

Valley County Planning and Zoning

PO Box 1350 • 219 North Main Street
Cascade, ID 83611-1350



Phone: 208-382-7115
Fax: 208-382-7119
Email: cherrick@co.valley.id.us

STAFF REPORT: Appeal of Administrative Decision that C.U.P. 21-45 RedRidge Preserve had expired

MEETING DATE: April 11, 2024

TO: Planning and Zoning Commission

STAFF: Cynda Herrick, AICP, CFM
Planning and Zoning Director

APPEALANT: The McCall Associates LLC, c/o Brian Dickens
PO Box 10117, Boise, ID 83707

LEGAL REPRESENTATION: Philip C. Maier, PERKINSOIE
1111 West Jefferson Street, Suite 500, Boise, ID 83702-5391

LOCATION: The site includes approximately 1,614 acres in Sections 2, 3, 10, and 11, T.17N, R.2E and Sections 26, 34, 35, and 36, T.18N, R.2E, Boise Meridian, Valley County, Idaho

REQUEST: Appeal of Administrative Decision that C.U.P. 21-45 RedRidge Preserve had expired.

On March 5, 2024, Director Herrick sent a letter to the applicant stating that C.U.P. 21-45 RedRidge Preserve has expired. There has been no activity towards completion of the phasing plan nor was an extension requested. See attached.

The Planning and Zoning Commission approved C.U.P. 21-45 RedRidge Preserve on February 10, 2022. The conditional use permit was recorded as #448349 on February 25, 2022. The conditional use permit was re-recorded as #449019 on March 29, 2022, to correct the permit number. The effective date of the permit is February 22, 2022.

Approval included a Phasing Plan.

- The application stated that one phase every two years is anticipated but the applicant wanted the ability to adjust this schedule per market conditions.
- However, the approved Condition of Approval No. 3 stated:
"The use must be established according to the phasing plan, or the conditional use permit will be null and void. All final plats shall be recorded by December 31, 2032."

As a courtesy, a reminder was sent to the applicant on December 29, 2023. There was additional email correspondence between the applicant and Director Herrick in December 2023 and January 2024 (attached). No extension request was received.

An appeal of the administrative decision was received from the applicant's legal representative on March 15, 2024. This letter requests that the C.U.P. be reinstated or for the Phasing Plan be

revised as attached in the letter.

The appeal letter states that The McCall Associates (TMA) has continued to work toward development of the project and the completion of the phasing plan within the 10-year timeframe required by the C.U.P. Although the phasing plan contained anticipated dates of completion for each phase, those dates provided only a rough guideline for the completion over the 10-year lifespan of the C.U.P.

Project efforts to date include:

- Water and Sewer Services Work
- Planning and Design Work

The appeal letter states that TMA has invested approximately \$135,000 towards the development since the C.U.P. was approved. If the expiration is upheld, TMA will incur additional damages of approximately \$75,000+ related to an application for a new C.U.P., plus lost opportunity costs and other future damages associated with restarting development of the project.

The letter further states that TMA remains on schedule to complete the project within the original 10-year timeframe.

9-5H-8: ISSUANCE OF CONDITIONAL USE PERMIT:

- A. Minutes Of Proceedings; The administrator or staff shall prepare minutes of the proceedings for each hearing, including the action taken by the commission, and forward copies to the members of the commission, the clerk of the board, and the applicant within ten (10) days after the meeting.
- B. Issuance Of Permit; Form: Upon recommendation of the commission, the administrator or staff shall issue a conditional use permit on forms prescribed by the commission.
 1. The approval shall be for a period of one year from the date of the hearing, after which time, the approval will expire and be null and void unless the applicant has substantially complied with the provisions thereof or has applied for an extension of time, or the commission has approved a phasing plan for a longer period. Longer approvals may be given for community service uses, so long as they phase improvements, such as landscaping. This will allow better long range planning for utility companies and adjacent property owners.
 2. The commission may approve extensions for increments of one year or specified time period with definite benchmarks upon proper application prior to the expiration of the previous approval. Expiration of the previous approval will be the date specified on the conditional use permit.
 3. Applications for extensions shall be reevaluated by the commission and the fee for a new application charged as set by the board of commissioners. The application shall summarize the original plan; describe the significant progress made in accordance with the approved application; explain what has yet to be completed; and specify an updated completion date. Financial guarantees will be reevaluated and extended to meet the updated completion date. The application shall contain an updated list of adjoining property owners and be noticed in the same manner as a new application. With the extension, impacts can be reevaluated and mitigated with the addition of new conditions of approval. A progress report schedule shall be set, with milestones identified. The commission may choose not to approve an extension based upon their reevaluation of the proposed use and lack of activity to complete the project. The extension request is a

public hearing. Extensions will not be approved unless all fees are paid and/or reimbursed to the county.

9-5H-12: APPEALS:

Any administrative level or commission level decision may be appealed in accordance with the procedures established herein. All such appeals must be written, accompanied by the fee as set by resolution of the board of commissioners and submitted to the administrator prior to the deadlines set forth herein. If the appeal deadline falls on a weekend or holiday, the appeal period is automatically extended to the next workday. Each appeal must clearly state the name, address and phone number of the person or organization appealing and the specific issues, items or conditions that are being appealed and state the nature of his or their interest and extent of damages.

A. Appeals Of Administrative Decisions: Any action of the administrator on a specific administrative level application or on the general interpretation of this title may be appealed as follows:

1. Interpretation Of Title: Decisions of the administrator or staff may be appealed to the planning and zoning commission within ten (10) days from the date of such decision by any person aggrieved by such decision. Upon receipt of the appeal, the administrator or staff shall schedule the appeal before the commission at the next public meeting following the appeal.

STAFF COMMENTS:

Staff did not believe they had the leeway to state all plats could wait to be recorded until December 31, 2032. The presumption was a final plat would be recorded every two years. The Commission can determine if all plats can wait to be recorded and if the two-year final plat recordation should be imposed.

ATTACHMENTS:

- Conditional Use Permit - #449019
- Vicinity Map
- Aerial Map
- Correspondence Between Staff and Mr. Dickens, December 2023, January 2024, and March 5, 2024
- Appeal Letter
- PZ Commission Meeting Minutes and Relevant Staff Reports for:
 - January 13, 2022
 - February 10, 2022

END OF STAFF REPORT

Valley County Planning and Zoning

PO Box 1350 • 219 North Main Street
Cascade, ID 83611-1350
Phone: 208-382-7115
Email: cherrick@co.valley.id.us



Instrument # 449019
VALLEY COUNTY, CASCADE, IDAHO
3-29-2022 11:20:19 AM No. 618 Pages: 3
Recorded for : P&Z
DOUGLAS A. MILLER Fee: 0.00
Ex-Officio Recorder Deputy
Index to: COUNTY MISC

Re-recorded to correct conditional use permit number

CONDITIONAL USE PERMIT NO. 21-45 RedRidge Preserve Subdivision

Issued to: The McCall Associates, LLC
PO Box 10117
Boise, ID 83707

Property Location: The site is approximately 1,614 acres in Sections 2, 3, 10, and 11, T.17N, R.2E and Sections 26, 34, 35, and 36, T.18N, R.2E, Boise Meridian, Valley County, Idaho.

There have been no appeals of the Valley County Planning and Zoning Commission's decision of February 10, 2022. The Commission's decision stands, and you are hereby issued Conditional Use Permit No. 21-45 with Conditions for establishing a 135-lot single family residential subdivision as described in the application, staff report, and minutes.

The effective date of this permit is February 22, 2022.

Conditions of Approval:

1. The application, the staff report, and the provisions of the Land Use and Development Ordinance are all made a part of this permit as if written in full herein.
2. Any change in the nature or scope of land use activities shall require an additional Conditional Use Permit.
3. The use must be established according to the phasing plan, or the conditional use permit will be null and void. All final plats shall be recorded by December 31, 2032.
4. The issuance of this permit and these conditions will not relieve the applicant from complying with applicable County, State, or Federal laws or regulations or be construed as permission to operate in violation of any statute or regulations. Violation of these laws, regulations or rules may be grounds for revocation of the Conditional Use Permit or grounds for suspension of the Conditional Use Permit.

5. Must have an approved storm water management plan and site grading plan approved by the Valley County Engineer prior to any work being done on-site and prior to recordation of a plat.
6. A wetland delineation is required, or the wetland areas must be identified on the plat as no-build areas.
7. Must bury conduit for fiber optics within roadways.
8. Must record Articles of Incorporation and create a Homeowner's Association prior to recordation of a final plat.
9. A Declaration of Installation of Utilities shall be placed on the face of the plat if all utilities are not in place at the time of recordation.
10. Must comply with the requirements of the McCall Fire District and Donnelly Rural Fire District. A letter of approval is required from both districts if not annexed into the McCall Fire District.
11. All easements must be shown on final plats.
12. All lighting must comply with the Valley County Lighting Ordinance.
13. CCR's should address lighting, noxious weed eradication, fertilizer use, continued maintenance with the Wildfire Mitigation Plan, firewise landscaping, fire resistant materials, education on long-term maintenance of septic systems, and limit each lot to one wood burning device. Wildlife-friendly fencing is recommended. Should make new homeowners aware of the gravel pit, sheep drives, and ranching activities.
14. Shall place addressing numbers at the residence and at the driveway entrance if the house numbers are not visible from the road.
15. A floodplain note should be added to the plat.
16. Financial guarantees or certificates of completion shall be in place prior to recordation of plats.
17. Prior to construction of any on-site improvements, the applicant shall meet with the Valley County Road Director and/or Board of County Commissioners to discuss off-site road improvements. If an agreement cannot be reached the application shall be set for another public hearing with the Valley County Planning and Zoning Commission to determine if the application can be approved without improvements and still meet their mandates concerning public health, safety, and welfare matters. The discussion will be concerning current road conditions and potential mitigation for impacts caused by the development.
18. The following note shall be placed in the notes on the face of the final plat:

"The Valley County Board of Commissioners have the sole discretion to set the level of service for any public road; the level of service can be changed."
19. The recommendations within the Wildland Urban Interface Fire Protection Plan shall be inserted into the CCRs.

- 20. Should submit current letters from Central District Health and Idaho Department of Environmental Quality approving the recently submitted application, addressing the concerns of the Valley County Soil and Water Conservation District.
- 21. Roads shall be built to Valley County private road standards.

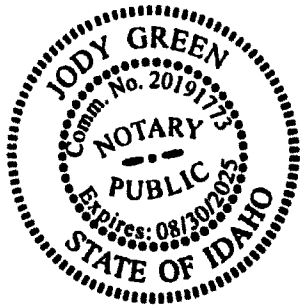
END CONDITIONAL USE PERMIT

Date 3/28/2022

Approved by *Cynda Herrick*

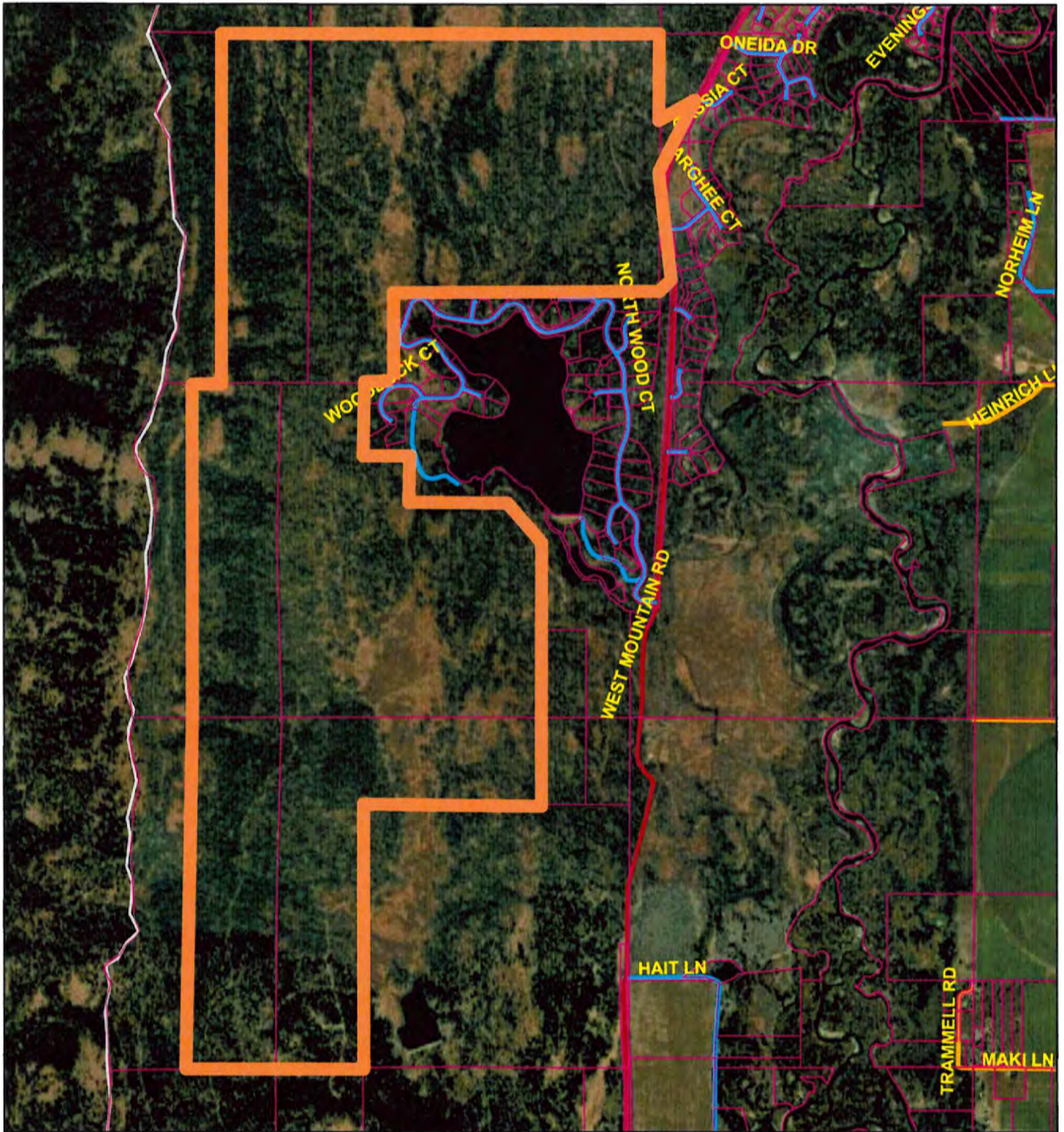
On this _____ day of _____, 20____, before me, a notary public in and for said State, Cynda Herrick personally appeared, and is known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year in this certificate above written.



Jody Green
Notary Public
Residing at: Valley County
Commission Expires: 8/30/25

C.U.P. 21-45 Redridge Preserve



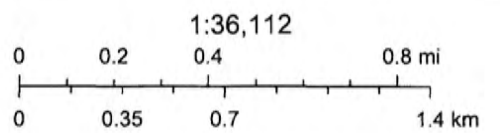
12/13/2021, 11:54:33 AM

Parcel Boundaries URBAN/RURAL

All Road Labels PRIVATE

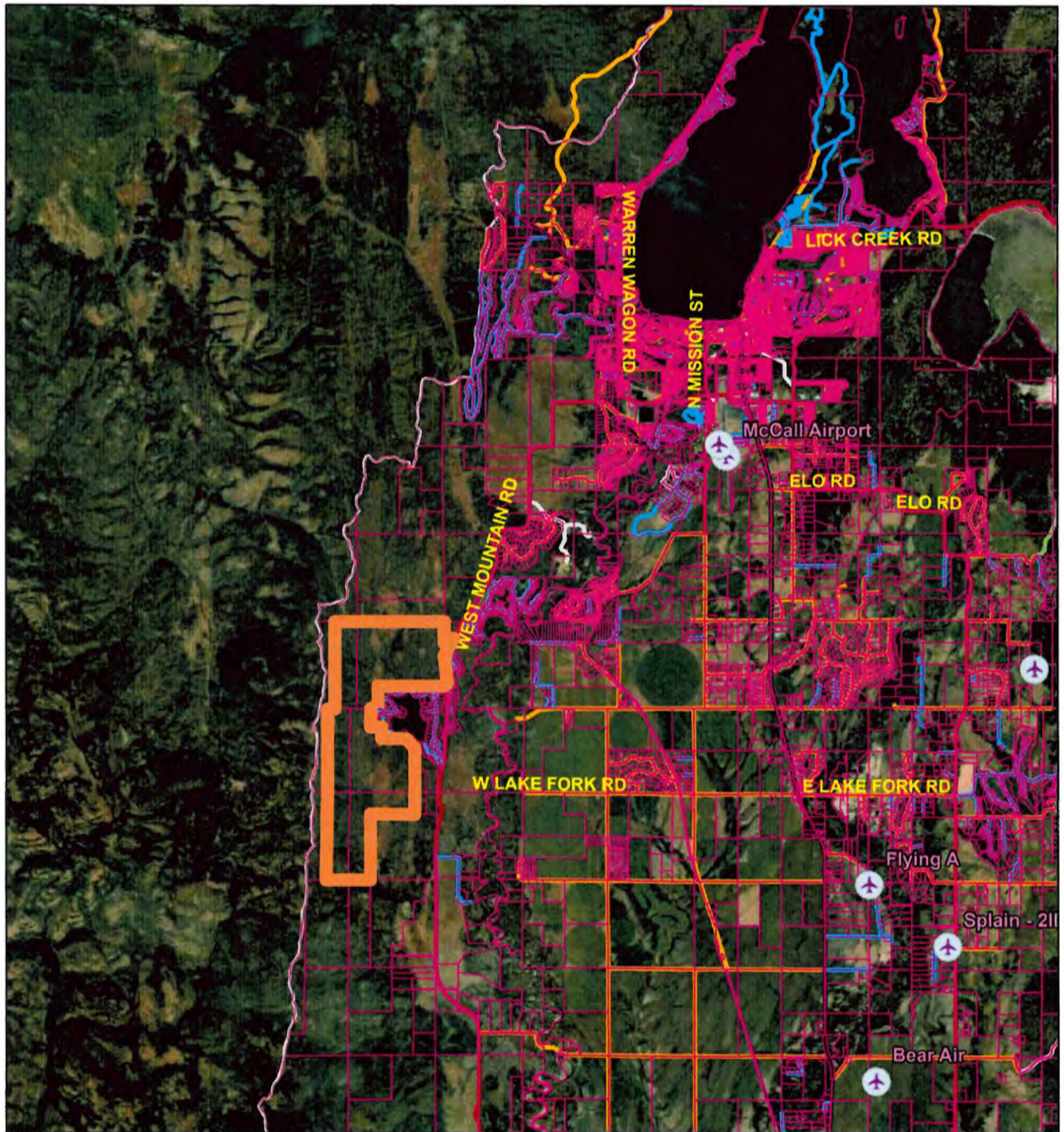
Roads

COLLECTOR



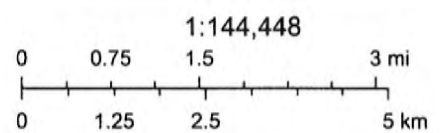
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C.U.P. 21-45 Redridge Preserve



12/13/2021, 11:48:58 AM

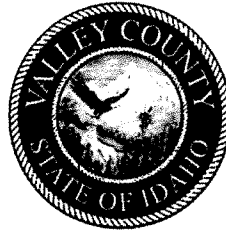
-  Airstrips
-  Parcel Boundaries
- Major Road Labels
- Roads
 -  MAJOR
 -  MINOR COLLECTOR
 -  COLLECTOR
 -  URBAN/RURAL
 -  USFS
 -  PRIVATE
 -  OTHER



Earthstar Geographics

Valley County Planning & Zoning

PO Box 1350 • 219 North Main Street
Cascade, ID 83611-1350



Phone: 208-382-7115
Email: lhunter@co.valley.id.us

December 29, 2023

The McCall Associates LLC
c/o Brian Dickens
P.O. Box 10117
Boise, ID 83707

Also sent via email to [REDACTED]

To Mr. Dickens:

Re: C.U.P. 21-45 RedRidge Preserve

As a courtesy, I am sending this reminder that the C.U.P. 21-45 RedRidge Preserve Phase 1 final plat was to be recorded by December 31, 2023 (refer to attached condition of approval No. 3). I have enclosed a copy of the conditional use permit and the approved phasing plan.

You may request an extension. Although the deadline has passed, the Planning and Zoning Commission may choose to accept your extension request.

- Please submit the extension request no later than **January 29, 2024**, so public hearing noticing requirements can be met.
- There is a \$250 extension request fee.
- Include a letter stating:
 - summary of original plan
 - reasons extension is needed
 - detailed overview of what has been completed
 - Updated phasing plan & timeline (of construction, utilities, etc.)

Please contact our office with your plans and any questions: 208-382-7115.

Sincerely,

A handwritten signature in cursive script that reads "Lori Hunter".

Lori Hunter
Planner II

Blackhawk/Redridge C.U.P.

Cynda Herrick <cherrick@co.valley.id.us>

Thu 1/18/2024 2:25 PM

To: Brian D [REDACTED]; Lori Hunter lhunter@co.valley.id.us

You can either apply for an amendment...new application; OR, you can apply for an extension.

9-5H-8: ISSUANCE OF CONDITIONAL USE PERMIT:

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- B. Issuance Of Permit; Form: Upon recommendation of the commission, the administrator or staff shall issue a conditional use permit on forms prescribed by the commission.
 1. The approval shall be for a period of one year from the date of the hearing, after which time, the approval will expire and be null and void unless the applicant has substantially complied with the provisions thereof or has applied for an extension of time, or the commission has approved a phasing plan for a longer period. Longer approvals may be given for community service uses, so long as they phase improvements, such as landscaping. This will allow better long range planning for utility companies and adjacent property owners.
 2. The commission may approve extensions for increments of one year or specified time period with definite benchmarks upon proper application prior to the expiration of the previous approval. Expiration of the previous approval will be the date specified on the conditional use permit.
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Cynda Herrick, AICP, CFM
Valley County
Planning and Zoning Director
Floodplain Coordinator
PO Box 1350
Cascade, ID 83611
(208)382-7116

“Live simply, love generously, care deeply, speak kindly, and leave the rest....”

Service **T**ransparent **A**ccountable **R**esponsive

From: Brian D [REDACTED]
Sent: Thursday, January 18, 2024 1:53 PM
To: Cynda Herrick <cherrick@co.valley.id.us>
Subject: Re: Blackhawk/Redridge C.U.P.

Cynda,

Thank you for your quick reply. After discussion with the SEC and because purchase talks have broken down, we would prefer to move forward and resume development under a revised phasing plan. Is there an additional application necessary to begin the P&Z process?

Can you please assist me with getting on a P&Z Commission meeting agenda?

Thank you.

Brian Dickens

On Tue, Jan 2, 2024, 12:01 PM Cynda Herrick <cherrick@co.valley.id.us> wrote:
Hello Brian,

Attached is the recorded conditional use permit. Condition of approval #3 states you must follow the phasing plan. The phasing plan is attached. The "drop dead" date for all plat recordations is December 31, 2023.

At this point you should request to be placed on an agenda to discuss with the P&Z Commission why you have not recorded the first phase and what they believe you need to do to stay in good standing.

Thanks, Cynda

Cynda Herrick, AICP, CFM
Valley County
Planning and Zoning Director
Floodplain Coordinator
PO Box 1350
Cascade, ID 83611
(208)382-7116

"Live simply, love generously, care deeply, speak kindly, and leave the rest...."

Service **T**ransparent **A**ccountable **R**esponsive

From: Brian D [REDACTED]
Sent: Wednesday, December 27, 2023 4:08 PM
To: Cynda Herrick <cherrick@co.valley.id.us>
Subject: Blackhawk/Redridge C.U.P.

Cynda,

I hope you had a great Christmas.

I'm writing to inquire about our Redridge C.U.P.

I understand that it has a long time horizon to expiration, but I was wondering if you need some kind of annual report to maintain its compliance/active status.

While we have been unsuccessfully attempting to identify a buyer for the development property (it remains listed with TOK), we have also continued to move forward with modifications at West Mountain Sewer & Water and perform road and fencing maintenance, brush clearing, etc. in support of the long-term development plan.

Can you please let me know if there is any formal submission that you need from us pursuant to keeping the C.U.P. active?

Thank you,

--

Brian W. Dickens

Valley County Planning & Zoning

PO Box 1350 • 219 North Main Street
Cascade, ID 83611-1350



Phone: 208-382-7115
Email: lhunter@co.valley.id.us

March 5, 2024

The McCall Associates LLC
c/o Brian Dickens
P.O. Box 10117
Boise, ID 83707

Also sent via email to [REDACTED]

Re: C.U.P. 21-45 RedRidge Preserve - EXPIRED

To Mr. Dickens:

According to our records C.U.P. 21-45 RedRidge Preserve has expired. There has been no activity towards completion of the phasing plan nor was an extension requested.

This decision can be appealed to the Valley County Planning and Zoning Commission in accordance with Valley County Code 9-5H-12 (attached) within ten days (March 15, 2024)

Please contact our office with your plans and any questions: 208-382-7115.

Sincerely,

Handwritten signature of Cynda Herrick in cursive.

Cynda Herrick, AICP, CFM
Planning and Zoning Director

9-5H-12: APPEALS:

Any administrative level or commission level decision may be appealed in accordance with the procedures established herein. All such appeals must be written, accompanied by the fee as set by resolution of the board of commissioners and submitted to the administrator prior to the deadlines set forth herein. If the appeal deadline falls on a weekend or holiday, the appeal period is automatically extended to the next workday. Each appeal must clearly state the name, address and phone number of the person or organization appealing and the specific issues, items or conditions that are being appealed and state the nature of his or their interest and extent of damages.

A. Appeals Of Administrative Decisions: Any action of the administrator on a specific administrative level application or on the general interpretation of this title may be appealed as follows:

1. Interpretation Of Title: Decisions of the administrator or staff may be appealed to the planning and zoning commission within ten (10) days from the date of such decision by any person aggrieved by such decision. Upon receipt of the appeal, the administrator or staff shall schedule the appeal before the commission at the next public meeting following the appeal.

2. Administrator Or Staff Design Review Decisions: Decisions of the administrator on design review decisions may be appealed to the commission within ten (10) calendar days from the date of such decision by any person aggrieved by such decision. Upon receipt of such appeal, the administrator or staff shall schedule the appeal before the commission at the next public meeting following the appeal.

3. Other Administrative Level Applications: Actions of the administrator on administrative level applications, other than design review, may be appealed to the commission within ten (10) calendar days from the date of the action by the applicant or any aggrieved person. Upon acceptance of the appeal, the administrator shall establish completeness of the appeal and shall notify the appealing party, the applicant, all property owners within three hundred feet (300') of the property, and the public. The commission, in reviewing the administrator's decision, may impose additional or different conditions and limitations.

B. Appeals Of Commission Decisions:

1. Any decision of the commission may be appealed to the board by the applicant, any aggrieved person or the administrator. The appeal shall be filed with the administrator before five o'clock (5:00) P.M. of the tenth calendar day after the determination of the commission has been made.

2. The administrator shall ascertain that the procedural requirements have been met and notify the board of the appeal.

3. The clerk, upon notice of an appeal of a decision by the commission, shall set the item on the agenda of the board at the earliest possible regular meeting of the board.

4. Notice of the public hearing shall be posted in accordance with subsection A3 of this section.

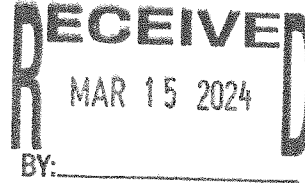
5. An appeal may not be withdrawn without the approval of the board.

6. All pertinent information in the planning and zoning file shall be forwarded to the board for review.

7. The board shall hold a public hearing to review the commission's proceedings and decisions and may obtain additional information from the administrator or staff, the applicant, the appellant, or the public.

8. The board may sustain, deny, amend or modify the decision of the commission. The decision of the board is final and need not be referred back to the commission; except, the board may elect to refer the matter to the commission with specific instructions. (Ord. 10-06, 8-23-2010)

March 15, 2024




Philip C. Maier

D. 
F. 

Via Email & U.S. Mail

Cynda Herrick
Director
Valley County Planning & Zoning
P.O. Box 1350
Cascade, ID 83611
Email: cherrick@co.valley.id.us

**Re: NOTICE OF APPEAL
Redridge Preserve CUP 21-45**

Dear Ms. Herrick:

This firm represents The McCall Associates LLC (“TMA”), the applicant under Valley County Conditional Use Permit No. 21-45 for the Redridge Preserve development (“CUP”). Please accept this letter as a formal appeal of the March 5, 2024 notice of expiration of the CUP pursuant to Valley County Code Section 9-5H-12. For the reasons set forth below, we respectfully request the CUP be reinstated or, in the alternative, for the Phasing Plan set forth in the CUP be amended to as set forth in the Revised Phasing Plan attached hereto as Exhibit A (the “Proposed Phasing Plan”).

Background

On December 10, 2021 TMA submitted its application for a conditional use permit for a planned unit development of 135 lots ranging in size from three to seventeen acres to be known as the Redridge Preserve development (“Project”). The application contained a Phasing Plan which contemplated development of 105 lots over five phases, spanning the years 2022 to 2026, with an additional five years to complete the remaining thirty lots based on market conditions. The CUP was issued with an effective date of February 22, 2022 and the Phasing Plan was incorporated therein. The preliminary plat for the Project was approved February 10, 2022 and the CUP was recorded in the real property records of Valley County as Instrument No. 449019 on March 29, 2022.

Issues on Appeal

On March 5, 2024, TMA received notice that the CUP had expired based on TMA's failure to engage in "activity towards completion of the phasing plan." As set forth below, TMA has continued to work toward development of the Project and the completion of the Phasing Plan within the ten-year timeframe required by the CUP.

The Phasing Plan anticipated the completion of certain milestone tasks including the development of roads and other infrastructure, the execution of fire and weed mitigation plans, and other requirements for each phase of development. Although the Phasing Plan contained anticipated dates of completion for each phase of the Project, those dates provided only a rough guideline for the completion of the Project over the full ten-year lifespan of the CUP.

The first sentence of Condition of Approval No. 3 in the CUP contains only a general requirement that "the use must be established according to the Phasing Plan." Neither the CUP nor the Phasing Plan contain a particular end date or deadline because the date ranges included in the Phasing Plan were merely rough estimates for completion. This interpretation is confirmed by the Staff Report dated January 13, 2022¹ which stated: "Development is expected to occur in ten phases. The developer anticipates one phase every two years but wants the ability to adjust this schedule per market conditions."

In contrast to the general requirement in the first sentence of Condition of Approval No. 3, the second sentence sets a clear and express deadline² that "[a]ll final plats shall be recorded by December 31, 2032."³ TMA has made significant advancements towards completion of the Phasing Plan and anticipates completion of the Project and recording of the final plat by the date required by Condition of Approval No. 3. Based upon the work completed to date and the December 31, 2032 deadline set forth in the CUP, TMA is in full compliance with terms and conditions of the CUP and the Phasing Plan as approved, and the expiration of the CUP should therefore be withdrawn.

¹ Pursuant to Condition of Approval No. 1 in the CUP, the Staff Report was made part of the CUP "as if written in full herein" and provides additional context to the Conditions of Approval.

² We note that, even with regard to the final plat deadline, the date was based on the estimated timeline of the second half of the CUP of the Phasing Plan, which provided only that Phases 5-10 would be completed in "up to additional 5 years depending on Market Conditions." This suggests that the December 31, 2032 deadline was intended to set a true end date given the mere estimated timelines applicable to the overall Phasing Plan.

³ We note that the courtesy letter dated December 29, 2023 that was delivered to TMA indicated that the "final plat was to be recorded by December 31, 2023," and that such deadline had passed. This appears inconsistent with Condition of Approval No. 3 in the CUP requiring that "[a]ll final plats shall be recorded by December 31, 2032."

Alternatively, if the Valley County Planning & Zoning Commission determines the CUP has indeed expired, TMA requests that the CUP be extended and the Phasing Plan be revised and replaced by the Proposed Phasing Plan. This will allow TMA to continue its activities towards completion of the Phasing Plan within the original ten-year timeframe required by the CUP without incurring the damages described below due to the expiration of the CUP.

Project Efforts to Date

TMA, its parent companies—Blackhawk on the River, LLC and Blackhawk Gold, LLC—and its subsidiary—West Mountain Water & Sewer, Inc.—temporarily suspended formal development efforts in 2022 upon entering into an agreement regarding the sale of the Project to a third-party developer, the closing of which was anticipated to occur in 2023. The closing of such sale did not occur, and TMA has continued to seek sales opportunities for the Project. Despite this suspension of development efforts, TMA continued to take actions in furtherance of the Phasing Plan, including maintaining and upgrading its properties and laying the groundwork for further development work and completion of the Project within the 10-year timeframe required by the CUP.

Water & Sewer Services Work

West Mountain Water & Sewer, Inc., doing business as West Mountain Sewer & Water (“WMSW”), provides drinking water services to the Blackhawk on the River subdivision and wastewater treatment services to both Blackhawk on the River and the Payette River Subdivision across the Payette River from Blackhawk. WMSW continues to operate under a 2015 Idaho DEQ permit and facilities plan. Due to the COVID-19 pandemic, WMSW’s 2020 permit renewal was postponed, and since that time, IDEQ has extended the WMSW 2015 permit. Nevertheless, WMSW has submitted a revised facility plan and continues through the IDEQ approval process. It is anticipated that a new 5-year permit approval is imminent. In the meantime, WMSW’s current, 2015 facilities plan—which was confirmed by IDEQ Water Quality Engineering Manager Valerie Greear in her February 3, 2022 letter to the Commission in response to the TMA CUP application—outlines a capacity of 124 Equivalent Dwelling Units (“EDUs”) (homes) at Class C water treatment (WMSW’s current level), 232 EDUs at Class B treatment quality, and 412 EDUs at Class A water.

While WMSW’s new facilities plan (currently under review) does contemplate additional EDU capacity for each water treatment level, the sold-but-unbuilt lots within Blackhawk on the River and Payette River Subdivision already exceed WMSW’s Class C capacity. Therefore, WMSW is taking steps to upgrade its wastewater treatment capacity at Class C (through a land application system upgrade and addition of land application acreage) and simultaneously undertaking engineering and permitting to upgrade the treatment facility to Class A treatment quality.

Once at Class A, WMSW will have more than sufficient EDU capacity to satisfy the delivery of centralized wastewater treatment services to the 135 homesites contemplated by the CUP for the Project.

Planning and Design Work

Although contracted development work was suspended by TMA, TMA has continued to undertake preliminary planning and design work in furtherance of the action items set forth in the Phasing Plan. The road layout for Phase 1 has largely been completed and significant clearing of fallen trees and overgrowth mitigation has been completed. In 2023, TMA signed a grazing lease agreement as an additional fire mitigation and undergrowth control strategy and is actively working with the grazing company to ensure continued grazing corridors to protect historic grazing practices. Other work completed by TMA has included gate and fencing maintenance and repairs, preliminary survey and engineering, and construction, engineering, and utilities services cost analysis.

Statement of Damages

TMA has invested approximately \$135,000 towards the above development efforts since the CUP was approved, primarily to prepare for the expansion of the Project and in furtherance of the action items set forth in the Phasing Plan. If the expiration of the CUP is upheld, TMA will therefore incur damages of at amount, plus an estimated \$75,000 or more related to an application for a new CUP, plus lost opportunity costs in addition to other future damages associated with restarting development of the Project.

Market Conditions

TMA submitted its application for the CUP during peak real-estate market conditions and toward the tail end of the COVID-19 pandemic. The Phasing Plan was ambitious specifically because TMA hoped to capture sales opportunities during the strong market. TMA did not anticipate the unavailability and the hyper-inflated pricing of contractors it would need to execute the road and infrastructure plans for the Project. The pandemic had precipitated a construction industry consolidation that caused a failure of some contracting businesses and the lack of available employees at surviving businesses which, coupled with extreme construction industry demand, pushed out start times and increased prices dramatically. TMA made the decision to temporarily delay expedited development activities to allow for market conditions to soften somewhat and allow for construction industry market forces to return to a commercially viable level.

Throughout this process, the assets of TMA have remained available for sale, including the Project. TMA intends to continue to make the Project available for sale because it believes that

Cynda Herrick
March 15, 2024
Page 5

the Project and its associated properties offer a unique, rare, and highly valuable opportunity for a buyer—whether that be a development company or an individual or family looking for a desirable “trophy property”. Simultaneously, development costs have been steadily improving. As a result, TMA has renewed and intensified its effort to develop the Project. TMA remains on schedule and is committed to completing the Project within the original ten-year timeframe required by the CUP.

Conclusion

For the reasons set forth herein and based on the activities conducted and costs incurred by TMA to date in furtherance of the Phasing Plan, we respectfully request that the expiration of the CUP for failure to engage in “activity towards completion of the phasing plan” be withdrawn.

We also respectfully request that this appeal be scheduled for hearing before the Valley County Planning and Zoning Commission at the first opportunity.

Sincerely,

A handwritten signature in black ink, appearing to read 'Philip C. Maier', with a large, stylized initial 'P'.

Philip C. Maier

PCM:kdh

Exhibit A

Revised Phasing Plan Proposal

Phase 1 2024-2025

30 Lots

1. Post approval submit Phase 1 Engineered Construction Plans for County Approval
2. Pioneer Phase 1 Roads, Implement Wildfire Mitigation Plan (FMP)
3. Install Power, Joint Trench for utilities
4. Finish road, base rock, crushed gravel, final grade; submit As-Built to County for review/approval
5. Implement Valley County Weed Management Plan (WMP)
6. Finalize CC&Rs and Design Guidelines, Prepare for Final Plat
7. Post Bond, Record Final Plat, Pave the following season
8. Expand and maintain common area trail system

Phase 2

2025-2026

30 Lots

1. Pioneer Phase 2 roads; Implement/Augment FMP/WMP
2. Install Power, Joint Trench for utilities
3. Finish road, base rock, crushed gravel, final grade, submit As-Built for review/approval
4. Post Bond, Record Final Plat, Pave following season
5. Complete Perimeter fencing

Phase 3

2026-2027

15 Lots

1. Pioneer Phase 3 roads; Implement/Augment FMP/WMP
2. Install Power, Joint Trench for utilities
3. Finish road, base rock, crushed gravel, final grade, submit As-Built for review/approval
4. Post Bond, Record Final Plat, Pave following season

Phase 4

2027-2028

15 Lots

1. Pioneer Phase 4 roads; Implement/Augment FMP/WMP
2. Install Power, Joint Trench for utilities
3. Finish road, base rock, crushed gravel, final grade, submit As-Built for review/approval
4. Post Bond, Record Final Plat, Pave following season

Phase 5

2028-2029

15 Lots

1. Pioneer Phase 5 roads; Implement/Augment FMP/WMP
2. Install Power, Joint Trench for utilities
3. Finish road, base rock, crushed gravel, final grade, submit As-Built for review/approval
4. Post Bond, Record Final Plat, Pave following season

Phases 6-10 Remaining Lots (30) up to an additional 2 years depending on market conditions

Valley County Planning and Zoning Commission

PO Box 1350 • 219 North Main Street
Cascade, ID 83611-1350



Phone: 208-382-7115
Email: cherrick@co.valley.id.us

Neal Thompson, Chairman
Ken Roberts, Vice-Chair

Brian Benton, Commissioner
Katlin Caldwell, Commissioner
Scott Freeman, Commissioner

MINUTES

Valley County Planning and Zoning Commission
January 13, 2022
Valley County Court House - Cascade, Idaho
PUBLIC HEARING - 6:00 p.m.

- A. OPEN:** Meeting called to order at 6:05 p.m. by Acting Chairman Thompson. A quorum exists.
- | | |
|-------------------------------------|---------|
| PZ Director – Cynda Herrick: | Present |
| PZ Commissioner – Katlin Caldwell | Excused |
| PZ Commissioner – Sasha Childs: | Present |
| PZ Commissioner – Scott Freeman: | Present |
| PZ Commissioner – Ken Roberts: | Present |
| PZ Commissioner – Neal Thompson: | Present |
| PZ Assistant Planner – Lori Hunter: | Present |

- B. MINUTES:** Commissioner Roberts moved to approve the minutes of December 9, 2021, and December 16, 2021. Commissioner Childs seconded the motion. Motion carried unanimously.

C. NEW BUSINESS:

- 1. C.U.P. 21-42 Dame Multiple Residence:** Taylor Dame is requesting a conditional use permit for two residences on one parcel. A 1188-sqft home is on the property. He would like to add a garage with 1200 sqft of living space. The homes would share a driveway and an individual well. Northlake Recreational Sewer and Water District would provide sewer. The property is addressed at 2147 Lydia Drive. The 0.6-acre parcel is Royal Scot Subdivision No. 6, Lot 21, located in the SE ¼ Section 32, T.16N, R.3E, Boise Meridian, Valley County, Idaho. Action Item.

Acting Chairman Thompson introduced the item and opened the public hearing. The applicant is not present, and Director Herrick was unable to contact him on the phone. Acting Chairman Thompson continued the public hearing until later tonight.

- 2. C.U.P. 21-43 Huckleberry Ridge Subdivision – Preliminary Plat:** Sal Gallucci is requesting a conditional use permit for a 9-lot single-family subdivision on 40 acres. Lots would be accessed from a new private road onto West Mountain Road (public). A variance for a cul-de-sac greater than 900-ft is requested. Proposed lot sizes range from 2.68 acres to 7.37 acres. Individual wells, individual septic systems, and shared driveways are proposed. The site includes parcels RP17N02E230004 and RP17N02E230065 in the NE ¼ Section 23, T.17N, R.2E, Boise Meridian, Valley County, Idaho. Action Item.

Acting Chairman Thompson introduced the item and opened the public hearing. Acting Chairman Thompson asked if there was any *ex parte* contact or conflict of interest. There was none.

5. **C.U.P. 21-45 RedRidge Preserve – Preliminary Plat:** The McCall Associates LLC is requesting a conditional use permit for a 135-lot single-family subdivision in ten phases. Proposed lot sizes range from 3 acres to 17 acres. Individual wells and individual septic systems are proposed. Access would be provided from two locations on West Mountain Road onto private roads. A variance to the private road width is requested. The site includes approximately 1,614 acres in Sections 2, 3, 10, and 11, T.17N, R.2E and Sections 26, 34, 35, and 36, T.18N, R.2E, Boise Meridian, Valley County, Idaho. Action Item.

Acting Chairman Thompson introduced the item and opened the public hearing. Acting Chairman Thompson asked if there was any *ex parte* contact or conflict of interest. There was none.

Ken Roberts noted that he was a PZ Commissioner when the some of the original Blackhawk subdivisions were discussed and approved. He does not believe this impacts his ability to make an impartial decision on C.U.P. 21-45.

Acting Chairman Thompson asked for the staff report. Director Herrick presented the report and summarized the following exhibits:

Exhibit 1 – Pete Fitzsimmons, 8 Sawtooth CT, is opposed. Reasons include deleterious effect of water quality, fire risk, effect on neighboring infrastructure, effect on property values, and concerns with McCall Associates. (Jan. 6, 2022)

Exhibit 2 – Paul Ashton, Parametrix and Valley County Engineer, stated this project will require review and approval by Valley County of the site grading and drainage plans, drainage calculations, erosion control measures and best management practices prior to final plat approval. A complete set of site grading and preliminary plat documents must be resubmitted. A variance may be warranted based on our initial review, but further analysis will be completed when plans are resubmitted. (Jan. 12, 2022)

Exhibit 3 – Sima Muroff, representing the applicant, replied to comments of Valley County Engineer (Jan. 11, 2022)

Exhibit 4 – Garrett de Jong's, McCall Fire Chief, email chain regarding requirements. Fire hydrants may be spaced out based on parcels and general locations of structures, instead of the 600-ft maximum distance between hydrants. (Jan. 10, 2022, and Jan. 11, 2022)

Exhibit 5 – Blackhawk Manager, LLC, representing the applicant, formally requested approval of a variance to reduce the 28-ft gravel private roadway width to a proposed 24-ft roadway width that will consist of 20-ft of paved surface and 2-ft gravel shoulders. (Jan. 11, 2022)

Exhibit 6 – Blackhawk Manager, LLC, representing the applicant, replied to the staff report and added information regarding the application. (Jan.10, 2022)

Exhibit 7 – Geoffrey Wardle of Clark Wardle represents Blackhawk Lake Estates Subdivision Phase 5 property owners. When Blackhawk 5 was platted, it was contemplated that other developments in the area would connect to the private roads within Blackhawk 5. He requests that the applicant be required to enter into a reciprocal road maintenance and easement agreement with the Blackhawk 5 property owners and the Blackhawk Lake Estates HOA. (Jan. 7, 2022)

Exhibit 8 – Brian Dickens, West Mountain Sewer and Water supports the proposal and will allow RedRidge Preserve to access our fire hydrants and extend the line throughout their proposed community to satisfy their fire suppression needs. To the extent the owners of the RedRidge development are willing to invest in these improvements, we would be thrilled to provide sewer, waste-water treatment, reclaimed water, and potentially potable water service. (Jan. 10, 2022)

Exhibit 9 – Blackhawk Lake Estates Board of Directors are opposed to the proposal. Water and environmental concerns should be addressed before making any decision on whether to approve the addition of 135 new homesites on land bordering our community. If not limited in scope and responsibly managed, this development would pose a serious risk of adversely impacting Blackhawk Lake, its ecosystem, and the Blackhawk Lake Estate homeowners' use and enjoyment of the lake. Concerns include water quality; water table level; lake water level and drainage. The application calls for altering, diverting, and/or impounding upstream water or using water for reasons such as irrigation that may result in diminished water volume flow into the lake; the Commission should require a drainage and development plan that will not result in any reduction of flow, including in Duffner Creek. (Jan. 9, 2022)

Exhibit 10 – Lori Gibson Banducci, 3464 West Mountain Road, states that West Mountain Road safety and durability needs improved. A paved bike path, parallel to the current road, would ensure that this road continues to be a viable biking road. (Jan. 7, 2022)

Exhibit 11 – Karen and Steve Clautice, 10 Minidoka Court, are concerned about West Mountain Road conditions. The road is used in all weather by joggers, dog walkers, and in snow-free months by many bicycles. In the last year, increased speed limits and increases in both heavy commercial traffic and residential traffic have made West Mountain Road unsafe. The road needs to be rerouted or re-engineered from the junction with Deinhard Lane. The roads need wide, smooth, paved shoulders for bicyclists and pedestrians. (Jan. 10, 2022)

Exhibit 12 – Mike and Laurie Josepher, Blackhawk Lake homeowner, is opposed and is concerned about the effect on water quality upstream from the Duffner Creek inlet into Blackhawk Lake as well as potential pollutants such as fertilizer, chemicals, and sewage that may get washed into the lake. The homesites would also tap into the same aquifer as their personal well. (Jan. 9, 2022)

Exhibit 13 – Ron and Dino Tarro homeowners at Blackhawk Lake, support the analysis and requests in the Blackhawk Association's letter [Exhibit 9]. (Jan. 10, 2022)

Exhibit 14 – Tom and Angie Hannigan, 175 Stillwater Court, Blackhawk Lake Estates, are opposed. Concerns include reduction or contamination of the water supply. A septic plan should be completed prior to approval. They agree with the concerns stated in the Blackhawk Association's letter [Exhibit 9]. (Jan. 11, 2022)

Exhibit 15 – Chris and Jack Oberti, 25 Fawnlilly in Blackhawk on the River, ask that the request be denied until certain issues are resolved. Prior to approval, environmental studies on geology, septic systems, runoff and erosion, and the ability of the underlying aquifer to sustain water levels and wells should be required. A traffic study is needed to anticipate additional road usage. What entity will be responsible for emergency calls to the subdivision (fire and law enforcement)? Things have changed since the original CUP and this development should be a "stand-alone" development with no reciprocity or use to the existing developments of Blackhawk on the River, Blackhawk Ranch, or Blackhawk Lake. (Jan. 11, 2022)

Exhibit 16 – Mike and Bronny Bowman, Blackhawk Lake Estates landowners, fully support the comments of the Blackhawk Lake HOA [Exhibit 9]. (Jan. 11, 2022)

Exhibit 17 – Mary Horkan, a member of the Blackhawk Lake Estates POA Board, is opposed due to water and environmental concerns. She is also concerned about the impact this development would have on McCall's and Valley County's challenged infrastructure and depleted workforce. (Jan. 12, 2022)

Director Herrick displayed the GIS map of the proposed site and surrounding area on the projector screen. West Mountain Road is a 100-ft right-of-way. The area served by West Mountain Sewer and Water was reviewed.

Acting Chairman Thompson asked for the applicant's presentation.

Brian Dickens, Meridian, Idaho, is the independent manager and Chief Executive Officer of McCall Associates, Blackhawk Gold, Blackhawk on the River LLC, and West Mountain Sewer and Water. He believes the Commissioners' time tonight would be best spent addressing their specific questions. He provided background to his involvement. On June 1, 2017, Mr. Dickens was appointed Independent Manager for McCall Associates by a federal court order. His experience and role as a developer consists of 4-5 years in this particular project. He is requesting basically a reinstatement of the prior approval with minor changes. He is required to manage the company in the best interest of investors. Until the fines are paid on the case that resulted in Mr. Dicken's appointment, Sima Muroff is suspended from participating in any managerial capacity even though he remains a 20% owner of the projects. The federal court order and settlement allows Mr. Dickens to employ or compel Mr. Muroff's cooperation whenever needed in the best interest of the investors. Therefore, Mr. Muroff has been conscripted to provide unpaid consulting services and is available to answer Commissioner's questions, particularly regarding the previous application.

Mr. Dickens is the sole full-time employee of McCall Associates. He employs attorneys, accountants, surveyors, engineers, etc., on a contractual basis.

Mr. Dickens replied to questions from the Commissioners. The current proposal wraps around Blackhawk Lake area. The two access points were discussed. McCall Associates also own adjacent property that also has access to West Mountain Road near Smylie Lane via the FAA Road for future access. DF Development owns property to the west prior to the Valley County / Adams County line. McCall Associates also owns a small triangle of property in Adams County.

Central sewer and water system is not appropriate for much of the property owned by McCall Associates. Well and septic system preliminary approval has been obtained for 50 lots.

Fire hydrants would be located throughout the entire development. A community well and storage tanks would provide water for those areas that the water lines from West Mountain Sewer and Water cannot reach.

The applicant has previously monitored and determined septic sites. The existing and proposed area serviced by West Mountain Sewer and Water was discussed; currently services are available to the southernmost portion of Blackhawk on the River. Centralizing water in the Duffner Creek area would mitigate impacts to the creek. Currently 250 homes are serviced; the system is designed for 450+ if it is upgraded to Class A water with improvements. The system is currently Class C water; this is for fire hydrants. There are currently 88 customers but also 68 sold lots that have not yet been built on in the Blackhawk on the River subdivisions.

Accesses to the property from West Mountain Road were discussed. The topography of the site was discussed. A paved road is superior to a dirt/gravel road. It is not practical at this site to have a 24-ft paved road as required by the private road standards. Therefore, the applicant is requesting a variance to the private road standards due to topography.

Part of the conditions and agreements with the original approval included money for paving and land given for right-of-way off West Mountain Road from Wisdom Road up to the Blackhawk gate. Maintenance of West Mountain Road was discussed. Director Herrick stated that if impact

fees are approved, they would take affect at time of building permit(s). Property taxes and levies for road maintenance were discussed. Condition of approval # 17 forces the applicant to talk to Road Department Director and/or Board of County Commissioners.

The PZ Commissioners requested the applicant to address comments from Fire Districts and other response letters.

Mr. Dickens referred to maps and preliminary plat within the application and presented the following large exhibits.

Exhibit 18 – Redridge Property Master Plan map show the original plan that is not realistic today with his fiduciary requirements. The proposal today does not include a golf course or boutique hotel. C.U.P. 21-45 application is for 135 single-family-residential lots with septic and wells. Part of the property may be able to obtain sewer and water but that is not determined at this time.

Exhibit 19 – Map of preliminary plat with topography

Exhibit 20 – Map of preliminary plat, topography, and road grade.

Exhibit 21 – Large prints of the preliminary plat, topography, and road grade information.

Acting Chairman Thompson asked for proponents. There were none.

Acting Chairman Thompson asked for undecided.

Harry Soulen, Soulen Livestock Company, Weiser, ID, is not opposed to the project. Soulen Livestock does own property south, east, and west of this project. Soulen Livestock has sheep grazing, timber, and gravel businesses on their adjacent property. He would like reassurance that the movement of the sheep and trucks will not be obstructed by future lot owners. He wants the development's CCRs to fully disclose information about the existing livestock, timber, and gravel activities.

John Lillehaug, McCall, is a Valley County Soil & Water District board member. He would like to encourage education on septic tank maintenance and appropriate fertilizer application. This should be emphasized to homeowners and included in CCRs.

Acting Chairman Thompson asked for opponents.

Mike Hipsher, 875 Blackhawk Lake Dr, owns the furthest west lot in Blackhawk Lake. What is proposed would not affect Duffner Creek. The properties that would affect Duffner Creek are the ones in the border in the yellow along the western boundary [map in application]. Water quality is a concern; Blackhawk Lake is a pristine source which drains into the Payette River. He is concerned about the septic and fertilizer impacts. He wanted clarification if the yellow common areas and white areas on the map to be developed.

Mr. Dickens replied that this characterization is mostly correct.

Pete Fitzsimmons, 8 Sawtooth CT, (telephonically) owns property in both Blackhawk Ranch and Blackhawk Lake Estates. His concerns include watershed aquifer and wildland fire danger. He referred to today's *Star News* page 2 article about imposing development moratoriums in Valley County and the effects large developments have on public services. There has been rapid

expansion and negative impacts. This proposal would negatively impact the aquifer, watershed, and seasonal wildlife habitat.

Acting Chairman Thompson asked for rebuttal from the applicant.

Mr. Dickens stated that they are sympathetic of concerns but doesn't think adding an additional 135 homes will affect the neighborhood. Increasing the supply of homes and home sites is the solution to housing in Valley County.

Commissioner Roberts is concerned about the lack of central sewer and water in this large development. Traffic impacts and wildlife impacts need to be discussed. He does not think it is prudent to close the public hearing at this time.

The current application has individual water and septic. Valley County Code allows individual water and septic on one-acre subdivision lots. Written correspondence from applicant has offered up water and sewer. The adjacent Blackhawk Lake Estates 5 has individual septic systems.

These are things that the PZ Commissioners would like clarification on:

- A fact sheet addressing which lots would be central sewer and water, and which would be septic
- Address ID Fish and Game letter and how the applicant will comply, including CCRs
- Address traffic impacts
- DEQ and IDWR conversations and requirements
- Water quality concerns
- Central District Health requirements
- More concise picture of application

- Internal roads and previously approved variance for narrow roads
- Some analysis on soil types since water drains toward the river

The Planning and Zoning Commissioners would like the above information presented in a clear manner.

Sima Muroff, Meridian, ID, to respond to the discussion. He referred to his letter of January 10, 2022, which responded to comments in the staff reports and questions that Commissioners have mentioned tonight (**Exhibit 3**). Ground water monitoring was completed for two seasons; Central District Health approved 50 sites for septic systems. He said employees of both Idaho Department of Water Resources and Idaho Department of Environmental Quality said that this is not an area of concern for groundwater nor nitrates. Site specific analysis previously done by Secesh Engineer confirm this. The well log information confirm that the aquifer is not declining.

Commissioner Roberts is currently concerned with the surface water more so than the aquifer.

Mr. Muroff stated that the property is currently grazed by livestock. The applicant referred to the large maps of the application which show designated wetlands and additional common areas (**Exhibit 21**)

Mr. Dickens understands that the Commissioners wish for time to digest the extensive materials. Much of the work was previously done. The application was complete the first time but expired.

Commissioner Freeman moved to continue C.U.P. 21-45 Redridge Preserve to February 10, 2022, at 6:00 p.m. Commissioner Roberts seconded the motion. Motion carried unanimously.

Valley County Planning and Zoning

PO Box 1350 • 219 North Main Street
Cascade, ID 83611-1350



Phone: 208-382-7115
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STAFF REPORT: C.U.P. 21-45 RedRidge Preserve Subdivision - Preliminary Plat
HEARING DATE: January 13, 2022
TO: Planning and Zoning Commission
STAFF: Cynda Herrick, AICP, CFM
Planning and Zoning Director

APPLICANT / OWNER: The McCall Associates LLC
P.O. Box 10117
Boise, ID 83707

AGENT: Brian Dickens
Blackhawk Manager, LLC
PO Box 10117
Boise, ID 83707

ENGINEER: RiveRidge Engineering CO
2447 S Vista Ave
Boise, ID 83705

SURVEYOR: Secesh Engineering
P.O. Box 70
McCall, ID 83638

LOCATION: RP17N02E021535, RP17N02E030006, RP17N02E100006,
RP17N02E110605, RP18N02E269005, RP18N02E340006,
RP18N02E350006, RP18N02E363520
Sections 2, 3, 10, and 11, T.17N, R.2E and Sections 26, 34, 35, and
36, T.18N, R.2E, Boise Meridian, Valley County, Idaho

SIZE: 1,614 acres
REQUEST: Single-Family Residential Subdivision
EXISTING LAND USE: Agricultural – Productive Timberlands

The McCall Associates LLC is requesting a conditional use for a 135-lot single-family subdivision on approximately 1,614 acres. Proposed lot sizes range from 3-acres to 17-acres. Density is one lot per \pm 12 acres. Applicant owns 1,284 acres adjacent to this property.

Individual wells and individual septic systems are proposed.

Access would be provided from two locations on West Mountain Road onto private roads. A variance to the private road width is requested. Both gravel and paved roads are proposed.

Development is expected to occur in ten phases. The developer anticipates one phase every

two years but wants the ability to adjust this schedule per market conditions.

A Wildfire Mitigation Plan was submitted, but needs to be updated since it was previously done in 2006-2007.

A similar development was previously approved for this site; however, no plats were recorded. The approvals have expired: C.U.P. 08-17 Redridge at Blackhawk and P.U.D. 13-01 Blackhawk Development. The conditional use permit (Instrument #335340) and original phasing plans, etc. are attached for reference only. Construction of phase 1 began when development was previously approved; this phase would be completed during 2022-2023.

The applicant would provide a bond to ensure the completion of the phases.

There are references in the application to clustering, higher density, townhouses, and hotel rooms if community sewer and water become available; however, this would require a new application for a P.U.D. This application is only for a single-family residential subdivision.

FINDINGS:

1. The application was submitted on December 10, 2021.
2. Legal notice was posted in the Star News on December 23, 2021, and December 30, 2021. Potentially affected agencies were notified on December 14, 2021. Property owners within 300 feet of the property line were notified by fact sheet sent December 16, 2021. The site was posted on December 21, 2021. The notice was posted online at www.co.valley.id.us on December 16, 2021.

3. Agency comment received:

Central District Health requires application, test holes, groundwater monitoring, and engineering report. (Dec. 15, 2021)

Jeff McFadden, Road Department Director, stated that the south approach is already constructed [Blackhawk Lake Estates Phase 5]. An approach permit is required for the northern access point [to West Mountain Road]. (Dec. 23, 2021)

Garrett de Jong, McCall Fire & EMS, listed requirements for roads and fire protection. Part of the development is within the boundary of the Donnelly Rural Fire Protection District. It would be prudent to work on annexation into the McCall Fire District or have a more direct plowed winter access from Donnelly. He would like the developer to determine specifically which parts of the development are within the boundaries of the McCall Fire Protection District. (Jan. 4, 2022)

Jess Ellis, Donnelly Rural Fire Protection District, listed requirements for roads and fire protections. The developer shall determine the boundary between the Donnelly and McCall Fire Districts. (Jan. 6, 2022)

John Russell, prior Valley County Surveyor, responded to previous proposals. He noted that perpetual easements exist and are not shown on the plat as required. Maps are attached. (Jan. 26, 2009)

Idaho Department of Environmental Quality (DEQ) provided general comments on air quality, wastewater, drinking water, surface water, hazardous waste, and ground water contamination. (Dec. 23, 2021)

Received verbal comments from Valley Soil and Water Conservation District on January 6, 2021. They would like to recommend that surface water be managed so as to provide irrigation for lawns, etc. so as to be in compliance with Idaho Code 67-6537 (attached). They would also like to recommend that all subdivisions have a portion of CCR's that address septic systems and long-term management of the septic systems as an education piece.

Casey Pozzanghera, Idaho Fish and Game Environmental Staff Biologist provided technical information addressing potential effects on wildlife and wildlife habitat and possible mitigation of adverse effects. The proposed development provides significant habitat for a variety of wildlife species. The applicant and Valley County should consider the following to mitigate impacts: fire protection plans; wildlife-friendly fencing or no fencing; deer-resistance landscaping, and other requirements to limit conflicts with wildlife. (Jan. 6, 2022)

4. Neighbor comment received:

Michael and Kathryn Hipsher, 875 Blackhawk Lake Drive, are concerned with the planned centers on Duffner Creek and the surrounding meadow (Plat Sheets 7, 6, and 4). Will CCRs regulated the use of fertilizers and chemicals; limit building height and size prohibit fencing, restrict tree removal, regulate fire pits and burning, and address noise? A picture of the meadow area is included. (Jan 3, 2022)

Mark Kurvers own Blackhawk Ranch Lot 52 near the proposed site is opposed. The project would increase traffic, noise, and residents in a quiet area. (Jan. 5, 2022)

Stuart Gordon owns a home at 5 Oneida Drive in Blackhawk Ranch III, a few hundred yards east of the northeasternmost corner of the proposed subdivision. He is concerned with the traffic and associated noise on West Mountain Road, during and after construction. This concerned would be mitigated by paving West Mountain Road south of the proposed subdivision. (Jan. 5, 2022)

Kerstin Dettrich, Blackhawk Subdivision, recommends requiring co-located cluster mailboxes a standard condition of approval for subdivision. A conditional of approval should be the requirement that the applicant provide a letter from the U.S. Postal Service approving the location of cluster mailboxes for the subdivision. (Jan. 6, 2022)

5. Physical characteristics of the site: Timbered, Mountainous

6. The surrounding land use and zoning includes:

North: Agricultural (Timber and Grazing) and C.U.P. 96-6 Sunflower Gravel Pit

South: Agricultural (Timber and Grazing)

East: Single-family Residential Subdivisions and Agricultural (Timber and Grazing)

West: Agricultural (Timber and Grazing)

7. Valley County Code (Title 9): In Table 9-3-1, this proposal is categorized under:

- 2. Residential Uses (c) Subdivision for single-family subdivision.

Review of Title 9 - Chapter 5 Conditional Uses and Title 10 should be done.

9-5A-1: GRADING:

A. Permit Required: Grading to prepare a site for a conditional use or grading, vegetation removal, construction or other activity that has any impact on the subject land or on adjoining properties is a conditional use. A conditional use permit is required prior to the start of such an activity.

D. Wetlands: Grading or disturbance of wetlands is subject to approval of the U.S. corps of engineers under the federal clean water act. The federal permit, if required, shall be part of the conditional use permit.

E. Site Grading Plan:

1. The conditional use permit application shall include a site grading plan, or preliminary site grading plan for subdivisions, clearly showing the existing site topography and the proposed final grades with elevations or contour lines and specifications for materials and their placement as necessary to complete the work. The plan shall demonstrate compliance with best management practices for surface water management for permanent management and the methods that will be used during construction to control or prevent the erosion, mass movement, siltation, sedimentation, and blowing of dirt and debris caused by grading, excavation, open cuts, side slopes, and other site preparation and development. The plan shall be subject to review of the county engineer and the soil conservation district. The information received from the county engineer, the soil conservation district, and other agencies regarding the site grading plan shall be considered by the planning and zoning commission and/or the board of county commissioners in preparing the conditions of approval or reasons for denial of the applications. (Ord. 10-06, 8-23-2010)

2. For subdivisions, preliminary site grading plans and stormwater management plans must be presented for review and approval by the commission as part of the conditional use permit application. However, prior to construction of the infrastructure, excavation, or recordation of the final plat, the final plans must be approved by the county engineer. (Ord. 10-06, 8-23-2010; amd. Ord. 11-5, 6-6-2011)

F. Land Surfaces Not Used For Roads, Buildings And Parking: All land surfaces not used for roads, buildings and parking shall be covered either by natural vegetation, other natural and undisturbed open space, or landscaping.

G. Stormwater Management Plan: Prior to issuance of building permits, the administrator must receive a certification from the developer's engineer verifying that the stormwater management plan has been implemented according to approved plans. (Ord 10-06, 8-23-2010)

9-5A-5: FENCING:

F. Conditional Use Adjoins Agricultural Uses: Where a conditional use adjoins an agricultural use where animal grazing is known to occur for more than thirty (30) consecutive days per year, the permittee shall cause a fence to be constructed so as to prevent the animals from entering the use area. The permittee shall provide for the maintenance of said fence through covenants, association documents, agreement(s) with the adjoining owner(s), or other form acceptable to the commission prior to approval of the permit so that there is reasonable assurance that the fence will be maintained in functional condition so long as the conflicting uses continue.

G. Obstruction Of Vision: Sight obscuring fences, hedges, walls, latticework, or screens shall not be constructed in such a manner that vision necessary for safe operation of motor vehicles or bicycles on or entering public roadways is obstructed. (Ord. 10-06, 8-23-2010)

9-5A-6: UTILITIES:

A. Direct Access Required: All lots or parcels, for or within conditional uses, shall be provided, or shall have direct access to, utility services including telephone, electrical power, water supply, and sewage disposal.

- C. Probability Of Water Supply: Probability of water supply, as referred to in subsection A of this section, can be shown by well logs in the general area or by a determination of a professional engineer, hydrologist, or soil scientist.
- D. Individual Septic Systems: If individual septic systems are proposed to show compliance with sewage disposal requirements in subsection A of this section, sanitary restrictions must be lifted on every lot prior to recordation unless it is designated as a lot where a building permit will never be issued for a residential unit, such as pasture lot, common area, open space, or a no build lot.
- E. Easements Or Rights Of Way: Easements or rights of way shall be set aside or dedicated for the construction and maintenance of utilities in accordance with the provisions of the subdivision ordinance.
- F. Utility Plan: A utility plan showing the schedule of construction or installation of proposed utilities shall be a part of the conditional use permit. (Ord. 10-06, 8-23-2010)

9-5C-2: MINIMUM LOT AREA:

- B. New Subdivisions:
 - 1. Single-Family Residences: New subdivisions for single-family residences shall provide the following minimum lot sizes:
 - a. One acre where individual sewage disposal systems and individual wells are proposed.
- C. Frontage On Public Or Private Road: Frontage on a public or private road shall not be less than thirty feet (30') for each lot or parcel. The lot width at the front building setback line shall not be less than ninety feet (90').

9-5C-6: DENSITY:

- A. The density of any residential development or use requiring a conditional use permit shall not exceed two and one-half (2.5) dwelling units per acre, except for planned unit developments or long-term rentals. Long-term rental density can be determined by the Planning and Zoning Commission in regards to compatibility with surrounding land uses and will require a deed restriction.
- B. Density shall be computed by dividing the total number of dwelling units proposed by the total acreage of land within the boundaries of the development. The area of existing road rights of way on the perimeter of the development and public lands may not be included in the density computation. (Ord. 11-5, 6-6-2011; amd. Ord. 20-12, 7-6-2020)

10-4-4: STREETS:

- F. Street Layout:
 - 1. Adequate access within a public right of way to adjoining lands when there may be future development.
 - 6. Cul-de-sac streets, designed to be so permanently, shall not be longer than nine hundred feet (900') unless specifically approved by the commission and board and shall be provided with a turnaround with a right of way radius of at least sixty feet (60').

10-4-6: EASEMENTS:

- A. Utility Easements: There shall be provided easements for the utilities upon and across the front of lots of a width of a minimum of twelve feet (12') (except for entrance service) or as and where considered necessary by the commission. (Ord. 13-5, 9-16-2013)
- B. Stormwater Easement Or Drainage Right Of Way: Where a subdivision is crossed or bounded by a watercourse, drainageway, channel, irrigation ditch, or stream there shall be provided a stormwater easement or drainage right of way conforming substantially with the lines of such watercourse, and such further width or construction, or both, as will be adequate for the purpose.

C. Drainage: Provisions for adequate drainage shall be made by the subdivider as prescribed by the county engineer in accordance with the manual containing the drainage standards and specifications as adopted by Valley County.

D. Existing Easements: All existing easements must be shown on the subdivision plat. (Ord. 10-07, 8-26-2010)

10-4-7: PATHWAYS:

- A. Rights Of Way Or Easements: New developments shall show pathway rights of way or easements where development overlies key pathway corridors, as identified in the Valley County pathways concept master plan.
- B. Safe Pedestrian Travel: In new development areas where potential links to the regional valleywide pathway system can be established, developers should create neighborhood pathways, bike lanes, and/or sidewalks to encourage and accommodate safe pedestrian travel to regional pathways. (Ord. 10-07, 8-26-2010)

10-5-1: STREET AND UTILITY IMPROVEMENTS:

- A. Installation Required: Public street, utility, conduit for fiber optics, and other off site improvements, as hereinafter listed, shall be installed in each new subdivision at the subdivider's expense or at the expense of the party agreeing to install the same, in accordance with the minimum standards set forth below prior to the acceptance of any final plat for recordation, except as provided in subsections C and D of this section. A right of way permit will be required (see section 5-7-2 of this code).
- B. Acceptance By County: The county shall not accept the dedication of any public rights of way and any easements shown on the plat, together with appurtenant facilities lying therein which the county would have a duty to maintain after dedication, which are not improved, or construction thereof guaranteed in accordance with the provisions of this title or with the policies, standards, designs and specifications set forth in the road and street specifications adopted by Valley County. The Valley County Board of Commissioners have the sole discretion to set the level of service for any public road; the level of service can be changed. All plats shall contain in their notes this statement: "The Valley County Board of Commissioners have the sole discretion to set the level of service for any public road; the level of service can be changed."

Dedication of public rights-of-way does not guarantee that the public road will be maintained by Valley County. Public rights of way are allowed with roads that are maintained by homeowners. Public rights of way shall be provided through properties to adjacent lands for the purpose of circulation, when reasonable.

- C. Private Road Declaration: In the event that private roads, streets and ways are shown on a subdivision plat, the width of the right of way must meet specifications set forth in road and street specifications adopted by the board of county commissioners. A private road declaration shall be recorded and state that the county will have no responsibility for the installation or maintenance of the private roads, shall describe who is responsible for maintenance of the private roads, and describe the construction schedule for the private roads. Construction of private roads shall be the responsibility of the subdivider and shall be constructed to the minimum standards as set forth in the road and street specifications for private roads adopted by the county.
- D. Declaration Of Installation Of Utilities: A declaration of installation of utilities shall also be recorded. The declaration shall describe the utilities that will be placed by the subdivider, verify when the utilities will be installed and state that Valley County will have no responsibility for the installation or maintenance of utilities. If all utilities are not installed prior to recordation of the plat, a note shall be placed on the face of the plat that states: "Utilities have not been installed at the time of recordation of this plat".
- E. Connection To Public Road Required: The county shall not accept any new subdivision unless the streets within the subdivision, whether public or private, are connected directly to an existing public

road. In the event the subdivision is not connected to a public road with an approved minimum standard as determined by the Valley County Road Director, then the subdivider shall construct, or guarantee the construction as provided by this title, a connector road to county standards, either private roads or public roads, which shall provide access to the subdivision. All subdivisions shall be required to be accessed by a road system that meets the minimum standard as determined by the Valley County Road Director. When access has historically been provided through the subdivision to other ownerships, the subdivider shall provide for continuation of the public right of way. (Ord. 13-5, 9-16-2013; amd Ord. 21-08, 6-28-2021)

10-5-3: DEPOSIT FOR COMPLETION OF IMPROVEMENTS:

- A. Surety Agreement: A subdivider or other interested party, in lieu of completion of the required minimum street and other improvements required by section 10-5-1 of this chapter and in compliance with the schedules of required street, utility, and other improvements set forth in section 10-5-2 of this chapter, or any portion thereof, may deposit with the county clerk, a surety bond or performance bond, or a certified check or cashier's check drawn on a bank qualified to do business in the state, or a cash deposit, or a letter of credit, or assignment of funds on deposit in a bank or building and loan association, qualified to do business in the state, and only when such financial institutions have received a copy of the surety arrangements and have agreed in writing to abide by the conditions set forth therein and the amount of such surety called for to be equal to not less than one hundred twenty percent (120%) of the cost of required improvements according to the estimate made by the subdivider and verified by the Valley County engineer; and in all cases such surety shall be drawn in favor of, and payable to the order of, Valley County, in accordance with the provisions contained in the surety agreement by and between the guarantor and Valley County. Such surety agreement shall contain suitable provisions requiring the subdivider to construct all improvements in accordance with Valley County standards and specifications, subject to inspection and approval by the Valley County engineer and for completion within one year from date of recording of said plat.
- B. Right To Extend Period Of Construction: The county shall reserve the right to extend the period of construction for a year, or to construct the required improvements with county forces (or with contracted forces) and charge the sureties posted for such work.
- C. Correction Of Deficiencies At Later Date: In order to guarantee that the construction of the improvements will stand the test of time and to assure the public of a near maintenance free facility, the county shall retain a surety in the amount of twenty percent (20%) of the original surety for a period of two (2) years after the original construction has been accepted. If, during this two (2) year period, it is discovered that the original construction was deficient due to drainage, settling, defective or insufficient materials or other unforeseen circumstances, then the county engineer shall notify the subdivider to correct these deficiencies in the construction and repair the facility back to county standards. If deficiencies are not corrected within thirty (30) days, or such additional time as deemed reasonable by the county engineer, the county engineer may cause such deficiencies to be remedied and use the subdivider's surety funds to pay for such remediation upon approval of the board. (Ord. 10-07, 8-26-2010)

10-5-5: RETURN OF SURETY UPON APPROVAL OF IMPROVEMENTS:

Where an acceptable surety arrangement is deposited as provided in section 10-5-3 of this chapter, and the work thereby guaranteed has been completed, notice in writing of such completion, together with sets of prints of the plans and specifications for all improvements, as built, and requests for the return of the surety arrangement shall be given in duplicate to the administrator, who shall immediately give one copy thereof to the Valley County engineer for verification and certification of completion of work. Upon the administrator receiving said certificate, as provided in section 10-3-3-5 of this title, the administrator shall give notice to the county clerk to release the sureties heretofore deposited with said county clerk in the manner and to the extent as provided for in the surety agreement referred to in section 10-5-3 of this chapter and commensurate to the extent of the acceptance by the Valley County engineer of the improvements called for in exhibit A of the said surety agreement. (Ord. 10-07, 8-26-2010)

SUMMARY:

Compatibility Rating: Staff's compatibility rating is a +27.

The Planning and Zoning Commission should do their own compatibility rating prior to the meeting (form with directions attached).

STAFF COMMENTS / QUESTIONS:

1. This site is within both the Donnelly Fire District and the McCall Fire District. They are requesting you determine where the jurisdiction line is located, and that you put in hydrants. Please address these issues.
2. This site is not within an irrigation district or designated floodplain.
3. Part of the site is within a herd district.
4. A note limiting each lot to one wood-burning device should be added to the plat. Will CCR's address fertilizers, fire resistant building materials, firewise landscaping, maintenance and continued implementation of the Wildfire Mitigation Plan, building envelopes, etc.? Recommend the CCR's also address long-term maintenance of septic systems.
5. Describe plan to implement Wildfire Mitigation Plan. Will you implement on a phase-by-phase basis prior to recordation of each final plat or in its entirety?
6. Will CCR's have a setback from the Blackhawk Lake Subdivision?
7. Will you delineate the wetlands or do building envelopes?
8. All easements must be shown on the plat. See the 2009 letter from John Russell.
9. The variance of road surface width will need to be approved by the Valley County Engineer, fire department, and Board of County Commissioners.
10. Are streetlights proposed?
11. All road names shall be approved by the Valley County Planning and Zoning prior to final plat approval. Some of the road names shown on the maps are not acceptable. A legible map with proposed road names is needed for approval.
12. The approval period should not be open-ended. What should the maximum time period between phases be without requiring an extension request? When should the entire project be finalized or require an extension? Ten phases at two years each; therefore, completion by December 31, 2042?
13. The original application in 2007 proposed conservation easements on large portions of the property. Will you have any conservation easements?
14. The original application proposed three different extraction sites for gravel and roadmix. Do you plan on using these sites or do you want to apply for a different conditional use permit for gravel extraction? Typically, gravel can be mined onsite for internal roads without a conditional use permit.
15. Does any portion of this proposal contain groomed snowmobile trails or the original Redridge RD? If so, will you provide easements for continued public use?
16. Idaho Fish and Game Department submitted a lengthy response. Please address all matters such as fencing, domestic animals, garbage cans, etc. Will these items be added to the CCR's?

ATTACHMENTS:

- Conditions of Approval
- Blank Compatibility Evaluation and Instructions
- Compatibility Evaluation by Staff
- Vicinity Map
- Aerial Map
- Responses
- Idaho 67-6537
- Original Approvals

Conditions of Approval

1. The application, the staff report, and the provisions of the Land Use and Development Ordinance are all made a part of this permit as if written in full herein.
2. Any change in the nature or scope of land use activities shall require an additional Conditional Use Permit.
3. The use must be established according to the phasing plan, or the conditional use permit will be null and void. All final plats shall be recorded by December 31, 2042.
4. The issuance of this permit and these conditions will not relieve the applicant from complying with applicable County, State, or Federal laws or regulations or be construed as permission to operate in violation of any statute or regulations. Violation of these laws, regulations or rules may be grounds for revocation of the Conditional Use Permit or grounds for suspension of the Conditional Use Permit.
5. Must have an approved storm water management plan and site grading plan approved by the Valley County Engineer prior to any work being done on-site and prior to recordation of a plat.
6. A wetland delineation is required, or the wetland areas must be identified on the plat as no-build areas.
7. Must bury conduit for fiber optics within roadways.
8. Must record Articles of Incorporation and create a Homeowner's Association prior to recordation of a final plat.
9. A Declaration of Installation of Utilities shall be placed on the face of the plat if all utilities are not in place at the time of recordation.
10. Must comply with the requirements of the McCall Fire District and Donnelly Rural Fire District. A letter of approval is required from both districts if not annexed into the McCall Fire District.
11. All easements must be shown on final plats.
12. All lighting must comply with the Valley County Lighting Ordinance.
13. CCR's should address lighting, noxious weed eradication, fertilizer use, continued

maintenance with the Wildfire Mitigation Plan, firewise landscaping, fire resistant materials, education on long-term maintenance of septic systems, and limit each lot to one wood burning device. Wildlife-friendly fencing is recommended.

14. Shall place addressing numbers at the residence and at the driveway entrance if the house numbers are not visible from the road.
15. A floodplain note should be added to the plat.
16. Financial guarantees or certificates of completion shall be in place prior to recordation of plats.
17. Prior to construction of any on-site improvements, the applicant shall meet with the Valley County Road Director and/or Board of County Commissioners to discuss off-site road improvements. If an agreement cannot be reached the application shall be set for another public hearing with the Valley County Planning and Zoning Commission to determine if the application can be approved without improvements and still meet their mandates concerning public health, safety, and welfare matters. The discussion will be concerning current road conditions and potential mitigation for impacts caused by the development.
18. The following note shall be placed in the notes on the face of the final plat:

“The Valley County Board of Commissioners have the sole discretion to set the level of service for any public road; the level of service can be changed.”

END OF STAFF REPORT

Matrix Line # / Use: _____

Prepared by: _____

YES/NO X Response Value

Use Matrix Values:

(+2/-2) _____ X 4 _____

1. Is the proposed use compatible with the dominant adjacent land use?

(+2/-2) _____ X 2 _____

2. Is the proposed use compatible with the other adjacent land uses (total and average)?

(+2/-2) _____ X 1 _____

3. Is the proposed use generally compatible with the overall land use in the local vicinity?

Site Specific Evaluation (Impacts and Proposed Mitigation)

(+2/-2) _____ X 3 _____

4. Is the property large enough, does the existence of wooded area, or does the lay of the land help to minimize any potential impacts the proposed use may have on adjacent uses?

(+2/-2) _____ X 1 _____

5. Is the size or scale of proposed lots and/or structures similar to adjacent ones?

(+2/-2) _____ X 2 _____

6. Is the traffic volume and character to be generated by the proposed use similar to the uses on properties that will be affected by proximity to parking lots, on-site roads, or access roads?

(+2/-2) _____ X 2 _____

7. Is the potential impact on adjacent properties due to the consuming or emission of any resource or substance compatible with that of existing uses?

(+2/-2) _____ X 2 _____

8. Is the proposed use compatible with the abilities of public agencies to provide service or of public facilities to accommodate the proposed use demands on utilities, fire and police protection, schools, roads, traffic control, parks, and open areas?

(+2/-2) _____ X 2 _____

9. Is the proposed use cost effective when comparing the cost for providing public services and improving public facilities to the increases in public revenue from the improved property?

Sub-Total (+) _____

Sub-Total (-) _____

Total Score _____

The resulting values for each questions shall be totaled so that each land use and development proposal receives a single final score.

9-11-1: APPENDIX A, COMPATIBILITY EVALUATION:

A. General: One of the primary functions of traditional zoning is to classify land uses so that those which are not fully compatible or congruous can be geographically separated from each other. The county has opted to substitute traditional zoning with a multiple use concept in which there is no separation of land uses. Proposed incompatible uses may adversely affect existing uses, people, or lands in numerous ways: noise, odors, creation of hazards, view, water contamination, loss of needed or desired resources, property values, or infringe on a desired lifestyle. To ensure that the county can continue to grow and develop without causing such land use problems and conflicts, a mechanism designed to identify and discourage land use proposals which will be incompatible at particular locations has been devised. The compatibility evaluation of all conditional uses also provides for evaluations in a manner which is both systematic and consistent.

B. Purpose; Use:

1. The compatibility rating is to be used as a tool to assist in the determination of compatibility. The compatibility rating is not the sole deciding factor in the approval or denial of any application.
2. Staff prepares a preliminary compatibility rating for conditional use permits, except for conditional use permits for PUDs. The commission reviews the compatibility rating and may change any value.

C. General Evaluation: Completing the compatibility questions and evaluation (form):

1. All evaluations shall be made as objectively as possible by assignment of points for each of a series of questions. Points shall be assigned as follows:
 - Plus 2 - assigned for full compatibility (adjacency encouraged).
 - Plus 1 - assigned for partial compatibility (adjacency not necessarily encouraged).
 - 0 - assigned if not applicable or neutral.
 - Minus 1 - assigned for minimal compatibility (adjacency not discouraged).
 - Minus 2 - assigned for no compatibility (adjacency not acceptable).
2. Each response value shall be multiplied by some number, which indicates how important that particular response is relative to all the others. Multipliers shall be any of the following:
 - x4 - indicates major relative importance.
 - x3 - indicates above average relative importance.
 - x2 - indicates below average relative importance.
 - x1 - indicates minor relative importance.

D. Matrix - Questions 1 Through 3: The following matrix shall be utilized, where practical, to determine response values for questions one through three (3). Uses classified and listed in the left hand column and across the top of the matrix represent possible proposed, adjacent, or vicinity land uses. Each box indicates the extent of compatibility between any two (2) intersecting uses. These numbers should not be changed from proposal to proposal, except where distinctive uses arise which may present unique compatibility considerations. The commission shall determine whether or not there is a unique consideration.

E. Terms:

DOMINANT ADJACENT LAND USE: Any use which is within three hundred feet (300') of the use boundary being proposed; and

1. Comprises at least one-half ($1/2$) of the adjacent uses and one-fourth ($1/4$) of the total adjacent area; or
2. Where two (2) or more uses compete equally in number and are more frequent than all the other uses, the one with the greatest amount of acreage is the dominant land use; or
3. In all other situations, no dominant land use exists. When this occurs, the response value shall be zero.

LOCAL VICINITY: Land uses within a one to three (3) mile radius. The various uses therein should be identified and averaged to determine the overall use of the land.

F. Questions 4 Through 9:

1. In determining the response values for questions 4 through 9, the evaluators shall consider the information contained in the application, the goals and objectives of the comprehensive plan, the provisions of this title and related ordinances, information gained from an actual inspection of the site, and information gathered by the staff.
2. The evaluator or commission shall also consider proposed mitigation of the determined impacts. Adequacy of the mitigation will be a factor.

APPENDIX A

MATRIX FOR RATING
QUESTIONS 1, 2, and 3

	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23
1. AGRICULTURAL		+2	-1	-2	-2	-2	-2	+1	+1	+1	+1	+2	+1	+1	-1	-1	-1	-1	-2	-1	+1	+2	+2
2. RESIDENCE, S.F.	+2		+2	+1	+1	+1	+1	+1	+1	-1	+2	+1	-2	+1	-1	+1	+1	+1	-1	+1	+1	-2	-2
3. SUBDIVISION, S.F.	-1	+2		+1	+1	+1	+1	+1	+1	-1	+2	+1	-2	+1	-1	+1	+1	+1	-1	+2	+1	-2	-2
4. M.H. or R.V. PARK	-2	+1	+1		+1	+1	+1	+1	+1	-1	+2	+1	-2	+1	-1	+1	+1	+1	-1	+1	+1	-2	2
5. RESIDENCE, M.F.	-2	+1	+1	+1		+2	+2	+1	+1	-1	+2	+1	-2	+1	-1	+1	+1	+1	-1	+1	+1	-2	-2
6. SUBDIVISION, M.F.	-2	+1	+1	+1	+1		+2	+1	+1	-1	+2	+1	-2	+1	-1	+1	+1	+1	-1	+1	+1	-2	-2
7. P.U.D., RES.	-2	+1	+1	+1	+1	+1		+1	+1	-1	+2	+1	-2	+1	-1	+1	+1	+1	-1	+1	+1	-2	-2
8. REL, EDUC & REHAB	+1	+2	+1	+1	+1	+1	+1		+1	+1	-1	+2	-2	-1	-1	+2	+2	+1	+1	-1	+1	-2	-1
9. FRAT or GOVT	+1	+1	+1	+1	+1	+1	+1	+1		+1	-1	+2	-2	-1	-1	+1	+1	+1	+1	-1	+1	-2	-2
10. PUBLIC UTIL. (1A-3.1)	+1	-1	-1	-1	-1	-1	-1	+1	+1		+1	+1	-1	+1	+1	+1	+1	+1	+1	+1	+1	+2	+2
11. PUBLIC REC	+1	+2	+2	+2	+2	+2	+2	-1	-1	+1		+2	-1	+1	+1	+1	+1	+1	+1	+1	+1	-1	-1
12. CEMETERY	+2	+1	+1	+1	+1	+1	+1	+2	+2	+2	+2		+1	+1	+1	+1	+1	+1	+1	+1	+2	+1	+1
13. LANDFILL or SWR. PLANT	+1	-2	-2	-2	-2	-2	-2	-2	-2	-2	-1	+1		-1	-1	-2	-2	-2	-2	-2	+2	+2	+2
14. PRIV. REC. (PER)	+1	+1	+1	+1	+1	+1	+1	-1	-1	+1	+1	+1	-1		+1	+1	+1	+2	+1	+2	+2	-1	+1
15. PRIV. REC. (CON)	-1	-1	-1	-1	-1	-1	-1	-1	-1	+1	+1	+1	-1	+1		-2	-2	-1	-2	-2	+2	-1	+1
16. NEIGHBORHOOD BUS.	-1	+1	+1	+1	+1	+1	+1	+2	+1	+1	+1	+1	-2	+1	-2		+1	+2	+2	+1	+2	-1	-1
17. RESIDENCE BUS.	+2	+2	+2	+1	+1	+1	+1	+2	+1	-1	+2	+1	-2	+1	-2	+1	+1	+1	-1	+1	+1	-2	-2
18. SERV. BUS.	-1	+1	+1	+1	+1	+1	+1	+1	+1	+1	+1	+2	+2	+2	+2	+2	+2	+2	+2	+2	+2	+1	+1
19. AREA BUS.	-2	-1	-1	-1	-1	-1	-1	+1	+1	+1	+1	+1	-2	+1	-2	+2	+2	+2	+2	+1	+2	-2	-2
20. REC. BUS.	-2	+2	+2	+1	+1	+1	+1	-1	-1	+1	+1	+1	-1	+2	-2	+1	+1	+2	+1	+2	+2	-2	+1
21. LIGHT IND.	+1	+1	+1	+1	+1	+1	+1	+1	+1	+1	+1	+2	+2	+2	+2	+2	+2	+2	+2	+2	+2	+1	+1
22. HEAVY IND.	+2	-2	-2	-2	-2	-2	-2	-2	-2	+2	-1	+1	+2	-1	-1	-1	-1	-1	-1	-1	-1	+1	+2
23. EXTR. IND.	+2	-2	-2	-2	-2	-2	-2	-1	-2	+2	+1	+1	+2	+1	+1	-1	-1	-1	-1	-1	+1	+1	+2

THE SOLID SQUARES AS +2

Compatibility Questions and Evaluation

Matrix Line # / Use: 3

Prepared by: CH

YES/NO X Response Value

Use Matrix Values:

(+2/-2) +2 X 4 +8

1. Is the proposed use compatible with the dominant adjacent land use?

S. F. Subdivision

(+2/-2) -2 X 2 -4

2. Is the proposed use compatible with the other adjacent land uses (total and average)?

Timber

(+2/-2) +1 X 1 +1

3. Is the proposed use generally compatible with the overall land use in the local vicinity?

See 1 + 2

Site Specific Evaluation (Impacts and Proposed Mitigation)

(+2/-2) +2 X 3 +6

4. Is the property large enough, does the existence of wooded area, or does the lay of the land help to minimize any potential impacts the proposed use may have on adjacent uses?

It is large with trees, and has varying topography

(+2/-2) +2 X 1 +2

5. Is the size or scale of proposed lots and/or structures similar to adjacent ones?

Yes - similar buildings, larger lots

(+2/-2) +2 X 2 +4

6. Is the traffic volume and character to be generated by the proposed use similar to the uses on properties that will be affected by proximity to parking lots, on-site roads, or access roads?

Yes - s.f. residential

(+2/-2) +2 X 2 +4

7. Is the potential impact on adjacent properties due to the consuming or emission of any resource or substance compatible with that of existing uses?

Yes - s.f. residential

(+2/-2) +1 X 2 +2

8. Is the proposed use compatible with the abilities of public agencies to provide service or of public facilities to accommodate the proposed use demands on utilities, fire and police protection, schools, roads, traffic control, parks, and open areas?

Yes - same with some ↑ impact

(+2/-2) +2 X 2 +4

9. Is the proposed use cost effective when comparing the cost for providing public services and improving public facilities to the increases in public revenue from the improved property?

Taxes > costs

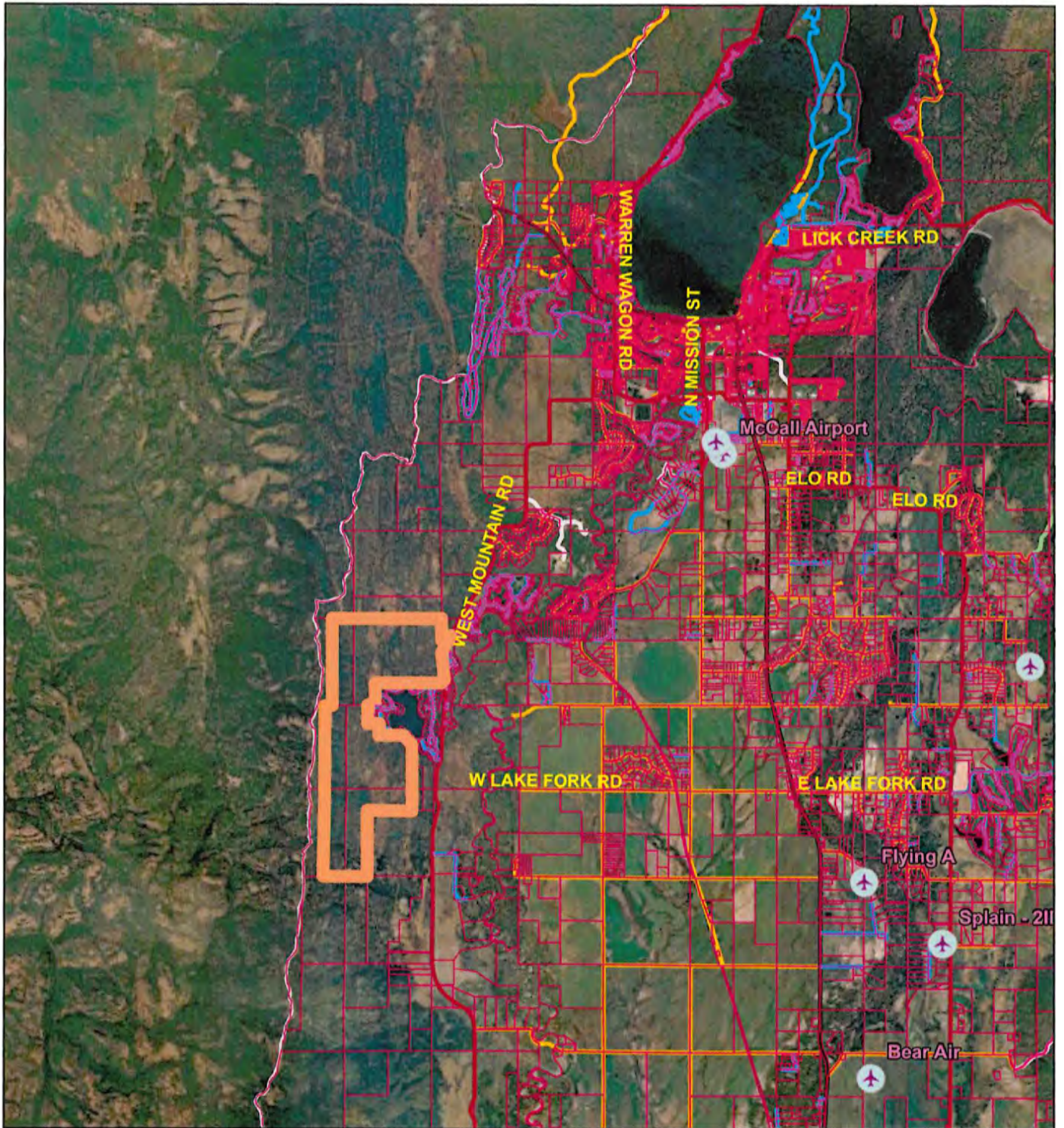
Sub-Total (+) 31

Sub-Total (-) 4

Total Score +27

The resulting values for each questions shall be totaled so that each land use and development proposal receives a single final score.

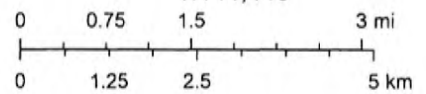
C.U.P. 21-45 Redridge Preserve



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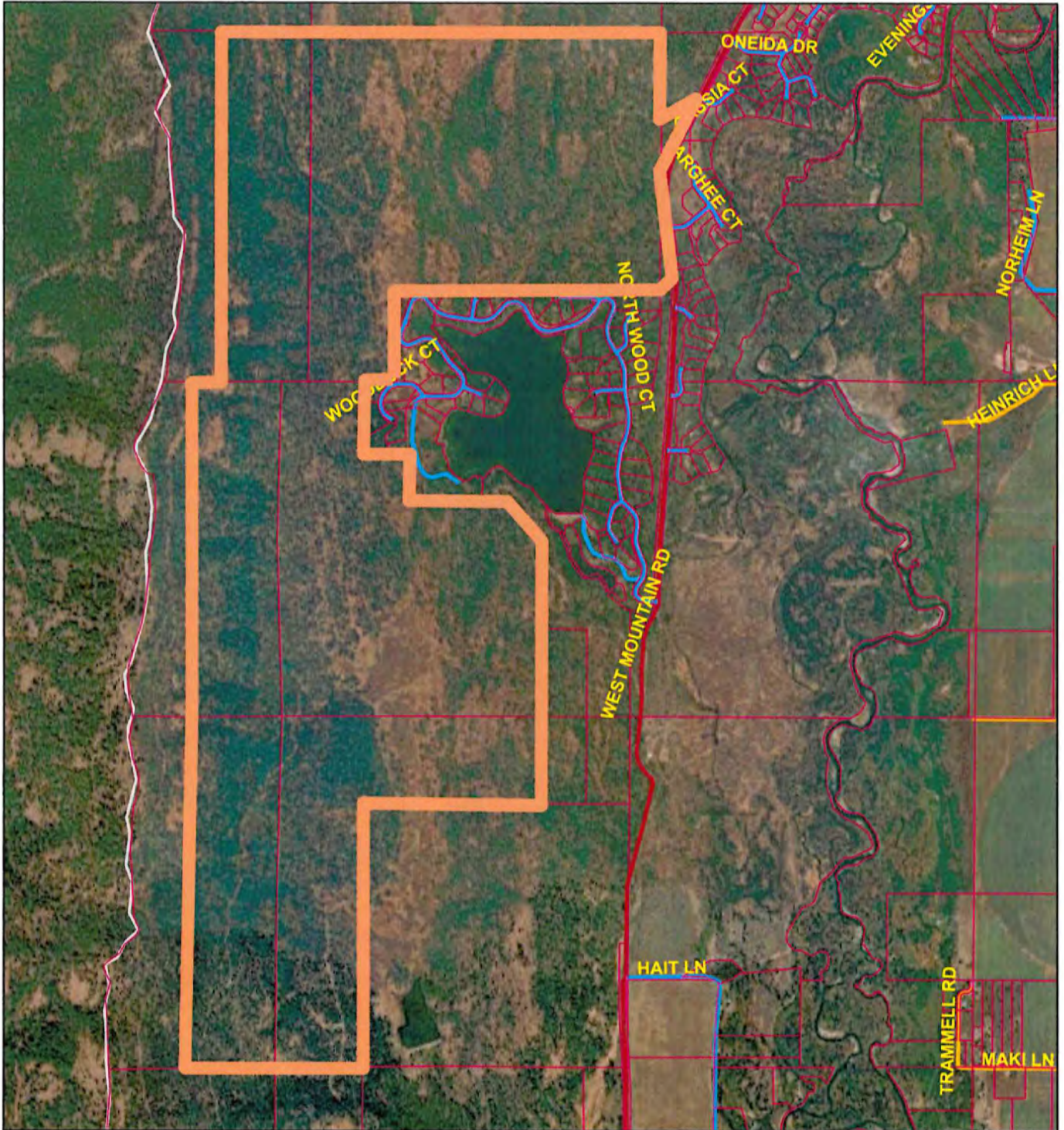
1:144,448

-  Airstrips
-  Parcel Boundaries
- Major Road Labels
- Roads
 -  MAJOR
 -  MINOR COLLECTOR
-  COLLECTOR
-  URBAN/RURAL
-  USFS
-  PRIVATE
-  OTHER



Earthstar Geographics

C.U.P. 21-45 Redridge Preserve



12/13/2021, 11:54:33 AM

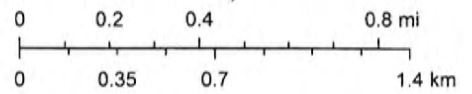
1:36,112

Parcel Boundaries URBAN/RURAL

All Road Labels PRIVATE

Roads

COLLECTOR



Maxar

Valley County Planning and Zoning Commission

PO Box 1350 • 219 North Main Street
Cascade, ID 83611-1350



Phone: 208-382-7115
Email: cherrick@co.valley.id.us

Neal Thompson, Chairman
Ken Roberts, Vice-Chair

Sasha Childs, Commissioner
Katlin Caldwell, Commissioner
Scott Freeman, Commissioner

MINUTES

Valley County Planning and Zoning Commission
February 10, 2022

Valley County Court House - Cascade, Idaho
PUBLIC HEARING - 6:00 p.m.

A. OPEN: Meeting called to order at 6:00 p.m. by Chairman Thompson. A quorum exists.

PZ Director – Cynda Herrick:	Present
PZ Commissioner – Katlin Caldwell	Excused
PZ Commissioner – Sasha Childs:	Present
PZ Commissioner – Scott Freeman:	Present
PZ Commissioner – Ken Roberts:	Present
PZ Commissioner – Neal Thompson:	Present
PZ Assistant Planner – Lori Hunter:	Present

B. MINUTES: Commissioner Freeman moved to approve the minutes of January 13, 2022, and January 19, 2022. Commissioner Childs seconded the motion. Motion carried unanimously.

C. OLD BUSINESS:

- C.U.P. 21-45 RedRidge Preserve – Preliminary Plat:** The McCall Associates LLC is requesting a conditional use permit for a 135-lot single-family subdivision in ten phases. Proposed lot sizes range from 3 acres to 17 acres. Individual wells and individual septic systems are proposed. Access would be provided from two locations on West Mountain Road onto private roads. A variance to the private road width is requested. The site includes approximately 1,614 acres in Sections 2, 3, 10, and 11, T.17N, R.2E and Sections 26, 34, 35, and 36, T.18N, R.2E, Boise Meridian, Valley County, Idaho. *Continued from January 13, 2022.* Action Item.

Acting Chairman Thompson introduced the item and opened the public hearing. Acting Chairman Thompson asked if there was any *ex parte* contact or conflict of interest. There was none.

Chairman Thompson asked for the staff report. Director Herrick presented the report; displayed the submitted site plan and the GIS map of area on the projector screen; and summarized the following exhibits:

- Exhibit 1** – Response from Idaho Department of Environmental Quality (DEQ) concerning West Mountain Sewer and Water Reuse Permit M-117-03. (Feb. 3, 2022)
- Exhibit 2** – Valley Soil and Water Conservation District has concerns regarding soil types and individual septic systems. The District highly recommends that alternatives other than individual systems be considered and installed such as a central system. The Cascade Reservoir Watershed TMDL Five-Year Review is attached. (Feb. 3, 2022)
- Exhibit 3** – Michael Hipsher, 875 Blackhawk Lake DR, is opposed to a variance from the

Valley County Private Road Standards for this proposed subdivision on a mountain hillside with hillside grades and blind corners. The standard road width should be required for emergency services responses and large vehicles and trailers. (Feb. 3, 2022)

- **Exhibit 4** – James and Susan Durst, 370 Blackhawk Lake DR, are opposed. Their concerns include the applicant, financial costs, water table and drain fields, and increased traffic on West Mountain Road. (Feb. 6, 2022)
- **Exhibit 5** – Sima Muroff replied to concerns of the Valley Soil and Water Conservation District. (Feb. 7, 2022)
- **Exhibit 6** – John Lillehaug submitted the final Wildland Urban Interface Fire Protection Plan for RedRidge Preserve. (Feb. 10, 2022)
- **Exhibit 7** – Email from Brian Dickens regarding West Mountain Water & Sewer. He clarified that this application will only include individual septic systems and wells, not connection to West Mountain Water & Sewer. (Feb. 10, 2022)
- **Exhibit 8** - Large map of proposed subdivision showing lots, topography, building sites, approved septic sites, and denied septic sites.

[Exhibits 1 and 2 were given to the Commissioners and Applicant with the staff report prior to tonight's public hearing.]

Chairman Thompson asked for the applicant's presentation.

Brian Dickens, Meridian, Idaho, is representing McCall Associates and Blackhawk on the River LLC. He replied to the Commissioner's questions sent to the applicant after the public hearing on January 13, 2022.

- The adjacent Blackhawk Lake 5 was approved on by Planning and Zoning in March 2020; density is one lot per 4.875 acres.
- An agreement with Blackhawk Lake 5 exists for cost of road maintenance of the shared roadway from West Mountain Road through Blackhawk Lake 5 to RedRidge Preserve.
- Proposed density for RedRidge Preserve is one lot per 11.95 acres.
- Approximately 60% of the construction for the previously approved Phase 1 has been completed. The gravel pit provided base material for the road. The roadway was cut and base rock was placed during prior approval for the first 50-75 lot neighborhood.
- The wildland fire plan has been updated and submitted [**Exhibit 6**].
- Updated site plan was submitted [**Exhibit 8**].
- Data from test holes and wells has been completed by Secesh Engineering, submitted to Central District Health (CDH), and application has been paid for.
- Valley County Code permits a minimal size lot of 1-acres with individual well and septic systems; this application is designed to follow Valley County Code requirements.
- The current proposed minimal lot size is three acres.
- The phasing plan requested has been reduced to 10 years.
- Bonding / financial assurances will be done as per Valley County Code and as recommended by the applicant's engineer.
- The proposed site is within a Herd District. This will involve repairing the existing perimeter fence and adding landscaping and fencing requirements in CCRs.

- Idaho Department of Water Resources has said this site is not within area of water or nitrate concern. A preliminary review was performed by SPF Engineering and submitted with the conditional use permit application. Based on this report, there does not appear to be a decline in water availability.
- The neighboring Blackhawk Lake 5 had a higher approved density compared to this proposal.
- Water quality was discussed. No homes will be located within the riparian zones.
- Wetland delineation has been completed and is shown on the preliminary plat map. This has been reviewed by Corps of Engineers.
- They have spoken with Idaho Fish and Game Department regarding animal habitat concerns. Language will be included in the CCRs for these concerns.
- Drainage in excess of pre-development rates will be retained on-site and discharged at pre-development rates to protect downstream properties. Stormwater will be treated through improved Best Management Practices (BMPs).
- The applicant's January 10th letter includes information on the Environmental Impact Study (EIS) report.
- The Valley County Engineers have responded to the correct drawing set of preliminary site grading and drainage plans. Valley County private road standards will be met.

Mr. Dickens replied to additional questions from the Commissioners. A centralized water and sewer system is not part of this application. He apologizes for confusion. Clearly any attempt to utilize the central water and sewer is going to meet with opposition from the current users of West Mountain Sewer and Water. When cost is shared by a smaller number of people, the cost per person is higher.

This application is for septic systems only. The May 2022 auction of the property has been postponed to June 2022. Mr. Dicken's job is to manage the properties, not liquidate them, in best interests of the investors.

The groundwater studies and soil profiles studies that are required by Valley County Code were done. **Exhibit 8** was referenced. This map shows the approved septic sites and those which have not been approved yet. Wetlands are delineated. The test holes sites are shown; red dots mark test sites not appropriate for septic and green dots are appropriate sites.

The master plan that was submitted with the original application was not realistic **[January 13, 2022, exhibit 18]**.

Chairman Thompson asked for proponents.

Sima Muroff, Meridian, stated that the subdivision design is consistent with neighboring properties and has a lower impact. Adding central sewer to the area would increase the allowed density and number of homes allowed per Valley County Code. His understanding is that capital does exist for all the RedRidge phases. The request is for a density of one home site per 12 acres. Two seasons of perc testing were done; 95% of testing holes received approval. Building envelopes have been designed. Mike Reno, CDH, has reviewed this data.

Chairman Thompson asked for uncommitted. There were none.

Chairman Thompson asked for opponents.

Chris Oberti, Blackhawk on the River, is glad that the applicant verified the request is only for septic and well and not using West Mountain Sewer and Water. There was misinformation regarding sewer and water. However, Mr. Dickens is still saying he would like to use the hydrant system located on Blackhawk on the River for RedRidge. Where will this water come from? Who will monitor the maintenance of the septic systems? She has concerns regarding financial capabilities and questions the validity of statements of Mr. Dickens.

Curt Meske, resident of Blackhawk on the River, is concerned with the safety of Valley County residents. This homeowner association is disastrous because of the applicant. The applicant has made misleading statements. Not all the eleven lots added in the Blackhawk PUD amendment have hookups to water and sewer in violation of the approved conditional use permit. Previous easements and pathways have disappeared in Blackhawk on the River; thus, he does not trust the applicant's willingness to follow the rules.

Chairman Thompson asked for rebuttal from the applicant.

Mr. Dickens will follow Valley County ordinances. He does honor his commitments and promises. He has made every attempt to help the homeowners even when they conflicted with the rights of the investors, including turning over the Blackhawk on the River Lodge to the homeowners. West Mountain Sewer and Water owns two wells with a higher capacity than what is currently being used. Using some of this excess water uphill would reduce the fire danger to the area. However, instead of hooking RedRidge Preserve to the fire hydrant system, a 30,000-gallon tank and well will be added to meet firefighting requirements. The locations of the fire hydrants have not yet been determined; the applicant will work with both Donnelly and McCall Fire Districts. Requirements were addressed by the McCall Fire District **January 13, 2022, Exhibit 4**.

There are three grouped assets to be auctioned: the West Mountain Sewer and Water company, the remaining unsold lots at Blackhawk on the River; and the RedRidge Preserve property. The auction has been postponed to June 2022. The auction date is set by the listing agent, not by Mr. Dickens. Currently the goal for the RedRidge development is beginning the infrastructure for the first 50 lots. Approximately 60% of construction occurred under the previously approved permits.

Chairman Thompson closed the public hearing. The Commission deliberated.

Commissioners Roberts stated that the proposed use of the land is compatible for that area of the county; however, there are other charges in the Comprehensive Plan to consider. These include the effects of developments and impacts to roads, services, fire, water, etc. Commissioner Roberts appreciates the DEQ letter; however, it references 2006 information, not the current application. He is concerned about the continuation of approval of septic systems in Valley County. There is no monitoring of septic system maintenance. Water quality is a huge concern; there is a renewed effort to deal with the health and safety issues due to algae blooms. He is concerned about the cumulative future effect on septic systems, wells, and development. The developer should be required to sit down with DEQ, CDH, and Valley County Soil and Water Conservation District.

Chairman Thompson's primary concern is future water quality. Commissioner Childs shares the same concerns previously mention; however, she is concerned that the Commissioners are "getting out of our lane". The application meets the requirements of the Valley County Code. Determining if the ordinances are strict enough is a future question for Idaho DEQ, CHD, ID Water Resources, etc. But today, this application meets the requirements, and the applicant has private properties rights to develop their property.

Commissioner Freeman said that DEQ, CDH, etc., have reviewed the application and submitted responses. Pumping septic systems is part of homeowner's responsibility. Commissioner Childs stated that the HOA will be requiring responsible septic system maintenance.

Proposed COA # 13 addresses the language to be in the CCRs, including long-term maintenance of septic systems.

Mr. Roberts referred to Valley County Code 10-3-2-D5. This proposed site is close to but not adjacent to an existing central sewer district. He does not think that a discussion between the developer and DEQ, CDH, etc. has occurred. He is concerned that DEQ is responding to information they received in 2006, not the current application.

Staff clarified that West Mountain Sewer and Water is a private business, not a sewer district.

Director Herrick referred to proposed COA #4.

Commissioner Freeman moved to approve C.U.P. 21-45 RedRidge Preserve with the conditions as stated in the staff report and:

Amend COA #3 – The use must be established according to the phasing plan, or the conditional use permit will be null and void. All final plats shall be recorded by December 31, 2032.

COA – The recommendations within the Wildland Urban Interface Fire Protection Plan shall be inserted into the CCRs.

COA – Should submit current letters from Central District Health and Idaho Department of Environmental Quality approving the recently submitted application, addressing the concerns of the Valley County Soil and Water Conservation District.

COA – Roads shall be built to Valley County private road standards.

Roads will be built to Valley County standards; the applicant is no longer requesting a variance. The development will have 70-ft rights-of-ways and roads built to private road standards.

Commissioner Childs seconded the motion.

There was further discussion. Mr. Roberts wants to review land use development ordinances. He is concerned with the impacts of future development on future generations. Chairman Thompson agrees that requiring center sewer for large developments should be discussed. Commissioner Roberts stated that many people responded with thoughtful comments and valid concerns, but the Commissioners also have responsibility to follow Valley County Code. Commissioner Roberts stated that we are obligated to follow the laws of the State of Idaho and what our county ordinances allow for; we have to stay within the scope of the law as written in the ordinances.

Motion carried unanimously.

There is a 10-day appeal period to the Board of County Commissioners in accordance with Valley Code 9-5H-12.

Valley County Planning and Zoning

PO Box 1350 • 219 North Main Street
Cascade, ID 83611-1350



Phone: 208-382-7115
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STAFF REPORT: C.U.P. 21-45 RedRidge Preserve Subdivision - Preliminary Plat
HEARING DATE: February 10, 2022 (Continuation of Public Hearing on Jan. 13, 2022)
TO: Planning and Zoning Commission
STAFF: Cynda Herrick, AICP, CFM
Planning and Zoning Director

APPLICANT / OWNER: The McCall Associates LLC
P.O. Box 10117
Boise, ID 83707

AGENT: Brian Dickens
Blackhawk Manager, LLC
PO Box 10117
Boise, ID 83707

ENGINEER: RiveRidge Engineering CO
2447 S Vista Ave
Boise, ID 83705

SURVEYOR: Secesh Engineering
P.O. Box 70
McCall, ID 83638

LOCATION: RP17N02E021535, RP17N02E030006, RP17N02E100006,
RP17N02E110605, RP18N02E269005, RP18N02E340006,
RP18N02E350006, RP18N02E363520
Sections 2, 3, 10, and 11, T.17N, R.2E and Sections 26, 34, 35, and
36, T.18N, R.2E, Boise Meridian, Valley County, Idaho

SIZE: 1,614 acres
REQUEST: Single-Family Residential Subdivision
EXISTING LAND USE: Agricultural – Productive Timberlands

Planning and Zoning Commission continued the public hearing to February 10, 2022. The Commissioners desired more information and clarification from the Applicant.

Well logs and groundwater resource evaluation for individual well were part of the original application previously submitted to you. Included in this packet will be the Preliminary Geotechnical Engineering Services report.

1. ADDITIONAL QUESTIONS SENT TO APPLICANT – including P&Z Questions:

- 1) Clarify pertinent attributes of the subdivision as it is being presented currently.

- 2) Letters from conversations with agencies, CDH, DEQ and/or IDWR.
- 3) Soil type data.
- 4) Concerned with septic and drainfields when sewer is so close. Sewer was not in application but presented at the public hearing. Should they be compelled to connect to sewer since it is close? Recommend a hybrid and put smaller lots in first 3 phases on sewer.
- 5) Has a shared road agreement been met with Blackhawk 5?
- 6) How much of the construction on the previously approved Phase 1 has been completed?
- 7) Has a new or updated Wildfire Mitigation Plan been completed or submitted to P&Z?
- 8) Have any of the CDH requirements for test holes, groundwater monitoring, etc been started or completed or will this all be done as a condition of approval or a condition prior to recordation of the final plat?
- 9) Timing of phasing seems incredibly long for infrastructure traffic impacts on neighboring properties. Could this be shortened and extended as needed?
- 10) What level of bonding or financial assurance is expected?
- 11) What impact does being in a Herd district have on the property specifically as it relates to CC&R's related to fencing?
- 12) It sounds as though IDWR does not believe the aquifer would be negatively impacted with the addition of 135 additional private wells but can you further discuss the assessments that have been done to come to this conclusion?
- 13) Please discuss plans to preserve water quality that could impact Duffner Creek, Blackhawk Lake and the Payette River.
- 14) Is wetland delineation required?
- 15) Please further explain animal habitat considerations.
- 16) Would the development impact natural drainage throughout the area and if so please explain how this will be addressed?
- 17) Has any environmental impact study been completed? What has been done? A concern identified by neighbors.
- 18) Have the Valley County Engineers responded to the correct drawing set of preliminary site grading and drainage plans?
- 19) A fact sheet addressing which lots would be central sewer and water, and which would be septic
- 20) Address ID Fish and Game letter and how the applicant will comply, including CCRs
- 21) Address traffic impacts
- 22) DEQ and IDWR conversations and requirements
- 23) Water quality concerns
- 24) Central District Health requirements
- 25) More concise picture of application
- 26) Internal roads and previously approved variance for narrow roads
- 27) Some analysis on soil types since water drains toward the river

2. Responses from the Applicant since the public hearing OR presented as an exhibit at the January 10 public hearing:

- **Summarized response to the Commissioner's questions for clarification - dated**
- **Exhibit 6 at January 10TH public hearing – Letter dated January 10, 2022:**
 - General Statements
 - Fire Mitigation Plan
 - Landscape Plans/Submittals/Enforcement
 - Water
 - Septic
 - Road Department Response
 - Responses to Fire Departments
 - Confirmed easements on Plat
 - IDEQ Response
 - Valley Soil and Water Conservation Response
 - Idaho Fish and Game Response
 - Response to Neighbors
 - Valley County Code Comments – Comprehensive Plan and Grading
 - Response to the Staff Questions in Staff Report
 - Response to the Staff Proposed Conditions of Approval
- **Short Summary of Project from email dated January 14, 2022:**
 - 135 lots, average 6 acres
 - No central sewer or water
 - Fire suppression through extension of WMSW hydrants
 - Soil summary
 - CDH records on the 50 lots already approved for septic
 - County Engineer will approve all site grading storm water management upon approval.
- **Additional submittal in email on January 31, 2022:**
 - Email with Gary Carrol, DEQ, confirming WMSW, Inc. is in good standing and that there will be no central sewer or water with this project at this time.
 - Water Quality Discussion in email dated January 31
 - Herd District Map
 - Water Quality and the Grazing Animal from University of Nebraska
 - Livestock Grazing Effects on Phosphorus Cycling in Watersheds
 - Monitoring runoff from cattle-grazed pastures for a phosphorus loss quantification tool – University of Nebraska
 - Livestock Manure and the Impacts on Soil Health: A Review – MDPI
 - Implementation of BMP Strategies for Adaptation to Climate Change and Land Use Change in a Pasture-Dominated Watershed
 - Conservation practice effectiveness and adoption: unintended consequences and implications for sustainable phosphorus management

3. Additional Comments received since the public hearing on January 13, 2022.

Agency comment received:

Valley County Soil and Water District submitted information on septic system maintenance. (January 2022)

Neighbor comment received:

Abbreviations

DEQ (Idaho Department of Environmental Quality)

PRS#2 (Payette River Subdivision No. 2)

BOTR (Blackhawk on the River)

WMWS (West Mountain Water and Sewer)

Chris Sours, Vice President, PRS#2 Property Owner's Association, was surprised to hear of the intent to utilize the WMWS system for 50 or more lots within the proposal. Where is the data supporting that the system could handle up to 400 lots? WMWS was initially designed, sized, and constructed to accommodate Payette River Subdivision No. 2 and BOTR subdivisions. DEQ Permit M-17-03 states that detailed plans and specifications shall be submitted to the DEQ for review and approval prior to construction, modification, or expansion. C.U.P. 21-45 approval should be denied until DEQ completes a review. Additionally, expansion costs shall be covered by the developer and not the existing users of WMWS. (Jan. 24, 2022)

Judy Secrist, property owner in PRS#2, is concerned about the intent to use WMWS for an additional 50 or more sewer hook-ups. WMWS was designed to serve PRS#2 and BOTR. Initial construction and ongoing expenses costs were passed thru to property owners. At this time, the two subdivisions are getting close to being fully built out, thus closely reaching the limits of the WMWS design. Cost of expanding the current facility is estimated to be in the millions. Any cost of expanding and maintain an expanded sewer system should be the sole responsibility of the developer. The proposal should be denied until full review and approval of the proposed expansion is completed by DEQ. (Jan. 24, 2022)

Jennifer and Joe Riso, 275 Brook Drive in PRS#2, are concerned about the expansion capabilities of WMWS and associated costs. The proposal should be denied until full review and approval of the proposed expansion completed by DEQ. (Jan. 24, 2022)

Terry Avitable, 119 Moon Drive in PRS#2, is concerned; WMWS cannot possibly take on more affluent. (Jan. 24, 2022)

A. Bruce Cleveland and Roberta L. Cleveland, owners of PRS#2 Lots 13 and 14, support Mr. Sours letter requesting denial until a full review of expansion is completed by DEQ. Any expansion costs should be covered by the developer McCall Associates LLC. (Jan. 24, 2022)

Tim and Nadeane Rutledge, owners of PRS#2 Lots 30 and 31, stated that any expansion to WMWS be at the cost of the developer. (Jan. 25, 2022)

Chris and Jack Oberti, BOTR property owner, request denial. Any future development of RedRidge Preserve needs to have environmental studies pertaining to the geology of the terrain for septic tanks, wells, erosion, and the aquifer. The DEQ Reuse Permit M-117-03 allows WMSW to accommodate 124 EDU hook-ups. The current plant, a Class C recycled water reuse

facility, is presently authorized to treat the 124 hooks. The users of the permit are Blackhawk on the River and Payette Estates subdivision. Mr. Dicken has indicated in his correspondence he only intended to keep the "existing 124 EDU's". (Jan. 26, 2022)

Pat and Richard Bicknell, Moonridge Drive in Payette River Subdivision, is requesting denial until a full review and approval of the proposed expansion is completed by DEQ. WMWS is at capacity. (Jan. 26, 2022)

Michael and Sheila Forrest, 150 Current Drive in PRS#2, stated that they have protections from anything WMWS wishes to do as it is a privately-owned system. As part of the C.U.P. approval, Valley County required connections to WMWS for sewage disposal. Therefore, Valley County has a fiduciary responsibility to make sure the existing rate payers are not taken advantage of by WMWS with large rate increases. The development costs of the property alone given current construction costs coupled with the cost of WMWS expansion will make the lots quite expensive. It that good progress for our area or will it be just another example of the land in Valley County being available to only the very wealthy? (Jan. 27, 2022)

Curt and Kim Meske, 45 Shooting Star Lane in BOTR, are opposed due to: risk to fisheries and water quality at Hait Reservoir (aka Blackhawk Lake); lack of capacity for WMSW; and unlikelihood of applicant following thru with conditions and stipulations. (Jan. 27, 2022)

Linda Morris, on behalf of 45 BOTR property owners, is opposed. She would like greater notice. They are appreciative of the commissioners who noted the discrepancy between the submitted application and the statements made by Mr. Dickens during the public hearing on January 13, 2022. Integrating a new subdivision into WMWS would have a tremendous impact on the two subdivisions it presently serves: the 144-lot BOTR and 88-lot PRS#2. Mr. Dickens stated that the proposed water and sewer infrastructure could cross BOTR common areas; however, all common areas were deeded to BOTR in October 2020. Mr. Muroff's involvement is a concern. They would like more information on the expired DEQ permit and WMWS capacity. Connecting 50 or more units to WMWS will have a direct impact on BOTR owners. The PZ Commissioners should deny C.U.P. 21-45 until the listed issues are addressed and ownership status of WMWS is determined following the MAY 2022 auction; and address the infrastructure costs and DEQ engineering requirements to meet the current water and sewer standards for the existing 232 owners in BOTR and PRS#2. (Jan. 28, 2022)

Darcy and Travis Reese, 361 Moon DR, are full-time residents in PRS#2. They are opposed. The sewer system regulations need greater attention. The current DEQ permit expired in 2020. The cost of expansion should be paid by McCall Associates LLC. (Jan. 28, 2022)

Kelly Guy, 22 Arrowgrass Way in BOTR, is opposed. The changes to water and sewer as suggested by the developer in the January 13, 2022, hearing should trigger a new notification period as they are material changes to the original permit application. The WMSW facility is operating under a expired permit from DEQ. There is a discrepancy between the maximum of 124 EDU's on the expired permit and the developer's statement that the facility is permitted for 250 homes and designed for 450. Traffic and road maintenance on West Mountain Road is a concern. Page 37 of the application refers to perimeter fencing. More information is needed as any fencing could create problems for the wildlife and should be limited in scope. (Jan. 28, 2022)

Walt Sledzieski, Blackhawk Lake Estates, is opposed as he states that this application is a ploy to inflate the perceived value of this property and other assets that will be auction off in the spring. (Feb. 2, 2022)

Daniel R Barnes, 295 Brook Drive in PRS#2, is opposed. A full review of WMWS must be completed by DEQ. (Feb. 2, 2022)

STAFF COMMENTS / QUESTIONS FROM STAFF REPORT FOR JAN. 13, 2022:

(New Question)

1. Clarify if the right-of-way of the private roads will be 70' wide with decreased driving surface.

(Previous Questions – already answered on January 10, 2022)

1. A note limiting each lot to one wood-burning device should be added to the plat. Will CCR's address fertilizers, fire resistant building materials, firewise landscaping, maintenance and continued implementation of the Wildfire Mitigation Plan, building envelopes, etc.? Recommend the CCR's also address long-term maintenance of septic systems.
2. Describe plan to implement Wildfire Mitigation Plan. Will you implement on a phase-by-phase basis prior to recordation of each final plat or in its entirety?
3. Will CCR's have a setback from the Blackhawk Lake Subdivision?
4. Will you delineate the wetlands or do building envelopes?
5. All easements must be shown on the plat. See the 2009 letter from John Russell.
6. The variance of road surface width will need to be approved by the Valley County Engineer, fire department, and Board of County Commissioners.
7. Are streetlights proposed?
8. All road names shall be approved by the Valley County Planning and Zoning prior to final plat approval. Some of the road names shown on the maps are not acceptable. A legible map with proposed road names is needed for approval.
9. The approval period should not be open-ended. What should the maximum time period between phases be without requiring an extension request? When should the entire project be finalized or require an extension? Ten phases at two years each; therefore, completion by December 31, 2042?
10. The original application in 2007 proposed conservation easements on large portions of the property. Will you have any conservation easements?
11. The original application proposed three different extraction sites for gravel and roadmix. Do you plan on using these sites or do you want to apply for a different conditional use permit for gravel extraction? Typically, gravel can be mined onsite for internal roads without a conditional use permit.
12. Does any portion of this proposal contain groomed snowmobile trails or the original Redridge RD? If so, will you provide easements for continued public use?
13. Idaho Fish and Game Department submitted a lengthy response. Please address all matters such as fencing, domestic animals, garbage cans, etc. Will these items be added to the CCR's?

ATTACHMENTS.

- Conditions of Approval
- PZ Commission Minutes of Jan. 13, 2022
- Additional Questions
- Applicant's Response to Additional Questions
- Responses received after January 13, 2022
- Septic System Information (Education Materials from Lillehaug)
- Preliminary Geotechnical Engineering Services report

Conditions of Approval

1. The application, the staff report, and the provisions of the Land Use and Development Ordinance are all made a part of this permit as if written in full herein.
2. Any change in the nature or scope of land use activities shall require an additional Conditional Use Permit.
3. The use must be established according to the phasing plan, or the conditional use permit will be null and void. All final plats shall be recorded by December 31, 2042.
4. The issuance of this permit and these conditions will not relieve the applicant from complying with applicable County, State, or Federal laws or regulations or be construed as permission to operate in violation of any statute or regulations. Violation of these laws, regulations or rules may be grounds for revocation of the Conditional Use Permit or grounds for suspension of the Conditional Use Permit.
5. Must have an approved storm water management plan and site grading plan approved by the Valley County Engineer prior to any work being done on-site and prior to recordation of a plat.
6. A wetland delineation is required, or the wetland areas must be identified on the plat as no-build areas.
7. Must bury conduit for fiber optics within roadways.
8. Must record Articles of Incorporation and create a Homeowner's Association prior to recordation of a final plat.
9. A Declaration of Installation of Utilities shall be placed on the face of the plat if all utilities are not in place at the time of recordation.
10. Must comply with the requirements of the McCall Fire District and Donnelly Rural Fire District. A letter of approval is required from both districts if not annexed into the McCall Fire District.
11. All easements must be shown on final plats.
12. All lighting must comply with the Valley County Lighting Ordinance.
13. CCR's should address lighting, noxious weed eradication, fertilizer use, continued maintenance with the Wildfire Mitigation Plan, firewise landscaping, fire resistant materials,

education on long-term maintenance of septic systems, and limit each lot to one wood burning device. Wildlife-friendly fencing is recommended.

14. Shall place addressing numbers at the residence and at the driveway entrance if the house numbers are not visible from the road.
15. A floodplain note should be added to the plat.
16. Financial guarantees or certificates of completion shall be in place prior to recordation of plats.
17. Prior to construction of any on-site improvements, the applicant shall meet with the Valley County Road Director and/or Board of County Commissioners to discuss off-site road improvements. If an agreement cannot be reached the application shall be set for another public hearing with the Valley County Planning and Zoning Commission to determine if the application can be approved without improvements and still meet their mandates concerning public health, safety, and welfare matters. The discussion will be concerning current road conditions and potential mitigation for impacts caused by the development.
18. The following note shall be placed in the notes on the face of the final plat:

“The Valley County Board of Commissioners have the sole discretion to set the level of service for any public road; the level of service can be changed.”

END OF STAFF REPORT