



**Planning and Zoning Commission Staff Report**  
**Trails End Subdivision, SD2020-0034**

Hearing Date: January 7, 2021

Development Services Department

**Applicant:**

Duane & Lora Darbin

**Staff:**

Jennifer Almeida

[jalmeida@canyonco.org](mailto:jalmeida@canyonco.org)

**Tax ID:**

R35521011

**Impact Area:**

Caldwell

**Current Zone:**

"CR-R1" (Conditional Rezone / Single Family Residential)

**Comprehensive Plan:**

2020 CC Comprehensive Plan

Future Land Use: Residential

**Lot Size/Project Area:**

Approx. 9.81 acres

**Current Uses:**

Residential / Agricultural

**Applicable Zoning Land Use**

**Regulations:** CCZO Article 17

**Notification:**

- 12/3/20 Agency Notice
- 12/14/20 Radius Notice
- 12/23/20 Publication
- 12/31/20 Posting (on or before)

**Exhibits:**

1. Findings, Conclusions, Conditions, Order
2. Preliminary Plat
3. Letter of Intent
4. Small Aerial Photo
5. Keller & Associates
6. Email re: Powerline & Easement
7. Aerial - bird's eye view (power poles NW corner of property)
8. Development Agreement #19-197

**Request**

A request by Duane & Lora Darbin for approval of a **Short Plat** for Trail's End Subdivision. The development consists of two (2) residential lots and is located in a "CR-R1" (Conditional Rezone/Single Family Residential) zone. The subject property, parcel no. R35521011 is located at 17264 W. Linden St., Caldwell, Idaho, in a portion of the SE1/4 Section 30, T4N, R3W, B.M., Canyon County, Idaho.

**Background**

The subject property was conditionally rezoned from "A" (Agricultural) to "CR-R1" (Conditional Rezone / Single Family Residential) on December 10, 2019, [Case No. CR2019-0010] and is subject to a Development Agreement #19-197, Instrument number 2019-059998.

The P&Z Commission will consider the Preliminary Plat and make a recommendation to the Board to approve, approve conditionally, modify or deny the plat.

The Board will consider and sign the final plat at a later date.

**Analysis:**

Trails End Subdivision contains two (2) residential lots. The subdivision will utilize:

- Individual domestic wells
- Individual septic systems
- Domestic well on lot 1 and lot 2 will be utilized to irrigate up to ½ acre of the property (yard). The remainder of the property is flood irrigated and will continue to be irrigated in this manner.
- Sayre Lane (private) provides access to Lot 1.

**Nitrate Priority Area:**

The subject property is not located within a nitrate priority area.

**Keller & Associates:**

Keller & Associates has reviewed the plat (Exhibit 5) and their comments have been added as recommended conditions of approval.

There is a powerline located in the northwest corner of the subject property. The powerline was placed without permission by a neighbor and no easement was granted by the property owner (Exhibit 6).

**Agency Responses:**

No agency responses or opposition to the request were received.

The subdivision meets Idaho Code and CCZO, Article 17 requirements for the preliminary plat and Idaho Code 31-3805 for irrigation.

### **Preliminary Plat**

#### *Standard of Review for Subdivision Plat*

A. Idaho Code, Sections 67-6512, 6509 and 6535 (Subdivisions, Hearings, Decisions)

B. Idaho Code, Sections 50-1301 through 50-1329 (Platting)

C. Idaho Code, Section 31-3805 (Irrigation)

Canyon County Zoning Ordinance, Article 17 (Subdivision Regulations)

### **Comments**

#### **Public Comments**

At the time of this report staff had not received public comment regarding the Preliminary Plat.

#### **County Agency Comments**

Staff informed applicable agencies of the proposed development the responses are attached as exhibits.

### **Alternatives**

The Planning and Zoning Commission may recommend that the Board approve, approve conditionally, modify or deny the preliminary plat.

### **Recommendation**

Staff recommends the Planning and Zoning Commission open a public hearing and discuss the proposed Preliminary Plat.

Staff is recommending **approval** of the application, subject to the recommended conditions of approval.

Proposed findings of fact, conclusions of law for the Planning and Zoning Commission's consideration are found in Exhibit 1.



## ***Canyon County Planning & Zoning Commission***

### ***Trails End Subdivision- Preliminary Plat***

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*Development Services Department*

#### **Findings**

1. The property is currently zoned "CR-R-1" (Conditional Rezone / Single Family Residential).
2. The subdivision contains two (2) residential lots.
3. The average residential lot size in the "CR-R1" zone is one (1) acre, and the proposed lots meet the average minimum lot size.
4. The proposed preliminary plat is in conformance with CCZO Article 17, Idaho Code, Sections 67-6512, 6509 and 6535 (Subdivisions, Hearings, Decisions, and Idaho Code, Sections 50-1301 through 50-1329 (Platting) and Idaho Code, Section 31-3805 (Irrigation).
5. The property is located within Caldwell's Area of City Impact.
6. The development lots will be served by individual domestic wells and individual septic systems.
7. The internal roadway will be private (Sayre Lane).
8. The subject property is located within Vallivue School District, Caldwell Rural Fire District, Canyon Highway District No. 1, and Pioneer Irrigation District.
9. Notice of the public hearing was provided in accordance with CCZO §07-05-01. Agency notice was provided on 12/3/20, Newspaper notice was provided on 12/23/20, property owners within 300' were notified by mail on 12/14/20, and the property was posted on or before 12/31/20.
10. The record includes all testimony, the staff report, exhibits, and documents in case file No. SD2020-0034.

#### **Conclusions of Law**

The Planning and Zoning Commission has the authority to hear this case and recommend that it be approved, denied or modified. The public notice requirements were met and the hearing was conducted within the guidelines of applicable Idaho Code and County ordinances.

#### **Conditions of Approval**

1. All subdivision improvements and amenities shall be bonded or completed prior to the Board of County Commissioner's signature on the final plat.
2. Historic irrigation lateral, drain, and ditch flow patterns shall be maintained unless approved in writing by the local irrigation district or ditch company.
3. Finish grades at subdivision boundaries shall match existing finish grades. Runoff shall be maintained on subdivision property unless otherwise approved.
4. Pursuant to §07-10-03 (B) 3 – a recorded road user's maintenance agreement shall be provided to Development Services Department prior to the Board's signature on the final plat. Said agreement shall meet §07-10-03 B (3):
  - Driveways serving two (2) properties and all private roads shall have a recorded road users maintenance agreement that describes the responsible parties for construction and maintenance, including repairs, and necessary improvements to accommodate additional accesses in the future. The agreement shall also list any construction warranties applicable to the specific driveway or private road. Failure to maintain a previously approved driveway or private road shall be a violation of this article subject to the enforcement procedures in section [07-19-03](#) of this chapter.
5. The development shall comply with Southwest District Health requirements.

**Order**

Based upon the Findings of Fact, Conclusions of Law contained herein for Case No. SD2020-0034, the Planning & Zoning Commission recommends **approval** of the Preliminary Plat for Trails End Subdivision, subject to the Conditions of Approval as enumerated herein.

**RECOMMENDED FOR APPROVAL** on this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

**PLANNING AND ZONING COMMISSION  
CANYON COUNTY, IDAHO**

\_\_\_\_\_  
Robert Sturgill, Chairman

State of Idaho )

SS

County of Canyon County )

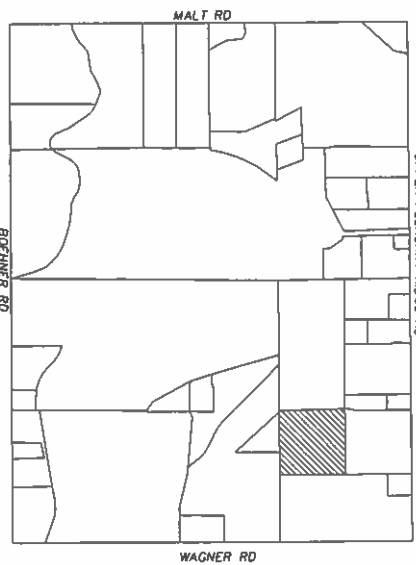
On this \_\_\_\_\_ day of \_\_\_\_\_, in the year 2021, before me \_\_\_\_\_, a notary public, personally appeared \_\_\_\_\_, personally known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he(she) executed the same.

Notary: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

**TRAILS END SUBDIVISION**

A PORTION OF THE SE 1/4 SE 1/4 OF SECTION 30,  
TOWNSHIP 4 NORTH, RANGE 3 WEST, BOISE MERIDIAN,  
CANYON COUNTY, IDAHO 2020



**VICINITY MAP**  
Scale: 1" = 900'

State Water and Power Trust  
Section 30  
17317 Upper Pleasant Ridge Rd.  
Caldwell, ID 83403

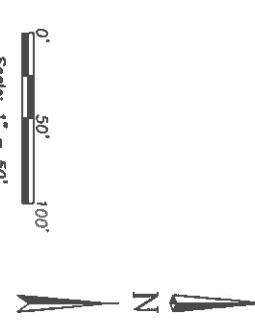
Copyright, Maple  
Section 30  
17317 Upper Pleasant Ridge Rd.  
Caldwell, ID 83403

Rose Luma Noel Living Trust  
17315 Upper Pleasant Ridge Rd.  
Caldwell, ID 83407

Section 30  
1986013474

**Reference Surveys:**  
Inst. No. 2003019282  
Inst. No. 2003033154  
Inst. No. 2006072202

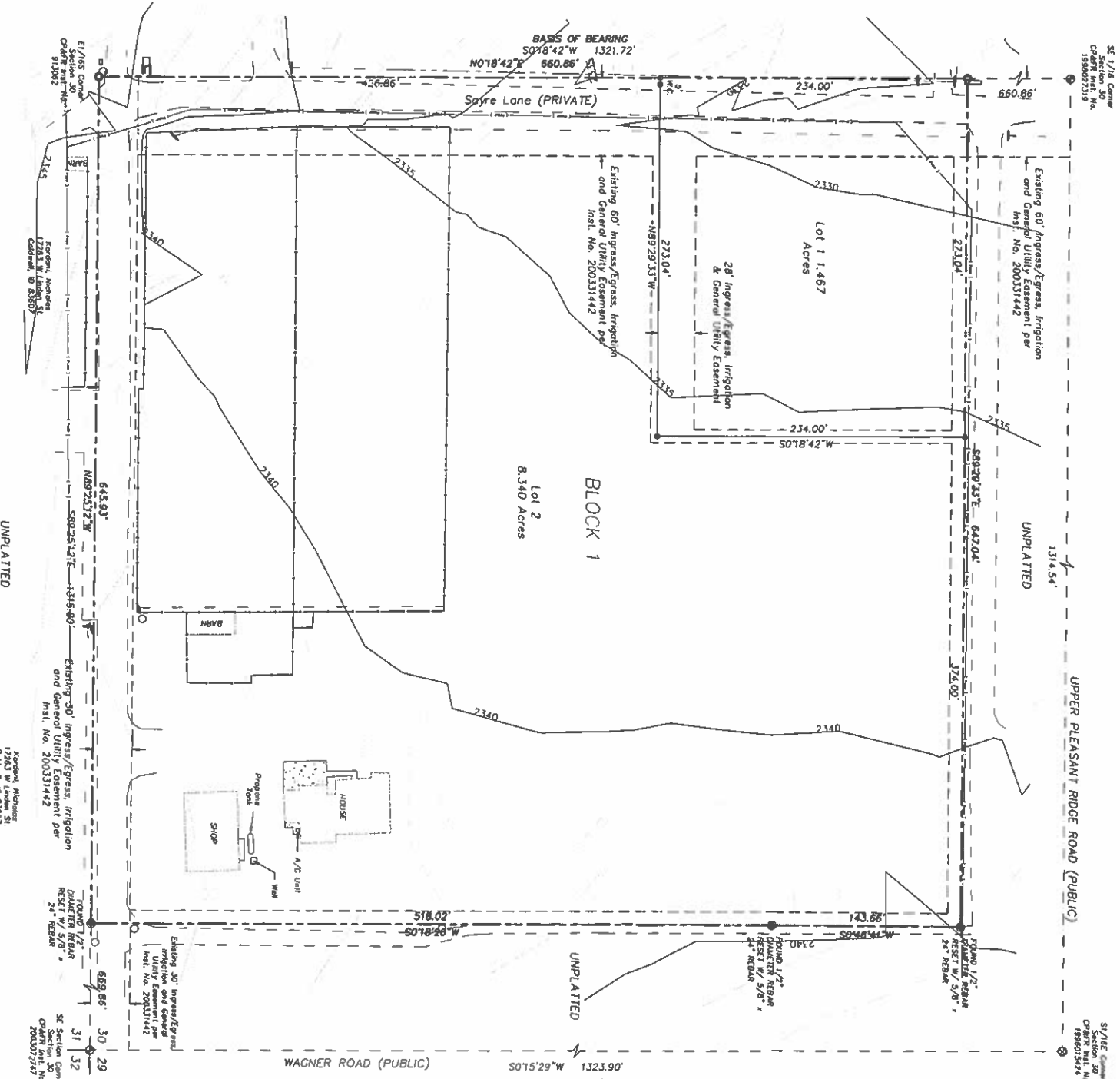
**Reference Deed:**  
Inst. No. 2003031442



- NOTES:**
1. This development recognizes Section 22-4503, Idaho Code, Right to Farm, which states: "No agricultural operation or on-appearance to it shall be or become a nuisance, private or public, by any changed conditions in or about the surrounding nonagricultural activities after the same has been in operation for more than one (1) year, when the operation was not a nuisance of the farm, the operation began, provided that the person who begins the operation did not operate the farm, the operation results from the merger or acquisition of any agricultural operation or and appearance to it."
  2. Water for domestic purposes shall be supplied by single party wells. Sanitary restrictions designating areas reserved for well installation shall be subject to the approval of Southwest District Health.
  3. Sewage disposal shall be by individual septic systems. Sanitary restrictions designating areas reserved for the construction of septic fields shall be subject to the approval of Southwest District Health.
  4. This development recognizes and is in compliance with Idaho Code 31-2805(1)(b). Lots are subject to assessments from the Pioneer Irrigation District.
  5. The subject property is zoned CR-R-1 (CONDITIONAL REZONE SINGLE FAMILY RESIDENTIAL) subject to development agreement No. 19-197, Inst. No. 2019-059398.
  6. The development is 9.807 acres.
  7. This development consists of 2 residential lots.
  8. Past development storm water run-off from each lot is to be managed by landscaping measures, sods, ditches and similar retention methods, wholly on the lot generating the run-off. The design, construction and maintenance of these facilities shall be the responsibility of each lot owner.
  9. Finish grades of subdivision boundaries shall match existing finish grades. Runoff shall be maintained on subdivision property unless otherwise approved.
  10. No permanent structure shall be located closer than seventy feet (70') to any section or quarter line preserved for a future road unless the highway district having jurisdiction waives the seventy foot (70') setback requirement.
  11. UNLESS OTHERWISE NOTED, EASEMENT RIGHTS SHALL BE IN EACH SIDE OF INTERIOR LOT LINES.  
IF A LOT LINE IS MARKED, THE EASEMENT(S) SHALL MOVE WITH THE LOT LINE, PROVIDED THAT UTILITIES HAVE NOT BEEN INSTALLED WITHIN THE EASEMENT(S).

**Irrigation Plan & Summary:**

Irrigation waters is delivered by Pioneer Irrigation District at head gate 5-75. Water is conveyed to the Southeast corner of the subject property. From this location water is taken down galled pipe along the East boundary. The land is flood irrigated via corrugates from East to West. Irrigation run-off is collected along the West boundary and flows north to Upper Pleasant Ridge Road. The irrigation will continue to be done this way for the future with waste ditches to be cut around new improvements on Lot 1. The existing residence on Lot 2 currently sprinkles the yard with the existing well. Lot 1 will also sprinkle the yard this way when installed.



Surveyor's Certificate:  
I, the undersigned, being a duly qualified and licensed surveyor in the State of Idaho, do hereby certify that the foregoing is a true and correct copy of the original of the map, plan, or plat of the subject property described in the reference deed to create an additional building lot. The boundary was held as previously established in Record of Survey Inst. No. 2003019282. Elevations are to project datum and not post processed.



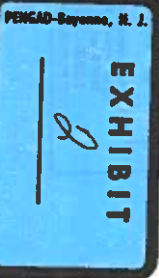
REVISIONS

2	Address County Comments
1	

**DEVELOPER:**  
LEE BLANKENSHIP  
1303 W. Whispur St.  
Nampa, Idaho 83651  
208-899-9168

**Skinner**  
Land  
1000 N. Lincoln  
Caldwell, Idaho  
(208) 228-1008  
www.skinnerid.com

Job No. AP1320





*Thomas J. Wellard, PLS*  
*Rodney Clark, PE*

July 27, 2020

Lee Blankenship/Duane Durbin  
Trails End Subdivision  
Job No. AP1320

Letter of Intent

Canyon County Development Services,

We are requesting to do a short plat on Parcel R35521011 to subdivide the 9.81 acre parcel into 2 lots. This plat is required by the conditions of CR2019-0010. It currently has one residence on it. The property owners would like to split off approximately 1.5 acres so that their daughter can build a house next to them. Irrigation will continue as it currently is done. Domestic water to the new lot will be a new well. Septic will be by an individual septic and drainfield. Access is from Upper Pleasant Ridge Road to a newly proposed private road, an existing 60' Easement.

We appreciate your consideration of this request and hope you find our application in compliance and approve our request.

Respectfully submitted,

T.J. Wellard, PLS  
Skinner Land Survey  
208-454-0933  
tj@skinnerlandsurvey.com



IMAGES WERE FLOWN IN THE FALL OF 2018.

# Trails End Subdivision Small Air Photo

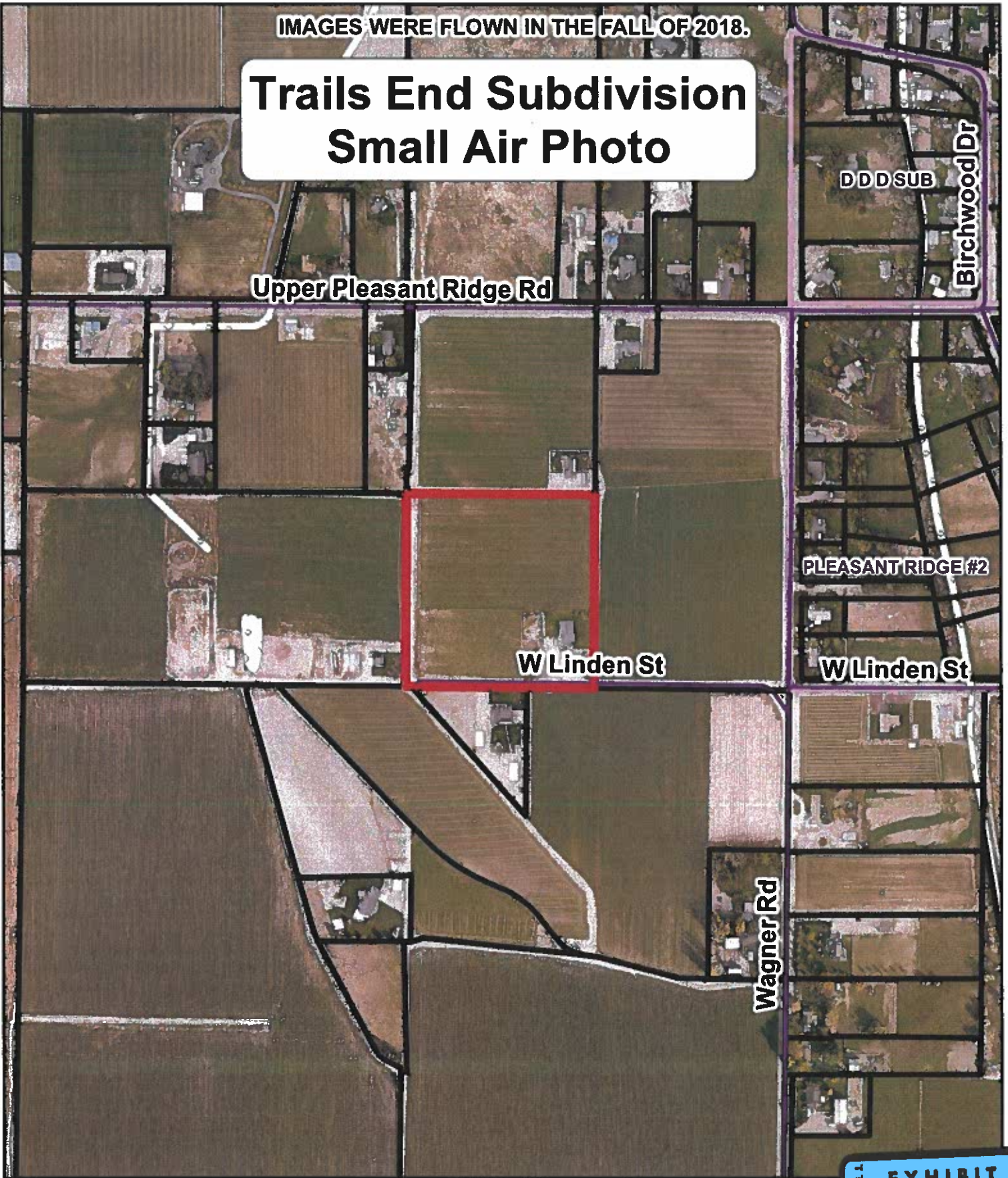


EXHIBIT  
4

**KELLER  
ASSOCIATES**



131 SW 5th Ave, Suite A  
Meridian, ID 83642

(208) 288-1992

December 3, 2020

Ms. Jennifer Almeida  
Canyon County Planner  
Development Services Department  
111 North 11<sup>th</sup> Ave. #140  
Caldwell, ID 83605

**Re: Trails End Subdivision Final Plat Application**

Dear Ms. Almeida:

Keller Associates, Inc. has reviewed the Trails End Subdivision Final Plat dated October 5, 2020. We reviewed the applicant's package for conformance with the Canyon County Code Ordinance Article 17. We have the following comments in order for the applicant to satisfy County requirements:

We recommend that the plat be **APPROVED**. Any variance or waivers to Canyon County's standards, ordinances, or policies must be specifically approved in writing by the County. Approval of the above referenced preliminary plat does not relieve the Registered Professional Land Surveyor or the Registered Professional Engineer of those responsibilities.

If you have any questions, please do not hesitate to call Keller Associates at (208) 288-1992.

Sincerely,

**KELLER ASSOCIATES, INC.**

Ryan V. Morgan, P.E.  
County Engineer

cc: File







October 6, 2020

Ms. Jennifer Almeida  
Canyon County Planner  
Development Services Department  
111 North 11<sup>th</sup> Ave #140  
Caldwell, Idaho 83605

**Re: Trails End Subdivision Preliminary Plat Application**

Dear Ms. Almeida:

Keller Associates, Inc. has reviewed the Preliminary Plat for the Trails End Subdivision dated October 5, 2020. We reviewed the applicant's package for conformance with the Canyon County Code Ordinance Article 17. We have the following comments in order for the applicant to satisfy the County's requirements:

1. There is no easement shown for the powerline on the west side of the proposed development. The powerline needs an easement or needs to be moved outside the building area in Lot 1.
2. Historic irrigation lateral, drain, and ditch flow patterns shall be maintained unless approved in writing by the local irrigation district or ditch company.
3. Finish grades at subdivision boundaries shall match existing finish grades. Runoff shall be maintained on subdivision property unless otherwise approved.
4. Plat shall comply with requirements of the local highway district.
5. Plat shall comply with irrigation district requirements.
6. Plat shall comply with Southwest District Health requirements.

We recommend that the **condition one listed above be addressed prior to approval of the Preliminary Plat**. Any variance or waivers to the Canyon County standards, ordinances, or policies must be specifically approved in writing by the County. Approval of the above-referenced Preliminary Plat, when granted, does not relieve the Registered Professional Land Surveyor or the Registered Professional Engineer of those responsibilities.

If you have any questions, please do not hesitate to call Keller Associates at (208) 288-1992.

Sincerely,

**KELLER ASSOCIATES, INC.**

Ryan V. Morgan, P.E.  
County Engineer

## Jennifer Almeida

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**From:** TJ Wellard <tj@skinnerlandsurvey.com>  
**Sent:** Monday, October 5, 2020 8:58 AM  
**To:** Jennifer Almeida  
**Subject:** Re: Trails End Sub.  
**Attachments:** AP1320 Blankenship FinalPlat-Model2.pdf; AP1320 Blankenship FinalPlat-Model.pdf; AP1320 Blankenship PrelimPlat-Model.pdf

Here are the revisions. They are not granting an easement for the neighbors power line. It was put there without permission and they have been notified. Thank you for getting us that date.

Thanks,

T.J. Wellard, PLS



Precision Land Surveyors, P.C.  
17842 Sand Hollow Road  
Caldwell, Idaho 83607  
208-454-0933

[www.skinnerlandsurvey.com](http://www.skinnerlandsurvey.com)

**ID PLS #15352, OR PLS #88835**

Privileged and Confidential Communication.

This electronic transmission, and any documents attached hereto, (a) are protected by the Electronic Communications Privacy Act (18 USC 2510-2521), (b) may contain confidential and/or legally privileged information, and (c) are for the sole use of the intended recipient named above. If you have received this electronic message in error, please notify the sender and delete the electronic message. Any disclosure, copying, distribution, or use of the contents of the information received in error is strictly prohibited.

On Mon, Oct 5, 2020 at 8:18 AM Jennifer Almeida <[jalmeida@canyonco.org](mailto:jalmeida@canyonco.org)> wrote:

Yes, I have this scheduled for 1/7/21, which is the first available date we have right now. It looks like there are some revisions required from Keller. However, I put it on the calendar because it is filling up so quickly.

Thank you





N ↑





**CANYON COUNTY DEVELOPMENT SERVICES DEPARTMENT**

111 11<sup>th</sup> Ave. #140 • Caldwell, Idaho • 83605 • Phone (208) 454-7458

Fax: (208) 454-6633 • www.canyoncounty.org/dsd

**DEVELOPMENT AGREEMENT  
BETWEEN CANYON COUNTY AND APPLICANT**

Agreement number: 19-197

**THIS AGREEMENT**, made and entered into this 10<sup>th</sup> of December by and between Canyon County, Idaho, a political subdivision of the state of Idaho, hereinafter referred to as "COUNTY" and Duane & Lora Darbin, property owners.

**RECITALS**

**WHEREAS**, Applicants have applied to County for a conditional rezone from an "A" (Agricultural) zone to a "CR-R1" (Conditional Rezone/ Single Family Residential) zone, which are legally described in the attached Exhibit "A," incorporated by reference herein (hereinafter referred to as "Subject Properties"; and

**WHEREAS**, Parcel R35521011 is owned by Duane & Lora Darbin.

**WHEREAS**, on the 10<sup>th</sup> of December, the Canyon County Board of Commissioners approved a conditional rezone with conditions of the Subject Property to a "CR-R1. (Conditional Rezone/ Single Family Residential" zone, which was done with the Applicants' approval. The conditions of the approval for the conditional rezone are attached hereto as Exhibit "B";

**WHEREAS**, the parties desire to enter into an agreement to comply with Canyon County Code of Ordinances §07-06-07(2) & 07-06-07(7), Canyon County Zoning Ordinance No. 16-007 as amended, and to ensure the Applicants will implement and be bound by the conditions of the conditional rezone order issued by the Canyon County Board of Commissioners; and

**WHEREAS**, the County and Applicants desire to formalize their respective rights and responsibilities as required by Canyon County Amended Resolution Number 95-232 entitled, "Rules Governing the Creation, Form, Recording, Modification, Enforcement and Termination of Written Commitments (Development Agreements)" and the Canyon County Code.

**NOW THEREFORE**, the parties hereto do hereby agree to the following terms:

**2019-059998**

RECORDED

**12/10/2019 02:05 PM**



00484668201900599980100103

CHRIS YAMAMOTO

CANYON COUNTY RECORDER

Pgs=10 LBERG

NO FEE

AGR

CANYON COUNTY COMMISSIONERS

Agreement Number: 19-197  
Development Agreement



**SECTION 1. AUTHORIZATION.**

This Agreement is authorized and required by Idaho Code §67-6511A; Canyon County Code of Ordinances 07-06-07 (Conditional Rezoning).

**SECTION 2. PROPERTY OWNER.**

Applicant is the owner(s) of Subject Property which is located in the unincorporated area of Canyon County, Idaho, more particularly described in Exhibit "A", attached hereto and incorporated herein, which real property is the subject matter of this Agreement. Applicants represent that they currently hold complete legal or equitable interest in the Subject Properties and that all persons holding legal or equitable interests in the Subject Properties or the operation of the business are to be bound by this Agreement.

**SECTION 3. RECORDATION.**

Pursuant to Idaho Code §67-6511A and Canyon County Code of Ordinances, this Agreement shall be recorded by the Clerk in the Canyon County Recorder's Office and will take effect upon the adoption, by the Board of County Commissioners, of the amendment to the zoning ordinance as set forth herein.

**SECTION 4. TERM.**

The parties agree that this Agreement shall run with the land and bind the Subject Property in perpetuity, and shall inure to the benefit of and be enforceable by the parties, and any of their respective legal representatives, heirs, successors, and assignees. Provided, however, this Agreement shall terminate if the Board of County Commissioners subsequently rezones the property to allow for a higher density use or if annexation of the Subject Property by a city occurs. In this event, however, the Agreement shall only terminate in regards to the portion of the Property that is actually rezoned or annexed, while the remainder of the Property shall remain subject to the Agreement.

If any of the privileges or rights created by this Agreement would otherwise be unlawful or void for violation of (1) the rule against perpetuities or some analogous statutory provision, (2) the rule restricting restraints on alienation, or (3) any other statutory or common law rules imposing time limits, then such provision shall continue until twenty-one (21) years after the death of the last survivor of the now living lawful descendants of George Herbert Walker Bush, former President of the United States, or for such shorter period as may be required to sustain the validity of such provision.

**SECTION 5. MODIFICATION.**

This Agreement may be modified only in writing signed by the parties, or their successors in interest, after complying with the notice and hearing procedures of Idaho Code §67-6509 and the requirements of Canyon County Code of Ordinances. The modification proposal must be in the form of a revised Development Agreement and must be accompanied by a statement demonstrating the necessity for the requested modification.

**SECTION 6. APPLICATION OF OTHER LAWS TO THE SUBJECT PROPERTIES.**

This Agreement shall not prevent the County in subsequent actions applicable to the Subject Properties from applying new rules, regulations, or policies that do not conflict with this Agreement.

**SECTION 7. COMMITMENTS.**

Applicants will fully and completely comply with the conditions of the approved conditional rezone of the Subject Property from "A" (Agricultural) to "CR-R1" (Conditional Rezone- Single Family Residential) zoning, which conditions are attached hereto as Exhibit "B".

**SECTION 8. USES, DENSITY, AND HEIGHT AND SIZE OF BUILDINGS**

The density or intensity of use of the Subject Properties is specified in the commitments of Section 7. The uses and maximum height and size of the buildings on the Subject Properties shall be those set pursuant to law, including those contained in the Canyon County Code of Ordinances, that are applicable to a "CR-R1" (Conditional Rezone- Single Family Residential) zone and those provisions of law that are otherwise applicable to the Subject Properties.

**SECTION 9. LIABILITY AND INDEMNITY OF COUNTY.**

**A. COUNTY REVIEW.**

Applicants acknowledge and agree that the County is not and shall not be, in any way, liable for any damages or injuries that may be sustained as a result of the County's review and approval of any plans or improvements, or the issuance of any approvals, permits, certificates or acceptances, relating to the use and development of the property described in Exhibit "A," and that the County's review and approval of any such plans and the improvements or the issuance of any such approvals, permits, certificates, or acceptances does not, and shall not, in any way, be deemed to insure or ensure Applicants or any of Applicants' heirs, successors, assigns, tenants, and licensees, against damage or injury of any kind and/or at any time.

**B. COUNTY PROCEDURES.**

Applicants acknowledge that notices, meetings, and hearings have been lawfully and properly given and held by the County with respect to Applicant's conditional rezone application in Development Services Department Case Number CR2019-0010 and any related or resulting development agreements, ordinances, rules and regulations, resolutions or orders of the Board of County Commissioners. Applicants agree not to challenge the lawfulness, procedures, proceedings, correctness or validity of any of such notices, meetings, hearings, development agreements, ordinances, rules, regulations, resolutions or orders.

**C. INDEMNITY.**

Applicants agree to, and do hereby, defend, hold harmless and indemnify the County, the Board of County Commissioners, all County elected and appointed officials, officers, employees, agents, representatives, and attorneys, from any and all claims that may, at any time, be asserted against any such parties in connection with (i) the County's review and approval of any plans or improvements, or the issuance of any approvals, permits, certificates, or acceptances

relating to the use and/or development of the Subject Properties; (ii) any actions taken by the County pursuant to Subsection 9(B) of this Agreement; (iii) the development, construction, and maintenance of the property; and (iv) the performance by County of its obligations under this Agreement and all related ordinances, resolutions, or other agreements.

**D. DEFENSE EXPENSES.**

Applicants shall, and do hereby agree, to pay, without protest, all expenses incurred by the County in defending itself with regard to any and all of the claims identified in Subsection 9 of this Agreement. These expenses shall include all out-of-pocket expenses, including, but not limited to, attorneys' and experts' fees, and shall also include the reasonable value of any services rendered by any employees of the County.

**SECTION 10. PERIODIC REVIEW.**

The County's Development Services Department will administer the Agreement after it becomes effective and will conduct a review of compliance with the terms of this Agreement on a periodic basis, including, but not limited to, each time a development of the Property is platted. Applicants shall have the duty to demonstrate Applicants' compliance with the terms of this Agreement during such review.

**SECTION 11. REQUIRED PERFORMANCE.**

Applicants shall timely carry out all steps required to be performed and maintain all commitments set forth in this Agreement and as set forth in County laws, ordinances, rules and regulations as they pertain to the Subject Property including, but not limited to, those concerning the commencement of development, completion of development, preliminary platting and final platting.

**SECTION 12. DEFAULT AND REMEDIES.**

In the event of a default or breach of this Agreement or of any of its terms or conditions, the party alleging default shall give the breaching party not less than thirty (30) days' Notice of Default, in writing, unless an emergency exists threatening the health and safety of the public. If such an emergency exists, written notice shall be given in a reasonable time and manner in light of the circumstances of the breach. The time of the giving of the notice shall be measured from the date of the written Notice of Default. The Notice of Default shall specify the nature of the alleged default and, where appropriate, the manner and period of time during which said default may be satisfactorily cured. During any period of curing, the party charged shall not be considered in default for the purposes of termination or zoning reversion, or the institution of legal proceedings. If the default is cured, then no default shall exist and the charging party shall take no further action.

**SECTION 13. ZONING REVERSION CONSENT.**

The execution of this Agreement shall be deemed written consent by Applicants to change the zoning of the Subject Properties to its prior designation upon failure to comply with the terms and conditions imposed by the approved conditional rezone and this Agreement. No reversion shall take place until after a hearing on this matter pursuant to Idaho Code §67-6511A. Upon notice and hearing, as provided in this Agreement and in Idaho Code §67-6509, if the properties described in attached Exhibit "A " are not used as approved, or if the approved use ends or is abandoned, the Board of County

Commissioners may order that the property will revert to the zoning designation (and land uses allowed by that zoning designation) existing immediately prior to the rezone action, i.e., the Subject Property conditionally rezoned from "A" (Agricultural) Zone designation to "CR-R1" (Conditional Rezone – Single Family Residential Zone designation shall revert back to the "A" (Agricultural) Zone designation.

**SECTION 14. COMPLIANCE WITH LAWS.**

Applicants agree that they will comply with all federal, state, county and local laws, rules and regulations, which appertain to the Subject Properties.

**SECTION 15. RELATIONSHIP OF PARTIES.**

It is understood that this Agreement between Applicants and the County is such that Applicants are an independent party and are not an agent of the County.

**SECTION 16. CHANGES IN LAW.**

Any reference to laws, ordinances, rules, regulations, or resolutions shall include such laws, ordinances, rules, regulations, or resolutions as they have been, or as they may hereafter be amended.

**SECTION 17. NOTICES.**

Except as otherwise provided in this Agreement and/or by law, all notices and other communications in connection with this Agreement shall be in writing and shall be deemed delivered to the addressee thereof, (1) when delivered in person on a business day at the address set forth below, or (2) in the third business day after being deposited in any main or branch United States post office, for delivery by properly addressed, postage paid, certified or registered mail, return receipt requested, at the addresses set forth below.

Notices and communications required to be given to County shall be addressed to, and delivered at, the following address:

Director  
Development Services Department  
Canyon County Courthouse  
1115 Albany Street  
Caldwell, Idaho 83605

Notices and communications required to be given to Applicants shall be addressed to, and delivered at, the following addresses:

Name: Duane & Lora Darbin  
Street Address: 17264 W. Linden  
City, State, Zip: Caldwell, ID 83607

A party may change its address by giving notice, in writing, to the other party, in the manner provided for in this section. Thereafter, notices, demands, and other pertinent correspondence shall be addressed and transmitted to the new address.

Agreement Number: 19-197  
Development Agreement



**SECTION 18. TERMINATION.**

This Agreement may be terminated in accordance with the notice and hearing procedures of Idaho Code §67-6509, and the zoning designation upon which the use is based reversed, upon failure of Applicants, a subsequent owner, or other person acquiring an interest in the property described in attached Exhibit "A" to comply with the terms of this Agreement. Applicants shall comply with all commitments in this Agreement prior to establishing the approved land use.

**SECTION 19. EFFECTIVE DATE.**

The commitments contained in this Agreement shall take effect in the manner described in this Agreement upon the County's adoption of the amendment to the zoning ordinance as set forth herein.

**SECTION 20. TIME OF ESSENCE.**

Time is of the essence in the performance of all terms and provisions of this Agreement.

**IN WITNESS WHEREOF**, the parties hereto have hereunto set their hands and seals the day and year first above written.

**BOARD OF COUNTY COMMISSIONERS  
CANYON COUNTY, IDAHO**

**APPLICANT**

*Paul White*

*Duane Darbin*

Commissioner White

Duane Darbin

*Pam Dale*

*Lora Darbin*

Commissioner Dale

Lora Darbin

*Chris Yamamoto*

Commissioner VanBeek

ATTEST: Chris Yamamoto, Clerk

BY: *Janet Miller*  
Deputy

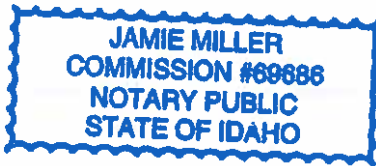
DATE: 12/10/19



(All Applicants must sign and their signatures must be notarized)

STATE OF IDAHO )  
 ) ss.  
County of Canyon )

On this 10 day of December, 2019, before me, a notary public, personally appeared Lora Lee Parbin, known to me to be the person whose name is subscribed to the within and foregoing instrument and acknowledged to me that he/she executed the same on behalf of the Applicant.

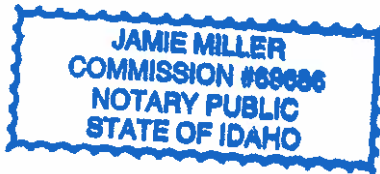


Jamie Miller  
Notary Public for Idaho  
Residing at: Haampa, ID  
My Commission Expires: 3/28/23

(All Applicants must sign and their signatures must be notarized)

STATE OF IDAHO )  
 ) ss.  
County of Canyon )

On this 10 day of December, 2019, before me, a notary public, personally appeared Duane Lee Parbin, known to me to be the person whose name is subscribed to the within and foregoing instrument and acknowledged to me that he/she executed the same on behalf of the Applicant.



Jamie Miller  
Notary Public for Idaho  
Residing at: Haampa, ID  
My Commission Expires: 3/28/23

Agreement Number: 19-197  
Development Agreement

**EXHIBIT "A"**  
**LEGAL DESCRIPTION**

R35521011

**A parcel of land being a portion of the S 1/2 SE 1/4 of Section 30, Township 4 North, Range 3 West, Boise Meridian, Canyon County Idaho, more particularly described as follows:**

**Commencing at the SE corner of said S 1/2 SE 1/4, (Section corner common to sections 29, 30, 31 and 32), said corner monumented with a found 3 inch diameter brass disk;**

**Thence N. 89° 25' 12" W., a distance of 669.86 feet along the southerly boundary of said S 1/2 SE 1/4 to the POINT OF BEGINNING, said point monumented with a set 1/2 inch diameter iron pin;**

**Thence continuing along the southerly boundary of said S 1/2 SE 1/4, N. 89° 25' 12" W., a distance of 645.93 feet to the SE corner of the S 1/2 SW 1/4 SE 1/4 of said Section 30, (E 1/16 corner common to sections 30 and 31), said corner monumented with a 5/8 inch diameter iron pin;**

**Thence leaving the southerly boundary of said S 1/2 SE 1/4 and along the easterly boundary of said S 1/2 SW 1/4 SE 1/4, N. 0° 18' 42" E., a distance of 660.86 feet to the NE corner of said S 1/2 SW 1/4 SE 1/4, said corner monumented with a set 5/8 inch diameter iron pin;**

**Thence leaving the easterly boundary of said S 1/2 SW 1/4 SE 1/4, S. 89° 29' 33" E., a distance of 647.04 feet to a set 1/2 inch diameter iron pin;**

**Thence S. 0° 46' 41" W., a distance of 143.66 feet to a set 1/2 inch diameter iron pin;**

**Thence S. 0° 18' 19" W., a distance of 518.02 feet to the POINT OF BEGINNING.**

**This parcel contains 9.81 acres more or less.**

**EXHIBIT "B"**

**CONDITIONS OF APPROVAL FOR CR2019-0010**

1. The development shall comply with all applicable federal, state, and county laws, ordinances, rules and regulations that pertain to the property.
2. The requirements of Canyon Highway District No. 4 shall be met.
3. The property shall be developed in substantial compliance with the submitted site plan, Exhibit 3 and shall be limited to two (2) parcels. One (1) parcel to be approximately one (1) acre in size and one parcel to be approximately 8.81 acres in size that contains the existing residence.
4. The applicant shall comply with CCZO §07-06-07 (4) Time Requirements: "All conditional rezones for a land use shall commence within two (2) years of the approval of the board."
  - Because a subdivision plat is required, commencement of the land use shall be the submission of an application & the associated fees for a subdivision plat.
5. A private road name application shall be submitted with the application for preliminary plat.
6. The private road shall meet width and construction standards outlined in CCZO §07-10-03.

Private roads (serving more than 2 permanent dwellings or inhabited buildings as defined in section <u>07-02-03</u> of this chapter):				
Private roads that are estimated to serve 100 ADT or less	n/a	4" thick <sup>3</sup> / <sub>4</sub> minus gravel base, graded and compacted	n/a	20' wide all weather driving surface

7. A road user's maintenance agreement shall be recorded the private road shall meet CCZO §07-10-03 (B) 3:
  - Driveways serving two (2) properties and all private roads shall have a recorded road users maintenance agreement that describes the responsible parties for construction and maintenance, including repairs, and necessary improvements to accommodate additional accesses in the future. The agreement shall also list any construction warranties applicable to the specific driveway or private road. Failure to maintain a previously approved driveway or private road shall be a violation of this article subject to the enforcement procedures in section 07-19-03 of this chapter.

**EXHIBIT "C"**  
**DRAFT CONCEPT DEVELOPMENT PLAN**

