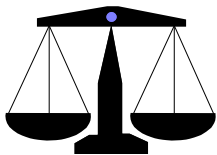


**MINUTES
KOOTENAI COUNTY HEARING EXAMINER
PUBLIC HEARING**

**MAY 16, 2019
KOOTENAI COUNTY ADMINISTRATION BLDG.
ROOM 1**

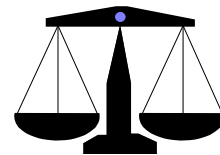
**HEARING EXAMINER
JOAN WOODARD**

**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



JOAN WOODARD
Hearing Examiner

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

Joan Woodard 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 9:53 p.m.

HEARING EXAMINER MINUTES

MAY 16, 2019

CASE NO. ZON18-0016

Type: Zone Change, a request by John and Gaila Condon Living Trust to complete a Zone Change from Restricted Residential to Commercial of a portion of a parcel consisting of 107.59 acres. The portion of the parcel for this request is a peninsula north of Highway 97 and above the ordinary high water mark (2139.3' NAVD) of Lake Coeur d'Alene, approximately 0.5 acre in size. The subject land is currently undeveloped. Access to the project site is from Highway 97, a public road maintained by Idaho Transportation Department. The Applicant is affiliated with North Idaho Maritime. It is the intent of the Applicant to use the subject portion of the parcel as a staging area to load construction materials and equipment for dock and waterfront construction activities. The parcel number is 49N02W067000. The parcel is described as: Tax # 5934, LT 7, SE-SW, S2-SE EX Tax #s ALL EX RW in Section 06, Township 49 North, Range 02 West, B.M., Kootenai County, Idaho. The subject property is located at 6719 S. Highway 97. (*Vlad Finkel-Planner*)

Staff Presentation: Vlad Finkel, Planner, introduced the application referencing a PowerPoint presentation. The purposed zone change from Restricted Residential to Commercial is on a 0.5 acre relatively flat waterfront peninsula off of Highway 97. The Comprehensive Plan designation of "Shoreline" supports non-residential uses. Mr. Finkel added since this site is located off a highway and if the zone change is approved a Special Notice Permit process will need to be approved. This permit could include site constraints with setbacks and high water mark guidelines. He stated public agencies provided comment and during the public comment period numerous comments were received before and after the deadline in opposition.

Applicant Presentation: Rand Wichman, Applicant Representative, clarified for the record that the request is not just for the peninsula of land but all of the land even under the lake north of Highway 97. He provided historical details of the Applicant and the North Idaho Maritime (NIM) business. With the area growing they have lost locations for easy transporting to and from the lake. The access to and from Highway 97 has been established by ITD with various options that the Applicant agrees can be met. Mr. Wichman stated they are aware of the public concerns regarding the eagles and Kokanee spawning beds and have provided a statement from Environmental Inc. for the record. The eagles have no trouble with lake barges and the Kokanee do not spawn in the area which is being considered for the waterfront staging site. The use is not materially detrimental to public health, safety or welfare. This use is clearly beneficial as a necessary service supported by agencies and private property owners. Jim Brady, Applicant Representative, added this site location would resolve a non-compliant situation with the State in regards to Cougar Bay where Mr. Condon has been working. John Condon, Applicant, stated he is asking for help to try and preserve a way of life and a viable business in North Idaho. He has been looking 15 years to find a suitable site ever since the changes in the area began squeezing him out. If someone has a better idea for the north part of the lake business he will listen. Anthony Zito, Applicant Representative, added he is the project manager at NIM and the change to the area is moving towards tourism. Lake maintenance sites are going away but it is still a much needed resource.

Exhibits: HE 1000 – Presentation submitted by Vlad Finkel.
HE 1001 – Late public agency comments submitted by Vlad Finkel.
HE 1002 – Late public comments submitted by Vlad Finkel.
HE 1003 – Presentation submitted by Rand Wichman.
HE 1004 – Environmental letter submitted by Rand Wichman.
HE 1005 – Public comments submitted to Applicant submitted by Rand Wichman.
HE 1006 – CDA Tribe Correspondence on LMP submitted by Mary Lou Reed.
HE 1007 – Presentation by opposition submitted by Stanley Harrison.
HE 1008 – Presentation of a truck exit demonstration submitted by Stanley Harrison.

Public Testimony: Comment Sheets submitted: 61, Applicant - 4; In Favor – 25, Neutral – 4, Opposed – 28 with 1 group of 10. The names and address of the individuals speaking or submitting comments are part of the record.

- Site is protected and shallow which is good for this type of barge loading
- Area has plenty of site distance to enter and exit onto the highway
- Tug boats and barges are part of the lake since 1880 and a necessary service
- This business provides the much needed higher paying jobs
- NIM is using some private docks and front yards to help with the occasional delivery of services

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- Roads have done more damage to the spawning areas than this operation would do
- Not ethical to try and stop growth or businesses which can be managed responsibly
- NIM service is the first to call for lake spills or emergencies
- Site is a good use for the barge service and not as zoned residential
- Community should support the business and good jobs
- People do not always want to work but do not stop those that want to
- Eagles and Kokanee salmon are not the issue, the opposition is using this to stop growth
- NIM is on the lake 365 days a year with diversified barges for various uses
- Influx of people need to have a service to clean-up their mess
- Minimal structures with uses that can be worked out
- People that maintained good stewardship of Lake Coeur d'Alene is why the tourists can enjoy the area
- Tourism business is standing on the shoulder of the guys that built the area
- Business is part of the fabric of the lake culture
- Smaller companies work the lake
- Keeping the lake safe you need big boats to keep it clean
- Environmental work on the lake also has issues with sites to work from
- Coming into a scenic-by-way at Highway 90 and Highway 97 will not look scenic with a dock business
- People pull off the highway to see the beautiful sunsets which will now be ruined when looking west
- Accumulation of docks, boats and commercial hardware will take away the scenic vista
- Situation of poor planning
- Those who need the services do not want to see the working site
- Property owner north of the site would like a raptor center
- Plankton is what the salmon eat and the eagles feed on the salmon
- Scenic-By-Way status will be destroyed
- Site at the south end of the lake is not scenic and we do not need that at the north end of the lake
- Questions not answered-what size trucks, boats, barges and when
- Purchased home due to the scenic-by-way
- It is a big deal with a lot of unanswered questions
- Have a semi try pulling out of this site without crossing over the yellow line
- Solutions to the access in and out can be part of decision making
- How can we make this a win-win situation
- Miscarriage of planning and this is not the place for this enterprise
- This is the front door of Coeur d'Alene and the most beautiful bay being discussed
- Shoreline encroachment and docks are necessary but be very careful before we make a reaction decision
- This has been a working lake and now is in trouble due to the metal in its bed
- CDA Tribe can no longer manage the lake due to the pollution
- More time is needed for strategic thinking and facing issues

Applicant Rebuttal: Rand Wichman, Applicant Representative, addressed public concerns stating the Harrison residence is the only one in the area and there is no other place where there are fewer residences. The site has the ability to improve the approach and possibly have a bulkhead to off load trucks. There may be a small pier to help guide the barge. There has not been any waterward improvements considered at this point and there will be no dock storage. They need a place to load barges and any waterward activity goes through IDL and requires public hearings. It is the landward side of the business they are asking approval for going forward. Rand added the trucks being used are not anything like Mr. Harrison demonstrated. Mr. Condon has safely driven a truck on-site without improved approaches. The boats are different sizes from smaller run-abouts to large tugboats. The site may only be able to accommodate one barge at a time. They need a place to make the transfer from truck to barge to do lake services. In conclusion, Mr. Wichman stated that ITD is the agency with the expertise and jurisdiction to make the highway safety decisions.

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There being no further comments from the public, testimony was closed on this item at 8:46 p.m. The Hearing Examiner, Joan Woodard 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

MAY 16, 2019

CASE NO. MSP18-0003

Type: Subdivision, McCarthy Estates, a request by McCarthy Capital Inc, for preliminary approval of a Gated Community Major Subdivision consisting of 26 residential lots on approximately 136.7 acres in the Rural zone. The project will be completed in two phases with 13 lots in each phase. The proposed lots will range from 5.000 to 6.697 acres in size. The subject property is currently undeveloped. Domestic water will be provided by Bar Circle S Water Company. Effluent discharge will be treated by an individual septic and drainfield systems on-site. Access to the subdivision will be provided from Garwood Road and from the extension of Dolan Road, both roads are public and maintained by the Lakes Highway District. The new interior road will serve as a loop and will be gated at both entrances to the subdivision. Furthermore, the internal road will be constructed to the Associated Highway District Standards and dedicated to the Homeowner's Association for maintenance purposes. The parcel number is: 0L072001001A. The site is described as: Garwood Corner, Lot 1, Block 1, Tax # 25311 in Section 24, Township 52 North, Range 04 West. B. M. Kootenai County, Idaho. (*Vlad Finkel-Planner*)

Staff Presentation: Vlad Finkel, Planner, introduced the application referencing a PowerPoint presentation. This subdivision request will be phased and is surrounded by various zones off of Garwood Road. The interior roads will be maintained by a private HOA with both entries being gated. He added public agencies provided comment or conditions. The Lakeland School District did state they have seen tremendous growth in the area and the school cannot accommodate any new students at this time. Staff received five in support, three neutral and one opposed public comment prior to the deadline.

Applicant Presentation: Rand Wichman, Applicant Representative, stated staff provided the details in the report. The road issue to not have through traffic use Dolan Road has been mitigated by having the community gated. He added the issues with the school concerns cannot be solved at this scale of subdivision.

Exhibits: HE 1000 – Presentation submitted by Vlad Finkel.
HE 1001 – Septic details in posting submitted by James Johnson.
HE 1002 – Water statement CPCN No. 296 submitted by James Johnson.

Public Testimony: Comment Sheets submitted: 19, Applicant - 1; In Favor – 0, Neutral – 2, Opposed - 16. The names and address of the individuals speaking or submitting comments are part of the record.

- Meeting with Lakes Highway regarding this subdivision stated 14 homes to be proposed
- Neighbors in Bar Circle S Ranch feel they have been lied to regarding the true details of the subdivision
- Neighbors do not want mailboxes or trash pick-up located at the Dolan Road access area
- Bar Circle S Water Company has trouble providing pressure and water to Bar Circle S Ranch subdivision
- If subdivision is approved the neighbors want construction trucks to access the site from Garwood Road
- Quiet neighborhood does not want traffic to use Dolan Road as a main access
- Where will the snow removal be dumped
- Water rights are for Bar Circle S and no one else
- Bar Circle S Ranch has CCR's with no reserve fund set aside for capital improvements
- Providing water to this subdivision will increase the water system issues
- No one was contacted by the developer
- Posting at the site is what the neighbors saw to attend the public hearing

Applicant Rebuttal: Rand Wichman, Applicant Representative, addressed the neighborhoods concerns. He stated the original 14 homes planned was changed once McCarthy purchased additional land from North Idaho Rose which made it possible for 26 lots. Mr. Wichman added the neighbors were correct there were no neighborhood meetings which is not a requirement. There are no details for trash pick-up and mail delivery at this stage of development. There will be individual septic systems and Bar Circle S Water is privately owned and is regulated by the Idaho Public Utilities Commission. The Department of Environment Quality (DEQ) strongly prefers connecting to water systems available which may be a loop system to Bar Circle S Water. Rand suggests the residents make DEQ aware of any water system failures. There will be construction access off of Dolan Road since the north end of this subdivision would be Phase I and that would be the only access to begin development.

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In closing, Mr. Wichman stated some details are not final due to this being a preliminary subdivision request which as met all of the criteria.

There being no further comments from the public, testimony was closed on this item at 9:53 p.m. The Hearing Examiner, Joan Woodard will review this case and submit her written report to the Board of County Commissioners within two weeks.

Submitted by,

Kathryn Ford, Recording Secretary