

**MCCALL AREA  
PLANNING AND ZONING COMMISSION**

Minutes

February 8, 2011 – 6:00 p.m.

McCall City Hall – Lower Level

216 East Park Street, McCall, ID 83638

**COMMISSION MEETING – Begins at 6:00 p.m.**

**1. CALL TO ORDER AND ROLL CALL**

Commissioners Corder, Russell, Apperson, Jessup, Drabinski, Betts and Chairman Feinberg were present.

**2. REVIEW & APPROVAL OF MINUTES**

Commissioner Apperson moved to approve the December 1, 2010 Special Meeting and January 4, 2010 minutes. Commissioner Jessup seconded the motion. The motion carried with Commissioner Russell abstaining.

**3. PRELIMINARY DEVELOPMENT PLAN REVIEW MEETINGS**

None

**4. CONSENT AGENDA**

None

**5. OLD BUSINESS**

**SUB-08-04**

147 E. Lake Street  
Grand Payette Hotel

Steve Millemann of Millemann, Pittenger, McMahan and Pemberton LLP representing Robert Hunt: An extension request for the length preliminary plat approval.

**CUP-10-07, DR-10-43, SR-10-17**

607 & 609 Owen Dr  
Shore Lodge Beach Club

Dan Scott representing Sabala Whitetail LLC: Conditional Use Permit, Design Review, and Scenic Route applications to convert an existing residence into a private club for Whitetail members. The property is zoned R4, located in the Shoreline and Scenic Route Zones.

Jim Betts recused himself from the Commission for being a non-property-owning member of the Whitetail Club.

Dan Scott of 501 W. Lake Street, the General Manager of Whitetail, introduced himself and noted that Whitetail had held another publicly noticed neighborhood meeting at the end of January, at

which he presented draft of revised application and supplemental application material to the attendees. He noted that the additional application materials were based upon the discussion at the additional neighborhood meeting. He indicated that the key components and/or concessions stemming from that meeting were: 1. A limitation on the total number of people that would have access to the beach club to the first 375 memberships; 2. A limitation on the number of boats on the dock to five; 3. A limitation on the number of extended family and guest accompanying a member to four; 4. A limitation on the number of people inside the building during non-event times to twenty-five; and 5. A stipulation that the City could conduct a review of the CUP upon transfer of the property or CUP to another owner. Mr. Scott also indicated that various other plans had been submitted including an amended erosion plan to show High Water Mark, a wetland letter, and plans showing exterior lighting had also be submitted with the supplemental materials.

Commissioner Apperson asked how an event would be arranged. Mr. Scott responded that an event would be like any private event at a restaurant or hotel where the facility was exclusively for the event goers. He indicated that the size of events could be variable, up to 150 people.

Chairman Feinberg inquired about the maximum number of events. Mr. Scott indicated that two events could be held per month across all of the Whitetail amenities (currently three amenities, the proposed club would make four.)

Commissioner Corder asked if the four guest limit was in addition to the member and immediate family. Mr. Scott clarified that the guest limit was in addition to immediate family members.

Commission Drabinski remarked that controlling the number of people inside versus outside sounds like an enforcement challenge. Mr. Scott indicated that many elements of resort management were a challenge, including tee times, restaurant reservations, etc. Commissioner Drabinski noted that those examples were both similar and completely different. Mr. Scott indicated that Whitetail staff would be used to manage the number of people on the beach.

Chairman Feinberg opened the public hearing.

No one spoke in support of the project. The following people spoke against the project.

Kelsie Medel, 13965 Country Way, introduced herself noting that she was representing Manchester/O'Shaughnessy and Darling properties. She presented a visual diagram of the area and her background of previously working for Whitetail. Noting the likely path of boat traffic from the Shore Lodge to the beach club, Ms. Medel indicated that navigational safety would be a concern. She also indicated a concern with the proximity of the secondary house on the represented property to the proposed parking lot and pathway to the lake in regards to noise and glare. Ms. Medel also noted that the dog run would be in close proximity to this secondary house and that it would not be shielded from view or for noise. She further noted that the golf cart access noted by the applicant would require golf carts on Warren Wagon Rd and that many golf carts were not street legal. She also disagreed with the assertions of access to the beach club via bike and foot based on her experience at other Whitetail amenities closer to Whitetail residences. Ms. Medel also noted that there was a lack of clear terminology in the Whitetail management documents and that there were many variations of the term "member". She suggested that any conditions be placed in the CUP itself, not left in Whitetail documents. Lastly, she reminded the Commission that CUPs were granted

in perpetuity and that long-term considerations needed to be incorporated into any CUP for the beach club, not left for future consideration.

Dennis McDowell, 1178 E. Bright Water Ln., Boise, introduced himself noting that he owned property adjacent to the proposed club. Mr. McDowell referenced two appraisals indicating that the proposed project would have a significant negative impact on his property value. He indicated that he was also speaking on behalf of the Bryants, and noted that every car entering the beach club would come within feet of the Bryant's front door and that potentially the Bryant's access could be interfered with if cars were parked along the entry drive for holidays and events. Mr. McDowell also noted that the beach club would make the O'Shaughnessy property an island between two commercial uses and would likely experience similar property devaluation. He also indicated that the entire CUP property was approximately two acres, but that all of the activity would be focused on the building and waterfront, a small fraction of that area. He also noted that traffic studies had not been performed for the road and the water and that there could potentially be hundreds of boat trips per day.

Melanie Davidson-Hickey, 30 McGinnis Dr., Wiser, introduced herself noting her history in McCall and with the McDowell family, and her enjoyment of McDowell property. She indicated that the propose beach club would take away the residential feel of the neighborhood. She indicated that beach club users would not have the same respect for the land as homeowners and that members' actions would not be sufficiently monitored. Lastly, she indicated that rejection of proposed club would not have a negative impact on the community as beach club members are already property owners in McCall and already participate in the local economy.

Jodee McDowell, 1178 E. Bright Water Ln., Boise, introduced herself as another owner immediately adjacent to the proposed beach club. She noted that the development would be out of character with the neighborhood and that the usage would be far above that of a residential area. She noted that there were not regular "events" in the neighborhood and that boat usage would be above current residential volume. She noted that the amenity was not in harmony with the existing neighborhood and that it was only amenity for Whitetail members, not for anyone else.

JoAnn Butler, 251 E. Front St., Boise, introduced herself and noted that the CUP was asking for public approval and ultimately public enforcement of requirements, not private enforcement of regulations and limiting criteria. She indicated that conditions would need to be developed to mitigate the potential impacts of the development. She also noted that the proposed beach club was a part of Whitetail, but that the Whitetail development agreement and other approvals were not being amended to incorporate this development into the overall subdivision. She noted that the existing development agreement would need to be modified and that this was being skirted with the current CUP application.

Seth McDowell, 1619 E. Roanoke Dr., Boise, introduced himself noting that his grandmother owned land adjacent to the proposed club. He described the current usage of the adjacent property and noted that the project was looking at the long-term impact for Whitetail, not for McCall.

Allen O'Conner, 4131 E. Trekker Rim Dr., Boise, introduced himself and voiced his opposition to the project noting that it was not a residential cabin that was being proposed.

Tim Armstrong, 8891 W. Duck Lake Dr., Boise, introduced himself as the owner of property in the neighborhood noting that it would be an injustice to allow the proposed club next to the existing neighborhood and that it would be like having a 4<sup>th</sup> of July holiday every other weekend in the summer. He questioned why Whitetail needed to hold event at the proposed location and that the number of people allowed in the house and deck would be far too many. He also indicated that he was a banker and could agree with previous statements of a reduction in property value.

Hethe Clark, 251 E. Front St., Boise, introduced himself and presented a picture of the property from the water, showing the small beachfront. He indicated that the collective group of Whipkey owners are most affected by this application and that some overlooked zoning issues apply to this application. He indicated that the proposed club would require 52 parking spaces when only 19 were being proposed and that if the full 52 were developed it would fundamentally alter the site. He also noted that while four parcels were being included in the CUP application only two were effectively being used and that the additional two being being used to inface the perceived size of the subject property. He noted various criteria of approval for CUPs including that development is harmonious with the neighborhood, that the health, safety, and general welfare of the neighborhood was not impacted, and that there not be an unreasonable production of traffic and noise. He reiterated the negative economic impact evidenced by the presented appraisals. He indicated that the hypothetical situation of eight residences on the property put forth by the application was far more desirable than the proposed beach club. Lastly, Mr. Clark noted that the application would forever change the neighbor, and he requested recommendation for denial.

Hearing no neutral, or other additional comments regarding the project, Chairman Feinberg closed the public hearing.

Mr. Scott introduced Stephanie Bonney, his attorney for rebuttal. She noted that she was a land use attorney and that she typically represents cities and counties. She indicated that is it a hard job for the Commission to regulate change, but that the neighborhood will change, either now or later. She noted that people have chosen to underutilize their property, referencing a three acre commercially zoned property being used for a single-family residence. She noted that the proposed beach club would represent transitional zoning, which was a standard planning principle. She noted that part of the subject property was zoned and could have bars and restaurant as a right, and that neighbors would have no say and that it would be unregulated use. She said that if used residentially the subject property would have no regulation on use, besides the basic noise ordinance and that the proposed use would be much more regulated use, and much more highly than the general public. She stated that for violation of beach club policy membership could be rescinded, and that if the club violated its regulations and limitations that the CUP could be revoked. Ms. Bonney reiterated and agreed with the sentiments that any conditions of approval should be included in the CUP, not in the Whitetail documents. She also questioned the presented appraisals and how they were performed in regards to a potential project, not something actually constructed. She also noted that it was unrealistic for the Commission and neighbors to assume that the beach club would always be used at its maximum capacity and that it was more useful to consider its average usage. She noted that the City has the ability to review and change the conditions of approval once the project was operating. She disagreed with the assertion that the Whitetail development agreement had to be amended. She summarized by noting that neighbors would have a far more regulated use with the beach club than with an adjacent residence.

Commissioner Drabinski asked about the analysis used for determining parking spaces, wondering if the deck and beach usage were being included. He asked Ms. Bonney if she thought that the parking would be adequate. She indicated that she thought that it would and that people would travel to the beach club by means other than vehicles.

Commissioner Apperson inquired about boundary of the Community Commercial Zone. Staff clarified that the boundary included Parcel D of the subject property.

Commissioner Corder said that with three neighborhood meetings the revised materials and by working with the neighbors it appeared that the concerns with the project were not addressed.

Commissioner Russell noted that he was please with the way Whitetail had managed their existing facilities, but that the proposed club would certainly change the character of the neighborhood and not in a positive way.

Commissioner Apperson noted that the economic impact comment from neighbors was significant and that no additional money would be spent in the local economy as a result of the project.

Commissioner Jessup indicated that she could not see how the project could meet the criteria of approval for a CUP, mainly #3, but also #4, #6, #8,# 9, #10, and #12.

Commissioner Drabinski noted that he would reiterate Commissioner Jessup's comments. He emphasize the "grant only if" language in the code regarding the approval criteria . He also voice concern about the change to the character of the neighborhood, noting that the residents are the best judge of the neighborhood. He noted that the Commission needed to deny the application.

Chairman Feinberg discussed that the Commission regularly dealt with change and how change related to the proposed application. He noted that he placed more emphasis on approval criteria #3 given the project than on other criteria.

Commissioner Corder noted that the Commission should list all criteria that apply in a motion in case of appeal.

Commissioner Jessup moved to recommend CUP-10-07 for denial based primarily on a failure to meet criteria of approval #3, but also a failure to meet #4, #8, #9, #10, and #12. Commissioner Corder added criteria #5. Commissioner Russell seconded the motion. The motion carried.

## **6. NEW BUSINESS**

### **CUP-10-08, DR-10-48**

950 Wagon Wheel Road  
Viehweg ADU Expansion

Andy Laidlaw of McCall Design and Planning representing Jean and Tim Viehweg: A Conditional Use Permit application for a 1,600 sq. ft. expansion of an existing accessory dwelling-unit. The property is zoned R4.

Andy Laidlaw of McCall Design and Planning introduced the project, the required applications and the site layout. He also noted that the State was requesting that access to the property occur solely from Wagon Wheel Road and not from the existing location. He said that he had submitted a revised site plan which accommodated that requirement. He added that he would like to change the language in the Findings and Conclusions requiring this access change immediately, rather deferring such change until the State made it a requirement.

Commissioner Russell indicated that he had no problem with the proposed modification.

Chairman Feinberg opened the public hearing.

Sheldon Keefer of the Idaho Department of Lands introduced himself and noted that he would amenable to Mr. Laidlaw's proposal that would not preclude future access occurring solely from Wagon Wheel Rd.

Hearing no further comment, Chairman Feinberg closed the public hearing.

Staff made two points of clarification; first, that the application needed final engineering approval for the revised site plan with the altered access; and second, that any action regarding the CUP was a recommendation to Council.

Chairman Feinberg moved to recommend CUP-10-08 for approval by the City Council. Commissioner Apperson seconded the motion. The motion carried.

Chairman Feinberg move to approve DR-10-48. Commissioner Corder seconded the motion. The motion carried.

**DR-10-47, SR-10-18**

336 Deinhard Lane

City of McCall Airport Equipment Building

John Anderson, Airport Manager: Design Review and Scenic Route applications for the construction of a new 80' x 50' metal building. The property is zoned AP and located in the Scenic Route Zone.

John Anderson introduced the project noting that it would likely be funded through an FAA grant with matching funds from the State. He oriented the Commission to the propose building location with a visual of the entire airport. He noted that both the FAA and City had approved the location of the proposed building. He also discussed the landscaping, lighting, and visual elements of the building. Mr. Anderson indicated that construction would likely occurring in late May or early June depending on funding and the bidding process.

Chairman Feinberg opened the public hearing.

Sheldon Keefer of the Idaho Department of Lands reiterated his comment letter indicating that the State retained mineral rights on the airport.

Hearing no additional comments, Chairman Feinberg closed the public hearing.

Feinberg moved to approve DR-10-47 and SR-10-18. Commissioners Betts and Corder seconded the motion. The motion carried.

**VAR-10-02**

2640 Warren Wagon Rd.  
Simplot Setback Variance

JoAnn Butler of Spink Bulter, LLC. representing Gay Simplot: A Variance application seeking relief from the 50 ft. setback of the Shoreline Zone. The property is zoned R4, located in the Shoreline and Scenic Route Zones.

JoAnn Butler introduced herself and the rest of the application team, including Alan Giltzow, Jim MCLAughlin, and Greg Tankersley. Ms. Butler walked through the variance criteria and how she thought that the application met each one. She noted that stormwater would be dealt with at the Design Review stage.

Chairman Feinberg noted that he wanted to make sure that the site plan, square footage, and similar characteristics were appropriate.

Commissioner Betts noted that the subject property was not like every other property because the applicant was asking for variance.

Ms. Butler asked the Commission to articulate their problems with the application so that she could address them.

Chairman Feinberg noted that the issue with the potential structure was not the design, but rather size and scale. He noted that the Commission does not have leverage in the Design Review process to constrain houses below maximum lot coverage and height.

Mr. McLaughlin noted that he had been the Planning and Zoning Chairman in Sun Valley for twenty years and so he could relate to the situation. He said that the situation could be a win-win, but that the designers needed a footprint to design within.

Chairman Feinberg asked if the applicant had an idea of what the square footage of the new structure would be. Mr. McLaughlin replied that it would be around 4,500 sq. ft.

Staff noted why the variance was being pursued presently and the design of the structure second, so as to avoid comingling of the separate decision making processes.

Mr. Giltzow indicated that the subject property had 300 ft of frontage along Warren Wagon Rd.

Chairman Feinberg opened the public hearing.

Sheldon Keefer of the Idaho Department of Land introduced himself and noted the history of the parcel as originally being owned by the State. He indicated that he had no comment about the

setbacks on the property but that the applicant would need to indicate the meander line so that the boundary of the property could be accurately determined.

The Commission, applicant, and Mr. Keefer discussed the meander line and high water mark.

Staff noted the differences between the survey that the applicant was presenting and a different version that the applicant had emailed prior to the meeting regarding the location of the setbacks relative to different boundary lines.

Commission Jessup commented that removal of the shoreline setback and using the underlying R4 zoning was not as compelling as her concerns related to the lake and aesthetics.

Commissioner Apperson indicated that she would need to see a building footprint, landscaping plan and reduction in lawn area.

Ms. Butler clarified that the R4 Zone was being mentioned because it underlies the Shoreline and Scenic Route Zones.

Staff reiterated the recommendation to articulate a building envelope for the applicant.

Commissioner Russell noted that the property boundary was not known. Ms. Butler clarified that case law says that the property boundary is the high water mark and that the applicant would resolve any issues relating to establishing the property boundary as such.

Commissioner Drabinski noted that the variance process may be iterative.

Commissioner Apperson voiced concern over scale, noting that a landscaping buffer should be used.

Ms. Butler noted that the previous design shown during the preliminary development review process were not good and should be ignored.

The Commission noted that the applicant should bring back potential designs and layouts based upon the feedback.

Feinberg moved to continue VAR-10-02 to the April 5, 2011 meeting. Commissioner Betts seconded the motion. The motion carried.

## 7. ADJOURNMENT

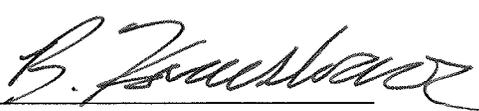
Chairman Feinberg adjourned the meeting at approximately 9:30 p.m.

Dated: February 8, 2011



Phil Feinberg

Chairman, P&Z Commission



Bradley Kraushaar

City Planner, City of McCall