



CITY OF STAR

LAND USE STAFF REPORT

TO: Mayor & Council

FROM: City of Star Planning Department *Shen T. Muth*

MEETING DATE: **November 16, 2021 – PUBLIC HEARING**

FILE(S) #: AZ-20-04 Annexation and Zoning
DA-21-14 Development Agreement
PP-20-04 Preliminary Plat – **Landyn Village Subdivision**
PUD-20-03 Planned Unit Development
PR-21-07 Private Street

OWNER/APPLICANT/REPRESENTATIVE

Property Owner:

Linda Box
551 S. Crystal Springs Lane
Star, Idaho 83669

Applicant/Representative:

Steve Arnold
A Team Land Consultants
1785 Whisper Cove Ave
Boise, Idaho 83709

REQUEST

Request: The Applicant is seeking approval of an Annexation and Zoning to Mixed Use (M-U), a Development Agreement, a Planned Unit Development, a Preliminary Plat and a Private Street for a proposed mixed-use residential and commercial subdivision consisting of 53 residential lots, 10 live/work lots, a future commercial lot and 9 common lots. The property is located at 551 S. Crystal Springs Lane in Star, Idaho, and consists of 10 acres with a proposed residential density of 6.2 dwelling units per acre.

PROPERTY INFORMATION

Property Location: The subject property is generally located south of State Street and west of Highway 16, south of W. Wildbranch Street on the current private road known as Crystal Springs Lane in Star, Idaho. Ada County Parcel No R8079960200.

Existing Site Characteristics: The property contains one (1) single-family dwelling and gets access from the existing S. Crystal Springs Lane, an approved private road (County). The Lawrence Kennedy Lateral runs through the northern boundary of the property.

Surrounding Land Use/Designations:

| | Zoning Designation | Comp Plan Designation | Land Use |
|----------------------|---|------------------------------|---|
| Existing | County Rural Transitional (RUT) | Mixed Use | Single Family Dwelling |
| Proposed | M-U-PUD | No Change | Mixed Use Residential/Commercial |
| North of site | County Rural Transitional (RUT) | Compact Residential | Single Family Dwelling |
| South of site | County Rural Transitional (RUT) | Mixed Use | Single Family Dwelling |
| East of site | R-2-DA-P (Eagle) County Rural Transitional (RUT) | Mixed Use | Currently Vacant |
| West of site | R-2-DA | Neighborhood Residential | Single Family Residential (Heron River) |

Irrigation/Drainage District(s): Pioneer Irrigation District

Flood Zone: The development lies within an AE Flood Zone.

Special On-Site Features:

- ✪ Areas of Critical Environmental Concern – No known areas.
- ✪ Evidence of Erosion – No known areas.
- ✪ Fish Habitat – No known areas.
- ✪ Mature Trees – Yes
- ✪ Riparian Vegetation – No known areas.
- ✪ Steep Slopes – Slight elevation changes to the north.
- ✪ Stream/Creek – None.
- ✪ Unique Animal Life – No unique animal life has been identified.
- ✪ Unique Plant Life – No unique plant life has been identified.
- ✪ Unstable Soils – No known issues.
- ✪ Wildlife Habitat – No wildlife habitat has been developed or will be destroyed.
- ✪ Historical Assets – No historical assets have been observed.

APPLICATION REQUIREMENTS

Pre-Application Meeting Held

April 4, 2019

| | |
|-----------------------------------|--|
| Neighborhood Meeting Held | May 08, 2019 |
| Application Submitted & Fees Paid | September 12, 2019 |
| Residents within 300' Notified | January 14, 2020/ October 28, 2021 |
| Agencies Notified | January 14, 2020 |
| Legal Notice Published | January 16, 2020/ October 28, 2021 |
| Property Posted | February 20, 2020/ November 4, 2021 |

HISTORY

This property was created through Ada County in the late 1990's as part of Springwood Subdivision (Lot 2, Block 1). A private road was approved to provide access and frontage to the property.

This application was submitted and accepted in January of 2020. Due to circumstances including the submittal of the Larson Property to the east, the existing private road issues and the transportation issues in the Crystal Springs area with ACHD and ITD, this application has been postponed a number of times from its original hearing date of March 3, 2020. The application was submitted and accepted under the old Unified Development Code, therefore, specific Code requirements are in place.

CODE DEFINITIONS / COMPREHENSIVE PLAN

UNIFIED DEVELOPMENT CODE:

8-1B-1: ANNEXATION AND ZONING; REZONE:

B. Standards:

1. The subject property shall meet the minimum dimensional standards of the proper district.
2. The city may require a development agreement in conjunction with the annexation and zoning, or rezone, pursuant to Idaho Code section 67-6511A, which may include a concept plan. In addition to other processes permitted by city and state code, exceptions or waivers of standards, other than use, may be permitted through execution of a development agreement. A development agreement and concept plan shall be required for any rezone to a mixed-use zone, high density zone or land which includes steep slope (land over 25%) or floodway.
3. The termination of a development agreement shall result in the reversal of the official zoning map amendment approval and applicable development approval for any undeveloped portion of property subject to the development agreement. The undeveloped property subject to the development agreement shall be rezoned to the district classification as designated by the development agreement. When no designation is provided, the property shall revert to its original zoning or, if the original designation no longer exists, to the closest current equivalent

zoning as determined by the current Comprehensive Plan Land Use Map designation.

4. An amendment or termination of a previously recorded development agreement shall be recorded in the office of the county recorder by the clerk.

5. An approved development agreement must be executed within ninety (90) days of the meeting at which the development agreement is approved by the city council. A one-time administrative extension of maximum thirty (30) days may be granted by the zoning administrator. Additional extensions may be approved by majority vote of the city council. Failure to execute the development agreement within the required timeframe will result in the denial of all related applications.

C. Required Findings: The council shall review the application at the public hearing. In order to grant an annexation and zoning or rezone, the council shall make the following findings:

1. The map amendment complies with the applicable provisions of the comprehensive plan;

2. The map amendment complies with the regulations outlined for the proposed district;

3. The map amendment shall not be materially detrimental to the public health, safety, and welfare; and

4. The map amendment shall not result in an adverse impact upon the delivery of services by any political subdivision providing public services within the city.

5. The annexation (as applicable) is in the best interest of city.

8-3A-1: ZONING DISTRICTS AND PURPOSE ESTABLISHED:

8-3 E-1: MIXED USE PURPOSE (From old Unified Development Code in place at the time of Submittal of original Application):

The purpose of the Mixed-Use District is to encourage compact development that is sensitive to the environmental characteristics of the land and facilitates the efficient use of services. A traditional neighborhood district diversifies and integrates land uses within close proximity to each other, and it provides for the daily recreational and shopping needs of the residents. The purpose of the MU District is also to conditionally provide for a variety of Residential land uses including attached and detached single-family Residential, duplex, townhouse, and multifamily. Development in the MU District includes open spaces and promotes pedestrian activity through well-designed and varied streetscapes that also provide for the safe and efficient movement of vehicular traffic. Vertically integrated Residential projects are encouraged in all Mixed-Use neighborhood districts.

MU MIXED USE DISTRICT (Updated Development Code): To provide for a mixture of uses which may, at the sole discretion of the Council, include office, commercial, and/or residential

depending upon the specific comprehensive plan area designated as Mixed Use. Development within this zone is to proceed through the PUD process unless a development agreement has already been executed for the particular property. Identifying areas for mixed-use development has two objectives. The first objective is to give the city a better tool to manage the type of developments through the planned unit development and/or the Development Agreement process. The second objective is that this zone may allow the development community to be more innovative in design and placement of structures subject to Council review and approval. Rezoning within this land use designation is to be strictly monitored by the city to assure that the Mixed-Use areas are not being used simply to justify high density residential use. Residential uses may be part of an overall mixed-use development that includes a non-residential component and may not exceed 30% of the overall size of the development.

R RESIDENTIAL DISTRICT: To provide regulations and districts for various residential neighborhoods. Gross density in a Residential (R) district shall be determined according to the numeral following the R. The numeral designates the maximum number of dwelling units per acre. In zoning designations of R-1, R-2, R-3, R-4 and R-5, housing shall be single family detached unless approved with a PUD or development agreement. Connection to municipal water and sewer facilities are required for all subdivision and lot split applications submitted after the effective date hereof in all districts exceeding one dwelling unit per acre. Wells and septic systems may be permitted for larger lots in this land use designation that are not adjacent to municipal services, as determined by the Sewer District, and if approved by the applicable Health Department. Private streets may be approved in this district for access to newly subdivided or split property. This district does allow for some non-residential uses as specified in 8-3A-3.

DA DEVELOPMENT AGREEMENT: This designation, following any zoning designation noted on the official zoning map of the city (i.e., C-2-DA), indicates that the zoning was approved by the city with a development agreement, with specific conditions of zoning.

8-3A-3: USES WITHIN ZONING DISTRICTS

The following table lists principal permitted (P), accessory uses (A), conditional (C), or prohibited (N) uses.

| ZONING DISTRICT USES | A | R-R | R |
|-----------------------------|----------|------------|----------|
| Accessory structure | A | A | A |
| Dwelling: | | | |
| Multi-family 1 | N | N | C |
| Secondary 1 | A | A | A |
| Single-family attached | N | N | C |
| Single-family detached | P | P | P |
| Two-family duplex | N | N | P |

8-3A-4: ZONING DISTRICT DIMENSIONAL STANDARDS (Current):

| Zoning District | Maximum Height | Minimum Yard Setbacks Note Conditions | | | |
|-----------------|-----------------|---|------|---------------|-------------|
| | Note Conditions | Front (1) | Rear | Interior Side | Street Side |
| R-5 | 35' | 15' to living area/side load garage 20' to garage face | 15' | 5' | 20' |
| MU | 35' | For MU and CBD - Unless otherwise approved by the Council as a part of a PUD or development agreement, all residential buildings shall follow the residential setbacks shown in this table based upon the project density and all other buildings shall follow setbacks for the C-2 zone (3). | | | |

Notes:

1. Interior side yard setbacks for lots with 50' or less of lot width shall be allowed 5' interior side yard setbacks for one and two-story structures.
2. Front yard setback shall be measured from the face of the garage to the face of the sidewalk, allowing for 20' of parking on the driveway without overhang onto the sidewalk.

8-3E-2: USES IN MIXED USE DISTRICT (From old Unified Development Code in place at the time of Submittal of original Application):

Table 8-3E-2(a) of this section lists permitted (P), conditional (C), and prohibited (N) uses within each traditional neighborhood district. (As requested by the Applicant)

| Use | MU |
|--|----|
| Accessory structure | C |
| Artist studio ¹ | C |
| Bakery | P |
| Barbershop/styling salon | P |
| Daycare center ¹ (more than 12) | C |
| Daycare, family ¹ (6 or fewer) | P |
| Daycare, group ¹ (7 - 12) | C |
| Dwelling: | |
| Multi-family ¹ | C |
| Secondary ¹ | N |
| Single-family attached | C |
| Single-family detached ¹ | C |
| Townhouse | C |
| Two-family duplex | C |
| Healthcare and social services | P |
| Home occupation ¹ | N |
| Library | P |
| Personal and professional services | P |
| Photographic studio | P |
| Professional offices | P |
| Retail store/retail services | P |

8-4D-3: STANDARDS (PRIVATE STREETS):

All private streets shall be designed and constructed to the following standards:

A. Design Standards:

1. Easement: The private street shall be constructed on a perpetual ingress/egress easement or a single platted lot (with access easement) that provides access to all applicable properties.
2. Connection Point: Where the point of connection of the private street is to a public street, the private street shall be approved by the transportation authority.
3. Emergency Vehicle: The private street shall provide sufficient maneuvering area for emergency vehicles as determined and approved by the Star Fire District.
4. Gates: Gates or other obstacles shall not be allowed, unless approved by Council through a Planned Unit Development or Development Agreement.

B. Construction Standards:

1. Obtain approval from the county street naming committee for a private street name(s);
2. Contact the transportation authority to install an approved street name sign that complies with the regulations of the county street naming ordinance;
3. Roadway and Storm Drainage: The private street shall be constructed in accord with the roadway and storm drainage standards of the transportation authority or as approved by the city of Star based on plans submitted by a certified engineer.
4. Street Width: The private street shall be constructed within the easement and shall have a travel lane that meets ACHD width standards for the City of Star, or as determined by the Council and Star Fire District.
5. Sidewalks: A five foot (5') attached or detached sidewalk shall be provided on one side of the street in commercial districts. This requirement may be waived if the applicant can demonstrate that an alternative pedestrian path exists.
6. Fire Lanes: All drive aisles as determined by the Star Fire District to be fire lanes, shall be posted as fire lanes with no parking allowed. In addition, if a curb exists next to the drive aisle, it shall be painted red.
7. No building permit shall be issued for any structure using a private street for access to a public street until the private street has been approved.

C. The applicant or owner shall establish an on-going maintenance fund through the Owner's association with annual maintenance dues to ensure that funds are available for future repair and maintenance of all private streets. This shall be a requirement in a development agreement and/or as part of a planned unit development. A reserve account condition shall be included in the recorded CC&R's and shall be provided to the City for review. The condition of approval shall include the following:

1. Private Road Reserve Study Requirements.
 - a. At least once every three years, the board shall cause to be conducted a reasonably competent and diligent visual inspection of the private road components that the association is obligated to repair, replace, restore, or maintain as part of a study of the reserve account requirements of the common interest development, if the current replacement value of the major components is equal to or greater than one-half of the gross budget of the association, excluding the association's reserve account for that period. The board shall review this study, or cause it to be reviewed, annually and shall consider and implement necessary adjustments to the board's analysis of the reserve account requirements as a result of that review.
 - b. The study required by this section shall at a minimum include:
 - i. Identification of the private road components that the association is obligated to repair, replace, restore, or maintain.
 - ii. Identification of the probable remaining useful life of the components identified in paragraph (1) as of the date of the study.
 - iii. An estimate of the cost of repair, replacement, restoration, or maintenance of the components identified in paragraph (1).
 - iv. An estimate of the total annual contribution necessary to defray the cost to repair, replace, restore, or maintain the components identified in paragraph (1) during and at the end of their useful life, after subtracting total reserve funds as of the date of the study.
 - v. A reserve funding plan that indicates how the association plans to fund the contribution identified in paragraph (4) to meet the association's obligation for the repair and replacement of all private road components.
 - c. A copy of all studies and updates shall be provided to the City, to be included in the development application record.

8-4D-4: REQUIRED FINDINGS (PRIVATE STREETS):

In order to approve the application, the administrator and/or Council shall find the following:

- A. The design of the private street meets the requirements of this article;
- B. Granting approval of the private street would not cause damage, hazard, or nuisance, or other detriment to persons, property, or uses in the vicinity; and
- C. The use and location of the private street shall not conflict with the comprehensive plan and/or the regional transportation plan.

8-7-1: PURPOSE - PLANNED UNIT DEVELOPMENTS (From old Unified Development Code in place at the time of Submittal of original Application)

A. The purpose of the planned unit development (PUD) requirements is to provide an opportunity for exemplary site development that meets the following objectives:

1. Preserves natural, scenic and historic features of major importance;
2. Allows for innovative design that creates visually pleasing and cohesive patterns of development; and
3. Creates functionally integrated development that allows for a more efficient and cost-effective provision of public services.

B. It is not the intent that the PUD process be used solely for the purposes of deviation from the dimensional standards in the district. (Ord. 215, 11-2-2011)

8-7-4: STANDARDS (From old Unified Development Code in place at the time of Submittal of original Application):

The council may approve planned unit developments, in accord with the following standards:

A. General Use Standards:

1. Deviations From Underlying District Requirements: Deviations from the development standards and/or area requirements of the district in accord with chapter 3, "District Regulations", of this title may be approved. The exception is that along the periphery of the planned development, the applicable setbacks as established by the district shall not be reduced.
2. Allowed Uses: Applicant may request that specific conditional use(s) be allowed in the district as principal permitted use(s).
3. Private Streets And Service Drives: The uses within the planned unit development are interconnected through a system of roadways and/or pathways as appropriate. Private streets and service drives may be permitted, if designed and constructed to the transportation authority standards and in accord with chapter 4, article E, "Private Street Requirements", of this title.
4. Buildings Clustered: Buildings shall be clustered to preserve scenic or environmentally sensitive areas in the natural state, or to consolidate small open spaces into larger, more usable areas for common use and enjoyment.

B. Private Open Space: In addition to the common open space and site amenity requirements as set forth in chapter 4, "Regulations Applicable To All Districts", of this title, a minimum of

eighty (80) square feet of private, usable open space shall be provided for each residential unit. This requirement can be satisfied through porches, patios, decks, and enclosed yards. Landscaping, entryway and other accessways do not count toward this requirement.

**8-4F-3: STANDARDS FOR COMMON OPEN SPACE AND SITE AMENITY REQUIREMENTS
(From old Unified Development Code in place at the time of Submittal of original
Application):**

A. Open Space And Site Amenity Requirement:

1. Open Space: Open space shall be designated as a total of 15% per application with 10% being useable space. (amd. Ord. 290, 2019)

2. One additional site amenity shall be required for each additional twenty (20) acres of development area.

B. Qualified Open Space: The following may qualify to meet the common open space requirements:

1. Any open space that is active or passive in its intended use, and accessible by all residents of the development, including, but not limited to:

a. Open grassy area of at least fifty feet by one hundred feet (50' x 100') in area;

b. Community garden;

c. Ponds or water features; or

d. Plaza.

2. Additions to a public park or other public open space area.

3. The buffer area along collector streets may be included in required common open space for residential subdivisions.

4. A street buffer with a minimum of ten feet (10') in width and street trees planted in accord with section 8-4B-7, "Landscape Buffers Along Streets", of this chapter may count up to fifty percent (50%) of the requirement.

5. Parkway along local residential streets that meet all the following standards may count toward the common open space requirement:

a. The parkway is a minimum of eight feet (8') in width from street curb to edge of sidewalk.

b. The parkway is planted with street trees in accord with section 8-4B-7, "Landscape Buffers Along Streets", of this chapter.

c. Except for alley accessed dwelling units, the area for curb cuts to each residential lot or common driveway shall be excluded from the open space calculation. For purposes of this calculation, the curb cut area shall be a minimum area of twenty-six feet (26') by the width of the parkway.

6. Parkway along collector and arterials that are a minimum of ten feet (10') in width from street curb to sidewalk can be counted toward the open space requirement.

7. Stormwater detention facilities when designed in accord with section 8-4B-11, "Stormwater Integration", of this chapter.

C. Qualified Site Amenities: Qualified site amenities shall include, but not be limited to, the following:

1. Quality of life amenities;

2. Clubhouse;

3. Fitness facilities;

4. Enclosed bike storage;

5. Public art;

6. Picnic area; or

7. Additional five percent (5%) open space;

8. Recreation amenities:

a. Swimming pool.

b. Children's play structures.

c. Sports courts.

d. Pedestrian or bicycle circulation system amenities meeting the following requirements:

(1) The system is not required for sidewalks adjacent to public right of way;

(2) The system connects to existing or planned pedestrian or bicycle routes outside the development; and

(3) The system is designed and constructed in accord with standards set forth by the city of Star;

9. Provision of transit stops, park and ride facilities or other multimodal facilities to encourage alternative automobile transportation.

D. Location:

1. The common open space and site amenities shall be located on a common lot or an area with a common maintenance agreement.

2. Common open space shall be grouped contiguously with open space from adjacent developments whenever feasible.

E. Required Improvements And Landscaping:

1. Common open space shall be suitably improved for its intended use, except that natural features such as wetlands, rock outcroppings, ponds, creeks, etc., may be left unimproved.

2. Common open space areas shall include (at a minimum) one deciduous shade tree per eight thousand (8,000) square feet and lawn, either seed or sod.

F. Maintenance:

1. All common open space and site amenities shall be the responsibility of an owners' association for the purpose of maintaining the common area and improvements thereon; or

2. Land designated as common open space may be conveyed to the city, where the city council agrees to accept conveyance. (Ord. 215, 11-2-2011)

COMPREHENSIVE PLAN:

88.2.3 Land Use Map Designations:

Mixed Use:

Generally suitable for a mixture of uses which may, at the sole discretion of the Council, include office, commercial, and/or residential depending upon the specific area designated as Mixed Use. See Mixed Use Implementation Policies for specific criteria. Development within this land use designation is to proceed through the PUD and/or development agreement process. Identifying areas for mixed-use development has two

objectives. The first objective is to give the city a better tool to manage the type of developments through the planned unit development and/or the Development Agreement process. The second objective is that this land use designation will allow the development community to be more innovative in design and placement of structures. Development design guidelines should also be established to guide development within mixed-use areas. Rezoning within this land use designation is to be strictly monitored by the city to assure that the Mixed-Use areas are not being used simply to justify high density residential use.

8.3 Goal:

Encourage the development of a diverse community that provides a mix of land uses, housing types, and a variety of employment options, social and recreational opportunities, and where possible, an assortment of amenities within walking distance of residential development.

8.4 Objectives:

- Implement the Land Use Map and associated policies as the official guide for development.
- Manage urban sprawl in order to minimize costs of urban services and to protect rural areas.
- Encourage land uses that are in harmony with existing resources, scenic areas, natural wildlife areas, and surrounding land uses.

8.5.7 Policies Related Mostly to the Mixed-Use Planning Areas

- A. Council, at their sole discretion, shall determine what mix of uses are appropriate for any mixed-use area considering existing property owners rights.
- B. Development within the Mixed-Use Designation is to proceed through the CUP, PUD, and/or Development Agreement process, and a concept plan must be included with any such proposed use.
- C. In general, mixed-use areas along state highways should be predominantly commercial with a very minor component of residential unless the residential is placed on upper floors as part of a mixed-use building.
- D. Mixed-use areas along state and U.S. Highways where direct access to the state highway is prohibited, like along State Highway 16 between State Highway 44 and US Highway 20/26, should be predominately residential with a minor component of neighborhood commercial, or light industrial if sufficient roadway access, by means of backage or other roads, to the State Highway is provided.
- E. Mixed-use areas located between commercial and residential land use designations are to provide a compatible transition between the higher intensity use of commercial and the lower intensity use of Neighborhood Residential. Uses for

these mixed-use areas could include multi-family housing and or office related uses if determined by the Council through the public hearing process, to be appropriate.

8.5.9 Additional Land Use Component Policies:

- Encourage flexibility in site design and innovative land uses.
- Encourage landscaping to enhance the appearance of subdivisions, structures, and parking areas.
- Require more open space and trees in subdivisions.
- Work with Ada County Highway District (ACHD), Canyon Highway District #4 (CHD4), and Idaho Department of Transportation (ITD) for better coordination of roadway and access needs.
- Support well-planned, pedestrian-friendly developments.
- Dark sky provision should be adopted within the code to assure down style lighting in all developments and Star should consider joining the International Dark Sky Association.
- The City should utilize the 2018 Treasure Valley Tree Selection Guide when requiring trees within developments.

18.4 Implementation Policies:

E. Development Agreements allow the city to enter into a contract with a developer upon rezoning. The Development Agreement may provide the city and the developer with certain assurances regarding the proposed development upon rezoning.

PROJECT OVERVIEW

ANNEXATION & REZONE:

The annexation and zoning request from County Rural Urban Transition (RUT) to Mixed Use (M-U-PUD) on the applicant's property will allow for the development and subdivision of the subject property into a mixed residential subdivision with accompanying commercial uses that will be consistent with the adopted Comprehensive Plan. The overall density of the proposed development as submitted is 5.2 dwelling units per acre. The current Comprehensive Plan Land Use Map designates this property as Mixed-Use. The requested land uses of residential and commercial within the annexation and zoning and planned unit development applications meet the standards of the zoning designation and the intent of the Comprehensive Plan.

PRELIMINARY PLAT:

The Preliminary Plat submitted contains 69 lots, including 49 new residential townhome lots, 10 Live/Work Lots, 8 common area/open space lots, 1 existing residential lot (Lot 17) and 1 common lot (existing barn)/future commercial lot (Lot 16). The residential lots will include both

attached and detached homes, with minimum frontages of 30 feet and lot sizes of 3,000 square feet. All streets are proposed to be private, and will be built to ACHD roadway standards, including 36' widths. A common driveway serving several dwellings, along with a private alleyway serving another portion of the development, is proposed. These access points must be approved by the Star Fire District prior to final plat approval.

The submitted site plan indicates that the development will contain a total of 1.36 acres (13.6%) total open space within common lots. The useable open space provided is 1.24 acres (12.4%). The development is required to provide a minimum of 15% open space, 10% usable. The applicant will need to come up with an additional 6,221 square feet of open space in order to meet the 15% requirement. The useable open space provided by the applicant currently includes amenities such as open space with pathways, a gazebo and picnic area and play structure. The grading and drainage plan submitted indicates that portions of the useable open space will be used for stormwater drainage. To qualify as useable open space, the applicant must show that the drainage areas meet the UDC requirements for open space drainage areas (Section 8-4B-11). This section includes design of the drainage facilities as landscaped areas, without gravel, rock or sand at the surface, and complete free draining within a 24-hour period of time.

PLANNED UNIT DEVELOPMENT:

The application has been submitted as a Planned Unit Development (PUD) in order to include both residential and commercial components of the project, and to allow for "deviations from the development standards and/or area requirements of the district", as may be requested as part of the PUD process. In reviewing the development as a whole, the application meets the intent of a PUD in that the purpose of the planned unit development (PUD) requirements is to provide an opportunity for exemplary site development that meets the PUD objectives, including the preservation of natural and scenic features, an innovative design that creates visually pleasing and cohesive pattern of development and the creation of a functionally integrated development that allows for a more efficient and cost-effective provision of public services. Finally, the proposed PUD is not being submitted solely for the purpose of deviation from the dimensional standards in the zoning district.

The PUD site plan is anticipating several residential types, including, in addition to the existing single-family dwelling, attached, detached townhomes with front loaded garage access, and alleyway garage access with front yards facing landscaped areas (Lots 1-10 & Lots 25-33).

Lots 1 through 10, Block 3 are considered as live/work units that will provide the non-residential component of the development. The development has included 10 guest parking spaces within the design. Together with the potential of on-street parking within the development on the proposed private streets, adequate parking for all uses is provided.

The existing single-family dwelling (Lot 17) and the lot with the existing barn (Lot 16) have the potential to redevelop, especially Lot 16, into a non-residential use. The Council should consider specific uses that should be allowed on this lot and condition the uses appropriately.

The applicant is proposing specific uses for the commercial components of the project, including the live/work and Lot 16. These uses will be subject to UDC requirements, including additional review and approval, at the time of development.

As recommended from staff and proposed by the applicant through the PUD, the subdivision would include the following dimensional standards:

Proposed Setbacks:

- Minimum Residential Lot Frontage: 30 feet
- Front Setbacks (Measured from the back of sidewalk or property line):
 - 20 feet for standard lots (Garages), 15' for living space
 - 10 feet for Lots -1-10, Block 3; Lots 25-33, Block 1
- Rear Setbacks:
 - 15 feet = Lots 14-15, 19-24, Block 1; Lots 2-3, Block 4; Lots 1-14, Block 5
 - 25 feet = Lot 16, Block 1
 - 10 feet = Lots 2-12, Block 1, Lots 2-7, Block 2
 - 20' feet for Garages = Lots 1-10, Block 3; Lots 25-33, Block 1
- Interior Setbacks:
 - 0 feet for Zero Lot Lines, 5 feet (for one and two-stories)
 - 10 feet for Lot 12, Block 1
 - 10 feet - Local Street Side Setbacks

ADDITIONAL DEVELOPMENT FEATURES:

Existing and Proposed Private Streets:

S. Crystal Springs Lane is an existing private road that was approved by Ada County as part of the Springwood Subdivision. The private street appears to have approximately 13' of improved, paved surface on a 30' easement. The applicant will be required to upgrade the existing S. Crystal Springs Lane to ACHD standards, including a road width that meets Fire District requirements and the intent of the Unified Development Code. While the applicant believes that they have rights to access the existing private road and increase the intensity of roadway by means of redevelopment of their property, neighboring property owners have argued that the applicant does not have the right to use the existing private street to access the proposed Landyn Village Subdivision (see attached letter from Clark-Wardle dated 2/26/20). The City Attorney has reviewed both arguments and has given the opinion that the City should ensure that appropriate access is provided to the new subdivision through Conditions of Approval, including conditioned

construction standards that allow for future dedication of the road system to ACHD, however, the City should not be involved in determining the legal status of the existing private street for the purposes of redevelopment. That should be left to the current property owners to sort out. Staff shall include a condition of approval requiring all access issues be resolved prior to acceptance of a final plat application.

Therefore, all streets will be private and shall be constructed to ACHD standards, including a 36' width from back of curb to back of curb, or as approved by the Council and Fire District, for the purpose of future dedication to ACHD. This shall include S. Crystal Springs Lane.

Participation in Moyle Ave Signal Light :

As part of the review and analysis for this area south of W. State Street and west of Hwy 16, all property owners will be responsible for additional fees regarding access onto W. State Street (Hwy 44), more specifically, participation in the Moyle Avenue signal light that is planned for access to the area. The total percentage amount for each property will be determined by Council during the entitlement process of each project.

Emergency Access:

Staff has required as part of the proposed East Star River Ranch Subdivision an emergency only access east/west to provide Landyn Village and East Star River Ranch each with access for emergency vehicles. This access point will be located in a location to be coordinated between the two developments and will be provided with Star Fire District approved gates.

- Floodplain
A portion of the property lies within Flood Hazard Area AE. An Application for Permit to Develop in An Area of Special Flood Hazard will be required prior to final plat approval.
- Sidewalks
Internal sidewalks are proposed at five-foot (5') widths and will be attached throughout the development.
- Lighting
Streetlights shall reflect the "Dark Sky" criteria with all lighting. The same streetlight design shall continue throughout the entire development. The applicant has submitted a proposed streetlight plan. All proposed light locations satisfy City code. **Applicant has not provided a streetlight design/cut sheet for City approval. Applicant will be required to work with Staff and submit a cut sheet and design before acceptance of a final plat.**

- Street Names
Applicant has not provided documentation from Ada County that the street names are acceptable and have been approved. This will be required at final plat
- Subdivision Name
Applicant has provided a letter from Ada County that the subdivision name has been approved and reserved for this development.
- Landscaping - As required by the Unified Development Code, Chapter 8, Section 8-8C-2-M (2) Street Trees; A minimum of one street tree shall be planted for every thirty-five (35) linear feet of street frontage. The applicant shall use "Treasure Valley Tree Selection Guide", as adopted by the Unified Development Code. Section 8-8C-2, J5 states that a minimum of one deciduous shade tree per four thousand (4,000) square feet of common area shall be provided. **The submitted landscape plan does not include street trees. A revised landscape plan shall be submitted prior to final plat approval indicating all street trees.**
- Setbacks – All setbacks will meet the intent of the proposed zone, unless otherwise approved as part of this application.
- Block lengths – All blocks meet the 750' block length requirement.
- Mailbox Cluster – Applicant has provided documentation from the Star Postmaster depicting the approved location for the mailbox cluster will be with the cluster for Iron Mountain Estates.
- Phasing – The applicant has not indicated the phasing of the development.

DEVELOPMENT AGREEMENT

Through the Development Agreement process, the applicant is proposing to work with the City to provide further insurances that the development will be built as presented and/or modified by the Council through the review process. Items that should be considered by the applicant and Council include the following:

- Density;
- ITD Proportionate Share Fees;
- Emergency Access
- Setbacks
- Proposed Land Uses

AGENCY RESPONSES

| | |
|---------------------------|-------------------|
| US Postal Services | August 27, 2019 |
| Central District Health | January 6, 2020 |
| Star Fire District | December 23, 2020 |
| Keller and Associates | January 09, 2020 |
| Drainage District #2 | January 21, 2020 |
| West Ada School District | February 1, 2020 |
| US Army Corp of Engineers | January 30, 2020 |
| ITD | Pending |
| ACHD | April 22, 2020 |

PUBLIC RESPONSES

Jerome L. Arbiter, 351 S. Crystal Springs Lane, Star, Idaho 83669
Jason Dickman, P.O. Box 216, Star, Idaho 83669
David Ray, 446 S. Rivermist Ave, Star, Idaho 83669
Paul Larson – paul@pdlarson.com - Email

STAFF ANALYSIS AND RECOMMENDATION

Based upon the information provided to Staff in the applications and agency comments received to date, **along with the previously approved and proposed developments located in the immediate area, Staff has concerns regarding the viability of non-residential uses within this development and questions whether a Mixed-Use Comp Plan designation is still warranted for this property. There is currently no direct access (pedestrian or vehicular) to the east through the proposed East Star River Ranch Development (other than emergency), direct vehicular access to the west through Heron River Subdivision, and limited access to the north along S. Crystal Springs Lane. Commercial uses of any type would have limited visibility and could have a negative impact on both existing and proposed residential uses.** For that reason, Staff is supportive of a residential only development on this property with a zoning designation of Residential. The proposed annexation and zoning request and associated applications including the preliminary plat, once conditioned by Council, would meet the requirements, standards and intent for development as they relate to the applicable Comprehensive Plan and Unified Development Code. The proposed density of 6.2 dwelling units per acre, (with the conversion of the Live/Work Units to residential) is allowed through the Development Agreement under the Mixed-Use Zoning through the Unified Development Code that was in place at the time of submittal and acceptance of the development applications.

For Staff to be fully supportive of a modified development, the following Conditions of Approval should be considered by Council and included in the Development Agreement:

1. **Require applicant to participate in Proportionate Shares with ITD.**
2. **Require applicant to participate in a share of the costs associated with the Moyle Avenue Signal Light.**
3. **Provide additional open space in the amount of 6,221 square feet to equal the minimum 15% open space required by Code.**
4. **Require resolution of access to the development from S. Crystal Springs Lane and include a minimum of 30' of improved width, or as approved by the Star Fire District. This shall be required prior to submittal of a final plat application.**
5. **Require all internal private streets to be constructed to ACHD standards, including 36' widths, with the ability to dedicate to the public as future development in the area continues.**
6. **Require one-story structures on Lots 14, 15 & 16, Block 1 and Lot 2, Block 4.**
7. **Provide a minimum of 10 off-street guest parking spaces within the open space areas as indicated on the landscape plan.**
8. **Provide a public access easement along the proposed pathway located along the Lawrence-Kennedy Lateral.**

The Council should consider the entire record and testimony presented at their scheduled public hearing prior to rendering its decision on the matter. Should the Council vote to approve the applications, either as presented or with added or revised conditions of approval, Council shall direct staff to draft findings of fact and conclusions of law for the Council to consider at a future date. A development agreement will also be brought back to the Council for review of proposed Conditions of Approval for the rezone.

| |
|-----------------|
| FINDINGS |
|-----------------|

The Council may **approve**, **conditionally approve**, **deny** or **table** this request. In order to approve these applications, the Unified Development Code requires that Council must find the following:

ANNEXATION/REZONE FINDINGS:

1. The map amendment complies with the applicable provisions of the Comprehensive Plan.

The purpose of the Star Comprehensive Plan is to promote the health, safety, and general welfare of the people of the City of Star and its Impact Area. Some of the prime objectives of the Comprehensive Plan include:

 - ✓ *Protection of property rights.*
 - ✓ *Adequate public facilities and services are provided to the people at reasonable cost.*
 - ✓ *Ensure the local economy is protected.*
 - ✓ *Encourage urban and urban-type development and overcrowding of land.*
 - ✓ *Ensure development is commensurate with the physical characteristics of the land.*

The goal of the Comprehensive Plan for Land Use is to encourage the development of a diverse community that provides a mixture of land uses, housing types, and a variety of employment options, social and recreational opportunities, and where possible provides an assortment of amenities within walking distance of a residential development. The Council must find compliance with the Comprehensive Plan.

2. The map amendment complies with the regulations outlined for the proposed district, specifically, the purposes statement.

The Council must find that the proposal complies with the proposed district and purpose statement. The purpose of the residential districts is to provide regulations and districts for various residential neighborhoods with gross densities in compliance with the intent of the Comprehensive Plan designation. Housing shall be single family detached unless approved with a PUD or development agreement. Connection to municipal water and sewer facilities are required for all subdivision and lot split applications in all districts exceeding one dwelling unit per acre. Private streets may be approved in this district for access to newly subdivided or split property.

3. The map amendment shall not be materially detrimental to the public health, safety, and welfare; and

The Council must find that there is no indication from the material submitted by any political agency stating that this annexation and zoning of this property will be materially detrimental to the public health, safety or welfare.

4. The map amendment shall not result in an adverse impact upon the delivery of services by any political subdivision providing public services within the city including, but not limited to, school districts.

The Council must find that it has not been presented with any information from agencies having jurisdiction that public services will be adversely impacted other than traffic, which will continue to be impacted as the City grows.

5. The annexation is in the best interest of the city.

The Council must find that this annexation is reasonably necessary for the orderly development of the City.

PRELIMINARY PLAT FINDINGS:

1. The plat is in compliance with the Comprehensive Plan.

The City must find that this Plat follows designations, spirit and intent of the Comprehensive Plan regarding residential development and meets several of the objectives of the Comprehensive Plan such as:

1. *Designing development projects that minimize impacts on existing adjacent properties, and*
2. *Managing urban sprawl to protect outlying rural areas.*

2. Public Services are available or can be made available and are adequate to accommodate the proposed development.
The City must find that Agencies having jurisdiction on this parcel were notified of this action, and that it has not received notice that public services are not available or cannot be made available for this development.
3. There is public financial capability of supporting services for the proposed development;
The City must find that they have not been notified of any deficiencies in public financial capabilities to support this development.
4. The development will not be detrimental to the public health, safety or general welfare;
The City must find that it has not been presented with any facts stating this Preliminary Plat will be materially detrimental to the public health, safety and welfare. Residential uses are a permitted use.
5. The development preserves significant natural, scenic or historic features;
The City must find that there are no known natural, scenic, or historic features that have been identified within this Preliminary Plat.

Upon granting approval or denial of the application, the Council shall specify:

1. The Ordinance and standards used in evaluating the application;
2. The reasons for recommending approval or denial; and
3. The actions, if any, that the applicant could take to obtain approval.

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| CONDITIONS OF APPROVAL |
|-------------------------------|

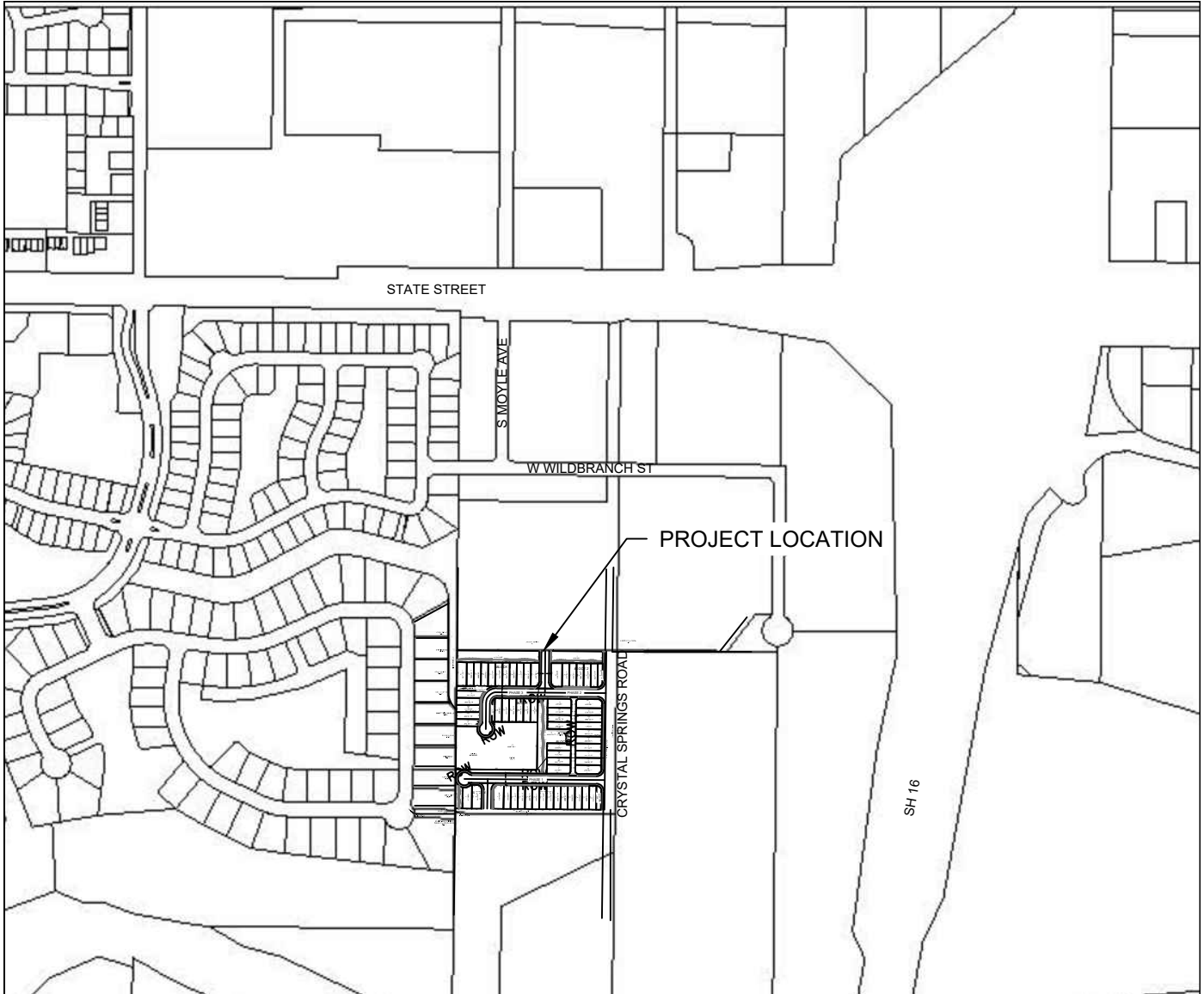
1. The approved Preliminary Plat for the Landyn Village Subdivision shall comply with all statutory requirements of applicable agencies and districts having jurisdiction in the City of Star.
2. **The applicant shall submit an Application for Permit to Develop in An Area of Special Flood Hazard for review and approval by the City Engineer prior to any improvements of the property.**
3. **The applicant shall enter into a Development Agreement with the City, agreeing to proportionate share assessment by ITD regarding impacts to the State Highway System. ITD has calculated the fees to be \$TBD. These fees will be collected by the City of Star, by phase, prior to final plat signature. The development agreement shall be signed and recorded as part of the ordinance for annexation and zoning and shall contain the details of the fees to be collected.**
4. **All streets and drive aisles shall be approved by Star Fire District prior to submittal of final plat application. In the event that the District denies the design, a revised preliminary plat shall be submitted.**

5. Streetlights shall comply with the Star City Code and shall be of the same design throughout the entire subdivision. Streetlights shall be continuous throughout the subdivision and shall be maintained by the Homeowners Association. **Streetlights shall be installed and energized prior to issuing of building permits.** Design shall follow Code with requirements for light trespass and "Dark Skies" lighting. **Applicant/Owner shall work with staff and submit a streetlight design that meets city standards prior to Final Plat approval. Streetlights shall comply with the Star City Code regarding light trespass and "Dark Sky" initiative.**
6. The property with the approved Preliminary Plat shall be satisfactorily weed abated, preventing a public nuisance, per Star City Code.
7. The property associated with this approved Final Plat, in addition to the property of all future phases shall be properly maintained throughout the construction process to include trash picked up and trash receptacles emptied with regular frequency, streets swept and cleaned weekly, including any streets used to access the property and all debris shall be prevented from accumulating on any adjacent property or public right of way and shall remove all debris from public way at least daily.
8. All signed Irrigation District Agreements with the Irrigation Districts shall be provided to the City of Star with each subsequent Final Plat application.
9. **Submit revised Landscape Plan showing a minimum of 15% open space. Street trees shall be installed per Chapter 8, Section 8-8C-2-M(2) Street Trees. Applicant shall provide locations for the local street trees at the time of final plat. If driveway locations will not be determined until sale of the lot, Applicant agrees to not receive the Certificate of Occupancy until street trees are confirmed in place.**
10. Pressurized irrigation systems shall comply with the Irrigation District(s) and the City of Star Codes. Plans for pressurized irrigation systems shall be submitted to, and approved by the City of Star Engineer, prior to installation.
11. A plat note supporting the "Right to Farm Act" as per Idaho Code Title 22, Chapter 45, shall be shown on the Final Plat.
12. A copy of the CC&R's shall be submitted to the City of Star at Final Plat.
13. **A letter from the US Postal Service shall be given to the City at Final Plat stating the subdivision is in compliance with the Postal Service.**
14. A form signed by the Star Sewer & Water District shall be submitted to the City prior to the signature of the Final Plat stating that all conditions of the District have been met, including annexation into the District.
15. **Prior to signing the final plat, Applicant shall provide approval from Ada County for all street names and they should be accurately reflected on the plat.**
16. A plat note shall state that development standards for residential development shall comply with the effective building and zoning requirements at time of building permit issuance, unless amended in the Development Agreement or CUP conditions.
17. Development standards for single family residential units shall comply with effective building and zoning requirements at time of building permit issuance, or as approved through the Development Agreement or as stated herein.
18. All common areas shall be owned and maintained by the Homeowners Association.

19. The applicant shall provide a sign, to be located at all construction entrances, indicating the rules for all contractors that will be working on the property starting at grading and running through home sales that addresses items including but not limited to dust, music, dogs, starting/stopping hours for contractors (7a.m. start time). **Sign shall be approved by the City prior to start of construction.**
20. A sign application is required for any subdivision signs.
- 21. Owner/Developer will agree to install a 2" (High Density Polyethylene) HDPE SDR-11 roll pipe in the shared utility trench to be used for future fiber optic and/or copper telecommunication cables.**
- 22. Any additional Condition of Approval as required by Staff and City Council.**

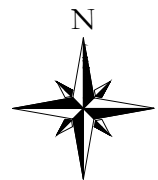
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| COUNCIL DECISION |
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The Star City Council _____ File Number AZ-20-04/DA-21-14/PP-20-04/PR-21-07 for Landyn Village Subdivision on _____, 2021.



VICINITY MAP

SCALE: NTS



OWNER/DEVELOPER

**RICK AND LINDA LUBBERS
551 S CRYSTAL SPRINGS RD
STAR, ID 83669**

PLANNER / CONTACT

**STEVE ARNOLD
A-TEAM LAND CONSULTANTS
1785 WHISPER COVE AVE.
BOISE, ID 83709 PH. 208-871-7020**

LANDYN VILLAGE VICINITY MAP

**LOT 2 BLOCK 1, SPRINGWOOD SUBDIVISION, 4 N 1W 16,
CITY OF STAR, ADA COUNTY, IDAHO 83669**





November 8, 2021

Mr. Shawn Nickel, Planning Manager
City of Star
10769 W. State Street
Star, Idaho 83669

Dear Shawn:

Subject: Landyn Village Subdivision Narrative: Revised

On behalf of Richard Lubbers and Linda Box., A Team Land Consultants presents to the City of Star a Planned Unit Development, Preliminary Plat, Private streets and Annexation/ Rezone application for the proposed Landyn Village Subdivision. The subject property is located at 551 S. Crystal Springs Lane and contains 10-acres and is identified as Ada County Assessor's Tax Parcel Number R8079960200.

Project Summary

The applicant is proposing 49 residential lots, 10 Live/Work units and 8 common lots (including a barn lot); the existing house and barn will be provided their own lot. The site is currently zoned RUT, and the applicant is requesting MU zoning. The existing comprehensive plans designates this site as Mixed Use. Under City Code, that zone will a mixture of uses including townhouse units under a Planned Unit Development application. The proposed gross density of the residential area is calculated at 5.2 units per acre. The existing house will remain on a separate lot created with this proposed development.

Access and Roads

The site utilizes Crystal Springs Lane to access the public street system. Crystal Springs Lane is currently a 24-foot-wide paved private road adjacent to the site. With the proposed development the applicant proposes to retain the existing private street to the site and create new private streets to the site as a private road built to ACHD standards to access the new subdivision. All of the new roads will be constructed as private streets with curbs, gutters and sidewalks and a 36' street width. The applicant is proposing two stub streets to the north and to the south for interconnectivity with those properties when they redevelop. There are no roads proposed to be stubbed to the west because when that site was developed, there was not a road stubbed to this site. The streets will be constructed so that they may be dedicated to the public in the future, depending on how properties to the North and South redevelop in the future. We will be connecting to their pedestrian paths that runs along the Lawrence Kennedy Lateral and one to the south in a common lot. That pathways will extend from our site's west boundary to the east boundary.

Proposed Buildings

As part of the application we are submitting color photographs of the proposed buildings. The color combination for the buildings will be a mixture of earth tones as shown on the submitted pictures. The fascia and trim will be designed in such a way as to better

accent the earth tones. Variations in wall panels and rooflines are provided to also add architectural attractions to the building's appearance. The buildings and the facades are very architecturally attractive which helps to promote a higher end townhouse unit.

There are a variety of building types provided. There is a mix of front-loaded townhouse units, rear loaded alley units and single family detached residential units. The idea behind the mix was to create a street frontage that has a variety of housing types to create a better street presence.

Proposed Uses

The proposed Live/Work uses along Crystal Springs Road, the barn lot, and the existing house lot, we would propose the following future uses within the MU District:

| | | | |
|---------------------|---------------|-----------------------|------------|
| Accessory structure | Artist studio | Arts/entertainment | Bakery |
| Barber/salon | Daycare | Dwellings as Allowed | Healthcare |
| Home Occupation | Library | Office/Prof. facility | Retail |
| Personal Services | Photograph | | |

The above listed uses would submit the required applications, pay the necessary fees and would comply with all City requirements at the time of submittal.

Landscaping and Amenities

A landscape plan has been prepared in accordance with the City standards. The applicant is proposing to relocate the Lawrence Kennedy Lateral adjacent to the north property line in a more direct east/west alignment. Within the easement of the lateral the applicant will provide a public pathway and extensive landscaping, which will be extend east to Crystal Springs Lane. Along Crystal springs lane there will be a 25-foot landscape easement along the entire frontage.

There is a planned park central to the subdivision that will have a gazebo and picnic area along with a play structure. Pathways will be provided throughout the site and connect to the northwest and southwest from the Heron River development. All of the common areas will be owned and maintained by the homeowners association, the CC&R's will speak to the 25-foot landscape easement and its maintenance so that it is kept in a good condition.

Utilities, Irrigation, Storm Drainage and Parking Facilities

There are existing wet and dry utilities adjacent to this site's south and west property line. The developer is proposing to extend both sewer and water from the west into the development. Dry utilities will also be extended into this site to all the lots. Portions of the common areas will be utilized for storm drain; subsurface seepage beds will dispose of the storm water. Pressurized irrigation is proposed to all common areas. All storm drain will be designed to accommodate the 100-year event. During the construction of the site, a storm water pollution prevention plan will be provided, and best management practices will be implemented.

Neighborhood Meetings

There was a neighborhood meeting conducted prior to submitting this application. There were several neighbors that showed up to the meeting. The proposed site design was discussed in length and the main concern was additional traffic that could potentially be routed through the Herron River Development. It was explained that the majority of the traffic would be heading to the east and not west through their development but the concerned still remained. Besides the traffic the design and use proposed was very

welcomed. The application further modifies the site plan to address additional transition concerns and has combine lots and agreed to single story structures on lots 15 and 16 Block 1 Prior to submitting this application, we reached out to ACHD and the District determined that because this site generated so few trips per day that a traffic study would not be required for our development.

Vision Statement

Our vision is to promote a residential development to increase a variety of housing choices within the vicinity of the site and provide for some neighborhood commercial live/work options. This site is centrally located in an area of the City that has been developed with significant amount of residential uses with a limited housing variety. What is being proposed will offer a variety of housing types which is high demand within the City. This development will provide the needed demand of a mix of housing. Amenities are provided to enhance this development and to promote a sense of place.

The building types provided are superior to the majority of townhouse developments of this nature. With the landscaping and screening provided the residents of this development will have a very private feel, and the neighboring uses will have little impact from this development. This development will enhance the community and the project will be an asset to the City.

It is anticipated that the applications are in compliance with all applicable plans and codes adopted by the City. Please notify us as early as possible if you should need additional clarification or information regarding this application. The proposed development will be a great addition to the City. I look forward to working with the City as this development moves forward in the process.

Sincerely,
A Team Land Consultants

A handwritten signature in blue ink that reads "Steve Arnold". The signature is fluid and cursive.

Steve Arnold
Project & Real Estate Manager

Cc: Richard Lubbers
Linda Box

Boise Office
1101 W. River St.
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Boise, Idaho 83702
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Tel. (208) 879-4488

Twin Falls Office
236 River Vista Place
Suite 301
Twin Falls, Idaho 83301
Tel. (208) 969-9585

Fax (all offices)
(208) 629-7559



SAWTOOTH LAW OFFICES, PLLC

Thursday, April 29, 2021

David P. Claiborne *

S. Bryce Farris

Evan T. Roth

Daniel V. Steenson

Andrew J. Waldera **

Brian A. Faria **

Patxi Larrocca-Phillips

Matthew A. Sturzen

Katie L. Vandenberg-Van Vliet

James R. Bennetts (retired)

Attorneys licensed in Idaho
* Also licensed in Washington
** Also licensed in Oregon

Sent via Electronic Mail

Rick Lubbers
551 S. Crystal Springs Rd.
Star, ID 83669
208-867-4720
rooster1@msn.com

RE: Landyn Village Subdivision; Access Easement

Dear Rick,

You have engaged our firm to evaluate your Annexation and Zoning, Preliminary Plat, and Planned Unit Development (“P.U.D.”) applications that were submitted for the proposed Landyn Village Subdivision. Specifically, you have requested our analysis as to whether the Crystal Springs Lane Access Easement (the “Access Easement”) is limited in scope to only the four existing residential lots or whether it allows access to the re-subdivision of Lot 2. This letter refrains from analyzing any other potential issues relating whether the road or Access Easement meets County requirements and instead focuses on whether the Access Easement is limited or restricted by the Plat.

The short answer is that after evaluating the existing Plat, our opinion is that the Access Easement does broadly allow for access to a re-subdivided lot for the reasons explained below.

The Springwood Subdivision Plat (the “Plat”) was approved by Ada County in 1997. It consisted of four 10-acre residential parcels. The only access to the residential lots is via Crystal Springs Lane. There is no separate easement document that conveys access rights to these four lots. Rather, the Plat properly describes the Access Easement.

In Idaho, plats must “accurately describe and set forth all the streets, easements, public grounds, blocks, lots, and other essential information” and therefore must include all essential terms. *See* Idaho Code § 50-1302. Thus, the Court examines a plat like a deed, applying the plain language if it is unambiguous. *Rowley v. Ada Cty. Highway Dist.*, 156 Idaho 275, 278, 322 P.3d

1008, 1011 (2014). *See also Lattin v. Adams Cnty.*, 149 Idaho 497, 501, 236 P.3d 1257, 1261 (2010). A plat subject to conflicting interpretations is ambiguous. *Kepler-Fleenor v. Freemont Cnty.*, 152 Idaho 207, 212, 268 P.3d 1159, 1164 (2012). Whether a plat is ambiguous is a question of law. *Id.* Only when a document is ambiguous is parol evidence admissible to discover the drafter's intent. *Porter v. Bassett*, 146 Idaho 399, 404–05, 195 P.3d 1212, 1217–18 (2008). Otherwise, the intention of the parties must be ascertained from the document itself. *Benninger v. Derifield*, 142 Idaho 486, 489, 129 P.3d 1235, 1238 (2006).

The Plat states, in relevant part:

11. S. CRYSTAL SPRINGS LANE IS A PRIVATE ROAD AND CONVEYS TO THOSE OWNERS TAKING ACCESS FROM THE PRIVATE ROAD A PERPETUAL RIGHT OF INGRESS/EGRESS OVER THE PRIVATE ROAD AND PROVIDES THAT SUCH PERPETUAL EASEMENT SHALL RUN WITH THE LAND. THE PRIVATE ROAD SHALL BE MAINTAINED BY THE HOMEOWNERS. THE PRIVATE ROAD MAY ALSO BE USED BY THE OWNERS OF LOTS 1 THROUGH 4, BLOCK 1 FOR ACCESS TO THE BOISE RIVER.

That language is not ambiguous. There is no express language in the Plat that restricts the right for ingress/egress to the four unsubdivided lots. An easement with the terms “for ingress/egress” has a plain meaning. Coupled with the reference to “private roads,” the meaning is clear. The owner of the dominate estate has the right to travel across the servient estate for access to the owner’s property benefited by the easement. The Access Easement is to be used for a roadway to access the property in Lots 1-4 and not some other purpose.

Due to the unambiguous language of the Access Easement, evaluation of intent is improper. A determination of intent need only be made after finding ambiguity. *Mountainview Landowners Coop. Ass’n v. Cool*, 139 Idaho 770, 772, 86 P.3d, 484, 486 (2004). That’s not the case here.

Furthermore, and more importantly, there is no language in the Plat containing additional limitations to the Access Easement. It is a general grant. “[A]n easement granted or reserved in general terms, *without any limitations* as to its use, *is one of unlimited reasonable use.*” *Abbott v. Nampa Sch. Dist. No. 131*, 119 Idaho 544, 548, 808 P.2d 1289, 1293 (1991) (emphasis added). “It is not restricted to use merely for such purposes of the dominant estate as are reasonably required at the time of the grant or reservation, but the right may be exercised by the dominant owner for those purposes to which that estate may be subsequently devoted.” *Id.* “The rule is that, absent language in the easement to the contrary, the uses made by the servient and dominant owners may be adjusted consistent with the normal development of their respective lands.” *Id.* (citing *Boydston Beach Ass’n v. Allen*, 111 Idaho 370, 723 P.2d 914 (Ct. App. 1986)). These core legal propositions are likewise confirmed in *McFadden v. Sein*, 139 Idaho 921, 924 88 P.3d 740, 743 (2004) and *Argosy Trust v. Wininger*, 141 Idaho 570, 573, 114 P.3d 128, 131 (2005).

McFadden is particularly instructive in this analysis. In *McFadden*, the parties argued over restrictions, if any, contained in a private grant of access/road right-of-way easement providing access to “Parcel No. 4.” *McFadden*, 139 Idaho at 923-924, 88 P.3d at 742-743. The

Court found the access roadway easement in *McFadden* to be a “general grant of easement.” *Id.* Sein contended that the general access easement could not be used to support further subdivision of Parcel No. 4. *Id.* *McFadden* argued the opposite—that the general grant of access easement supported further subdivision of “Parcel No. 4” into multiple residential lots. *Id.*

Citing *Abbott*, quoting *Boydston Beach Ass’n*, and agreeing with the district court’s preclusion of the admission and consideration of extrinsic evidence concerning the “intent of the parties at the time of the grant,” the Idaho Supreme Court agreed with *McFadden*, **noting the absence of instrument language** “expressly prohibiting the subdividing of Parcel No. 4” or “expressly limiting the number of vehicles that could use the easement” or “otherwise creating a limitation on the use of the easement that would be violated by the proposed subdivision” in light of the ongoing development of neighboring lands. *Id.* Thus, **the absence of express restrictive language did not create an ambiguity**; rather the absence of express restrictive language confirmed that the access easement was a “general grant” of access sufficient to support further subdivision of “Parcel No. 4.” *Id.*

The facts here are almost identical to those presented in *McFadden*. The only material fact that is distinguishable from *McFadden* is that the Court found their easement agreement did not address in any way subdividing any of the parcels. *Id.* In contrast, the Plat here expressly contemplates that Lots 1-4 may be re-subdivided. Note 2 of the Plat provides:

2. ANY RE-SUBDIVISION OF THIS PLAT SHALL CONFORM TO THE APPLICABLE REGULATIONS IN EFFECT AT THE TIME OF THE RE-SUBDIVISION AND THE CONDITIONS OF APPROVAL FOR FILE 95-20-PDR.

Thus, the Plat supports that it was the intention that the use may be adjusted for the proposed re-subdivision of Lot 2. Whether or not the re-subdivision meets other requirements or regulations may present additional questions but there can be no confusion or ambiguity that this note contemplated and approved of the future re-subdivision of the parcels to some degree. It cannot be reasonably asserted that the Access Easement at issue did not allow for, contemplate or provide for the future re-subdivision of the lots or that the Access Easement was limited to only access to the initial four lots.

In conclusion, I believe that the Access Easement is an unambiguous general grant of ingress/egress sufficient to support the subdivision of Lot 2. There is abundant Idaho case law that supports this position. As discussed, I have not analyzed any additional issues presented as to whether the roadway meets County or other requirements or to what density may the lots be re-subdivided. I look forward to hearing the results of your hearing on May 4, 2021.

As always, please contact me should you have any questions.

Yours very truly,



S. Bryce Farris



NOTES

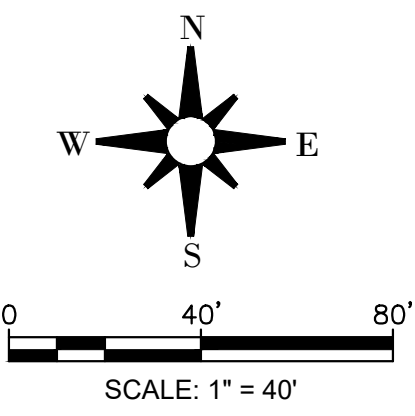
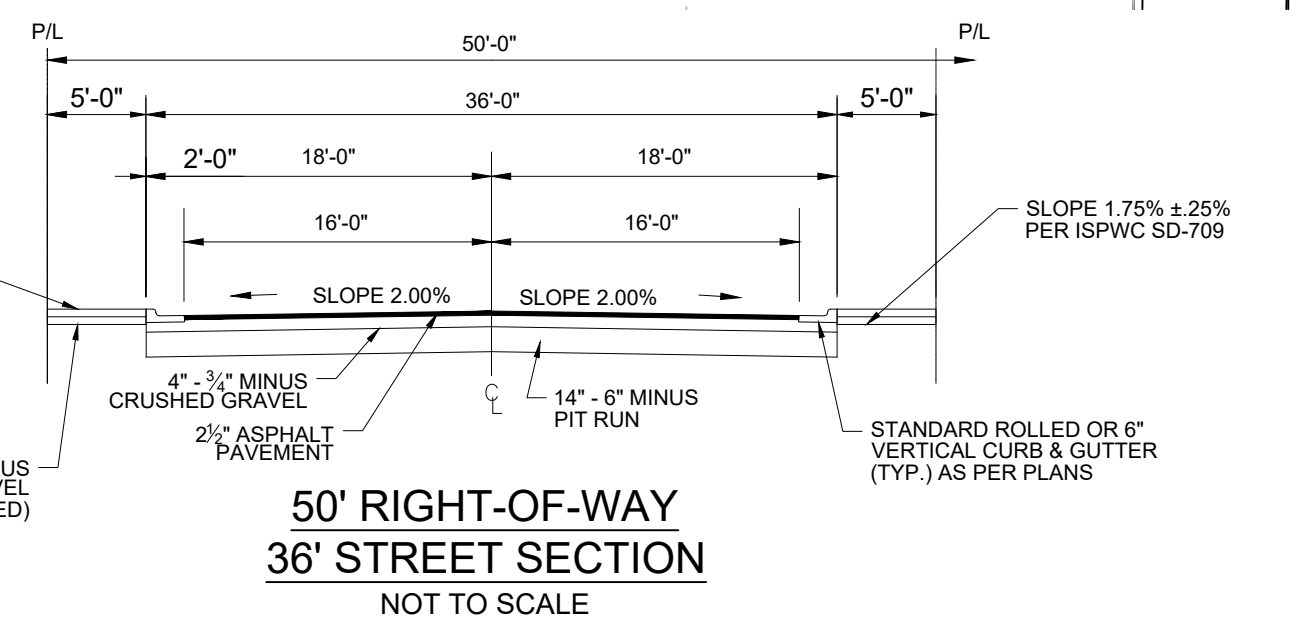
1. STAR CITY SEWER AND WATER WILL BE EXTENDED TO ALL LOTS
2. THIS SITE FALLS WITHIN THE FEMA 100 YEAR FLOOD HAZARD ZONE AE, REFERENCE FIRM PANEL 160001C0140H DATE FEBRUARY 19, 2003.
3. ALL LOTS SHALL HAVE A PERMANENT EASEMENT FOR PUBLIC UTILITIES, STREET LIGHTS, IRRIGATION AND LOT DRAINAGE OVER THE 10 (TEN) FEET ADJACENT TO ANY PUBLIC OR PRIVATE STREET.
4. MINIMUM BUILDING SETBACK LINES SHALL BE IN ACCORDANCE WITH THE APPLICABLE STANDARDS OF THE CITY OF STAR AT THE TIME OF ISSUANCE OF THE BUILDING PERMIT.
5. EACH LOT WILL BE PROVIDED WITH PRESSURIZED IRRIGATION.
6. STORM DRAINAGE SHALL BE RETAINED ON SITE THROUGH SURFACE AND SUBSURFACE FACILITIES AS APPROVED BY ACHD.
7. TOWNHOUSE UNITS WILL MAINTAIN A 15' SETBACK AT THE PERIMETER OF THE SUBDIVISION AND 0' TO ADJACENT UNITS.
8. LOTS 1, 13, 18 & 29 BLOCK 1, LOTS 1 & 8 BLOCK 2, LOT 1 BLOCK 4 AND LOT 17 BLOCK 5 ARE ALL COMMON LOTS, THEY SHALL BE OWNED AND MAINTAINED BY THE LANDYVILLAGE HOME OWNERS ASSOCIATION.
9. ALL PATHWAYS IN COMMON LOTS SHALL BE A MINIMUM OF 5' WIDE, PAVED AND OPEN TO THE PUBLIC.

PRELIMINARY DEVELOPMENT FEATURES

| | | | |
|-------------------------|--------------------------------------|--------------------|--|
| PARCEL NO'S: | R8079960200 | SETBACKS: | |
| ADDRESSES: | 551 S CRYSTAL SPRINGS STAR, ID 83669 | FRONT: | 20' |
| ZONING: | 10.00 AC | REAR: | 15' |
| RUT (EXISTING): | 10.00 AC | INTERIOR SIDE: | 0' |
| MU (PROPOSED): | 10.00 AC | BETWEEN BUILDINGS: | 10' |
| PROPERTY SIZE: | 10.00 AC | SITE AMENITIES: | COMMUNITY PARK, GAZEBO, PLAY AREA PATHWAYS & LANDSCAPE BUFFERS |
| TOTAL LOTS: | 69 | | |
| COMMON LOTS: | 8 | | |
| COMMON LOT/BARN: | 1 | | |
| EXISTING SINGLE FAMILY: | 1 | | |
| TOWNHOUSES: | 59 | | |
| DENSITY: | | | |
| TOWNHOUSES & COTTAGES: | 5.9 AC | | |
| SITE DETAILS: | | | |
| TOTAL COMMON AREA: | 1.40 AC | | |
| LANDSCAPE EASEMENT: | .18 AC | | |
| LINEAR STREET LENGTH: | 2199' | | |

LEGEND

| | | | |
|--|---------------------------------|--|--------------------------|
| | SITE BOUNDARY LINE | | SURVEY CONTROL POINT |
| | PHASE LINE | | SANITARY SEWER MANHOLE |
| | LOT LINE | | STORM DRAIN MANHOLE |
| | RIGHT-OF-WAY LINE | | CATCH BASIN |
| | SANITARY SEWER LINE | | SURFACE FLOW DIRECTION |
| | WATER LINE | | FIRE HYDRANT |
| | PRESSURE IRRIGATION LINE | | WATER VALVE |
| | STORM DRAINAGE RETENTION SYSTEM | | WATER SERVICE |
| | ZONING BOUNDARY | | IRRIGATION VALVE |
| | CENTERLINE | | WATER METER |
| | LANDSCAPE EASEMENT | | EXISTING LOT NUMBER |
| | OPEN RAIL FENCE | | NATURAL GAS LINE MARKER |
| | EXISTING FENCE LINE | | TELEPHONE SERVICE RISER |
| | TOP OF WATER LINE | | ELECTRIC TRANSFORMER BOX |
| | EXISTING SANITARY SEWER LINE | | SIGNAL JUNCTION BOX |
| | EXISTING STORM DRAIN LINE | | GUY WIRE ANCHOR |
| | EXISTING OVER HEAD POWER LINE | | POWER/UTILITY POLE |
| | EXISTING WATER LINE | | STREET SIGN |
| | EXISTING IRRIGATION LINE | | DECIDUOUS TREE |
| | EXISTING EDGE OF PAVEMENT | | CONIFEROUS TREE |
| | EXISTING EDGE OF GRAVEL | | MAILBOX |
| | EXISTING CURB LINE | | STREET LIGHT |
| | FOUND ALUMINUM CAP MONUMENT | | DOG WASTE DEPOT |
| | CALCULATED POINT | | GAZEBO |
| | TELEPHONE RISER | | PARK BENCH |
| | MAILBOX CLUSTER | | PLAYGROUND EQUIPMENT |



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 9825 EMERALD ST
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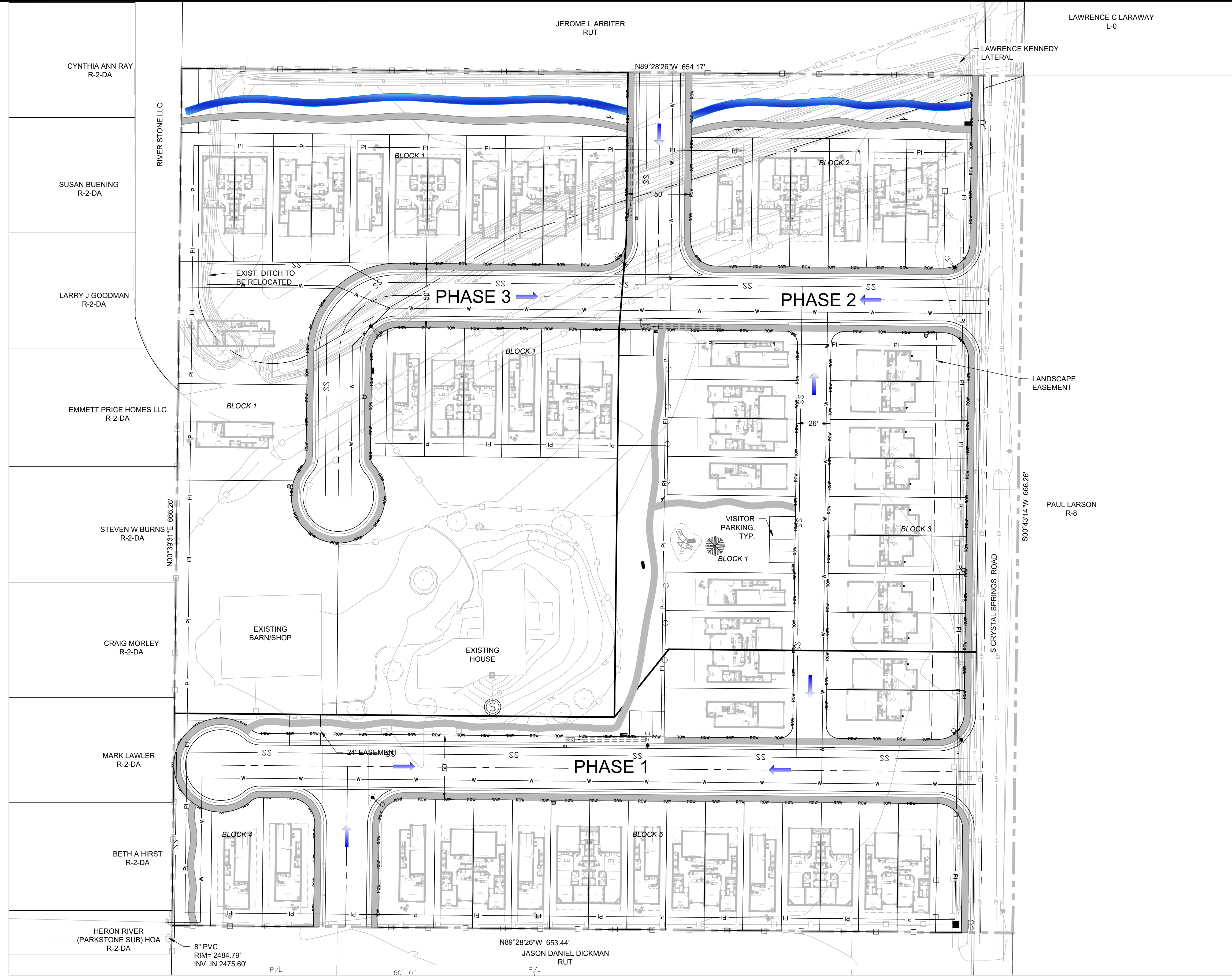
LANDYVILLAGE PRELIMINARY PLAT MAP
 LOT 2 BLOCK 1, SPRINGWOOD SUBDIVISION, 4 N 1W 1E,
 CITY OF STAR, ADA COUNTY, IDAHO 83669

OWNER/DEVELOPER
RICK AND LINDA LUBBERS
 551 S CRYSTAL SPRINGS RD
 STAR, ID 83669

PLANNER / CONTACT
STEVE ARNOLD
A-TEAM LAND CONSULTANTS
 1785 WHISPER COVE AVE.
 BOISE, ID 83709
 208-871-7020



SHEET 1 OF 1
 DRAWN BY: CJ SHERLOCK
 DATE: April 9, 2021
 FILE: LV_PRELIM PLAT.dwg



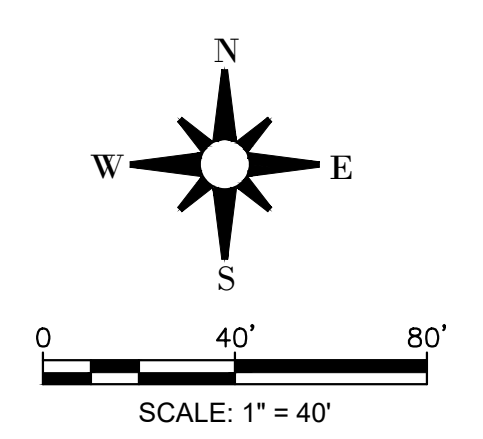
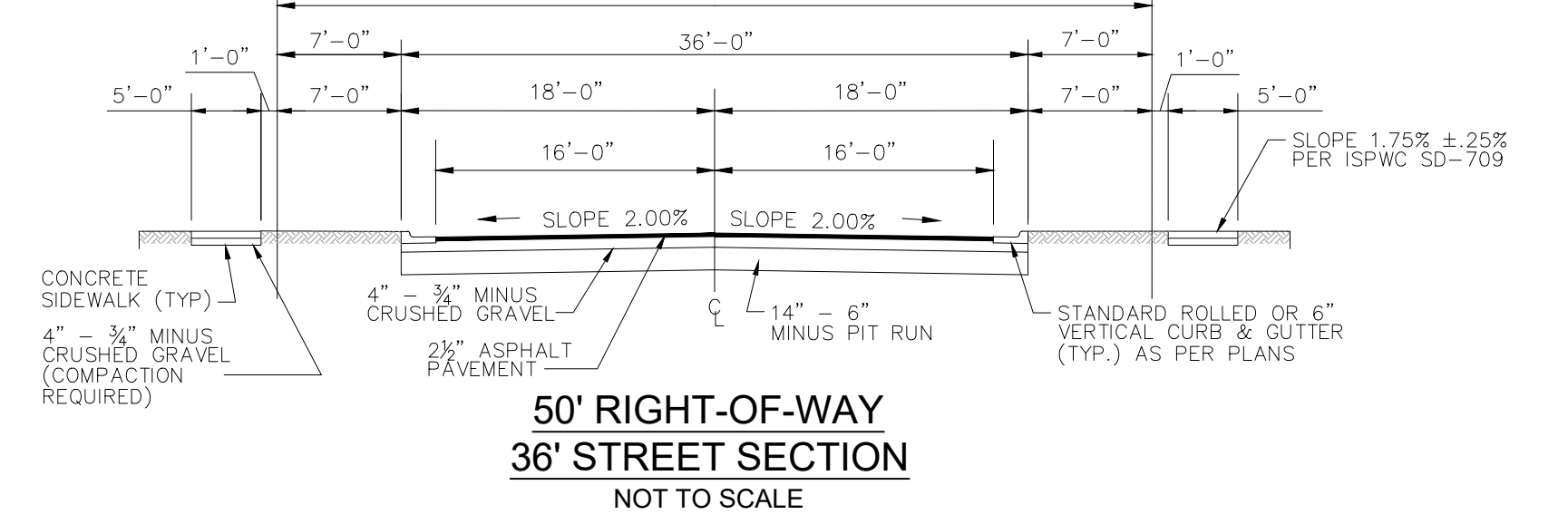
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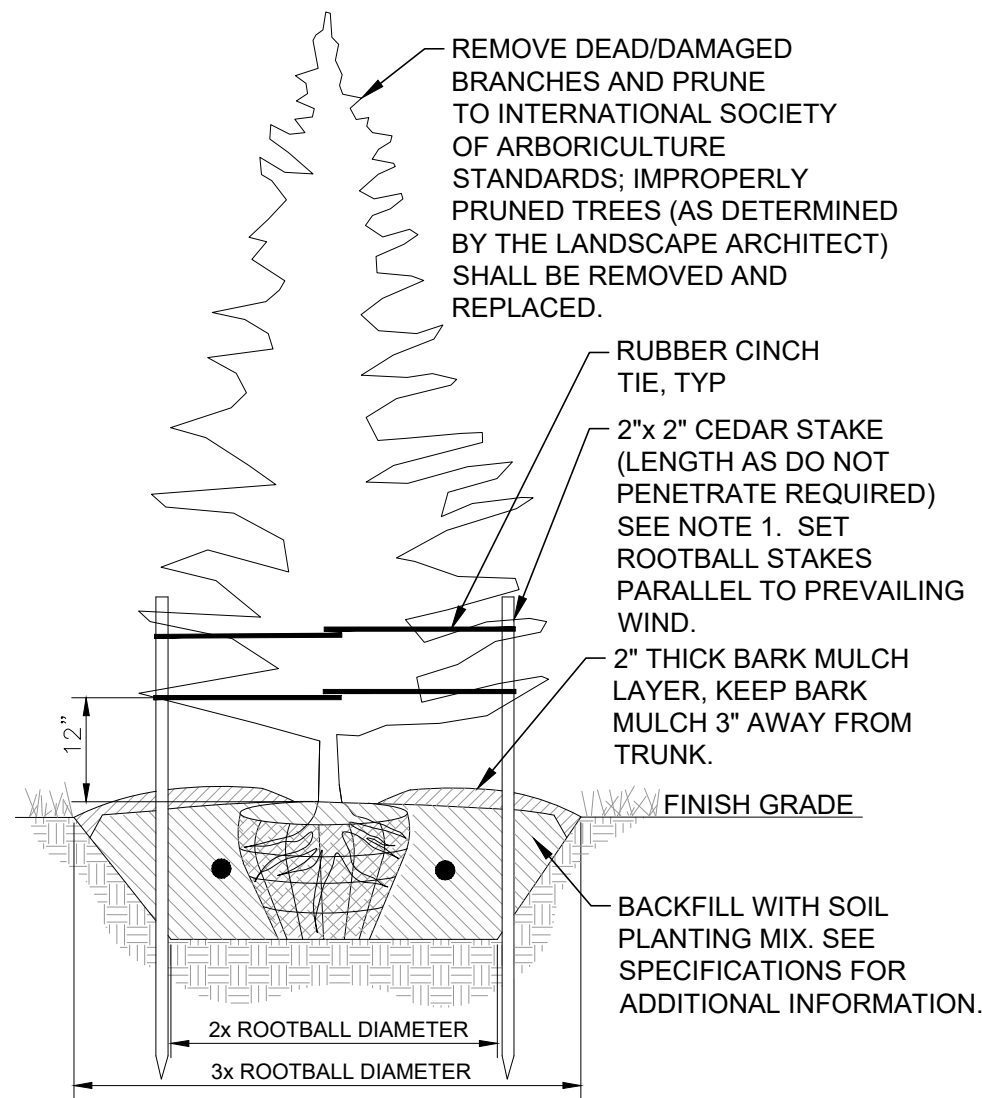
LANDYN VILLAGE CUP MAP
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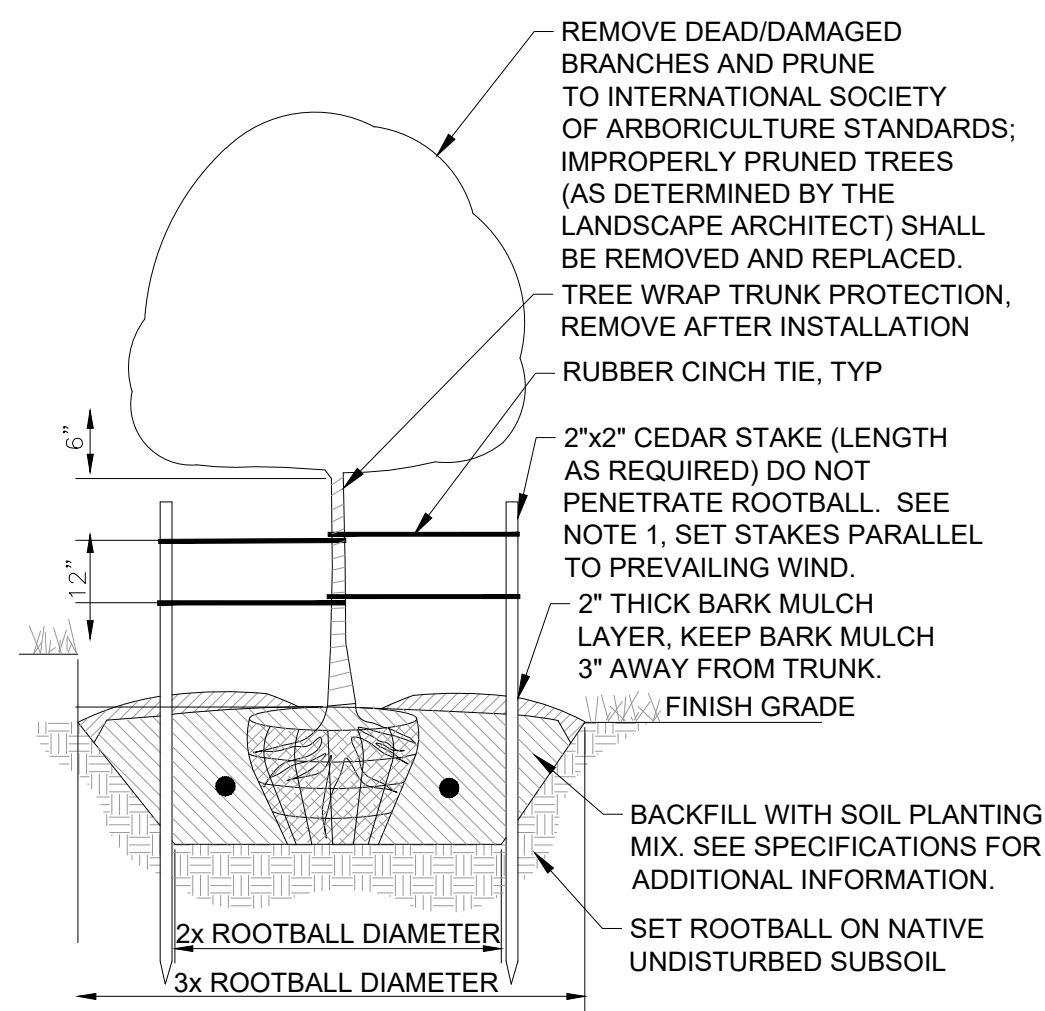


SHEET 1 OF 1
DRAWN BY: CJ SHERLOCK
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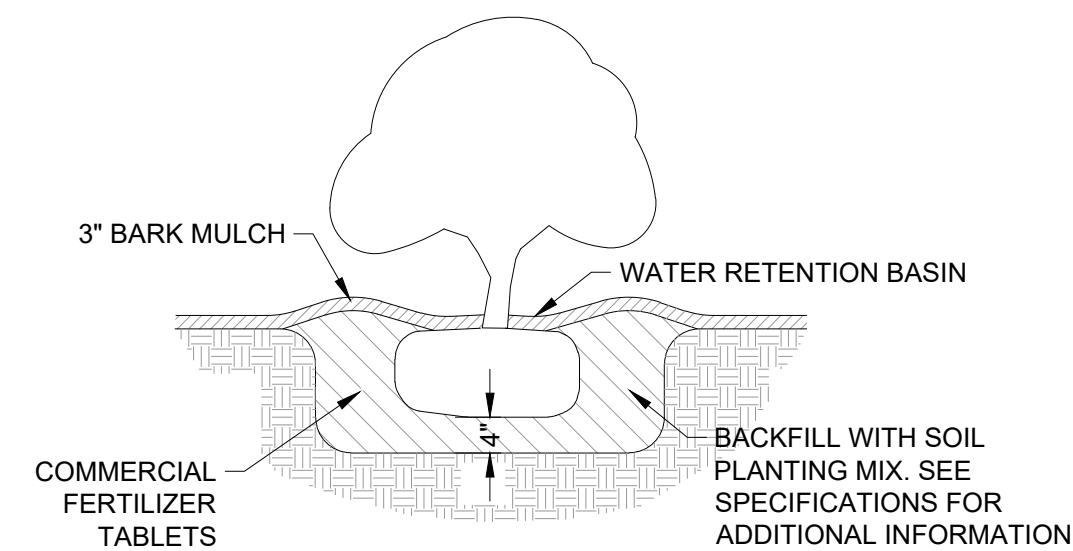
CONIFEROUS TREE PLANTING

NTS
NOTE:
COMMERCIAL SLOW RELEASE FERTILIZER TABLETS REMOVE BURLAP AND TWINE FROM TOP OF ROOTBALL. IF SYNTHETIC BURLAP IS UTILIZED TO WRAP THE ROOTBALL, IT SHALL BE COMPLETELY REMOVED. SET ROOTBALL ON NATIVE UNDISTURBED SUBSOIL.



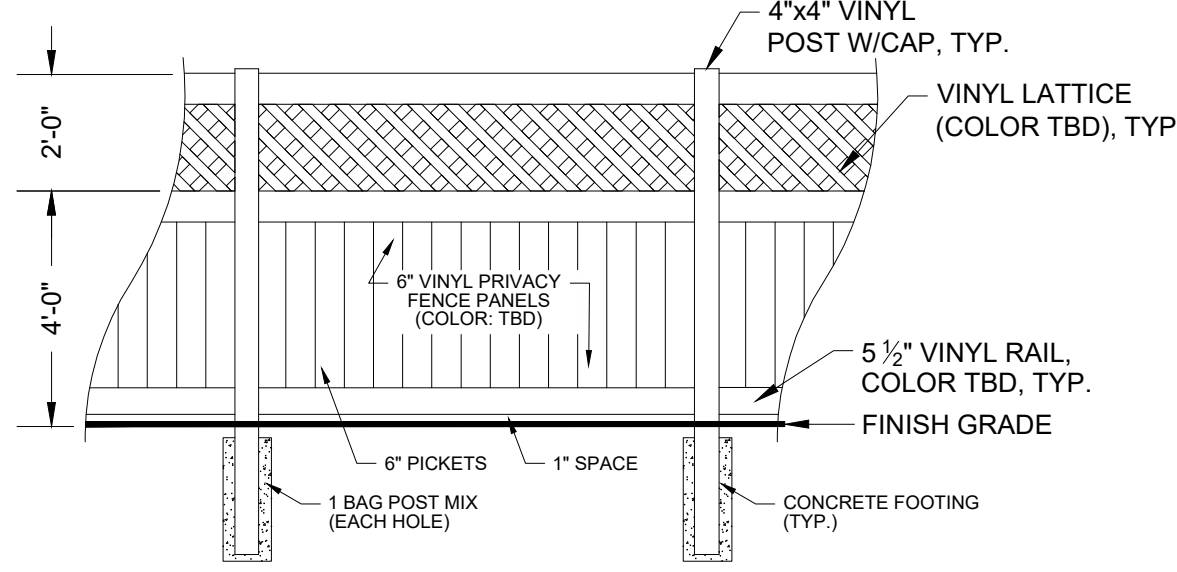
DECIDUOUS TREE PLANTING

NTS
NOTE:
REMOVE BURLAP AND TWINE FROM TOP OF ROOTBALL. IF SYNTHETIC BURLAP IS UTILIZED TO WRAP THE ROOTBALL, IT SHALL BE COMPLETELY REMOVED. USE COMMERCIAL SLOW RELEASE FERTILIZER TABLETS.



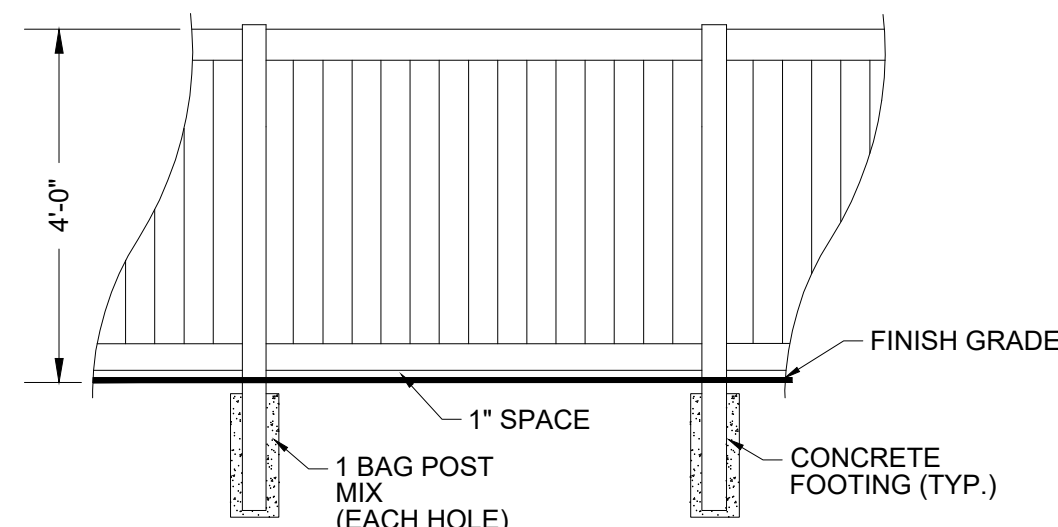
SHRUB PLANTING

NTS



6" VINYL LATTICE TOP FENCE

NTS



4" IRON FENCE

NTS

PLANT SCHEDULE

| KEY | COMMON/BOTANICAL NAME | PLANTING SIZE | CLASS |
|-----|---|------------------|---------|
| AA | COLUMNAR NORWAY MAPLE ACER PLATANOIDES 'COLUMNAR' | 2" B&B | I |
| AR | ROYAL RED MAPLE ACER PLATANOIDES 'ROYAL RED' | 2" B&B | II |
| BN | RIVER BIRCH BETULA NIGRA | 2" B&B | II |
| CC | GOLD DEODAR CEDAR CEDURUS SEODARA 'AUREA' | 5'-6" HEIGHT B&B | CONIFER |
| FP | CIMMARRON ASH FRAXINUS PENNSYLVANIA 'CIMMARRON' | 2" B&B | II |
| GT | SKYLINE HONEYLOCUST GLEADITSA TRIANCANTHOS INERMIS 'SKYCOLE' | 2" B&B | II |
| MR | RED BARRON CRABAPPLE MALUS X 'RED BARRON' | 2" B&B | I |
| MS | RED JEWEL CRABAPPLE MALUS X 'JEWELCOLE' | 2" B&B | I |
| PB | BACHERI SPRUCE PICEA PUNGENS 'BACHERI' | 5'-6" HEIGHT B&B | CONIFER |
| PS | BLUE SHAG EASTERN WHITE PINE PINEUS STROBUS 'BLUE SHAG' | 5 GALLON | CONIFER |
| PR | DWARF GLOBE BLUE SPRUCE PICEA PUNGENS 'GLOBOSA' | 5 GALLON | CONIFER |
| PP | COLUMNAR SARGENT CHERRY PRUNUS SARGENTII 'COLUMNARIS' | 2" B&B | I |
| PP | COLORADO BLUE SPRUCE PICEA PUNGENS 'GLAUCA' | 6" B&B | II |
| TC | GREENSPIRE LINDEN TILIA CORDATA 'GREENSPIRE' | 2" B&B | II |

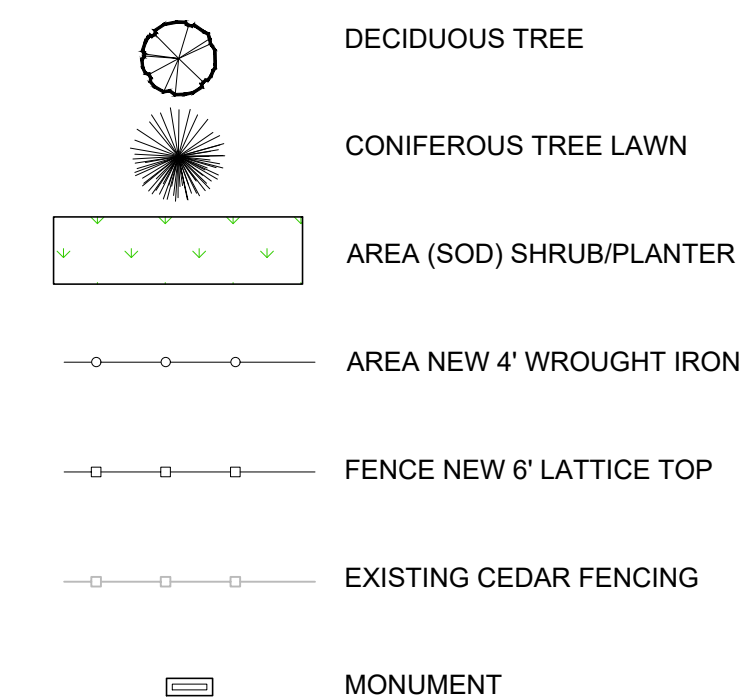
SHRUBS

| KEY | COMMON/BOTANICAL NAME | PLANTING SIZE |
|-----|--|---------------|
| ☆ | DWARF BURNING BUSH EUCHYRIUM ALATUS 'COMPACTUS' | 2 GAL. |
| ○ | CRIMSON PYGMY JAPANESE BARBERRY CRIMSON PYGMY JAPANESE BARBERRY | 2 GAL. |
| ○ | IVORY HALO DOGWOOD CORNUS ALBA 'BAILHALO' | 2 GAL. |
| ○ | BLUE CHIP JUNIPER JUNIPERUS HORIZONTALIS 'BLUE CHIP' | 2 GAL. |
| ○ | GOLD STAR POTENTILLA POTENTILLA FRUTICOSA 'GOLD STAR' | 2 GAL. |
| ○ | EMERALD ARBORVITAE THUJA OCCIDENTALIS 'EMERALD' | 4'-6" B&B |
| ○ | WHITE GROUNDCOVER ROSE ROSA X 'NAOSCHNEE' | 2 GAL. |
| ○ | MERLOT FLOWER CARPET ROSE ROSA X 'FLOWER CARPET' | 2 GAL. |
| ○ | NEON FLASH SPIRAEA SPIRAEA JAPONICA 'NEON FLASH' | 2 GAL. |

GROUND COVERS/GRASSES/PERENNIALS

| KEY | COMMON/BOTANICAL NAME | PLANTING SIZE |
|-----|--|---------------|
| ○ | DWARF FEATHER GRASS CALAMAGROSTIS X ACUTIFLORA 'OVERDAM' | 1 GAL. |
| ○ | MOONBEAM THREADLEAF TICKSEED COREOPSIS VERTICILLATA 'MOONBEAM' | @ 36" O.C. |
| ○ | ELIJAH BLUE FESCUE FESTUCA OVINA GLAUCA 'ELIJAH' | |
| ○ | STELLA DE ORO DAYLILLY HEMEROCALLIS X 'STELLA DE ORO' | |
| ○ | DILLY DILLY ENGLISH LAVENDER LAVANDULA ANGUSTIFLOIA 'DILLY DILLY' | |
| ○ | LITTLE BUNNY DWARF FOUNTAIN GRASS PENNISETUM ALOPECUROIDES 'LITTLE BUNNY' | |
| ○ | FRANCEE PLANTAIN LILY HOSTA 'FRANCEE' | |
| ○ | GOLDSTRUM BLACK EYED SUSAN RUDBECKIA FULGIDA 'GOLDSTURM' | |

LANDSCAPE LEGEND



LANDSCAPE & IRRIGATION NOTES:

- CONTRACTOR SHALL REPORT TO LANDSCAPE ARCHITECT ALL CONDITIONS WHICH IMPAIR AND/OR PREVENT THE PROPER EXECUTION OF THIS WORK, PRIOR TO BEGINNING WORK.
- COORDINATE WORK SCHEDULE AND OBSERVATIONS WITH LANDSCAPE ARCHITECT PRIOR TO CONSTRUCTION START-UP.
- NEW CONIFER AND DECIDUOUS TREE PLANTING: SEE DETAIL B AND C/L1.0. CONTRACTOR SHALL STAKE ALL TREES DEEMED NECESSARY, I.E. FROM BEING BLOWN OVER, PLANTED WITH LOOSE ROOT BALL, ETC. CONTRACTOR'S OPTION.
- NEW SHRUB PLANTING. SEE DETAIL A/L1.0.
- ALL PLANT MATERIAL SHALL CONFORM TO THE AMERICAN NURSERYMAN STANDARDS FOR TYPE AND SIZE SHOWN. PLANTS WILL BE REJECTED IF NOT IN A SOUND AND HEALTHY CONDITION.
- ALL PLANTING BEDS SHALL BE COVERED WITH A MINIMUM OF 3" OF SMALL (1" MINUS) BARK CHIPS. SUBMIT FOR APPROVAL.
- ALL PLANT MATERIAL SHALL BE GUARANTEED FOR A PERIOD OF ONE YEAR BEGINNING AT THE DATE OF ACCEPTANCE BY OWNER. REPLACE ALL PLANT MATERIAL FOUND DEAD OR NOT IN A HEALTHY CONDITION IMMEDIATELY WITH THE SAME SIZE AND SPECIES AT NO COST TO THE OWNER.
- FINISH GRADES TO BE SMOOTH AND EVEN GRADIENTS WITH POSITIVE DRAINAGE IN ACCORDANCE WITH SITE GRADING PLAN.
- IN ALL PLANTER BED AND LAWN AREAS, THE TOP 6 INCHES OF TOPSOIL WILL BE AMENDED AT A RATIO OF 3 CUBIC YARDS OF ORGANIC MATTER PER 1000 SQUARE FEET. ROTO-TILL ORGANIC MATTER A MINIMUM OF 6 INCHES INTO TOPSOIL.
- FERTILIZE ALL TREES AND SHRUBS WITH 'AGRIFORM' PLANTING TABLETS. QUANTITY PER MANUFACTURER'S RECOMMENDATIONS.
- ALL PLANTING BEDS SHALL HAVE A MINIMUM OF 18" OF TOPSOIL. LAWN AREAS SHALL HAVE A MINIMUM OF 12" TOPSOIL. SPREAD, COMPACT AND FINE GRADE TOPSOIL TO A SMOOTH AND UNIFORM GRADE 3" BELOW SURFACE OF WALKS AND CURBS IN PLANTING BED AREAS, 1 1/2" AT SOD LAWN AREAS, AND 1" AT SEED LAWN AREAS.
- REUSE EXISTING SURFACE TOPSOIL STOCKPILED ON THE SITE. VERIFY SUITABILITY OF SURFACE SOIL TO PRODUCE TOPSOIL MEETING REQUIREMENTS AND AMEND WHEN NECESSARY. TOPSOIL SHALL BE A LOOSE, FRIABLE, SANDY LOAM, CLEAN AND FREE OF TOXIC MATERIALS, NOXIOUS WEEDS, WEED SEEDS, ROCKS, GRASS OR OTHER FOREIGN MATERIAL AND A PH OF 5.5 TO 7.0. IF ON-SITE TOPSOIL DOES NOT MEET THESE MINIMUM STANDARDS, CONTRACTORS ARE RESPONSIBLE TO EITHER: A) PROVIDE APPROVED IMPORTED TOPSOIL, OR B.) IMPROVE ON-SITE TOPSOIL WITH METHODS APPROVED BY LANDSCAPE ARCHITECT. SUPPLEMENT WITH IMPORTED TOPSOIL WHEN QUANTITIES ARE INSUFFICIENT. CLEAN TOPSOIL OF ROOTS, PLANTS, SODS, STONES, CLAY LUMPS AND OTHER EXTRANEOUS MATERIALS HARMFUL TO PLANT GROWTH. IF IMPORTED TOPSOIL FROM OFF-SITE SOURCES IS REQUIRED, PROVIDE NEW TOPSOIL THAT IS FERTILE, FRIABLE, NATURAL LOAM, SURFACE SOIL, REASONABLY FREE OF SUBSOIL, CLAY LUMPS, BRUSH, WEEDS AND OTHER LITTER, AND FREE OF ROOTS, STUMPS, STONES LARGER THAN 2 INCHES IN ANY DIMENSION, AND OTHER EXTRANEOUS OR TOXIC MATTER HARMFUL TO PLANT GROWTH.
 - OBTAIN TOPSOIL FROM LOCAL SOURCES OR FROM AREAS HAVING SIMILAR SOIL CHARACTERISTICS TO THAT FOUND AT PROJECT SITE. OBTAIN TOPSOIL ONLY FROM NATURALLY WELL-DRAINED SITES WHERE TOPSOIL OCCURS IN A DEPTH OF NOT LESS THAN 4 INCHES.
 - REPRESENTATIVE SAMPLES SHALL BE TESTED FOR ACIDITY, FERTILITY AND GENERAL TEXTURE BY A RECOGNIZED COMMERCIAL OR GOVERNMENT AGENCY AND COPIES OF THE TESTING AGENCY'S FINDINGS AND RECOMMENDATIONS SHALL BE FURNISHED TO THE ARCHITECTS REPRESENTATIVE BY THE CONTRACTOR. NO TOPSOIL SHALL BE DELIVERED IN A FROZEN OR MUDDY CONDITION. ACIDITY/ALKALINITY RANGE - PH. 5.5 TO 7.6.
- IMMEDIATELY CLEAN UP ANY TOPSOIL OR OTHER DEBRIS ON THE SITE CREATED FROM LANDSCAPE OPERATIONS AND DISPOSE OF PROPERLY OFF SITE.
- ALL LANDSCAPED AREAS SHALL HAVE AN AUTOMATIC UNDERGROUND SPRINKLER SYSTEM WHICH INSURES COMPLETE COVERAGE AND PROPERLY ZONED FOR REQUIRED WATER USES. EACH HYDROZONE IS TO BE IRRIGATED WITH SEPARATE INDIVIDUAL STATIONS. PLANTER BEDS AND LAWN AREAS ARE TO HAVE SEPARATE HYDRO-ZONES.
- POP-UP SPRINKLER HEADS SHALL HAVE A MINIMUM RISER HEIGHT OF 4 INCHES AT LAWN AREAS AND 18" AT PLANTER BEDS.
- PLANTER BEDS ARE TO HAVE DRIP IRRIGATION SYSTEMS OR POP-UP SPRAY SYSTEMS. ANNUALS, PERENNIALS GROUND COVERS OR SHRUB MASSINGS SHALL HAVE A POP-UP SPRAY SYSTEM.
- ELECTRONIC WATER DISTRIBUTION/ TIMING CONTROLLERS ARE TO BE PROVIDED. MINIMUM CONTROLLER REQUIREMENTS ARE AS FOLLOWS:
 - PRECISE INDIVIDUAL STATION TIMING
 - RUN TIME CAPABILITIES FOR EXTREMES IN PRECIPITATION RATES
 - AT LEAST ONE PROGRAM FOR EACH HYDROZONE
 - SUFFICIENT MULTIPLE CYCLES TO AVOID WATER RUN-OFF
 - POWER FAILURE BACKUP FOR ALL PROGRAMMED INDIVIDUAL VALVED WATERING STATIONS WILL BE DESIGNED AND INSTALLED TO PROVIDE WATER TO RESPECTIVE HYDRO-ZONES.

TREE PLANTING NOTES

- THE STAKING OF TREES IS TO BE THE CONTRACTOR'S OPTION; HOWEVER, THE CONTRACTOR IS RESPONSIBLE TO INSURE THAT ALL TREES ARE PLANTED STRAIGHT AND THAT THEY REMAIN STRAIGHT FOR A MINIMUM OF 1 YEAR. ALL STAKING SHALL BE REMOVED AT THE END OF THE ONE YEAR WARRANTY PERIOD.
- REMOVAL OF BURLAP AND TWINE FROM TOP OF ROOTBALL MAY BE POSTPONED FOR 90 DAYS AT CONTRACTOR'S OPTION.
- IN THE EVENT OF A QUESTION OR LACK OF CLARITY ON THE DRAWINGS, THE CONTRACTOR IS TO NOTIFY THE LANDSCAPE ARCHITECT BEFORE PROCEEDING.
- LANDSCAPE CONTRACTOR IS TO NOTIFY THE LANDSCAPE ARCHITECT AND OWNER PRIOR TO INSTALLATION OF PLANT MATERIAL.
- WRAP RUBBER CINCH TIES AROUND THE TREE TRUNKS AND STAKES USING EITHER THE STANDARD OR FIGURE EIGHT TYING METHOD. SECURE THE TIES TO THE STAKES WITH GALVANIZED NAILS TO PREVENT SLIPPAGE.
- DEEP SOAK TREE TWICE WITHIN THE FIRST 24 HOURS.
- IN THE EVENT HARDPAN SOILS PREVENT TREE PLANTING AS DETAILED, NOTIFY THE LANDSCAPE ARCHITECT IMMEDIATELY.

LANDSCAPE DESIGNER
3 BROTHERS LANDSCAPE COMPANY, LLC
200 E. ROSALYN CT
MERIDIAN, ID 83642
(208) 908-6036

LANDYNN VILLAGE PRELIMINARY LANDSCAPE PLAN

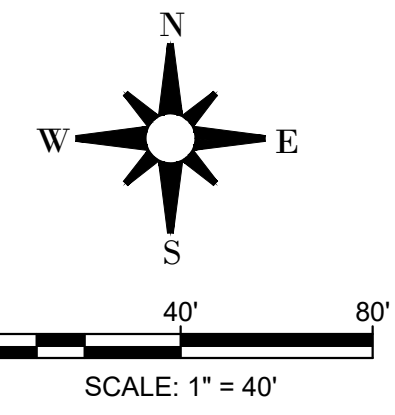
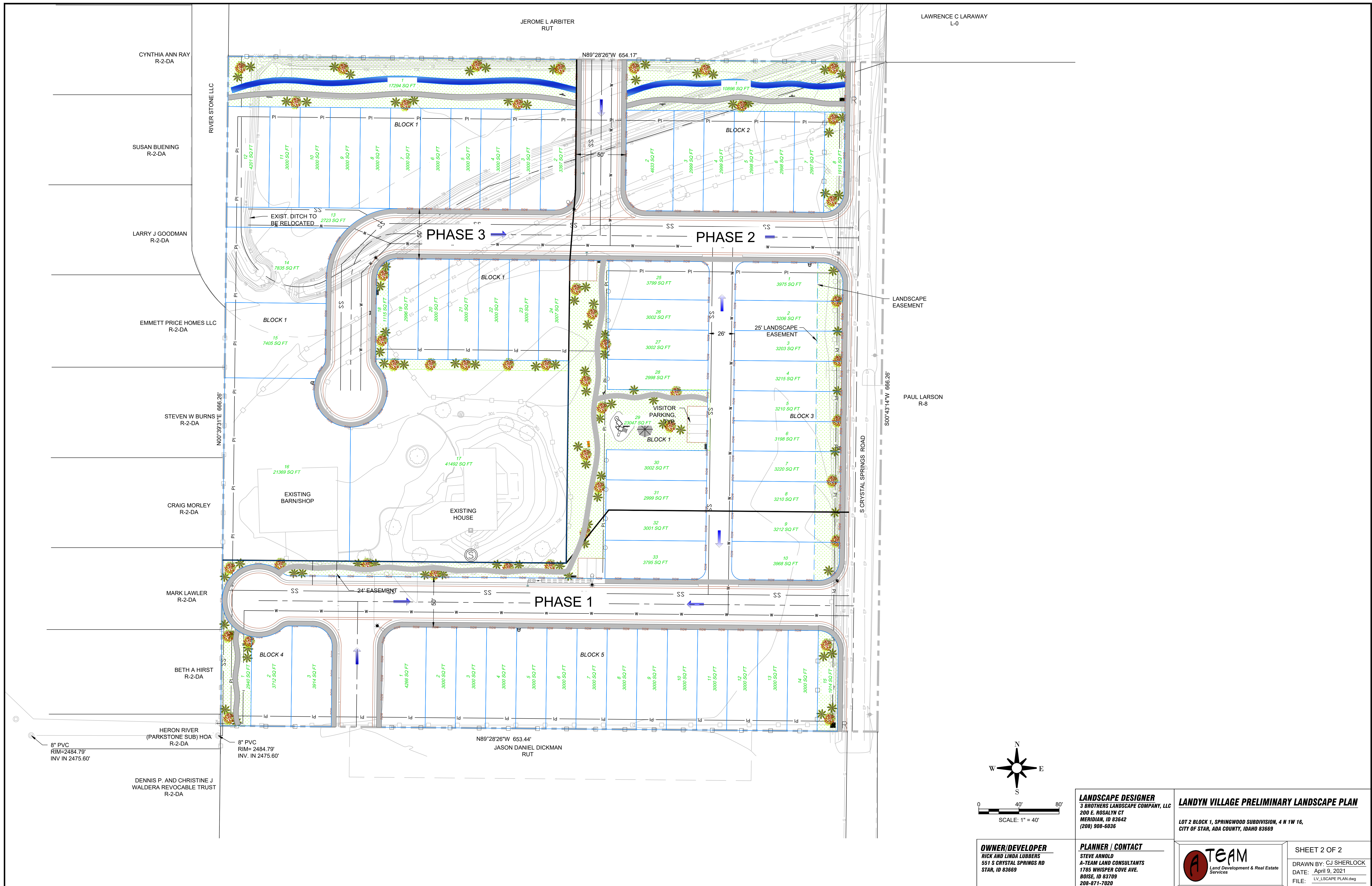
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SHEET 1 OF 2
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LANDSCAPE DESIGNER
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 200 E. ROSALYN CT
 MERIDIAN, ID 83642
 (208) 908-6036

LANDYVILLAGE PRELIMINARY LANDSCAPE PLAN
 LOT 2 BLOCK 1, SPRINGWOOD SUBDIVISION, 4 N 1W 16,
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SHEET 2 OF 2
 DRAWN BY: CJ SHERLOCK
 DATE: April 9, 2021
 FILE: LV_LSCAPE PLAN.dwg

WHITE CLOUD STUDIOS

SEE IT, HOLD IT, BEFORE YOU BUILD IT

301 N. 21TH ST., BOISE, ID
590 VALLEY CREEK RD., STANLEY, ID

(208) 343-2505 BOISE OFFICE
(208) 114-8343 STANLEY OFFICE

CJ SHERLOCK
WHITECLOUDCAD@GMAIL.COM

**LANDYD VILLAGE - MULTI USE DUPLEX
LOT 2, BLOCK 1
SPRINGWOOD SUBDIVISION
CITY OF STAR, IDAHO
ADA COUNTY 83669**



② SOUTH
1/4" = 1'-0"



① NORTH
1/4" = 1'-0"

| NO. | DESCRIPTION | DATE |
|-----|-------------|------|
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ELEVATIONS

Project number 2019ATEAM LANDYD VILLAGE
Date 12/3/2019 11:15:31 AM
Drawn by CJ SHERLOCK
Checked by S ARNOLD

A-201

Scale 1/4" = 1'-0"



August 27, 2019

ATeam Land Development
Attn: Steve Arnold
208.871.7020
steve@ateamboise.com

Subject: Mail Delivery Method Approval

Summer,

Thank you for contacting the Postal Service to establish delivery for the Landyn VillageSubdivision in Star Idaho.

Per your requested I am authorizing the developer to use cluster box delivery placed on block 1 lot 70 on south side of W the phase 2 and phase 3 roads. The location is marked with the red A on the attached map. This single location will service the entire development, and any future developments. Please remember not to enclose the Cluster boxes inside a building that would require keys or an access code to be serviced.

Please keep in mind when ordering your cluster boxes from the manufacturer we request that you ask them to number the boxes consecutively. As an example we would want the boxes to be labeled 1-260 as opposed to multiple units repeatedly numbered 1-16. We also request that the Parcel Lockers on the units also be numbered consecutively, so if there are 16 CBU units needed for the development, and there were two parcel lockers per unit the parcel lockers would be numbered 1 through 32. If the CBUs are not numbered correctly, we may refuse to deliver until the numbering has been corrected.

Thank you for your assistance.

*Mel Norton, Postmaster
Star ID 83669*

Mel Norton
Postmaster, Star

Mel Norton
Postmaster
10780 W State St
Star ID 83669-9998
Phone: 208-286-7304
Fax: 208-286-7304



CENTRAL DISTRICT HEALTH DEPARTMENT
Environmental Health Division

Return to:

- ACZ
Boise
Eagle
Garden City
Meridian
Kuna
Star

Rezone # _____

Conditional Use # _____

Preliminary / Final / Short Plat PP-20-04

Landyn Village

- 1. We have No Objections to this Proposal.
2. We recommend Denial of this Proposal.
3. Specific knowledge as to the exact type of use must be provided before we can comment on this Proposal.
4. We will require more data concerning soil conditions on this Proposal before we can comment.
5. Before we can comment concerning individual sewage disposal, we will require more data concerning the depth of:
6. This office may require a study to assess the impact of nutrients and pathogens to receiving ground waters and surface waters.
7. This project shall be reviewed by the Idaho Department of Water Resources concerning well construction and water availability.
8. After written approvals from appropriate entities are submitted, we can approve this proposal for:
9. The following plan(s) must be submitted to and approved by the Idaho Department of Environmental Quality:
10. This Department would recommend deferral until high seasonal ground water can be determined if other considerations indicate approval.
11. If restroom facilities are to be installed, then a sewage system MUST be installed to meet Idaho State Sewage Regulations.
12. We will require plans be submitted for a plan review for any:
13. Infiltration beds for storm water disposal are considered shallow injection wells. An application and fee must be submitted to CDHD.

RECEIVED
JAN 23 2020
CITY OF STAR
Reviewed By: [Signature]
Date: 1/16/2020



Landyn Village Subdivision

MIDDLETON RURAL FIRE DISTRICT

STAR FIRE PROTECTION DISTRICT

DATE: August 17, 2021
TO: City of Star, Planning & Zoning
FROM: Victor Islas, Deputy Chief
SUBJECT: Fire District Review
PROJECT NAME: Landyn Village Subdivision (AZ-20-04, PP-20-04, PUD-20-03)

Fire District Summary Report:

Overview: This development can be serviced by the Star Fire Protection District. This development shall comply with the 2018 International Fire Code (IFC) and any codes set forth by the City of Star, Idaho.

Fire Response Time: This development will be served by the Star Fire Protection District Station 51, located at 11655 W. State St., Star, Idaho. Station 51 is 2.0 miles with a travel time of 6 minutes under ideal driving conditions to the proposed entrance of the development off Hwy 44.

Accessibility: Roadway Access, Traffic, Radio Coverage

Access roads shall be provided and maintained following Appendix D and Section 503 of the IFC. Access shall include adequate roadway widths, signage, turnarounds, and turning radius for fire apparatus.

Access road design shall be designed and constructed to allow for evacuation simultaneously with emergency response operations.

All access roads in this development shall remain clear and unobstructed during construction of the development. Additional parking restrictions may be required as to always maintain access for emergency vehicles. Hydrants shall always remain unobstructed per city code.

Projects shall be equipped throughout with two separate and approved fire apparatus access roads.

Residential structures that sit on a dead-end fire apparatus access road and are more than 150ft off the roadway will require additional turnaround for emergency access.

The fire district requires that Autoturn models be submitted for review. Autoturn models should be reflect the utilization of a 36' long fire engine and a 50' long ladder truck.

Traffic calming devices will require approval by the Fire District.

An unobstructed vertical clearance of no less than 13 feet 6 inches shall be always maintained.

(208) 286-7772
11665 W. STATE ST., SUITE B
STAR, IDAHO 83669



MIDDLETON RURAL FIRE DISTRICT

Landyn Village Subdivision

STAR FIRE PROTECTION DISTRICT

The applicant shall work with City of Star, Ada County and Fire District to provide an address identification plan and signage which meets the requirements set forth by each agency. Addressing shall be placed in a position that is plainly legible and visible from the street or road fronting the property, as set forth in International Fire Code Section 505.1

Upon commencement of initial construction of a new structure, a clear visible freestanding sign or post shall be erected and maintained in place until the permanent address numerals are attached or otherwise displaced upon the premises at completion.

Developer to consult with Fire District on townhome clusters. Side Setback as per City Code. Any modification to setback will require review and approval by the Fire District.

Electronic gates shall be installed per IFC 503.5-503.6 and D103.5. Gates shall be equipped with Knox Key Switch and Yelp Activation.

Fire lane signs as specified in IFC Section D 103.6 shall be posted on both sides of fire apparatus access roads that are 20 to 26 feet wide.

Water Supply:

Water supply requirements will be followed as described in Appendix B of the 2015 International Fire Code unless agreed upon by the Fire District.

1. Fire Flow: One- and two-family dwellings not exceeding 3,600 square feet require a fire-flow of 1,000 gallons per minute for a duration of 1 hours to service the entire project. One- and two-family dwellings in excess of 3,600 square feet require a minimum fire flow as specified in Appendix B of the International Fire Code.
2. Water Supply: Acceptance of the water supply for fire protection will be by the Fire District and water quality by the Star Sewer & Water District for bacteria testing.
3. Water Supply: Final Approval of the fire hydrant locations shall be by the Star Fire Protection District or their designee in accordance with International Fire Code Section (IFC) 508.5.4 as follows:
 - a. Fire hydrants shall have a Storz LDH connection in place of the 4 ½" outlet. The Storz connection may be integrated into the hydrant, or an approved adapter may be used on the 4 1/2" outlet.
 - b. Fire hydrants shall have the Storz outlet face the main street or parking lot drive aisle.
 - c. Fire hydrants shall be placed on corners when spacing permits.
 - d. Fire hydrants shall not have any vertical obstructions to outlets within 10'.
 - e. Fire hydrants shall be placed 18" above finished grade to the center of the Storz outlet.
 - f. Fire hydrants shall be provided to meet the requirements of the City of Star and Star Sewer and Water District Standards.
 - g. Show all proposed or existing hydrants for all new construction or additions to existing buildings within 1,000 feet of the project.

(208) 286-7772
11665 W. STATE ST., SUITE B
STAR, IDAHO 83669

MIDDLETON RURAL FIRE DISTRICT



Landyn Village Subdivision

STAR FIRE PROTECTION DISTRICT

Inspections:

Final inspection by the Fire District of the above listed including hydrant flow must be completed before building permits are issued

Additional Comments:

Update exiting structure access as per IFC Appendix D and Section 503 & additional hydrant to be placed by the driveway of the existing house to provide water supply.

Additional Fire District review and permits are required for commercial buildings.

Streetlights shall be turned on once residential building begins, Lighting is essential in assisting first responders with identifying entrances safely while responding to calls for service.

(208) 286-7772
11665 W. STATE ST., SUITE B
STAR, IDAHO 83669

Boise Office

1101 W. River St., Ste. 110
P.O. Box 7985
Boise, Idaho 83707
Tel. (208) 629-7447

Challis Office

1301 E. Main Ave.
P.O. Box 36
Challis, Idaho 83226
Tel. (208) 879-4488

Twin Falls Office

236 River Vista Place
Suite 301
Twin Falls, Idaho 83301
Tel. (208) 969-9585

Fax (all offices)

(208) 629-7559



SAWTOOTH LAW OFFICES, PLLC

January 21, 2020

David P. Claiborne *

S. Bryce Farris

Patxi Larrocea-Phillips

Evan T. Roth

Daniel V. Steenson

Matthew A. Sturzen

Katie L. Vandenberg

Andrew J. Waldera **

James R. Bennetts (retired)

*Attorneys licensed in Idaho
* Also licensed in Washington
** Also licensed in Oregon*

City of Star
Attn: Shawn Nickel
P.O. Box 130
Star, Idaho 83669

Re: File #'s AZ-20-04, PP-20-04 and PUD-20-03 - Landyn Village Subdivision

Dear Mr. Nickel:

Drainage District #2 has a drainage ditch, the Lawrence Kennedy, and easement that runs through or abuts this property. The easement is 100 feet, 50 feet each side of the centerline, for open drains and 50 feet, 25 feet each side of the centerline for piped or closed drains. The developer/owner must contact the District's attorney's, Sawtooth Law Offices, PLLC, for approval before any encroachment, change of easement, or drainage discharge into the District's facilities occurs. The District must review drainage plans and construction plans prior to any approval.

The District generally requires a License Agreement prior to any approval for the following reasons:

1. Relocation of a District facility which would also require a new easement and relinquishment of the old easement once the relocation has been completed.
2. Piping of District facility.
3. Encroachment on a District facility with gas, water and sewer lines, utility lines, roadways, bridges or any other structures.
4. Drainage discharges into District facilities.

Also, please be advised that the District does not approve of trees within the District's easement. Therefore, any existing trees within the District's easement will need to be removed. On occasion, the District may make exceptions on a case by case basis, which requires the developers/owners to obtain written permission from the District for existing trees to remain.

Please contact me if you have any questions.

Yours very truly,

S. Bryce Farris

RECEIVED

JAN 27 2020

CITY OF STAR

SBF:krk

cc: DD#2 Board of Directors www.sawtoothlaw.com



131 SW 5th Ave, Suite A
Meridian, ID 83642
(208) 288-1992

January 9, 2020

Mayor Trevor Chadwick
City of Star
P.O. Box 130
Star, ID 83669

RECEIVED
JAN 14 2020
CITY OF STAR

Re: Landyn Village Subdivision Preliminary Plat Application

Dear Mayor:

Keller Associates, Inc. has reviewed the Preliminary Plat for the Landyn Village Subdivision dated December 11, 2019. We reviewed the applicant's package to check conformance with the City's Subdivision Ordinance and coordinated our review with Cathy Ward. We have the following comments and question based on our review:

1. Drawings state S Crystal Springs Road, it should be S Crystal Springs Lane.
2. Provide landscaping plan drawing. A description of the landscaping plan was provided but no plan was received.
3. The applicant is proposing a relocation of the Lawrence Kennedy Canal. This relocation will need to be approved by the irrigation district. What is the intent of the existing property in the adjacent subdivision where the canal will no longer be located?
4. Lot 1 Block 1 and Lot 1 Block 2 will need to have a blanket easement, or the lots dedicated to the irrigation district.
5. Lot 13 Block 1 will require an easement for the Star Sewer and Water District for the sewer and water mains.
6. 10-foot easements for pressure irrigation lines will need to be shown once the applicant determines the alignment location(s) for the facilities. Show all ditch and drainage easements.
7. Crystal Springs Lane is a private road and an agreement with the property owner located north of the property should be reached prior to approval of the preliminary plat.
8. What is the intent of the 24-foot wide easement located along the southern lot line of Lot 19 and 20, Block 1?
9. Lot 20 is included as a common lot. This lot appears to be the existing home lot. However, it also includes a parking area on the east edge of the lot adjacent to the unnamed roadways (north and south).

10. Lot 21 Block 1 appears to be a common lot and is not indicated as such in the notes. Lot 19 block 1 is noted as a common lot in the supplied narrative but is not called out in the notes on the plat.
11. Note 8 calls out lot 27 Block 1 as a common lot, this lot appears to be a developable lot, please confirm.
12. Note 1 of the plat indicates that Star City will provide sewer and water. This should be revised to the Star Sewer and Water District.
13. Please provide a stamped Preliminary Plat by a professional engineer or land surveyor license in the State of Idaho.
14. Please show contour elevation labels for existing contours on the drawing.
15. Street lighting shall be in accordance with ISPWC and the City of Star Supplementals. Cut sheet for lights and light poles shall be approved in writing by the City prior to installation.
16. Construction plans for a subdivision-wide pressure irrigation system will be required for each final plat. Plan approvals and license agreements from the affected irrigation and/or canal companies will be required.
17. Historic irrigation lateral, drain, and ditch flow patterns shall be maintained unless approved in writing by the local irrigation district or ditch company.
18. Potable water cannot be used for irrigation purposes. A separate pressure irrigation system will be required.
19. Finish grades at subdivision boundaries shall match existing finish grades. Runoff shall be maintained on subdivision property unless otherwise approved.
20. Landscape plans including fencing, buffer areas, and street trees will have to conform to the City subdivision ordinance.

We recommend that the **conditions 1 and 13 listed above be addressed prior to approval of the Preliminary Plat.** Any variance or waivers to the City of Star standards, ordinances, or policies must be specifically approved in writing by the City. 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.
City Engineer

cc: File



West Ada

SCHOOL DISTRICT

February 11, 2020

City of Star
P.O. Box 130
Star, ID 83669

Dear Planners:

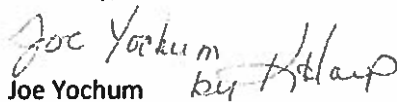
Joint School District No. 2 (dba West Ada School District) has experienced significant and sustained growth in student enrollment during the last ten years. Many of our schools throughout the district are operating at or above capacity. Based on U.S. census data, we can predict that these homes, when completed, will house 44 (= # homes x 0.8 per census data) school aged children. Approval of the **Landyn Village Subdivision** will affect enrollments at the following schools in West Ada District:

| | <u>Enrollment</u> | <u>Capacity</u> |
|--------------------|-------------------|-----------------|
| Star Elementary | 615 | 420 |
| Star Middle School | 692 | 1000 |
| Eagle High School | 2183 | 1800 |

West Ada School District supports economic growth; however, growth fosters the need for additional school capacity. In order to meet the need for additional school capacity, West Ada School District will accept the donation of land appropriate for a school site. Passage of a bond issue will be required prior to the commencement of new school construction.

New residents cannot be assured of attending the neighborhood school(s) as it may be necessary to bus students to available classrooms across the district. The safety of our students is our first and foremost priority. With this in mind, we ask that you encourage the developer to provide safe walkways, bike paths and pedestrian access for our students. School capacity and transportation is addressed in Idaho Code 67-6508 - future development will continue to have an impact on the district's capacity.

Sincerely,


Joe Yochum

Assistant Superintendent – Operations
West Ada School District



**DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, WALLA WALLA DISTRICT
BOISE REGULATORY OFFICE
720 EAST PARK BOULEVARD, SUITE 245
BOISE, IDAHO 83712-7757**

January 30, 2020

Regulatory Division

SUBJECT: Landyn Village Subdivision Application

City of Star
ATTN: Shawn L. Nickel
P.O. Box 130
Star, Idaho 83669

Dear Mr. Nickel:

This is in response to your January 10, 2020 Agency Notification, informing the U.S. Army Corps of Engineers (Corps) about a public hearing concerning applications received by the Valley County Planning & Zoning Commission. The applications include:

Landyn Village Subdivision Application

The Department of the Army (DA) exerts regulatory jurisdiction over waters of the U.S., including wetlands, pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344) and Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403). Section 404 of the Clean Water Act requires a DA permit be obtained prior to discharging dredged or fill material into waters of the U.S., which includes most perennial and intermittent rivers and streams, natural and man-made lakes and ponds, irrigation and drainage canals and ditches that are tributaries to other waters, and wetlands. Section 10 requires that a DA permit be obtained prior to building structures or conducting work in or affecting navigable waters of the U.S.

All Clean Water Act DA authorizations must comply with the Environmental Protection Agency's 404(b)(1) Guidelines. Under the Guidelines, the applicant must show that all appropriate and practicable steps to minimize potential impacts of the discharge on the aquatic ecosystem have been considered, and that the current proposal represents the least environmentally damaging practicable alternative. The applicant must summarize the steps taken to avoid, minimize and mitigate for unavoidable impacts associated with the project. The burden of proof to demonstrate compliance with the Guidelines rests with the applicant. We encourage applicants to engage with this office well in advance to understand how avoidance, minimization and mitigation sequencing can be incorporated into a proposed project.

We encourage applicants to contact this office prior to submitting a permit application, to assist with determining whether a project may qualify for a General Permit (e.g., Nationwide Permit), or will require an Individual Permit. For an overview of the Corps' permits, please visit: <http://www.nww.usace.army.mil/Business-With-Us/Regulatory-Division/Permit-Actions/>.

Project is located at south of State Street and west of Highway 16, south of W. Wildbranch Street on the current private road known as Crystal Springs, in Ada County, in Star, Idaho.

For more information about the Walla Walla District Regulatory program, visit us online at <http://www.nww.usace.army.mil/BusinessWithUs/RegulatoryDivision.aspx>.

Sincerely,

Sarah Windham
Environmental Protection Assistant, Regulatory Division



Project/File: Landyn Village/ SPP20-0001/ AZ-20-04/ PP-20-04/ PUD-20-03
This is an annexation with rezone to M-U, a preliminary plat consisting of 73 lots, and a planned unit development application on 10-acres.

Lead Agency: City of Star

Site address: 551 S Crystal Springs Lane

Staff Approval: April 22, 2020

Applicant/ Representative: A Team Land Consultants
 Steve Arnold
 1785 Whisper Cove Avenue
 Boise, ID 83709

Staff Contact: Stacey Yarrington, Planner III
 Phone: 387-6171
 E-mail: syarrington@achdidaho.org

A. Findings of Fact

1. **Description of Application:** The applicant is requesting approval of an annexation with rezone from RUT (Rural Urban Transition) to M-U (Mixed-Use), a preliminary plat consisting of 62 townhome units, an existing residential dwelling and barn, and 8 common lots; and a planned unit development application located on 10-acres. The applicant's proposal is consistent with the City of Star's Future Land Use Map.

2. **Description of Adjacent Surrounding Area:**

| Direction | Land Use | Zoning |
|-----------|---------------------------------|--------|
| North | Rural Urban Transition | RUT |
| South | Rural Urban Transition | RUT |
| East | Medium-high Density Residential | R-8 |
| West | Low Density Residential | R-2 |

3. **Site History:** ACHD has not previously reviewed this site for a development application.
4. **Transit:** Transit services are not available to serve this site.
5. **Impact Fees:** There will be an impact fee that is assessed and due prior to issuance of any building permits. The assessed impact fee will be based on the impact fee ordinance that is in effect at that time. The impact fee assessment will not be released until the civil plans are approved by ACHD.

6. Capital Improvements Plan (CIP)/ Integrated Five Year Work Plan (IFYWP):

There are no roadways, bridges or intersections in the general vicinity of the project that are in the Integrated Five Year Work Plan (IFYWP) or the District’s Capital Improvement Plan (CIP).

B. Traffic Findings for Consideration

1. **Trip Generation:** This development is estimated to generate 454 additional vehicle trips per day (9 existing); 35 additional vehicle trips per hour in the PM peak hour (1 existing), based on the Institute of Transportation Engineers Trip Generation Manual, 10th edition.

2. **Condition of Area Roadways**

Traffic Count is based on Vehicles per hour (VPH)

| Roadway | Frontage | Functional Classification | PM Peak Hour Traffic Count | PM Peak Hour Level of Service |
|-------------------------------------|----------|---------------------------|----------------------------|-------------------------------|
| **State Highway 44/ State Street | 0-feet | Principal Arterial | 1,128 | N/A |
| Plummer Way | 0-feet | Collector | 52 | Better than “D” |
| Wildbranch Street | 0-feet | Local | 16 | N/A |

* Acceptable level of service for a two-lane collector is “D” (425 VPH).

** ACHD does not set level of service thresholds for State Highways.

3. **Average Daily Traffic Count (VDT)**

Average daily traffic counts are based on ACHD’s most current traffic counts.

- The average daily traffic count for SH-44/ State Street west of SH-16 was 19,485 on 07/24/2019.
- The average daily traffic count for Plummer Way south of SH-44/State Street was 556 on 06/06/2019.
- The average daily traffic count for Wildbranch Street east of Plummer Way was 135 on 06/06/2019.
- There are no current traffic counts for Moyle Avenue.

C. Findings for Consideration

1. **Roadway Network**

As part of the State Highway 16 (SH-16) project, south of State Highway 44 (SH-44), the Idaho Transportation Department (ITD) constructed Moyle Avenue, Wildbranch Street, and Calhoun Place with 30-feet of pavement, gravel shoulders, and no curb, gutter, or sidewalk. These streets were constructed to provide access to the properties that were affected by the extension of SH-16 to the south. ITD was to dedicate these streets to ACHD when completed and accepted by ACHD. ACHD accepted the streets in March 2019.

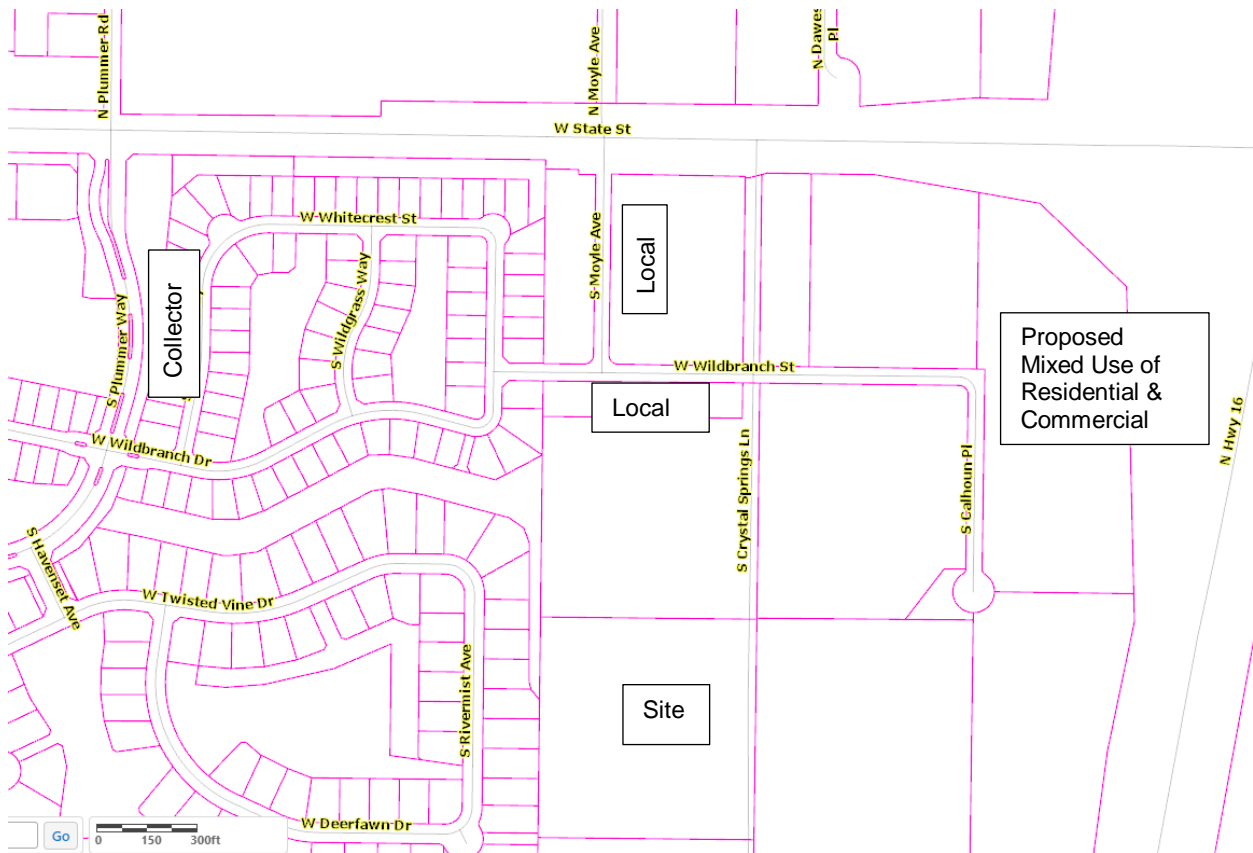
ACHD has reviewed development applications for annexation, rezone and map amendment(s) for properties east of this site for both residential and commercial uses. Traffic Impact Studies (TIS) were and are required to be submitted and accepted by ACHD with future development of the properties.

Neighbors in this area have expressed concern regarding the increase in traffic that these future developments may generate and how the additional traffic may impact existing local streets. In anticipation of future development, ACHD took traffic counts on area roadways. This data will be used to determine if traffic calming or other mitigation may be necessary in the future.

In June 2019, the PM peak hour traffic count for Wildbranch Street south of Plummer Way was 37 VPH with 400 vehicle trips daily.

The desirable planning threshold on new and existing local streets should typically be less than 2,000 ADT. Wildbranch Street and Moyle Avenue are classified as local streets.

Plummer Way, which is classified as a collector street with a planning threshold of 425 VPH in the PM peak hour, is currently operating well above an acceptable planning threshold with only 52 VPH in the PM peak hour and 556 ADT.



As mentioned above, ITD controls SH-44 including the intersections of Plummer/SH-44 and Moyle Ave/SH-44. A future traffic signal is proposed at the Plummer/SH-44 intersection and Moyle Avenue may be restricted to right-in/right-out. Therefore, left turning traffic will most likely travel thru the Parkstone (Heron River) Subdivision (Wildbranch Street to Plummer) west of this site.

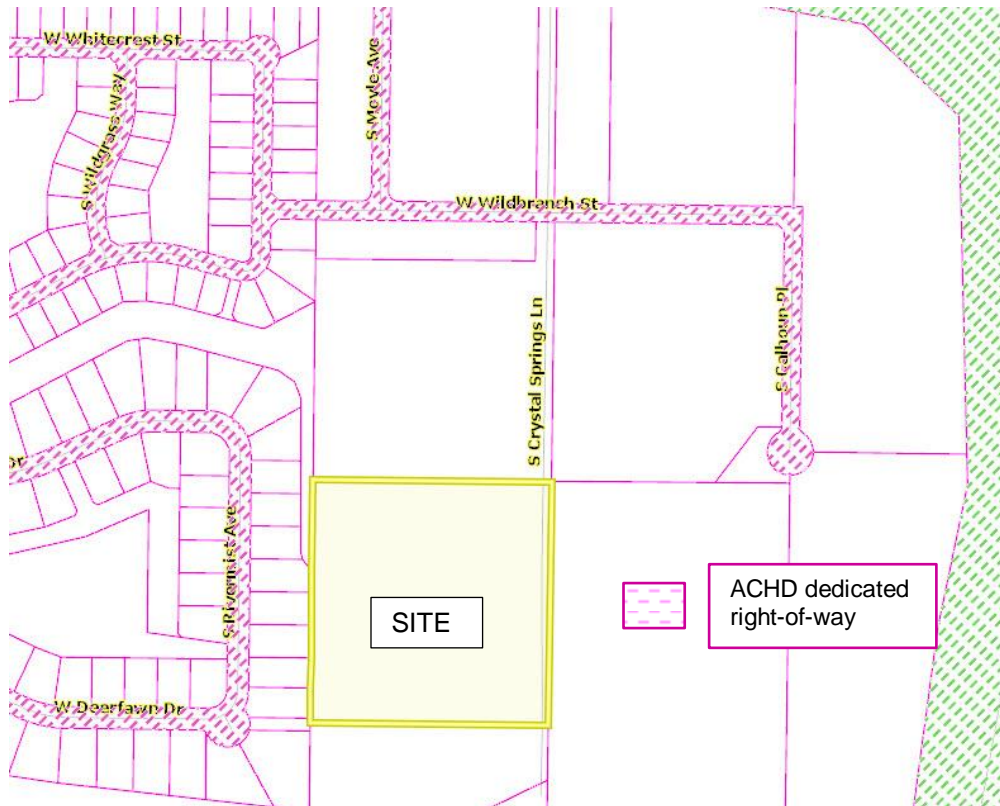
With this proposed development and proposed land uses of both residential and commercial that have been approved with prior applications, the City of Star should examine the overall trip generation in this area to avoid approving more trips than are allowed on the street system for these roadways.

2. Private Roads

- a. **Private Road Policy:** District policy 7212.1 states that the lead land use agencies in Ada County establish the requirements for private streets. The District retains authority and will review the proposed intersection of a private and public street for compliance with District intersection policies and standards. The private road should have the following requirements:

- Designed to discourage through traffic between two public streets,

- Graded to drain away from the public street intersection, and
 - If a private road is gated, the gate or keypad (if applicable) shall be located a minimum of 50-feet from the near edge of the intersection and a turnaround shall be provided.
- b. Applicant Proposal:** The applicant is proposing to construct the development as local public 36-foot wide streets with curb, gutter, and 5-foot wide sidewalk within 50-feet of right-of-way.
- c. Staff Comments/Recommendations:** This site does not have direct access to an existing public street and takes access from a private lane (Crystal Springs Lane). Therefore, staff recommends that the applicant construct the streets within the development as private streets.



If the City of Star approves the private road, the applicant shall be required to pave the private roadway a minimum of 20 to 24-feet wide and at least 30-feet into the site beyond the edge of pavement of all public streets and install pavement tapers with 15-foot curb radii abutting the existing roadway edge. If private roads are not approved by the City of Star, the applicant will be required to revise and resubmit the preliminary plat to provide public standard local streets in these locations.

Street name and stop signs are required for the private road. The signs may be ordered through the District. Verification of the correct, approved name of the road is required.

ACHD does not make any assurances that the private road, which is a part of this application, will be accepted as a public road if such a request is made in the future. Substantial redesign and reconstruction costs may be necessary in order to qualify this road for public ownership and maintenance.

The following requirements must be met if the applicant wishes to dedicate the roadway to ACHD:

- Dedicate a minimum of 50-feet of right-of-way for the road.

- Construct the roadway to the minimum ACHD requirements.
- Construct a stub street to the surrounding parcels.

3. **Tree Planters**

Tree Planter Policy: Tree Planter Policy: The District’s Tree Planter Policy prohibits all trees in planters less than 8-feet in width without the installation of root barriers. Class II trees may be allowed in planters with a minimum width of 8-feet, and Class I and Class III trees may be allowed in planters with a minimum width of 10-feet.

4. **Landscaping**

Landscaping Policy: A license agreement is required for all landscaping proposed within ACHD right-of-way or easement areas. Trees shall be located no closer than 10-feet from all public storm drain facilities. Landscaping should be designed to eliminate site obstructions in the vision triangle at intersections. District Policy 5104.3.1 requires a 40-foot vision triangle and a 3-foot height restriction on all landscaping located at an uncontrolled intersection and a 50-foot offset from stop signs. Landscape plans are required with the submittal of civil plans and must meet all District requirements prior to signature of the final plat and/or approval of the civil plans.

D. Site Specific Conditions of Approval

1. If private roads are not approved by the City of Star, the applicant will be required to revise and resubmit the preliminary plat to provide public standard local streets in the development with an approved access to a public street.
2. Submit civil plans to ACHD Development Services for review and approval. The impact fee assessment will not be released until the civil plans are approved by ACHD.
3. Payment of impact fees is due prior to issuance of a building permit.
4. Comply with all Standard Conditions of Approval.

E. Standard Conditions of Approval

1. All proposed irrigation facilities shall be located outside of the ACHD right-of-way (including all easements). Any existing irrigation facilities shall be relocated outside of the ACHD right-of-way (including all easements).
2. Private Utilities including sewer or water systems are prohibited from being located within the ACHD right-of-way.
3. In accordance with District policy, 7203.3, the applicant may be required to update any existing non-compliant pedestrian improvements abutting the site to meet current Americans with Disabilities Act (ADA) requirements. The applicant’s engineer should provide documentation of ADA compliance to District Development Review staff for review.
4. Replace any existing damaged curb, gutter and sidewalk and any that may be damaged during the construction of the proposed development. Contact Construction Services at 387-6280 (with file number) for details.
5. A license agreement and compliance with the District’s Tree Planter policy is required for all landscaping proposed within ACHD right-of-way or easement areas.
6. All utility relocation costs associated with improving street frontages abutting the site shall be borne by the developer.
7. It is the responsibility of the applicant to verify all existing utilities within the right-of-way. The applicant at no cost to ACHD shall repair existing utilities damaged by the applicant. The applicant shall be required to call DIGLINE (1-811-342-1585) at least two full business days prior to breaking ground within ACHD right-of-way. The applicant shall contact ACHD Traffic

Operations 387-6190 in the event any ACHD conduits (spare or filled) are compromised during any phase of construction.

8. Utility street cuts in pavement less than five years old are not allowed unless approved in writing by the District. Contact the District's Utility Coordinator at 387-6258 (with file numbers) for details.
9. All design and construction shall be in accordance with the ACHD Policy Manual, ISPWC Standards and approved supplements, Construction Services procedures and all applicable ACHD Standards unless specifically waived herein. An engineer registered in the State of Idaho shall prepare and certify all improvement plans.
10. Construction, use and property development shall be in conformance with all applicable requirements of ACHD prior to District approval for occupancy.
11. No change in the terms and conditions of this approval shall be valid unless they are in writing and signed by the applicant or the applicant's authorized representative and an authorized representative of ACHD. The burden shall be upon the applicant to obtain written confirmation of any change from ACHD.
12. If the site plan or use should change in the future, ACHD Planning Review will review the site plan and may require additional improvements to the transportation system at that time. Any change in the planned use of the property which is the subject of this application, shall require the applicant to comply with ACHD Policy and Standard Conditions of Approval in place at that time unless a waiver/variance of the requirements or other legal relief is granted by the ACHD Commission.

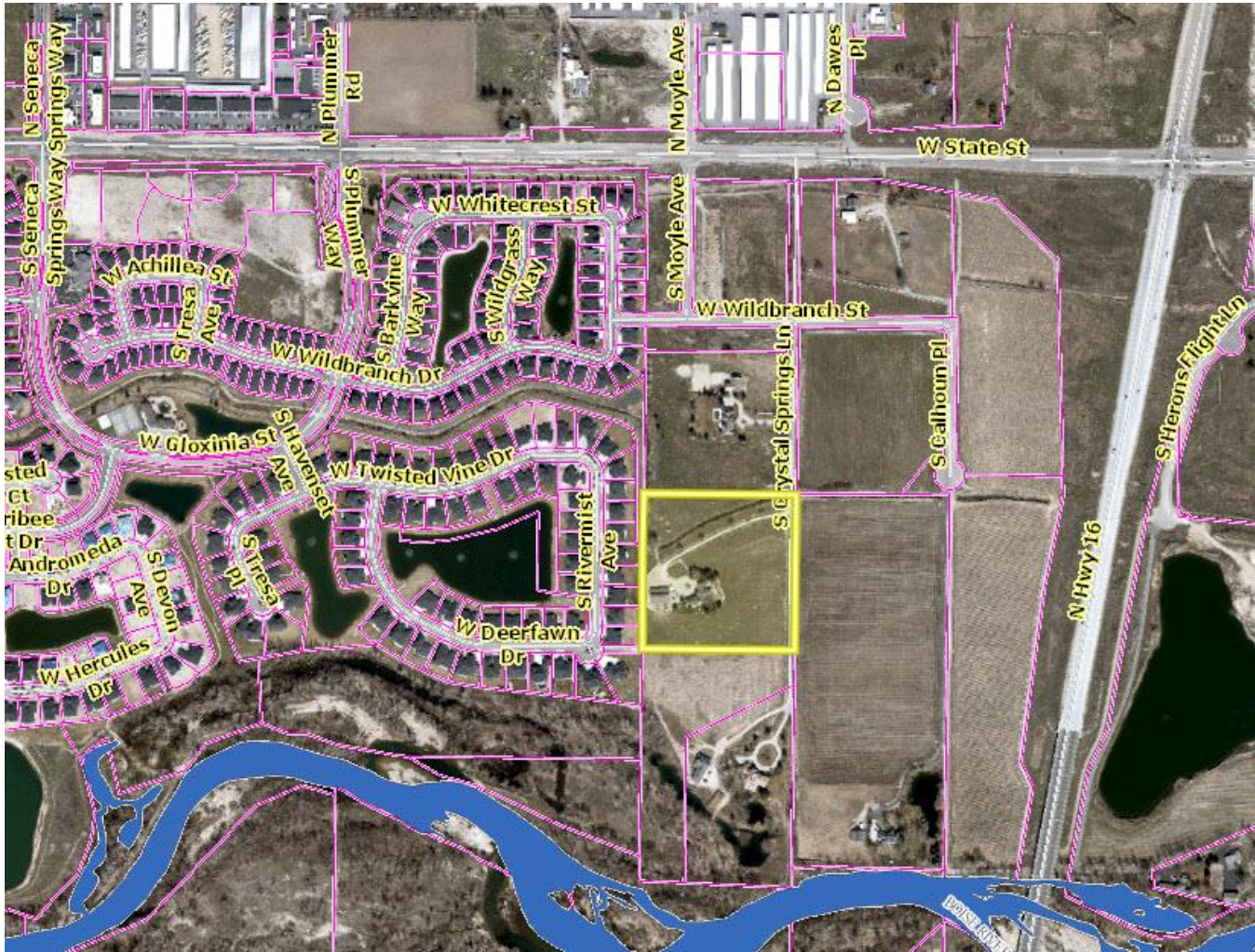
F. Conclusions of Law

1. The proposed site plan is approved, if all of the Site Specific and Standard Conditions of Approval are satisfied.
2. ACHD requirements are intended to assure that the proposed use/development will not place an undue burden on the existing vehicular transportation system within the vicinity impacted by the proposed development.

G. Attachments

1. Vicinity Map
2. Site Plan
3. Utility Coordinating Council
4. Development Process Checklist
5. Appeal Guidelines

VICINITY MAP



Ada County Utility Coordinating Council

Developer/Local Improvement District Right of Way Improvements Guideline Request

Purpose: To develop the necessary avenue for proper notification to utilities of local highway and road improvements, to help the utilities in budgeting and to clarify the already existing process.

- 1) **Notification:** Within five (5) working days upon notification of required right of way improvements by Highway entities, developers shall provide written notification to the affected utility owners and the Ada County Utility Coordinating Council (UCC). Notification shall include but not be limited to, project limits, scope of roadway improvements/project, anticipated construction dates, and any portions critical to the right of way improvements and coordination of utilities.
- 2) **Plan Review:** The developer shall provide the highway entities and all utility owners with preliminary project plans and schedule a plan review conference. Depending on the scale of utility improvements, a plan review conference may not be necessary, as determined by the utility owners. Conference notification shall also be sent to the UCC. During the review meeting the developer shall notify utilities of the status of right of way/easement acquisition necessary for their project. At the plan review conference each company shall have the right to appeal, adjust and/or negotiate with the developer on its own behalf. Each utility shall provide the developer with a letter of review indicating the costs and time required for relocation of its facilities. Said letter of review is to be provided within thirty calendar days after the date of the plan review conference.
- 3) **Revisions:** The developer is responsible to provide utilities with any revisions to preliminary plans. Utilities may request an updated plan review meeting if revisions are made in the preliminary plans which affect the utility relocation requirements. Utilities shall have thirty days after receiving the revisions to review and comment thereon.
- 4) **Final Notification:** The developer will provide highway entities, utility owners and the UCC with final notification of its intent to proceed with right of way improvements and include the anticipated date work will commence. This notification shall indicate that the work to be performed shall be pursuant to final approved plans by the highway entity. The developer shall schedule a preconstruction meeting prior to right of way improvements. Utility relocation activity shall be completed within the times established during the preconstruction meeting, unless otherwise agreed upon.

Notification to the Ada County UCC can be sent to: 50 S. Cole Rd. Boise 83707, or Visit iducc.com for e-mail notification information.

Development Process Checklist

Items Completed to Date:

- Submit a development application to a City or to Ada County
- The City or the County will transmit the development application to ACHD
- The ACHD **Planning Review Section** will receive the development application to review
- The **Planning Review Section** will do one of the following:
 - Send a **“No Review”** letter to the applicant stating that there are no site specific conditions of approval at this time.
 - Write a **Staff Level** report analyzing the impacts of the development on the transportation system and evaluating the proposal for its conformance to District Policy.
 - Write a **Commission Level** report analyzing the impacts of the development on the transportation system and evaluating the proposal for its conformance to District Policy.

Items to be completed by Applicant:

- For **ALL** development applications, including those receiving a **“No Review”** letter:
 - The applicant should submit one set of engineered plans directly to ACHD for review by the **Development Review Section** for plan review and assessment of impact fees. (Note: if there are no site improvements required by ACHD, then architectural plans may be submitted for purposes of impact fee assessment.)
 - The applicant is required to get a permit from Construction Services (ACHD) for **ANY** work in the right-of-way, including, but not limited to, driveway approaches, street improvements and utility cuts.
- Pay Impact Fees prior to issuance of building permit. Impact fees cannot be paid prior to plan review approval.

DID YOU REMEMBER:

Construction (Non-Subdivisions)

Driveway or Property Approach(s)

- Submit a “Driveway Approach Request” form to ACHD Construction (for approval by Development Services & Traffic Services). There is a one week turnaround for this approval.

Working in the ACHD Right-of-Way

- Four business days prior to starting work have a bonded contractor submit a “Temporary Highway Use Permit Application” to ACHD Construction – Permits along with:
 - a) Traffic Control Plan
 - b) An Erosion & Sediment Control Narrative & Plat, done by a Certified Plan Designer, if trench is >50' or you are placing >600 sf of concrete or asphalt.

Construction (Subdivisions)

Sediment & Erosion Submittal

- At least one week prior to setting up a Pre-Construction Meeting an Erosion & Sediment Control Narrative & Plan, done by a Certified Plan Designer, must be turned into ACHD Construction to be reviewed and approved by the ACHD Stormwater Section.

Idaho Power Company

- Vic Steelman at Idaho Power must have his IPCO approved set of subdivision utility plans prior to Pre-Con being scheduled.

- Final Approval from Development Services is required** prior to scheduling a Pre-Con.

Request for Appeal of Staff Decision

1. **Appeal of Staff Decision:** The Commission shall hear and decide appeals by an applicant of the final decision made by the Development Services Manager when it is alleged that the Development Services Manager did not properly apply this section 7101.6, did not consider all of the relevant facts presented, made an error of fact or law, abused discretion or acted arbitrarily and capriciously in the interpretation or enforcement of the ACHD Policy Manual.
 - a. **Filing Fee:** The Commission may, from time to time, set reasonable fees to be charged the applicant for the processing of appeals, to cover administrative costs.
 - b. **Initiation:** An appeal is initiated by the filing of a written notice of appeal with the Secretary and Clerk of the District, which must be filed within ten (10) working days from the date of the decision that is the subject of the appeal. The notice of appeal shall refer to the decision being appealed, identify the appellant by name, address and telephone number and state the grounds for the appeal. The grounds shall include a written summary of the provisions of the policy relevant to the appeal and/or the facts and law relied upon and shall include a written argument in support of the appeal. The Commission shall not consider a notice of appeal that does not comply with the provisions of this subsection.
 - c. **Time to Reply:** The Development Services Manager shall have ten (10) working days from the date of the filing of the notice of appeal to reply to the notice of the appeal, and may during such time meet with the appellant to discuss the matter, and may also consider and/or modify the decision that is being appealed. A copy of the reply and any modifications to the decision being appealed will be provided to the appellant prior to the Commission hearing on the appeal.
 - d. **Notice of Hearing:** Unless otherwise agreed to by the appellant, the hearing of the appeal will be noticed and scheduled on the Commission agenda at a regular meeting to be held within thirty (30) days following the delivery to the appellant of the Development Services Manager's reply to the notice of appeal. A copy of the decision being appealed, the notice of appeal and the reply shall be delivered to the Commission at least one (1) week prior to the hearing.
 - e. **Action by Commission:** Following the hearing, the Commission shall either affirm or reverse, in whole or part, or otherwise modify, amend or supplement the decision being appealed, as such action is adequately supported by the law and evidence presented at the hearing.

JOSHUA J. LEONARD
208.388.1000
JLEONARD@CLARKWARDLE.COM

February 26, 2020

Via email to: snickel@staridaho.org

Mayor Trevor Chadwick
Councilmember Kevin Nielsen
Councilmember Jennifer Salmonsén
Councilmember Michael Keyes
Councilmember David Hershey
Star City Hall
10769 W. State Street
Star, Idaho 83669

RE: Landyn Village Subdivision; File #s AZ-20-04 (Annexation and Zoning), PP-20-04 (Preliminary Plat), and PUD-20-03 (Planned Unit Development)

Mayor and Councilmembers,

This firm represents Jerome (“Jerry”) and Kathi Arbiter (“my clients,” or the “Arbiters”), who reside at 351 S. Crystal Springs in Star, which is Lot 1 of the Springwood Subdivision (“Arbiters’ Property”), located adjacent and immediately to the north of the proposed project. The Arbiters have owned their property in Star for over 8 years, where they retired after Jerry’s career in the United States Navy. (As a Navy carrier pilot, Jerry flew over 200 combat missions in Vietnam.)

We write to strongly oppose the Annexation and Zoning, Preliminary Plat, and Planned Unit Development (“P.U.D.”) applications (collectively, the “Applications”) that were submitted for the proposed Landyn Village Subdivision for numerous reasons. The primary basis for our opposition to the proposed development is that it lacks legal access for 63 residential lots, as we will discuss later in this letter. Other reasons we oppose the proposed development include its numerous violations of the Star Unified Development Code (“UDC”), its utter lack of compliance with the Star Comprehensive Plan (“Comprehensive Plan”), and its obvious attempt to maximize the developer’s profits at the expense of good design. Considering all of the facts and circumstances, it appears that this application may have been filed prematurely to take advantage of the City’s former version of the UDC. To file these types of applications, all of which have a significant impact on the overall planning of the City, without first securing legal

access to the 63 residential units, is disrespectful of the process and only serves to waste the time of everyone involved. The lack of access to the proposed 63 residential units is discussed in much greater detail later in this letter, but we implore the Mayor and City Council to summarily reject the applications as being incomplete, unless and until the Applicant can demonstrate legal access to the proposed 63 parcels it seeks to create.

Before jumping into our analysis of the many deficiencies of the Applications, my clients want me to be clear that we recognize the right of Mr. and Mrs. Lubbers (“Applicant”) to develop their property (“Subject Property”). The Arbiters only ask for recognition that they, as the owners of real property adjacent to the site of the proposed development, already have a vested property right to use their property as they do - for residential purposes, whereas the Applicant’s only *existing* property right is the current R-U-T zoning designation of the Applicant’s property - the applicant is requesting a NEW zoning designation, Mixed Use (which the City should deny, for reasons stated herein). None of the Applications establish the existence of a vested property right until the City approves those applications. The Arbiters, however, are entitled to the City’s protection of their existing, vested property right. In other words, if the City’s decision on the Applicant’s requests comes down to the issue of **vested right (Arbiters) vs. no vested right (Applicant), the vested right must prevail.**

I. **BACKGROUND**

Prior to the City’s recent adoption of its new UDC, the Applicants submitted their Applications to the City. The Subject Property consists of 10 acres and currently is addressed as 551 S. Crystal Springs Lane. The Applications seek annexation of the Subject Property, Mixed Use zoning, approval of a preliminary plat, and approval of a P.U.D. According to the letter submitted by the Applicant’s representative (“Applicant’s Letter”), which was dated September 12, 2019, the gross density of the proposed residential area is 6.2 units per acre; however, that calculation is a gross misstatement, in light of the fact that the existing home on the Subject Property will occupy a significant amount of the 10 acres the Applicant used to calculate its density. Put simply, the proposed residential units will be packed like sardines, as tightly as possible, to maximize the Applicant’s profit from the development.

The Applicant’s Letter also mentioned that the Applications included color photographs of the proposed buildings, but to our knowledge, no such color photographs were a part of the Applications that the Applicant filed with the City.

The Applicant’s Letter stated that the proposed development included a mix of front-loaded townhouse units, rear-loaded alley units, and single-family detached residential units.

For access to the 63 residential units, the Applicant’s Letter states that “[t]he site utilizes Crystal Springs Lane to access the public street system.” (Applicant’s Letter, p. 1.) Although the

Subject Property, as currently configured (with only 1 residence on it), may have a right of access across the private street called Crystal Springs Lane, the easement that comprises Crystal Springs Lane is limited to use by 4 residential lots. In other words, there is no legal access on Crystal Springs Lane for 63 residential units. This is crucial to the Arbiters, because a significant portion of Crystal Springs Lane is on the Arbiters' Property. Neither the Arbiters, nor the grantor of the easement that comprises Crystal Springs Lane, approved its use by 63 residential units. This issue, the absolute lack of legal access to the 63 lots proposed by the Applicant, will be discussed in greater detail in a moment.

II. ANALYSIS

Significant Problems with the Applications

These applications are fatally flawed in several ways: First (as briefly discussed above), there is no existing right of access to the 63 lots proposed by the Applicant; second, neither the Applications nor the proposed development comply with the Comprehensive Plan; third, the Applicant asks the City to ignore all of the ways in which the proposed development violates the UDC; and fourth, to put it bluntly, the design proposed by the Applicant for the development is unimaginative, disconnected, too tightly packed, and obviously intended to maximize profits while keeping costs of development to an absolute minimum, and the development lacks the number and type of amenities and connections that reasonably should be required for new residential developments in a city that is growing as quickly as Star is. Each of these problems, taken separately, is a sufficient basis to reject the Applications; taken all together, these flaws with the Applications and the proposed development require the City to reject the Applications.

Each of these problems with the Applications and the proposed development is discussed in greater detail in the following subsections of this letter.

A. LACK OF LEGAL ACCESS FOR 63 RESIDENTIAL LOTS

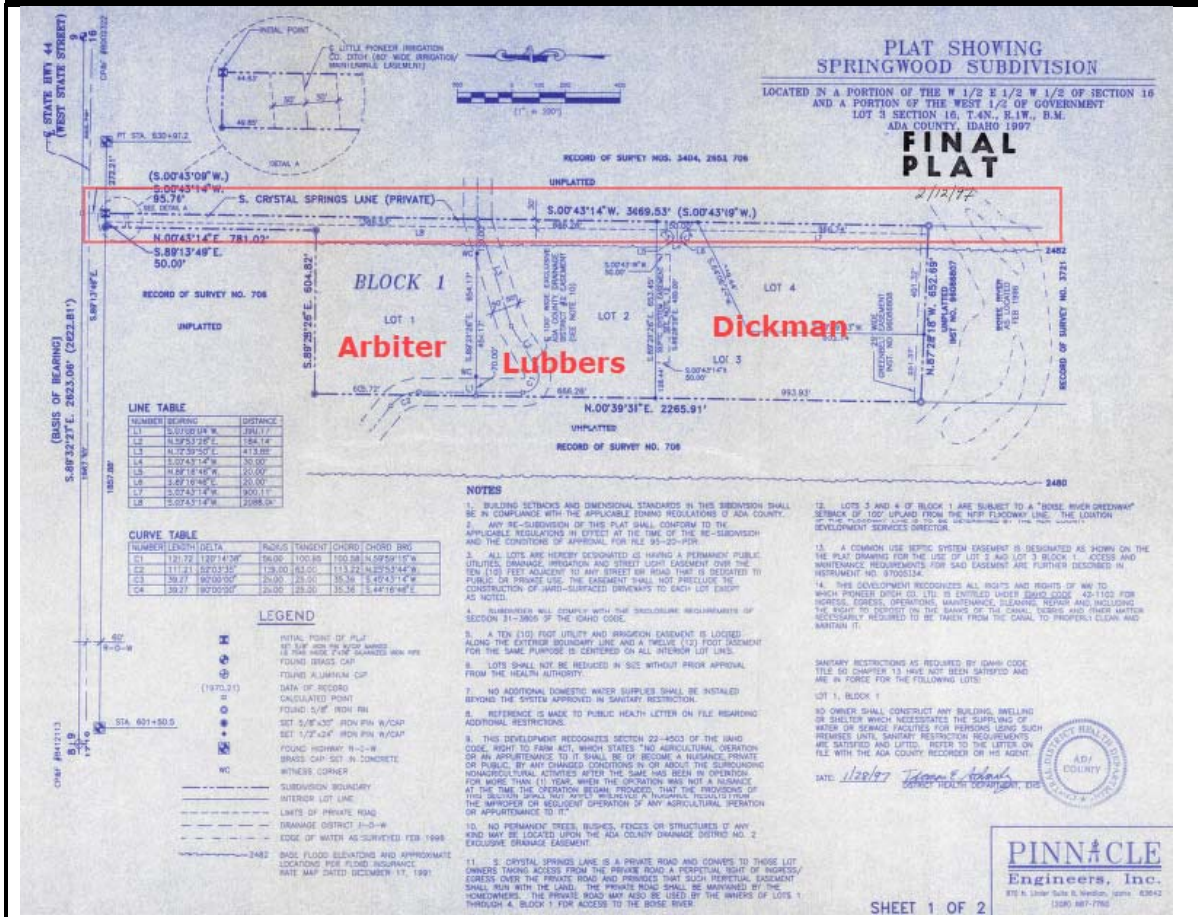
As mentioned earlier in this letter, the Applicant's Letter took the position that access to the site is via Crystal Springs Lane, which currently is true - the site, as currently configured with a single residence on it, uses the private street called Crystal Springs Lane for access. This statement in the Applicant's Letter is quite different from what the Applicant's representative stated at the neighborhood meeting, however. On May 8, 2018, Jerry Arbiter attended a neighborhood meeting at which a draft site plan of the proposed development was presented. The Applicant's agent stated that the proposed location of ingress and egress for the Applicant's subdivision would be across the Larson property, which is located immediately to the east of the proposed project site, rather than utilizing the private road called S. Crystal Springs Lane. Since that neighborhood meeting on May 8, 2018, no one has contacted my clients, the Arbiters, regarding the proposed subdivision, and there has been no update or revision to the Applicant's

stated plan to use the Larson property for ingress and egress. Based on Mr. Larson's January 20, 2020 email (which is in the record), however, the Applicant has made no effort to contact the Larsons to request use of the Larson property for ingress and egress.

Some historical information about the easement that comprises S. Crystal Springs Lane is necessary to understand the access rights of the 4 residential parcels.

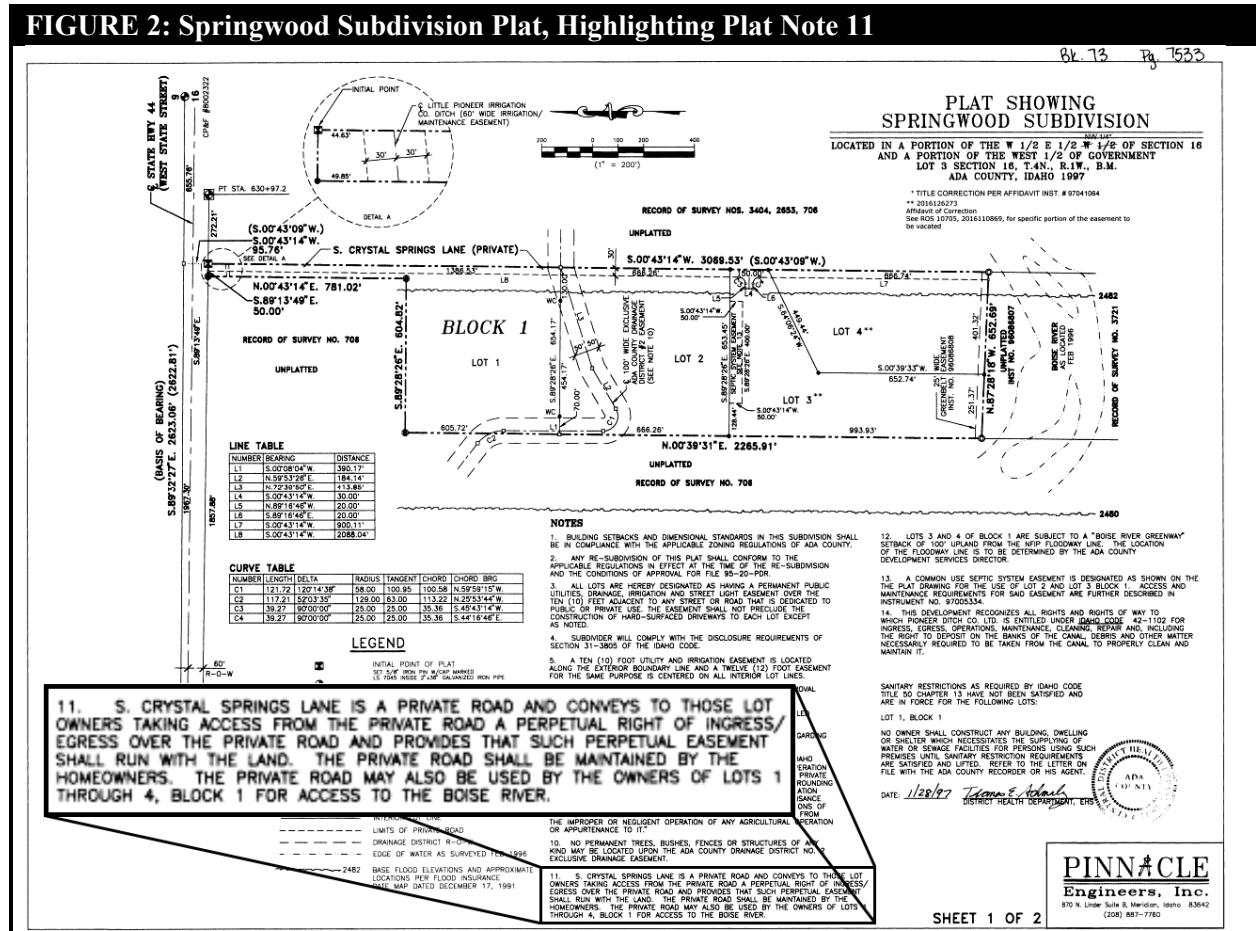
The Springwood Subdivision Plat (see **Exhibit A**, included with this letter) was approved by Ada County in 1997. Springwood consisted of 4 residential lots: Lot 1 (the Arbiter Property), Lot 2 (the Lubbers Property), and Lots 3 and 4 (the Dickman Property). A scan of the Springwood Subdivision Plat, labeled to show current property ownership and the location of S. Crystal Springs Lane, is below in FIGURE 1.

FIGURE 1: Springwood Subdivision Plat (with current ownership and location of private road)



As you can see from the Springwood Plat, four 10-acre parcels were created, which are owned by the Arbiters (Lot 1), the Applicant (Lot 2), and the Dickmans (Lots 3 and 4). The only access to these 4 residential lots is via Crystal Springs Lane. There is no separate easement document that

conveyed access rights to these 4 lots. Instead, a note that explained the access rights was required to be placed on the Plat, as highlighted in Figure 2:



Transcribed (so it's easier to read), Plat Note 11 reads:

11. S. CRYSTAL SPRINGS LANE IS A PRIVATE ROAD AND CONVEYS TO THOSE LOT OWNERS TAKING ACCESS FROM THE PRIVATE ROAD A PERPETUAL RIGHT OF INGRESS/EGRESS OVER THE PRIVATE ROAD AND PROVIDES THAT SUCH PERPETUAL EASEMENT SHALL RUN WITH THE LAND. THE PRIVATE ROAD SHALL BE MAINTAINED BY THE HOMEOWNERS. THE PRIVATE ROAD MAY ALSO BE USED BY THE OWNERS OF LOTS 1 THROUGH 4, BLOCK 1 FOR ACCESS TO THE BOISE RIVER.

Pursuant to Plat Note 11, the Applicant, as the owner of one of the 4 lots within the Springwood Subdivision, has the right of ingress and egress to and from its single-residence lot using Crystal Springs Lane. However, the access right granted by the Plat Note is very limited.

TABLE 1: Interpreting an Easement

The primary goal of interpreting or construing it “is to seek and give effect to the real intention of the parties.” *Kirk v. Wescott*, 160 Idaho 893, 900, 382 P.3d 342, 349, (2016), quoting *Machado v. Ryan*, 153 Idaho 212, 218, 280 P.3d 715, 721 (2020), in turn quoting *Porter v. Bassett*, 146 Idaho 399, 404, 195 P.3d 1212, 1217 (2008). When an instrument is unambiguous, “the intention of the parties is... ascertained from the deed’s plain language without the aid of extrinsic evidence.” *Hoch v. Vance*, 155 Idaho 633, 639, 315 P.3d 824, 827 (2013). In other words, an unambiguous easement will stand alone, without requiring additional information to help understand it. The Idaho Supreme Court further specified the manner in which the language of an easement must be interpreted:

In construing an easement in a particular case, the instrument granting the easement is to be interpreted in connection with the intention of the parties, and **the circumstances in existence at the time the easement was granted and utilized.**

Nelson v. Johnson, 106 Idaho 385, 387, 679 P.2d 662, 664 (1984), citing *Quinn v. Stone*, 75 Idaho 243, 270 P.2d 825 (1954), emphasis added.

In light of the grantor’s intention for the easement in Plat Note 11 and “the circumstances in existence at the time the easement was granted,” Plat Note 11 is clear and unambiguous:

TABLE 2: Interpreting Plat Note 11

| Provision | Meaning |
|--|---|
| “S. Crystal Springs Lane is a private road...” | S. Crystal Springs Lane is a <u>private</u> road (which obviously also makes it NOT a <u>public</u> road). |
| “S. Crystal Springs Lane ... conveys to those lot owners taking access from the private road a perpetual right of ingress/egress over the private road...” | At the time the Final Plat of Springwood Subdivision was recorded, there were 4 lots in the subdivision. “The circumstances in existence at the time the easement was granted” mean that Note 11 authorized the owners of 4 lots (not 62+ lots) , to use S. Crystal Springs Lane to access those 4 residential lots. |
| “...conveys to those lot owners taking access from the private road...” | Currently, the owners of the 4 Springwood Subdivision lots “[take] access from the private road,” as authorized by Note 11. If the applicant’s proposed development is approved, <u>none</u> of those 63 new lots will “[take] access from the private road; ” rather, all of the 63 new lots will take access from new roads and alleys within the development. (See Figure 2 , below). |
| “The private road may also be used by the owners of Lots 1 through 4, Block 1 for access to the Boise River.” | This sentence further cements the intent behind the easement in Note 11: It only benefits the owners of 4 lots, not 62+ lots. |

Based on the express limitations contained in Plat Note 11, the Applicant's plan to use S. Crystal Springs Lane, a private street, as access to the proposed 63 residential lots, fails as a matter of law. In other words, the Applicant hastily submitted an application for a 63-lot residential subdivision that does not have legal access.

The lack of access to the 63 lots proposed by the Applicant is confirmed in the Ada County application files that led to the approval of Crystal Springs Lane as a private road. Specifically, the following quotes are found in Ada County Application File No. 95-016PR:

The access for this single family dwelling is approved. The access is also adequate for the subdividing currently being processed [which was the Springwood Subdivision].

- July 14, 1997 letter from Jeffrey V. Root, Star Fire Department (emphasis added)

4. Any private road greater than four hundred feet (400') in length shall not be allowed more than four (4) lots with residences fronting on it.

- Private Road Application dated June 2, 1995 (emphasis added)

Both of these quotes expressly limit the number of residences that may take access from Crystal Springs Lane to 4. And these quotes must be incorporated into the documents comprising the Application for Landyn Village, and must be considered by the City Council:

10. The following statement shall appear on the face of the final plat: "Any re-subdivision of this plat shall comply with the applicable regulations in effect at the time of the re-subdivision and the Conditions of Approval for file 95-20-PDR.

Conditions of Approval in Ada County File No. 95-20-PDR/95-16-PR

As required in the above condition of approval by Ada County, Note 2 on the Springwood Subdivision Plat states:

2. ANY RE-SUBDIVISION OF THIS PLAT SHALL CONFORM TO THE APPLICABLE REGULATIONS IN EFFECT AT THE TIME OF THE RE-SUBDIVISION AND THE CONDITIONS OF APPROVAL FOR FILE 95-20-PDR.

Plat Note 2, Springwood Subdivision Plat. Based on Plat Note 2 and the conditions of approval of Springwood Subdivision that were imposed by Ada County, if the Applicant doesn't want to be required to comply with Ada County's prior conditions of approval, the Applicant must make application to Ada County to modify that plat note. Absent such modification of Plat Note 2, the Application before the City Council must comply with all conditions of approval previously imposed by Ada County on its approval of the Springwood Subdivision. Those conditions of approval included:

16. The private street [S. Crystal Springs Lane] shall comply with the following standards and is subject to field verification by the County Engineer:

...

- b. Private streets shall originate at a public right of way and terminate at a forty five foot (45') radius cul-de-sac or other approved turnaround area. If the terminus is other than the cul-de-sac, written approval from the Star Fire Department for the turnaround area shall be submitted to Development Services.

...

- d. Any private street greater than four hundred feet (400') **shall not be allowed more than four (4) lots with residences** fronting on it. However, if the street meets the public street construction standards, as specified in the Ada County Highway District Development Policy Manual (as it may be amended from time to time) and as verified by the Highway District, this provision shall not apply.

Conditions of Approval, Ada County File No. 95-20-PDR/95-16-PR (emphasis added). These conditions of approval not only govern the Application currently before the City Council, they also support the interpretation of Plat Note 11 that it authorizes access only to 4 residential lots, not 63 residential lots. **Note:** Although Condition of Approval 16.d., above, provides an exception if the private street is constructed to public street construction standards, it is impossible for the Applicant to construct S. Crystal Springs Lane to those public street construction standards - only a small portion of S. Crystal Springs Lane is on property owned by the Applicant. The remainder of S. Crystal Springs Lane is on property owned by the Arbiters and the Dickmans.

Even more importantly, S. Crystal Springs Lane does not meet the UDC's standards for a "private street." Prior to approving the Application, the City Council must find that access to the proposed development is legally sufficient, which means determining that Crystal Springs Lane

(a private street) meets all requirements and standards contained in the UDC. As previously mentioned, any re-subdivision of any of the 4 lots comprising the Springwood Subdivision must comply with all Ada County conditions of approval for the Springwood Subdivision **AND** must also comply with the applicable regulations in effect at the time of the re-subdivision. See Note 2 on Springwood Plat; see also Condition of Approval No. 10 in Ada County File No. 95-20-PDR/95-16-PR. As a result, access to Landyn Village subdivision proposed by the Applicant must meet all “applicable regulations in effect at the time of the re-subdivision.” Crystal Springs Lane does **NOT** meet the UDC standards.

For example, from the Purpose Statement of the Private Street Requirements section of the UDC:

It is not the intent to approve private streets for single-family, duplex and/or townhouse developments other than those that create a common mew through site design.

UDC § 8-4E-1, in pertinent part. (As background, a “common mew” is a common driveway. The proposed Landyn Village development does not propose to create a “common mew.”) The proposed access via Crystal Springs Lane violates the Purpose Statement in the Private Street Requirements section of the UDC.

Also, Crystal Springs Lane does not meet the UDC requirement that a “private street shall be constructed on a perpetual ingress/egress easement or a single platted lot **that provides access to all applicable properties.**” UDC 8-4E-4.A.1. (Emphasis added). The easement that comprises Crystal Springs Lane only provides access to 4 properties. If the City approved the Applicant’s request for 63 additional residential lots, none of them would be served by the easement.

To determine that Crystal Springs Lane qualifies as a private street, the Council also must make three “findings.” See UDC 8-4E-5. First, the design of Crystal Springs Lane must meet all UDC requirements, which is impossible for the Applicant, because the Applicant only owns a short stretch of Crystal Springs Lane, and because Crystal Springs Lane is much longer than 400’. Second, that “[g]ranting approval of the private street would not cause damage, hazard, or nuisance, or other detriment to persons, property, or uses in the vicinity.” UDC 8-4E-5.B. In this case, a determination that Crystal Springs Lane provides sufficient access to 63 residential units certainly would cause “hazard, or nuisance, or other detriment” to the Arbiters, to the Arbiters’ Property, and to the Arbiters’ use of their 10-acre parcel for large-lot residential purposes.

[Note: The above analysis assumes that the Applicant, at some point, realizes that S. Crystal Springs Lane is not included in the Applicant’s annexation application and somehow attempts to add it, despite not owning it. For so long as S. Crystal

Springs Lane remains in unincorporated Ada County, though, it is governed by Ada County Code - this is discussed immediately below.]

The Applicant does not seek to annex the land comprising S. Crystal Springs Lane into the city of Star, likely because the Applicant does not own all of S. Crystal Springs Lane. Because S. Crystal Springs Lane will remain in unincorporated Ada County, though, it remains subject to the Ada County Code's provisions regarding private roads. Pursuant to the Ada County Code, a private road (like S. Crystal Springs Lane) may not be approved for additional lots. (*See* Ada County Code § 8-4D-3.) As a result of this prohibition on additional lots, together with the clear restriction, under the existing easement granting access using S. Crystal Springs Lane, that only 4 lots may use the private street for access, and also based on the fact that the Applicant cannot dedicate those portions of S. Crystal Springs Lane that are within properties the Applicant does not own, the Applicant must seek legal access to its proposed 63 lots somewhere other than by using S. Crystal Springs Lane.

As mentioned earlier in this letter, by submitting an application for a development (Landyn Village) that lacks legal access, the Applicant is wasting the time of Star city staff, the elected officials of the City, and of the public. For all of the reasons set forth in this analysis, we respectfully ask the City Council to deny the Application. Please do not include obtaining a legal right of access to the Subject Property as a condition of approval of the Applications - just deny the Applications outright. If the City Council approves the Applications subject to a condition of approval that requires the Applicant to obtain legal access to the 63 lots, it only sets up costly and time consuming litigation. We are confident that the Arbiters will prevail in any litigation, but to require the Arbiters to shoulder the burden of costs and the stress that accompanies legal action will be extremely detrimental to them.

As already discussed, a critical factor missing from the proposed development is an ingress and egress plan from the proposed subdivision to a public road. An ingress and egress plan that incorporates S. Crystal Springs Lane would require my clients' approval, because it cannot be accomplished without consent from the owners of all land within the easement that comprises S. Crystal Springs Lane. Allowing that to occur would result in my clients losing a significant portion of their property, pasture, and valuable mature landscaping, and would necessitate the relocation of utilities and irrigation systems. My clients strongly oppose the increased and enlarged scope of use of S. Crystal Springs Lane to serve 63 residences (as opposed to the 4 that are authorized to take access from it), including the portion they own. We respectfully recommend disapproval of any proposed subdivision that claims to have a right to utilize S. Crystal Springs Lane to access 63 residential lots sought by the Applicant.

B. LACK OF COMPLIANCE WITH THE COMPREHENSIVE PLAN

The Applicant's hasty Applications also must be denied because they do not comply with the Comprehensive Plan. Rather than going into great detail as to the many ways in which the Applicant's proposed development fails to comply with the Comprehensive Plan, we will point to specific provisions of the Comprehensive Plan and offer a short explanation of each violation.

1. Applicant's Abuse of Mixed Use Zoning Designation.

To start, the Applicant's request to obtain a Mixed Use zoning designation for the Subject Property is just a thinly-veiled attempt to maximize the Applicant's profits by getting approval for a higher density development. This is expressly forbidden in the Comprehensive Plan:

Rezoning within this land use designation [Mixed Use] is to be strictly monitored by the city to assure that the Mixed Use areas are not being used simply to justify high density residential use.

Comprehensive Plan, p. 51. This precisely describes the Applications and the requests submitted by the Applicant. Please take a moment to look at the proposed site plan submitted by the Applicant - there is no "mixed use" anywhere to be found. Also, notice how residential units are crammed into every nook and cranny in the site plan, particularly in the "alley" at the northwest corner of the proposed development, which happens to abut the Arbiters' Property. The proposed number and layout of the 63 residential units (and zero neighborhood commercial units) is in direct violation of the Comprehensive Plan's prohibition on developers using Mixed Use zoning designation "simply to justify high density residential uses."

The Comprehensive Plan states that the Mixed Use zoning designation is a valuable tool that the City should use in managing the types of developments and P.U.D.s the City wants to see. We urge the City to use the Mixed Use zoning designation as the valuable tool that it is - please do not allow the Applicant to abuse the Mixed Use zoning designation to maximize density without offering any of the community benefits that should be in a Mixed Use zone.

2. No "Innovative" Design or Placement.

The Comprehensive Plan speaks to the goal in Mixed Use areas of "...allow[ing] the development community to be more innovative in design and placement of structures." (Comprehensive Plan, p. 51.) The design and placement offered by the Applicant, however, is anything but "innovative" - in fact, the design and placement of the proposed subdivision is "business as usual." This is just another way in which the proposed development violates the Comprehensive Plan.

3. Violations of the Comprehensive Plan's Mixed Use Policies.

The Proposed Application also violates numerous Mixed Use Policies contained in the Comprehensive Plan:

- A. *Council, at their sole discretion, shall determine what mix of uses are appropriate for any mixed use area considering existing property owners rights.*

Comprehensive Plan Policy 8.5.7.A, p. 66. Regarding the Applicant's proposed Landyn Village development, there is no mix of uses - only dense residential units, which will be immediately adjacent to the Arbiters' 10-acre rural residential lot. We ask the City to require the Applicant to include some Neighborhood Commercial uses within the proposed development. We also ask the City Council to "consider existing property owners rights" in reviewing the Applications.

- *"...should be predominantly residential with a minor component of neighborhood commercial..."*

Comprehensive Plan Policy 8.5.7.D, p. 66. As mentioned above, the proposed development lacks ANY neighborhood commercial uses, thereby violating the Comprehensive Plan. We ask the City Council to send these Applications back to the Applicant's drawing board.

- H. *Develop a harmonious blend of opportunities for living, working, recreation, education, shopping, and cultural activities.*

Comprehensive Plan Policy 8.5.7.H, p. 69. The proposed Landyn Village development is not harmonious in any way. It fails to harmonize anything but tightly-grouped residential units. There is no "working," no "recreation," no "education," no "shopping," and no "cultural activities." Perhaps most importantly, the proposed development does not harmonize with existing adjacent uses.

- I. *Encourage... innovative land uses.*

Comprehensive Plan Policy 8.5.7.I, p. 69. There is nothing innovative about the dense residential land use proposed by the Applicant, making this just another way in which the Application fails to comply with the Comprehensive Plan.

- K. *Buffer and transition development is to occur between conflicting types of land use.*

Comprehensive Plan Policy 8.5.7.K, p. 69. There is no buffer between the high-density residences proposed by the Applicant and any of the property that surrounds the Subject

Property. We encourage the City Council to require the Applicant, as a condition of approval, to create bermed transition buffers around the outside of the Subject Property, to buffer the intense residential use against the existing adjacent uses.

- *N. Require more open space and trees in subdivisions.*

Comprehensive Plan Policy 8.5.7.N, p. 69. There is hardly any true open space in the proposed site plan of the development, other than the drainage and stormwater drainage that the Ada County Highway District requires. The City Council must require the Applicant to decrease the density and the proposed number of residential units in the Proposed Subdivision and to increase the amount of true open space and the number of trees. Otherwise, this will just be another “blah” subdivision that maximizes the developer’s profits at the expense of neighborhood amenities.

- *P. Promote “trip capture” in new development.*

Comprehensive Plan Policy 8.5.7.P, p. 69. There is **ZERO** trip capture in the proposed development. The Applicant’s proposed design ensures that Landyn Village will be totally reliant upon vehicle travel to reach any amenities like grocery stores, physician offices, libraries, or any other type of land use other than residential.

- *T. Support well-planned, pedestrian-friendly developments.*

Comprehensive Plan Policy 8.5.7.T, p. 70. As previously mentioned, there is nothing “well-planned” about the P.U.D. proposed by the Applicant. It is designed to maximize the developer’s profits, rather than achieve any standard for development. Also, as mentioned immediately above, the design of Landyn Village guarantees that its residents will be dependent on their vehicles - it is anything but “pedestrian-friendly.”

4. Violations of the Comprehensive Plan’s P.U.D. Policies.

The proposed development also violates the Comprehensive Plan’s policies regarding P.U.D.s in a number of ways:

“...encourage clustering of buildings, designation of common space, and incorporation of a variety of building types and land uses.”

- Comprehensive Plan, p. 163.

The development proposed by the Applicant does not cluster buildings, designates insufficient common space, and does not incorporate a true variety of building types and land uses.

“...encourage development that is creative in site design and a mix of uses...”

- Comprehensive Plan, p. 163.

The development proposed by the Applicant is neither creative in site design nor a mix of uses.

“...giving local governments valuable design oversight.”

- Comprehensive Plan, p. 163.

The City Council has an opportunity to use its design oversight to require the Applicant to comply with the Comprehensive Plan and the UDC. In its current iteration, which was submitted to the City, the Application violates the Comprehensive Plan in numerous ways. We ask the City Council to reject the Application and require the Applicant to re-submit applications that comply with the Comprehensive Plan.

C. LACK OF COMPLIANCE WITH THE UDC

The development proposed by the Applicant also violates numerous provisions of the UDC related to annexation, zoning, and P.U.D. requirements, not to mention the many ways in which the access proposed by the Applicant violates the UDC’s private street requirements.

1. Violations of UDC’s Annexation and Zoning Requirements

Examples of the ways in which the proposed development violates the UDC’s annexation and zoning requirements include:

- UDC § 8-1B-1.D.2 ---

The City certainly should consider a development agreement with the Applicant prior to agreeing to annex the Subject Property into the City and zone it “Mixed Use.” A development agreement would give the City much greater enforcement options, in the event the Applicant violates any of the terms and conditions imposed by the City.

- UDC § 8-1B-1.E.1 ---

The Applications do not comply with the Comprehensive Plan, which is an express requirement of this section of the UDC. (Please see above for our discussion and analysis of the many ways in which the Applications fail to comply with the Comprehensive Plan.)

- UDC § 8-1B-1.E.2 ---

The Applications fail to comply with the regulations outlined for the Mixed Use District. Specifically, the Applications do not comply with the Mixed Use purpose statement, as discussed immediately below.

- UDC § 8-3E-1 ---

This is the Purpose Statement of the Mixed Use zoning designation, and there are several ways in which the proposed development does not comply with it:

- The development proposed in the Applications does not “encourage compact development that... facilitates the efficient use of services.” The proposed development effectively is on an island, separated from the adjacent Heron River development, except for one pedestrian path. There is no efficiency in annexing and providing preferential zoning (Mixed Use) to a development that effectively is on an island.

- Landyn Village will not “provide for the daily recreational and shopping needs of the residents.” In fact, although the Applicant seeks a Mixed Use zoning designation for the Subject Property, there is nothing proposed for the site except residential uses. None of the residents’ shopping needs can be met within the proposed development - every resident will need to make a car trip outside Landyn Village, despite the misleading Mixed Use zoning designation sought by the Applicant.

- Although there are 2 types of residences proposed for Landyn Village, that is not a “variety of residential land uses.” We encourage the City to require the Applicant to return with applications that truly incorporate a “variety of residential land uses,” including single family homes on larger (but still not large) residential lots.

- The proposed development does not “include open space” or “promote pedestrian activity through well designed and varied streetscapes...” In fact, if you’ve ever seen the movie *The Truman Show*, Landyn Village will have the same appearance. (We encourage you to watch *The Truman Show*, if you have not. It predicted the “reality television craze” and the “cookie cutter house” phenomenon, in which all homes in a given development look nearly identical.)

- There are no “vertically integrated residential projects” included in the proposed development.

As you can see, the development proposed by the Applicant fails terribly at complying with the Purpose Statement of the Mixed Use zoning designation.

2. Violations of UDC's Mixed Use District Requirements

The proposed development also fails to comply with the UDC's standards applicable in Mixed Use districts. For example, the UDC requires the "street system to be based on a grid with connections to the existing street system." UDC § 8-3E-3C.1. The Applicant's proposed development is neither based on a grid nor connected to the existing street system. (*See* Section II A., above for an in-depth discussion of the lack of legal access for 63 lots.)

The Applicant sadly only meets the bare minimum requirement for the types of housing units proposed for the development. A minimum of two housing types are required in a Mixed Use zone, and, by all appearances, the Application includes two housing types.

"Meeting the bare minimum" appears to be the Applicant's only goal with these Applications, although the Applicant falls far short of its goal in many respects.

3. Violations of UDC's P.U.D. Requirements

The development proposed in the Applications also violates several provisions of the UDC's P.U.D. requirements, as follows:

- In the Purpose Statement for P.U.D.s (*see* UDC § 8-7-1.A.2.), the development must include "innovative design." As mentioned earlier in this letter, and as apparent from a cursory review of the proposed design submitted with the Applications, the proposed development is anything but "innovative design." Instead, the only objective appears to be to maximize the number of sellable lots, which only benefits the developer's wallet.
- Also in the P.U.D. Purpose Statement (*see* UDC § 8-7-1.A.2.), the development must create "visually pleasing and cohesive patterns of development." The proposal submitted by the Applicant, however, fails terribly to do anything "visually pleasing" or "cohesive" with regard to its proposed patterns of development. As previously mentioned, the Applicant's proposed site plan shows a boring lack of visually pleasing elements. In fact, cramming additional lots into "alleys" (see the northwest corner of the Subject Property, as shown on the site plan that was included with the Applications) will make that entire corner of Landyn Village extremely displeasing, visually. As with many of the design choices in the Applications, the choice to cram those additional residential units into that "alley" appears to be based on a strong desire to maximize profits.

- Also in the P.U.D. Purpose Statement (*see* UDC § 8-7-1.A.3.), the P.U.D. must create “functionally integrated development that allows for a more efficient and cost-effective provision of public services. However, the Applicant’s proposed development does not “allow for a more efficient and cost effective provision of public services.” As discussed earlier in this letter, the proposed development effectively is on an island, separated from the adjacent Heron River development (except for one pedestrian path) and greatly separate from any public streets. There is no efficiency to be found in annexing and providing preferential zoning (Mixed Use) to a development that effectively is on an island.

Lastly, with regard to P.U.D.s, the City Council has authority and discretion to add conditions of approval, if it somehow sees past all of the violations and flaws contained in the applications. The purpose of adding conditions of approval is to mitigate impacts and concerns caused by the proposed P.U.D. In this case, there may be far too many problems with the Applications to fix them all with conditions of approval. We respectfully request, though, that if the City somehow approves these Applications, despite the dozens of ways in which they fail to comply with the Comprehensive Plan and the UDC, and despite the lack of legal access to the 63 lots proposed by the Applicant, that the City will add significant conditions of approval that minimize the impacts this development would have on the use of other property, including (but not limited to) the Arbiters’ Property. We will come to the Public Hearing next week prepared with several suggested conditions of approval, which, if all are imposed on the Applications, would make the proposed development slightly less terrible (but still would not be able to cure all of the violations, deficiencies, and ways in which the proposed development lacks compliance with the UDC and the Comprehensive Plan.

III. CONCLUSION.

As you can see, the Applications submitted for the proposed development fall far short of complying with the City’s standards and requirements for annexation, Mixed Use Zoning, P.U.D., and approval of a preliminary plat. We respectfully ask the City Council to deny the Applications and require the Applicant to review all applicable requirements contained in the UDC and the policies and goals of the Comprehensive Plan, then come back to the City with a proposed development that meets those requirements, policies, goals and standards.

Specifically, the City Council has a great deal of discretion in approving annexations, which are considered legislative, as opposed to quasi-judicial. The City Council’s discretion on other land use matters is decreased to that quasi-judicial standard, though. To maximize the quality of the development proposed by the Applicants, we respectfully ask the City Council to exercise its discretion and deny the Applications (particularly the annexation application), unless and until

the Applicants bring forward a proposal for development that does more than benefit the developer by maximizing its profits.

Sincerely,

A handwritten signature in black ink, appearing to read "Joshua J. Leonard". The signature is written in a cursive, flowing style.

Joshua J. Leonard

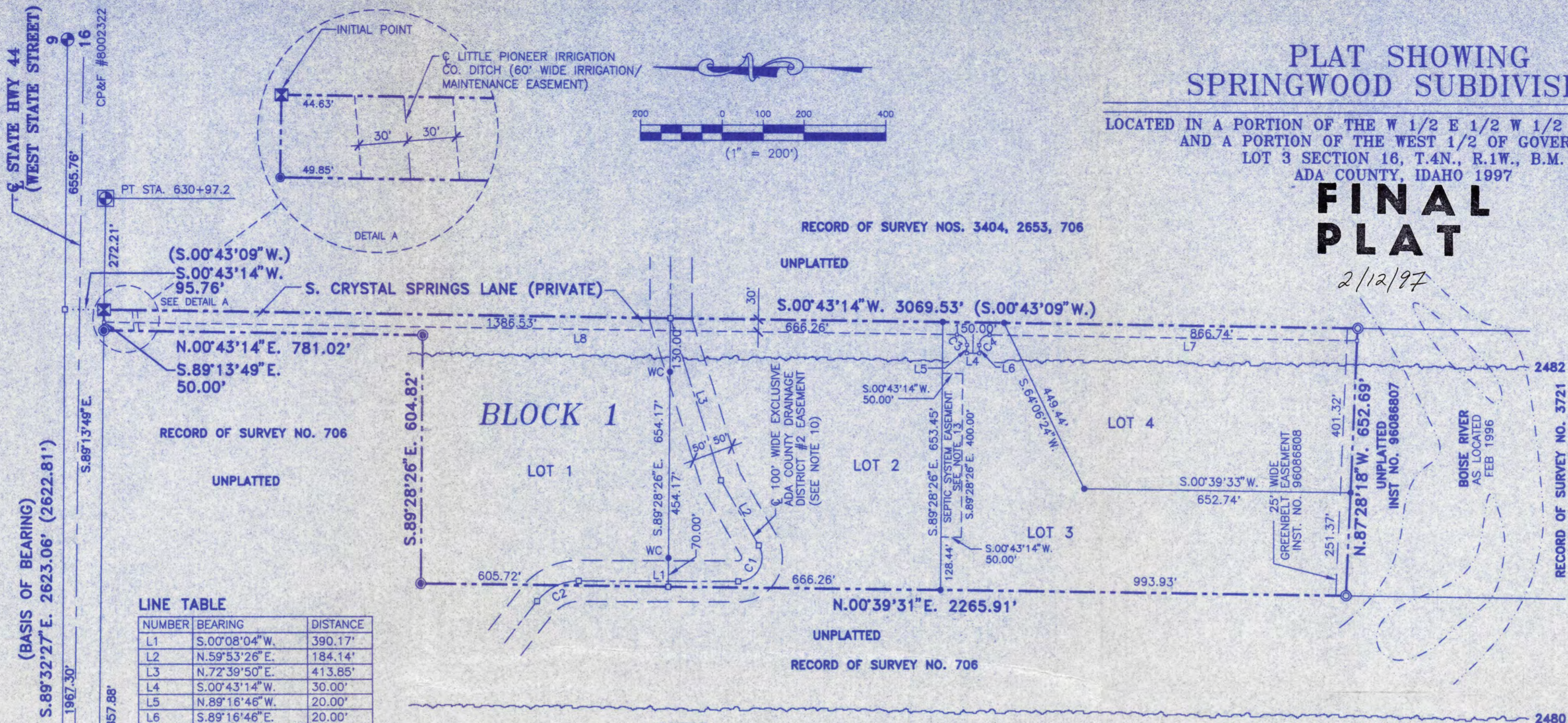
Exhibit A, the Springwood Subdivision Plat, is attached.

PLAT SHOWING SPRINGWOOD SUBDIVISION

LOCATED IN A PORTION OF THE W 1/2 E 1/2 W 1/2 OF SECTION 16
AND A PORTION OF THE WEST 1/2 OF GOVERNMENT
LOT 3 SECTION 16, T.4N., R.1W., B.M.
ADA COUNTY, IDAHO 1997

FINAL PLAT

2/12/97



(BASIS OF BEARING)
S.89°32'27"E. 2623.06' (2622.81')

LINE TABLE

| NUMBER | BEARING | DISTANCE |
|--------|---------------|----------|
| L1 | S.00°08'04"W. | 390.17' |
| L2 | N.59°53'26"E. | 184.14' |
| L3 | N.72°39'50"E. | 413.85' |
| L4 | S.00°43'14"W. | 30.00' |
| L5 | N.89°16'46"W. | 20.00' |
| L6 | S.89°16'46"E. | 20.00' |
| L7 | S.00°43'14"W. | 900.11' |
| L8 | S.00°43'14"W. | 2088.04' |

CURVE TABLE

| NUMBER | LENGTH | DELTA | RADIUS | TANGENT | CHORD | CHORD BRG |
|--------|--------|------------|--------|---------|--------|---------------|
| C1 | 121.72 | 120°14'38" | 58.00 | 100.95 | 100.58 | N.59°59'15"W. |
| C2 | 117.21 | 52°03'35" | 129.00 | 63.00 | 113.22 | N.25°53'44"W. |
| C3 | 39.27 | 90°00'00" | 25.00 | 25.00 | 35.36 | S.45°43'14"W. |
| C4 | 39.27 | 90°00'00" | 25.00 | 25.00 | 35.36 | S.44°16'46"E. |

LEGEND

| | |
|--|--|
| | INITIAL POINT OF PLAT SET 5/8" IRON PIN W/CAP MARKED LS 7045 INSIDE 2"x36" GALVANIZED IRON PIPE |
| | FOUND BRASS CAP |
| | FOUND ALUMINUM CAP |
| | DATA OF RECORD |
| | CALCULATED POINT |
| | FOUND 5/8" IRON PIN |
| | SET 5/8"x30" IRON PIN W/CAP |
| | SET 1/2"x24" IRON PIN W/CAP |
| | FOUND HIGHWAY R-O-W |
| | BRASS CAP SET IN CONCRETE |
| | WITNESS CORNER |
| | SUBDIVISION BOUNDARY |
| | INTERIOR LOT LINE |
| | LIMITS OF PRIVATE ROAD |
| | DRAINAGE DISTRICT R-O-W |
| | EDGE OF WATER AS SURVEYED FEB 1996 |
| | BASE FLOOD ELEVATIONS AND APPROXIMATE LOCATIONS PER FLOOD INSURANCE RATE MAP DATED DECEMBER 17, 1991 |

NOTES

- BUILDING SETBACKS AND DIMENSIONAL STANDARDS IN THIS SUBDIVISION SHALL BE IN COMPLIANCE WITH THE APPLICABLE ZONING REGULATIONS OF ADA COUNTY.
- ANY RE-SUBDIVISION OF THIS PLAT SHALL CONFORM TO THE APPLICABLE REGULATIONS IN EFFECT AT THE TIME OF THE RE-SUBDIVISION AND THE CONDITIONS OF APPROVAL FOR FILE 95-20-PDR.
- ALL LOTS ARE HEREBY DESIGNATED AS HAVING A PERMANENT PUBLIC UTILITIES, DRAINAGE, IRRIGATION AND STREET LIGHT EASEMENT OVER THE TEN (10) FEET ADJACENT TO ANY STREET OR ROAD THAT IS DEDICATED TO PUBLIC OR PRIVATE USE. THE EASEMENT SHALL NOT PRECLUDE THE CONSTRUCTION OF HARD-SURFACED DRIVEWAYS TO EACH LOT EXCEPT AS NOTED.
- SUBDIVIDER WILL COMPLY WITH THE DISCLOSURE REQUIREMENTS OF SECTION 31-3805 OF THE IDAHO CODE.
- A TEN (10) FOOT UTILITY AND IRRIGATION EASEMENT IS LOCATED ALONG THE EXTERIOR BOUNDARY LINE AND A TWELVE (12) FOOT EASEMENT FOR THE SAME PURPOSE IS CENTERED ON ALL INTERIOR LOT LINES.
- LOTS SHALL NOT BE REDUCED IN SIZE WITHOUT PRIOR APPROVAL FROM THE HEALTH AUTHORITY.
- NO ADDITIONAL DOMESTIC WATER SUPPLIES SHALL BE INSTALLED BEYOND THE SYSTEM APPROVED IN SANITARY RESTRICTION.
- REFERENCE IS MADE TO PUBLIC HEALTH LETTER ON FILE REGARDING ADDITIONAL RESTRICTIONS.
- THIS DEVELOPMENT RECOGNIZES SECTION 22-4503 OF THE IDAHO CODE, RIGHT TO FARM ACT, WHICH STATES: "NO AGRICULTURAL OPERATION OR AN APPURTENANCE 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 (1) YEAR, WHEN THE OPERATION WAS NOT A NUISANCE AT THE TIME THE OPERATION BEGAN; PROVIDED, THAT THE PROVISIONS OF THIS SECTION SHALL NOT APPLY WHENEVER A NUISANCE RESULTS FROM THE IMPROPER OR NEGLIGENT OPERATION OF ANY AGRICULTURAL OPERATION OR APPURTENANCE TO IT."
- NO PERMANENT TREES, BUSHES, FENCES OR STRUCTURES OF ANY KIND MAY BE LOCATED UPON THE ADA COUNTY DRAINAGE DISTRICT NO. 2 EXCLUSIVE DRAINAGE EASEMENT.
- S. CRYSTAL SPRINGS LANE IS A PRIVATE ROAD AND CONVEYS TO THOSE LOT OWNERS TAKING ACCESS FROM THE PRIVATE ROAD A PERPETUAL RIGHT OF INGRESS/EGRESS OVER THE PRIVATE ROAD AND PROVIDES THAT SUCH PERPETUAL EASEMENT SHALL RUN WITH THE LAND. THE PRIVATE ROAD SHALL BE MAINTAINED BY THE HOMEOWNERS. THE PRIVATE ROAD MAY ALSO BE USED BY THE OWNERS OF LOTS 1 THROUGH 4, BLOCK 1 FOR ACCESS TO THE BOISE RIVER.

12. LOTS 3 AND 4 OF BLOCK 1 ARE SUBJECT TO A "BOISE RIVER GREENWAY" SETBACK OF 100' UPLAND FROM THE NFIP FLOODWAY LINE. THE LOCATION OF THE FLOODWAY LINE IS TO BE DETERMINED BY THE ADA COUNTY DEVELOPMENT SERVICES DIRECTOR.

13. A COMMON USE SEPTIC SYSTEM EASEMENT IS DESIGNATED AS SHOWN ON THE PLAT DRAWING FOR THE USE OF LOT 2 AND LOT 3 BLOCK 1. ACCESS AND MAINTENANCE REQUIREMENTS FOR SAID EASEMENT ARE FURTHER DESCRIBED IN INSTRUMENT NO. 97005334.

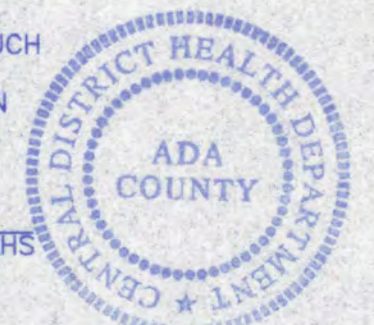
14. THIS DEVELOPMENT RECOGNIZES ALL RIGHTS AND RIGHTS OF WAY TO WHICH PIONEER DITCH CO. LTD. IS ENTITLED UNDER IDAHO CODE 42-1102 FOR INGRESS, EGRESS, OPERATIONS, MAINTENANCE, CLEANING, REPAIR AND, INCLUDING THE RIGHT TO DEPOSIT ON THE BANKS OF THE CANAL, DEBRIS AND OTHER MATTER NECESSARILY REQUIRED TO BE TAKEN FROM THE CANAL TO PROPERLY CLEAN AND MAINTAIN IT.

SANITARY RESTRICTIONS AS REQUIRED BY IDAHO CODE TITLE 50 CHAPTER 13 HAVE NOT BEEN SATISFIED AND ARE IN FORCE FOR THE FOLLOWING LOTS:

LOT 1, BLOCK 1

NO OWNER SHALL CONSTRUCT ANY BUILDING, DWELLING OR SHELTER WHICH NECESSITATES THE SUPPLYING OF WATER OR SEWAGE FACILITIES FOR PERSONS USING SUCH PREMISES UNTIL SANITARY RESTRICTION REQUIREMENTS ARE SATISFIED AND LIFTED. REFER TO THE LETTER ON FILE WITH THE ADA COUNTY RECORDER OR HIS AGENT.

DATE: 1/28/97 *Thomas E. Schuly*
DISTRICT HEALTH DEPARTMENT, EHS



PINNACLE

Engineers, Inc.

870 N. Linder Suite B, Meridian, Idaho 83642

(208) 887-7760

PLAT OF SPRINGWOOD SUBDIVISION

CERTIFICATE OF OWNERS

KNOW ALL MEN BY THESE PRESENTS: That Roger W. Lewis and Patricia B. Lewis, husband and wife are, the owners of the real property hereafter described.

A portion of the West 1/2 East 1/2 Northwest 1/4 of Section 16 and a portion of the West 1/2 of Government Lot 3, Section 16, Township 4 North, Range 1 West, Boise Meridian, Ada County, Idaho and being more particularly described as follows:

Commencing at an aluminum cap marking the Northwest Corner of Section 16, Township 4 North, Range 1 West, B.M., Ada County, Idaho; thence S.89°32'27"E. 1967.30 feet along the north line of said Section 16 to a point, said point bears N.89°32'27"W. 655.76 feet from a Brass Cap marking the North 1/4 corner of said Section 16; thence S.00°43'14"W. (formerly S.00°43'09"W.) 95.76 feet to a 5/8" iron pin set inside a 2"x36" iron pipe, said pipe lying on the Southerly right of way of State Highway 44 (West State Street), said point also marking the INITIAL POINT of this plat;

thence continuing S.00°43'14"W. (formerly S.00°43'09"W.) 3069.53 feet along the east boundary of the W 1/2 E 1/2 NW1/4 of Section 16 and the east boundary of said W 1/2 Government Lot 3 to a 5/8" iron pin;
thence N.87°28'18"W. 652.69 feet along the north boundary of that certain parcel described under Inst. No. 96086807, records of Ada County, Idaho to a 5/8" iron pin marking the NW corner of said parcel described under Inst. No. 96086807, records of Ada County, Idaho and marking a point on the west boundary of Government Lot 3;
thence N.00°39'31"E. 2265.91 feet along the said west boundary of said Government Lot 3 and the west boundary of the said W 1/2 E 1/2 W 1/2 of Section 16 to a 5/8" iron pin;
thence S.89°28'26"E. 604.82 feet to a 5/8" iron pin;
thence N.00°43'14"E. 781.02 feet to a 5/8" iron pin marking a point on the said southerly right of way of State Highway 44 (West State Street);
thence S.89°13'49"E. 50.00 feet to the POINT OF BEGINNING, containing 35.07 acres, more or less.

That it is the intention of the undersigned to and they hereby include said land in this plat. The easements and private road indicated on said plat are not dedicated to the public but the right to use said easements is perpetually reserved for public utilities and for such other uses as designated hereon and no structure other than for such utility purposes are to be erected within the limits of said easements. The individual lots described in this plat will not be served by any water system common to one or more lots, but will be served by individual wells.

In witness whereof, I have set my hand this 4th day of December, 1996

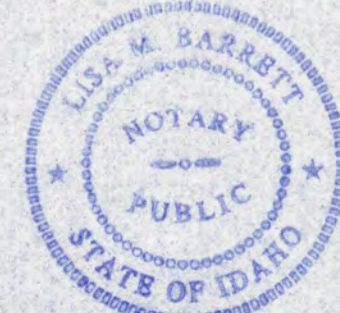
Roger W. Lewis
Roger W. Lewis

Patricia B. Lewis
Patricia B. Lewis

CERTIFICATE OF ACKNOWLEDGEMENT

STATE OF IDAHO) S.S.
COUNTY OF ADA)

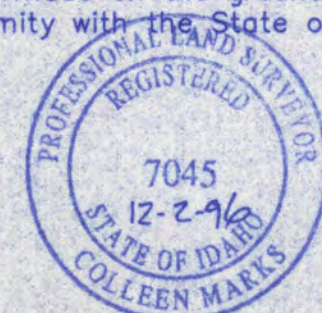
On this 4th day of December, in the year 1996, before me, the undersigned, a Notary Public in and for the State of Idaho, personally appeared Roger W. Lewis and Patricia B. Lewis, known or identified to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.



Lisa M. Barrett
Notary Public for Idaho
Residing at: Ada County, Idaho
My Commission Expires on 8-6-2002

CERTIFICATE OF SURVEYOR

I, Colleen Marks, do hereby certify that I am a Registered Professional Land Surveyor, licensed by the State of Idaho, and that this plat of Springwood Subdivision as described in the CERTIFICATE OF OWNERS was drawn from an actual survey made on the ground under my supervision and that this plat accurately represents the points thereon and is in conformity with the State of Idaho Code relating to Plats and Surveys.



Colleen Marks
Colleen Marks

P.L.S. 7045

APPROVAL OF ADA COUNTY HIGHWAY DISTRICT

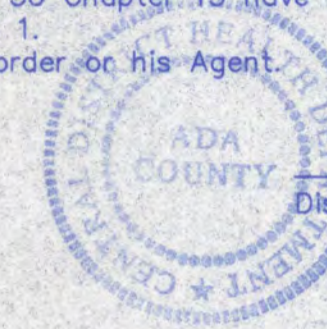
The foregoing plat was accepted and approved by the Board of Ada County Highway District Commissioners on the 11 day of DECEMBER, 1996.



ADA COUNTY HIGHWAY DISTRICT
Sherry R. Hulbert
Chairman

APPROVAL OF CENTRAL DISTRICT HEALTH DEPARTMENT

Sanitary restrictions as required by Idaho Code Title 50 Chapter 13 have been partially satisfied and are lifted for the following lots: LOTS 2, 3 AND 4, BLOCK 1. Refer to the letter on file with the Ada County Recorder on his Agent.



Thomas Adams
District Health Department, EHS

Date 11/7/97

CERTIFICATE OF ADA COUNTY SURVEYOR

I, the undersigned, County Surveyor for Ada County, Idaho, do hereby certify that I have checked this plat and that it complies with the State of Idaho Code relating to Plats and Surveys.

Ada County Surveyor



CERTIFICATE OF THE COUNTY TREASURER

This is to certify that the undersigned, per the requirements of Idaho Code 50-1308, do hereby certify that any and all current and/or delinquent county property taxes for the property included in this plat have been paid in full. This certification is valid for the next thirty (30) days only.

Date _____

Ada County Treasurer

APPROVAL OF COUNTY COMMISSIONERS

The foregoing plat was accepted and approved by the Board of Commissioners of Ada County, Idaho this _____ day of _____, 199 .

Robert J. ...
Board Chairman

CERTIFICATE OF ADA COUNTY RECORDER

INSTRUMENT No. _____

STATE OF IDAHO) S.S.
COUNTY OF ADA)

I hereby certify that this plat of Springwood Subdivision was filed at the request of _____ at _____ minutes past _____ o'clock _____ m. this _____ day of _____, A.D. 19 , in my office and was duly recorded in Book _____ of Plats at Pages _____ and _____.

Deputy Fee: _____

Ex-officio Recorder

PINNACLE
Engineers, Inc.
870 N. Linder Suite B, Meridian, Idaho 83642
(208) 887-7760

RECEIVED

FEB 07 2020

CITY OF STAR

Jason Dickman
PO Box 216, Star ID 83669

February 5, 2020

Shawn L. Nickel
City Planner
City of Star
Snickel@staridaho.org
208-286-7247

Physical Address: Mailing Address:
10769 W. State St. PO Box 130
Star, ID 83669 Star, ID 83669

RE: Landyn Village Subdivision – 551 S. Crystal Springs Lane

Dear Mr. Nickel:

I am in receipt of your City of Star Notice of Public Hearing concerning the abovementioned proposed development. Furthermore, I have received and reviewed the documents that you were kind enough to forward to my email on January 24th, 2020. All documents received to-date, together with my interpretation of said documents, represent my current understanding of the Landyn Village Subdivision.

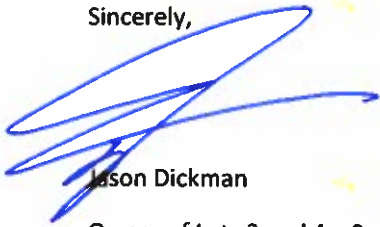
After reviewing all documents made available to me I have distilled my concerns down to two objectionable items as set forth below:

Objection #1: I do not agree with converting Crystal Springs Lane from a quiet private lane/road to a public road. As you're likely aware, back in 1997/98 when Springwood Subdivision was approved, it consisted of four lots with a private 30' wide access lane/easement providing each of the four lot owners access to the public road system. Crystal Springs Lane is not a separately deeded parcel whose entirety can be converted from a private road to a public road. Instead, Crystal Springs Lane passes over deeded land belonging to each of the four lot owners and together each of us grant one another access over our deeded land. As such, converting Crystal Springs Lane from a private road to a public road would require permission/approval from each of the lot owners over which Crystal Springs Lane passes and I am not willing to consent to this.

Objection #2: Mr. and Mrs. Lubbers' collective application submittal documents fail to demonstrate how my water rights will be respected and upheld. Currently I pay \$255 annually to the Pioneer Ditch Company to maintain 17 shares of water rights that are delivered to my property via a ditch lying directly west of and adjacent to the existing paved Crystal Springs Lane. My water rights must be respected and upheld.

In closing I would like to say 'thank you' for the professional and helpful way in which you've helped me understand this development. Thank you as well for receiving this letter and considering my position as this topic further unfolds.

Sincerely,



Jason Dickman

Owner of Lots 3 and 4 – Springwood Subdivision
a.k.a. 899 S. Crystal Springs Lane

David RAY
446 S. Rivermist Ave.
Star, Ill. 83669

RECEIVED
FEB 07 2020
CITY OF STAR

2/7/20

Questions/Concerns re: Landyn Village Sub.
For Star City Council 2/11/20 Meeting

1. I'm not against development but I am concerned with the extreme density of the proposal. 63 lots on just 10 Acres is not in keeping with the character of the neighborhood immediately to the west.
2. It seems just a matter of time until the middle section currently shown as open woods be filled in w/ equally dense housing, making the problem worse.
3. Has/will the developer submitted any plans to mitigate for potential flooding from the Boise River if the current ditch canal on the west side of the property is filled in?
4. Will there be improvements required on State Street and/or Hwy 16 to handle the expected volume of traffic? Who pays for that?
5. If one "dense" subdivision is allowed will the city council allow further "dense" subs in the surrounding areas and basically create a

traffic nightmare in the area?

6. Where is everybody going to park their cars? In the skinny little streets.. or on their lawns w/E 5 years?
7. I would like to see single level homes of higher quality and bigger lots ~~to~~ resulting in less loss of view for my property and less noise from so many folks in such a dense sub.
8. Mixed use residential and commercial presumably means more traffic and parking needs for the commercial customers. What ~~and~~ is the plan for parking the commercial customers?
9. As I've said before the "best use" of this valuable set of properties is a city park with a tube launch site over by the Hawthick bridge. I know this idea involves other landowners beyond the scope of this proposed sub. But city council our greatest asset in the city of Star is the Boise River. Think long term and secure a great park for future generations to access the River. Buy out these landowners!

Shawn Nickel

From: Shawn Nickel
Sent: Monday, January 20, 2020 11:12 AM
To: Paul Larson
Subject: RE: Landyn Village Subdivision

Thanks Paul! I will include this in the staff report packet to the Council.

Shawn

-----Original Message-----

From: Paul Larson <paul@pdlarson.com>
Sent: Monday, January 20, 2020 11:10 AM
To: Shawn Nickel <Snickel@staridaho.org>
Subject: Landyn Village Subdivision

Shawn,

I just received the public hearing notice for my neighbors subdivision. It appears from the crystal springs road cross section that they want US to construct the East side of crystal springs road and give up approximately 15' of our land to do so. They need to build the 50' wide road section on 100% of their property, it was originally designed that way, just look at the entrance of Crystal Springs Road off of Wildbranch there is a 50' width west of our properties.

Our plan which you have seen does not need crystal springs for ingress or egress and will be utilizing a private road system accessing Wildbranch and Calhoun. On 12/19/2019 at your direction I met with Greg with Star Fire and got they're blessing on our internal access system which creates a complete loop for emergency vehicles within our 34 acres. Also we will not be utilizing any public ACHD roads within our development.

Furthermore for your information we have had NO discussion with the Lubbers or their developer on this matter which is very supressing to me.

Thank you for all you do and let me know if there is anything else I need to do on this matter? I will be out of town in eastern Idaho next week but if needed at the meeting I can change my schedule. Please let me know.

Sincerely,

Paul Larson

P.S. Please share this information with the council. Other than the road issue I am OK with the development.

Shawn Nickel

From: Paul Larson <paul@pdlarson.com>
Sent: Tuesday, November 9, 2021 11:13 AM
To: Shawn Nickel
Cc: Tim Tyree; Jay Walker
Subject: Proposed Cost Sharing Agreement for Landyn Village Subdivision
Attachments: Shared Percentages.xlsx

Shawn,

Please include the attached 'Proposed State Hwy 44/Hwy 16 West Improvements, Cost Reimbursement Structure' at the Landyn Village Subdivision hearing. This or something like this needs to be included as a requirement for the development of the Crystal Springs Lane properties.

- 1) Signal Moyle/Hwy 44
- 2) Collector Road improvement from Crystal Springs Lane to Hwy 44
- 3) Secondary Access (Requirement of ACHD)

Thank you,

Paul Larson

Star, Idaho

Proposed State Hwy 44/Hwy 16 West Improvements Cost Reimbursement Structure

| | E. Star River Ranch | Baron Properties | North Moyle Road | Crystal Springs Lane | |
|---|---------------------|------------------|------------------|----------------------|------------|
| | 46.5 | 26.5 | 0 | 20 | 93 Acres |
| | 50.00% | 28.49% | N/A | 21.51% | 100% |
| 1 Collector = Moyle/Wildbranch to Crystal S 'ACHD' | \$ - | \$ - | \$ - | \$ - | |
| | 46.5 | 26.5 | 119 | 20 | 212 Acres |
| | 21.50% | 35.00% | 33.33% | 10.17% | 100% |
| 2a Signal at Moyle and related Improvements 'ITD' | \$ - | \$ - | \$ - | \$ - | |
| | 38 | 26.5 | 0 | 20 | 84.5 Acres |
| | 44.97% | 31.36% | N/A | 23.67% | 100% |
| 3 Secondary Access = RiRo 'ITD & ACHD' | \$ - | \$ - | \$ - | \$ - | |

Note: ESRR deducted 8.5 acre land because the secondary easement required on the north/south Road.

- Note: Moyle own a total of 134.77 acres in 6 parcels with a deduction of 15.77 acres for residences and out buildings.
- Note: Crystal Springs Lane homeowners own a total of 35 acres with a deduction of 15 acres for residences and out buildings.
- Note: Approximately 5 to 10 acres are allocated for existing homes with associated improvements north and south of Hwy 44 (not included in above acreage counts)
- Note: Baron Properties to pay 35% of signal and related improvement costs per Development Agreement.
- Note: Moyle to pay a minimum of 1/3 of signal and related improvement costs.
- Note: Appraised Commercial land value per Mark Bottles Real Estate for Hwy 44 frontage land = \$16.00 SF depending on location & access.
- Note: Secondary Access/RiRo will be a private drive. ESRR will grant access easements to south land owners when development agreement or contract is signed, paid, and recorded.
- Note: Moyle & Wildbranch changed to a collector road, to be widened per ACHD. Pending final approval and signal design!
- Note: All associated expenses will be audited and approved by the City of Star.
- Note: City of Star to collect and manage development impact fees and road improvement expenses Pursuant to Title 7, Chapter 3 of the City Code of Star, Idaho Section 67-8209(4)