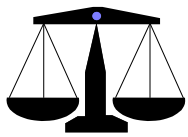


**MINUTES
KOOTENAI COUNTY HEARING EXAMINER
PUBLIC HEARING**

MARCH 16, 2023

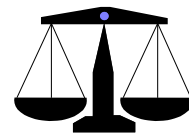
**HEARING EXAMINER
JOAN WOODARD**

**STAFF PRESENT
VLAD FINKEL
DAVID CALLAHAN
JENNIFER CONNER
REBA GRYTNESS
KELLY BRYANT**



**MINUTES
PREPARED BY:**

JENNIFER CONNER
Recording Secretary



**MINUTES
REVIEWED BY:**

VLAD FINKEL
Planner III

A handwritten signature in blue ink, reading 'Joan C. Woodard', positioned above a horizontal line.

JOAN WOODARD
Hearing Examiner

The Official Record of Public Hearing is available on-line at
www.kcgov.us

Joan Woodard called the meeting to order at 6:07 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 a written recommendation to the Board of County Commissioners, who will make the final decision.

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CASE NO. ZON22-0004 KERR PROPERTIES:

Staff Presentation: Vlad Finkel, Planner III, presented the case with a PowerPoint presentation. This is a request by Kerr Properties to rezone an 80-acre parcel of land from Agriculture to Rural. The subject property is located near Highway 53 and the intersection of Mountain View Rd. The purpose of the rezone is to apply for a major subdivision that would consist of 16 lots. The zone change must be approved before the subdivision application can move forward. The property is fairly level and vegetated. The Comprehensive Plan designation is Suburban and adjacent to Transitional, but the property is not within an ACI, so is not subject to the restrictions associated within the city. There was very little response during the agency comment period due to this zone change not having impact on the agencies. ITD and Northern Lakes Fire both stated there are future access requirements. During public comment, staff received two in opposition regarding additional traffic. The Suburban Comp Plan definition states the primary purpose is to promote development of vacant or underused parcels, which approval of this zone change would promote with the application of the subdivision. Staff recommends approval.

Applicant Presentation: Jeramie Terzulli with Olsen Engineering states staff's review, and Comprehensive Plan analysis clearly covers what is requested. They believe this request fits the comprehensive plan as well as the Suburban future land use designation perfectly. ITD and Lakes Highway has seen the preliminary site plan and proposal. Lakes has indicated they will take control of the road. Additional connectivity and access will likely be to the south of the property, but that is something that will be addressed with the subdivision process. Agriculture is not a viable use of this property. Within a ½ mile radius there are 6 properties of less than 5 acres each, 158 properties of 5 acres, 23 properties are 10 acres each, and 4 are greater than 10 acres. Based on the projected growth analysis for 2040 by KMPO, Highway 53 will be only reach 70% of design capacity.

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

Exhibits: HE-1000 PowerPoint presentation by Vlad Finkel
HE-1001 Map from KMPO by Jeramie Terzulli

There being no further comments or testimony, Hearing Examiner, Joan Woodard, closed the public hearing for ZON22-0004 at 6:23 pm.

CASE NO. CUP22-0008 LIVING WATER YOUTH RANCH:

Staff Presentation: Vlad Finkel, Planner III presented the case with a PowerPoint presentation. The initial hearing of this case was conducted on October 20, 2022. At that hearing Ms. Scott requested this case be remanded back to Community Development to follow up on some issues that had been presented. The subject property is located between Wolf Lodge and Fourth of July Pass, north of I-90 and south of Alder Creek Road. The property consists of 73 acres of which 20 acres may set aside for a residential use by the applicant, which would leave 53 acres for this proposal. The property is zoned Rural which does permit a Residential Care Facility with a Conditional Use Permit. There was a square footage miscalculation contained in the original proposal. The main structure will only be 14,000 sq. ft. which is not a change, just a clarification of the narrative. During the first agency comment period, staff made an error by not soliciting comments from the Sheriff's office. The Sheriff submitted their comments late with concerns regarding the remote location, delayed response times and accessibility in the winter months. Following the first public hearing, staff did not solicit any additional comments from agencies, however there were 2 follow up comments received. One from Idaho Department of Health & Welfare wanting to clarify information that had been referenced by Ms. Scott that wasn't entirely accurate. The second from the Sheriff's office. During the first public comment period, 97 were received in opposition. These concerns were regarding; increased traffic, inadequate

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security, runaways, road conditions during winter months, groundwater, cell service, and remote location and delayed emergency response time. When staff posted the property for this hearing, there had been recent snow and Alder Creek Road was plowed and accessible. There was not cellular coverage at the approach, but approximately 200-300 feet west of the parcel a signal was obtained. During the second public comment period staff received 98 in support, 1 neutral, 3 with no position, and 371 in opposition. There were a few duplicates however due to time constraints the duplicates were not eliminated. The comments were similar to the first period. The main concern of staff is the applicant wants to keep the facility as a residential structure meaning the residents would be able to freely move around the property/facility. Since this is not going to be an institutional setting, the applicant stated they would have extensive security measures such as cameras, drones, etc. The potential breach of security remains an issue of concern. It is very difficult for staff to support this proposal.

Applicant Presentation: Jennifer Scott states the last 4 months have been used to meet with people and collect data. This parcel is 73 acres with timberland. The time allowed for formal therapy is 1.5-2 hours per day. Residents will be raising livestock, cultivating soil, preserving the natural habitat, managing soil conditions, and timber management. There will be family style living including; gardening, homeschooling, devotional time, indoor and outdoor chores. The recreational component includes a lot of outdoor activities such as hiking. They will be leaving 80-90% of the property in its natural and undisturbed state. The structure will be below the tree line with neutral colors. The residents are not allowed to leave the facility or walk around the property without a staff escort. No exceptions. The program is modeled after Project Patch out of Boise County. A two-year incident report shows there was no harm to the community. We are bound by Idaho Administrative Procedures Act (IDAPA) code which include incredible safety measures. The parents do have to be aware of the risks, and sign off they are aware of those risks. There will be security cameras and two-way radios being utilized. Professional security firm, Personal Safety Training Incorporated (PSTI) will be hired to train the staff. Trust Based Relational Intervention (TBRI) developed by Texas Christian University, training will also be used. They will have high quality professional grade equipment to maintain and plow the driveway. Employees will have a park and ride arrangement with an experienced driver and appropriate vehicle during bad weather days. Staff housing will be available for overnight stays. According to East Side Highway District the traffic generated by the facility does not meet the threshold to warrant a traffic impact study. Deliveries will go to the main office in Hayden, grocery shopping will be done locally, no deliveries made to the facility. They will also avoid employee shift changes during peak hours. Parents and visitors cannot come as they wish, there will be scheduled visitation weekends. There is some cellular coverage, but there are ways to improve that coverage such as a booster. This location is the most ideal for this facility for the rural wilderness. Wolf Lodge is closer to emergency services than most other residential care facilities. In Tennessee and Garden Valley, their facilities are about an hour away from emergency services. They have the ability to utilize individual or group contracts with Life Flight. The project definition, Residential Care Facility was identified by Community Development, not Applicant. Originally, Living Waters Youth Ranch (LWYR) was planning to use fob keys so the community felt safe, but this would have classified them as an institution which they do not want. Kootenai County Code defines a Residential Care Facility as 9 or more elderly or disabled persons that receive onsite supervision. The facility may also offer short term rehabilitation services. According to IDAPA, a children's residential care facility provides treatment for behavioral and emotional challenges, mental illness, substance use, etc. Disability is defined as a physical or mental impairment which limits one or more of life's activities, documented or perceived. There will be a very thorough screening process and will not accept anyone with a violent crime, sex offenses, or complex psychiatric disorders. Clinical interview as well as evaluation instruments will be used to determine which youth will be appropriate at this facility. TBRI is the most well-known curriculum in the reduction of conflict, and the staff will be trained in this. A criminal background check will be required during the admission process, and parents will have to sign a release to allow access to their history. Transportation of the residents will be by licensed and insured staff. Typically, therapists see 30-35 clients, and LWYR will have 4 therapists for the 24 residents. For education, it will be parent's choice of 4 tracks their child could take, traditional through Bridge Academy, homeschooled, hybrid, and GED. There were inaccurate comparisons to Innercept, which has been very challenging to overcome. There will be a different population served at LWYR and different structure than Innercept.

Public Comment: Comment Sheets submitted: - 163: Applicant – 2; In Favor – 33, Neutral –0, Opposed – 130.

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The names and address of the individuals speaking or submitting comments are part of the record.

In Favor: In Person:

Jeff Doty: 2 main objectives; will property value decrease, and safety concerns. The false narratives created has made it difficult to gain support. Shane Zaring, the property owner responded to a property request for a youth ranch. Met with the 3 most adjacent property owners that would be affected and none objected at that time. During the first hearing, one of those adjacent owners opposed. The survey submitted by Mark Mathes does not present all the facts. Called the City Clerk in Crouch City regarding Project Patch, they responded positively, and also stated they had not heard of decreased property values. There are currently 3 group homes on Blue Creek Bay Road. People will not speak out in support due to the folks that are in opposition, they do not feel comfortable. You cannot rationalize with people who base their opinion on emotion and fear. The Sheriff stated he could only compare this to Innercept as that is the only facility around comparable, which is a completely different program. Due to what Mark Mathes and the Sheriff stated, and their false narratives, this whole project is being frowned upon.

Heidi Hershley: Read letter by Tim Padula, Paster. There is already a facility in the area for those who have been in jail and there has been no property crime, or issues. We want to be good neighbors.

Miranda Newell: Parents were drug/alcohol addicts. Became addicted herself. Went through UGM program which saved her life. Works at Children's Village now, to help the kids that need help.

Megan Ballard: Wolf Lodge resident and mother. Suicide rates going up and want a resource for those that need help. Standing for the children who do not have a voice in this. Love and support.

Julie Doty: Was a Prosecuting Attorney for juveniles. Lots of children need help. Close minded people will not listen to what is being presented. Those in opposition are very negative.

Carla Zimmerman: Educator. Sought opportunity to partner with local schools. Have a responsibility to address the kid's academic needs. Partnered with Bridge Academy, GED through Boise State, or homeschooling. Individualized needs.

Patrick McArthur: If lived in Wolf Lodge area would still be in favor of this project. Need the facility, just do not want it in their backyard. The location is purposeful. Water usage will be less than if this parcel is subdivided into residential lots. Road maintenance will not be a problem.

Danielle Capp: RN with background in mental/behavioral health. Idaho has 5th highest suicide rate in 2020. Placing adolescent youth is difficult because there are no facilities.

David Spiker: Property abuts to the east. ½ mile away there is a cell tower being installed right now. Not concerned about water since there are 3 springs on his land. Does not want a fence. Trespassers during hunting season is biggest issue he has seen.

Jackson Lanterman: Director of Juvenile Outreach, a faith based non-profit. Works with youth that have been in trouble. Parents looking for help. Federal government pushing for preventative care. Community severely lacking resources. Waiting list for counselors is a mile long. Talk therapy does not work for many folks. Wilderness therapy helps.

Betsy Spitzer: Mom of 5, one needed this type of program. Saved his life. Healthy, loving home but some kids need extra help. Good repercussions pay it forward. Good outweighs any negative impact.

Brian Donniger: Assistant Chaplin and foster parent who has adopted 3 kids already. The constant care and love could change these kid's lives.

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Zoom: None

Opposed:

Ruth York: Zoom: Not opposed to all residential treatment centers. The land use with this facility is my main concern. Residential setting will create more trauma. Governor Little set aside funds to open 3 new residential care facilities in Idaho, so the effort is being made. The children and their families need to learn to manage their risks, and not be isolated in a remote location. Living Water says they are not taking the high risk youth, but they are the ones justified to live in this type of setting. Kids with ADHD need to learn to manage their ADHD at home, in the communities, and schools as it does not justify residential care. We should be creating community based services, not isolate. Many documented injuries at these type of facilities, which creates trouble staffing. Does not believe Living Water is an appropriate option.

Mark Mathes: We have all done research as to what really goes on at these facilities. Living Water is a part of a multi-billion dollar industry called Troubled Teen Industry. Infamous for numerous abuse charges according to several articles. Involuntary transportation. The Troubled Teen industry receives 23 billion dollars annually. Reviews of Project Patch very negative, but there are mixed reviews. The cost would be thousands if not 10s of thousands a month. Residents of Kootenai County cannot afford this. This is for teens of rich people. 95% of Wolf Lodge community does not want this CUP there. Can it be expanded or sold? Some buyers of a house next to an At-Risk Youth Facility will not buy. Longer time on market, or cut in price.

Justin Fredin with the firm Holly Troxil: Representing a resident of Wolf Lodge. Does this CUP qualify? Seven criteria need to be satisfied for the hearing body to approve. The actual use is a Commercial Institution. This CUP would alter the character of the area. Provided no comprehensible surveys. Runaways do occur at remote locations. On-site offenses have been reported. There were at least 110 calls of service in Kootenai County for At-Risk facilities for runaways, missing persons, sex offenses, prowlers, battery, arson, animal injuries, fraud, etc. The primary use of the site would be for treatment which is an institutional use, and this location is not appropriate.

Marie Erika Elsberdt: Runaways do happen regardless of location. Comparisons to Camp Easton and Mivoden is inaccurate, both these camps are summer camps. Mr. Ankersmit stated this should be an institution. Innercept and LWYR compared will treat the same population. Innercept and Project Patch are categorized the same per Idaho Department of Health & Welfare. Life Flight has weather regulations that will limit when they can respond. In normal conditions, emergency response would be 27 minutes. The facility in Tennessee is only 12 minutes away from EMS, not 56 minutes. Project Patch has a substation 7 minutes away. Project Patch has had 2 staff that were convicted of sexual offenses. Omission and misinformation provided speaks volumes.

Cassy Rider: Many multigenerational families in Wolf Lodge. Water resources is a main concern. This facility would be equivalent to 16 individual homes. The applicant has not demonstrated this commercial facility can support the amount of water needed. IDAPA requires roughly 30 staff members within a 24 hour period. Children will be attending school for 2.5 hours per day, but Idaho Code states the minimum hours would be 900-940 hours, which means these kids would have to attend school for 360 days per year at only 2.5 hours per day. Idaho and Kootenai County does not have definitions for low, moderate or high risk which means there is no regulation to keep them in each category. Maintenance of the acre field? Are there resources to maintain this field? Harmony is required by the Comprehensive Plan. The applicant is required to harmonize with the Wolf Lodge Community.

Ashley Rider: The website emphasizes At-Risk, not Low-Risk. Not opposed to residential treatment programs, just the location. Incident in Silver Valley recently when a resident struck a staff member with a snow shovel. Programs come with risks. Integrated Interventions may be the reason for many of the EMS calls in Kootenai County. Moved to Wolf Lodge to escape the stress of her position. Father in law built a 500 gallon fire truck because of fire rescue being so far away.

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Pebbles Allen-Gentilman: Zoom: Daughter was placed at Project Patch in 2009. No background check. The admin stated they were general Christian based, which was not the case. She was there for 4 months, with 1 family meeting in that time. Received pushback regarding questions of what was going on there. Year contract regardless of needing a year or not. Ongoing abuse, no licensed therapists, no real therapy. Submitted evidence to Health & Welfare. Concern that they are Seventh Day Adventist. Daughter still has PTSD and night terrors. More about the finances and less about the children.

Joe Whipple: 30 year property owner. The specifics about the program are disturbing. The main factor is the money. The neighbors have done research, and know what is being requested. Increase of taxes for incarceration. A podcast states facilities use tough love approach, breaking the children in order to fix them. The isolation this location provides could be to conceal what is going on. The program structure is based on levels with extreme punishments. It is clear this should be denied.

Leland Lewis: Country is disappearing. Have supported UGM for many years, with a small footprint. LWYR does not need such a big footprint.

Jessica Ost: Adjoining neighbor who is being ignored because they are in opposition. Never received letter after cancellation of dinner.

Michael Elsberdt: Not speaking on someone's behalf and was not told to. In 2021 there was a mountain lion killing livestock. In 2022, more animals killed. This year a mountain lion has been spotted 4 times. A lot of hunters could mistake kids for animals.

Greg Shremp: The aquifer provides drinking water to over 450k people, but this area is not over the aquifer. Groundwater is their source of water. Wells are running dry.

Dawn Cox: Adjoining parcel. Have not been contacted by the applicant. If they do not do the voluntary things, and they do not fulfil, there is nothing we can do.

Michael Burns: RN with veterans. Worked with adults and adolescence in a mental health setting. Many of those who have been abused will go on to be abusers.

Martha Cook: Future compatibility is what needs to be looked at. Roughly 300 homes and 700 residents in Wolf Lodge. Commercial development which compliments and preserves rural character and infrastructure.

ZOOM:

Jamie Rockwell: Do not support this in my neighborhood.

Parmantier: Oppose based on the impact of water and septic system.

Amy Mashburn: Former Patch kid. Still wake up screaming. Was there 4 days short of 1 year. Put in a quiet room with a mattress on the floor and a light for 1 week. Was told she was not worth loving.

Michael Burns: Worked at a private school in Pennsylvania. Kids had multiple recommendations and no criminal background (good kids). Homosexual rape, assault against staff, abuse towards other kids, alcohol.

Applicant Rebuttal:

Rick Haruthuni, Attorney with Ramsden Marfice: Serving the same purpose and residents as a residential care facility. As a matter of right, this property could subdivide the 73 acres into three parcels of about 24 acres each, and a single family dwelling could be on each parcel. Single family and group homes are the same. Group home can have 8

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residents. A residential care facility does require a CUP, but a group home does not. The Ranch is allowed to construct a group home on each of the 3 divided parcels. Going through the CUP, the applicant has tried to get the neighbors input, and wanting 1 larger building. Condition 8.20 of the staff report could be used to determine who could be treated, and the applicant does not want this restriction.

Jennifer Scott: Absolutely sympathetic to the tragedy of the past Patch kids. They are most closely modeling after Project Patch, but not exactly. They will not use the same ideas that they do not believe in. Her son went to Project Patch and felt it was an excellent program. Chose to be a non-profit. They cannot be sold except to another non-profit. They did reach out to neighbors, but only those that had already submitted their public comments. Only the most extreme cases have been presented tonight. Traditionally these are very safe facilities. No matter where we go, we will run into challenges. The summer camps were highlighted for the response times and bad road conditions. KCF&R has annexed them into their coverage. CPR and first aid certified is required. Educational Director to ensure the criteria is being met, and the kids will have an additional 1 hour in the evening to dedicate to school work.

There was a land request for a youth ranch, and the owner of the property, who is a real estate agent, offered his own land. A lot of locations were considered, but this location offers more of what they need.

IDAPA requires safety precautions.

Staffing shortages is a risk, and though the law states certain things, does not mean they will not fail to meet those requirements, but they are up to the challenge.

Youth will be placed based on gender assigned at birth.

They have not closed on the purchase contract for this property. There is an accepted contract dependent on the CUP approval.

Guns are not allowed and an ax would be used under strict supervision.

Vlad Finkel: Condition of approval 8.20 and 8.19 were added due to staff's concerns and verified by Pat Braden, Civil prosecution attorney. The applicant's legal representative stated they can go through a subdivision exemptions into 20 acre parcels and put residential dwellings/group home on each parcel which is a By-Right Use. The outcome could be the same as the CUP, except it would be 3 separate structures. The intent to add the conditions of approval was to address the potential risk of runaways or other activities that arise due to children leaving the facility. If the CUP is approved, there could be benefits with the conditions of approval, as opposed to being denied and the group home option take its place.

Jennifer Scott: Anytime a resident comes missing, the sheriff has to be notified per IDAPA.

Rick Haruthuni: By choosing to go through the CUP, it was to be mindful of the neighbors. The concern with Condition 8.20 is public policy regulations. This condition would be exceeding what legal guidelines in place. If they went the group home route, everything would be exactly the same as far as security. The operating code would not change. Unreasonable condition 8.20. There are good kids that made bad decisions, and they should not be excluded.

David Callahan: Kootenai County Code allowing group homes of 8 or fewer has to do with federal laws, which states municipalities shall not prohibit group homes in residential areas.

Vlad Finkel: If approved, can you have the applicant elaborate on how to modify condition 8.20 to limit the types of residents that would be accepted. There would need to be side-boards to identify what could be changed for more latitude. There needs to be a commitment from the applicant.

Jennifer Scott: Want to take children that are not yet in criminal trouble. It will be mandated in their policy to identify any criminal, sexual, violent crimes. Unsure if violent crime is a defined term.

Rick Haruthuni: No such restriction in the code to impose condition 8.20.

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Exhibits: HE-2000 PowerPoint presentation by Vlad Finkel
HE-2001 Packet by Jennifer Scott
HE-2002 Packet by Jeff Doty
HE-2003 Articles by Mark Mathes
HE-2004 PowerPoint presentation by Erika Elsberdt
HE-2005 Packet by Erika Elsberdt
HE-2006 Notes by Cassy Rider
HE-2007 Packet by Jessica Ost
HE-2008 Packet by Joseph Whipple

There being no further comments or testimony, Hearing Examiner, Joan Woodard, closed the public hearing for CUP22-0008 at 11:20 pm.

Prepared By,

Jennifer Conner, Recording Secretary