

**MINUTES
KOOTENAI COUNTY HEARING EXAMINER
ROOM 1 and VIRTUAL PUBLIC HEARING**

**APRIL 21, 2022
KOOTENAI COUNTY ADMINISTRATION BLDG.
ROOM 1B**

**HEARING EXAMINER
JOAN WOODARD**

**STAFF PRESENT
VLAD FINKEL
BEN TARBUTTON
BETSY ANDERSON
JENNIFER CONNER
DAVID CALLAHAN**



**MINUTES
PREPARED BY:**

**JENNIFER CONNER
Recording Secretary**



**MINUTES
REVIEWED BY:**

**VLAD FINKEL
Planner III**

A handwritten signature in blue ink, appearing to read "Joan C. Woodard".

**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 6:00 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 a written recommendation to the Board of County Commissioners, who will make the final decision.

The hearing was adjourned at 7:15 p.m.

CASE NO. MSP21-0004, Ranch 54

Ranch 54, a request by Magnuson Properties Corporation, for preliminary approval of a Major Subdivision consisting of 27 residential lots on thirteen (13) parcels totaling 142.5 acres in the Rural zone. Each proposed lot will be a minimum of 5.000 acres gross (4.500 net) in size meeting the lot size requirement in the Rural zone. Domestic water supply to each lot will be provided via individual wells. Effluent discharge on each lot will be treated by individual septic and drainfield systems. Access to Blocks 2 and 3 of the subdivision will be via two new private roads extending east from Howard Road, a public road maintained by Lakes Highway District. Access to Block 1, comprised of the remaining three (3) lots, will be via a new common driveway approach extending west from Howard Road. None of the proposed lots will gain access directly from State Highway 54. The new internal roads will be constructed to the Associated Highway Districts Standards and dedicated to a Homeowners Association for maintenance purposes. The subject property is located within the City of Athol Area of City Impact. The subject property is also bisected by an abandoned 200 foot railroad right-of-way, currently under the ownership of Kootenai County. A similar subdivision request received preliminary approval in Case No. S-838P-06 in September of 2006. However, the preliminary approval expired in October of 2013 after numerous extensions. The subject parcels numbers are: 0-0218-001-002-0, 0-0218-001-003-0, 0-0218-002-001-0, 0-0218-002-003-0, 0-0218-001-005-0, 0-0218-002-005-0, 0-0218-002-006-0, 0-0218-001-001-0, 0-0218-001-004-0, 0-0218-001-006-0, 0-0218-002-002-0, 0-0218-002-004-0 and 53N03W-10-8000. The subject property is described as: Athol Ranch, Lots 1-6, Block 1 and Lots 1-6, Block 2 in Section 10, Township 53 North, Range 03 West, B. M., Kootenai County, ID and W2-SE NW OF RW in Section 10, Township 53 North, Range 03 West, B. M., Kootenai County, ID. The subject property is located east of City of Athol and northeast of the intersection of State Highway 54 and Howard Road. A small portion of the property is located west of Howard Road.

Staff Presentation: Vlad Finkel, Planner III, introduced the case with a PowerPoint presentation. It is being requested that the 142 acres with 13 existing parcels be subdivided into 27 lots. This area is in the rural zone with commercial businesses to the west, and Hackney Airfield to the Northeast. The Comp Plan is designated transitional and is within the City of Athol ACI. Agency comments were standard replies, however a few had concerns. Lakes Highway District wanted the applicant to enter into a Road Development Agreement, and Idaho Transportation Department wanted a realignment of Howard Road to connect at Highway 54 at a right angle, and a Traffic Impact Statement for analysis. Idaho Transportation Department Aeronautics and Hackney HOA submitted late letters requesting a Runway Protection Zone (RPZ). Mr. Finkel describes the RPZ as being trapezoidal in shape and is 200 ft wide at one end, 300 ft wide at the other end and 1000 ft long. Furthermore, ITD made reference to an Inner Critical Area Zone of 1,000 feet wide by 5,000 feet long. Development permits within this boundary should be reviewed by ITD. Mr. Finkel believes that requiring state regulations of no structures, driveways, vehicles, etc. in the RPZ is necessary. Also requesting the applicant to place No Parking signs on the roads within the RPZ. This project was originally approved in 2006 and the applicant has met most the requirements, but the project has expired following several extensions. Mr. Finkel demonstrated the applicant is willing to comply with the proposed conditions. The applicant has also granted a runway easement for Hackney for the portion of the airstrip that is on applicant property.

Applicant Presentation: Scott McArthur representing Magnuson Properties Corporation, explained the access will be off Howard Road on two private roads, which will be built to highway district standards. Mr. McArthur entered three exhibits showing the original license agreement for the portion of the airstrip on the applicant property, as well as two maps showing the RPZ zoning with the proposed designs. They have completed the traffic impact statement and there was no objection to conditions. The Applicant has also been able to accommodate the Idaho Transportation Departments future plans for the potential realignment of Howard Road at Highway 54.

John Magnuson, part owner with his brother Jim, stated that their father bought this property over 54 years ago. They had knowingly permitted the airstrip to encroach on their property for years and by entering a revocable license agreement this has now been documented. and feel this is the best option to keep a harmonious balance, and is a reasonable proposition.

Exhibit: HE-1000 – PowerPoint Presentation by Vlad Finkel
HE-1001 – Letter of Recommendations ITD by Vlad Finkel
HE-1002 – HOA Support Statement by Vlad Finkel

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HE-1003 – ITD Agreement by Vlad Finkel

HE-1004 – Original License Agreement 2012 by Scott McArthur

HE-1005 – Exhibit A with RPZ by Scott McArthur

HE-1006 – Exhibit B with RPZ by Scott McArthur

Public Testimony: Comment Sheets submitted: 10, 1 via zoom. Applicant – 3; In Favor – 6, Neutral – 0, Opposed – 2. The names and address of the individuals speaking or submitting comments are part of the record.

Concerns included:

- Setbacks, perimeter fencing, CC&Rs, selling to individuals or building developers, can they build just a shop, and not a home,
- Who will drill for the wells? Will the power lines be buried? Concerns about impact on wildlife, slash piles, aquifer

Applicant Rebuttal: Scott McArthur appreciated all the comments. The setbacks will be in conformance with the rural zoning regulations, and the applicant is hesitant to encumber the lots with additional limitations. McArthur stated the lots are for single family homes, and sold to home builders, who are responsible for all the drilling, electrical, and building. CC&Rs will govern Wildlife. This is a single-phase project, and the applicant will request approval of a site disturbance permit for the infrastructure.

Vlad Finkel added: If this project is approved the applicant will have up to two years to file for final approval.

There being no further comments from the public, testimony was closed on this item at 7:00 pm.

CASE NO. VAR21-0012

James and Susan Howell, a request for a 20 ft. variance to the 25 ft. front yard setback on a 0.52 acre parcel of land in the Restricted Residential zone. The general slope of the site ranges from 25-50%, averaging 42% (*23 degrees*). Due to the steepness of the site and in order to create a gradual access driveway to the structure, the Applicant wishes to locate the new residence, including an attached garage 5 ft. away from the front property line. The Applicant submitted a comprehensive Geotechnical Report addressing site suitability analysis. Access to the subject parcel is from Upper Hayden Lake Road. The parcel number is 03520000131A and described as: H L Honeysuckle Hills Building Sites, Lots 131, 132 & TAX #4434 [In Government Lot 5] EX TAX # 16675 in Block 1 in Section 19, Township 51 North, Range 03 West, B.M., Kootenai County, Idaho. The subject parcel is located ¼ of mile east of the intersection of E. Hayden Lake Road and E. Upper Hayden Lake Road.

Staff Presentation: Vlad Finkel, Planner III, introduced the case with a PowerPoint presentation. He stated this is one of the most challenging sites due to the steepness between Upper and Lower Hayden Lake Roads. There is acknowledgement of undue hardship. Properties in this area are prone to slides, and the geotechnical requirements are very strict and the applicant must strictly adhere to them. There were 4 public comments; 2 in support, 1 neutral, and 1 opposed.

Applicant Presentation: Dennis Ployhar with Mountain Haven Custom Homes represented the applicants Sue and Jim Howell. Mr. Ployhar met with a Soil Engineer who conducted studies as to how the land would react if placing the house in different areas on the lot. The options for the house with a 0 foot setback or a 5 foot setback would be able to comply with the engineering constraints posed by the geotechnical concerns. Based on input from the Highway District regarding snow removal and other concerns on encroachment, the Applicant proceeded with the 5 foot setback, thereby requesting the 20ft variance to the 25ft setback requirement. The applicant intends to build a home where they can age in place, and this plan provides a flat surface to access from Upper Hayden Lake Road onto their driveway area and straight into a garage, making it easy to move trash receptacles to the street and to walk on the driveway in the winter. Under questioning from the Hearing Examiner, Mr. Ployhar stated it would be more difficult to build coming up from Lower Hayden Lake Road because, in his opinion, it is significantly steeper.

Sue Howell via Zoom: They are trying to build a retirement home. She has looked at variances around the neighborhood, and specifically next door, they tried coming up from Lower Hayden and it was impossible.

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Jim Howell via Zoom: Due to the steepness we need the variance. We will comply with the conditions.

Exhibit: HE-1000 – Presentation by Vlad Finkel

Public Testimony: None

Applicant Rebuttal: None

There being no further comments from the public, testimony was closed on this item at 7:15 pm. 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,

Jennifer Conner, Recording Secretary