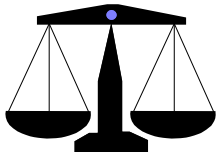


**MINUTES
KOOTENAI COUNTY HEARING EXAMINER
PUBLIC HEARING**

**MAY 2, 2019
KOOTENAI COUNTY ADMINISTRATION BLDG.
ROOM 1**

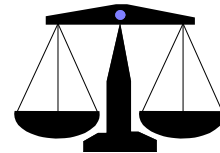
**HEARING EXAMINER
SHARON MOHR**

**STAFF PRESENT
DAVID CALLAHAN
VLAD FINKEL
MARY SHAW
AMY HILLAND
KATHRYN FORD**



**MINUTES
PREPARED BY:**

KATHRYN FORD
Recording Secretary



**MINUTES
REVIEWED BY:**

VLAD FINKEL
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 7:31 p.m.

HEARING EXAMINER MINUTES

MAY 2, 2019

CASE NO. APP19-0001

Type: Appeal, a request by Benjamin Johnson and the Ben Pointe Road Association to appeal an administrative decision by the Kootenai County Community Director approving a 3-Lot Subdivision in Case No. MIN18-0022, Lake Vista Estates. The parcel number is 48N04W-20-4700. The site is described as TAX # 25338 [IN GOVT LTS 2,3] in Section 20, Township 48 North, Range 04 West, B. M., Kootenai County, Idaho. While this hearing will be open to the public, only affected persons will be allowed to testify.

(Vlad Finkel-Planner)

Hearing Examiner Mohr introduced the Appeal Hearing she stated the hearing was to allow her to receive testimony regarding the appeal. The order of the appeal begins with Kootenai County staff introduction, the Appellant presenting the details of the appeal, public testimony in favor of the Appellant request, Staff presenting details of decision, public testimony in favor of the County decision and final rebuttal testimony from the Appellant.

Staff Introduction: David Callahan, Director, stated Community Development is in the process of updating the Comprehensive Plan which has information on-line at keepingkootenai.com. He added it is fair to say the current regulation is pro-growth and now is the time to participate and update policy which can have a meaningful impact in developing growth and planning in the County. Mr. Callahan provided details stating the decision for a minor subdivision application, in this case MIN18-0022 for Lake Vista Estates, is administrative which was approved and is the basis of the appeal this evening.

Appellant Presentation: Ben Johnson, Appellant, provided a copy of his presentation to reference which represents himself and the Ben Point Road Association as “affected persons”. The approved minor subdivision does not allow fire apparatus access road standards to the existing private road which is less than 20 ft. in width. He and his family are year around residents. The packet references key facts, policy and correspondence between staff, the applicant and the fire district regarding part of the access road for the minor subdivision application. Mr. Johnson added the road is one-way at the end and narrow which ends at a locked gate. The private road will not be safe in a fire emergency scenario. In conclusion, he stated the approval of the 3 lot minor subdivision would not promote public safety, health or benefit the area welfare without the 20 foot wide fire apparatus access standard.

Staff Presentation: Vlad Finkel, Planner, introduced the application referencing a PowerPoint presentation. He stated his obligation as a planner is to review each case based on the merits and code that apply. He does not make a personal decision and relies on the information submitted on the cases. With minor subdivision applications approvals there can be conditions of approval included as part of the approval since they can be reasonably mitigated. Mr. Finkel added the guidelines for review include public agency and public comments, nexus results based on impacts, administrative variance and directors discretion. With this application two additional homes are not viewed as setting precedence or compromising all other residences in the area. Staff recommends the appeal be for road improvements be denied.

David Callahan, Director, confirmed that the county relies on public agencies expertise. We do not substitute knowledge of trained professionals. The code allows for the fire authority to make a discretionary call and they made it with their legal counsel support.

Exhibits: HE 1000 – Presentation submitted by Ben Johnson.
HE 1001 – Presentation submitted by Vlad Finkel.
HE 1002 – Comments submitted by Scott McArthur.
HE 1003 – Photographs submitted by Scott McArthur.

Public Testimony: Comment Sheets submitted: 16, Appellant - 1; In Favor – 14, County In Favor - 1. The names and address of the individuals speaking or submitting comments are part of the record.

Comments In Favor of Appellant --

- Concerns about fire safety and setting precedence
- Why set aside a national safety standard for an application
- Neighboring parcel owners not having vested interest have opposed the application

HEARING EXAMINER MINUTES

MAY 2, 2019

- Board members have been working together for a long time and fire is the main concern in the area
- Investors are purchasing the land and selling for profit and not for their use
- Neighbors have put out fires before the fire department arrives
- Road was not meant to service many residents and there are 80 households using the road
- This community tends to its business
- Residents have trouble passing in a golf cart
- Vehicles have been stuck in the ditch for hours
- Area has a potential for a real fire tragedy
- Construction access to build will not be practical or safe on the road

Comments In Favor of County --

- Project is creating three lots with one being the current owner
- A three lot subdivision is less than what the parcel could be subdivided in Restricted Residential zone
- Turn-outs on the private road have been used for years
- The residents continue to live and use the private road without improving the conditions
- two additional lots would not change the neighborhood access
- Granting the appeal would deny the applicant the same rights the neighbors have

Appellant Rebuttal: Ben Johnson, Appellant, stated we have to go with the law that we have and the rules say the Applicant must bring the road up to code for a common standard. This area is heavily wooded and under threat of fire. He added the summer sales of fireworks at the reservation increase their fire concerns. With the analysis on road improvement vs health, safety and public welfare of 80 residents this application should not be granted.

There being no further comments from the public, testimony was closed on this item at 7:31 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