staff Presentation: Mel Palmer, Planner, addressed Hearing Examiner Mohr confirming the presentations and testimony would be referencing both Club at Rock Creek applications on the agenda. Ms. Mohr agreed the testimony would be discussed together and the recommendations to be submitted separately to support their application requests. Ms. Palmer gave a brief overview of the applications and referenced the changes. She added the new proposal shows more open space and residences moved inward which supports the changes of area, density and non-residential uses. She added that the staff housing proposed needs to be addressed. The gravel pit site will eventually convert to a rental storage for area owners in Rock Creek and Black Rock. The entry way is to be enhanced and not to exceed county requirements. In conclusion, Ms. Palmer stated the applicant has requested flexibility in completion of the phasing to be approximately 20 years. 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, provided historical background regarding the defaulted Black Rock North subdivision acquired by Fidelity and becoming The Club at Rock Creek. The future plans include a very private high quality golf community with some affordable housing. They see the value in open space for natural outdoor activities which increases the residential density. Rand Wichman, Applicant Representative, referenced a presentation providing an overview stating the project stands alone unrelated to Black Rock. The entry way is to no longer be a manned gate house and to serve as an entry monument with a covered mailroom. Rock Creek has agreements with Black Rock for amenity uses and utilities. Mr. Wichman added with each phase there will be will serve letters for finals. He submitted for the record Declaration for CCR's, wetland stream class documentation and amendment to conditions referenced in the staff report for consideration.

Exhibits:

PUD16-0016

- HE 1000 – Late public comment submitted by Mel Palmer.
- HE 1001 – Declaration for CCR's and access submitted by Rand Wichman.
- HE 1002 – Amendment to conditions submitted by Rand Wichman.
- HE 1003 – Wetland stream class documentation submitted by Rand Wichman.
- HE 1004 – Presentation submitted by Rand Wichman.

MSP16-0004

- HE 1000 – Late public comment submitted by Mel Palmer.
- HE 1001 – Declaration for CCR's and access (see PUD HE 1001) submitted by Rand Wichman.
- HE 1002 – Wetland stream class documentation (see PUD HE 1003) submitted by Rand Wichman.
- HE 1003 – Presentation (see PUD HE 1004) submitted by Rand Wichman.

Public Testimony:

PUD16-0016 -- Comment Sheets submitted: 7, Applicant/Representatives - 4; In Favor - 2, Neutral - 0, Opposed - 1. The names and address of the individuals speaking or submitting comments are part of the record.

- Three 10 acres parcels considered for PUD changes would change access

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- Traffic burden to Grayson's Way would increase if a 10 acre is split to two 5 acres
- Neighboring parcel access may be blocked and developer would want to gain access on his 10 acres

MSP16-0004 -- Comment Sheets submitted: 6, Applicant/Representatives - 4; In Favor - 2, Neutral - 0, Opposed - 0. The names and address of the individuals speaking or submitting comments are part of the record.

Applicant Rebuttal: Kyle Capps, Applicant Representative, stated he is familiar with the access concerns on Graysons Way. The road referred to was temporary access to the site area for geo tech analysis, water source and road access feasibility studies. Those reports determined access from that point would be difficult and parcel access could be accomplished without disturbance to neighboring parcels from another direction. Mr. Capps added he would meet with those neighbors and work through their concerns.

Mel Palmer, Planner, addressed Hearing Examiner Mohr stating staff had not seen the amendment to the conditions of approval submitted by Mr. Wichman and requested a break for further review. Hearing Examiner Mohr granted the request at 7:35 p.m.

The hearing was resumed at 7:48 p.m.

Ms. Palmer read into the record referencing amendment (HE 1002) 8.02 agree with change, 8.09 agree to delete, 8.14 agree with change, 8.15 agree with change, 8.18 agree with change, 8.22 agree with change and 8.31 to state a 20 years phasing as 2 years to final each phase with option for a 2 year extension. Phasing is important to move a project of this size forward and with extensions included it has the possibility to be phased out to 40 years.

David Callahan, Director, confirmed on Amended Condition 8.31 that there is normally a 2 year period for phasing which prevents 20 years from going by with no finalized phases and becoming stagnate.

Kyle Capps, Applicant Representative, stated they are comfortable with Condition 8.31 being a 20 year plan with extensions.

There being no further comments from the public, testimony was closed on The Club at Rock Creek PUD and Subdivision items at 8:00 p.m. The Hearing Examiner, Sharon Mohr will review these cases and submit her written reports to the Board of County Commissioners within two weeks.

Submitted by,

Kathryn Ford, Recording Secretary