

# City of McCall

## Planning and Zoning Commission

Meeting Minutes  
April 19, 2005

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### Call to Order

Chairman Bailey called the McCall Planning and Zoning Commission Meeting to order at 6:10 p.m. Commissioner Don Bailey, Commissioner Bob Youde, and Commissioner Jeff Schoedler were present. Commissioner Phil Feinberg arrived at 6:40 p.m. but recused himself from the discussions.

City staff members present were Roger Millar, Community Development Director; and Dan Irwin, City Clerk.

### Review and Approval of Minutes

Chairman Bailey requested that the motion on page 10 of the April 5, 2005 minutes be amended to include the condition that a fire hydrant be placed on the south end of the property along the street. He requested that the tape be reviewed from the April 5, 2005 meeting to see if the motion on page 15 was to continue the preliminary plat application for SUB-04-10 to May 3, 2005.

With no further corrections, Chairman Bailey declared the minutes approved as amended.

Mr. Millar stated that he had received an application for a record of survey. He requested that the item be added to the agenda before the discussions pertaining to River Ranch applications.

The Commission agreed to amend the agenda and here the record of survey as the first item for discussion.

### Old Business

#### **ROS 05-8** *Jacobsen*

Mr. Millar stated that the applicant is requesting to combine two lots (400 South Third and 402 South Third) into a single lot. He explained that a scenic route application for the project was approved by the Commission in 2001. He said that it is the staff's recommendation that the application be approved.

Chairman Bailey stated that the Jacobsen's project was approved by the Planning and Zoning Commission in 2001. He described the project to the new members of the Commission. Chairman Bailey stated that he believes the project was approved under the condition that the applicant submits a landscaping plan. He stated that he doesn't believe the plan has ever been submitted.

Mr. Millar stated that the landscaping plan will be submitted before a building permit is issued.

Kenneth Jacobsen provided a plat map for the Commission to review. Chairman Bailey asked if the four corners sidewalk would be extended along the property.

Mr. Millar explained that the four corners project will stop at the corner of the airport and will not be extended along the Jacobsen's property.

Mr. Jacobsen described the landscaping plans to the Commission.

**Commissioner Schoedler moved to approve ROS 05-8. Commissioner Youde seconded the motion. All members voted aye. The motion carried.**

***PUD-05-3***

*Merganser Lake Planned Unit Development*

***SUB-05-8***

*Merganser Lake Planned Unit Development*

Mr. Millar stated that the applicant has submitted three applications that work together that the Commission heard at their last meeting. He stated that the Commission requested a legal opinion if the three nonconforming lots would require a variance. He stated that it is the City Attorney's opinion that the original subdivision was approved in 2001 under the condition that all lots conform to the legal requirements of the Code. Mr. Millar stated that condition remained in effect when the Commission approved the preliminary plat for the development in 2004. He stated that the City Attorney has indicated that a variance would need to be requested for nonconforming lots. Mr. Millar stated that the project is interesting since the Commission is looking at a final plat for Phase 1A of the River Ranch project and the preliminary plat was subdivision without a PUD. He explained that the applicant has now proposed a PUD on one lot in Phase 1A which uses the density of the entire project in order to allow the construction of the guest cabins on the lot. He said that he discussed the possibility of curing the problem with the lots that are out of conformance through the PUD process by adding the lots to the PUD application. Mr. Millar stated that Holladay Engineering is still reviewing the engineering plans. He stated that he recommends the Commission approve the general plan and preliminary plat for SUB-05-8 if the nonconforming lots could be worked out through the PUD process.

Brian O'Morrow, 1195 S. Samson Trail, said that the idea to add the nonconforming lots to the PUD application will allow 600' of open space on both sides of the road. He stated that subdivision requirements would require the building envelopes of the lots to be placed next to the road. Mr. O'Morrow stated that he would be willing to add lots 2-5 to the general and final plan of the PUD application.

Chairman Bailey asked what section of the Code presents the conflict to the configuration of the lots.

Mr. Millar stated that Code section 3.22.100.C presents the conflict due to the fact that the lots are three times greater in length than width. He stated that the PUD process would allow the lots to remain in the current arrangement.

Chairman Bailey asked if there was any way to reconfigure the lots in the preliminary plat of the subdivision application.

Mr. Millar stated that if the lots were reconfigured the building pads would be placed in an undesirable location.

Chairman Bailey asked if the proposed alternative is to add lots 2-6 to the general PUD plan.

Mr. O'Morrow stated that the proposal is to add lots 2-5 to the PUD plan. He stated that lot 6 conforms to the subdivision code since it is a flag lot.

Chairman Bailey stated that he believes the addition of the lots to the PUD plan is an appropriate condition of approval since the land is contiguous to the PUD area. He asked if both PUD-05-3 and SUB-05-8 could be discussed concurrently.

Mr. Millar stated that the applications can be discussed concurrently but will need two separate actions taken by the Commission. He stated that SUB-05-8 will plat the lots that make up PUD-05-3.

Chairman Bailey asked if any modifications to the subdivision plat would need to be made.

Mr. O'Morrow stated that the only modification would be to remove lots 2-5.

Chairman Bailey opened the public hearing to public testimony at 6:36 p.m. As there was no person wishing to testify, the Chairman subsequently closed the public hearing.

Chairman Bailey stated that he prepared conditions of approval to be added for the approval of the general and final PUD plan and Subdivision application. Under the conditions, Chairman Bailey stated that the approval of the final plat for Phase 1A doesn't infer approval of the remainder of the SUB-04-10 preliminary plat. He stated

that the development agreement needs to be revised in paragraph 3.1.8 to remove the reference to gates.

Mr. O'Morrow stated that they aren't willing to accept the removal of the gates in the development agreement. He stated that the development agreement was negotiated as part of the annexation process and took several months to complete. He said that the developer agreed to provide an avigation easement to the City, provide water hookups and a septic system which helps the City water system and doesn't place a burden on the sewer system, and fixing the dip on Mission Street. Mr. O'Morrow stated that the developer was willing to concede those items in order to be allowed to develop lakes within the development and provide for a gated entrance. He stated that since the gates were previously approved in the development agreement, they would like the paragraph to remain unchanged.

Chairman Bailey stated that it is his opinion that gates aren't permitted by the City Code. He stated that Code specifies that private roads must be dedicated to public use. Chairman Bailey stated that the placement of a gate across a private road wouldn't allow for public use.

Mr. O'Morrow stated that the developer's interpretation of the Code is the roads are dedicated to public use but not open to public access at all times. He stated that the development agreement has already been approved by the City Council and signed by representatives of the City.

Chairman Bailey stated that the development agreement needs to be revised based upon the new plan. He would like to see the gates removed from the agreement.

Mr. O'Morrow stated that they sought private roads in the project in order to establish 20' wide streets. He stated that it was the developer's intention to establish the smaller streets to conform to the character of the project. He said that public streets would be required to be 24' wide and wouldn't fit into the design of the project. Mr. O'Morrow explained that the placements of the gates will allow the developer's to restrict traffic on the road that is below standard and control possible liability. He stated that the entry to the project has already been constructed to allow the placement of gates in the future. Mr. O'Morrow stated that there are no plans to install gates at the entry at this time but wants to reserve the possibility for their installation if the homeowners vote to do so. He stated that the homeowners should be allowed the opportunity to decide if the gates are needed in order to reduce the liability on the narrow roadway and to protect the amenities of the lakes and conservation area. He stated that the developer has based their pre-sales and reservations for the lots under the contention that gates would be allowed under the terms of the development agreement with the City. Mr. O'Morrow stated that the developer isn't marketing the project as a gated community but would like to reserve the ability for the homeowners to decide if the gates are needed. He stated that the developer is promoting McCall as a friendly community to be a part of and doesn't expect that the homeowners would vote to approve the gates.

Chairman Bailey stated that he thinks signs would be sufficient to deter traffic along the narrow road.

Commissioner Youde asked if the Planning and Zoning Commission had previously approved the development agreement.

Chairman Bailey stated that the development agreement was negotiated by the City Council and not discussed by the Commission. He stated that the Planning and Zoning Commission were responsible for approving the private streets.

Chairman Bailey stated that other conditions of approval include additional revisions to the development agreement. He stated that he would like paragraph 3.1.11 revised to state that the City will complete the improvement to the Mission Street Dip by the end of September 2005. Chairman Bailey stated that the development agreement also needs to be revised to show the bounds of the preliminary plat for SUB-04-10 including annexation of the Hurst property. He stated that he would also like the developer to agree to complete the design plans and engineering work for the bike path.

Mr. O'Morrow stated that the plans are almost complete. He stated that he walked the property with Shannon Munson and a plan has been developed.

Chairman Bailey stated that as a condition of approval, he would like the Commission to review and approve the designs of all buildings to be constructed in the PUD. He asked if the design plans had been prepared yet.

Mr. O'Morrow stated that preliminary work had begun on the design. He stated that he would hope that the final plans would be completed before the end of summer.

Chairman Bailey stated that the next condition of approval is for the final plat to show the emergency route for the property.

Mr. O'Morrow stated that the developer has decided to provide the emergency access from Rawhide Loop and Cattle Drive to Moon Ridge.

Chairman Bailey stated that another condition of approval is for the developer to establish a screening easement along the bike path.

Mr. O'Morrow stated that he is concerned that a screening easement would present a problem along Mission Street because of the access requirements under the City Code.

Chairman Bailey stated that the request can be changed to require a landscape screening along the bike path instead of a screening easement. He stated that the next condition would be to include the avigation easement as part of the development agreement.

Mr. O'Morrow stated that he would be willing to include the easement as part of the agreement.

Chairman Bailey stated that as a condition of approval the intersection of River Ranch Road and Mission Street needs to be approved by Valley County.

Mr. O'Morrow stated that his engineer has been attempting to contact the County for approval.

Chairman Bailey stated that other conditions of approval are to revise the draft CCR's to mirror the McCall City Code's definition of private streets and to comply with the proposed city code amendment for the establishment of fences.

Mr. O'Morrow presented drawings of the proposed fences in the project. He stated that homeowners will be required to conform to the 3 rail split fence that will be placed in the development. Mr. O'Morrow stated that it isn't their intentions to place perimeter fencing around the entire development and it would only be confined to specific areas in the project.

Chairman Bailey stated that the remaining conditions of approval are to make revisions to the developer's proposed design guidelines. He stated that the draft design guidelines is an excellent document but would like the document be amended to allow additional species of plants in paragraph 3.7, add that outdoor lighting must conform to the requirements of the City's draft outdoor lightning ordinance in paragraph 4.9, specify that building can't begin until a building permit is obtained in paragraph 6.8, clarify that variances would granted by the homeowners association in paragraph 8.1, delete Rabbit Brush and include Hackberry Reticulata and Crataegus Douglasii as species listed in Appendix No. 2, and include Buffalo Berry Farm as a local source for seeds and plants in Appendix No. 3.

Chairman Bailey stated that he recommends the Commission approves the conditions of approvals as amended and allow the developer to negotiate the terms of the development agreement with the City Council.

Judd Deboer, 115 W. Lake Street, stated that it was interesting to hear the comments made in regards to the Whitetail development at the City Council meetings. He stated that one of the comments made by Council Member Bertram was that expensive amenities should be allowed to be protected. Mr. Deboer said that the statement was made in reference to the Whitetail Golf Course and was the Council's reasoning in approving the gates. He stated that they have expended millions of dollars in the development of the lakes and property and should be given the same opportunity for protection. Mr. Deboer added that they have taken reservations and sold lots based upon the terms of the development that has been executed with the City. He stated the development is being promoted as part of the community and gates may not ever be installed. Mr. Deboer said that the development has already been approved with private roads and the potential for gates.

Mr. Millar clarified that the Commission would be approving the general plan for the PUD as amended to include lots 2-5 and approving the preliminary plat for the Merganser Lake Subdivision including lots 2-5. He stated that the final plat isn't a public hearing and could be scheduled for the May 3<sup>rd</sup> or May 17<sup>th</sup> meeting.

Commissioner Schoedler stated that he isn't comfortable imposing the condition of approval that doesn't allow the establishment of gates based upon the existing development agreement. He stated that he disagrees with Chairman Bailey's interpretation of the code and believes that public dedication is to provide for emergency access and to avoid the possibility of being arrested for trespassing. He stated that he opposes the establishment of gates but is unsure about the ability to impose the condition of approval. He stated that he would like the condition of approval be amended to ban the establishment of the gates if the proposed zoning code amendments are adopted by the City Council.

Mr. Millar stated that the application would predate the zoning code amendments. He stated that the Applicant will have the opportunity to discuss the proposed condition of approvals with the City Council.

Commissioner Youde stated that he is supportive of the conditions of approval drafted by the Chairman due to the fact that the City Council will have the final approval for the establishment of the gates.

Chairman Bailey stated that he prepared a memo to City Staff in 2001 suggesting that the code be amended to not allow gates on private roads. He stated that he believes a big mistake was made in not pursuing the code amendment at that time.

Dennis Hart stated that they hired persons at the University of San Diego to conduct a study about gated communities. He stated that the study concluded that gated communities are more desirable by purchasers because of the sense of security and the price of lots increase as a result. He said that the advantages to the City are immense because gated communities result in less demands on City services and increase property tax immensely. Mr. Hart stated that a development agreement was negotiated with the City in 2001 and they agreed to give the City four miles of bike path in addition to other amenities. He stated that the property was old ranch ground and has been fenced and gated for fifty years. Mr. Hart stated that they aren't planning on installing the gates but the homeowners should be allowed to make that decision under the terms of the signed development agreement. He stated that the development agreement shouldn't be negated four years after it was negotiated and millions of dollars have been spent by the developers. Mr. Hart requested that the condition of approval in reference to gates be deleted because of the 2001 development agreement.

Chairman Bailey stated that he isn't prepared to change his opinion on the gates at this time. He stated that he has made this decision and others based upon the statutory language of the city code. He stated that it will be up to the City Council to consider the issue and make a decision.

Chairman Bailey moved to approve the general plan for PUD-05-3 subject to the addition of lots 2-5 and under the conditions of approval that were discussed and modified by the Commission. Commissioner Youde seconded the motion. All members voted aye. The motion carried.

Chairman Bailey moved to approve the preliminary plat for SUB-05-8 subject to the addition of lots 2-5 and under the conditions of approval that were discussed and modified by the Commission. Commissioner Youde seconded the motion. All members voted aye. The motion carried.

***SUB-04-10***

*River Ranch Subdivision Phase 1A*

Chairman Bailey stated that the application for SUB-04-10 needs to be continued to a future meeting. He suggested that the application to be continued to the May 17<sup>th</sup> meeting.

Mr. explained stated that the engineers need to address issues in regards to the application. He stated that the Commission may be able to discuss the application on May 3<sup>rd</sup> if the issues are resolved.

**Adjournment**

As there was no further discussion, Chairman Bailey adjourned the meeting at 7:43 p.m.

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Don Bailey  
Planning and Zoning Commission Chairman

**ATTEST:**

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Dan Irwin  
City Clerk